

**APPLICATION FOR CONSENT TO CARRY OUT WORKS ON  
COMMON LAND**

Commons Act 2006: Section 38

National Trust Act 1971: Section 23

Greater London Parks and Open Spaces Order 1967

Return completed application to:

The Planning Inspectorate  
Room 3/25B, Hawk Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol  
BS1 6PN

Tel: 0303 444 5408  
Fax: 0117 372 6241

E-mail: [commonlandcasework@pins.gsi.gov.uk](mailto:commonlandcasework@pins.gsi.gov.uk)

- **Before you apply for consent you should consult informally and widely about the proposed works as this may help you identify and overcome any objections.**
- Answer all the questions on this form in full, tick all relevant boxes and use a separate sheet where there is insufficient space for your answer.
- Refer to separate **Notes** on completing this form (the "Notes") and **Guidance Sheets** (list at **Annex F of notes**) before applying.
- Read **Guidance Sheets 1a, 1b and 1c** for all Section 38 cases.
- Read **Guidance Sheet 2a** if the land is owned by the National Trust.
- Read **Guidance Sheet 2b** if the land is owned and/or managed by a London borough, or registered as a town or village green.

## Legislation

This application is made under:

- Section 38: Commons Act 2006  
 Section 23: National Trust Act 1971  
 Article 12: The Greater London Parks and Open Spaces Order 1967  
 Article 17: The Greater London Parks and Open Spaces Order 1967

## SECTION A – The common land (see Note 1)

1. Name and full address of common	Chobham Common Staple Hill Road, Chobham, Surrey, GU24 8RB.
CL no or VG no	326
Commons Registration Authority (Usually the county council or unitary authority)	Surrey

## SECTION B1 – The applicant

2. Forename	Wayne
Surname	Purdon
Organisation (if appropriate)	Project Engineer (Drainage) - Surrey Heath Borough Council
Title (Mr/Mrs/Miss/Dr)	Mr
Full Postal Address	Surrey Heath House, Knoll Road, Camberley, Surrey.
Postcode	GU15 3HD

Telephone No/Mobile

Email address

3. Do you prefer to be contacted by  Post  Email  
(ignore if you are using an agent)

**SECTION B1a – The agent (where relevant)**

3a. Forename

Surname

Organisation (if appropriate)

Title (Mr/Mrs/Miss/Dr)

Full Postal Address

Postcode

Telephone No/Mobile

Email address

- Do you prefer to be contacted by  Post  Email

**SECTION B2 – The owner of the common land**

4. Forename

Surname

Organisation (if appropriate)

Title (Mr/Mrs/Miss/Dr)

Full Postal Address

Postcode

Telephone No/Mobile

Email address

**SECTION C – Area of common and common rights (See Note 2)**

5. If the land is registered as a village green is it regulated by an Act under the Commons Act 1876 confirming a provisional order of the Inclosure commissioners or subject to a scheme of management under the Metropolitan Commons Act 1866 or the Commons Act 1899?

Yes  No

If No, why are you applying for consent under section 38 of the Commons Act 2006?

Chobham Common is shown on the Register of Common Land: register unit number CL326.

- 5a. What is the total area of the common as registered?   
What common rights, if any, are registered? (e.g. number and type)

Rights in respect of two properties: 'Beesholme', Gracious Pond, Chobham for grazing by 5 goats, estovers and turbary over part of the Common known as Old Slade, and Stanners Hill farm for estovers and piscary over the whole of Unit 326, except land lying to the west of Westways Farm.

\* The Register of Common Land for Surrey (enclosed in with the application) under Register unit Number CL 326 lists Chobham Common as entry 1; dated 8th July 1968. The same Register – page 2 – entry 8; dated 18 April 1984 says "The land referred to in entry No. 1 comprises 104.398 hectares (257.772 acres)". It is not clear why the written register lists the area as 104.398 hectares when the accompanying register map shows all the area of Chobham Common to be registered Common Land, which we estimate as 561 hectares.

