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# Application Decision

by **Richard Holland**

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

Decision date: 12 January 2018

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## Application Ref: COM/3189443

### Peasmarsh Common, Surrey

Register Unit No: CL288

Commons Registration Authority: Surrey County Council

- The application dated 14 November 2017 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 Network Rail Infrastructure Limited.
  - The works comprise the construction of approximately 20 metres of temporary haul road to facilitate the replacement of the Compton Overbridge.
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## Decision

1. Consent is granted for the works in accordance with the application dated 14 November 2018 and the plan submitted with it subject to the following conditions:
  - i. the works shall begin no later than 3 years from the date of this decision; and
  - ii. the works shall be removed and the common restored within one month of the completion of the works.
2. For the purposes of identification only the location of the works are outlined in red on the attached plan.

## Preliminary Matters

3. The application form and newspaper advertisement refer to the common as Shalford Common but it is described in the commons register as Peasmarsh Common (in the Parish of Shalford). However, the location of the site is clear from the application map and the advertisement I am satisfied that no interested party has been prejudiced by this misnaming.
4. I have had regard to Defra's Common Land Consents Policy Guidance<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.
5. The application has been determined solely on the basis of written evidence.
6. I have taken account of the representation made by the Archaeological Officer at Surrey County Council.

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

7. I am required by section 39 of the 2006 Act to have regard to the following in determining these applications:-
- 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, Guildford Borough Council has been consulted about the application and has not objected. A right of pasture, pannage and estovers is registered over the common. The applicant confirms that the right is not exercised. I do not consider that the temporary proposed works will 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***

9. The interests of the neighbourhood test relates to how the works will impact on the way the common land is used by local people. The proposed works are necessary to facilitate the replacement of Compton Road Overbridge by allowing a mobile crane to reach its lifting position so that the road deck over the rail bridge can be replaced. The bridge replacement will ensure that the public highway and railway can continue to be safely used. The common will be used temporarily to allow heavy machinery to access the worksite for 18 weeks.
10. The proposed haul road will be some 20m long and occupy about 75m<sup>2</sup> of the common. It is not clear from the application whether public access over the haul road will be prevented during the works, for example for safety reasons. Temporary fencing enclosing the road does not form part of the application. In any event however, as the road will cover only a very small proportion of the common as a whole and will be in place for only 18 weeks while the reconstruction of the bridge is carried out I do not consider that the works will unacceptably interrupt access to the common or how it is used by local people. I conclude that as the works are of temporary duration they will not have a significant or lasting impact on the interests of the neighbourhood or public rights of access.

### ***Nature conservation***

11. The haul road will run through a small copse which will probably lead to the loss of some trees. However, I note that the applicant has said that the location and specification of replacement vegetation will be agreed with Guildford Borough Council's tree officer. I am satisfied that this measure will ensure that the works will have no lasting harmful impact on 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**

12. The temporary haul road will be constructed of crushed stone. Once the works have been completed, the temporary access and compacted fill will be removed and vegetation fully reinstated. I consider that as the land will be reinstated upon completion the proposed works will not cause any lasting harm to the appearance of the common; the landscape will therefore be conserved.

