

Note 9

The commons register or the registration authority should be able to provide the information requested in questions 16 and 17. If you are in any doubt about the position, please contact the Department for advice.

Note 10

Section 193 of the Law of Property Act 1925 gives a public right of access for air and exercise to any common which lies wholly or partly in an area which, before 1 April 1974, was a borough or urban district. Section 193 can also be applied to other commons by way of a Deed made by the owner of the land.

An Order of Limitation usually restricts the type or amount of public access to the land to which 193 applies.

SECTION H – Public Access, Deeds and Orders
(see Notes 9 and 10)

16. (a) Is there a statutory right of public access for air and exercise under section 193 of the Law of Property Act 1925? YES NO

(b) If Yes, has Section 193 been applied to the common by Deed of Declaration made under subsection (2) YES NO

If Yes, please give particulars of the Deed.

(c) Is the common subject to regulation by an Order of Limitations made under section 193? YES NO

If Yes, please give details.

Note 11

Where a Scheme of Regulation and Management is in place, three possible scenarios arise:

- (a) that the works proposed are authorised by the articles of the Scheme without the consent of the Secretary of State being required. In these circumstances, no application for consent needs to be made, either under the Scheme or under section 194;
- (b) that the works proposed are authorised by the articles of the Scheme provided that the consent of the Secretary of State is obtained. This application form can be used to seek such consent, but you must answer question 17(d) in full. You will also need to ensure the published notice refers to the Scheme, the Act under which it was made, and the article under which consent is sought. The criteria for determining an application under a Scheme are exactly the same as for a section 194 application.
- (c) that the proposed works are not authorised by the Scheme. In these circumstances, the works cannot be carried out unless the Scheme is amended. The Secretary of State has no remit in amending Schemes. It may be possible for the articles themselves to be amended and, if applicable, for an application then to be made to the Secretary of State under an amended article. Alternatively, it may be possible to exclude an area of land on which proposed works are to be carried out from the scope of the Scheme, and to apply under section 194. We are prepared to accept a section 194 application before the Scheme is amended if, for pragmatic reasons, an applicant wishes to proceed in this way. But if you choose this route, you must explain your reasons fully, and set out how and when you intend to deal with the Scheme. In responding to question 17(e).

SECTION I - Schemes of Regulation and Management (see Note 11)

- 17. (a) Is the common subject to a Scheme of Regulation and Management made under the Commons Acts of 1876 or 1899? YES NO
- (b) Is it subject to any other regulatory Scheme or Act concerned with management? YES NO

If you have answered YES to 17(a) and/or 17(b), please read note 11 carefully before proceeding. If NO to both questions, go straight to Section J.

- (c) Give particulars and provide a copy of the Scheme.

- (d) If you are applying under an article (or articles) of the Scheme, specify which article(s) and identify the works proposed under each article.

- (e) If the common is governed by a Scheme, but you are still applying under section 194, please say why you consider this appropriate and how you propose to deal with the Scheme.

Note 12

You are required to advertise your proposals. A notice advertising the proposed works should be based on the form of notice at Appendix A (an example notice is at Appendix B). In the first paragraph (beginning 'Notice is hereby given...'):

- the description given should be sufficiently detailed to enable anyone who reads it to know whether they wish to object to, or support, any part of the proposals.

In the second paragraph (beginning 'A copy of the application form ...'):

- the address at which the application form and map is to be deposited should be readily accessible to persons who live within reach of the common. A private address would not normally be regarded as appropriate for this purpose;
- the closing date for lodging objections should be not less than 21 days from the first date on which the notice is to be advertised in the press.

The Department will offer advice on the drafting of the notice. The responsibility for the description of the proposals must, however, remain with you. The notice should be:

- advertised by publishing it in at least one principal local newspaper;
- served on the councils of the parishes and districts within which the common is situated;
- posted in the vicinity of the site and at the places where it is customary to display notices of the councils. Where consent is being sought by a private individual or organisation, it will be necessary for permission to the posting of the notices to be obtained from the parish or district council concerned.

Copies of the map (see note 15) should also be served and posted with the notice, as described above.

SECTION J – Advertisements and consultations
(see Notes 12, 13 and 14)

18. Note 12 outlines the requirements for advertising your proposals. Please state the name(s) of the newspaper(s) in which the notice advertising the proposed works appeared, and the date of its publication. Please enclose copies of the advertisements with this application.

Sussex Express

Friday March 17th 2006

Note 13

Open Spaces Society

You are required to consult the Open Spaces Society about your proposals. A copy of the completed application form, the map and the notice should be sent to the Society when the first newspaper advertisement is published. The Society will then send any representations or objections to the Department. You will have the opportunity in due course to comment on what they say.

