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# Application Decision

**by Richard Holland**

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

**Decision date: 14 January 2020**

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## **Application Ref: COM/3230722**

### **Therfield Heath, Hertfordshire**

Register Unit No: CL 92

Commons Registration Authority: Hertfordshire County Council.

- The retrospective application, dated 7 June 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 The Therfield Regulation Trust.
  - The works comprise: i) resurfacing an existing 3300m<sup>2</sup> asphalt car park with a similar material; and ii) widening the existing entrance into the car park from Baldock Road by 1m, enclosing approximately 30m<sup>2</sup> of common land.
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## **Decision**

1. Consent is granted for the works in accordance with the application dated 7 June 2019 and accompanying plans.
2. For the purposes of identification only the location of the works is shown on the attached plans.

## **Preliminary Matters**

3. The application is retrospective as the works have been carried out. 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. This application has been determined solely on the basis of written evidence. I have taken account of the representations made by the Open Spaces Society (OSS) and Historic England (HE), neither of which object to the application.
4. 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;<sup>2</sup> and
  - d. any other matter considered to be relevant.

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

<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.

## **Reasons**

### ***The interests of those occupying or having rights over the land***

5. The land is owned by the applicant, the Trustees of the Therfield Regulation Trust, who will benefit from the works.
6. The applicant advises that one of five registered stint-holders with rights to graze sheep on the Heath periodically exercises the right. All five stint-holders were consulted by the applicant but none have commented on the application. The common land register indicates that several other named individuals may also be stint-holders but I find the records to be unclear. In any case, most of the affected land was already a hard-surfaced car park before the works the subject of this application were carried out and the remaining 30m<sup>2</sup> is a narrow strip of land at the entrance to the car park. As such, I consider it unlikely that any grazing rights have been materially affected by the works.
7. The application lists five Lease holders; Royston Golf, Rugby and Tennis Clubs, The Heath Sports Club and John Jenkins Racing. A further leaseholder has a right of way over the eastern end of the Heath. I am satisfied that the works have had no detrimental impact on the leaseholders.

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

8. The purpose of the re-surfacing is to repair pot holes and make the car park safer to use. The entrance widening allows more vehicles to enter the car park without having to queue on Baldock Road, which the applicant says is one of the main roads into and out of Royston.
9. The interests of the neighbourhood test relates to whether these works have unacceptably interfered with the way the common land is used by local people and is closely linked with the interests of public access. The existing use of the land as a car park has continued and, with the exception of the 30m<sup>2</sup> road widening, the works are limited to the existing car park footprint. I consider that the works have not harmed public access interests and are in the interests of the neighbourhood as they benefit those travelling by car who wish to visit and enjoy Therfield Heath.

### ***Nature conservation and conservation of the landscape***

10. Part of Therfield Heath is designated as a Site of Special Scientific Interest (SSSI) but the designation does not include the affected land. The applicant says the car park is approximately 600m from the SSSI boundary. NE was consulted by the applicant but has not commented. The road widening is adjacent to a substantial hedge row, which the applicant says is unaffected by the works. There is no evidence before me to suggest that the works have harmed any designated sites or other conservation interests. I consider that the new surface is a visual improvement, or at least visually no more detrimental to the landscape than the previous, damaged, surface. The widening of the entrance is small-scale and shielded from the road to a certain extent by the hedgerow. I conclude that the works have not had a detrimental impact on landscape interests.