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

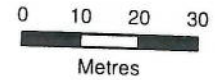
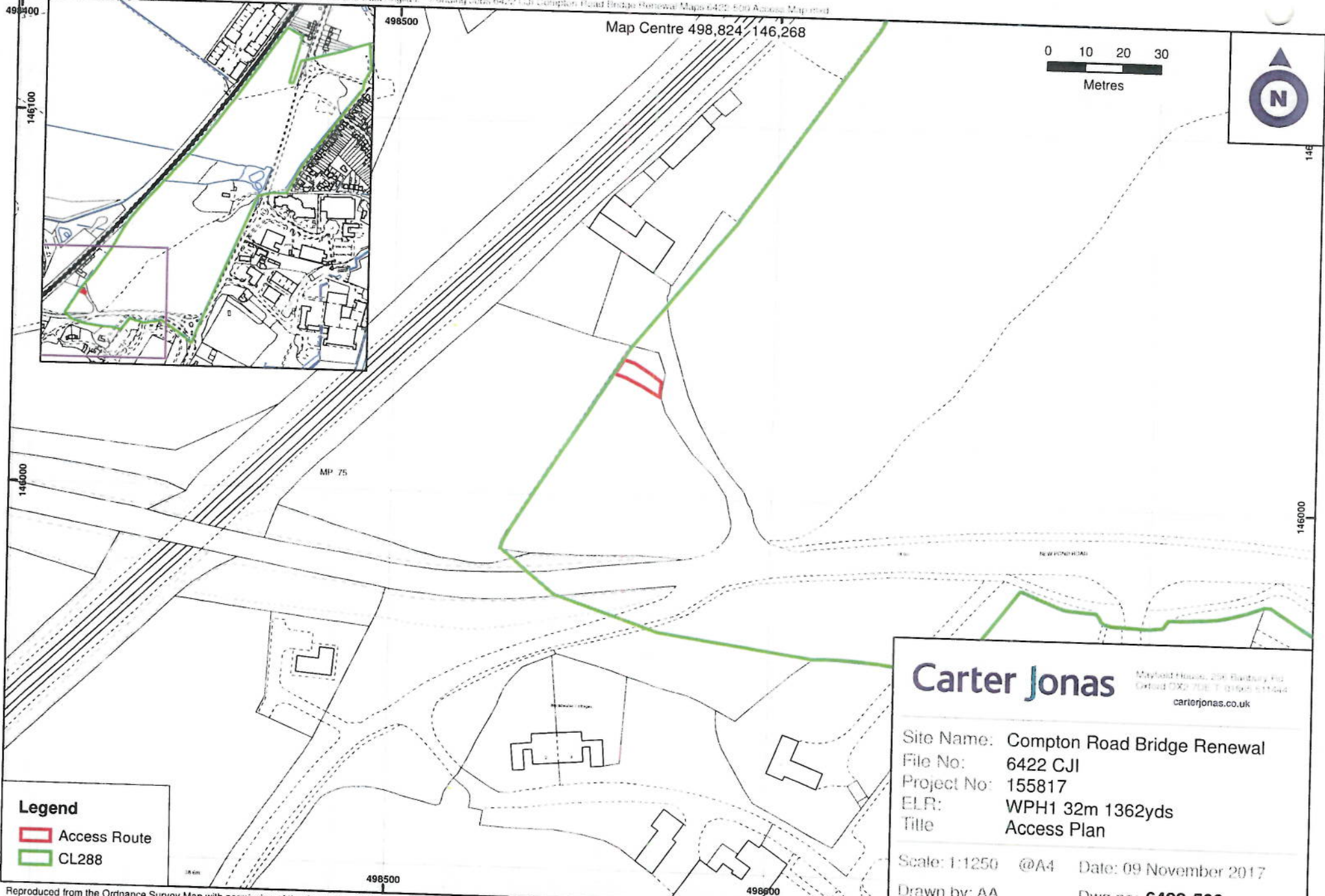
13. The Archaeological Officer at Surrey County Council confirms that the proposal will not impact upon any designated heritage assets and that it is highly unlikely that currently unknown assets in the form of buried archaeological remains will be present within the area of impact. In view of the Archaeological Officer's comments I am satisfied that the works will not harm any archaeological remains or features of historic interest.

### **Conclusion**

14. Defra's policy advises that *"...works may be proposed in relation to common land which do not benefit the common, but confer some wider benefit on the local community, such as minor works undertaken by a statutory undertaker (e.g. a water utility) to provide or improve the public service to local residents and businesses. In such cases, our expectation is that applications for such purposes on common land are more likely to be successful under section 16(1), so that an exchange of land is proposed and can be considered on its merits. However, consent under section 38 may be appropriate where the works are of temporary duration (such as a worksite), where the works will be installed underground (such as a pipeline or pumping station), or where their physical presence would be so slight as to cause negligible impact on the land in question (such as a control booth or manhole), and the proposals ensure the full restoration of the land affected and confer a public benefit."*

15. Having regard to the interests set out in paragraph 7, I consider that the works will have no significant or lasting impact on the common and will confer a wider public benefit by facilitating the replacement of Compton Road Overbridge. I therefore conclude that consent should be granted for the works subject to the conditions at paragraph 1.

**Richard Holland**



- Legend**
- ▭ Access Route
  - ▭ CL288

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Site Name: Compton Road Bridge Renewal  
 File No: 6422 CJI  
 Project No: 155817  
 ELR: WPH1 32m 1362yds  
 Title: Access Plan

Scale: 1:1250 @A4 Date: 09 November 2017  
 Drawn by: AA Dwg no: **6422-500**