

## **Tunbridge Wells Commons Conservators:**

### **Building and development works affecting the Commons, including skips**

Tunbridge Wells and Rusthall Commons are privately owned but are maintained and preserved by a public body, the Commons Conservators, for the enjoyment of townspeople and visitors, according to the provisions of the County of Kent Act 1981<sup>1</sup>. The Act protects the Commons from enclosure or encroachment and makes it unlawful to place any object or materials on the Commons without the written permission of the Conservators.

The Commons are also a registered Village Green (VG22 and VG23) Section 29 of the Commons Act 1876, together with section 12 of the Inclosure Act 1857 makes it a criminal offence to damage a Village Green or encroach upon it.

#### **Planning Applications affecting the Commons**

The Conservators have a legal obligation to preserve the Commons and protect them from encroachment and will apply their rights to all relevant planning applications.

**It is important to note that planning permission from the Planning Authority does not convey any approval to carry out works on or affecting the Commons.**

Any changes to or affecting Tunbridge Wells or Rusthall Common require the formal agreement of the Commons Conservators, and it should not be assumed that this will be a given because planning permission has been granted. For this reason, anyone considering works which may affect the Commons is advised to engage with the Conservators at an early stage in the design process.

This requirement applies to all land designated as part of the Commons in the legislation and the Village Green registrations irrespective of access rights or freehold title to the land in question<sup>2</sup>.

Where work is taking place on land adjacent to the Commons, materials, tools and equipment are not allowed to be stored on the Common and machinery and vehicles are not allowed to park on the land without the express written permission of the Conservators.

#### **Skips and storage on the Commons**

All requests to put a skip or store materials on the Common should be directed to the Clerk ([info@twcommons.org](mailto:info@twcommons.org)) to organise a site visit and subsequent licence.

The Conservators charge a £100 deposit per skip with £75 refunded once the land has been assessed as having been restored to near original condition within four weeks of skip delivery.

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<sup>1</sup> Further information about the Conservators and the ownership and management of the Commons can be found at <https://twcommons.org>

<sup>2</sup> Maps of the Commons can be found at <https://twcommons.org>

Under no circumstances are chemicals or hazardous materials/waste to be left or stored on the commons.

**Work on access tracks across the Commons**

Responsibility for maintaining vehicular access tracks lies with the respective licence or easement holders, subject to any agreement they may have with the private freehold owner of the Commons. Any work on such tracks requires permission from the Conservators who have a duty to ensure that it causes no damage to the Commons or risk to other users.

Requests for work on a track should be directed to the Clerk as above and must meet agreed specifications. Permanent sealed surfacing materials are not permitted on access tracks.

**Reference notes (taken from the encroachment policy):**

The primary legislation affecting our Commons and source of the Conservators' powers and duties is Part XV of the County of Kent Act 1981:

Section 108 imposes a duty on the Conservators to “maintain and preserve the Commons”. It confers powers on them to carry out works of drainage and improvement, planting and protecting trees and maintaining footpaths and providing seats for the public on the Commons.

Section 109 gives the inhabitants of Tunbridge Wells free access to the Commons and the right to enjoy recreation and play games. To enable this to happen the Conservators may set aside areas for organised games, enclose them with posts and chains and open fences and prescribe who may use such areas.

Section 110 imposes a duty to maintain the Commons free from “all encroachments except as herein provided”. The exceptions listed in this section are<sup>1</sup>:

gas, water and sewage works by the utility companies;

- *roads and footpaths on those parts of the periphery of the Commons delineated in red on the official plan of the Commons, over which; in separate legislation Highways can exercise rights.*
- *power for the Conservators to permit temporary enclosures to be made and tents or booths to be erected on such occasions as they shall think fit.*

Subsection (2) of Section 110 makes it unlawful for “any persons other than the Conservators without the consent of the Conservators in writing to make any temporary or other enclosure of any part of the Commons or to put any tents, removable lodges, fences, posts, rails or other matters or things thereon.”

Section 111 confers powers on the Conservators to make byelaws against encroachments and other nuisances and

Section 112 allows them to appoint officers to secure observance of the law and the byelaws.

Date of review: December 2022

Date of next review: December 2025