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# Application Decision

**by Richard Holland**

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

Decision date: 6 July 2018

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**Application Ref: COM/3184726**  
**Westfield Common, Woking, Surrey**

Register Unit No: CL121

Commons Registration Authority: Surrey County Council

- The application, dated 13 September 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 Woking Property Management Limited.
  - The works comprise a 32.5m<sup>2</sup> block paved driveway to provide vehicular access from the highway to 96 Westfield Road, Woking GU22 9QD.
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## Decision

1. Consent is granted for the works in accordance with the application dated 13 September 2017 and the plan submitted with it.
2. For the purposes of identification only the location of the works is shown in red on the attached plan.

## Preliminary Matters

3. The application is wholly retrospective as the driveway has already been constructed.
4. 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.
5. This application has been determined solely on the basis of written evidence.
6. I have taken account of the representations made by Mr Jack Green, who objects to the application. and the Open Spaces Society, which does not object.
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

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

<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.

- d. any other matter considered to be relevant.

## **Reasons**

### ***The interests of those occupying or having rights over the land***

8. Pursuant to Commons Commissioner Decision 236/U/84 of 18 October 1977 the common land register records that in the absence of any evidence as to the ownership of the land it is subject to protection by the local authority (Woking Borough Council – the Council) under s9 of the Commons Registration Act 1965. It is clear from the Council’s email to Mr Green of 10 October 2017 about the block paved driveway, in which it specifically refers to an application being determined by the Planning Inspectorate, that the Council was aware of the application. The Council has however made no comments about its merits. There are no registered rights of common. I am satisfied that the works do 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***

9. The interests of the neighbourhood test relates to whether the works affect the way the common land is used by local people. The land concerned is grassed roadside verge in a residential area and appears to have little recreational value other than for general access. The block paving replaces a tarmac surfaced driveway covering the same footprint and I do not consider that the works prevent local people, or indeed the wider public, from walking on the common in the way that they may have done before the works were carried out.

### ***Nature conservation***

10. There is no evidence before me that leads me to think the works have harmed any statutorily protected sites or other nature conservation interests.

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

11. The driveway is not a new feature in the landscape but its surface has been changed from tarmac to block paving. Mr Green is concerned that a less intrusive/greener permeable material was not used instead. Whilst I note this point, the application must be determined on the basis of the works carried out.
12. The applicant has submitted a photograph of the block paved driveway and Mr Green has submitted ‘before and after’ photographs showing the driveway’s changing appearance. The ‘before’ photograph shows a shared tarmac driveway, one half serving 96 Westfield Road and the other half serving the property next door. The photograph shows the driveway to be patchy and worn in places and Mr Green acknowledges that the surface was old and falling apart. Mr Green is also concerned about the tarmacked side but it does not form part of the application before me for determination and I cannot take it into consideration.
13. Westfield Common has no special landscape value designation. Although the block paving currently has a somewhat discordant and harsh appearance, it is likely to weather over time so that it will gradually blend in more with its surroundings. On the basis of the photographs submitted I also consider the block paving to be aesthetically preferable to an ageing and deteriorating tarmac surface. For these reasons I conclude that in the long term the block paving will not harm landscape conservation interests.

### ***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 content, therefore, that the works are unlikely to have harmed any such remains or features.

### ***Other matters***

15. 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. Where an existing unsurfaced means of access is already in use, a sympathetic paving proposal may be aesthetically preferable'. In this case the existing access was not unsurfaced. However, given that the previous surface was old and deteriorating I am satisfied that the block paving is aesthetically preferable and is consistent with Defra's policy objectives.*

## **Conclusion**

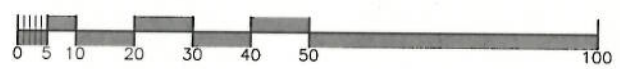
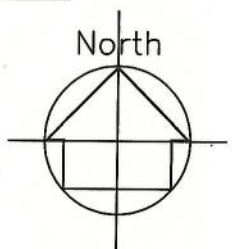
16. I conclude that the works will not harm the interests set out in paragraph 7 above and that consent should therefore be granted.

**Richard Holland**



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Area of driveway block paved shown by red outline



CLIENT  
Woking Property Management Limited

PROJECT  
96 Westfield Road, Woking, GU22 9QD

TITLE  
Common Plan

SCALE 1:1250 @ A4	DATE 01.09.17	L.02	-
DRAWN njr	PROJECT NO. 14.458		