



# Application Decision

by **Richard Holland**

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

Decision date: 20 June 2019

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## Application Ref: COM/3226922

### Shalford Common, Surrey

Register Unit No: CL 287

Commons Registration Authority: Surrey County Council

- The application dated 15 March 2019 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 Guildford Borough Council.
  - The works comprise the installation of a Swift Tower mounted on a pole 10.2 m tall and a maximum of 90 cm in diameter at its widest point.
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## Decision

1. Consent is granted for the works in accordance with the application dated 15 March 2019 and accompanying plan, subject to the condition that the works shall begin no later than three years from the date of this decision.
2. For the purposes of identification only the location of the works is shown as a red star on the attached plan.

## Preliminary Matters

3. 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.
4. This application has been determined solely on the basis of written evidence.
5. I have taken account of the representation made by the Open Spaces Society (OSS).
6. 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;

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

- 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***

7. The landowner is also the applicant. The applicant confirms that the three rights of grazing registered over the common are not exercised. I am satisfied that the proposed works will not harm the interests of those occupying the land or having rights over the land.

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

8. The interests of the neighbourhood test relates to whether the works will impact on the way the common land is used by local people. The swift tower is intended to provide a safe nesting space for swifts within a public art work. Local residents, the parish council and Guildford Borough Arts Officer have been consulted about the design. The works will cover an area no greater than a standard telegraph pole or small tree at ground level and its location at the edge of the common has been chosen so that they can be seen by those visiting a local cafe and nearby shops. The works have been granted planning permission (19/P/00396). The OSS does not object to the works which it considers to be in the public interest.
9. I note that the works will occupy a prominent position in the village and are designed to be viewed and enjoyed by the local neighbourhood and visitors. The footprint is negligible and will have no impact on public rights of access. I am satisfied that the works will not harm public rights of access and, by encouraging swifts to nest, are likely to improve local people's enjoyment of the common.

### ***Nature conservation***

10. The applicant explains that swifts are an important part of the common's ecology and are in rapid decline nationally, in part because of loss of nesting spaces in modern buildings. The works will provide space for 50 pairs of swift and their young which is of lasting benefit to the conservation of swift populations.
11. Natural England confirmed that it would not be submitting any comments on the application. However, despite the lack of clear support from Natural England, I am satisfied that the provision of dedicated nesting spaces is likely to benefit swift conservation.

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

12. The common is located adjacent to the Surrey Hills Area of Outstanding Natural Beauty (AONB) in the Surrey Hills Area of Great Landscape Value. The works are supported and part funded by the Surrey Hills AONB Trust which, along with the Swift Conservation Trust, has advised on design and materials used in the tower. The works will be constructed of locally sourced wooden cladding that is intended to weather naturally and align with existing trees on the common.

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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.

13. I note that swifts are an integral part of the local living landscape and are an attractive feature of the common. Although an unusual structure, I am satisfied that the works are in keeping with the character of the common and, by helping to increase the local swift population, will contribute positively to its amenity value. I conclude that the works will enhance the natural beauty of the AONB.

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

14. There is no evidence before me to indicate that the proposed works will harm any archaeological remains and features of historic interest.

**Conclusion**

15. I conclude that the works will benefit the neighbourhood, landscape and nature conservation interests and will not harm the other interests set out in paragraph 6 above. Consent is therefore granted for the works subject to the condition set out in paragraph 1.

**Richard Holland**

**Shalford Swift Tower Section 38 Consent LOCATION OF WORKS**

Works indicated by red asterisk. Common shown green with green boundary (MAGIC). Nearest postcode GU4 8JU. Map Reference TQ 00188 46950

