**##
Application Decision**

**By Richard Holland**

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

Decision date: 01 October 2021

**Application Ref: COM 3267844**

**Land on each side of the public highway known as Bridge Street Road, Sudbury, Suffolk**

Register Unit No: CL105

Commons Registration Authority: Suffolk County Council.

\* The application, dated 24 January 2021, 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 Paul and Elaine Cooper.

\* The works comprise a splayed tarmac driveway with granite kerb edges covering 37m².

Decision

1. Consent is granted for the works in accordance with the application dated 24 January 2021 and the accompanying plan.

2. For the purposes of identification only the location of the works is shown in red on the attached plan.

**Preliminary matters**

3. The application is retrospective as the works have been carried out.

4. Planning permission for ‘construction of a new vehicular access’ at the application site was granted on 16 January 2009 by Babergh District Council (Application B/08/01632/FHA/CJT).

5. I have had regard to Defra’s Common Land Consents Policy Guidance 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.

6. This application has been determined solely on the basis of written evidence. 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:

\* the interests of the persons having rights in relation to, or occupying, the land (and in particular persons exercising rights of common over it);

\* the interests of the neighbourhood;

\* the public interest**.** (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);

\* and any other matter considered to be relevant.

Reasons

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

8. The application land is owned by the applicants and it follows that the works are in their interests.

9. The common land register records no rights of common over CL105.

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

10. CL105 comprises strips of roadside verge on each side of Bridge Road. The driveway crosses the verge on the north side of the road and serves a holiday home which is not located on the common. The interests of the neighbourhood test relates to whether the works unacceptably interfere with the way the land is used by local people and is closely linked with public rights of access.

11. Application photographs show that the verge either side of the driveway is roughly vegetated and rises so steeply from the road that it is unlikely to be used for recreational purposes. Furthermore, despite there being no footway at the side of the road, the steepness of the verge would seem to make it unsuitable for pedestrians. Nevertheless, the driveway does not prevent public access and I am satisfied that the works do not materially interfere with the way this part of the common may be used by the public.

***The public interest***

*Nature conservation and conservation of the landscape*

12. Natural England (NE) advised that it would not be commenting on the application and there is no evidence before me to suggest that nature conservation interests are harmed by the works.

13. The common has no special landscape designation. The photographs show that the steep verge shields the driveway from view when approached along Bridge Road and that a high hedge on the opposite side of the road shields it from view from the south. It seems likely that the driveway can only be seen as it is passed by vehicles or pedestrians using Bridge Road and I am satisfied that the interests of the landscape are not unacceptably harmed by it.

*Archaeological remains and features of historic interest*

14. Historic England (HE) and the Suffolk County Council Archaeology Service were consulted about the application but did not comment. There is no evidence before me to suggest that the works harm the above interests.

Conclusion

15. The driveway serves a holiday home but does not benefit the use of the land as common land. Nevertheless, as the driveway does not unacceptably harm the interests set out in paragraph 7 above, it would not be in the public interest to withhold consent. Consent for the works is therefore granted.

Richard Holland

