

## Annex C

### COMMONS ACT 2006 – SECTION 38

We are applying to the Secretary of State for Environment, Food and Rural Affairs (Defra) for consent to construct works on Chobham Common under section 38 of the Commons Act 2006. The Planning Inspectorate will determine the application on behalf of Defra.

We are required to give you notice of our proposals, and are sending you a copy of the attached notice, application form and map in order to comply with that requirement.

Under section 38, we need Defra's consent to carry out any restricted works on **land registered as common land** under the Commons Registration Act 1965 or the Commons Act 2006 (and on certain other land specified in section 38).

Restricted works are any that prevent or impede access to or over the land. They include fencing, buildings, structures, ditches, trenches, embankments and other works, where the effect of those works is to prevent or impede access. They also include, in every case, new tarmac (or similar) surfaces, such as for a new car park or access road.

Defra's decision will be based on the merits of the proposal, and will balance all the interests in the common, taking account of all views expressed. Regard must be given to the criteria set out in section 39 of the Commons Act 2006. These are:

- (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, which 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;
- (d) any other matter considered relevant.

These criteria will be viewed in the light of the overriding objective of protecting, maintaining or improving the common, and of ensuring that the overall stock of common land is not diminished. This will enable the diversity, variety, and overall extent, of common land to be safeguarded.

Any objections or representations about the proposal should be sent to the Planning Inspectorate by the closing date specified in the notice.