



## Application Decision

On papers on file

**by Mark Yates BA(Hons) MIPROW**

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

**Decision date: 10 July 2020**

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**Application Ref: COM/3234323**

**Tickner's Heath and Laker's Green Common, Alfold**

Register Unit: CL 187

Registration Authority: Surrey County Council

- The application, dated 26 July 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 on behalf of The Wey & Arun Canal Trust ("the Trust").
  - The application is for works involving the erection of temporary fencing and permanent structures, excavation of a canal and laying of a water main.
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### Decision

1. Consent is granted for the works in accordance with the application and subject to the following conditions:
  - The works shall commence no later than 3 years from the date of this decision.
  - All fencing shall be removed, and the land shall be fully reinstated, within one month from the completion of the works.

### Preliminary Matters

2. In response to travel restrictions that were in place due to the COVID-19 pandemic I considered that this application could be determined without the need for a site visit. This is because I was able to reach a decision from the available information.
3. For the purpose of identification only the location of the proposed works is shown on the attached plan.

### Main Issues

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);
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- (b) the interests of the neighbourhood;
  - (c) the public interest<sup>1</sup>; and
  - (d) any other matter considered to be relevant.
5. In considering these tests, regard should be given to the Department for Environment, Food and Rural Affairs Common Land Consents Policy of November 2015 ("the consents policy").

## **Reasons**

### ***The application***

6. The application relates to a proposal to restore the link in the canal network that has been severed at Dunsfold Road. There was originally a bridge that carried Dunsfold Road over the canal. This bridge was demolished in 1913 and the realignment of the road onto a causeway has blocked the canal at this location. The Trust has considered various options to restore the link but outlines that the only viable proposal is the creation of a new section of canal around the present obstruction. This would be done in two stages and the present application relates to the works in connection with stage 1. It will only be on the completion on stage 2 that the missing link will be restored.
7. In essence, the stage 1 works on the common involve the cutting of a new section of canal and the partial filling of a redundant length of the existing canal. New pedestrian and road bridges would be constructed at a more suitable point on Dunsfold Road. Works will also be carried out to create new sections of footpath, laying of a water main and the installation of temporary tree protection fencing.
8. No objections were received in response to the advertisement of the application. The representation from the Open Spaces Society ("OSS") requested that any consent granted is subject to a condition for the dedication of additional common land. In a letter to the parties, I expressed a view that it is not possible for consent to be granted subject to such a condition. I note that the OSS does not accept this position. However, the Trust points out that the proposed dedication relates to the stage 2 works, which are not part of the present application. I therefore do not need to reach a final view on this matter.

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

9. Nothing has been provided to show that anyone occupying or having rights over the land in question would be adversely affected by the proposed works.

### ***The interests of the neighbourhood***

10. The impact of the application on the public interest is considered below. These matters are likely to have particular relevance to local residents.

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<sup>1</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.

