
Application Decision

by **Richard Holland**

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

Decision date: 6 February 2017

Application Ref: COM/3156521
Ewhurst Green, Cranleigh, Surrey

Register Unit No: CL133

Commons Registration Authority: Surrey County Council

- The application, dated 11 August 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 Mrs Deborah Gauvin, Rumbeams Farm, Ewhurst Green, Cranleigh, Surrey GU6 7RR.
 - The works are to lay an 18m long spur access track of part tarmac and part cellweb type construction covering an area of 54 square metres from an existing vehicular access track to Rumbeams Farmhouse.
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Decision

1. Consent is granted for the works in accordance with the application dated 11 August 2016 and the plan submitted with it subject to the condition that the works shall begin no later than 3 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. Planning permission for the works was granted by Waverley Borough Council (the Council) on 11 July 2016 (Application WA/2016/1025).
4. The application form as originally submitted was not fully completed and instead referred to an appended Design, Access and Heritage Statement produced by the applicant's agent in support of the planning application. The applicant subsequently submitted a fully completed application form and copied it to the Open Spaces Society (OSS), which was the only party to make a representation about the application. I am satisfied that no party wishing to make a representation about the application has been prejudiced by the acceptance of the re-submitted application form.
5. 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.
6. This application has been determined solely on the basis of written evidence.
7. I have taken account of the representation of objection made by OSS.

¹ Common Land Consents policy (Defra November 2015)

8. 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

9. The common land is owned by the Council, which was consulted about the application but did not comment. There are no registered rights of common. I am satisfied that the works will not 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

10. Rumbeams Farm is accessed from the highway, known as The Green, across the common land via an existing track into a working area of the farm. The applicant has advised that the existing track is 300 years old. The proposal is to provide a new hard surfaced spur track off the northern side of the existing track to provide direct access to Rumbeams Farmhouse.
11. The interests of the neighbourhood test relates to whether the works will affect the way the common land is used by local people. The proposed spur will cross a small triangle of land situated between the existing access track to the south and the boundary of a cricket ground to the north. It appears to have little recreational value other than for general access. I do not consider that the proposed works will prevent local people, or indeed the wider public, from continuing to walk on the common in the way that they may be used to.
12. The applicant has suggested that the planting of a native hedge on the west side of the proposed spur track is required by a condition of the planning permission. OSS contends that such a hedge would give the impression that the track, and the common land to the east of it, is private land that is not part of the common. I agree that such a hedge is likely to give that impression and that it would discourage legitimate public access. However, the works do not include the planting of such a hedge and so it cannot form part of my determination of this application. I conclude that the proposed works will not harm the interests of the neighbourhood or the protection of public rights of access.

Nature conservation

13. Natural England advised that it did not wish to comment on the application. There is no evidence before me that leads me to think the works will harm any statutorily protected sites or other nature conservation interests.

Conservation of the landscape

14. Ewhurst Green has no special designated landscape value. OSS is nevertheless concerned that the introduction of a new track in an area where there are already a number of other such tracks would further despoil the common. I consider that a new track with a part tarmac, part shingle surface will cause some visual harm to the common. There will also be a need to remove some vegetation along the length of the route, which has the potential to detract from the appearance of the common. However, the planning permission is conditional to adherence to a tree protection plan submitted with the application to safeguard the retained trees in the interests of the visual amenity

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.

of the area; I am satisfied that implementation of the plan will lessen the impact of the track. Furthermore, the new track will be some 64 metres in from the highway, a distance that will soften its visual impact to some extent when viewed from the highway.

15. I conclude that the impact of the works on the landscape will not be so unacceptable that consent should be refused for this reason alone.

Archaeological remains and features of historic interest

16. There is no evidence before me of any archaeological features within the application site or nearby. I am content, therefore, that the works are unlikely to harm any such remains or features.

Other matters

17. Defra's policy advises that *'where it is proposed to construct or improve a vehicular way across a common... such an application may be consistent with the continuing use of the land as common land, even where the vehicular way is entirely for private benefit, because the construction will not in itself prevent public access or access for commoners' animals... The Secretary of State takes the view that, in some circumstances, a paved vehicular way may be the only practical means of achieving access to land adjacent to the common'*.

18. OSS has questioned the need for a new track across common land as alternative arrangements could be made to facilitate suitable vehicular access to the Farmhouse from the existing track via Rumsbeam Farm. The applicant has advised that the purpose of the new track is to provide a separate access to the Farmhouse, which is intended to become a private dwelling with no connection to the farm business. The applicant cites safety concerns associated with shared access, where access to the Farmhouse would be between a barn and stables on an independent working farm, which was formerly a dairy farm but is now in equestrian use. I give significant weight to this and accept that such an arrangement is potentially dangerous and unsatisfactory. I conclude that the proposals are consistent with Defra's policy objectives as the new track is the only practical and safe means of gaining access to the Farmhouse once it and the farm business are separated.

Conclusion

19. I conclude that the works will not unacceptably harm the interests set out in paragraph 8 above. There will be some visual harm to the landscape but not to such a degree that consent should be refused for this reason alone. Consent is therefore granted for the works subject to the condition at paragraph 1 above.

Richard Holland

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ORDNANCE SURVEY
PLAN REFERENCE

TQ0939

SCALE
1/2500

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DISTRICT WAVERLEY

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