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# Application Decision

by **Richard Holland**

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

Decision date: 9 June 2016

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## Application Ref: COM 770

### Harpenden Common, Hertfordshire

Register Unit No: CL 16

Commons Registration Authority: Hertfordshire County Council

- The application, dated 18 January 2016, 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 Harpenden Town Council.
  - The works comprise:
    - (i) a replacement cricket pavilion on 531.78 square metres
    - (ii) 25 metres of permanent fencing around the compound to the rear of the pavilion
    - (iii) 114 metres of temporary timber hoarding (three months)
    - (iv) 45 metres of temporary chestnut paling fencing (three months)
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## Decision

1. Consent is granted for the works in accordance with the application dated 18 January 2016 and the plan submitted with it, subject to the following conditions:
  - i. the works shall begin no later than three years from the date of this decision; and
  - ii. the temporary hoarding and fencing shall be removed no later than three months from the date it is erected.
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 Policy<sup>1</sup> 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. Planning permission (reference no. 5/15/0305) was granted for the replacement pavilion on 5 August 2015 subject to conditions.
4. This application has been determined solely on the basis of written evidence.
5. I have taken account of the representations made by the Open Spaces Society (OSS), Natural England (NE), Historic England (HE) and Mr Alan Dorman.
6. 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);

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

- 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***

7. The applicant, Harpenden Town Council is also the landowner. There is one right of grazing registered. The applicant confirms that the right is not exercised. I conclude that the works will not harm the interests of those occupying or having rights over the land.

### ***The interests of the neighbourhood***

8. The interests of the neighbourhood test relates to whether the works will unacceptably interfere with the way the common is used by local people. The works are intended to replace the existing sub-standard cricket pavilion and detached groundsman store with an updated two storey modern cricket pavilion. The works will incorporate some land between existing buildings and open storage. Temporary fencing will be in place during the building works and will be removed on completion.
9. I note that the proposed works will, as well as meeting the needs of the cricket club, provide larger function rooms for use by the club and the wider community. Mr Dorman is concerned that the proposed pavilion, in providing enhanced community facilities, will result in uses inappropriate to the common such as weddings, keep fit classes and gymnastics. However, Defra's Common Land Consents Policy makes clear that it may be appropriate to grant consent for permanent buildings such as cricket pavilions because they are intrinsically related to the enjoyment of the common. I do not think it is unreasonable that, in addition to its main function as a cricket pavilion, the building is put to uses which are not directly related to the game but which also serve the local community. I give weight to the fact that the applicant will enter into a lease with the cricket club governing the use of the pavilion so that the interests of people using the common are protected. With this safeguard in place I do not accept that the type of community uses of concern to Mr Dorman will seriously impact or interfere with the way local people use the common. I consider that the provision of a pavilion which meets modern standards will benefit the cricket club and the wider community whilst allowing local people to continue to enjoy the common.

### ***The public interest***

#### ***The protection of public rights of access***

10. The replacement cricket pavilion will be located in the same position as the existing building, which has been on the common for many years. The proposed works will include some land situated between existing outbuildings that is currently accessible to the public, however it is unlikely that these areas are well used and popular access routes running either side of the existing cricket pavilion will not be affected. I do not consider that the proposed works will unacceptably interfere with public rights of access.

### ***Nature conservation***

11. NE has assessed the application as not delivering any significant benefits or causing problems for nature conservation. I am satisfied that the proposed works will not harm nature conservation interests.

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

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<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.

12. NE advises that the pavilion is not within a designated landscape but recommends that the impact on the landscape of the fencing is minimised by the use of natural colours, such as green steel fencing. The applicant confirms that the permanent 1.8 metre high palisade fencing will be green to blend in with the surroundings. The building will occupy a similar footprint as the present building. The external construction materials and finishes have been chosen to blend into the landscape, being natural and traditional and in keeping with the character of the area. The permanent fencing will be located to the rear of the building which is screened by a belt of trees.
13. I note that Mr Dorman considers that the proposed works will impact on the open character and visual amenity of the common which is in a Conservation Area. He argues that the proposed two storey pavilion would break through the existing skyline of trees and considers the large expanse of roof a significant intrusion, scarring the landscape.
14. I conclude that the relatively small increase in the height of the proposed pavilion compared with the current building is not likely to impact significantly on the landscape. I am satisfied that, as it is a condition of the planning permission that the materials used for the external surfaces of the pavilion must be approved by the local planning authority, the proposed works will not be out of keeping with the area. Indeed, they will offer some visual improvements, particularly as the replacement pavilion will incorporate the outbuilding and open storage area. I consider any impact from the temporary fencing on the landscape will be minimal and of short duration. I am satisfied that overall the proposed works will conserve the landscape of the common in the long term.

