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# Application Decision

Site visit made on 24 January 2017

**By Barney Grimshaw BA DPA MRTPI (Rtd)**

**An Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs**

**Decision date: 16 February 2017**

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## **Application Ref: COM 3158795**

### **Albury Downs**

Register Unit: CL 344

Registration Authority: Surrey County Council

- The application, dated 13 September 2016 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 Surrey County Council on behalf of the Albury Estate.
- The works comprise the installation of 3 Pay and Display car park machines with associated signage.

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## **Decision**

1. Consent is granted for the proposed works in accordance with the application as amended and the plans submitted with it subject to the condition that the works shall begin no later than 3 years from the date of this decision.

## **Preliminary Matters**

2. I made an unaccompanied visit to the application land on Tuesday 24 January 2017.
3. For purposes of identification only the location of the Pay & Display machines (Meters 1, 2 and 3) and signage is shown on the attached plans.

## **The Application**

4. The application is made by Surrey County Council (SCC) on behalf of the Albury Estate, the owner of the land. It proposes the installation at the existing car park at Newlands Corner of 3 Pay & Display car park machines each fixed to a concrete pad (5m<sup>2</sup>) with overhead timber shelter and information board, the installation of Pay & Display signage on the access road and the creation of 230m of temporary trenching along the northern edge of the car park to enable the installation of underground power cables.
5. The council has subsequently advised that it no longer wishes to include timber shelters over the Pay & Display machines and no longer requires consent for the temporary trenching works shown on the attached plan as the machines are now proposed to be solar powered. I have therefore considered the application on this basis.
6. The application has attracted a very large number of objections (over 1,400) and, in addition, a petition opposing SCCs plans for Newlands Corner has been

signed by more than 11,600 people. It appears that much of the opposition may have been influenced by a campaign, 'Save Newlands Corner', which encouraged people to object. This campaign did not however only refer to the proposed Pay & Display machines but also to alleged plans to install and maintain seven large artificial play structures, to 'restructure' the parking area and to build a large new visitor centre, restaurant, retail space and coach park in a 'forward' position affecting the view. Apart from the Pay & Display machines, these proposals do not form part of the current application.

7. SCC has itself indicated that the works applied for form part of a wider project but, the related proposals have now been somewhat reduced as a result of public representation. Current proposals include only the refurbishment of existing toilets, the upgrading of the play area to the rear of the café, the resurfacing of the existing all ability trail and the placing of play and educational pieces in woodland. Some of these works may require further applications to be made.
8. As a result, many of the objections made to the current application are in part at least concerned with works that are not in fact included in the application although some are elements of a possible wider project. It is understandable that this is the case but I am only able to deal with the merits or otherwise of the works specified in the current application itself and cannot comment on proposals which may or may not be the subject of future applications which will themselves also have to be considered on their individual merits.

### **Main Issues**

9. 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;
  - (c) the public interest;<sup>1</sup>
  - (d) any other matter considered to be relevant.
10. I will also have regard to the department for Environment, Food and Rural Affairs (Defra) Common Land Consents Policy<sup>2</sup>, which has been published for the guidance of both the Planning Inspectorate and applicants.

### ***Interests of those occupying or having rights over the land***

11. No rights of common are registered over the land.
12. The common is owned by the Albury Estate on whose behalf the application is made and is subject to an Access Agreement and leases in favour of SCC. Access is managed by Surrey Wildlife Trust through an agreement with the County Council and Mr D Hunt has a lease from Albury Estate in respect of the café on the site. None of these parties has raised any objection regarding the effect of the application on their interests.

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<sup>1</sup> 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.

<sup>2</sup> Defra, Common Land Consents Policy, November 2015

13. The application states that the public do not have a right of access to the common for air and exercise under section 193 of the Law of Property Act 1925 (the 1925 Act). However, it is argued by one objector that this might not be the case on the grounds that the land may have been subject to rights of common on the commencement of the 1925 Act (1 January 1926) and/or because Albury Downs Common adjoins another common, Merrow Downs (CL3), part of which was situated within a borough or urban district.
14. I do not have information regarding what, if any, rights of common existed in 1926 but it is known that the Duke of Northumberland signed a Deed of Dedication in December 1928 to ensure that section 193 of the 1925 Act applied to the site and that this deed was revoked in 1962 and replaced with an Access Agreement under section 59 of the National Parks and Access to the Countryside Act 1949. In the absence of substantive evidence to the contrary this suggests to me that common rights did not subsist over Albury Downs before December 1928, otherwise the deed of Dedication would have been unnecessary and that, when that deed was revoked in 1962, section 193 ceased to apply.
15. With regard to the suggestion that section 193 might still apply because Albury Downs adjoins another common to which it does apply, this may be a matter on which only a court could give a conclusive view.
16. In these circumstances it cannot reasonably be suggested that SCC has incorrectly completed the application form and, in any event, the matter is to some extent academic as it is not disputed that the public do have a right of access to the common.

