

**APPLICATION FOR CONSENT TO CARRY OUT WORKS ON
COMMON LAND**

Commons Act 2006: Section 38

National Trust Act 1971: Section 23

Greater London Parks and Open Spaces Order 1967: Article
12

Return completed application to:

The Commons Team
The Planning Inspectorate
3A Temple Quay House
2 The Square
Temple Quay
Bristol
BS1 6PN

Tel: 0303 444 5408

E-mail: commonlandcasework@planninginspectorate.gov.uk

- **Before you apply for consent you should consult informally and widely about the proposed works as this may help you identify and overcome any objections.**
- Answer all the questions on this form in full, tick all relevant boxes and use a separate sheet where there is insufficient space for your answer.
- Refer to separate **Notes** on completing this form (the "Notes") and **Guidance Sheets** (listed at **Annex F** of the **Notes**) before applying.
- Read **Guidance Sheets 1a, 1b and 1c** for all Section 38 cases.
- Read **Guidance Sheet 2a** if the land is owned by the National Trust.
- Read **Guidance Sheet 2b** if the land is registered as a town or village green.
- Read **Guidance Sheet 2c** if the land is regulated by a scheme of management.
- Read **Guidance Sheet 2d** if the land is owned/managed by a London Borough Council.

Legislation

This application is made under:

- Section 38: Commons Act 2006 for land which is:-
- registered common land
 - other land (e.g. registered town or village green) to which Section 38 applies
- Section 23: National Trust Act 1971
- Article 12: The Greater London Parks and Open Spaces Order 1967

SECTION A – The common land

1. Name and full address of common	Hempton Green, Hempton, Norfolk
CL no or VG no	CI 294
Commons Registration Authority (Usually the county council or unitary authority)	Norfolk County Council

SECTION B1 – The applicant

2. Forename	David
Surname	Alfrey
Organisation (if appropriate)	Norfolk County Council (Community and Environmental Services)
Title (Mr/Mrs/Miss/Dr)	Mr
Full Postal Address	Norfolk County Council County Hall Martineau Lane Norwich

Postcode
Telephone No/Mobile
E-mail address

3. Do you prefer to be contacted by Post E-mail
(ignore if you are using an agent)

SECTION B1a – The agent (where relevant)

3a. Forename
Surname
Organisation (if appropriate)
Title (Mr/Mrs/Miss/Dr)
Full Postal Address
Postcode
Telephone No/Mobile
E-mail address

Do you prefer to be contacted by Post E-mail

SECTION B2 – The owner of the common land

4. Forename
Surname
Organisation (if appropriate)
Title (Mr/Mrs/Miss/Dr)
Full Postal Address
Postcode
Telephone No/Mobile
E-mail address

SECTION C – Area of common and common rights

5. What is the total area of the common as registered?

265,909sqm

What common rights, if any, are registered? (e.g. number and type)

There are no common rights recorded in the commons register.

Are the common rights ever exercised?

Yes

No

6.

If yes, please give details e.g. which commoners are active, which rights are exercised and how frequently?

n/a

7. Give details of any relevant leaseholders, other occupiers, those holding any relevant charges or those with rights of access over the land.

Charges: Agricultural Mortgage Corporation PLC

SECTION D1 – The proposal

8. What works are proposed? (tick **all** that apply)

- fencing
- building(s)
- other structures(s)
- ditch(es), trench(es), embankment(s)
- sealed paths, roads or tracks (e.g. concrete or tarmacadam)
- other works, please specify:

Removal of existing carriageway, installation of road signage, preparing drainage ditch to tie with the existing ditch. Landscaping and grass seeding to tie in with the surrounding grassland. Backfilling of existing redundant drainage ditches. Site compound and material storage

9. Are the proposed works permanent or temporary?

- permanent
- temporary
- mixed permanent and temporary

If temporary, how long will they be needed?

The construction tracks, fencing and site compound will be temporary which will be needed for approximately 22 weeks.

10. Is this application, or any part of it, for works that have already been carried out?

Yes No

11. Describe the proposed works below, including the area (in square metres) that they will occupy. Please include details such as materials to be used and dimensions of all structures. Make clear which works are permanent, which are temporary, and which works, if any, have already been carried out. (If the works are only for fencing go straight to Section D2)

The working space will occupy [12,154.88 square metres] and incorporate a number of works to support the construction of a four armed roundabout and subsequent road realignment which will occupy the land coloured blue which is the subject of a s16 application. The works required on the s38 land to facilitate the construction of the roundabout on the s16 land includes:

- Working area to support the general construction activities on the s16 land which will include chiefly topsoil strip, excavation to levels, trenching for drainage and ducting, excavation for and installation of soakaways, placing sub-base in new road construction, kerbing, splitter islands, asphalt surfacing, lining, sign installation and topsoiling verges. The working area will be returned to its prior condition (temporary);
- Drainage including new soakaways to tie in with existing ditches (permanent);
- HGV movements for construction activities (temporary);
- Importing and exporting of fill / excavation material (temporary);
- The establishment and use of a compound area to the south of the site including material and vehicle storage. This will include a hard standing access area to link it to the existing highway. It will be formed by stripping the topsoil and placing in bunds around the compound, laying separation membrane and placing a crushed rock surface (temporary). This will be decommissioned when the construction of the roundabout is complete and the topsoil will be replaced and the area seeded appropriately (decommissioning works will be permanent);
- Fencing (temporary);
- Removal of existing carriageway which will be made redundant by the roundabout scheme on the s16 land. This will be topsoiled and seeded (permanent);
- Landscaping and grass seeding to tie in with the surrounding grassland (permanent); and
- Backfilling of existing redundant drainage ditches (permanent).

12. Explain why the proposed works are needed and how they fulfil the criteria set out in Section 39 of the Commons Act 2006. If the proposed works include fencing, please also complete section D2.

As per Section 39 of the Commons Act 2006 regard has been had to the following:

a) the interests of persons having rights in relation to or occupying the land (and in particular person exercising rights of common over it)

The landowner has been consulted throughout the application and are in support as they have signed and consented to the accompanying s16 application. There are no common rights.

b) the interests of the neighbourhood

It is thought that the common is mostly used for walking. It is not considered that the works will unacceptably interfere with the way the common is used by local people as much of the works will be temporary such as the construction tracks and the site compound and the area in question is minimal in comparison to the overall usable area of Hempton Common. The intention of the majority of the permanent works is to restore the land to facilitate future public access such as the landscaping, grass seeding and ditch backfilling.

c) the public interest

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."

In this case the accompanying s16 application deals with the area of land which will be the site of the roundabout which itself will be in the public interest.

It is considered that the s38 application is appropriate for the surrounding land which will only be temporary in duration. The works which will be permanent will facilitate the restoration of the land and landscape the surrounding area will confer a public benefit by lessening the visual impact of the roundabout and enabling greater use.

d) any other matter considered relevant

It is not considered that the works will harm nature conservation interests as seen in the attached ecological report. The suggested mitigations will also be adhered to.

The permanent landscaping works will conserve the landscape in the long term and reinstate the temporary use. The s16 land is already the site of a crossroads and therefore the construction of a roundabout will not have any greater negative visual impact on the common.

13. Give details of any measures proposed to mitigate the visual impact of the works and, where appropriate, the way in which the common will be restored once the works are completed if consent is granted.

During construction of the roundabout the site will be kept tidy and secure with the appropriate fencing.

The landscaping works and grass re-seeding will restore the land to a similar condition prior to the construction works. The backfilling of existing drainage ditches which are no longer required will also improve public access.

SECTION D2 – Where the proposed works include fencing (temporary and permanent)

(If your proposal does not include fencing, go straight to Section E)

14. Please give details of the type(s) of fence proposed, including the height and length, the area (in square metres) it will enclose and the materials used.

The type of fencing will be Heras fencing at a height of 1.8 metres which will enclose the full area of s38 land [12,154.88 square metres] during the 22 week construction period.

15. Please explain why the fencing is needed and how it fulfils the criteria set out in Section 39 of the Commons Act 2006. This should cover: why fencing of this type is needed, what the aim of the fencing is, and why it is the length proposed. You should also explain what other types of fencing, if any, have been considered and rejected. If you are applying for permanent consent please explain why temporary consent is not appropriate.

The temporary fencing around the entire site is necessary for the entire 22 week construction to secure the site and protect the health and safety of members of the public using the surrounding common during the construction period. It will also ensure that the equipment and vehicles are secure during the night, reducing the chance of theft and vandalism. It will also reduce the chances of the works being disturbed by members of the public walking on site.

Heras fencing is proposed as it is specifically design for temporary installations.

16. Please say what other measures (if any) you have considered (i.e. alternatives to fencing) and explain why these are not suitable.

An alternative option includes transporting vehicles and equipment daily to and from as secure location in the vicinity. This is not suitable as it will reduce productivity as there will be longer waiting and traveling time, which will increase the overall length of the works on the common land. It will also be more harmful to the environment as increased traveling times will create more vehicle emissions.

17. Give details of any measures proposed to mitigate the visual impact of the fencing.

Heras fencing is not unduly intrusive but is sufficiently visible to serve its purpose. Given its temporary nature there is no value of trying to alter its appearance or selecting a more expensive alternative that may be considered more visually appealing.

18. Give details of the number, type and location of stiles, gates, gaps or other means of access.

n/a

SECTION E – Planning permission

19. a) Is planning permission needed for your proposal? Yes No
b) If yes, has planning permission been given? Yes No
If yes to b), please enclose a copy of the planning permission. Copy enclosed.

SECTION F – Designations

20. Is the proposal in or near a Site of Special Scientific Interest (SSSI), a Special Area of Conservation (SAC) a Special Protection Area (SPA), or a wetland listed in accordance with the Ramsar convention? Yes No

If yes, please give details and identify this area on the map (see Section J).

