



Application Decision

Site visit made on 23 February 2016

by Mark Yates BA(Hons) MIPROW

an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs

Decision date: 5 April 2016

Application Ref: COM 745

Redhill and Earlswood Commons, Surrey

Register Unit: CL 39

Registration Authority: Surrey County Council

- The application, dated 13 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 Mr Feist of Merstham Cricket Club ("MCC").
 - The works relate to the erection of a temporary metal storage container stated to cover a total area of 15 metres². It is more specifically described as being 6.1 metres by 2.44 metres and having a height of 2.44 metres.
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Decision

1. Consent for the works is granted in accordance with the application and the plan submitted with it. The consent is subject to the following condition:
 - The storage container shall be removed, and the land restored to its former condition on or before 28 February 2018.

Preliminary Matters

2. I undertook a visit to the site on 23 February 2016 accompanied by Mr Feist. For the purpose of identification only the location of the site is coloured red on the attached plan.
3. The objectors refer to some incorrect information in the application form and particular questions not being addressed. The applicant's representative has now clarified the responses to these questions and I shall have regard to the subsequent information provided when considering the application.
4. Planning permission was granted on 25 February 2016 in relation to the container. Whilst this is distinct from the application that I need to consider, there are two conditions in the permission which may have some relevance to my decision. Condition 2 specifies that the container shall be removed by 28 February 2018. Secondly, condition 3 requires the approval of the planning authority regarding the details of the colour of the container and the screen to be erected around it, prior to development taking place.

Main Issues

5. 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 interest¹;
 - (d) any other matter considered to be relevant.

Reasons

The application

6. The application relates to the erection of a metal container for the storage of equipment and machinery to be used in the maintenance of the cricket pitch and to store bulky playing items. It is requested that the consent lasts for a period of 5 years given the lack of security of tenure at the present time. MCC has its own ground in Merstham but due to the number of members it leases the pitch at Earlswood Common from Reigate and Banstead Borough Council. The maintenance of the pitch is stated to be a requirement of the leasing agreement. The container would be located to the rear of the existing brick built cricket pavilion.

Representations

7. Five representations were submitted in response to the advertisement of the application. The Open Spaces Society, Mr Milton and Mr Craddock object to the proposed works. In contrast, Mr Sharp and Mr Hirschfield support the application. An additional party, the Surrey Cricket Foundation, submitted a letter of support prior to MCC making the application.
8. The points the objectors raise in relation to the application form and the temporary nature of the structure have now been addressed. They are also concerned about the visual impact of the container, the lack of public benefit and the effect on public access.

The interests of those occupying or having rights over the land

9. There are no rights of common registered and nothing has been provided to suggest that any party occupying or having rights over the land would be adversely affected by the proposed works.

The interests of the neighbourhood

10. No particular issues are raised in relation to the interests of the neighbourhood. Nonetheless, some of the points addressed below in relation to the public interest are also likely to impact upon local people.

¹ 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 public interest

11. Paragraph 3.2 of the Common Land consents policy issued by the Department for Environment, Food and Rural Affairs outlines one of the outcomes sought is that *"works take place on common land only where they maintain or improve the condition of the common or where they confer some wider public benefit and are either temporary in duration or have no significant or lasting impact"*.
12. There is no suggestion that the works would maintain or improve the condition of the common. It would enable equipment to be stored to assist with the maintenance of the cricket pitch for the benefit of MCC members and other players. In support of the application, reference is made to MCC being a community club, which provides competitive cricket for over 250 juniors ranging from 8-17 years and 70 senior members alongside a disability section.
13. There would be no widespread benefit for the public arising out of this application. However, I consider it is reasonable to conclude that the players and spectators who would benefit constitute a proportion of the public. If the pitch cannot be maintained the outcome is likely to be that cricket matches will have to cease for the foreseeable future. In addition, the container would be temporary and have no permanent impact on the common.
14. MCC states that the existing cricket pavilion is not suitable for the storage of the equipment and machinery. A store which was located in front of the building used by footballers has now been removed due to its condition. The site of the former store is situated off a track leading into the common and a replacement structure in this location is likely to have an adverse visual impact. Overall, no viable alternatives to the proposed structure are apparent from the submissions provided or my observations of the site. This does not mean that a suitable alternative will not become available in the future.
15. The public would temporarily be prevented from accessing around 15 metres² of the common if the container is erected. Bearing in mind the size of the common and the proposed location of the container, I am not satisfied that there would be a significant impact on public access. The provision of the storage facility would be consistent with the use of this part of the common for particular sporting activities.
16. MCC acknowledges the potential unsightly nature of the container and there is a condition in the planning permission in relation to the colour of the container and the erection of some form of screening. In respect of the latter, I am mindful that it may not be permitted, even if consent for the erection of the container is granted, in light of the extent of the application before me. The container would have an adverse impact on the immediate landscape. However, the placing of the container behind the pavilion and the cover provided by the existing trees to the north should obscure it from more distant views.
17. There are no other issues apparent from the submissions provided or my observations of the site that impact upon the public interest.

Conclusions

18. There is nothing to suggest that any party occupying or having rights over the land would be adversely affected by the proposed works. Nor am I satisfied that the container would have a significant impact on the public rights of access. The main issue to be determined in relation to the interests of local

residents and members of the public generally is the visual impact of the container. There are factors that will limit its impact upon the common, such as its position. It will nonetheless have a visual impact on the immediate locality.

19. The storage of machinery and equipment for the maintenance of the cricket pitch would benefit players and supporters from the local community and elsewhere and would be temporary in duration. The provision of storage facilities is also consistent with the use of this part of the common for organised sports. These issues have to be set against the visual impact of the container.
20. Having regard to the issues outlined above, I conclude on balance that consent should be granted. This will enable MCC to use the cricket pitch whilst consideration is given to resolving the issue of the storage of equipment and machinery. However, I am not convinced that a case has been made for the container to remain in place for a period of five years. Bearing in mind the relevant condition in the planning permission, I consider that the consent should terminate on the date specified in this condition.
21. My decision means that the rights of access over the land in question, in accordance with Section 193 of the Law of Property Act 1925, are curtailed for the period covered by the consent. Further, any subsequent application for the erection of a temporary or permanent structure will need to be determined on its own merits.

Mark Yates

Inspector