



Application Decision

by **Richard Holland**

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

Decision date: 24 October 2018

Application Ref: COM/3204108

Allendale Common and land at Mohope Moor and Pinch Park, Northumberland

Register Unit No: CL1

Commons Registration Authority: Northumberland County Council

- The application, dated 22 May 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 JBA Consulting Ltd for The Coal Authority.
 - The works at various locations along the water course known as Coal Cleugh comprise:
 - i. improvements to the existing surface water drainage system including repair to a collapsed culvert and installation of flow monitoring equipment;
 - ii. Channel widening and bank regrading along an approximate 100 metre section; and
 - iii. temporary security/safety Heras fencing (approximately 2m high) as necessary during the period of works.
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Decision

1. Consent is granted for the works in accordance with the application dated 22 May 2018 and the plan submitted with it subject to the following conditions:
 - i. the works shall begin no later than 3 years from the date of this decision; and
 - ii. all temporary fencing shall be removed and the land shall be fully reinstated within one month of completion of the works.
2. For the purposes of identification only, the location of the proposed works is shown in red on the attached plans.

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 Northumberland County Council (NCC), Natural England (NE), Historic England (HE), the Open Spaces Society (OSS) and R D Morris, none of which object to the proposals.

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 land is owned by The Trustees of the Allendale Estates 1949 Unappointed Fund, which supports the proposals. I conclude that the works will not harm the interests of those occupying the land.
8. The common land register records various rights of grazing; rights to dig peat, turves and crow coal; to quarry stone; and to use watering places. The applicant has said around 30 commoners represented by the Allendale and Hexhamshire Commons Association and the Allenheads and Killhope Commons Association exercise grazing rights. The Associations' representative canvassed members about the application and received no objections. The Wellhope Syndicate, which owns sporting (grouse shooting) rights over the common, supports the proposals. I conclude that the works will not harm the interests of those having rights over the land.

The interests of the neighbourhood and public rights of access

9. The site of the proposed works lies close to where the boundaries of Northumberland, Cumbria and Durham meet. There are a number of historic abandoned metal mines present, the spoil and water from which contaminate local watercourses. The purpose of the works is to limit the input of metal into Coal Cleugh and to manage contaminated sediments already present in line with the Water Framework Directive.
10. 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. Public bridleways 549/054 and 549/032, which form part of the *Isaac's Tea Trail* long distance footpath, and restricted bridleway 549/053 run through the area of proposed works. I consider it likely that these paths are well used by local people and the public alike and that there is potential for some disruption to access.
11. Mr Morris sought assurances that these paths would not be adversely affected by the works. In response the applicant confirmed that Bridleway 549/032 is west of the site and would not be affected. Planned activities on Bridleway 549/054 will be limited to drainage improvement works at a low point where water from Coal Cleugh overflows across it, leading to localised flooding. The works have been designed to address this flooding. No permanent works are proposed on Bridleway 549/053, although it will be necessary to use it as a means of access to parts of the site and temporary protection will be installed in consultation with NCC to allow construction plant to use it safely.
12. Temporary Heras fencing will be placed around active work areas, which will impact on public access to the common at various locations over the duration of the works, which is expected to be two months. However, the applicant has confirmed that a member of staff will be present to

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.

ensure that access to the affected bridleways will be maintained throughout the period of works. Although access to some areas may be impeded to an extent the areas affected amount to a very small proportion of the common as a whole and so public access will not be unacceptably restricted. Furthermore, I consider that works to reduce flooding over Bridleway 549/054 are in the interests of local people and the public alike.

The public interest

Nature Conservation

13. The areas of work lie within the Allendale Moors Site of Special Scientific Interest (SSSI), and the North Pennine Moors Special Area of Conservation (SAC) and Special Protection Area (SPA). NE has advised that the works are necessary for improving water quality and the stability of the surrounding ground, which will improve the possibility of vegetation recovery. I conclude that the works are in the interests of nature conservation interests.

Conservation of the landscape

14. The areas of work lie within the North Pennines Area of Outstanding Natural Beauty (AONB). The AONB Board was consulted by the applicant but did not comment on it. There is no evidence before me to suggest that the permanent works to Coal Cleugh will have a detrimental impact on the landscape and no party has suggested that this may be the case. The temporary fencing will be removed and the land will be re-instated on completion of the permanent works, which can be ensured by attaching a suitable condition to the consent. I consider that any harmful visual impact on the landscape caused by the fencing will be limited and short term and I am satisfied that the natural beauty of the AONB will be conserved.

