
Application Decision

by **Richard Holland**

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

Decision date: **7 November 2016**

Application Ref: **COM 3155642**

Bedminster Down, Bristol

Register Unit No: CL 4

Commons Registration Authority: Bristol City Council.

- The application, dated 25 July 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 three weeks duration comprise:
 - (i) construction and laying of 20m of water pipe and associated apparatus within an open cut trench; and
 - (ii) creating a temporary working strip of approximately 500sqm using approximately 60m of 2m high Heras safety fencing.
-

Decision

1. Consent is granted for the works in accordance with the application dated 25 July 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 in red within the working area edged dark 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 representation made by the Open Spaces Society (OSS), which does not object to the application.
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);

¹ Common Land Consents Policy (Defra November 2015)

- 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. Bristol City Council, which owns the land, has been consulted and has not objected to the proposed works. The applicant has said that the two registered rights of grazing are not exercised. I am satisfied that the proposed 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

8. The new pipe will connect to an existing water pipe located within the section of the common land unit lying to the east of Bedminster Down Road. The applicant confirms that the proposed works, which will continue off the common and extend for a further 97m under the highway, are required to maintain and provide resilience to water supplies in the locality.
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. The temporary works compound, which will be bounded to the south by an existing wall, is proposed for a small area in the south west corner of the eastern section of common where it opens onto the pavement at the junction of the A38 Bridgwater Road and Bedminster Down Road. I consider it likely to be a formal point of access to the common that is well-used by local people. The applicant confirms that the access point will be closed during the works and points to an alternative formal access point from the pavement approximately 80m to the north.
10. The temporary fencing will be removed as soon as possible once the works on the common are completed, which is expected to be in around three weeks. None of the associated permanent apparatus will be above ground. Access plinths will be flush to the ground and will pose no impediment to the public. Whilst I accept that the necessary positioning of the works will prevent public use of one of the formal access points onto the common land for around three 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. The works will ensure improvement to water supply and I consider them to be in the wider interests of the neighbourhood.

Nature conservation

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

Conservation of the landscape

12. The permanent works are underground and the common land will be reinstated upon their completion. 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

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

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.

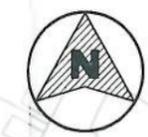
Other relevant matters

14. 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. 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

15. 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



ZPM3: 2178677

KIER

Based on the Ordnance Survey map with the permission of the Controller of Her Majesty's Stationery Office (c) Crown Copyright Reserved. Licence No. WV 298735.

PARISH: Bedminster Down

OS SHEET: ST5770

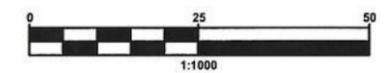
This plan is furnished as a general guide only and no warranty as to its correctness is given or implied. This plan must not be relied upon in the event of excavations or other works made in the vicinity of the Company's pipes or apparatus. Not all service pipes are shown on this plan.

WATER INDUSTRY ACT 1991

EXISTING WATER PIPES (APPROX)	
PROPOSED LINE OF NEW PIPE (APPROX)	
PROPOSED ABANDONED PIPES (APPROX)	
EXISTING SERVICE PIPES (APPROX)	
PROPOSED LINE OF NEW SERVICE (APPROX)	
PROPOSED WORKING EXTENTS	
PROPOSED ACCESS ROUTE	
LAND PARCEL NUMBER	
ACCESS GATE	
DIAMETER OF PIPE (mm)	250mm
CABLES LAID WITH PIPE	N
FITTINGS AS INDICATED	

NOTES:

1. ALL DIMENSIONS ARE IN METRES UNLESS OTHERWISE STATED.



D	15.07.2016	METER COMPLEX AND MAIN MOVED INTO FIELD. ACCESS EXTENDED.	GC	SC
C	08.06.2016	ADDED FULL EXTENT OF WORKS	GC	SC
B	17.05.2016	WORKING AREA REDUCED	GC	SC
A	18.03.2016	FIRST ISSUE	GC	SC
REVISION	DATE	NATURE OF REVISION	REV. BY	APP'D

BEDMINSTER DOWN MAINS
 200mm HPPE - BISHOPSWORTH ROAD
 LAND ENTRY NOTICE PLAN

DRAWN	G COWLAM	DATE	17.03.2016
CHECKED	C WOODRUFFE	SCALE	1:1000
APPROVED	S CLELAND		A3
CONTRACT No. ..		OR AS STATED	
BRISTOL WATER		FUNCTIONAL LOCATION	REVISION
		DRAWING No.	2178677-LE
		SHEET	2 OF 2 SHEETS
			D