The River Wensum Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC) which are located approximately 190m north-east the site at its closes point to the north-eastern limit of the proposed application site boundary adjacent the junction of the Dereham Road and The Green.

21. Will the proposal affect a Scheduled Ancient Monument (SAM)? Yes No

If yes, please give details and identify the location of the SAM on the map (see Section J).

22. Is the proposal in a National Park? Yes No

If yes, please give the name of the National Park.

Is the proposal in an Area of Outstanding Natural Beauty (AONB)? Yes No

If yes, please give the name of the AONB.

Will the proposal affect an area of special landscape value or World Heritage Site? Yes No

If yes, please give details and identify the area on the map (see Section J).

n/a

SECTION G – Existing works and adjacent common land

23. Are there any existing buildings, roads, fences or other constructions on the common? Yes No

If yes, please give details. Please also identify these on the map (see Section J).

It is crossed by public vehicular highway B1146 Hempton Green Road and C550 Hempton Green Road and there are a number of traffic signs at the crossroads.

24. Does any area of common land or village green of a different registration number adjoin the common on which the works are proposed? Yes No

If yes, please give details. Please also identify the boundaries on the map (see Section J).

CL293 Hempton Common

Section H – Procedure

25. Most applications are determined by the written representation procedure. However, we may decide that a site inspection by an Inspector is needed. Where we decide that there should be a site inspection the Inspector will usually visit the site unaccompanied.

Do you wish to be present or be represented at the site visit? Yes No
If yes, please suggest a suitable meeting place.

Layby on B1146, approximately 70m south-east of junction of B1145/C550

SECTION I – Advertisement and consultation

26. **You must advertise your proposal** in one main local newspaper and at the main points of entry to the common (or, if there are none, at a conspicuous place on the boundary of the common). Use the draft notice at **Annex A** of the **Notes**.

27. You must also send a copy of the notice (using the letter at **Annex C, C1** or **C2** of the **Notes**) to the following:

- the owners of the land (if different from the applicant)
- the commons council or commoners' association (if there is one)
- all active commoners
- others with a legal interest e.g. tenants, those with easements, or other rights over the land and any other person occupying the land

- the Parish Council

- the relevant Commons Registration Authority (usually the county council or unitary authority), District or Borough Council

- Natural England (Please send only to enquiries@naturalengland.org.uk)
- Historic England
- National Park Authority (if the proposal is in a National Park)
- AONB Conservation Board or Joint Advisory Committee (if the proposal is in an AONB)
- Open Spaces Society
- the local authority archaeological service

28. Which newspaper has the advertisement appeared in?

Eastern Daily Press

On what date?

~~5th April 2024~~ 17th May 2024

On what date will the representation period end?

~~18th May 2024~~ 21st June 2024

This date must be at least 28 days from the date the application is advertised. Incorrect notices are a common problem and may result in you having to re-advertise, so please read Section I of the Notes carefully.

Section J – Maps

29. Please enclose two copies of the map that meets the requirements set out in Section J of the Notes. The map should show everything required by sections F and G of this form, and it must clearly show what you are proposing to do and where. **Incorrect or unclear maps are a common type of problem with applications for works, so please read Section J of the Notes carefully.**

Section K – Checklist (tick to confirm)

30. For all applications:

- I have read the relevant Notes and Guidance Sheets.
- I have answered all the questions on this form in full (where appropriate.)
- I have enclosed a map (2 copies) that meets the requirements of Section J of the Notes.
- I have enclosed a copy of the commons register in respect of this common, where registered, i.e. details of the land, rights, ownership and the register map.
- I have enclosed a copy of any document mentioned in answering the questions on this form (e.g. planning permission, etc.)
- I have completed and enclosed a copy of the health and safety questionnaire
- I understand that any of the application papers may be copied to anyone who asks to see them.


31. For Section 23 (National Trust Act 1971) only:

- I have enclosed a letter from the National Trust confirming its view that the proposed works are "desirable" under Section 23(1)

32. I have:

- Advertised the proposal in one local newspaper
- Posted a copy of the notice at the main entry points to the common
- Sent a copy of the notice to all those listed at Section I
- Placed a copy of the notice, map and application at the inspection point
- Enclosed the letter, based on the example at Annex D of the Notes, confirming that the advertising requirements have been met.

Signed



Name

David Allfrey

Date

15 March 2024

You should keep a copy of the completed form.

General Data Protection Regulation

Your application will be in the public domain. Therefore all documents (both paper and electronic) associated with it may be disclosed during the application process to others, including other Central Government Departments, public bodies, local authorities, other organisations and members of the public.

For information about how we process the information you provide please see Common Land Guidance Sheet 13: Privacy Policy at the link below.

<https://www.gov.uk/government/publications/common-land-guidance-sheet-13-privacy-policy>
