



Application Decision

by Richard Holland

Appointed by the Secretary of State for Environment, Food and Rural Affairs

Decision date: 22 August 2016

Application Ref: COM 3153916

The Green or The Street, Gloucestershire

Register Unit No: CL 163

Commons Registration Authority: Gloucestershire County Council

The application, dated 29 June 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 Fisher German LLP on behalf of Thames Water Utilities Limited.

The works comprise:

- the renewal of approximately 300 metres of existing water main and associated apparatus;
 - abandoning approximately 195 metres of existing water main and 4x Hydrants /washouts; and
 - a temporary working area with temporary heras fencing extending to approximately 100 metres at any one time, for the duration of the works.
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Decision

1. Consent is granted for the works in accordance with the application dated 29 June 2016 and accompanying plan, subject to the following conditions:-
 - i. the works shall begin no later than three years from the date of this decision;
 - ii. any temporary fencing or safety barriers shall be removed within one month of completion of the works; and
 - iii. the common shall be restored within one month of completion of the works.
2. For the purposes of identification only the location of the works are outlined in red within common land boundary, outlined in green, on the attached plan.

Preliminary Matters

3. I have had regard to Defra's Common Land Consents Policy¹ in determining this application under section 38, which has been published for the guidance of both the Planning Inspectorate and applicants. However, every application will be considered on its merits and a determination will depart from the policy if it appears appropriate to do so. In such cases, the decision will explain why it has departed from the policy.
4. This application has been determined solely on the basis of written evidence.

¹ Common Land Consents Policy (Defra November 2015)

5. I have taken account of the representations made by the Open Spaces Society (OSS) and Historic England (HE).
6. 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;² and
 - d. any other matter considered to be relevant.

Reasons

The interests of those occupying or having rights over the land

7. The landowner, Wyck Rissington Parish Council, has been consulted and has not objected to the works. There are a number of grazing rights registered over the common. The applicant confirms that a crop of hay is taken from the land each year. No commoners have objected to the application and there is no indication that the works will impact those exercising rights over the common. I am satisfied that the proposed works will not harm the interests of those occupying or having rights over the land.

The interests of the neighbourhood and the protection of public rights of access

8. The interests of the neighbourhood test relates to whether the works will unacceptably interfere with the way the common is used by local people. The applicant has advised that the works form part of a larger, routine renewal programme being undertaken by Thames Water Utilities Limited to ensure continued improvement to the water supply quality and reduce the frequency of bursts. The works are expected to be completed within 6 weeks.
9. I accept that the works are necessary. The permanent works are underground and the temporary fencing, which will be no more than 100m at any one time, will be removed upon completion of the works. I conclude that the works will not impact unacceptably on the interests of the neighbourhood or unduly restrict public rights of access.

Nature conservation

10. There is no evidence before me to indicate that the proposed works will harm nature conservation interests.

Conservation of the landscape

11. The common lies within the Cotswolds Area of Outstanding Natural Beauty (AONB). The applicant explains that, where possible, the pipe laying work will be undertaken using a method known as 'slip-lining' or 'insertion' which allows the replacement main to be inserted directly into the existing main and pulled through small 'launch'

²Section 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.

and 'receive' pits. Only three pits totalling 75 m² will be in place at any one time, and temporary fencing will be limited to no more than 100 metres at any time for the duration of the works. The applicant confirms that the common will be reinstated to its former condition once the works are completed. I am satisfied that any impact on the visual appearance of the common will be of short duration and, the landscape of the AONB will be conserved in the long term.

Archaeological remains and features of historic interest

12. HE did not provide any substantial comments on the application and there is no evidence before me to indicate that the proposed works will harm any archaeological remains or features of historic interest.

Other relevant matters

13. Defra's policy guidance advises that "*works may be proposed in relation to common land which do not benefit the common, but confer some wider benefit on the local community, such as minor works undertaken by a statutory undertaker (e.g. a water utility) to provide or improve the public service to local residents and businesses. In such cases, our expectation is that applications for such purposes on common land are more likely to be successful under section 16(1), so that an exchange of land is proposed and can be considered on its merits. However, consent under section 38 may be appropriate where the works are of temporary duration (such as a worksite), where the works will be installed underground (such as a pipeline or pumping station), or where their physical presence would be so slight as to cause negligible impact on the land in question (such as a control booth or manhole), and the proposals ensure the full restoration of the land affected and confer a public benefit*". I am satisfied that the proposed works accord with this policy objective.

Conclusion

14. I conclude that the proposed works will not harm the interests set out in paragraph 6 above and will confer a public benefit by improving the water supply to the local community. Consent is therefore granted for the works subject to the conditions set out in paragraph 1.

Richard Holland



DO NOT SCALE - IF IN DOUBT ASK

 CLEARWATER COURT
VASTERN ROAD
READING
RG1 8DB

- Legend**
-  Transfer and Principal Valves
 -  Distribution Valves
 -  Unknown/Proposed/OWC Valves
 -  Decommissioned Valves
 -  Closed/Throttled Transfer/Principal Valves
 -  Closed/Throttled Distribution Valves
 -  Closed/Throttled Unknown/OWC Valves
 -  District Meter, Live
 -  Zonal Meter, Live
 -  Distribution Input Meter, Live
 -  Waste Meter, Live
 -  Distribution Mains
 -  Trunk Mains
 -  Extent of proposed scheme
 -  Common Land
 -  Proposed Working Area

- Notes**
Walk over extent of proposed scheme and assess:
1. Access for plant and area for site compound
 2. Traffic disruption
 3. Buildability, suitability for trenchless methods, proposed construction method
 4. Assess trial hole requirements and locations.
 5. Land use and reinstatement requirements/issues
 6. Other services
 7. Physical obstacles
 8. Potentially sensitive/large consumers
 9. Any other information relevant to design or construction of scheme

CURRENT VERSION INFORMATION

Based on the Ordnance Survey Map with the Sanction of the Controller of H.M Stationary Office License Number 100019345

Rev	Description	LU	SM	RF	Date
A	FOR WALKOVER				27.07.15

 **Thames Water Utilities**

Rose Kiln Court
Rose Kiln Lane, Reading RG2 0HP

Location Code: A3	OS Reference: A3	Security Reference: A3	Drawn By: LU
Project Group:		Sub Process:	
Location / Town:			
Site Name:			
Project Name: THAMES VALLEY MAINS REHAB			
Contract Name:			
Drawing Title: SWOX 012 ST LAURENCE'S CHURCH Sheet 1 of 4			
Drawing No.: SWOX012.1	Scale: 1:4,000	Sheet Size: A3	Rev: A