The contact details for the Society are: The Open Spaces Society, 25A Bell Street, Henley-on-Thames, Oxon RG9 2BA. Telephone: 01491 573535. Fax: 01491 573051. Website: www.oss.org.uk E-mail: hq@oss.org.uk

Note 14

Representations from interested parties

If objections or representations are received in response to the public notices, we will send copies to you together with any comments received from the Open Spaces Society and ask for your observations and any further information it seems desirable to have. In turn, objectors will be given an opportunity to comment on your response to their objection. In the light of these exchanges of correspondence, we will consider whether there is sufficient information on which a decision can be reached or whether additional information is required and, if so, whether this could be obtained more appropriately by further correspondence or by holding a public local inquiry. Applications which generate a significant number of objections, or where the issues are complex, may need to be dealt with by way of a public local inquiry held by an independent Inspector.

It should be noted that evidence you submit, whether given with the application itself or in correspondence, will be disclosed to objectors, or to anyone interested in the application, at any stage in the procedure where it seems desirable. Furthermore, whenever it is considered appropriate to do so, objectors will be sent copies of any letters written by you commenting on objections. You should, therefore, confine your letters to comments that are relevant to the objections raised and not include other matters which you would not wish to be disclosed.

Note 15

Maps

You are required to provide an up-to-date map with your application which clearly shows what you are proposing and where. With regard to the map:

- the location of the proposed works on the common should be highlighted in red and the boundary of the common highlighted in green (details of the boundary can be obtained from the commons registration authority). This should be identified on one map, although it is recognised that in some cases this may not be possible and two maps may be needed;
- the highlighting of the proposed works should be done as accurately as possible and the scale of the map should be clearly identified, enabling the measurements of the proposed works to be checked;
- all maps should clearly show at least two road names or other features to assist easy identification of the site;
- Ordnance Survey maps are preferred to plans/sketch drawings;
- two copies of each map are required.

19. Other than the published notice, what steps have been taken to ascertain the views of local inhabitants?

Local residents and graziers have requested Line A and B. English Heritage has requested line C.

Some village residents have also requested a 'cattle free' route from Telscombe village to Telscombe cliffs via the Tye. Line C will provide this.

20. (a) Is the lord of the manor (or other owner of the soil) agreeable to this application? YES NO

(b) Are the commoners also agreeable? YES NO

(Details of commoners may be obtained from the Commons Register. You may also wish to consult any local commons association, if one exists.)

Please submit written evidence and, if you wish, comment below.

Landowner is Telscombe Town Council

Have enclosed a letter of support from Ambrose Gatham Trust.

No response from Kirby Farm.

SECTION K - Maps (see Note 15)

21. Have you enclosed a suitable map showing what your proposals are and where they are located? YES NO

Note 16

Further information

Please note that straightforward applications normally take between 4-6 months to process depending on the nature and extent of the works, the quality of the information you provide, the number of representations received and the procedure followed (exchange of written representations or public local inquiry). It may be in your interests, therefore, to consult those with an interest in the proposals as fully as possible before an application is submitted so that, where possible, any likely objections can be addressed beforehand. Any documents submitted with the application (and subsequently) including letters from third parties will be made available to any interested party on request. You should make the relevant parties aware of this.

Note 17

When the application is determined, you will be informed by letter, copies of which will be sent to any objectors, the Open Spaces Society, and other interested parties. If the consent is given, your own plan will be attached. You should also bear in mind that the granting of consent under section 194 of the 1925 Act does not mean that you do not have to obtain any other necessary consent or legal authority, e.g. permission to carry out the works from the landowner, planning permission etc.

Note 18

Town or village greens - In addition to the provisions contained in section 194, controls over works on registered town or village greens are contained in section 12 of the Inclosure Act 1857 and section 29 of the Commons Act 1876. The terms of section 12 are very wide and cover any act which injures the green or interrupts its use as a place for exercise and recreation. Section 29 overlaps with section 12 to some extent, but it also covers permanent encroachment or inclosure. Any consent under section 194 would not authorise works which are unlawful by virtue of section 12 or section 29 and it is for applicants to satisfy themselves that the works they propose on a town or village green can be lawfully undertaken. Please contact us for informal advice if you are in any doubt about these provisions.

SECTION L - Local inquiry (see notes 14 and 16)

22. State the name and address of a suitable place in the Parish for holding a public local inquiry into the proposal, should this be found to be necessary.