6. Are the common rights ever exercised? Yes  No

If yes, please give details e.g. which commoners are active, which rights are exercised and how frequently?

N/A.

7. Give details of any relevant leaseholders, other occupiers, those holding any relevant charges or those with rights of access over the land.

Surrey Wildlife Trust manage Chobham Common under a 50 year lease from Surrey County Council which has approximately 37 years unexpired. The public enjoy right of access to all the Common under s193 of the Law and Property Act 1925. The common is crossed by many public rights of way including bridleways and footpaths.

## SECTION D1 – The proposal (See Note 3 - 6)

8. What works are proposed? (tick **all** that apply)

- fencing
- building(s)
- other structures(s)
- ditch(es), trench(es), embankment(s)
- sealed paths, roads or tracks (e.g. concrete or tarmacadam)
- other works, please specify:

Restoration of pond to include associated pipework, flow control and headwalls.

9. What area (in square metres) will the works occupy or the fencing enclose?

5,000 square meters

How long (in metres) will the works/fencing be?

N/A

10. Are the proposed works permanent or temporary?

- permanent
- temporary
- mixed permanent and temporary

If temporary, how long will they be needed?

N/A

11. Is this application, or any part of it, for works that have already been carried out?

Yes  No

12. Describe the proposed works below including the dimensions and materials to be used and make clear which works, if any, have already been carried out. (If the works are only for fencing go straight to Section D2)

To dredge and reinstate a previous pond excavation including reconstruction of embankments to facilitate the ability of the pond to attenuate surface water flows to help alleviate localised flooding issues within the nearby village of Chobham. The work will also limit the ability for cross contamination of surface water from areas of highway onto Chobham Common.

On the edge of the common, adjacent to the Windsor Road and Staple Hill junction, there are dilapidated surface features originating from a disused gravel extraction pit. The excavation is located on a minor watercourse which had subsequently filled to become a wet pond however, this was later drained to facilitate realignment of the Staple Hill road junction. Whilst these features have fallen into a dilapidated state over the years, a large section of the original embankments still remain and the water flow from surrounding areas is still conveyed through this excavation.

To minimise disruption on the common the proposal seeks to restore the pond by excavation of gravels from within the pond area to reinstate the missing sections of bund, matching the existing profiles and levels. Under guidance from Surrey Wildlife Trust (SWT), the pond has been designed to provide a suitable form that will improve the aquatic and marginal aquatic habitats of the common. Excavation of gravels from the pond area will also allow for an increase in depth to ensure the retention of a wet pond.

Outlet pipes will be installed on the bridleway and access track (to the south of the pond) and then they will be raised up in height to hold back water using extracted gravel from the pond. Both routes will then be capped with imported Fittleworth Stone material to provide an improved surface for users of the common.

All proposed work areas have already been surveyed and will be checked again by SWT prior to any construction to record any flora and fauna that is present. The majority of works will be contained within the pond construction area (of maximum area of 5000m<sup>2</sup>) with minimal intrusion into the surrounding ground for access purposes only. All affected work areas will be subject to on-going checks by SWT throughout construction.

Some trees have been felled to reinstate the original pond area but no works have been carried out that could require s38 consent.

13. Explain why the proposed works are needed and how they fulfil the criteria set out in Section 39 of the Commons Act 2006. If the proposed works include fencing, please also complete section D2.

In 2009 Surrey Heath Borough Council (SHBC) received DEFRA funding to undertake a study review of the flood sources affecting Chobham Village. To the north of the village centre surface water flows from the Windsor Road and Staple Hill catchment areas were identified as being a considerable source of surface water shed from areas of common land and various proposals were sought to reduce the flows within this watercourse by providing on-line attenuation.

