

|  |
| --- |
| **Application Decision** |
|  |
| **by Harry Wood** |
| **Appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 07 January 2025** |
| **Application Ref: COM/3355067**  **Harpenden Common, Hertfordshire**  Register Unit No: CL16  Commons Registration Authority: Hertfordshire County Council   * The application, dated 1 November 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 Harpenden Cricket Club (HCC). * The works to install two practice net cricket lanes comprise  1. a total footprint of approximately 219m², including 85.4m² of new matting and the remainder a green carpet over concrete base; and 2. new nets measuring 30m length x 7.3m width x 4m height covering 133.6m², comprising a galvanised steel post system with woven netting. | |

**Decision**

1. Consent is granted for the works in accordance with the application dated 1 November 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 Harpenden 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 across Harpenden Common.

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. This application has been determined solely on the basis of written evidence.
3. I have taken account of the representations made by Natural England (NE), Historic England (HE) and the Open Spaces Society (OSS), none of which object to the proposals.
4. Planning permission has been granted by St Albans City & District Council for two cricket training nets and associated works (Decision 5/24/0434 of 25 October 2024).
5. I am required by section 39 of the 2006 Act to have regard to the following in determining this application:-
6. the interests of persons having rights in relation to, or occupying, the land (and in particular persons exercising rights of common over it);
7. the interests of the neighbourhood;
8. 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
9. any other matter considered to be relevant.

**Reasons**

1. HCC advises that it is an established and aspiring community cricket club with a large and diverse membership, delivering sport for people whatever their background. The club has played cricket on the common since 1863 and is home to 35 teams. The club supports the local schools sports partnership and Herts Junior leagues and hosts annual community summer cricket camps, senior county games, county clubs and community groups.  In addition, the club is a hub for disability cricket in Hertfordshire.
2. HCC explains that the existing cricket net facilities are no longer sufficient to meet the needs of the club or to cater for the growing demands. The club is therefore looking to create two additional off-field practice net facilities for the further development of junior and senior cricket. The ECB (England and Wales Cricket Board) approved facilities will meet the demands of the club, providing a safe, performance led facility in which to hold warmups, coaching, drills, skills and net practice.

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

1. Harpenden Common is owned by Harpenden Town Council, which was consulted about the proposed works but did not comment. The common land register records one right of grazing over the common, which HCC advises is not exercised. In support of an unrelated application (COM/3326946 dated 28 July 2023) Harpenden Town Council also advised that the right is not exercised and that there has been no grazing over the common since 1962.
2. I am satisfied that the 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 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.
2. The land forms part of the cricket club and the works are proposed to improve facilities for local people who play cricket there. I consider the works to be consistent with the way this part of the common is used by local people.
3. The proposed new nets will sit between the existing cricket nets, which they will adjoin, and the Cricket Club pavilion. The application plan shows that this will leave a gap of around 10 metres between the new nets and the pavilion for continued public access on foot.
4. The common is subject to section 193 of the Law of Property Act 1925, whereby members of the public have a right of access for air and exercise, including on horseback. HCC consulted the British Horse Society about the proposals but they did not comment. There is no evidence before me to suggest that this part of the common is used for horse riding or that the works would unacceptably interfere with any such horse riding.

1. I consider the works to be in the interests of the neighbourhood as they will improve cricket playing facilities for local people of all ages and abilities on land already well used for the playing of cricket. I further consider that that the works will have only a negligible impact on 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, from the information available, NE does not anticipate that the works will have any significant adverse effects on any protected sites or on the common’s biodiversity.
2. The common has no particular landscape interest designation. The proposed works comprise ground level surfacing and an above ground netting structure adjoining existing works of the same description. The site is in a corner of the cricket ground area near to an existing cricket pavilion. In the context of the land’s existing use, I consider that the scale, appearance and location of the works will impact only negligibly on landscape interests.
3. I am satisfied that the works are unlikely to harm nature conservation interests and will not unacceptably harm landscape interests.

*Archaeological remains and features of historic interest*

1. HE confirms that there are no Scheduled Ancient Monuments or Listed Buildings situated within, or immediately adjacent to, the area of common to which the application relates and that the proposals will have no detrimental impact on the significance of the Harpenden Conservation Area. Hertfordshire County Council’s Natural, Historic and Built Environment Team was consulted about the proposals but did not comment.

1. I am satisfied that the works will involve no significant excavation of the soil and there is no evidence to suggest they will harm archaeological remains or features of historic interest.

**Conclusion**

1. I conclude that the proposed works are in the interests of the neighbourhood as they will improve cricket playing facilities for local people of all ages and abilities on land already well used for the playing of cricket. Furthermore, the works will not unacceptably harm the other interests set out in paragraph 7 above. Consent is therefore granted for the works subject to the conditions set out in paragraph 1.

**Harry Wood**

**Plan referred to in Paragraph 2.
**