



Application Decision

by **Richard Holland**

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

Decision date: 7 January 2020

Application Ref: **COM/3236927**

Thursley Common, Surrey

Register Unit No: CL 213

Commons Registration Authority: Surrey County Council

- The application, dated 8 October 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 Natural England.
 - The works comprise the restoration of Hammer Pond dam; the erection of 400 m of temporary security fencing to provide a secure works compound covering an area of 6800 m² and the upgrade of an existing 1400 m track.
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Decision

1. Consent is granted for the works in accordance with the application dated 8 October 2019 and the plan submitted with it subject to the following conditions:
 - i. the works shall begin no later than three years from the date of this decision; and
 - ii. the temporary fencing shall be removed and the common restored within one month from the completion of the works.
2. For the purposes of identification only the location of the works is shown outlined in red on the attached plans.

Preliminary Matters

3. I have had regard to Defra's Common Land Consents Policy Guidance¹ in determining this application, 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 guidance if it appears appropriate to do so. In such cases, the decision will explain why it has departed from the guidance.
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 and Natural England (Senior Adviser - Common Land and Access).

¹ Common Land Consents Policy Guidance (Defra November 2015)

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;
 - 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 the applicant and there are no rights registered over the common. I am satisfied that the works will benefit the interests of those occupying the common and the interests of those having rights over the land is not at issue.

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

8. 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. The applicant explains that the current structure of the dam at Hammer Pond on the common is unsafe and was breached in 2013. Pumps have been in constant use on the site for the past five years to maintain flow to three separate water courses, preventing site deterioration and flooding of properties during high rainfall. The works will be constructed to modern flood defence standards, enabling the removal of the pumps, restoring the quiet ambience of the common and improving the visitor experience.
9. The common is popular with walkers and horse riders. Temporary fencing is required to secure the site and for the health and safety of the public. The public will be informed about the works and signposted to alternative routes. An existing track from the public highway to Hammer Pond will be upgraded to enable the transportation of materials during the construction phase. The maximum duration of the works is four months.
10. The works will prevent access to the construction site in the short term, however, as the temporary fencing will be removed following the construction phase, I am satisfied that there will not be a significant or lasting impact on the common. I conclude that the works will not unacceptably interfere with public rights of access and the removal of the pumps is likely to benefit the interests of the neighbourhood in the long term by improving the amenity value of the area.

Nature conservation and conservation of the landscape

11. The common is located in the Surrey Hills Area of Outstanding Natural Beauty (AONB) and forms part of the Thursley, Hankley and Frensham Commons Site of Special Scientific Interest (SSSI) and Special Protection Area (SPA). The applicant

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.

explains that the ponds form an ideal wetland habitat for invertebrates and are known for the many species of dragonflies. The visual impact of the works will be mitigated by their location; the construction site is in a heavily wooded valley which is screened from adjacent paths.

12. The embankment will be constructed of clay, metal and flood defence matting. The track will be upgraded using temporary matting and suitable stone used as infill where needed. The works will also require the removal/cutting back of some vegetation and the removal of two small birch trees to create two passing places, upgrade the track and improve visibility.
13. I am satisfied that the proposals will not have a significant or lasting impact given that the temporary works, such as the track matting and fencing, will be removed and the common restored upon completion of the project. Natural England considers that repairing the ponds will maintain their biodiversity and the historic landscape. I conclude that the works will benefit nature conservation interests and will conserve the landscape and natural beauty of the AONB and SSSI in the long term.

Archaeological remains and features of historic interest

14. The applicant advises that mention of the Thursley Ponds is first found in 1608 and historic evidence suggests that the dams have since needed to be reconstructed. I am satisfied that there is no evidence before me to indicate that the works will harm archaeological remains or features of historic interest.

Conclusion

15. I am satisfied that the works will enhance the public's enjoyment of the common and its biodiversity and will not harm the other interests set out in paragraph 6 above. Furthermore, local people will benefit from improvements to flood defences. Consent is granted subject to the conditions set out at paragraph 1.

Richard Holland

Thursley Common – Hammer Pond Restoration.

