
Application Decision

by **Richard Holland**

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

Decision date: **13 May 2019**

Application Ref: **COM/3218442**

Waste of the Manor, Hemel Hempstead, Hertfordshire

Register Unit No: CL33

Commons Registration Authority: Hertfordshire County Council

- The application, dated 11 December 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 Hertfordshire County Council (the Council).
- The works beside Redbourne Road (B487 and A4147) and High Street Green comprise:
 - i. new shared use footway on the southern side of the B487;
 - ii. new toucan crossing on the B487 for pedestrians and cyclists;
 - iii. upgrading of existing footway to shared use and localised footway widening;
 - iv. new pedestrian refuge at the entrance of the Texaco service station on the B487;
 - v. kerb realignments and new road marking at the service station entrance/exit;
 - vi. associated signing for cyclists and pedestrians;
 - vii. new bench seating in multiple areas;
 - viii. new plantings in areas near benches;
 - ix. temporary 1m high safety barriers around the working areas; and
 - x. temporary contractors' secure storage/welfare compound enclosed by a 2.5m high Heras mesh fencing.

Decision

1. Consent is granted for the works in accordance with the application dated 11 December 2018 and the plans submitted with it subject to the following conditions:
 - i. the works shall begin no later than 3 years from the date of this decision;
 - ii. all temporary fencing shall be removed and the land shall be reinstated on completion of the works.
2. For the purposes of identification only the location of the works is shown in red and pink on the attached plan.

Preliminary Matters

3. Planning permission for construction of new shared use foot/cycleways at land adjacent to High Street Green, Swallowdale Lane, Redbourne Road, Three Cherry Trees Lane, Eastman Way and Maylands Avenue was granted by Dacorum Borough Council on 24 September 2018 (Application 4/01400/18/FUL).
4. 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

¹ Common Land Consents policy (Defra November 2015)

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 the Open Spaces Society (OSS), which does not object to the proposals, and Ms Sally Burns.
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;² and
 - d. any other matter considered to be relevant.

Reasons

The interests of those occupying or having rights over the land

8. The common land is owned by Dacorum Borough 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

9. The interests of the neighbourhood relates to whether the works will affect the way the common land is used by local people and is closely linked with the interests of public rights of access. The affected common land is grassed verge along the south side of the B487, the east side of the A4147 and the west side of High Street Green. It appears to have little value other than for general recreational access. Whilst the common land extends along sections of both sides of these roads it does not do so uniformly and there are sections where common land is present on one side only.
10. An expansion of business and residential development in the area has resulted in increased pedestrian and cycle traffic. Path extension and widening along the Redbourne Road and High Street Green verges is proposed to improve safety and accessibility for pedestrians and cyclists and to encourage use of formal routes. The paths will link to existing bus stops and the proposed new toucan crossing. I am satisfied that the path proposals are in the interests of those who use the verges as a pedestrian/cycle route and will not significantly harm the interests of those who may use the verges recreationally, such as for dog walking.
11. The toucan pedestrian crossing will not directly link common land verges as it is to be positioned at a point where common land is present on only one side of the road. However, I consider that the crossing will, in conjunction with the paths, provide greater connectivity in general for cyclists and pedestrians using the common and that this is in the interests of local users and the public alike.
12. The pedestrian refuge is to be positioned within the vehicular entrance to the Texaco service station, which is hard surfaced but forms part of the common land. I consider that it will benefit pedestrians crossing the entrance.
13. The strategic placing of benches and planting areas is intended to prevent unauthorised parking on the verges and also to discourage such parking by changing the perception of what is an acceptable use of the land. On this basis I consider the proposals to be in the interests of the neighbourhood

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.

and public access, although it may be unlikely that great recreational use would be made of benches set so close to a busy road.

14. The application includes proposals to erect safety barriers around the various working areas during construction. The Council has confirmed that the works will be carried out in stages with no more than 50-60m of barriers in place at any one time. The application also includes three fenced works compounds but the Council has confirmed that as the works will be completed in stages only one compound will be in place at any one time. As the safety barriers and the fenced compounds will be removed and repositioned as the works progress, I am satisfied that they will not seriously harm public rights of access.
15. Ms Burns raised concerns that a roadside path/cycle path would potentially be unsafe for users of the route as the path would cross a number of driveways and the attention of motorists exiting onto the busy road would be focussed on gaps in the traffic causing them to pull out in front of path users. She also raised concerns that the close proximity of the proposed paths to the roadside would be dangerous and that users may find it safer to use a more central route along the grass verges instead of the formal paths. The Council contends that the scheme aims to improve safety and accessibility for both pedestrians and cyclists and that its Road Safety Audit Team has deemed the proposals safe. While I understand Ms Burns' concerns, I would expect path users and motorists to exercise particular caution along those sections of path crossed by driveways and, in so doing, I am satisfied that the proposals will not compromise the safety of users of the common.

Nature conservation

16. 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

17. The common land has no special designated landscape value and sits beside busy highways in a built-up area. It is nevertheless a green space that will be visually marred to some extent by new and widened paths and by associated new signage. However, increased use of the verges as a pedestrian and cycle route is likely to continue regardless of whether formal paths are provided. I consider that in the absence of paths the grassed surface is likely to be damaged through regular pedestrian and cycle use leading to unsightly erosion; this would be visually more harmful than the paths. I also consider that the proposed planting will introduce attractive features that will go some way to redressing any visual harm caused by the paths and signage. I conclude that, on balance, the works will not seriously harm landscape interests.

Archaeological remains and features of historic interest

18. 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.

Conclusion

19. I conclude that the works are likely to be of benefit to those using the common as a route along Redbourne Road and High Street Green; the other interests set out in paragraph 7 above will not be unacceptably harmed. Consent is therefore granted for the works subject to the conditions at paragraph 1 above.

Richard Holland



Key:

- Common Land area CL033
- Hertfordshire County Council Highways land
- Extent of Highways works within and adjacent to Common Land
- Extent of contractor's compounds

300 mm
 200
 100
 50
 0 10 mm
 1:4000 @ A3

Information Only

Revision	Amendment	Approved	Revision Date

Hertfordshire
 COUNTY HALL
 Pegs Lane
 Hertford, Herts
 SG13 8DN
 Phone: 01992 555555

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Designed	Approved	Approved Date
H.Young	A.McWhinnie	09/05/2018
Drawn	Scale	Project No.
M.Nikolaids	1:2000 @ A1, 1:4000 @ A3	HC G-11601.56

ITP16015
 Maylands Pedestrian/Cyclist Improvements
 Hemel Hempstead

Proposed Works in Common Land
Location - Key Plan - Sheet 1 of 1

Sheet No.	Revision
01	00

1:2000 @ A1
 1:4000 @ A3
 0 20 40 60 80 100 120 140 160 180 200 m