



**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

I CERTIFY THIS TO BE A TRUE
COPY OF THE ORIGINAL DOCUMENT
Benjamin Matthews
SIGNED: UOMBC DATE: 30.05.21

Full Postal Address C/O Kathryn Moreton
Head of Highways and Transportation
Walsall Metropolitan Borough Council
The Civic Centre
Darwall Street
Walsall
West Midlands

Postcode WS1 1DG

Telephone No/Mobile 01922 658031

E-mail address Kathryn.Moreton@walsall.gov.uk

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

SECTION B1a – The agent (where relevant)

3a. Forename N/A

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 X

SECTION B2 – The owner of the common land

4. Forename

Surname

Organisation (if
appropriate)

Walsall Metropolitan Borough Council

Title (Mr/Mrs/Miss/Dr)

7. Give details of any relevant leaseholders, other occupiers, those holding any relevant charges or those with rights of access over the land.
(note about recreational use and access)

There is a vehicular access track to arable farmland across the land to the north-east of the existing bridge. Plan **MP/YB/S38/702-B (Appendix 3)** shows the location of the vehicular access track shown coloured black. The vehicle access track is registered as an entry in extract CL39 of the Common Land Register.

SECTION D1 – The proposal

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

- X fencing
building(s)
- X other structures(s)
- X ditch(es), trench(es), embankment(s)
- X sealed paths, roads or tracks (e.g. concrete or tarmacadam)
- X other works, please specify:
 - Mitigation pond
 - a) Reed-beds
 - b) Drainage Headwalls and Manholes
 - c) Crib Wall

9. Are the proposed works permanent or temporary?

permanent

temporary

- X mixed permanent and temporary

If temporary, how long will they be needed?

Temporary works will be required for the duration of the S38 Restricted Works

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

Yes X 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 section 38 Works will comprise of:

- a) Mitigation pond
- b) Reed-beds
- c) Drainage Headwalls and Manholes
- d) Crib wall
- e) The construction of a new access track to the canal towpath. This will connect the towpath to the Common
- f) Temporary heras fencing to protect members of the public during the course of the S38 Works.

The materials used, dimensions, details and specifications above are set out in Plan **MP/YB/S38/702-B (Appendix 3)** and Plan **MP/YB/S38/703 (Appendix 4)**.

All of the above works with the exception of the heras fencing are permanent works. The proposed works will constitute an enhancement and improvement to the Common.

Two areas of common are required for inclusion in this application. The largest of these is located north of the canal and covers an area of 1420 sq m (shown on Plan **SECTION J-701/B (Appendix 5)**). This land is of poor quality, with large parts being self-seeded scrubland covered with bushes and trees making the area largely inaccessible. This area will be cleared and reinstated with a mitigation pond, reed bed and landscaped with a wild flower meadow.

The smaller area of land which is located to the south of the canal, on the east side of Norton Road measures 225 sq m. This area of land will be used as space to construct a new crib wall and an access path to the Wyrley and Essington Canal. The two areas of common land which are the subject matter of this application are shown on Plan **SECTION J-701/B (Appendix 5)**.

The location of the S38 works on the Common is shown on Plan **SECTION J-702/B (Appendix 6)**.

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.

Please refer to the S38 Supporting Statement (Appendix 7)

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.

Currently the Common differs south and north of the canal, with the land to the south, adjoining houses on the northern edge of Pelsall, being managed amenity grassland.

To the north of the canal, the common is overgrown with large trees, scrub and areas of wetland due to overgrown drainage ditches. This area will be cleared, the mitigation pond and a reed-bed will be installed, and the area will be landscaped with wild flowers. This will enhance and improve this area of common land. The details are set out in the **S38 Supporting Statement (Appendix 7)** and shown on Plan **MP/YB/S38/703 (Appendix 4)**.

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.

Temporary herras fencing 2m high will be erected around will be erected to protect the public during the S38 Works.

An Ecological Impact Assessment carried out in 2018 indicates the presence of Great Crested Newts in the vicinity and these will have to be translocated during the works as stated in Section 15. The erection of the temporary fencing is also required to protect the wildlife during the s38 Works. (Please refer to **S38 Supporting Statement (Appendix 7)**)

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.

Temporary heras fencing 2m high erected around the site boundary throughout the construction period will be required by the HSE to protect the public during the S38 Works. The erection of the temporary fencing is also required to protect the wildlife during the s38 Works. Heras fencing is a standard type of fencing that links together and is commonly used in the construction industry to segregate works areas from the public where required. The length of the fencing will be equal to the length of external boundary of the areas of the Common land required in this application and measure approximately 150 m in total length.

