

10 January 2023

COMMONS ACT 2006 – SECTION 38

DATE OF APPLICATION: [10/01/2023]

NEW ROAD COMMON CL68

The Environment Agency is applying to the Secretary of State for Environment, Food and Rural Affairs (Defra) for consent to construct works on New Road Common under section 38 of the Commons Act 2006. The Planning Inspectorate will determine the application on behalf of Defra.

We are required to give you notice of our proposals and are sending you a copy of the attached notice in order to comply with that requirement.

Under section 38, we need Defra's consent to carry out any restricted works **on land registered as common land** under the Commons Registration Act 1965 or the Commons Act 2006.

Restricted works are any that prevent or impede access to or over the land. They include fencing, buildings, structures, ditches, trenches, embankments and other works, where the effect of those works is to prevent or impede access. They also include, in every case, new tarmac (or similar) surfaces, such as for a new car park or access road.

Defra's decision will be based on the merit of the proposal, and will balance all the interests in the common, taking account of all views expressed. Regard must be given to the criteria set out in section 39 of the commons act 2006. These are:

- (a) The interest 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, which includes the public interest in:
 - Nature conservation
 - The conservation of the landscape
 - The protection of public rights of access to any area, and
 - The protection of archaeological remains and features of historical interest;
- (d) Any other material considered relevant.

These criteria will be viewed in the light of the overriding objective of protecting, maintaining or improving the common, and of ensuring that the overall stock of Common Land is not diminished. This will enable the diversity, variety, and overall extent, of Common Land to be safeguarded.

Any representations about the proposal should be sent to the Planning Inspectorate by the closing date specified in the notice.

Yours sincerely,

Alex Cowin, Project Manager

Environment Agency

Richard Fairclough House

Knutsford Road

Warrington, WA4 1HG