

## **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

E-mail: [commonlandcasework@planninginspectorate.gov.uk](mailto:commonlandcasework@planninginspectorate.gov.uk)

Where possible, please send in your application by e-mail.

Please ensure you refer to the current Notes for making an application when completing this form and advertising your proposals. Failure to do so may delay your application and you may be asked to re-advertise if you do not follow the current guidance in full.

- 
- **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.
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## 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 **Lyneham Green, Lyneham, Wiltshire**

CL no or VG no **Register Unit Number CL47**

Commons Registration Authority (Usually the county council or unitary authority) **Wiltshire Council**

## SECTION B1 – The applicant

2. Forename

Surname

Organisation (if appropriate) **Gladman Developments Limited (03341567)**

Title (Mr/Mrs/Miss/Dr)

Full Postal Address                   **Gladman House, Alexandria Way  
Congleton Business Park  
Congleton  
Cheshire**

Postcode                               **CW12 1LB**

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                               **James**

Surname                                   **Ryan**

Organisation (if appropriate)                   **Acuity Law Limited**

Title (Mr/Mrs/Miss/Dr)                   **Mr**

Full Postal Address                   **The Generator  
Finzels Reach  
Counterslip  
BRISTOL**

Postcode                               **BS1 6BX**

Telephone No/Mobile                   **07539 865192**

E-mail address                               **james.ryan@acuitylaw.com**

Do you prefer to be contacted by   \* **E-mail** \*

### **SECTION B2 – The owner of the common land**

4. Forename

Surname

Organisation (if appropriate)                   **Lyneham and Bradenstoke Parish Council**

Title (Mr/Mrs/Miss/Dr)

Full Postal Address                   **c/o The Parish Clerk (Ms Elizabeth Martin)  
72 The Green  
Poulshot  
Devizes  
Wiltshire**

Postcode **SN10 1RT**

Telephone No/Mobile **01249 561020**

E-mail address **Parish.Clerk@lynehamandbradenstoke-pc.gov.uk**

## **SECTION C – Area of common and common rights**

5. What is the total area of the common as registered? **23,946m<sup>2</sup>**

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

**None**

6. Are the common rights ever exercised? **~~Yes~~** **No**

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.

**None**

## SECTION D1 – The proposal

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

\* **Fencing (temporary)**

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:**

**Laying of pipes, ducts and cables for provision of service media**

9. Are the proposed works permanent or temporary?

permanent

temporary

\* **mixed permanent and temporary**

If temporary, how long will they be needed?

**The temporary works consist of safety fencing around the permanent works during construction to prevent unauthorized access for the safety of pedestrians**

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

\* **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)
	<p><b>Works are proposed on only a small part of the common land comprised in the commons register unit CL47, the measured area of the works on the common land amounts to 203m<sup>2</sup>. Although the total area of the Register Unit is not stipulated in the Register, it has been measured at 23,946 sq m and thus the area of the proposed works is 0.85% of the total area of the common. The common itself is fragmented, as can be observed from the plans with the individual component parts of the common indicated on the plans which form part of the registration (enclosure "A") and these are also reproduced on a modern version of the Register Map at enclosure "B". The location of the proposed works is within the solid red line, part of the area identified as "CL2" on the plan at enclosure "B".</b></p> <p><b>The relevant part of the common, being highway verge, is also adopted highway, the extent of which is indicated on the Wiltshire Council Highways Plan at enclosure "C" and a photograph (from Google Street View 2021) of</b></p>

**this verge is at enclosure "D". It can be seen that the hedge was significantly overgrown at the time of the photograph and from consideration of various plans, it is considered that the hedge forms the southern boundary of this part of the common land/adopted highway.**

**The existing common/highway verge in this location shows no significant use by walkers (there being a footway along Chippenham Road on the opposite side of the road, providing a safer route for walkers). This part of the common is too small and isolated from other parts of the common to provide for any meaningful use as common land and, as noted in Section C.5 above, no registered rights of common exist.**

**The Register includes the information that two parts of the common have previously been deregistered, although no information is provided about the process which was followed in their deregistration. These two deregistered areas are indicated on enclosure "B" tinted yellow.**

**The proposed works comprise the construction of part of the bellmouth of a new access road into a proposed new development, to connect it with the existing Chippenham Road (the B4069) at Lyneham, and will include the construction of a footway on the eastern side of the access road and the southern side of Chippenham Road. The planning permission (granted on appeal to the Secretary of State) is at enclosure "E" and the section 38 Application Plan is at enclosure "F". A copy of this plan but with the outline of the proposed works imposed thereon is at enclosure "G".**

**The proposed works will include the laying of pipes, cables (ducts) and manholes for the purposes of allowing the passage of foul, water, Electric, gas and Telecoms (BT) within the works. A 1200mm diameter foul manhole will be constructed within the bellmouth junction to serve as the inlet for the rising main, with another 1200mm diameter manhole formed above the existing foul sewer along Chippenham Road.**

**The period required to construct the works for which consent is applied for pursuant to s.38 of the Commons Act 2006 is estimated at between 8 and 12 weeks.**

**The works will be surrounded by temporary fencing during the entire construction period to prevent unauthorised access by pedestrians and other road users.**

**Tactile paving will be provided to the new footway indicated on the Application Plan (enclosure "G").**

**Road markings as indicated on the Application Plan will be applied on completion.**

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.