Historic evidence and the presence of existing ground profiles promoted the restoration of the Staple Hill/ Windsor Road pond which lies within a partially natural, partially man-made, confluence point. The pond restoration will provide sufficient gravels to restore the missing bund profiles, and re-profiling of the pond with areas of increased depth will improve the aquatic and marginal aquatic habitats on the common. Restoration of the existing bund surround to the pond to provide attenuation will help mitigate nearby flooding issues for residents while also minimising surface water spread and flow disturbance to other areas of the common.

Restoration of this facility will reduce flood risk to a minimum of 64 properties located around Chobham Village centre and help maintain highway routes through the village. Roads can often become impassible due to flood in times of heavy or prolonged rainfall, including the A319 and B363 routes, hindering emergency services trying to aid affected residents.

The provision of on-line attenuation will also help reduce the load carried by the main rivers, therefore reducing risk of main-river surge and helping mitigate other affected surcharge areas downstream.

We believe that the proposal meets section 39 criteria:

- s. 39 (1) (a) There are no active commoners who would be affected. As a s 193 common we have attempted to reduce any new impediment to public access as much as possible and believe the scheme to have only a de-minimis effect on access, e.g. the outlet weir will be a flat structure that will only be utilised in extreme rainfall events and can be safely walked over. The use of unconsolidated capping material (Fittleworth Stone) on the bridleway and track will facilitate access onto the common, improve the path for public use as they are presently under water during wet weather, and is an approved surface on bridleways. The colour of Fittleworth Stone is in keeping with the character of the common. The track improvement, adjacent to the Windsor Road, will enhance vehicular access for site management by the site managers' and by the fire brigade. (Chobham Common has previously suffered from frequent uncontrolled and damaging wildfires);
- s. 39 (1) (b) The interests of the neighbourhood will be served by the reduction of flood risk and the raising of the height of the track and bridleway will reduce the speed of discharge of water from the common into the village;
- s. 39 (1) (c) (2a) Natural England (NE) were consulted about the details of the scheme and both NE and SWT have approved the pond design. The restoration of the pond will assist this unit of the SSSI achieving favourable condition for the Biodiversity 2020 target. All the materials used in construction will be inert e.g. plastic piping;
- s. 39 (1) (c) (2b) The proposed works should enhance the landscape quality of this part of the common by restoring a derelict feature.
- s. 39 (1) (c) (2c) Please see s. 39 (1) (a) above regarding public access;
- s. 39 (1) (c) (2d) The scheme aims to restore a feature of historic interest.

The proposed works need to be placed on common land as water runoff from the common itself runs directly into Chobham village, so while there is no alternative option the scheme design aims to restore a historic feature of the common. There is uncertainty whether the proposed works fall under the terms of s38 but it has been decided to apply for the sake of best practice. Consultation undertaken by SHBC with the Chobham Flood Forum and local organisations support restoration of this historic landscape feature to reduce storm surges into Chobham village, potentially reducing flooding incidents to housing and roads and enhance this part of the common.

14. Give details of any measures proposed to mitigate the visual impact of the works.

Tree cover is minimal around the pond area and no tree loss is envisaged with any of the restoration work. Care will be taken to reinstate the missing bund profiles into the existing topography to minimise any unnecessary disturbance of areas not affected by the works. All work is to be constructed in an area defined by existing ground profiles, with minimal intrusion required into surrounding ground. Any affected paths, or other routes used for access, will be restored upon completion using approved surface materials.

The work generally consists of top-soil layers being stripped and stock-piled on site while the sub-soil layers are reprofiled. The removed top-soil layer will then be replaced over the reprofiled sub-soil, therefore retaining any native seeds or specimens within the soil. By this action we also seek to naturally blend the changes to the pond construction into the surrounding common land over a season or two of regrowth. It is anticipated that the restored pond will enhance the landscape of this part of the common.

All pipework and other drainage related construction work (outfall) will be minimal with only the headwalls and chamber covers remaining visible to aid on-going maintenance of the attenuation facility.

**SECTION D2 – Where the proposed works include fencing (temporary and permanent)**

(If your proposal does not include fencing, go straight to Section E)

15. Please give details of the type(s) of fence proposed, including the height and the materials used.

The proposal does not include any fencing.