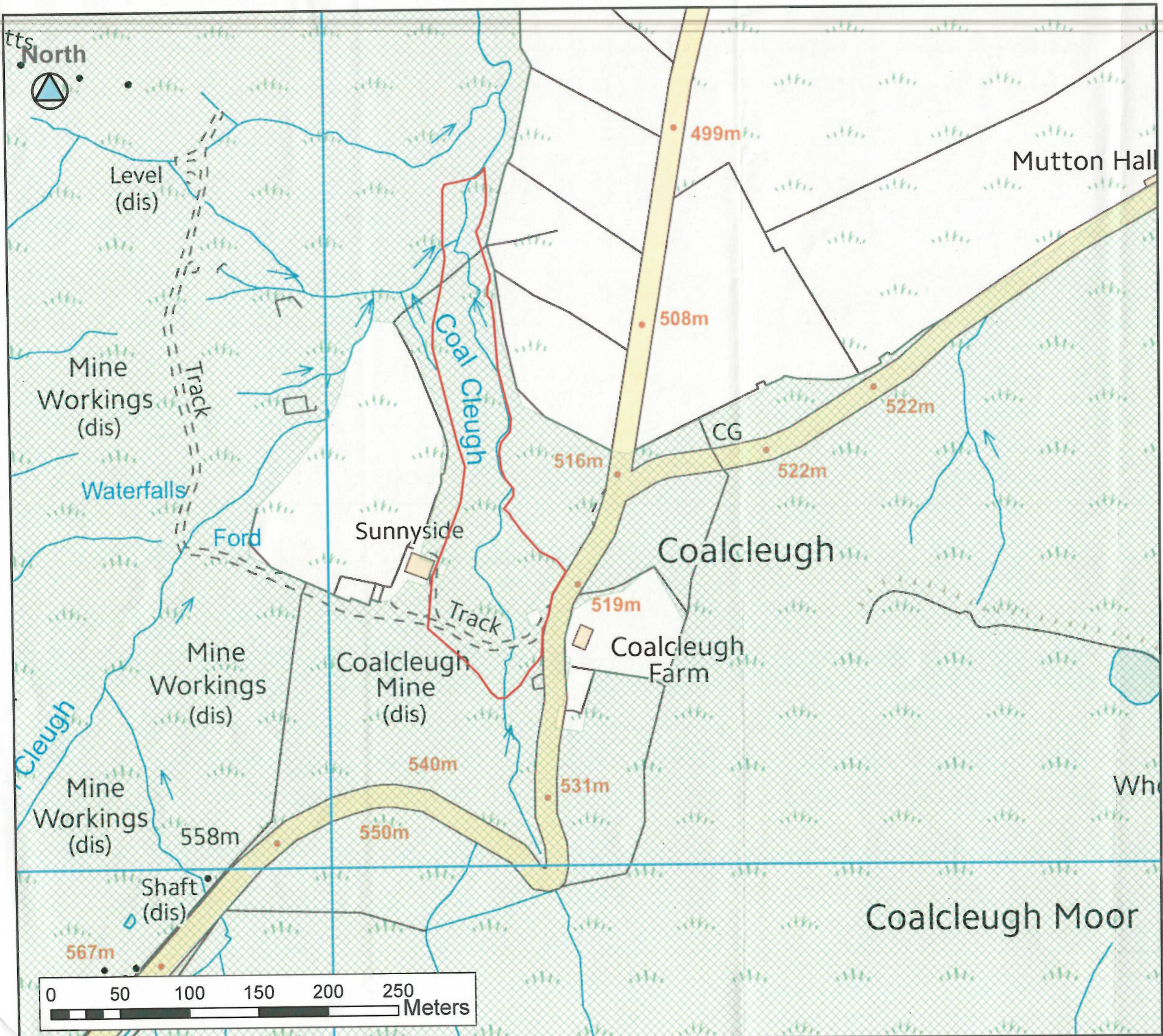
Archaeological remains and features of historic interest

15. HE confirmed that it had no comments to make on the application as there are no issues with designated heritage assets or their setting. However, it suggested that the applicants seek the views of the local authority specialist conservation and archaeological advisers, as relevant, in relation to non-designated archaeological remains. The applicant confirmed that relevant engagement with NCC's archaeological advisors was on-going as part of a separate planning permission application for the works. I am satisfied that the works are unlikely to harm designated archaeological remains or features of historic interest and that any potential impact on non-designated heritage assets will be resolved through the planning system.

Conclusion

16. I conclude that the proposed works to improve water quality at Coal Cleugh will not significantly harm the interests set out in paragraph 6 above; indeed, they will be in the interests of the neighbourhood and nature conservation. Improving the water quality of the Coal Cleugh is also in the wider public interest and this adds weight to my decision. Consent is therefore granted for the works subject to the conditions set out in paragraph 1.

Richard Holland



LEGEND

- Coal Cleugh Red Line Boundary
- Registered Common Land
- Allendale Common and land at Mohope Moor and Pinch park

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Coalcleugh Works- Site Location

Project Number: 2016s5347
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 Scale: 1:2,500