
Application Decision

by **Richard Holland**

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

Decision date: 17 May 2017

Application Ref: COM/3169134
Shipton Green, Chichester, West Sussex

Register Unit No: CL23

Commons Registration Authority: West Sussex County Council

- The application, dated 2 February 2017, 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 Mrs David Leon, Tapners Field, Itchenor Road, Itchenor, Chichester PO20 7DA.
 - The works comprise a 35m² (10m long x 3.5m wide) marine shingle driveway with flush stone kerbs to provide vehicular access to Tapners Field from Itchenor Road.
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Decision

1. Consent is granted for the works in accordance with the application dated 2 February 2017 and the plan submitted with it.
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 wholly retrospective as the driveway has already been constructed.
4. Tapners Field is a detached house which was granted planning permission by Chichester District Council on 31 October 2012 (Application WI/12/02383/FUL).
5. I have had regard to Defra's Common Land consents policy¹ 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.
6. This application has been determined solely on the basis of written evidence.
7. I have taken account of the representation made by the Open Spaces Society (OSS), which does not object to the application.
8. I am required by section 39 of the 2006 Act to have regard to the following in determining this application:-
 - a. the interests of persons having rights in relation to, or occupying, the land (and in particular persons exercising rights of common over it);
 - b. the interests of the neighbourhood;

¹ Common Land Consents policy (Defra November 2015)

- c. the public interest;² and
- d. any other matter considered to be relevant.

Reasons

The interests of those occupying or having rights over the land

9. The common land is owned by Itchenor Parish Council (the Parish Council), which was consulted about the application but did not comment. The common land register records four rights to graze cows, horses, ponies, geese, chickens, ducks, drakes and a donkey. The applicant has confirmed that the rights are no longer exercised. I am satisfied that the works do not harm the interests of those occupying or having rights over the land.

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

10. The interests of the neighbourhood test relates to whether the works affect the way the common land is used by local people. The land concerned is grassed roadside verge in a residential area and appears to have little recreational value other than for general access. Neighbouring properties have similar driveways and I do not consider that the works prevent local people, or indeed the wider public, from walking on the common in the way that they may have done before the construction of the driveway.

Nature conservation

11. There is no evidence before me that leads me to think the works have harmed any statutorily protected sites or other nature conservation interests.

Conservation of the landscape

12. The driveway is a new built feature in the landscape. However, a previous access way into the Tapners Field plot, which was sited a few metres to the north and close to the boundary with the neighbouring property, was removed and grassed over when the house and new driveway were built. The visual impact therefore relates to a re-positioned and differently surfaced driveway rather than to an additional one. The applicant has said that the surface complies with the Parish Council's Policy for Management and Maintenance of Shipton Green Common and is therefore in keeping with other driveways across the common. The Parish Council has not contested this view.
13. Shipton Green lies within the Chichester Harbour Area of Outstanding Natural Beauty (AONB). The AONB Board was consulted about the application but did not comment. The driveway is a replacement rather than an addition. I give weight to the fact that the design of the driveway appears to comply with local requirements. The use of marine shingle and granite kerbs, which are flush to the surrounding common, ensures that the works are not out of keeping with their suburban setting. I am satisfied that the driveway conserves the natural beauty of the AONB.

Archaeological remains and features of historic interest

14. There is no evidence before me of any archaeological features within the application site or nearby. I am content, therefore, that the works are unlikely to have harmed any such remains or features.

Other matters

15. Defra's policy advises that *'where it is proposed to construct or improve a vehicular way across a common... such an application may be consistent with the continuing use of the land as common land, even where the vehicular way is entirely for private benefit, because the construction will not in itself prevent public access or access for commoners' animals... The Secretary of State takes the view that, in some circumstances, a paved vehicular way may be the only practical means of*

²Section 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.

achieving access to land adjacent to the common'. I am satisfied that the construction of the driveway is consistent with Defra's policy objectives.

Conclusion

16. I conclude that the works do not harm the interests set out in paragraph 8 above and that consent should therefore be granted.

Richard Holland

Tapners Field

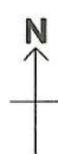


MAP 2

OS MasterMap 1250/2500/10000 scale
26 January 2017, ID: BLJT-00594394
www.planningapplicationmaps.co.uk

1:1250 scale print at A4, Centre: 480340 E, 99776 N

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Plan Reissued 15.3.17



* For details of construction of access drive refer to Tapners Field from Landscaping Plan 10.12.15