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# Application Decision

Site visit held on 17 December 2019

**By Martin Elliott BSc FIPROW**

**An Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs**

**Decision date: 14 January 2020**

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**Application Ref: COM/3224227**

**Lammas Grounds, Eton College, Windsor and Maidenhead**

Register Unit: CL164

Registration Authority: Royal Borough of Windsor and Maidenhead

- The application, dated 11 February 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 Eton College.
  - The works comprise: resurfacing of parts of an existing gravel track leading from Slough Road to the proposed Eton Sports and Aquatics Centre.
  - The works occupy an area of 341 m<sup>2</sup>.
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## Decision

1. Consent is allowed.

## Main Issues

2. In considering the application I am required by section 39 of the 2006 Act to have regard to the following:
  - (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 which includes the interest in nature conservation, the conservation of the landscape, the protection of public rights of access and the protection of archaeological remains and features of historic interest;
  - (d) any other matters considered to be relevant.
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.

## Assessment

### ***Interests of those occupying or having rights over the land***

4. The land over which the track passes is subject to Lammas rights. Although subject to rights for grazing these rights have not been exercised for the

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<sup>1</sup> Common Land consents policy (Defra November 2015)

duration of the ownership by Eton College since 1920. It is noted that the land (track) is already surfaced with gravel and therefore there is nothing to suggest that those with grazing rights will be adversely affected by the works. There are no occupiers of the land other than Eton College who clearly support the works.

### ***Interests of the neighbourhood***

5. The 2015 guidance indicates that the issues to be considered in this context include whether or not the proposal will offer a positive benefit to the neighbourhood, whether or not the works would prevent local people from using the common in the way they are used to, and whether or not there would be an interference with the future use and enjoyment of the common, whether by commoners, the public or others.
6. The proposed works are to resurface parts of an existing gravel track. Such works will not prevent access to the common. As pointed out by the Applicant the works will improve access to the proposed Eton Sports and Aquatics Centre (ESAC) which is to be used by those in the neighbourhood; the ESAC is to be used by students of Eton College as well as students of other educational establishments in the wider community.
7. During construction works (the track and ESAC) it is proposed, for safety purposes, to line each side of the track with metal pedestrian barriers. Three designated crossing points will be provided for those who wish to cross the track during the works. It is expected that these crossing points will be monitored during the construction working day. The indicative duration of the works is 17 months. Whilst this fencing may restrict access to a certain extent during the construction works there will be no permanent fencing.

### ***The public interest***

#### *The protection of public rights of access*

8. As noted above the proposed works will not prevent access to the common and no public rights of access will be affected. The temporary fencing, whilst works are being carried out, may restrict access to a certain degree but this is only a temporary safety measure.

#### *Nature conservation*

9. Natural England has been consulted on the application and raise no concerns. The existing track has a gravel surface and there is no evidence that the works will have any impact on nature conservation.

#### *Conservation of landscape*

10. The land on which the works are to be carried out falls outside the Eton Conservation Area. The resurfaced track will match the colour and materials of the existing track and will be the same height as the adjacent land. However, the track will be built up at either end to meet the Slough Road at one end and the buildings at the opposite end. Given that the works are over parts of an existing track I do not consider that there will be any adverse effect on the landscape.