16. Please explain why the fencing is needed and how it fulfils the criteria set out in Section 39 of the Commons Act 2006. This should cover: why fencing of this type is needed, what the aim of the fencing is, and why it is the length proposed. You should also explain what other types of fencing, if any, have been considered and rejected. If you are applying for permanent consent please explain why temporary consent is not appropriate.

The proposal does not include any fencing.

17. Please say what other measures (if any) you have considered (i.e. alternatives to fencing) and explain why these are not suitable.

The proposal does not include any fencing.

18. Give details of any measures proposed to mitigate the visual impact of the fencing.

The proposal does not include any fencing.

19. Give details of the number, type and location of stiles, gates, gaps or other means of access.

The proposal does not include any fencing, stiles or gates.

**SECTION E – Planning permission (See Note 7)**

20. a) Is planning permission needed for your proposal?  Yes  No  
b) If yes, has planning permission been given?  Yes  No  
If yes to b), please enclose a copy of the planning permission.  Copy enclosed.

**SECTION F – Designations (See Note 8 – 9 and Guidance Sheet 8)**

21. Is the proposal in or near a Site of Special Scientific Interest (SSSI), a Special Area of Conservation (SAC) a Special Protection Area (SPA) or a wetland listed in accordance with the Ramsar convention?  Yes  No

If yes, please give details and identify this area on the map (see Section J).

Chobham Common is a Site of Special Scientific Interest (SSSI), a National Nature Reserve (NNR), a Special Area of Conservation (SAC) and a Special Protection Area (SPA).

22. Will the proposal affect a Scheduled Ancient Monument (SAM)?  Yes  No  
If yes, please give details and identify the location of the SAM on the map (see Section J).

N/A

23. Is the proposal in a National Park?  Yes  No

If yes, please give the name of the National Park.

- Is the proposal in an Area of Outstanding Natural Beauty (AONB)?  Yes  No

If yes, please give the name of the AONB.

- Will the proposal affect an area of special landscape value or World Heritage Site?  Yes  No

If yes, please give details and identify the area on the map (see Section J).

N/A



29. You must also send a copy of the notice, application form and map (using the letter at **Annex C, C1** or **C2** of the **Notes**) to the following:

- the owners of the land (if different from the applicant)
- the commons council or commoners' association (if there is one)
- all active commoners
- others with a legal interest e.g. tenants, those with easements, or other rights over the land and any other person occupying the land
- the Commons Registration Authority
- the relevant parish council, where known
- Natural England
- English Heritage
- National Park Authority (if the proposal is in a National Park)
- AONB Conservation Board or Joint Advisory Committee (if the proposal is in an AONB)
- Open Spaces Society
- the local authority or other body in which the management of the common is vested under a scheme of management made under the Metropolitan Commons Act 1866 or the Commons Act 1899 or any other regulatory scheme or Act for the common (if there is any such scheme or Act)
- the local authority archaeological service

30. Which newspaper will the advertisement appear in?

Woking Advertiser

On what date?

25 September 2015

On what date will the representation period end?

23 October 2015

**This date must be at least 28 days from the date the application is advertised. Incorrect notices are a common problem and may result in you having to re-advertise, so please read note 13 carefully.**

### Section J – Maps (See Note 17)

31. Please enclose two copies of the map that meets the requirements set out in Note 23. The map should show everything required by sections F and G of this form, and it must clearly show what you are proposing to do and where. **Incorrect or unclear maps are a common type of problem with applications for works, so please read note 17 carefully.**

- Two copies of the map have been prepared.

## SECTION G – Existing works and adjacent common land (See Note 10)

24. Are there any existing buildings, roads, fences or other constructions on the common?  Yes  No

If yes, please give details. Please also identify these on the map (see Section J).

