
Application Decision

by Richard Holland

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

Decision date: 2 February 2017

Application Ref: COM 3161972

Siston, Goose Green and Webbs Heath Common, South Gloucestershire

Register Unit No: CL29

Commons Registration Authority: South Gloucestershire Council.

- The application, dated 25 October 2016, is made under Section 38 of Commons Act 2006 (the 2006 Act) for consent to carry out restricted works on common land.
 - The application is made by Bristol Water plc.
 - The works of approximately two weeks duration comprise:
 - (i) renovation of 55m of 6" diameter water main and associated apparatus; and
 - (ii) 80m of 2m high Heras type temporary fencing around a 500sqm working strip and storage area.
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Decision

1. Consent is granted for the works in accordance with the application dated 25 October 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; and
 - ii. the common shall be restored within one month of the completion of the works.
2. For the purposes of identification only the location of the works is shown as a broken red line/green hatched area on the attached plan.

Preliminary Matters

3. The 55m length of pipe includes an approximate 10m section that runs partly under public highway. The commons registration authority map shows that the highway is included in the common land at this point and that the whole 55m length is within the common land boundary. The application is being determined on that basis.
4. 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.
5. This application has been determined solely on the basis of written evidence.

¹ Common Land Consents Policy (Defra November 2015)

6. I have taken account of the representation made by the Open Spaces Society (OSS), which does not object to the application.
7. 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

8. The landowners, Mr J Seymour-Williams and Ms A Graves, were consulted about the application but have made no comments about the proposals. There are numerous rights of grazing and, to a lesser extent, herbage and estovers. Of the 30 rights holders consulted, eight confirmed to the applicant that they exercise their rights but none have made any comments about the proposals. There is no evidence before me to suggest that the works will 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

9. The interests of the neighbourhood test relates to whether the works will unacceptably interfere with the way the common land is used by local people. Siston, Goose Green and Webbs Heath are three constituent parts of a single common land unit. The proposed works are at Webb's Heath, which is approximately 600m to the east of the other two parts. Although linked to Siston and Goose Green by the highway, which forms part of the common land unit, Webbs Heath is effectively a free-standing area and I do not consider that the works will impact in any way on local or public use of the Siston and Goose Green parts of the common. The site of the works is contained near the eastern edge of Webbs Heath, limiting any interruption to its wider use.
10. The applicant confirms that the works are proposed because the existing pipe is prone to leaking. It is proposed to 'pipe burst' the existing 6" diameter water main at Webbs Heath with a new 180mm PE water main and install associated ancillary apparatus (including meters, service pipe connections, valves and chambers). Use of the 'pipe burst' method will mean only minimal excavations will need to be made. The applicant has advised that if problems with this method were to be encountered during the works then it might be necessary to lay the new main and ancillary apparatus in a conventional open cut trench. However, should this be the case, the estimated duration of the works would not increase.
11. The permanent works are underground and the common land affected will be reinstated upon completion of the works. The temporary fencing will be removed as soon as possible once the works are completed, which is expected to be within two weeks. I conclude that the works will not have a significant or lasting impact on the interests of the neighbourhood or public rights of access. Furthermore, the works will reduce the chances of flooding on the common caused by escapes of water. I consider the works to be in the interests of the neighbourhood and public access.

Nature conservation

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

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.

Conservation of the landscape

13. The applicant has advised that the above ground temporary works and equipment storage will be contained within as small an area as possible and the affected land levelled and re-seeded with an appropriate grass seed mix once the works are complete. Any new or replacement surface features (access covers) will be flush to the ground. As the permanent works will be underground, I consider that any visual impact on the landscape will be limited and short term. I am satisfied that there will be no lasting harmful impact on the common.

Archaeological remains and features of historic interest

14. 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

15. Defra's policy guidance advises that 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..... 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"*. As the proposed works will help safeguard the local water supply I am satisfied that they accord with this policy objective.

Conclusion

16. I conclude that the proposed works will not harm the interests set out in paragraph 7 above and will confer a public benefit by ensuring the continued integrity of water supply to the local community and preventing the escape of water onto the common. Consent is therefore granted for the works subject to the conditions set out in paragraph 1.

Richard Holland