



Application Decision

by Richard Holland

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

Decision date: 25 October 2017

Application Ref: COM/3177709

Knodishall Common, Saxmundham, Suffolk

Register Unit No: CL133

Commons Registration Authority: Suffolk County Council

- The application, dated 1 June 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 Mr Kevin Sheppard, 6 Burch's Close, Snape Road, Knodishall, Saxmundham IP17 1XG.
- The works to create a vehicular access way comprise;
 - i. dropped kerb and rolled asphalt apron covering an area of approximately 38.75 square metres; and
 - ii. grass grids top-soiled and grass-seeded covering an area of approximately 47.25 square metres (4.5 metres wide x 10.5 metres long).

Decision

1. Consent is granted for the works in accordance with the application dated 1 June 2017 and the plan submitted with it subject to the condition that the works shall begin no later than 3 years from the date of this decision.
2. For the purposes of identification only the location of the works is shown in red on the attached plan.

Preliminary Matters

3. 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.
4. This application has been determined solely on the basis of written evidence.
5. I have taken account of the representation made by the Open Spaces Society (OSS) and Historic England (HE), neither of which raised objections to the proposed works.
6. 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

- 7. The common land has no known owner and is subject to the protection of the local authority (Commons Commissioner Decision 34/U/46 of 24 February 1975). Suffolk County Council and Knodishall Parish Council were consulted about the application but did not comment. The common land register records no rights of common. 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 the protection of public rights of access

- 8. The interests of the neighbourhood test relates to whether the works will affect the way the common land is used by local people. Photographs submitted by the applicant show that the common land concerned is grassed roadside verge in a residential area. The works are proposed to facilitate construction of dwellings on an adjacent site off the common, to which access from Snape Road across the verge will be required. Suffolk Coastal District Council granted planning permission (now lapsed) for an off the common dwelling and a new vehicular access at this site and has also more recently provided pre-application planning advice for a similar future project.
- 9. The verge appears to have little recreational value other than for general access. In any case, the access way will introduce no impediment to access as local people and the wider public will be able to walk across it and continue to use this part of the common as they may do now.

Nature conservation

- 10. There is no evidence before me that leads me to think the works will harm any statutorily protected sites or other nature conservation interests.

Conservation of the landscape

- 11. The applicant's photographs show that there is no pavement between the highway and the grass verge. The tarmac apron will therefore extend directly onto the grassed area rather than on to an area of existing hard surface. This will draw attention to the apron rather than allow it to blend in with the surroundings. However, this will be balanced to a degree by the remaining length of the access way being of a grid construction through which grass will grow; making it much less of a visible built feature than a fully hard surfaced access way would be. As it will be close to an access way/driveway serving the property next door it will have less of a visual impact than if it were to be positioned away from similar features.
- 12. Given its positioning and the materials to be used along the majority of its length, I am satisfied that the proposed access way will not have a significant impact on the landscape.

Archaeological remains and features of historic interest

- 13. Suffolk Archaeological Service was consulted about the application but did not comment. HE advised that the site does not lie within any previously recorded heritage assets and, provided that the depth of the groundworks is kept to a minimum, the potential to encounter and harm substantial below-ground archaeological remains is low. I am content, therefore, that the works are unlikely to harm any such remains or features.

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.

Other matters

14. 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 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

15. I conclude that the works will not harm the interests set out in paragraph 6 above and that consent should therefore be granted.

Richard Holland

