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# Application Decision

**by Richard Holland**

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

Decision date: 29 July 2016

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**Application Ref: COM 793**  
**Galleywood Common, Great Baddow, Essex**

Register Unit No: CL16

Commons Registration Authority: Essex County Council

- The application, dated 9 May 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 Chelmsford City Council (the Council), Civic Centre, Duke Street, Chelmsford, Essex CM1 1JE.
- The works comprise 275 linear metres of 1.8 metres wide shingle surface roadside public footway enclosing 495 m<sup>2</sup>.

## Decision

1. Consent is granted for the works in accordance with the application dated 9 May 2016 and the plans submitted with it subject to the condition that the works 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 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 guidance if it appears appropriate to do so. In such cases, the decision will explain why it has departed from the guidance.
4. Planning permission for the works was granted by the Council on 11 November 2015 (Application No. 15/01093/FUL).
5. This application has been determined solely on the basis of written evidence.

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<sup>1</sup> Common Land consents policy (Defra November 2015)

6. I have taken account of the representation made by the Open Spaces Society (OSS), which does not object to the proposals as it considers them to be in the public interest.
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 land is owned by the Council, which has advised that the various registered grazing rights over the common are not exercised. There is therefore no evidence to suggest that the works adversely affect 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 footway will extend westwards out of Galleywood from 'Woodsden', where the current footway terminates, along the south side of Margaretting Road. It will then turn south onto an unnamed road and continue along its east side before terminating opposite the Galleywood Heritage Centre and pre-school nursery.
10. The interests of the neighbourhood test relates to whether the works will affect the way the common land concerned is used by local people. This roadside common land is already a well-used route for pedestrians wishing to access the Heritage Centre and pre-school nursery from Galleywood. The land is currently an unsurfaced and uneven grass and soil roadside verge with no kerb to separate the road from the pedestrian route. The section along Margaretting Road is very narrow, bringing pedestrians very close to the road.
11. I consider that the proposed footway will provide an improved, formalised and safer pedestrian access to the Heritage Centre and nursery. In doing so it will serve the interests of the neighbourhood and public rights of access.

### *Nature conservation*

12. The proposals impact mainly on a 1.8 metre wide strip of land abutting the public highway. There is no evidence before me which leads me to think that the works will harm any statutorily protected sites or other nature conservation interests.

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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.

### *Conservation of the landscape*

13. I consider that the increased area of hard surfacing will have an urbanising effect to a certain extent. However, the Council has advised that the materials to be used will be sympathetic to the setting. These include a shingle surface and 'conservation kerbs' designed to soften the visual impact. The Council suggests that formalising the route will protect the wider common from uncontrolled footfall. I accept that alternative informal routes across the common away from the roadside may harm the appearance of the common by creating eroded desire lines and that this can be discouraged by formalising and making safer the roadside route. On balance I consider the scale and roadside location of works are unlikely to impact unacceptably on the appearance of the common. In any event, any visual harm caused by the footway will be outweighed by the benefits arising from improved public access.

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

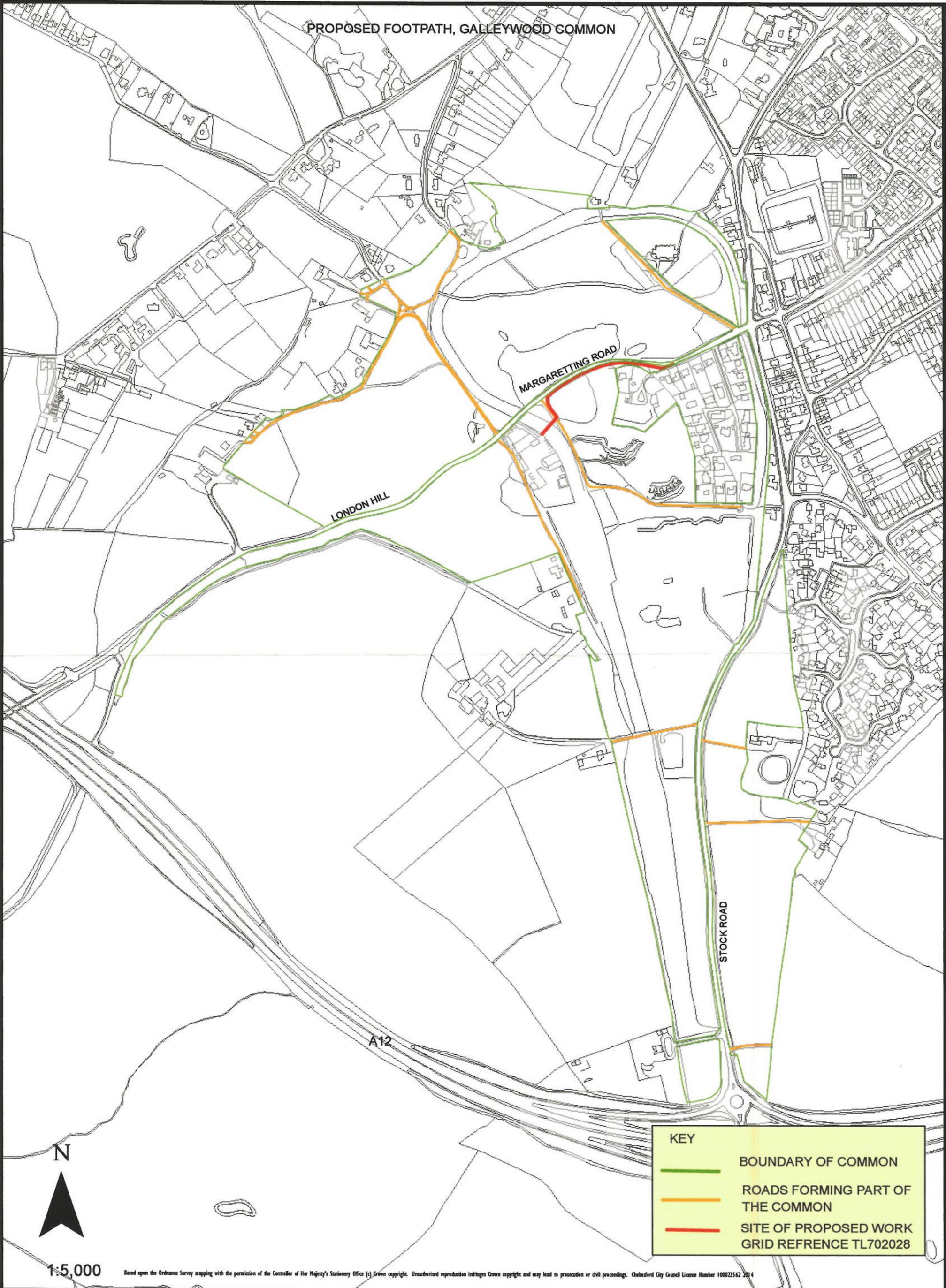
14. There is no evidence before me of any archaeological features within the application site or nearby. I am therefore satisfied that the proposed works are unlikely to harm any archaeological remains or features of historic interest.

### **Conclusion**

15. Having regard to the interests set out in paragraph 7 above, I conclude that the works will benefit the interests of the neighbourhood and public access without unacceptably harming the other interests. Consent should therefore be granted subject to the condition at paragraph 1.

**Richard Holland**

PROPOSED FOOTPATH, GALLEYWOOD COMMON



KEY	
	BOUNDARY OF COMMON
	ROADS FORMING PART OF THE COMMON
	SITE OF PROPOSED WORK GRID REFERENCE TL702028

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