



## Application Decision

Unaccompanied site visit made on 20 May 2020

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

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

**Decision date: 18 June 2020**

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**Application Ref: COM/3231832**

**Soulbury Village Green**

Register Unit: CL 174

Registration Authority: Buckinghamshire County Council

- The application, dated 14 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 on behalf of Knowles-Brown Properties Ltd.
  - The application is for works to construct a tarmac access road and associated footway and an additional pedestrian/cycle link.
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### Decision

1. Consent is granted in part for works in connection with the access road and adjacent footway included within the application, subject to the following condition:
  - The works shall commence no later than 3 years from the date of this decision.

### Preliminary Matters

2. For the purpose of identification only the locations of the proposed works are shown on the attached plan.

### Main Issues

3. 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>1</sup>; and

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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.

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(d) any other matter considered to be relevant.

4. 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***

5. There are two rights of access over the registered common land ("the Green") that serve Green Farm. The application relates firstly to the construction of a 6 metres wide tarmac road<sup>2</sup> and adjacent 2 metres wide footway<sup>3</sup> where the southern access is located. It is intended that the road would provide the means of access to a proposed development encompassing 15 dwellings on the Green Farm site. Secondly, the applicant wishes to construct a pedestrian and cycle path where the northern access is located. This would provide a link through the proposed development to an existing public footpath and have a width of 2 metres and length of 15 metres. The application has attracted seven objections from local residents.
6. The applicant is seeking consent to undertake restricted works on common land. Whilst these works would facilitate access to the proposed development, the determination of any planning application is a separate matter. It is apparent that a number of the issues raised by the objectors relate to the merits of granting planning permission for the development and are therefore not relevant to my decision. The same applies to the highway concerns expressed regarding the siting of this road.

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

7. The land is stated to be owned by Soulbury Parish Council. There are grazing rights and rights of herbage registered in relation to Green Farm. Grazing rights are also registered in connection with the property known as Cedar Lodge.
8. The information provided by the applicant reveals that the relevant parties, including the parish council, were notified of the making of this application. Although reference is made in the objections to Soulbury Parish Council opposing the proposed development, no representation has been received from the parish council regarding the application that I need to determine.
9. Overall, nothing has been provided to indicate 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 is considered below. These matters will have particular relevance to local residents.

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

11. Paragraph 3.2 of the consents policy states that one of the outcomes sought is "*works take place on common land only where they maintain or improve the*

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<sup>2</sup> 15 metres in length

<sup>3</sup> 21 metres in length

*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. Further, paragraph 5.7 of the consents policy outlines that Section 38 should be seen as enabling the construction of works that are sympathetic to the continuing use and enjoyment of common land, but which reinforces controls on development which are inappropriate or harmful.
13. There is a shortage of housing supply nationally and the provision of new homes will generally be in the public interest. The inclusion of affordable housing could also benefit the village of Soulbury. If planning permission is granted, it is clearly necessary for there to be a means of access to the development and no alternatives to the proposed road are stated to be available. In these circumstances, there is the potential for consent to be granted for works in accordance with paragraph 3.2 of the consents policy.
14. Reference is made in some of the objections to the need for reports on archaeological remains and the potential impact on ecology and nature conservation. However, no information is provided to support these general assertions. It is also not clear whether these points are made in connection with any application for planning permission or the works that are the subject of this application. I note that no adverse comments have been made by the County Archaeologist, Historic England or Natural England regarding this application. Overall, nothing has been provided to show that the application will have an adverse impact on these matters.
15. This locality is stated to fall within a conservation area, which recognises its special character. I do not find there to be any merit in the applicant's point regarding the limited difference between the land that comprises the existing accesses and the present proposals. The application seeks to put sealed surfaces in place where none presently exist. This will invariably have some visual impact on the Green. However, it was noticeable during my visit that the topography of the land to the north of the proposed works indicates that the works will not be visible from a proportion of the Green.
16. The applicant draws attention to other roads and driveways that serve properties in the locality of the Green. These vary in term of their relevance to the current proposal. Nonetheless, the proposed works do not appear to be significant when viewed in the context of the existing roads and driveways that pass over the Green. I address the additional impact of the proposed pedestrian/cycle path below. The applicant outlines that they do not intend to plant trees to screen the road and I must proceed on the basis that this part of the Green will retain its general open character.
17. I do not consider the potential provision of public open space within the development to be relevant to my decision. This application is for works to be undertaken on the Green rather than for the deregistration and exchange of common land. The applicant's assertion that the Green is used by people walking rather than for formal recreation is not disputed by the objectors. Whilst people will potentially have to cross the proposed access road, this situation arises elsewhere on the Green and these works would not prevent people from walking over the Green. It is not my role to assess the suitability of the road in the context of any application for planning application.
18. I have concerns regarding the placing of a surfaced pedestrian/cycle path over the Green in this location given that it would be in close proximity to the

proposed road and footway. The proposed path would potentially serve as a useful link through to a public footpath. However, it is accepted that the public already walk over the Green. Further, there would be no apparent public benefit from the creation of a route for cyclists that ultimately leads to a footpath. I do not view the creation of a path over the Green to be necessary to the proposed development in the same way as the access road. Nor has the applicant provided any justification for the provision of a path.

***Conclusions***

19. There is nothing to suggest that any party occupying or having rights over the Green would be adversely affected by the proposed works. I have addressed above the various relevant matters that would impact on the interests of the public and local residents alike. The main issues to be put into the balance are the benefits that would flow from the provision of an access road in the event that planning permission is granted and the visual impact the proposed works would have on the landscape.
20. Having regard to my various conclusions, I do not find that the impact of the road and adjacent footway on the Green is sufficient to outweigh the public benefit of consent being granted for the relevant works. However, I am not satisfied on balance that consent should be granted for restricted works to be undertaken for the creation of a pedestrian/cycle path.
21. For these reasons I conclude that consent should only be granted for the works in relation to the access road and adjacent footway.

*Mark Yates*

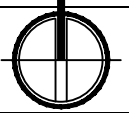
**Inspector**

- NOTES :-
- Plot 1 = 4 bed
  - Plot 2 = 5 bed
  - Plot 3 = 5 bed
  - Plot 4 = 3 bed - chalet bungalow
  - Plot 5 = 3 bed - chalet bungalow
  - Plot 6 = 5 bed
  - Plot 7 = 5 bed
  - Plot 8 = 4 bed
  - Plot 9 = 4 bed
  - Plot 10 = 5 bed
  - Plot 11 = 4 bed
  - Plot 12 = 2 bed - Social
  - Plot 13 = 3 bed - Social
  - Plot 14 = 3 bed - Social
  - Plot 15 = 2 bed - Social



Estate railings to plots 6,7, 9 and 10

All measurements and dimensions should be verified before construction.  
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Title	BLOCK PLAN	
Site	Land at former Green farm SOULBURY.	
Date	March 2019	
Scale	1:500 @ A3	
Dwg No.	16 - 036 - 1100	
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