**The proposed works are necessary to provide a safe point of access to, and egress from, a proposed new development on the south side of Chippenham Road. The proposed new development comprising up to 200 new dwellings is required to meet an identified shortfall in housing need as the local planning authority (which is also Wiltshire Council) is unable to demonstrate a 5 year supply of deliverable housing land.**

**Conditional outline planning permission for the proposed development was granted on appeal by an Inspector appointed for that purpose by the Secretary of State for Levelling Up, Housing and Communities by his decision letter dated 22<sup>nd</sup> November 2021 (copy attached at enclosure "E"). Means of access was not reserved and the access proposal shown in enclosure "G" was approved by the Inspector: see condition 4 of the permission (the approved site access arrangement plan is provided in enclosure "H"). The development also includes up to 2,600m<sup>2</sup> of B1 business use, as well as up to 600m<sup>2</sup> of D1 community uses as well as public open space, landscaping and sustainable drainage (SuDS). Whilst the site layout is a reserved matter, the illustrative plan considered by the inspector is included as enclosure "I".**

**The provision of new homes to meet an identified need is very much in the interests of the neighbourhood and also in the public interest, as is the provision of new business units and facilities for community use. The Inspector considered the new homes to be *"very substantial benefits of the proposal"*. The new homes and other facilities will also make a positive contribution to the local economy (please see further below). By contrast, there are no registered rights of common and in isolation this discrete part of the common in its current form makes little if any contribution to the interests of the neighbourhood. Indeed, in the Lyneham and Bradenstoke Neighbourhood Plan (Made, October 2021, see Policy 6: Local Green Spaces – Enclosure "J"), although some parts of Lyneham Green are designated as Local Green Space, it is notable that the part of Lyneham Green which is the subject of this application is not so designated.**

**Matters of public interest and the interests of the neighbourhood identified in the course of the planning appeal which led to the grant of planning permission for this development:**

**provision of up to 200 new homes, many of which will be delivered within 5 years;**  
**provision of up to 80 affordable homes, to meet considerable need;**  
**provision of significant recreation facilities, for the benefit of both existing as well as new residents, including a locally equipped area for play (LEAP), a multi-use games area (MUGA) and a new informal kick-about area;**

/continued overleaf

- **economic benefits including an investment in construction approaching £22.1M, around 103 construction jobs during the three year construction period, additional household spending of around £1.3M per annum in the local economy, at least 238 economically active new residents when complete, new recreational walking routes for existing and new residents opening up areas of land which are not currently accessible by the public, increased on-site biodiversity by the preservation of existing site hedges and trees wherever possible and provision of considerable new planting as part of a landscape-led approach to development design providing increased areas of open space including areas of amenity space, woodland and other green infrastructure with some 5.13 Ha (40% of the site area) becoming both formal and informal open space.**

**Set against the foregoing, the affected land provides none of the economic, agricultural, biodiversity, archaeological, recreational or cultural benefits set out in paragraph 2.2 of the Common Land consents policy 2015 .**

**Moreover, as set out above, the works will provide wider public benefit in perpetuity.**

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.

**The works only affect a very small part of the common land within the register unit and apart from the modest area of metalled carriageway and footway, the remaining part of this part of the common land will be restored to grass verge on completion.**

## **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.

**Standard temporary safety fencing will be provided around the works and the common land to be enclosed by the fencing is the 203m<sup>2</sup> identified to be enclosed at section D1.11 above.**

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.

**As explained above the fencing is required to protect the works from interference during construction and to prevent accidents to passers-by. The fencing will be removed on completion of the works.**



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

**Safety fencing is essential.**

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

**High visibility of the temporary fencing is needed for safety reasons.**

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? **No**

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

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

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

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

If yes, please give the name of the AONB.

Will the proposal affect an area of special landscape value or World Heritage Site? **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**

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

**Some parts of this Commons Register Unit are highway verge and some have paved carriageway (eg Webbs Court), footpaths and private drives across them, as shown on the composite plan attached (Enclosure B) showing the component parts of CL47 (annotated on the plan as CL8).**

24. Does any area of common land or village green of a different registration number adjoin the common on which the works are proposed?

**No**

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

## **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.

## 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](mailto: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 (Please send only to [office2@oss.org.uk](mailto:office2@oss.org.uk))

the local authority archaeological service

28. Which newspaper has the advertisement appeared in? **The Wiltshire Gazette and Herald**

On what date? **Thursday 13<sup>th</sup> October 2022**

On what date will the representation period end? **10<sup>th</sup> November 2022**

**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

  
**James M RYAN**

Date

**13<sup>th</sup> October 2022**

**You should keep a copy of the completed form.**

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### 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](#).

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