### ***Interests of the Neighbourhood***

17. Newlands Corner is clearly a popular destination. On the visit which I made on a Tuesday afternoon in January, I noted large numbers of people and vehicles at the site. I would expect that in summer months and at weekends and during school holidays there might be many more visitors. SCC estimates that 255,000 vehicles per year use the site and that this number is expected to increase.
18. This would suggest that people visit the site from a wide area although clearly it is likely that people who live in the surrounding area, notably in nearby villages and Guildford will visit more frequently.
19. Objectors express concern at what they perceive as the increasing 'commercialisation' of the site. However, Newlands Corner is already developed and occupied by various facilities which include a paved and marked out car parking area, which by my estimation can accommodate around 200 vehicles, a café and visitor centre, public toilets and sewage treatment compound and a play area. There are also various signs, seats, litter bins, etc. In this context it is unlikely that the physical presence of 3 Pay & Display machines will have a significant impact on the appearance or character of the site, nor will they physically impede public access except in so far as they will occupy a small area of land. In practice, it is the presence of parked vehicles themselves which has the greatest impact on the character of the area. It appears that much concern about 'commercialisation' relates to developments which may take place in the future as part of a wider project but, as already mentioned, I am only able to take account of those works included in the current application.

20. An important feature of the site is the open view of the surrounding area which is available to the south of the visitor centre and café. This will be unaffected by the proposed Pay & Display machines which are to be sited on the northern edge of the car parking area.
21. There has already been a considerable amount of development at Newlands Corner which has facilitated its intensive use by people from the local area and further afield. In this context, the proposed placing of 3 Pay & Display machines with associated signs will in my view have little significant effect on the character of the site.
22. The main impact of the proposals would seem to be likely to result from the parking charges themselves rather than the machines to collect them. Objectors generally feel that these will constitute a major impediment to public access, putting many people off visiting the common and possibly severely restricting access by those least able to afford to pay. The location of the site means that for most people it can only be visited by car as few dwellings lie within walking distance and the site is not served by public transport.
23. It is also suggested that the introduction of a parking charge may result in displacement parking on nearby roads to the detriment of local residents and highway safety. SCC has acknowledged this potential risk and has stated that the situation will be monitored and action taken to address problems if they arise.
24. SCC argue that it is in the interests of all visitors to the site that existing facilities are well managed and maintained and improved when necessary and that trees and other vegetation are properly managed to ensure safe access. The burden of paying for maintenance and management falls largely to SCC and in the current financial situation of the council this cannot be sustained without a new source of income. The introduction of a charge for parking will provide the necessary income in as fair a manner as possible.
25. Parking charges may be perceived as a restriction on access by some people, however, I note that access on foot will be unaffected and that there is no right of public vehicular access to any part of the common other than the public highways. Vehicular access to Newlands Corner is thus only available by permission of the landowner. The perceived disadvantages to the neighbourhood of parking charges must also be balanced against the benefits of the continued proper management and maintenance of the area and facilities which SCC state cannot be sustained without additional income.
26. Overall, it is my view that on balance the proposed works will not have a significant adverse effect on the interests of the neighbourhood.

### **Public Interest**

#### *Nature Conservation*

27. The scale and location of the proposed works at the edge of an existing paved car park is such that the effect on nature conservation is likely to be minimal.
28. A recent survey undertaken on behalf of SCC has revealed the presence of hazel dormice, a protected species, in the woodland area of the common. However, SCC has stated that they are not present in the car park where the proposed Pay & Display machines and signage are proposed. The survey was undertaken in

connection with possible future works that are not the subject of the current application.

### *Landscape*

29. The land affected by the proposed works lies within the Surrey Hills Area of Outstanding Natural Beauty (AONB) and it is therefore important that any adverse effect on the landscape is avoided. However, it has been stated on behalf of the AONB Board that the visual impact of the proposed Pay & Display machines is considered to be minimal and that such machines are often located in car parks in AONBs and National Parks. It is also my view that the scale and location of the proposed Pay & Display machines are such that they will have no significant adverse effect on the landscape of the AONB.
30. Several objectors also pointed out that the land is situated within the Green Belt. Again, it is my view that the scale and location of the proposed works are such that they will not have any significant adverse impact on the Green Belt.
31. Some objectors have expressed concern with regard to possible light pollution as a result of the siting of the Pay & Display machines, pointing out that the site is used by a local astronomical society on occasion. However, the application includes no provision for lighting and although the machines themselves may emit some light, this is likely to be of a very low level.

### *Public access*

32. The possibility that there is a general right of public access to the common under section 193 of the Law of Property Act 1925 has been considered already.
33. The proposed works will have no significant effect on public access on foot and it is considered that the effect of parking charges on permissive access by vehicles will be offset by the potential benefits from continued management and maintenance of facilities that the income generated will enable.

### *Archaeological remains and Features of Historic Interest*

34. There is no evidence to suggest that the proposed works would have an adverse effect on any archaeological remains or features of historic interest

### **Other relevant matters**

35. Many objectors have questioned the need for generating income by charging for parking and have suggested that there might be alternative ways to fund necessary management and maintenance works. However, this is not a matter which I am in a position to consider, I must assess the application that has been made in accordance with the criteria set out in the 2006 Act, as I have done.
36. Some objectors also expressed concern that the junction of the access road to the site with the A25 road is dangerous as a result of limited visibility. This may be the case and I understand that SCC has expressed an intention to look into possible improvements. However, I do not think the installation of Pay & Display machines within the site will itself have any impact on this junction. I also note that many objectors think that the introduction of parking charges may result in a reduction in the number of vehicles using the car park.
37. Concern was also expressed about the effect of parking charges on the activities of volunteers who currently assist with monitoring and managing

wildlife on the common such as members of the Surrey Dormouse Group and Surrey Wildlife Trust. However, SCC has indicated that volunteers will not be charged for parking.

**Conclusions**

38. Having regard to these and all other matters raised in written representations I conclude that all the criteria for the approval of the proposed works have been satisfied and the application as amended should therefore be approved.

*Barney Grimshaw*  
INSPECTOR

# Newlands Corner Proposed Location of Parking Meters



