



Application Decision

by Richard Holland

Appointed by the Secretary of State for Environment, Food and Rural Affairs

Decision date: 1 December 2015

Application Ref: COM 707

Royal Common, Waverley, Surrey

Register Unit No: CL225

Commons Registration Authority: Surrey County Council

- The application, dated 12 May 2015, is made under Section 38 of the Commons Act 2006 (the 2006 Act) for consent to carry out restricted works on common land.
- The application is made by DAC Beachcroft LLP on behalf of Linden Limited, c/o Linden Homes Guildford, Victoria House, London Square, Cross Lanes, Guildford, Surrey GU1 1UJ.
- The works are to upgrade and resurface the existing southern access to the former Weyburn Works from Shackleford Road, Elstead, and comprise:
 - i. removal of 39 square metres of existing hardstanding (to be replaced with grass, small shrubs and landscaping);
 - ii. construction of 33 square metres of new 5.5 metres wide and 23.5 metres long carriageway with a 2 metres wide footway from Shackleford Road into the site; and
 - iii. erection of plastic or metal temporary safety barriers for the duration of the works.

Decision

1. Consent is granted for the works in accordance with the application dated 12 May 2015 and the plans submitted with it subject to the condition that they shall begin no later than three years from the date of this decision.
2. For the purposes of identification only the location of the works is shown in red on the attached plan.

Preliminary Matters

3. I have had regard to Defra's Common Land Consents Policy¹ in determining this application under section 38, which has been published for the guidance of both the Planning Inspectorate and applicants. However, every application will be considered on its merits and a determination will depart from the policy if it appears appropriate to do so. In such cases, the decision will explain why it has departed from the policy.

¹ Common Land Consents Policy (Defra November 2015)

4. The application gives the name of the common land as 'Land at Shackleford Road' and the original published notice gives the name as 'Elstead Common'. I am satisfied that the application is in respect of common land register unit CL225. I am further satisfied that subsequent re-publishing of the application notice using the correct name of Royal Common has clarified the identity of the common land concerned sufficiently such that the public has not been prejudiced in being given the opportunity to make representations about the application.
5. This application has been determined solely on the basis of written evidence.
6. I have taken account of the representations made by the Surrey Hills Area of Outstanding Natural Beauty (AONB) Board, Mr Bob Milton and the Open Spaces Society.
7. I am required by section 39 of the 2006 Act to have regard to the following in determining this application:-
 - a. the interests of persons having rights in relation to, or occupying, the land (and in particular persons exercising rights of common over it);
 - b. the interests of the neighbourhood;
 - c. the public interest;² and
 - d. any other matter considered to be relevant.

Reasons

The interests of those occupying or having rights over the land

8. The land is owned by MMC Developments Limited, which has entered into a contract to sell its land at the former Weyburn Works site to the applicant; it has no objections to the application. The common land register indicates that there are no registered rights of common over CL225 but that two parties claim a right of vehicular access across the common land for farming purposes. Both parties were consulted about the application and offered no comments on the proposals. I therefore consider that the proposed works are unlikely to harm the interests of those occupying or having rights over the land.

The interests of the neighbourhood and the protection of public rights of access

9. The proposed works of approximately 3 weeks duration are improvements to an existing hard surfaced vehicular access way from the highway into the former Weyburn Works site. The works will create an additional 6 square metres of grassed area as more land is to be returned to soft landscaping than will be taken to be hard surfaced. Whilst this is not a net gain to the area of common land because the new area of grass will be within the existing common boundary, it nevertheless increases by a small amount the area of grassed area for public use. The public will be able to cross the improved hard surfaced access way in the same way that they can do now and more safely access the site on foot along a new footpath provided for that

²Section 39(2) of the 2006 Act provides that the public interest includes the public interest in; nature conservation; the conservation of the landscape; the protection of public rights of access to any area of land; and the protection of archaeological remains and features of historic interest.

purpose. Restriction of some public access through the use of safety barriers will be temporary and of short duration. The OSS has not objected to the application.

10. I consider that the works as proposed are in the interests of the neighbourhood as they will provide a small increase in grassed area and improve roadside footway provision.

Nature conservation

11. The access way is close to the Thursley, Hankley and Frensham Commons Site of Special Scientific Interest (SSSI) and Special Protection Area (SPA). However, the works will not encroach into the designated areas. The works are proposed in relation to land that is already a hard surfaced vehicular access way and there is no evidence before me to suggest that they will harm nature conservation interests.

Conservation of the landscape

12. The stretch of highway from which the access way spurs is lined with trees on both sides and the improved access way would sit largely unchanged within the treed landscape. The access way lies within the Surrey Hills AONB and, whilst it is essentially already a functioning hard surfaced road, the impact of the improvement works on the AONB needs to be considered. Although the area of new hard surfacing will have some visual impact this will be offset by the somewhat larger area of hard surfacing which is to be removed and landscaped. Overall, the proposed hard surfacing will therefore have no greater visual impact than the hard surfacing it will replace. The AONB Board has advised that it has no concerns about the proposed works and I agree that they will not harm the interests of conserving and enhancing the natural beauty of the AONB.

Archaeological remains and features of historic interest

13. Historic England and Surrey Archaeological Society were consulted on the proposals and neither made any comments. There is no evidence before me of any archaeological features within the application site or nearby and I am satisfied that the proposed works are unlikely to harm any archaeological remains or features of historic interest.

Conclusion

14. Having regard to the interests set out in paragraph 7 above, I conclude that the works will provide a small benefit to the interests of the neighbourhood without seriously harming the other interests and that consent should therefore be granted subject to the condition in paragraph 1 above.

Richard Holland