



Application Decision

by Richard Holland

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

Decision date: 16 October 2018

Application Ref: COM/3208194

Hempton Common, Norfolk

Register Unit No: CL 293

Commons Registration Authority: Norfolk County Council

- The application, dated 24 July 2018, 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 Cadent Gas Limited.
 - The works comprise a temporary works compound on approximately 160 m² of common which shall be enclosed by 55 m of temporary fencing. The works are required for a period of up to six weeks.
-

Decision

1. Consent is granted for the works in accordance with the application dated 24 July 2018 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 works shall be removed and the common reinstated within one month of the completion of the works.
2. For the purposes of identification only the location of the works are shown outlined in red within the common land boundary outlined in green on the attached plan.

Preliminary Matters

3. The boundary of the common on the register map shows that the inspection pit, paving slabs and collapsible bollards are located on land outside the common; the applicant has confirmed this. My decision therefore only relates to works located on the common, namely the temporary works compound and temporary fencing.
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 representations made by the Open Spaces Society (OSS), Historic England (HE) and the Historic Environment Planning Team at Norfolk County Council.
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 landowner, The Raynham Farm Company Limited has been consulted about the application and has not objected. The applicant confirms that the only registered right to graze cattle over the common is not exercised. I am satisfied that the 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

9. The interests of the neighbourhood test relates to whether the works will unacceptably interfere with the way the common is used by local people. A temporary compound and fencing will be placed on part of the common to facilitate works associated with the safe ongoing operation and use of the existing gas network. Temporary 'heras' fencing will be used to maintain health and safety and secure the site. The works are expected to take 6 weeks to complete.
10. The area impacted by the works is overgrown and is unlikely to be well used by the public for either access or recreation. The area will be cleared to allow the works to proceed and facilitate future public access. I accept that the works need to be undertaken on the common due to the location of the existing gas network. I conclude that the works will not seriously impact current public rights of access or the interests of the neighbourhood and that clearance of the site is likely to improve future access.

Nature conservation

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

Conservation of the landscape

12. A temporary surface will be laid within the compound consisting of a membrane covered with type 1/hardcore. All temporary works, including the surfacing, will be removed and the common reinstated upon completion of the works. I am satisfied

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.

that the works will conserve the landscape long term and will not have a lasting visual impact on the common.

Archaeological remains and features of historic interest

13. HE does not object to the proposed works and confirms that there are no issues related to designated or statutorily protected heritage assets. However, it recommends that the Norfolk Historic Environment Service is notified about any issue relating to undesignated heritage assets. I note that the Historic Environment Team at Norfolk County Council confirms that it does not object to the application and will not be making any recommendations for archaeological work. I am therefore satisfied that the works will not adversely impact archaeological remains or features of historic interest.

Conclusion

14. Defra's policy 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."*
15. I consider that the works will not have a significant or lasting impact on the interests set out in paragraph 7 above and will confer a public benefit by facilitating the continued safe operation of the underground gas network in the local area. Consent is therefore granted for the works subject to the conditions set out in paragraph 1.

Richard Holland

- Key:
- Hempton Common █
 - Temporary Works Compound █
 - Inspection Pit █
 - Paving Slabs ▣
 - Existing Gas Network —
 - Collapsible Bollards ●

Notes:

Grantor:
N/A

Signed:

Date:

Location:
Land East of A1065, Fakenham, NR21 7LB

NGR: TF 9127 2945

Scheme Name:
LS-1838 - Raynham Farm

Drawing Name:
S38 Common Land Application Plan

Drawing No: 180554_PLN_NO_1.1

Rev	Date	Description
-	16.07.2018	First Issue

Drawn: BF

Approved: JCD

Sheet No: 1 of 1

Sheet Size: A3



The information contained in this document is confidential and proprietary to Cadent. It is intended for the use of the recipient only and should not be distributed, copied, or otherwise used without the prior written consent of Cadent. Cadent Gas Limited does not accept any liability for any loss or damage, including consequential loss or damage, arising from the use of this document. This document is provided for information only and does not constitute an offer of any financial product or service. It is not intended to be used as a basis for any investment decision. The information contained in this document is not intended to be used as a basis for any investment decision. It is not intended to be used as a basis for any investment decision. It is not intended to be used as a basis for any investment decision.



Site Plan Scale 1:1250