



Application Decision

by Richard Holland

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

Decision date: 24 July 2019

Application Ref: COM 3226908
Harpenden Common, Hertfordshire

Register Unit No: CL 16

Commons Registration Authority: Hertfordshire County Council

- The application dated 1 April 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 Harpenden Town Council.
 - The works comprise the surfacing with a crushed concrete/fines mix of 5 sections of permissive horseride totalling 452 metres in length and 904 square metres in area.
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Decision

1. Consent is granted for the works in accordance with the application dated 1 April 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 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.
5. I have taken account of the representations made by the Open Spaces Society (OSS), which does not object to the application, and Natural England (NE).
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;

¹ Common Land Consents Policy (Defra November 2015)

- 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

- 7. The landowner is also the applicant. There is one right of grazing registered over the common. The rights holder was consulted by the applicant but has not commented. The applicant confirms that the right is 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 and is closely linked with rights of public access. The area of common land concerned is the permissive horseride track (the track) that runs around the perimeter of the common. It is a designated route for horse riding under byelaws applying to the common. The track is also open to walkers as it subject to rights of public access on foot.
- 9. Most of the track is unsurfaced, although some similar crushed concrete/fines surfacing was carried out in 2013 following an earlier granting of consent (application reference COM240 of 2 November 2011). The applicant now wishes to surface some other sections of the track that can become so muddy as to be impassable on foot and on horseback. The new surface will also prevent injury to horses caused by sticky and slippery mud and prevent track degradation (soil erosion, compaction, exposure to tree roots and track widening) by footfall and rain. The material to be used, which is recycled and can be sourced locally, will be screened to remove any nail, glass and tile fragments that could stick in horse hooves. I consider the works to be in the interests of the neighbourhood and public rights of access as they will prevent surface degradation and allow the track to remain open for its intended use.

Nature conservation

- 10. NE raised concerns that the common is considered to be one of several key acid grassland sites in Hertfordshire and that the highly alkaline properties of crushed concrete/fines mix may change the PH of the surrounding soil. The applicant has advised that the acid grassland is generally to be found in the open areas of the common and not at the perimeter and woody areas where the surfacing is proposed. I am satisfied that the risk of alkaline contamination of grassland soils is small and that the surfacing will not cause serious harm to nature conservation interests.

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.

Conservation of the landscape

11. The applicant accepts that the surfaced sections will initially look at odds with the natural environment but that over time the colour will fade and blend in with existing soil and leaf litter, as was the case with the 2013 surfacing. NE agrees that the surface will dull down in time and not cause damage to the landscape. I conclude that whilst the surfacing will have some visual impact on the common, the impact will diminish over time and will not seriously harm landscape interests.

Archaeological remains and features of historic interest

12. The works will not involve significant excavation of the soil and there is no evidence to suggest they will harm any archaeological remains and features of historic interest.

Conclusion

13. I conclude that the proposed works will not unacceptably harm the interests set out at paragraph 6. Indeed, they will support the established use of the land for horse riding and walking by improving the existing track surface. Consent is therefore granted for the works subject to the condition set out in paragraph 1.

Richard Holland

Harpenden Town Council

Town Hall, Leyton Road, Harpenden, Herts, AL5 2LX
Tel: 01582 768278 Email: harpenden.town.council@harpenden.gov.uk

Harpenden Common Horseride Surfacing

SCALE :
1 : 6500 @ A3

DATE :
01/04/19

GRID REFERENCE
TL14102 12054



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