



Application Decision

by Richard Holland

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

Decision date: 15 March 2019

Application Ref: COM/3220025

Frensham Common, Surrey

Register Unit No: CL 87

Commons Registration Authority: Surrey County Council

The application, dated 17 December 2018, is made under Section 23 of the National Trust Act 1971 (the 1971 Act) for consent to carry out restricted works on common land.

The application is made by Waverley Borough Council.

The works comprise:

- construction of replacement Visitor Centre (the Heathland Hub) with, café, toilets, Ranger Office, workshop, staff shower, classroom/meeting room and 249.54 square metres of storage space;
 - car park reconfiguration with an additional 15 car spaces;
 - two new wildlife ponds for Natterjack Toad conservation of 78.54 square metres each: and
 - 20.8 metres of fencing for security to Ranger's work yard.
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Decision

1. Consent is granted for the works in accordance with the application dated 17 December 2018 and accompanying plan, subject to the following conditions:-
 - i. the works shall begin no later than three years from the date of this decision; and
 - ii. the common shall be restored within one month from the completion of the works.
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 23, 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.
5. I have taken account of the representations made by Natural England (NE) and the Open Spaces Society (OSS), neither of which object to the application.

¹ Common Land Consents Policy (Defra November 2015)

6. Planning permission for redevelopment of the visitor centre was granted by Waverley Borough Council, in its capacity as local planning authority, on 22 November 2018 (Reference No: WA/2018/1450).
7. I am required by section 39 of the Commons Act 2006 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.
8. The Heathland Hub is proposed to replace the smaller existing single-storey office and visitor centre at Frensham Common. The existing building is unable to cope with current and future demand, as the number of visitors to the common increases year on year. The applicant considers the existing facilities to be no longer fit for purpose as they do not meet staff or visitor needs. In the long term the existing building will also be an unsustainable drain on public sector resources in terms of maintenance and upkeep. It is of an old construction that is not energy efficient and is built with materials that are no longer considered appropriate, including roof tiles containing asbestos. It is proposed to demolish the existing building and to erect the Heathland Hub on the same plot.
9. The Heathland Hub will provide improved facilities for visitors and for staff employed to manage and conserve the common. It will also provide improved opportunities for educational information and interpretation. The proposed fencing is required to secure the Ranger's yard and the material to be stored there. Reconfiguration of the car park, which accommodates approximately 500 vehicles, is intended to help reduce visitor congestion on Bacon Lane, including verge parking, from which the public accesses the site, and to improve access to and from the site. The proposed two new ponds to be placed approximately 400 metres to the east of the Heathland Hub will create conditions conducive to furthering the conservation of the Natterjack Toad.

Reasons

The interests of those occupying or having rights over the land

10. NT, as owner of the common, supports and consents to the proposed works. It considers that the works are desirable for the purpose of improving opportunities for the enjoyment of the property by the public and considers that the works are in the interests of visitors to the common.
11. The common land register records two rights holders who together have rights to graze a small number of goats, pigs and horses and also have rights of estovers and common in the soil. The applicant has advised that rights are known to have been exercised in the past but there is no record of recent exercising of the rights. The rights holders were consulted about the application but did not comment.
12. I am satisfied that the works will not harm the interests of those having rights in relation to, or occupying, the land.

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.

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

13. The interests of the neighbourhood test relates to whether the works will unacceptably interfere with the way the common land is used by local people and is closely linked with interests of public access. Whilst the Heathland Hub can generally be considered to be a like-for-like replacement of the existing visitor centre, and therefore consistent with the current use of the land, the new building will have a larger footprint taking up an additional 96 square metres of land plus the 249.54 square metres of storage space to be fenced. However, although reconfiguration of the car park will add 15 extra parking spaces the area taken up by parking will be smaller when compared with the current arrangement (17420 square metres as opposed to the current 18036 square metres). The remaining 600 square metres or so will be restored to heathland and returned to public access. Taken together, the Heathland Hub and reconfigured car park will take up less land than the current visitor centre and car park combined, resulting in a net gain of land available for public access. While the public will not be able to access the ponds, they occupy only a very small area of the common as a whole and the loss is insignificant especially when weighed against the biodiversity improvements they will bring as discussed below.
14. I am satisfied that public rights of access will, on the whole, be enhanced by the proposed works. Furthermore, I consider that an improved visitor centre with educational and café/toilet facilities for users of the common will benefit the neighbourhood by enriching visitor experience.

Nature conservation

15. The affected land lies within the Thursley, Hankley and Frensham Commons Site of Special Scientific Interest (SSSI), the Thursley, Hankley and Frensham Commons (Wealden Heaths Phase 1) Specially Protected Area (SPA) and the Thursley, Ash, Pirbright and Chobham Special Area of Conservation (SAC). NE has advised that Frensham Common is an intensively used area of heathland, which requires constant management to maintain nature conservation interests and to prevent deterioration from the extensive use. NE considers that the new facilities incorporated into the Heathland Hub will aid the continuation of this work.
16. NE also supports the creation of two new wildlife ponds to further the conservation of the Natterjack Toad. Frensham Common is the only Natterjack Toad site in Surrey but the species is in decline here, as it is across many areas of the country. New ponds may help halt that decline because of their isolation from the larger ponds where predation may be taking place by non-native crayfish. The ponds will also increase the area of habitat available for Natterjack Toads. Conditions attached to the planning permission require measures to be put in place to protect reptiles, bats, trees and the designated sites. I am satisfied that adherence to these conditions will protect nature conservation interests. The proposed works are in the interests of nature conservation generally, and those of the Natterjack Toad in particular.

Conservation of the landscape

17. The Heathland Hub will occupy a larger footprint than the existing visitor centre. However, like the existing centre, it will be a single-storey building. It has been designed to provide a simple structure in keeping with its setting and will be finished with a natural oak cladding. I am satisfied that it is unlikely to impact on the landscape to any greater degree than the existing visitor centre. The applicant says the visibility of the car park in the wider landscape will be reduced slightly by removing a narrow strip and returning it to more natural vegetation. However, given the size of the car park the visual difference is likely to be very slight indeed and I give this little weight. I consider that the two new wildlife ponds will be interesting and attractive features in the landscape.

18. Frensham Common lies within the Surrey Hills Area of Outstanding Natural Beauty (AONB). The AONB Board has not commented on the application but provided pre-application advice to the applicant resulting in proposals that the Board supports. I am satisfied that the works will conserve the natural beauty of the AONB.

Archaeological remains and features of historic interest

19. Frensham Common includes two Scheduled Ancient Monuments (Bronze Age bowl barrows), one of which is near the Heathland Hub site but will not be affected by the works. A condition attached to the planning permission requires the implementation of a pre-development programme of archaeological work in accordance with a written Scheme of Investigation to be approved by the planning authority. I am satisfied that adherence to this condition will protect any archaeological remains and features of historic interest that may be present at the site.

Conclusion

20. I conclude that the proposed works will not significantly harm any of the interests set out in paragraph 7 above. Indeed, they will provide various benefits. Improvements to the existing facilities will benefit the neighbourhood and support ongoing conservation work across the common, whilst the two new ponds will be of specific benefit to conserving the Natterjack Toad and will be visually attractive features in themselves. Consent is granted for the works subject to the conditions set out in paragraph 1.

Richard Holland

Proposed works boundary and common land boundary