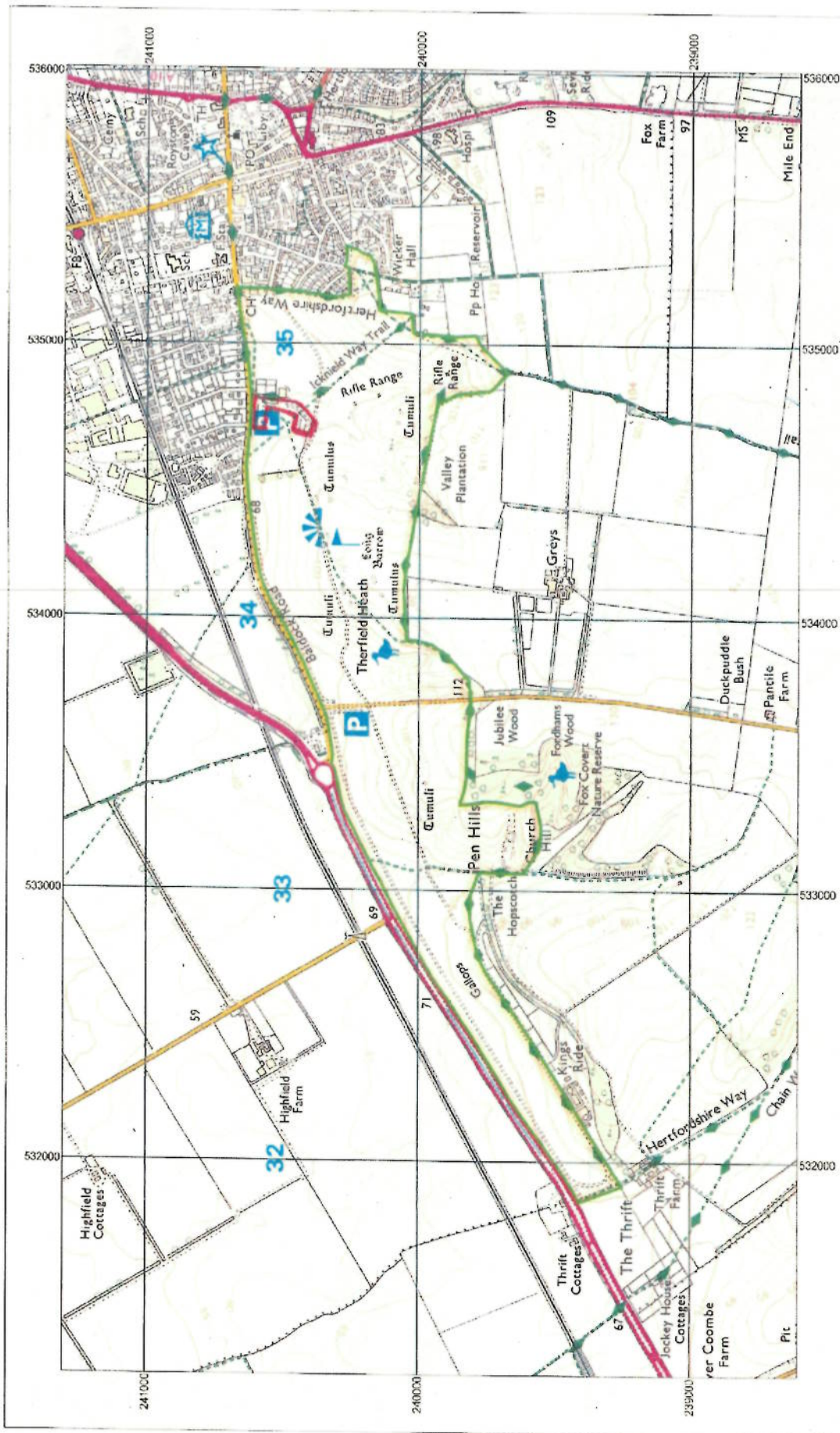
### ***Archaeological remains and features of historic interest***

11. HE does not object to the works as there are no highly designated historic assets in the area. It advised, however, that archaeological staff at Hertfordshire County Council should be consulted about any impacts on undesignated archaeological remains and historic features. The applicant confirms that this was done. There is no evidence before me that leads me to think the works have harmed the above interests.

## **Conclusion**

12. I conclude that the works have not harmed the interests set out in paragraph 4 above and have benefited those who travel by car to use and enjoy Therfield Heath. Consent is therefore granted for the works.

