

|  |
| --- |
| **Application Decision** |
|  |
| **by Harry Wood** |
| **Appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 20 August 2025** |

|  |
| --- |
| **Application Ref:** COM/3354831  **Land at Christmas Hill on Shalford Common, Guildford**  Register Unit Number: CL 128  Commons Registration Authority: Surrey County Council |
| * The retrospective application, dated 21 October 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 works in this application have already been completed. * The application is made by Surrey County Council. * The works comprise:  1. a new paved asphalt footway covering 12m² connecting an existing asphalt footway across the Common to a crossing point. 2. 6 reflective bollards measuring 90cm high. |

**Decision**

1. Consent is granted for the works in accordance with the application dated 21 October 2024 and the plans submitted with it.
2. For the purposes of identification only the location of the works is shown on the attached plans.

**Preliminary Matters**

1. I have had regard to Defra’s Common Land Consents Policy Guidance (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 guidance if it appears appropriate to do so. In such cases, the decision will explain why it has departed from the guidance.
2. This application has been determined solely on the basis of written evidence. I have taken account of the representations made by the Open Spaces Society (OSS), Natural England (NE) and Surrey County Councils Historic Environment Planning team.
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;
7. any other matter considered to be relevant.

**Reasons**

1. The applicant explains that the works have been put in place to improve pedestrian safety outlining that there is a bus stop and a care home in the vicinity of the crossing.

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

1. The applicant outline that Guildford Borough Council are the owners of the land. The common land register records multiple rights to graze animals over the whole of the land at Shalford Common.
2. I am satisfied that the works as they have been described would not interfere with the interest of those occupying or having rights over the land.

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

1. The interests of the neighbourhood relate to whether the works will unacceptably interfere with the way the Common is used by local people and is closely linked with interests of public access.
2. The works that have been carried out here cover a small stretch of land adjoining to Christmas Hill Road and an existing footway. They are located on a small section of the green adjacent to a public highway. I believe the Common is an active space for open air recreational activities for the public, though it is recognised that the recreation value of this area of the Common is limited by its size and location adjacent to the highway.
3. The applicant explains that the works are required for the safety of those using the crossing and is in the interest of residents in the area.
4. The paving of the tarmacked area will not introduce any impediments to those on the Common.
5. The introduction of the bollards does also not constitute an impediment to people’s access of the Common as they are spaced to allow access through them.
6. NE have been consulted on the application and stated that they are of the view that the works will not have any negative impact in regard to access.
7. OSS have also stated that they do not object to the application. They nonetheless highlight that they do not think it is necessary under a scheme of management which they view would allow the council to carry out the works without consent being needed.
8. The applicant has responded to this saying that “GBC’s view was that although the construction of a path is mentioned in the Scheme in general terms, the Secretary of State’s approval is necessary for certain surfaces which are not specified in the Scheme, so they were not convinced that the Scheme was clear enough to remove the need for the Secretary of State’s consent for these specific works.”
9. Overall, I do not believe the works as they have been carried out have created any unacceptable impediment to people’s access to and across the Common or affect the recreational value of the Common.

***The public interest***

1. As well as having regard to the public interest in the protection of public rights of access, I must also have regard to the public interest in nature conservation, the conservation of the landscape and the protection of archaeological remains and features of historic interest.

***Nature conservation and conservation of the landscape***

1. The proposed works within this application are intended to be permanent which has introduced new urbanising features onto the Common. However, the area now tarmacked is a small area of the Common connecting an existing highway and footway. The bollards are small in size and so will not significantly affect the sightlines or views across the Common.
2. On balance I do not view that the works would adversely impact the visuals or landscape value of the Common.
3. NE have stated that “From the information available to us we do not anticipate that the works will have any significant adverse effects on any protected sites, or the common’s biodiversity, landscape or accessibility for the public”.
4. OSS have stated no objection to the application in regard to nature conservation and conservation of the landscape.
5. I therefore take the view that there are no significant reasons why the works should not remain in place.

***Protection of archaeological remains and features of historic interest.***

1. HE has been consulted on the application and have not provided comment.
2. Surrey County Councils Historic Environment Planning team commented on the application and outlined that there is no record that any historic features have been or would have been harmed by the works.
3. There is no evidence before me to suggest that these interests will be harmed by the works.

***Conclusion***

1. In this case I conclude that the works have not introduced any unacceptable barrier to public access to the Common and the recreational value of the Common has not been affected. Additionally, the Nature conservation***,*** Landscape value and Historic interests of the Common have not been affected. The proposed works also provide a wider public benefit to those living in the area. The works have not seriously harmed the other interests set out in paragraph 5 above. Consent for the works is therefore granted subject to the conditions set out at paragraph 1 above.

Harry Wood

A map of a road

AI-generated content may be incorrect.Figure 1 – Location of the works