



# Application Decision

by **Richard Holland**

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

Decision date: 15 March 2016

---

## Application Ref: COM 747

### Redhill and Earlswood Common, Surrey

Register Unit No: CL 39

Commons Registration Authority: Surrey County Council

- The retrospective application, dated 22 October 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 the Parochial Church Council of St John's Church, Redhill.
  - The works comprise: temporary structures comprising Heras fencing, timber hoarding, access and security gates and site accommodation, including site cabin and store on 95 square metres. A 12 month consent is sought.
- 

## Decision

1. Consent is granted for the works in accordance with the application dated 22 October 2015 and the plan submitted with it subject to the condition that the works are removed and the common re-instated no later than 12 months from the date of this decision.
2. For the purposes of identification only the location of the works are shown outlined in red on the attached plan.

## Preliminary Matters

3. Since submitting the application the applicant has said that the works include resurfacing the unmade access track bisecting the common with crushed aggregate. However, such resurfacing works were not referred to in either the application form or the advertised application notice. The Planning Inspectorate advised the applicant that such works can only be taken into account if the application notice was re-advertised and it included a reference to the resurfacing works. As the applicant has not confirmed that such re-advertising has taken place the application has been decided on the basis that it does not include resurfacing works to the access track.
4. I have had regard to Defra's Common Land Consents Policy Guidance<sup>1</sup> in determining this application, 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 guidance if it appears appropriate to do so. In such cases, the decision will explain why it has departed from the guidance.
5. This application has been determined solely on the basis of written evidence.
6. I have taken account of the representations made by the Open Spaces Society (OSS), Natural England (NE) and Surrey County Council's Heritage Conservation Team.

---

<sup>1</sup> Common Land Consents Policy (Defra November 2015)

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;<sup>2</sup> and
  - d. any other matter considered to be relevant.

## **Reasons**

### ***The interests of those occupying or having rights over the land***

8. The landowner, Reigate and Banstead Borough Council, has not commented on the application. The applicant confirms that the council has issued a licence giving them permission to close the track for the duration of the works, and access for those with rights over the common will be made available as and when requested. There are no common rights registered over the common. I do not consider that the works will impact adversely on the interests of those occupying or those having rights over the land.

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

9. The works are required to facilitate the construction of a new church hall within the churchyard. The hoarding is needed to provide security to the site compound and to screen the site buildings from view. The fencing is required to prevent vehicles from damaging the common during the works. The OSS has not objected to the works.
10. The works will restrict access to the common for a short duration after which they will be removed and the land reinstated to its original condition. I conclude that the works will not have a significant or lasting impact on the interests of the neighbourhood or public rights of access.

### ***Nature conservation***

11. NE comments that due to the temporary nature of the compound on the common it is not envisaged that there will be any long term negative impact. Trees and shrubs are to be retained. NE suggests that consideration should be given to opportunities to improve the area for biodiversity once the temporary structures are removed. In response the applicant confirms that they will seek advice on improving biodiversity from the project arboriculturist, and propose the introduction of local wildflowers to encourage insects and wildlife to use the land. I am satisfied that there will be no significant or lasting impact on nature conservation interests and the improvements proposed following the works may benefit biodiversity.

### ***Conservation of the landscape***

12. The works are restricted to a small area of common next to the church with access from Church Road and Pendleton Road. The open mesh Heras fencing is intended to prevent damage to the common and mitigate the visual impact by maintaining open views to common land from Church Road. The fencing will have a temporary visual impact on the common; however I accept that the fencing is needed to help protect and prevent damage to

---

<sup>2</sup>Section 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.

the common. I consider that any visual impact on the landscape will be short term and there will be no lasting harmful impact on the common.

***Archaeological remains and features of historic interest***

13. The Heritage Conservation Team at Surrey County Council comment that the works will not impact upon any designated heritage assets and, according to their records, it is highly unlikely that currently unknown assets will be present within the area of impact. I am satisfied that the works will not harm archaeological remains or features of historic interest.

**Conclusion**

14. I conclude that the works will not harm the interests set out in paragraph 6 and consent is therefore granted subject to the condition at paragraph 1.

**Richard Holland**