There are six car parks (all with an unconsolidated surface) and other items like benches, information boards, height barriers, barways (at various entrance points to the Common), and laid tarmac at Roundabout car park entrance splay (not the car park itself) which have been installed over many years. All these were installed before 1st October 2007. Since that date bollards have been placed in the ground at Burrow Hill Green to prevent illegal incursions or cars' driving onto the Common and an application for the erection of temporary electric fencing of 6779 metres to enclose five areas for summer grazing for a four year period has been made. Both the bollards and the temporary fencing were consented by The Planning Inspectorate: Your ref: COM231, dated 27/7/12. (Please see map Chobham Common - Indicative Grazing Enclosures).

25. Does any area of common land or village green of a different registration number adjoin the common on which the works are proposed?  Yes  No

If yes, please give details. Please also identify the boundaries on the map (see Section J).

There are two parcels of land which are part of Chobham Common but are not under SCC's ownership:  
(1) Land known as Glover's Pond (north of Langshot stables) CL 469  
(2) Sunningdale Golf Course (which lies to the west of the Chobham Road, B383 and north of the Chertsey Road) and is not managed by Surrey Wildlife Trust CL 326, CL 249  
These also adjoin Stanners Hill Common CL 327 and two small parcels of common land CL 471 and CL 472. (See Commons register map attached).

## Section H – Public access (See Notes 11 - 12)

26. a) Do the public have a right of access to the common for air and exercise under section 193 of the Law of Property Act 1925?  Yes  No

- b) Is the common subject to an Order of Limitation made under Section 193?  Yes  No

If yes to b), give its date, and send us a copy of the order.

Date of the order   Copy enclosed.

27. Will the works exclude (rather than simply restrict) any right of access for any person (e.g. fencing that crosses a public right of way or road)? Rights of access for persons includes access on foot, horseback or in vehicles.  Yes  No

If yes, please explain what exclusions you seek.

The works will reduce access to any part of the submerged area of the pond to those on foot or horseback, although access is presently reduced when the pond holds water. The reduction in area is considered de-minimis in comparison to the large area of accessible common land all around it. It is proposed to restore the length of Bridleway 87 affected by the works with appropriate resurfacing using (unconsolidated) Fittleworth Stone.

## SECTION I – Advertisement and consultation (see Notes 13 - 16)

28. **You must advertise your proposal** in one main local newspaper and at the main points of entry to the common (or, if there are none, at a conspicuous place on the boundary of the common) within 7 days of making your application. Use the draft notice at **Annex A** of the **Notes**.

A notice has been prepared following the format at Annex A.

**Section K – Checklist (tick to confirm)**

32. For all applications:

- I have read the relevant Notes and Guidance Sheets.
- I have answered all the questions on this form in full. (Where appropriate.)
- I have enclosed a map (2 copies) that meets the requirements of Note 17.
- I have enclosed a copy of the commons register in respect of this common, where registered, i.e. details of the land, rights, ownership and the register map.
- I have enclosed a copy of any document mentioned in answering the questions on this form (e.g. planning permission, etc.)
- I understand that any of the application papers may be copied to anyone who asks to see them.

33. For Section 23 (National Trust Act 1971) only:

- I have enclosed a letter from the National Trust confirming its view that the proposed works are "desirable" under Section 23(1)

34. I will, as soon as possible:

- Advertise the proposal in one local newspaper
- Post a copy of the notice at the main entry points to the common
- Send a copy of the notice, application form and map to all those listed at Section I
- Place a copy of the notice, map and application form at the inspection point
- Write to you using the letter at Annex D of the Notes, to confirm that the advertising requirements have been met.

Signed

Name

Date

**You should keep a copy of the completed form.**

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**Data Protection Act**

Your application will be in the public domain. Therefore all documents (both paper and electronic) associated with it may be disclosed during the application process to others, including other Central Government Departments, public bodies, local authorities, other organisations and members of the public.

A copy of this form and any accompanying documents may be disclosed following a request for information under the Environmental Information Regulations 2004.

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