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

15. HE confirms that the proposed works do not have a direct effect on any designated assets, but recommends that archaeological staff at Hertfordshire County Council are consulted regarding the impact on undesignated archaeological remains and historic features, and to advise on an appropriate archaeological mitigation strategy. I note that the applicant has consulted Hertfordshire County Council and the Archaeology Officer at St Albans District Council and neither have objected to the application. I am satisfied that, on the evidence before me, the proposed works will not harm archaeological remains and features of historic interest.

### **Other matters**

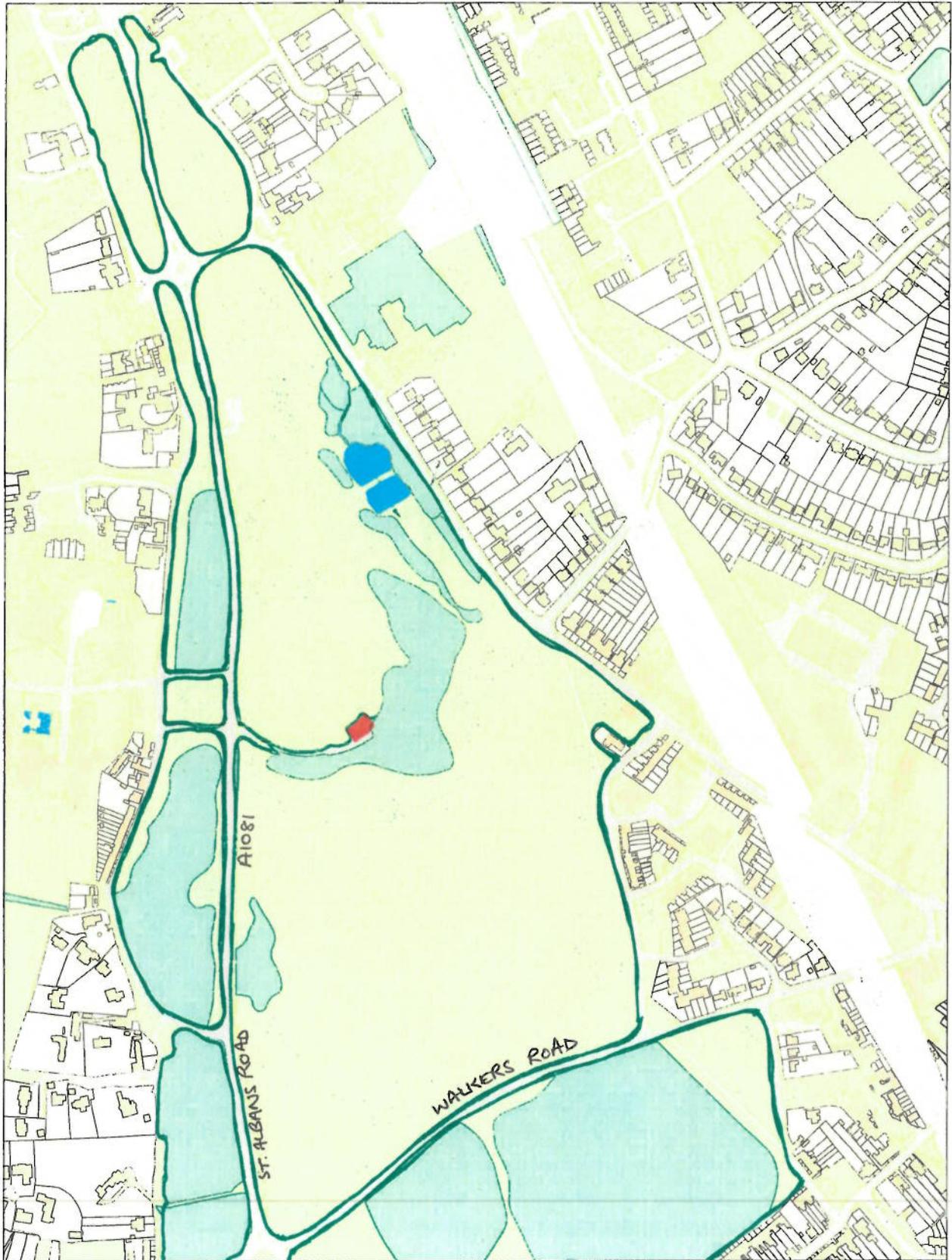
16. Mr Dorman is also concerned about the landscaping, an access road and proposed parking facilities. However, these works do not form part of this application and I am therefore unable to take Mr Dorman's objections into account. The impact of the works on the living conditions of local residents and on the Green Belt are matters which go beyond the scope of what can be considered when deciding this application. However, it is clear from the planning permission that the local planning authority is content that the proposal is appropriate development in the Green Belt.

### **Conclusion**

17. I consider that the proposed works will not materially harm any of the interests set out in paragraph 6 above. I conclude therefore that consent should be granted for the works subject to the conditions set out in paragraph 1.

**Richard Holland**

# Harpenden Common



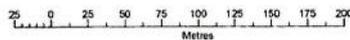
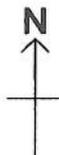
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