

---

# Application Decision

by **Richard Holland**

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

Decision date: 16 October 2018

---

**Application Ref: COM/3209205**  
**THE HURTWOOD, SURREY**

Register Unit No: CL 196

Commons Registration Authority: Surrey County Council

- The application, dated 6 August 2018, 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 James Christopher Upfold and Lisa Juliet Upfold.
  - The works comprise: the construction of an access way into the dwelling known as Horseblock Hollow to allow vehicular and pedestrian access from Barhatch Lane. The area of common covered by the restricted works is 22.4 m<sup>2</sup>.
- 

## Decision

1. Consent is granted for the works in accordance with the application dated 6 August 2018 and the plan submitted with it.
2. For the purposes of identification only the location of the proposed works is shown outlined in red and hatched in blue within the common land boundary outlined in light green on the attached plan.

## Preliminary Matters

3. The application is made retrospectively.
4. I have had regard to Defra's Common Land Consents Policy Guidance<sup>1</sup> 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 guidance if it appears appropriate to do so. In such cases, the decision will explain why it has departed from the guidance.
5. This application has been determined solely on the basis of written evidence.
6. I have taken account of the representation made by 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:-
  - a. the interests of persons having rights in relation to, or occupying, the land (and in particular persons exercising rights of common over it);

---

<sup>1</sup> Common Land Consents Policy (Defra November 2015)

- b. the interests of the neighbourhood;
- c. the public interest;<sup>2</sup> and
- d. any other matter considered to be relevant.

## **Reasons**

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

8. The applicants own the common and have submitted confirmation from the Commons Registration Authority that the registered common land surrounding their property - Horseblock Hollow - is not subject to rights of common. I am therefore satisfied that the works have not harmed the interests of those occupying 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***

9. The applicants explain that the works were undertaken to improve visibility and ensure safe vehicular and pedestrian access to Horseblock Hollow from the public highway (Barhatch Lane). The dwelling is situated on a steep bank above Barhatch Lane; a narrow unclassified road which is subject to a speed limit of 60 mph. The applicants point out that the property's pedestrian and vehicular access was inadequate and adversely impacted its occupants and visitors with mobility issues. The pedestrian access was via two steep sets of steps and it was not possible to park on the narrow road. Existing parking arrangements did not allow sufficient visibility for cars approaching or emerging from the parking areas and meant occupants and visitors had to cross a busy road. The works have been granted retrospective planning permission (WA/2013/1790).
10. The works have been undertaken on a narrow and overgrown area of roadside verge/bank alongside Barhatch Lane. Given the location of the works, it is unlikely that this part of the common is well used by local people for recreation or access. I am satisfied that the works have not prevented local people or the public from using the common in the way that they are used to. I conclude that the works have not interfered with public access or adversely impacted on the interests of the neighbourhood.

### ***Nature Conservation interests***

11. There is no evidence before me to indicate that the works have harmed nature conservation interests.

### ***Conservation of the landscape***

12. The common forms part of the Surrey Hills Area of Outstanding Natural Beauty (AONB). The works are constructed from loose gravel and concrete, which the applicants consider necessary to prevent the driveway from being eroded by rainwater flowing down the steep Barhatch Lane. The applicants explain that measures undertaken to mitigate the visual impact included minimising the area of surfacing required, ensuring the surfacing is level with existing ground levels and using materials which would not adversely impact on the rural character of the area. Additional landscaping has been provided to mitigate the impact of the works.
13. The use of concrete for part of the works has had a somewhat urbanising visual impact in this mainly rural setting. However, by and large the works follow the contours of the

---

<sup>2</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.

surrounding ground levels and, as they only affect a small area of verge and are contained and screened within a remote private dwelling, I consider the impact on the landscape is small. I conclude that the works have conserved the landscape and natural beauty of the AONB.