*Richard Holland*



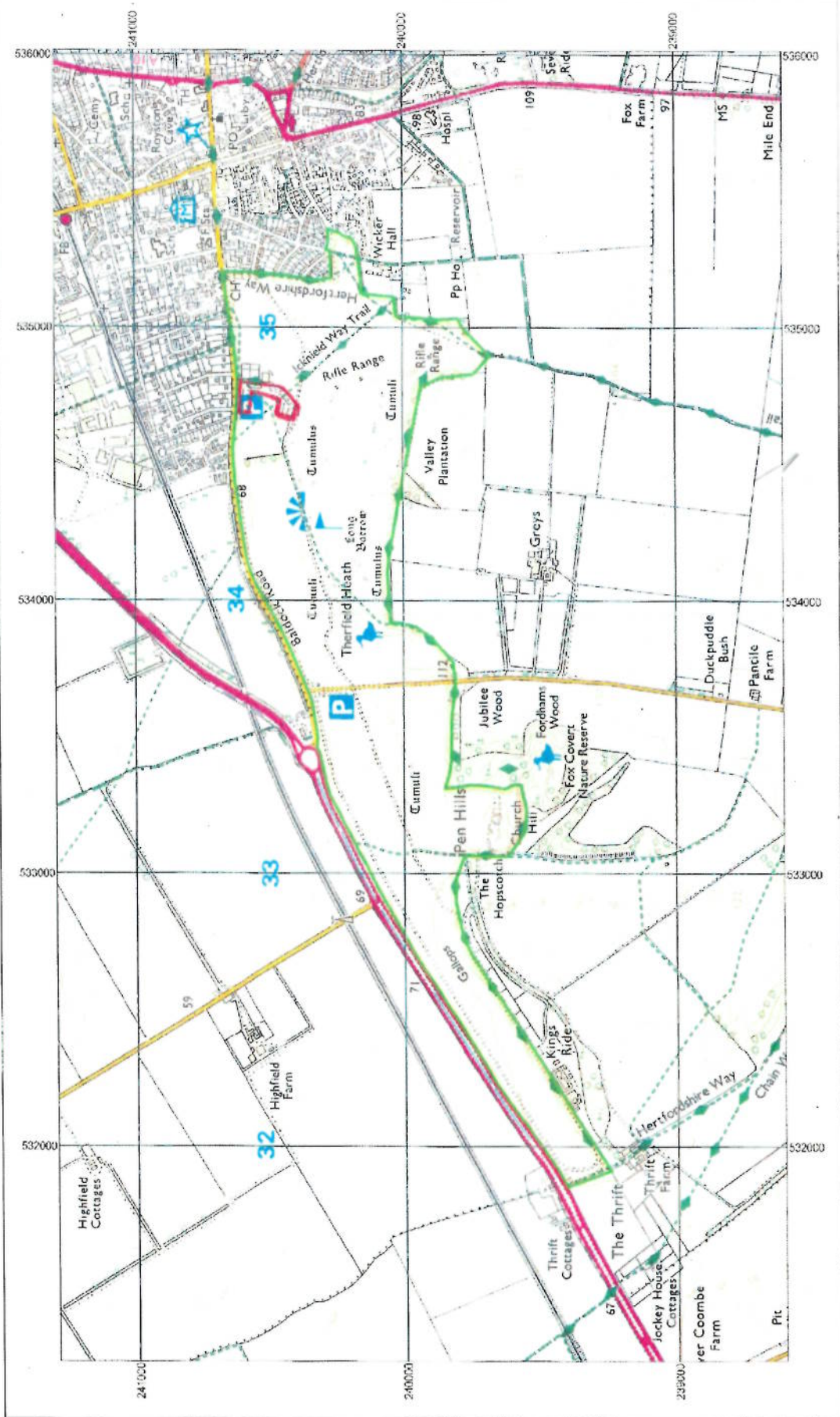
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