The erection of temporary barrier fencing along the site boundary to the north of the Wyrley and Essington Canal is to prevent egress into the works area from Great Crested Newts and is a mandatory requirement where newts are found in the vicinity.

To ensure that individual newts are not injured or killed by development activities, it may be necessary to enclose the site in a newt proof fence, trap the individuals within the site and remove them to the newly constructed mitigation pond. As the great crested newt is a European strictly protected fauna species, erection of newt fencing or any capture of the animals requires a licence.

Newt fencing is a temporary erected barrier designed to control the movement of Great Crested Newts, other amphibians or reptiles. It is used to keep animals out of working areas, to keep them inside safe areas of their habitat, to intercept migration routes, or to control their movement to help their capture for translocation. It can also be called drift fencing or temporary amphibian fencing (TAF).

The temporary newt fence will be approximately 100 metres in length, constructed from polythene sheet or woven geotextile and partially buried in the ground to a depth of about 200 mm. The above ground portion is supported by timber stakes placed at regular intervals along the line of the fence. The fence will have a below ground horizontal return facing out of the site to minimise the risk of newts re-entering the site through the disturbed soil layer. There will be an overhang along the top edge to reduce the possibility of newts climbing over the fence.

The Great Crested Newt is listed as a "strictly protected fauna species" under appendix II of the Convention on the Conservation of European Wildlife and Natural Habitats: and consequently is protected under UK legislation through the Wildlife and Countryside Act and the Conservation (Natural Habitat) regulations 1994. Under these regulations it is an offence to intentionally disturb, injure or kill any great crested newt, or disturb or destroy its habitat. Details for the protection of Great Crested Newts can be found in the Ecological Impact Assessment located in **(Appendix 18)**

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

Heras fencing and the temporary newt barrier are both mandatory requirements for site security and for protection of the Great Crested Newt population respectively, which means that there are no real alternative measures that can be implemented for this application.

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

As stated above the Council has undertaken an Environmental Impact as part of the planning application process for the works. There are no real measures that can be adopted to lessen the impact of the fencing that is being used as they are temporary and functional. Please refer to question 16 above.

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
b) If yes, has planning permission been given? Yes

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 Cannock extension arm Canal is located approximately 300 m west of the site and is designated SAC and SSSI.

A Stage 1 HRA has been carried out to assess the effects of the scheme on the SAC concluding that there is no predicted impact. Contract specifications will include measures to protect the SAC during the works which will be closely monitored on site. The location of the SAC is shown on Plan **MP/YB/S38/701-B (Appendix 5)**.

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).

N/A

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).

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).

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).

CL39 and CL113 are both called Pelsall North Common but are registered separately. (Please refer to Plan **SECTION J-702/B (Appendix 6)**).

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
If yes, please suggest a suitable meeting place.

The Fingerpost Public House car-park, Norton Road, Pelsall, Walsall WS3 5AU

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:
- X the owners of the land (if different from the applicant)
the commons council or commoners' association (if there is one)
all active commoners
 - X 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
 - X the relevant Commons Registration Authority (usually the county council or unitary authority), District or Borough Council
 - X Natural England (Please send only to enquiries@naturalengland.org.uk)
 - X 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)
 - X Open Spaces Society
the local authority archaeological service

28. Which newspaper has the advertisement appeared in? Express and Star Newspaper

On what date? 31st March 2021

On what date will the representation period end? 21st May 2021

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. X
- I have answered all the questions on this form in full (where appropriate.) X
- I have enclosed a map (2 copies) that meets the requirements of Section J of the Notes. X
- 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. X
- I have enclosed a copy of any document mentioned in answering the questions on this form (e.g. planning permission, etc.) X
- 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. X

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. The Council confirms that it will : **(Please note that Notices will be posted , The proposal Advertised in one local Newspaper and letters sent to consultees on the 31st March 2021) Evidence will be provided to the Planning Inspectorate of Compliance with Publication and notice requirements immediately after this date.**

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

X Signed

Name



Date

Anthony Cox
Authorized Signatory
Director of Governance, Walsall Metropolitan Borough Council, Legal Services, The Civic Centre, Darwall Street, Walsall, WS1 1TP

29 March 2021

I CERTIFY THIS TO BE A TRUE COPY OF THE ORIGINAL DOCUMENT

.....
SIGNED: WOMBCC DATE: 30-03-21

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.

How we use your information

The Planning Inspectorate takes its data protection responsibilities for the information you provide us with very seriously. To find out more about how we use and manage your personal data, please go to our [privacy notice](#).
