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| **Application Decision** |
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| **by Harry Wood** |
| **Appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 3 May 2024** |
| **Application Ref: COM/3323643**  **Weedon Hill Green, Hyde Heath, Amersham, Buckinghamshire**  Register Unit No: CL35  Commons Registration Authority: Buckinghamshire Council   * The application, dated 2 June 2023, 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 Buckinghamshire Council (the Council). * The works outside Hyde Heath Infant School comprise a new 1.5m wide black tarmac footway and tactile paving covering 73.5m² and the removal of a dropped kerb and approximately 2.5m of hedge. | |

**Decision**

1. Consent is granted for the works in accordance with the application dated 2 June 2023 and the plans submitted with it subject to the following conditions:
2. The works shall begin no later than 3 years from the date of this decision.

REASON: To provide certainty to users of Weedon Hill Green.

1. The land shall be fully reinstated within one month from the completion of the works.

REASON: To retain access for the public across Weedon Hill Green.

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

**Preliminary Matters**

1. I have had regard to Defra’s Common Land consents policy of November 2015 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.
2. A Certificate of lawfulness for a proposed use or development was issued by the Council on 14 March 2023 for ‘installation of signalled crossing outside school and provision of footway across the common land between the new crossing and the school, as well as removing a small section of hedge’ (Reference PL/22/4164/SA).
3. This application has been determined solely on the basis of written evidence. I have taken account of the representations made by Natural England (NE), Historic England (HE) and the Open Spaces Society (OSS).
4. I am required by section 39 of the 2006 Act to have regard to the following in determining this application:-
5. the interests of persons having rights in relation to, or occupying, the land (and in particular persons exercising rights of common over it);
6. the interests of the neighbourhood;
7. 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
8. any other matter considered to be relevant.

**Reasons**

1. Weedon Hill Green (the common) comprises strips of roadside common on each side of the highway known as Weedon Hill (the highway). Hyde Heath Infant School (the school) lies at the western tip of the common on the north side of the highway. The Council advises that the highway is unlit at this location and has increasing traffic and speeding issues.
2. The Council explains that up to 60 children under the age of seven cross the highway each school day and that a permanent signalled pedestrian crossing with associated tactile paving is to be installed outside the school. In the absence of a pavement on the north side of the highway, the proposed new footway will cross the common to link the crossing with the school without the need for pedestrians to walk along the highway.

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

1. The Council is both applicant and landowner, and it follows that the proposals are in the landowner’s interests. The common land register for CL35 records no rights of common.
2. I am satisfied that the proposed works will not harm the interests of those occupying or having rights over the land.

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

1. The interests of the neighbourhood test relates to whether the works will unacceptably interfere with the way the common land is used by local people and is closely linked with interests of public access.

1. The application land is at the tip of the common and is abutted by the highway to the south, the school to the north and the hard surfaced school entrance to the west. Whilst there is a public bench on the common near the proposed footway, I consider that due to its location this area of the common has little recreational value other than for general access. It may also be used by pedestrians in the absence of a pavement.

1. Some works referred to in the application form and application notice, or referred to by the Council in correspondence, are not under consideration in deciding this application. Firstly, the pedestrian crossing itself is not within the common land boundary and the dropped kerb to be re-instated is on the south side of the highway at a point where there is no common land. Secondly, in response to an OSS query, the Council advises that the small footway spur shown on the application plan is for the pedestrian crossing controller cabinet, which is not referred to in the application form or the published application notice.
2. The remaining works proposals will result in the hard surfacing of only a small area of the common and will benefit children and parents who need to cross the highway to get to and from the school. They will also benefit anyone else using the pedestrian crossing and will have no harmful impact on more general access as any users of the common will be able to walk across and over the works. Removal of the hedge will allow access into the school from the footway.
3. I conclude that the remaining works are in the interests of the neighbourhood and will not unacceptably harm public rights of access.

*Nature conservation and conservation of the landscape*

1. NE advises that the application land is not subject to any statutory or non-statutory designations for nature conservation and does not anticipate that the works will have any significant adverse effects on the common’s overall biodiversity.
2. There is no evidence before me to suggest that the removal of approximately 2.5m of hedge will have a significant adverse effect on nature conservation interests.
3. At NE’s suggestion, the Council considered using what may be a more visually sympathetic lighter coloured bonded resin surface as an alternative to black tarmac but decided not to do so. Given the location of the application land, I consider that a new black tarmac footway will not look out of place in its surroundings, especially in light of the Council’s intention to refresh the highway approaching the pedestrian crossing with a new black skid-resistant surface.
4. The common lies within the Chiltern Hills National Landscape (formerly Chiltern Hills Area of Outstanding Natural Beauty – AONB). The Chilterns AONB Conservation Board was consulted about the application but did not comment. The Council will carry out a post-construction site assessment to agree any restoration works, which will be covered by the Council’s project budget. I am satisfied that the land will be restored on completion of the works, which can be ensured by attaching a suitable condition to the consent, and that the natural beauty of the National Landscape will be conserved.

*Archaeological remains and features of historic interest*

1. HE did not comment on the application other than to advise the Council to check its Historic Environment Record. The Council confirms that its Archaeological Service was consulted and I am satisfied that the necessary checks were made. There is no evidence to suggest that the works will harm the above interests.

**Conclusion**

1. I conclude that the proposed works will not seriously harm the interests set out in paragraph 6 above and will be of benefit to the neighbourhood, particularly to children and parents crossing the busy highway outside of Hyde Heath Infant School. Consent is therefore granted for the works subject to the conditions set out in paragraph 1.

**Harry Wood**

**Application plan referred to in Paragraph 2
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