Telsoombe Civic Centre
360 South Coast Road
Telsoombe Cliff
East Sussex.

Section M - Checklist (see note 17)

Have you:

- answered all the questions on this application form in full?
- enclosed two copies of the map that meets the requirements of note 15?
- enclosed a copy of the relevant sections of the commons register in respect of this common (i.e. the land section, the rights section and the ownership section (see note 3 on page 2)?
- enclosed a copy of the relevant extract of the local newspaper(s) in which the notice appeared?
- enclosed a copy of any document mentioned in answering the questions on this application form (e.g. planning permission, Scheme of Management, written permission of the landowner, letters from commoners etc.)?
- served a copy of the notice and map on the councils of the parishes and districts within which the common is situated (see note 12)?
- posted a copy of the notice and map on site and at other customary places (see note 12)?
- deposited a copy of the notice, map and application form at the inspection point (see note 12)?
- understood that any documentation relevant to the application may be copied to interested parties on request, and informed those persons as necessary (see note 16)?
- sent details of your application to the Open Spaces Society (see note 13)?

Note 19

Metropolitan Commons - Any common which was wholly or partly situated within the Metropolitan Police District at the time the Metropolitan Commons Act 1866 was passed, has the status of a metropolitan common (by virtue of section 4 of that Act). This status is not affected by any subsequent change to the boundary of the Metropolitan Police District.

Section 5 of the 1866 Act applies to all metropolitan commons. That section prohibits the Secretary of State from entertaining an application for the inclosure of any part of the common, i.e. under the provisions of section 194 of the Law of Property Act 1925. However, Article 12 of the Ministry of Housing and Local Government Provisional Order Confirmation (Greater London Parks and Open Spaces) Act 1967 enables the Secretary of State to consider an application for consent to the erection of any building or structure erected in exercise of powers conferred (on Local Authorities) by Articles 7 and 8 of that Act. The Secretary of State is also able to consider applications for consent to street improvement works under Article 17. If the common on which the works are to take place is a metropolitan common, or you suspect it is, please contact us for further advice.

Note 20

National Trust commons - Section 23(1) of the National Trust Act 1971 provides for the Trust to do anything on its land that appears to be 'desirable for the purpose of providing, or improving, opportunities for the enjoyment of the property by the public, and in the interests of persons resorting thereto', subject to the need for Secretary of State consent in certain circumstances under section 23(2). Applications under section 23(2) for consent to works on Trust land should be made by either:

1. the Trust if the Trust is to carry out the proposed works; or
2. a third party if the third party is to carry out the proposed works under an express or implied right.

Whoever the applicant, all section 23(2) applications should be accompanied by a written assurance, or letter, from the Trust's Solicitor & Secretary, confirming that the Trust has concluded that the proposed works are desirable having regard to section 23(1).

The Solicitor & Secretary to the Trust can be contacted at the National Trust's central office: Heelis, Kemble Drive, Swindon, Wilts SN2 2NA

Applications under section 23(2) are determined using the same procedures and criteria as for applications under section 194. This application form should therefore be used, but with the declaration and notice (pages 12-13) amended to show that the application is under section 23, not section 194.

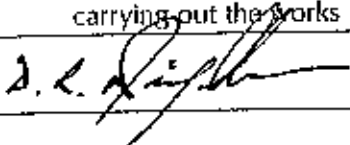
Please now complete the Declaration overleaf

SECTION N – Declaration

I/We* the undermentioned Council/the undersigned* hereby apply under section 194 of the Law of Property Act 1925/section 23(2) of the National Trust Act 1971 to the Secretary of State for Environment, Food and Rural Affairs for CONSENT to the erection/construction* of the buildings/fences/works* specified in Section D of this form.

The boundaries of the common, which are delineated by an outside edging of GREEN on the ORDNANCE SURVEY maps sent herewith, are the boundaries as shown on the Commons Register map. I/We* certify that the maps sent with this application are true copies of the map deposited locally.

**Delete words inapplicable and adapt as necessary*

Signature in full of person(s) carrying out the works	Name (BLOCK letters)	Position (if applicable)	Date
	DAVID ROY NEIGHBOUR	MAYOR	28/2/06

- Notes 14 and 16 (pages 10 and 11) give further general information about the application process.
- Further information on common land and town or village greens, and further copies of this form, can be obtained from the Department's website:
www.defra.gov.uk/wildlife-countryside/index.htm

You are advised to keep a copy of the completed form

Data Protection Act

To progress this application we may need to disclose information we receive from you to others, including other Central Government Departments, public bodies, local authorities, other organisations and members of the public.