
Application Decision

by **Richard Holland**

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

Decision date: **21 September 2018**

Application Ref: COM 3205945
Littleworth Common, Slough, Buckinghamshire

Register Unit No: CL 183

Commons Registration Authority: Buckinghamshire County Council.

- The application, dated 22 June 2018, 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 Fisher German LLP for Thames Water Utilities Limited.
 - The works of approximately ten weeks duration comprise:
 - i. replacement of approximately 205m of existing 4 inch ductile iron water main with 125mm High Performance Polyethylene Equipment (HPPE) pipe and associated apparatus, including valves and hydrants; and
 - ii. temporary Heras type mesh fencing and plastic barrier pedestrian fencing extending to approximately 140m at any one time for the duration of the works.
-

Decision

1. Consent is granted for the works in accordance with the application dated 22 June 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. all fencing shall be removed and the common shall be fully 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 red line 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), which does not object to the application, and Mr Alan Moss.
6. I am required by section 39 of the 2006 Act to have regard to the following in determining this application:-

¹ Common Land Consents Policy (Defra November 2015)

- 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, South Bucks District Council, was consulted by the applicant about the application but did not comment. The common land register records no rights of common. There is no evidence to suggest that the works will harm the interests of persons having rights in relation to, or occupying, the land (and in particular persons exercising rights of common over it).

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

8. The works are part of a larger routine asset renewal programme to ensure continued water supply and quality. They are designed to prevent a repeat of a significant leak in the area which caused extensive flooding to some properties at Littleworth Corner. The applicant intends the pipe replacement work to be undertaken by way of open cut trenching, although it may be possible to instead use the directional drilling method, which removes the need for a continuous open trench and reduces restriction of public access.
9. The interests of the neighbourhood test relates to whether the works will unacceptably interfere with the way the land is used by local people and is closely linked with public rights of access. The area of land affected by the works is a track running just inside a section of the common's southern boundary. I consider it likely that the land is primarily used as a pedestrian route across this part of the common.
10. The applicant's intention is to lay the new pipe within the track but this is dependent on any obstacles encountered during the excavations. In any case, the applicant has confirmed that public access will be maintained throughout the duration of the works and appropriate signs will ensure that it is clear to local residents and the general public where to walk around the works area. The works will be fenced and completed in sections so it will not be necessary to fence off the whole pipe route for the whole period of works.
11. The permanent works are underground, with no new above surface features other than one chamber lid, which will be flush to the ground. The common land affected will be reinstated and all temporary fencing will be removed upon completion of the works, which is expected to be within ten 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.

Nature conservation

12. The affected land lies within the Littleworth Common Site of Special Scientific Interest (SSSI). Natural England was consulted about the application and confirmed that it had no concerns and no comments to make. There is no evidence before me that leads me to think the works will harm nature conservation interests.

Conservation of the landscape

13. The area has no specific landscape designation. The applicant has advised that a photographic record of condition will be taken before the works begin and that the land will be returned to the same condition in which it was found, which can be required by attaching a suitable condition to any

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.

consent. All the permanent works will be underground except for the chamber lid. Installation of the lid flush to the ground within the track will minimise its visual impact. I consider that any impact on the landscape will be small and mostly short term.

Archaeological remains and features of historic interest

14. There is no evidence before me that leads me to think the works will harm the above interests.

Other relevant matters

15. Mr Moss raised concerns that Thames Water is taking a piecemeal approach to local water supply issues as the proposed works do not include measures to address a second existing leak in the area. Excavation of the common land a second time to deal with this leak when it could be dealt with at the same time as the application works is a legitimate concern. However, the applicant has confirmed that the location of this leak has not been identified so there is no evidence that further excavation of common land will be necessary. The applicant has offered to meet with Mr Moss about his separate contractor concerns, which are not matters relevant to the determination of the application.

16. 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.....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

17. I conclude that the proposed works will not harm the interests set out in paragraph 6 above and will confer a public benefit by ensuring the continued integrity of 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



- NOTES:**
1. EXISTING PIPE SIZES AND MATERIALS TO REMAIN TO BE VERIFIED.
 2. QUALITY OF ALL EXISTING WORK MAY BE REPLACED BY DIFFERENTIAL SWELLING, IF DIFFERENTIAL SWELLING IS A CONCERN.
 3. EXISTING WORK IS TO BE UNDERTAKEN IN ACCORDANCE WITH APPROVED METHOD STATEMENTS.
 4. THE LOCATION OF MAINS IS APPROXIMATE.
 5. TRIBUTARY RESTRAINTS EXIST AT LENGTHWAYS OF PLAIN PERMITS.
 6. UTILITY HAZARDS EXIST WITHIN AREA OF WORKS. CONSULT ALL UTILITY PLANS BEFORE EXCAVATION.
 7. VERIFY BARRELS THAT IS SUSTAIN, ALL ASSOCIATED PIPEWORK, FITTINGS, CONNECTIONS AND JOINTS MUST BE REPLACED OR TO BE CONSTRUCTED IN ACCORDANCE WITH THE PROPERTY BOUNDARIES.
 8. ALL ADJACENT MAINS ARE TO BE PROPERLY CAPPED WITH COVERS AND/OR MARKED POINTS TO BE MAINTAINED THROUGHOUT THE PROJECT.
 9. THROUGHOUT THE PROJECT TO BE VERIFIED FOR ALL INSTANCES THE EVIDENCE MUST BE KEPT TO EVIDENCE THE ORIGINAL LINE AND THE CLEAR OF ALL UNDERGROUND MAINS SHALL BE MAINTAINED THROUGHOUT THE PROJECT AND SHALL BE CONFORMED TO THE STANDARDS INDICATED WITH A STANDARD PLATE (L10).

FOR CONSTRUCTION

PLEASE NOTE THAT THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING UTILITIES AND STRUCTURES TO REMAIN. SAFE DIG METHODS MUST BE EMPLOYED AT ALL TIMES!

SYMBOL	KEY LEGEND	
	MAINS / OTHER	FITTINGS / OTHER
PROPOSED NEW MAIN	SOLID	SYMBOL
EXISTING MAIN TO BE MAINTAINED	DASHED	SYMBOL
EXISTING MAIN TO BE REPLACED	DOTTED	SYMBOL
CONCRETE LAMP	SYMBOL	SYMBOL
	SYMBOL	SYMBOL
	SYMBOL	SYMBOL
	SYMBOL	SYMBOL
	SYMBOL	SYMBOL
	SYMBOL	SYMBOL
	SYMBOL	SYMBOL

Date	Drawn By	Checked By	Date

	CLEARWATER COURT VICTORIA ROAD READING RG1 1DB
	BUCKINGHAM COURT KINGSEAD BUSINESS PARK FREDERICK PLACE LONDON ROAD, HIGH WYCOMBE BUCKS, HP11 1BJ
	50 SOUTH BAR STREET BLANDFORD OXFORDSHIRE OX16 9AB

Project Name: **LITTLEWORTH CORNER**

CONSTRUCTION DRAWING FOR COMMON LAND APPLICATION

Project: **LITTLEWORTH CORNER, BLOCK 1, BUCCUS, S/L1 012**

Sheet: **MAINS RENEWALS**

Scale: 1:750

Drawn: [Name]

Checked: [Name]

Date: [Date]

