



Application Decision

by **Richard Holland**

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

Decision date: **17 October 2018**

Application Ref: **COM/3202980**

Fishers Green, Stevenage, Hertfordshire

Register Unit No: CL15

Commons Registration Authority: Hertfordshire County Council

- The application, dated 10 May 2018, 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 Mr Ricky Green.
 - The works comprise a tarmac surfaced vehicular driveway covering 28.5 square metres (9.5 metres long x 3 metres wide) at No. 12 Fishers Green, Stevenage SG1 2JA.
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Decision

1. Consent is granted for the works in accordance with the application dated 10 May 2018 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. 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.
4. This application has been determined solely on the basis of written evidence. I have taken account of the representations made by the Open Spaces Society (OSS) and Historic England (HE), neither of which raised objections to the proposed works.
5. 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.

¹ Common Land Consents policy (Defra November 2015)

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.

Reasons

The interests of those occupying or having rights over the land

6. The land is owned by Stevenage Borough Council, which has entered into a formal agreement with the applicant to allow vehicular access across the land³ and has given planning permission for a dropped kerb onto the highway⁴. The commons registration authority has previously confirmed there to be no registered rights of common over the land⁵ and there is no evidence that this has since changed. I am satisfied that the works will not harm the interests of those having rights in relation to, or occupying, the land.

The interests of the neighbourhood and the protection of public rights of access

7. Currently, access from 12 Fishers Green to Fishers Green Road can only be gained by passing neighbouring properties; this is unsatisfactory for all concerned and photos submitted by the applicant show a limited visibility splay at the point of access onto the highway. The new driveway position will allow greater visibility and therefore safer vehicular access. The interests of the neighbourhood test relates to whether the works will affect the way the common land is used by local people and is closely linked with public rights of access. The land to be crossed by the driveway is a strip of grassed roadside verge through which a pedestrian footpath runs. The verge otherwise appears to have no use but for general access. I consider that a driveway here will have a negligible impact on the interests of the neighbourhood and public rights of access as local people and the wider public will continue to be able to walk over it.

Nature conservation, archaeological remains and features of historic interest, and conservation of the landscape

8. There is no evidence before me that leads me to think the works will harm any statutorily protected sites or other nature conservation interests. HE advised that the works will not harm any highly designated assets but the applicant should consult the local authority about any undesignated assets. The applicant consulted Stevenage Borough Council's archaeological service, which did not comment. There is therefore no evidence that any archaeological remains and features of historic interest will be affected by the proposed driveway. The land has no particular landscape designation. The application site is in a mainly suburban setting and there is a similar driveway approximately 10 metres away serving the property next door. The proposed driveway will therefore not be a wholly new or alien feature and I am satisfied that it will not have a significant impact on the landscape.

Other matters

9. 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*'. I am satisfied that the construction of the driveway is consistent with Defra's policy objectives.

Conclusion

10. I conclude that the driveway will not harm the interests set out in paragraph 5 above and will allow safer vehicular access to the highway from 12 Fishers Green. Consent for the works should therefore be granted.

Richard Holland

³ Dated 22 July 2010.

⁴ Application No 17/00777/FPH dated 9 January 2018.

⁵ In relation to application COM/3195163 dated 2 February 2018.

Land adjacent to 12 Fishers Green

Map Scale 1 : 500



Fisher's Gree

FISHERS GREEN

Trafford Court

CL 15

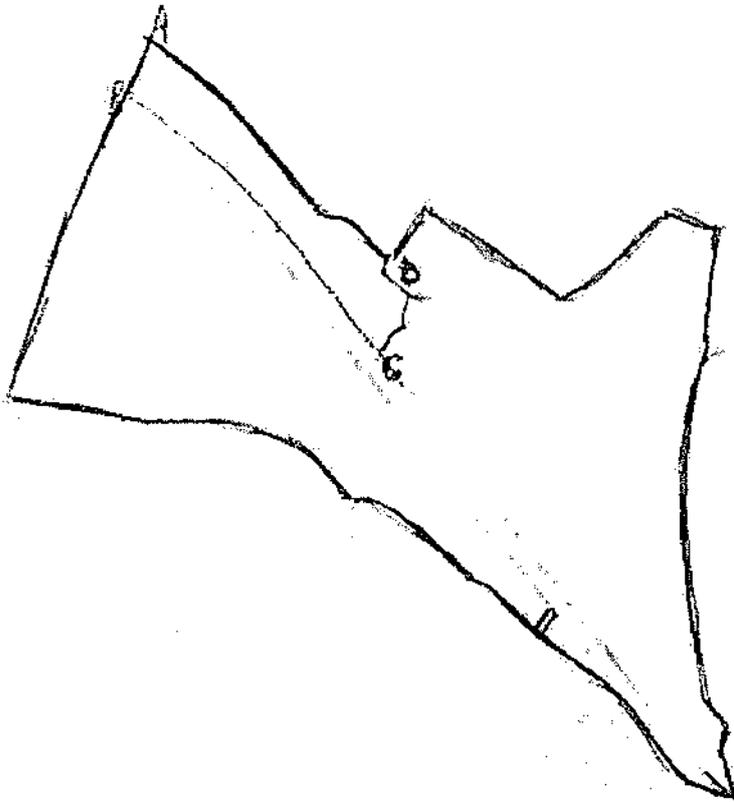


FIG. 1

21A