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

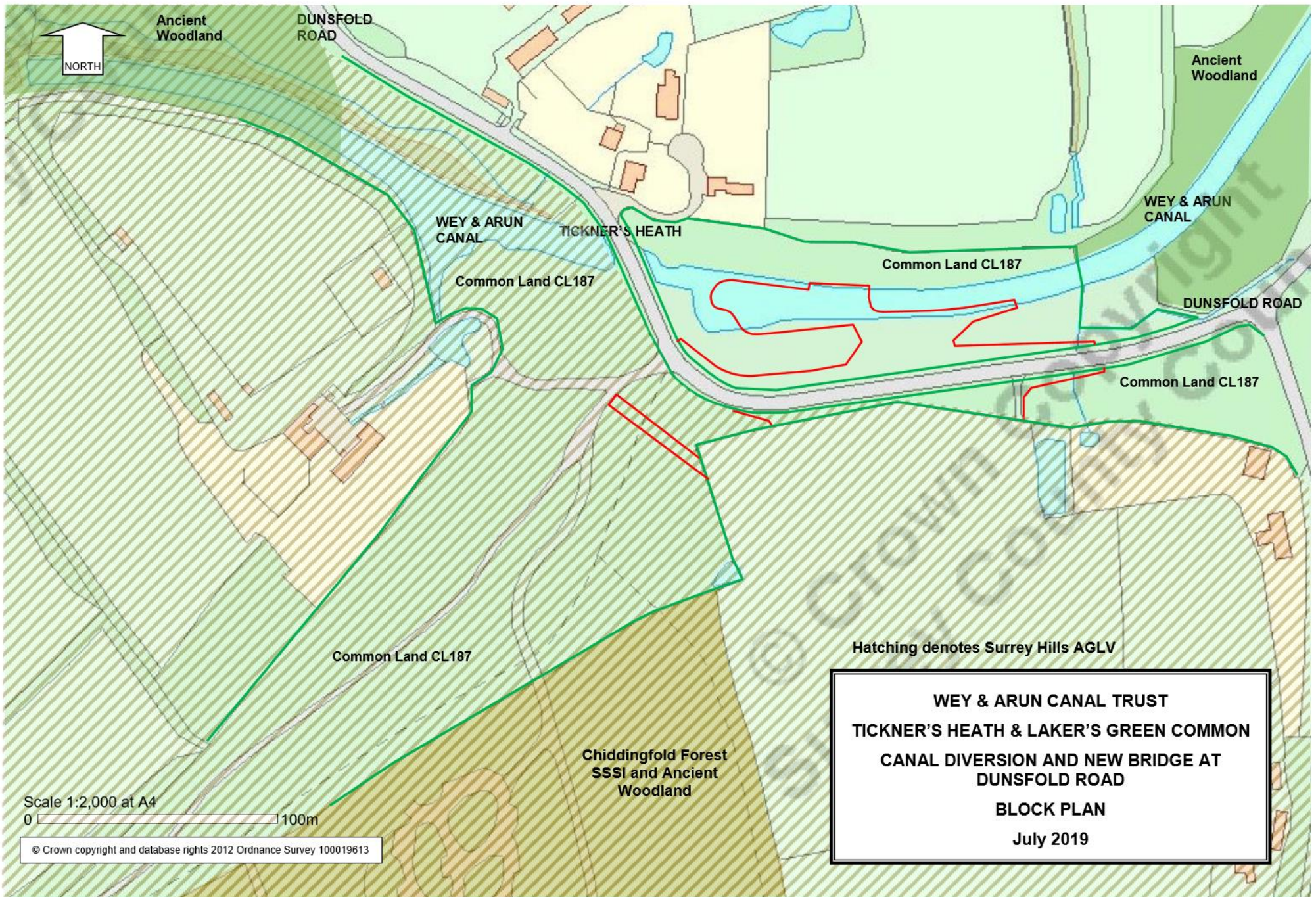
11. Paragraph 3.2 of the consents policy outlines one of the outcomes sought is that *"works take place on common land only where they maintain or improve the condition of the common or where they confer some wider public benefit and are either temporary in duration or have no significant or lasting impact"*.
12. This section of the canal is located within the common. Stage 1 of the scheme would ultimately lead to the loss of approximately 450m<sup>2</sup> of land to water with the construction of a new canal cut. However, the partial infilling of the existing redundant canal would lead to approximately 750m<sup>2</sup> of land becoming available. It is intended that parts of this land will be set out as a wetland area, natural grassland, reptile pond and reptile hibernaculum. These measures could provide significant ecological benefits.
13. A topographical survey indicates that between 65 and 70 trees will need to be felled as part of the scheme. The applicant proposes to plant a large number of trees on the common and adjacent land to mitigate for the loss of trees. It is proposed to create a wildflower meadow on an area of land where it is not possible to plant trees. There is nothing from the ecological appraisal or other advice to suggest that the proposed works would have a significant impact on wildlife habitats if appropriate measures are undertaken.
14. The site is located partially within the Surrey Hills Area of Great Landscape Value. However, I have no reason to believe that the proposed road bridge would be detrimental to the surrounding landscape and it is apparent that its design is consistent with bridges on other parts of the canal. An additional bridge at Dunsfold Road would be designed to accommodate pedestrians and horse riders and will primarily be constructed of timber. It is intended that the scheme will lead to improved public access by the retention of existing paths and provision of additional routes over the common.
15. The temporary fencing is stated to be required to protect the retained trees from the construction works. This fencing would be in accordance with BS 5837: 2012 and removed upon the completion of the works. It is clearly appropriate for the temporary fencing to be put in place to protect the retained trees.

### ***Conclusions***

16. I have addressed the various matters that would impact on the public interest and the neighbourhood. Overall, the proposed works offer the potential for significant benefits for ecology and public access. There is nothing to suggest that, following the completion of stage 1 of the scheme, the works would have a subsequent adverse effect on the land. I therefore view them to be consistent with paragraph 3.2 of the consents policy.
17. When all of the relevant matters are taken into consideration, I conclude on balance that consent should be granted for the works included within this application.

*Mark Yates*

**Inspector**



Ancient Woodland

DUNSFOLD ROAD

Ancient Woodland

WEY & ARUN CANAL

TICKNER'S HEATH

WEY & ARUN CANAL

Common Land CL187

Common Land CL187

DUNSFOLD ROAD

Common Land CL187

Common Land CL187

Chiddingfold Forest SSSI and Ancient Woodland

Hatching denotes Surrey Hills AGLV

**WEY & ARUN CANAL TRUST**  
**TICKNER'S HEATH & LAKER'S GREEN COMMON**  
**CANAL DIVERSION AND NEW BRIDGE AT DUNSFOLD ROAD**  
**BLOCK PLAN**  
**July 2019**

Scale 1:2,000 at A4  
0 100m

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