



## Application Decision

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by R H Duggan BSc (Hons) DipTP MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 12/11/2025

Appeal reference: CAS-04320-F3K4M5

Site address: Newton and Summerland Cliffs Common, Caswell, Swansea

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- The application dated 23 May 2025 is made under section 38 of the Commons Act 2006 (the 2006 Act) for consent to carry out restricted works on common land.
  - The application relates to Newton and Summerland Cliffs (CL 02) and the Commons Registration Authority is The Council of the City and County of Swansea.
  - The application is made by Mr Leon Esfahani, IFG Developments Ltd.
  - The proposed work is described as “*Temporary excavation and reinstatement of trench to install permanent buried services to private property, Drainage, Electric and Telecommunications*”.
  - A site visit was made on 20 October 2025.
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### Decision

1. The application is allowed, and consent is granted for the temporary excavation and reinstatement of trench to install permanent buried services to private property, drainage, electric and telecommunications on the common in accordance with the application dated 23 May 2025 and the plans submitted with it, subject to the following condition:
  - 1) The works shall begin no later than five years from the date of this decision.  
Reason: To ensure the works are commenced within a reasonable timeframe.

### Procedural Matters

2. In determining this application, I have had regard to the Welsh Government’s Common Land Consents Guidance, August 2014, (the Guidance) which has been published for the guidance of both the former Planning Inspectorate (now PEDW) and applicants.

### The Application

3. The application site is at the bottom end of a tarmac driveway leading from Caswell Road to a private property which is being upgraded, and where new services are required to be laid from the public utilities to the property. All the public utilities which the property needs to connect to are located across the application site on the other side of registered common land, and there are no other connection routes from the property to these public utilities. Therefore, it is proposed to excavate a trench within the private tarmac driveway, lay the new services to replace the old, and then back fill the trench and

reinstate the tarmacadam. The proposed works would likely take a maximum of 14 days to complete.

4. In response to consultation letters sent to relevant parties and the publication of a notice of the proposal, three representations were submitted, and no objections were raised.

### **Main Issues**

5. In determining this application for consent, I am required by Section 39 of the 2006 Act to have regard to:
  - a) The interests of persons having rights in relation to, or occupying, the land (and in particular persons exercising their rights of common over it);
  - b) The interests of the neighbourhood;
  - c) The public interest (including nature conservation, the conservation of the landscape, the protection of public rights of access and the protection of archaeological remains and features of historic interest); and
  - d) Any other matter considered to be relevant.

### **Reasons**

#### ***The interests of persons having rights in relation to the land***

6. Newton and Summerland Cliffs Common is registered as common land (CL 02) and extends to 34.8 hectares. The applicant advises that there are rights of pasture in respect of various categories of livestock, as well as estover rights relating to cutting and taking bracken and fern, and advises that there are two active commoners whose rights are exercised.
7. During the proposed excavation works a 2m long and 1m high temporary fence panel/barrier would be erected around the excavation and trenches during the working day in order to provide protection and segregation of the public, and these would be removed at the end of the working shift at the completion of works. The works would be carried out in sections and access to the wider common would not be restricted during the works as pedestrians and traffic would be able to pass around the works area.
8. The proposed works would be located within a driveway to a private property and whilst these works would be located within the registered common, I do not find there would be any interference to access rights.

#### ***The interests of the neighbourhood***

9. There is no definition of neighbourhood in the 2006 Act. The Guidance requires consideration to be given to whether the works mean that local people will be prevented from using the common in the way that they are used to. It also requires consideration to be given to whether the works would interfere with the future use and enjoyment of the land as a whole.
10. The applicant states that the public have a right of access to the common for air and exercise under section 193 of the Law of Property Act 1925. A public right of way crosses the works site, but the works would be carried out in sections and access to the wider Common would not be restricted as pedestrians and traffic would be able to pass around the works area and continue to have access to the common and the public right of way.
11. Therefore, the works would not have an effect on the interests of the neighbourhood.

## ***The public interest***

### **Nature Conservation**

12. Section 6 of the Environment (Wales) Act 2016 places a duty on public authorities to maintain and enhance biodiversity. The application site is the bottom end of a tarmacadam driveway leading from Caswell Road to a private property. The proposed works would not involve any land that would impact on any grassed areas or surrounding trees associated with Bishop's Wood Local Nature Reserve.
13. Therefore, I am satisfied that the works would not harm the public interest in nature conservation terms.

### **Conservation of the Landscape**

14. I saw that the site is located on the edge of the residential area and built up area of Caswell and appears detached from the wider common land. The site is also located some 150m southeast of the boundary of the registered The Dingle historic park and garden. Although safety fencing would be erected around the excavation area and trench, these would be temporary in nature lasting only approximately 14 days.
15. Therefore, I am satisfied that the works would not have a harmful impact on the wider landscape character of the common.

### **Protection of archaeological remains and features of historic interest**

16. No evidence has been provided regarding any impact on archaeological remains and features of historic interest, and Cadw has confirmed that the proposed works would not have any impact on the setting of the registered The Dingle historic park and garden. Therefore, from the evidence before me I conclude that the works would not have any adverse effects on such interests.

### **Protection of public rights of access**

17. The works would be carried out in sections and access to the wider Common would not be restricted as pedestrians and traffic would be able to pass around the works area and continue to have access to the common and the public right of way. Therefore, existing public rights of way across the common and the right of access to the wider common would not be affected.

### **Conclusion on effects on the public interest**

18. Therefore, I conclude that the works have not unacceptably affect the public interest.

## **Overall Conclusions**

19. I have taken into account all matters raised, I find no matters that lead me to conclude other than the works subject to this application would be acceptable and in conformity with the policy objectives set out in the Guidance. For the reasons given above I allow the application and grant consent for the works.
20. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well Being of Future Generations (Wales) Act 2015. I consider this decision is in accordance with the Act's sustainable development principle through its contribution towards one or more of the Welsh Minister's well-being objectives as required by section 8 of that Act.

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*R Duggan*

INSPECTOR