



Application Decision

by **Richard Holland**

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

Decision date: 13 February 2018

Application Ref: COM/3185373
Nomansland Common, Hertfordshire

Register Unit No: CL 131

Commons Registration Authority: Hertfordshire County Council

- The application, dated 21 September 2017, 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 St Albans City & District Council.
 - The works comprise the resurfacing of a car park opposite West End Farm with a permeable surface to help drainage. The creation of a horse path alongside the car park and the installation of wooden bollards to mark the boundary, covering a total area of 392 m².
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Decision

1. Consent is granted for the works in accordance with the application dated 21 September 2017 and accompanying plan, subject to the condition that the works shall begin no later than three years from the date of this decision.
2. For the purposes of identification only the location of the works is shown coloured 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. This application has been determined solely on the basis of written evidence.
5. I have taken account of the representations made by Historic England (HE), Rhoda Harrison and John M Featherstone on behalf of the British Horse Society.
6. 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;

¹ Common Land Consents Policy (Defra November 2015)

- 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

7. The landowner, Wheathampstead Parish Council, has been consulted about the application and has not objected. There are no rights of common. I am satisfied that the proposed works will not harm the interests of those occupying the land and the interests of those having rights over the land is not at issue.

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

8. The interests of the neighbourhood test relates to whether the works will impact on the way the common land is used by local people. The works form part of the current Nomansland Common Management Plan³ and are intended to formalise access and parking on an area of common, situated off Ferrers Lane. A new horse path, connecting the highway to a track on the common, will be constructed alongside a defined parking area.
9. Those making representations on the application say that there are two parking areas which already serve the common; this is enough to accommodate visitors. Parking at the application site is the result of Heartwood Forest opening a few years ago; this has led to damage to the common and has caused a nuisance to those wishing to access it. The works will impede access for 'non-motorised' users, such as horse riders, cyclists and walkers, to the common and obstruct the local farmer's access to his field. Parking will encourage anti-social behaviour. Cars turning off and into the parking area may present a hazard as Ferrers Lane is a busy and narrow stretch of country road.
10. The applicant in response advised that there is no official car park at this site but those visiting the common and Heartwood Forest have always used this area to park. Visitor numbers have increased since the Woodland Trust's creation of Heartwood Forest and the works are needed to formalise parking and access and improve road safety. The local farmer has agreed to the installation of a notice advising people not to park in front of the gate. The highway authority has agreed to install signs on Ferrers Lane warning of horses and vegetation will be cut back to improve sightlines. No further traffic calming measures have been identified. There are no reports of anti-social behaviour at this location. There is no alternative to the works; preventing car parking at the site by blocking the area will only move the problem elsewhere and result in horse riders needing to take their horses further down the road to access the common.
11. The applicant has submitted an aerial image, dated 2010, of a parked car on the common. I am satisfied that the evidence before me demonstrates that informal parking has been taking place on the common for some time. I accept that this part of the common is used to access both the common and Heartwood Forest, and that there is a need to ensure continued access at this point. I conclude that the structured layout proposed, particularly the separate horse path, will help facilitate access and improve safety at this location. The improvements to the layout will regulate the car park and a separate access for non-motorised users will help address conflicts between different users. I can see no reason why the formation of a car park, in itself, should lead to an increase in anti-social behaviour in the area. In any case, even if there were to be such behaviour, its impact on the living conditions of nearby residents is not something I can take into account when determining the application. I am satisfied that the works will not impact adversely on the interests of the neighbourhood or the protection of public rights of access.

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.

³ Nomansland Common Management Plan 2012-2017

Nature conservation

12. There is no evidence before me to indicate that the proposed works will harm nature conservation interests.

Conservation of the landscape

13. The works consist of a permeable surface (granite fill). Wooden bollards will be installed to separate the car park area from the horse path. In response to concerns about drainage, the applicant explains that the surfacing work will be slightly raised, allowing water to drain into ditches and the surrounding lower ground. Grips will be dug along Ferrers Lane in both directions to help with drainage.
14. I note that there is some agreement that informal parking has had an adverse impact on the condition and appearance of the common by, for example, the damage caused by vehicles mounting the verge at unauthorised passing places along Ferrer's Lane. While surfacing, by its nature, will have a somewhat urbanising effect resulting in some visual harm, I note that it is intended to lessen the visual impact through the use of natural materials (stone and timber) which are in keeping with the surrounding area. The works are also likely to improve the landscape by addressing problems such as inadequate drainage, damage from parking and reducing the likelihood of further encroachment by vehicles on the common. The area occupied by the car park is a very small fraction of the area of the common as a whole (around 0.26%) and I am satisfied that overall the proposed works will help conserve the landscape.

Archaeological remains and features of historic interest

15. HE does not object to the works and confirms that it does not consider that the proposal will harm any highly designated assets in the vicinity. It advises that archaeological staff at St Albans Council should be consulted about the impact on undesignated archaeological remains and historic features. I note that the applicant confirms that the local authority archaeologist has been notified and will undertake regular assessments of the area before, during and after the works. I am satisfied that the proposed works will not harm any archaeological remains or features of historic interest.

