
Application Decision

by **Richard Holland**

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

Decision date: 22 October 2020

Application Ref: COM/3249157

Waste Land of the Manor of Brockham

Register Unit No: CL71

Commons Registration Authority: Surrey County Council

- The application, dated 13 March 2020, 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 Surrey County Council.
 - The works over 50.4 square metres of land comprise the:
 - i) alteration of the position of an existing access way and bell-mouth resulting in re-surfacing of an existing tarmacadam access/crossover;
 - ii) addition of tactile paving; and
 - iii) re-positioning of a lighting column.
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Decision

1. Consent is granted for the works in accordance with the application dated 13 March 2020 and the plan submitted with it subject to the following conditions:
 - i. the works shall begin no later than 3 years from the date of this decision; and
 - ii. the works shall be carried out in accordance with Drawing Number NPS-DR-(10)-A-211 REV CODE P0 (Existing & Proposed Accessway Tarmac & Grassed Areas).
2. For the purposes of identification only the location of the works is shown in red on the attached plan.

Preliminary Matters

3. I have had regard to Defra's Common Land consents policy¹ 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.
4. The works form part of external refurbishment and modernisation of Chart Wood School, for which planning permission was granted on 19 July 2019 by Surrey County Council (Application MO19/0596).
5. This application has been determined solely on the basis of written evidence.
6. I have taken account of the representations made by Historic England (HE), Natural England (NE), Surrey Hills Area of Outstanding Natural Beauty (AONB) Board and the Open Spaces Society (OSS).
7. I am required by section 39 of the 2006 Act to have regard to the following in determining this application:-

¹ Common Land Consents policy (Defra November 2015)

- 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

8. The land is owned by Mr Michael John Cameron Hawkes, who was consulted by the applicant about the application but did not comment. The Rights section of the register records no rights of common. There is no evidence before me to suggest that the works will harm the interests of those having rights in relation to, or occupying, the land.

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

9. The interests of the neighbourhood test relates to whether the works will affect the way the common land is used by local people and is closely linked with public rights of access. The application land is roadside verge and would seem to be available to the public for general access.
10. Chart Wood school is a special school for boys with social, emotional and mental health needs (SEMH) and all pupils arrive and leave by taxi. The re-positioned accessway will serve as a new egress point for taxis leaving the school site as part of a new one-way system within the school grounds.
11. The works are proposed in accordance with Condition 8 (Highways, Traffic and Access) of the planning permission, which is attached to ensure the development does not prejudice highway safety nor cause inconvenience to other highway users. The works will re-position and straighten an existing dropped kerb accessway, which is set at an angle to the highway and is currently used for emergency and landscaping vehicle access into the school grounds. Small areas of pedestrian tactile paving will be installed on each side of the new accessway for the benefit of partially sighted pedestrians wishing to cross it. The existing lighting column (lamp post) will be in the way of a straightened access way, hence the need to move it.
12. The straightened accessway and tactile paving will together form 50.4 square metres of hard-surface over the common. However, taking into account the existing hard-surfaced access way and the returning of some of it to grass, which can be ensured by attaching a suitable condition to the consent, the proposed works will only result in an additional 9.1 square metres area of hard surfacing on common land.
13. I am satisfied that the works, which will result in only a small increase in hard surfacing, will have a negligible impact on the interests of the neighbourhood and public rights of access as local people and the wider public will continue to be able to walk over the new accessway as they can over the existing one.

Nature conservation

14. NE advised that it had no comments to make. There is no evidence before me to suggest that the proposals will harm nature conservation interests.

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.

Conservation of the landscape

15. The affected land has no special landscape designation. Although it lies outside of the Surrey Hills AONB, the applicant consulted the AONB Board which advised that the works to the common have no AONB planning implications. The applicant suggests that once the works are completed there will be very little difference visually, which I consider is likely to be the case given that the works are to replace an existing comparable feature of a similar scale. I conclude that the proposed works are unlikely to harm landscape interests.

Archaeological remains and features of historic interest

16. HE advised that it did not wish to comment other than to suggest that the views of Surrey County Council's archaeological advisors should be sought. In making the application, Surrey County Council consulted its Historic Environment Planning team, which has made no comments. There is no evidence before me to suggest that any archaeological remains and features of historic interest will be harmed by the works.

Other matters

17. Defra's policy advises that '*...where it is proposed to construct or improve a vehicular way across a common... such an application may be consistent with the continuing use of the land as common land, even where the vehicular way is entirely for private benefit, because the construction will not in itself prevent public access or access for commoners' animals...*' I am satisfied that the works to re-position/straighten an existing access are consistent with Defra's policy objectives.

Conclusion

18. I conclude that the works are unlikely to harm the interests set out in paragraph 7 above. Consent for the works should therefore be granted subject to the conditions set out at paragraph 1 above.

Richard Holland

