



Application Decision

by Richard Holland

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

Decision date: 20 October 2017

Application Ref: COM 3163719
Littleworth Common, Buckinghamshire

Register Unit No: CL 183

Commons Registration Authority: Buckinghamshire County Council.

- The application, dated 18 November 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 35 metres of existing water main and associated apparatus, and temporary working area with temporary heras fencing, extending to approximately 40 metres at any one time for the duration of the works (8 weeks).
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Decision

1. Consent is granted for the works in accordance with the application dated 18 November 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 completion of the works.
2. For the purposes of identification only the location of the works are shown as a red line within the common land boundary, hatched 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.
5. I have taken account of the representations made by the Open Spaces Society (OSS) and Natural England (NE).

¹ Common Land Consents Policy (Defra November 2015)

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, The Rt. Hon. Viscount Kemsley has been consulted about the application and has not objected to the works. There are no rights registered over the common. I am satisfied that the proposed works will not harm the interests of those occupying the land and the interests of those having rights over the land is not at issue.

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 asset renewal programme being undertaken by Thames Water Utilities Limited to ensure continued improvement to the water supply quality and reduce the potential for bursts. All permanent works are below ground. The fencing will be removed upon completion of the works. The works are expected to be completed within 8 weeks.
9. I conclude that as the permanent works are underground and the temporary fencing is of short duration, the works will not impact unacceptably on the interests of the neighbourhood or unduly restrict public rights of access.

Nature conservation

10. Littleworth common is a Site of Special Scientific Interest (SSSI). The applicant has provided a copy of NE's assent to the works on a SSSI. I am therefore satisfied that the proposed works will not harm nature conservation interests.

Conservation of the landscape

11. The applicant explains that it is intended that the pipe laying will be undertaken using an 'open-cut' method. However, directional drilling which is a less invasive and largely trenchless method is preferred and may be used where possible. The fencing is required to enclose the temporary working area and any excavations needed, and comply with health and safety regulations. 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 will be conserved in the long term.

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.

Archaeological remains and features of historic interest

12. There is no evidence before me to indicate that the proposed works will harm any archaeological remains or features of historic interest.

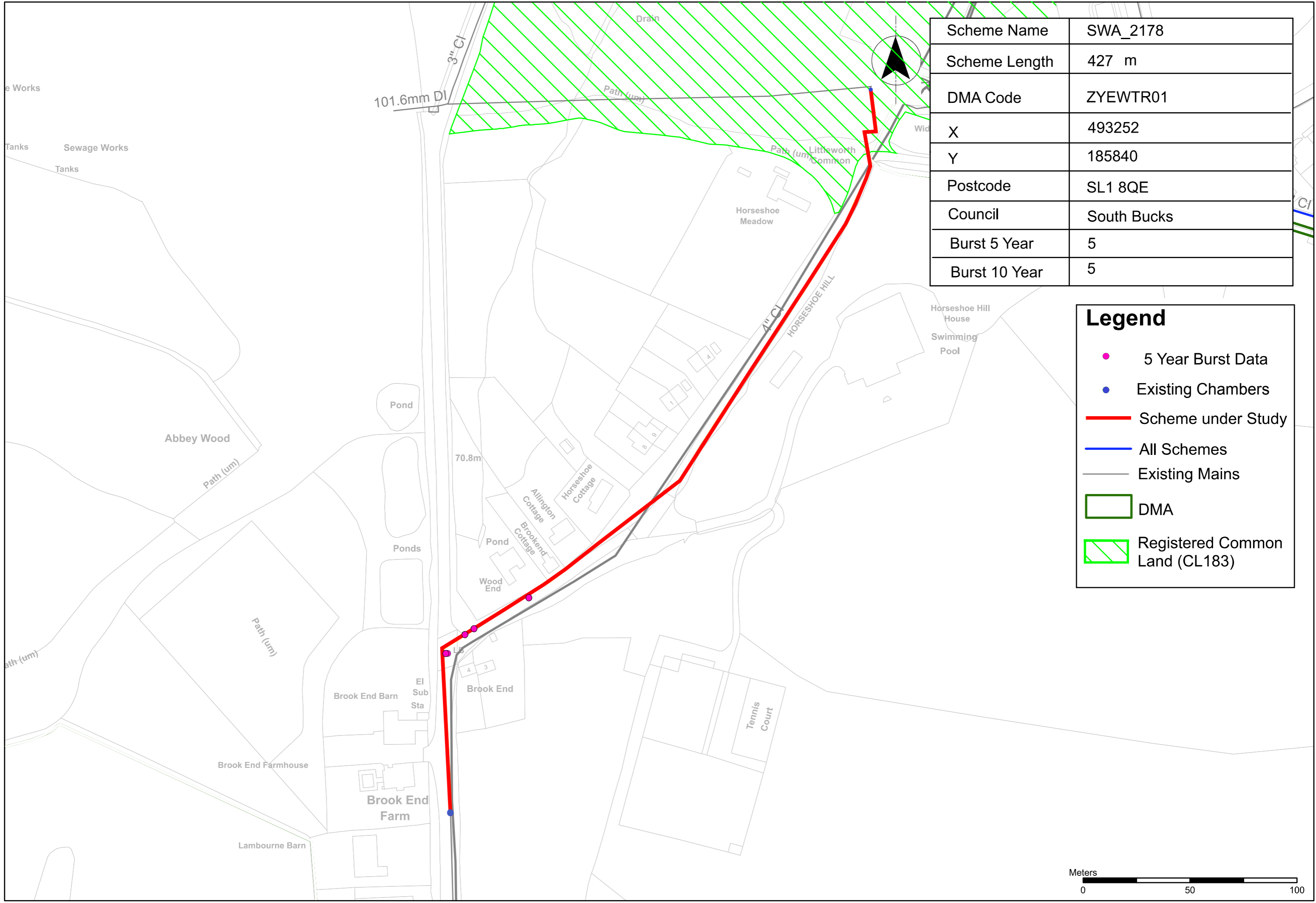
Other relevant matters

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. Consent is therefore granted for the works subject to the conditions set out in paragraph 1.

Richard Holland



Scheme Name	SWA_2178
Scheme Length	427 m
DMA Code	ZYEWTR01
X	493252
Y	185840
Postcode	SL1 8QE
Council	South Bucks
Burst 5 Year	5
Burst 10 Year	5

Legend

- 5 Year Burst Data
- Existing Chambers
- Scheme under Study
- All Schemes
- Existing Mains
- DMA
- Registered Common Land (CL183)