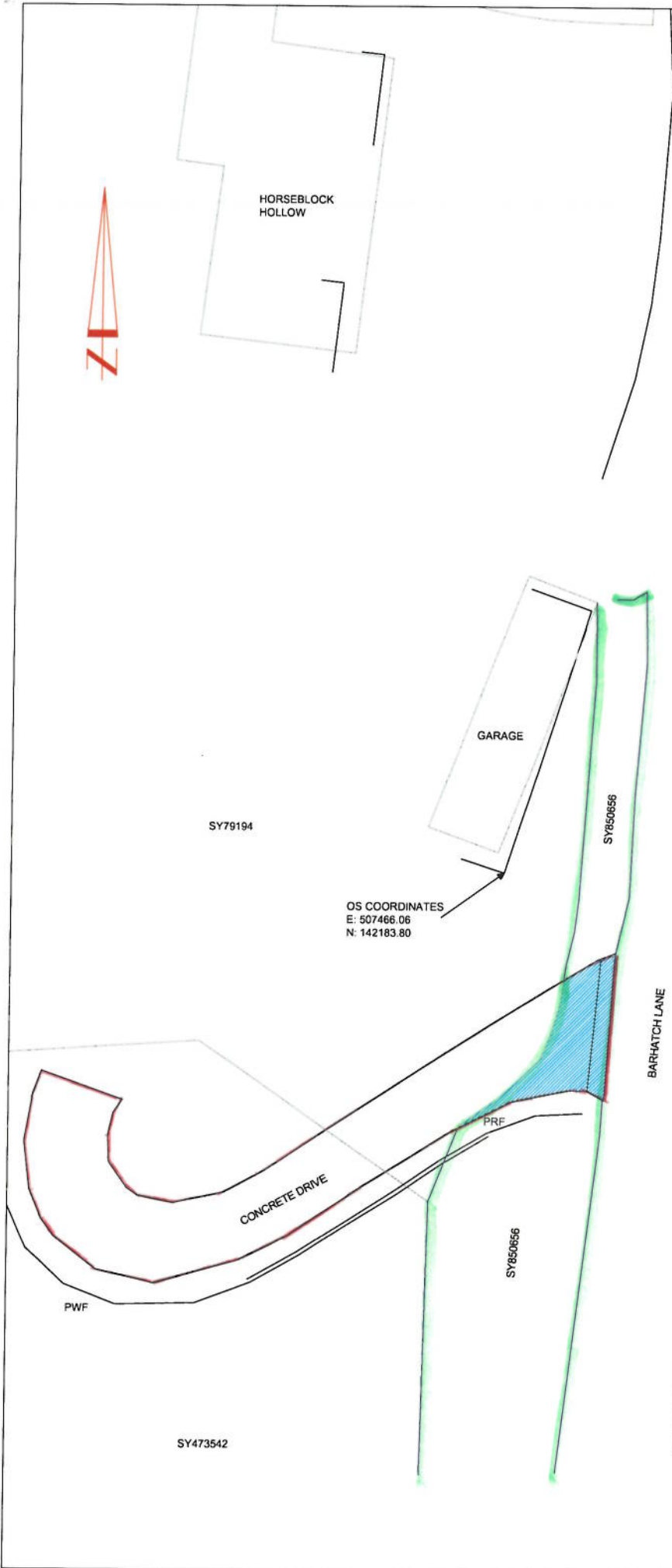
***Archaeological remains and features of historic interests***

14. There is no evidence before me to suggest that the works have harmed any archaeological remains or features of historic interests.

**Conclusion**

15. I conclude that the works have not harmed the interests set out in paragraph 7 above. Consent is therefore granted for the works.

**Richard Holland**



- BOUNDARY OF COMMON LAND
- BOUNDARY OF THE SITE OF THE WORKS
- AREA OF COMMON LAND OCCUPIED BY THE WORKS

PLAN 2

**PSL**  
Chartered Land Surveyors

David J Powell Surveys Limited  
Orchard House, 39 Christchurch Road  
Ringwood, Hampshire, BH24 1DG  
DX 45704 Ringwood  
Tel : 01425 476287 Fax : 01425 471325  
www.boundaries.net office@boundaries.net

<b>HORSEBLOCK HOLLOW CRANLEIGH, GU6 7NJ</b>	
Project Ref	CAD Ref
18115	18115 8 Jun 2018
Date	Scale
Jun 2018	1:200@A3