**

|  |
| --- |
| **Application Decision** |
|  |
| **by Harry Wood** |
| **Appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 8 November 2024** |
| **Application Ref: COM/3346340**  **Wokefield Common, Burghfield, West Berkshire**  Register Unit No: CL31  Commons Registration Authority: West Berkshire Council   * The application dated 6 June 2024 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 West Berkshire Council. * The works where Reading Road and Padworth Road meet comprise (all measurements are approximate):  1. widening of the carriageway by 19m²; and 2. expanding an existing drainage ditch area by 22m². | |

**Decision**

1. Consent is granted for the works in accordance with the application dated 6 June 2024 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 Wokefield Common.

1. Any common land impacted by the works shall be fully reinstated within one month from the completion of the works (note that this does not apply to any physical changes or permanent features introduced as part of the works for which consent is granted).

REASON: To retain access for the public over Wokefield Common.

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

**Preliminary Matters**

1. I have had regard to Defra’s Common Land consents policy of November 2015 (the Defra policy) 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. The application has been determined solely on the basis of written evidence. I have taken account of representations made by Natural England (NE), Historic England (HE) and Open Spaces Society (OSS).
3. I am required by section 39 of the 2006 Act to have regard to the following in determining this application:
4. the interests of persons having rights in relation to, or occupying, the land (and in particular persons exercising rights of common over it);
5. the interests of the neighbourhood;
6. 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
7. any other matter considered to be relevant.

**Reasons**

1. The applicant (the Council) advises that the application land is roadside verge within the adopted highway boundary. The Council explains that the works are required to widen the existing carriageway to prevent buses and larger vehicles from further churning up the highway verge, which also forms part of the common. Such damage, along with inadequate drainage in the area, creates carriageway water ponding, which freezes in cold weather and presents a serious hazard.
2. Plans submitted with the application show that the verge narrows to a point where Padworth Road (to the north) meets Reading Road (to the south) ahead of a mini roundabout. The Council further explains that widening the carriageway will stop vehicles overrunning the verge and will increase the available carriageway space for larger vehicles to safely manoeuvre through the mini roundabout.

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

1. The common land is owned by the Trustee of Neil W Gardiner Will Trust (the Trust), which was consulted about the application but did not comment. The council advises that they also liaised with the Trust in advance of the application being made and I am satisfied that the Trust has had an opportunity to comment if minded to.
2. The common land register for register unit CL31 records no rights of common.
3. There is no evidence before me to suggest that the proposed works will harm the interests of those occupying the land and rights of common are not at issue.

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

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

1. Photographs submitted by the Council show that the application land is roughly vegetated with shrubs and trees and is bounded by the highway on three sides with no footway. I consider it unlikely that it could be safely used as a pedestrian crossing point or for any casual recreational use, especially given the presence of the drainage ditch. Nevertheless, access over it on foot is possible and will remain so following the works. I conclude that physically incorporating a small area into the highway and expanding the drainage ditch will only negligibly reduce the area available for such access.

***The public interest***

*Nature conservation*

1. NE advises that Wokefield Common is not subject to any statutory or non-statutory designations for nature conservation but is managed as a nature reserve by Berks, Bucks and Oxon Wildlife Trust on behalf of the Council.
2. From the information available regarding the scale of the works, NE does not anticipate that the works will have any likely significant effects on the overall biodiversity of the common and, given the size and location of the application land, I am satisfied that nature conservation interests are unlikely to be harmed by the works.

*Conservation of the landscape*

1. Wokefield Common is not subject to any special landscape designation. The proposed works are at the western edge of the common in an urbanised setting between two roads and ahead of a mini roundabout with associated road signs and street furniture. The works will not extensively extend the highway surface into the common and an enlarged drainage ditch may be shielded to a degree by the existing vegetation.
2. I am satisfied that the small scale and setting of the works will have a negligible impact on the landscape of the wider common.

*Archaeological remains and features of historic interest*

1. HE advises that, on the basis of the information received, they do not wish to offer any comments. There is no information before me to suggest that the works are likely to harm the above interests.

**Other matters**

1. The Council advises that the works are wholly contained within the common land and adopted highway boundaries, as shown by the green and red lines on the attached plan. OSS raised concerns that insufficient evidence has been provided by the Council to show how the red line was derived. OSS contend that “merely supplying a highway extent plan […] is not probative, unless it is supported by other evidence which shows that the highway does include the land in question”.
2. The Council confirms that the Adopted Highway Boundary plans submitted in support of the application were supplied by their Legal and Highway Asset Management teams and I consider it reasonable to accept that they are correctly drawn in the absence of any evidence to the contrary.

**Conclusion**

1. I conclude that the works will only negligibly harm, or are unlikely to harm, the interests set out in paragraph 5 above and that by improving the highway layout and associated drainage they are in the interests of road safety. Consent is therefore granted for the works subject to the conditions set out in paragraph 1.

**Harry Wood**

**Plan referred to in Paragraph 2
**