Other relevant matters

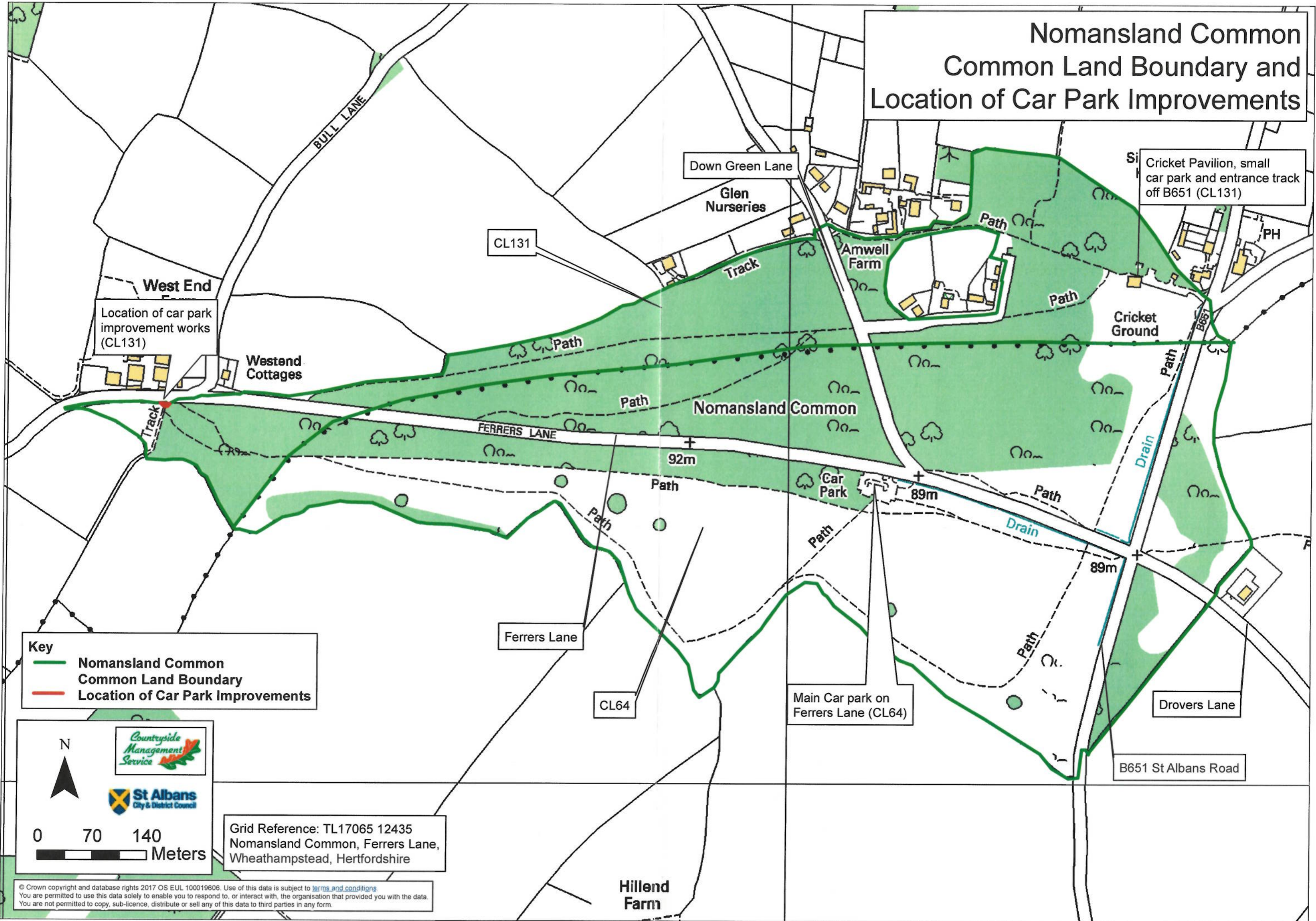
16. Those commenting on the application are concerned that the works are not to resurface an existing car park but to form a new car park. I note that the applicant confirms that no official car park exists at the application site. Although the works are described as the resurfacing of a car park in the newspaper advertisement and application form, I am satisfied that sufficiently clear information has been provided about the nature of the works and that no party has been prejudiced. I have determined the application as one seeking consent for the formation of a surfaced car park.

Conclusion

17. I conclude that the proposed works will not harm the interests set out in paragraph 6 above. Consent is therefore granted for the works subject to the condition set out in paragraph 1.

Richard Holland

Nomansland Common Common Land Boundary and Location of Car Park Improvements




Cricket Pavilion, small car park and entrance track off B651 (CL131)


Location of car park improvement works (CL131)


Main Car park on Ferrers Lane (CL64)

Key

- Nomansland Common
- Common Land Boundary
- Location of Car Park Improvements







 0 70 140 Meters

Grid Reference: TL17065 12435
Nomansland Common, Ferrers Lane,
Wheathampstead, Hertfordshire

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