*Archaeological remains and features of historic interest*

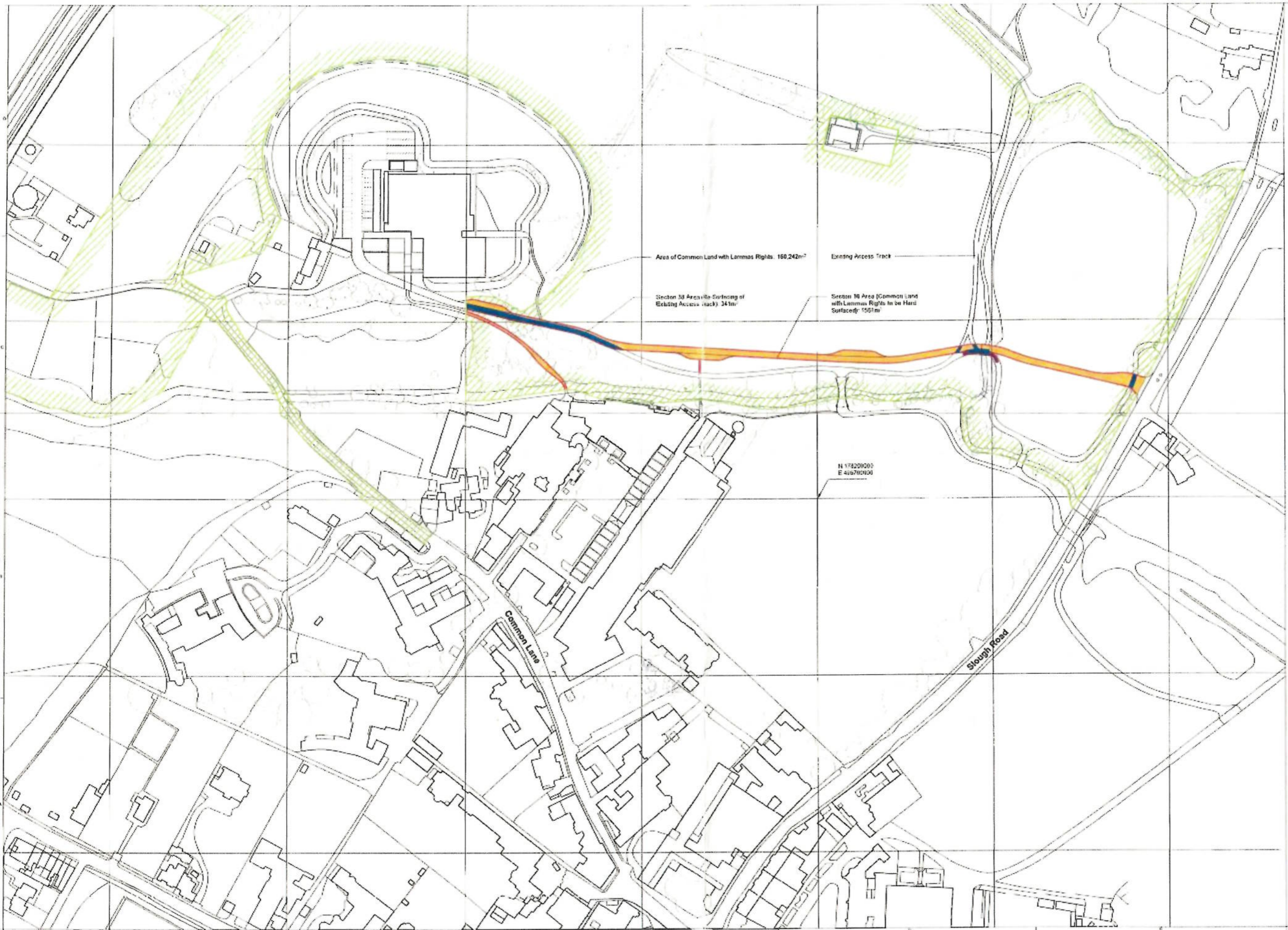
11. Historic England have been consulted on the application and have raised no concerns in this respect. An archaeological desk-based assessment of the site was carried out in June 2018 by Oxford Archaeology to accompany the planning application for the ESAC. The report identified that the site has archaeological potential but did not identify any over-riding archaeological constraints likely to prohibit development. As the works are to an existing track there is nothing to indicate any adverse effects on archaeological remains or features of historic interest.

**Conclusions**

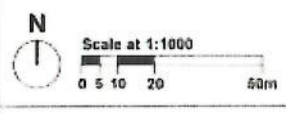
12. The application will not have any adverse effect on those with rights over the land. Neither the interest of the neighbourhood or the public will be adversely affected.
13. Having regard to these and all other matters raised in the application and in the written representations I conclude that, on balance, the application should be allowed.

*Martin Elliott*

INSPECTOR



-  Boundary of Custom Land with Lammas Rights
-  Section 19 Area (Re-Surfacing of Existing Access Track) 341m<sup>2</sup>
-  Section 16 Area (Common Land with Lammas Rights to be Hard Surfaced) 1561m<sup>2</sup>



Work Package	Lead Clerk	Planning	Tenure	Current	Completion	Date	Rev	Description	Approved By	Date	Rev	Description	Approved By	Project	ECISF	ECISF	ECISF	ECISF
										11/07/2018	A	Final Update	TL	Elton College Indoor Sports Facilities				
						06/2019	B	General Update	TL					ECISF Site Plan with Proposed Access Road	A/ECISF	SK-259	E	
						17/08/2019	C	Land Exchange Plan Issue	TL									
						19/12/2018	D	Land Exchange Plan Issue	TL									
						30/01/2019	E	Land Exchange Plan Issue	TL									