



**Application for consent to construct works on
common land**

Commons Act 2006: Section 38

National Trust Act 1971: Section 23

Return completed application to:

Planning Inspectorate Wales
Cathays Park
Cardiff
CF10 3NQ

Phone: 029 20823866

Fax: 029 20825150

E-mail: wales@pins.gsi.gov.uk

Application for consent to construct works on common land

- Answer all the questions on this form in full and only use a separate sheet where there is insufficient space for your answer
- Refer to separate **Notes** on completing this form (the "Notes") and the 'Common Land Guidance - General Overview' note before, and when, applying
- Consult informally and widely about your ideas before developing a formal proposal

This application is made under (*tick as applicable*)

Section 38: Commons Act 2006

.....
(if there is a Scheme of Management or local Act applying to the land, see Section I and 'Common Land Guidance – Special Consent Provisions (other than National Trust Land)' note before applying)

Section 23: National Trust Act 1971

.....
(see Common Land Guidance – Special Consent Provisions (National Trust Commons)' note before applying))

SECTION A – The land (see Notes 1, 2 and 3)

1. Name of Common

CL 17 - Part Mynydd Llangattwg - Beaufort CL 18 - Mynydd Llangattwg, N Beaufort & Brynmawr

 CL No.

17 and 18

(a) Community/Town of

Beaufort

(b) Borough/County Borough/City of

Ebbw Vale

2. Commons Registration Authority

Powys County Council (Llandrindod Wells)
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3. Does owner of common consent to proposals

Yes

SECTION B – The applicant

4. Title (e.g. Mr/Mrs/Miss/Ms/Dr)

Mr

(a) Forename(s)

Clive

(b) Surname

Rogers

(c) Position/Organisation (if appropriate)

Blaenau Gwent County Borough Council

5. Full postal address

Municipal Offices, Civic Centre - Ebbw Vale, Gwent
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Postcode

Telephone number (incl national dialling code)

Mobile number

Fax number (incl national dialling code)

E-mail address

I prefer to be contacted by E-mail Post

Details of Agent (if appropriate)

6. Title (e.g. Mr/Mrs/Miss/Ms/Dr)

Contact Name

Organisation

7. Full postal address

123 Bute Street
Cardiff

Postcode

Telephone number (incl national dialling code)

Mobile number

Fax number (incl national dialling code)

E-mail address

SECTION C – Area of common and common rights (see Note 4)

8. (a) Is the land on which the works are proposed registered as common land? Yes No

(b) If **No**, why do you need to apply?

9. (a) What is the total area of the common as registered? CL 17 : 61.7 hectares

CL 18: 1,750.64 hectares

(b) What common right(s); if any, are registered? (e.g. number and type)

BCL 017 and BCL 018 Grazing sheeps, cattle, horses, ponies or a combination of such stock

Are they ever exercised? Yes No

If **Yes**, to what extent (e.g. which commoners are active, which rights are exercised and how frequently?)

Rights above are continuously exercised used CL17 and CL18 by the following active commoners:

GT & EJRees & Execs of GT Rees	Chris Ingham	M.J. Powell
AW & DM Pritchard & Sons	Mr A George	Gwyn Hart
DR Treasure PD and I W Pritchard	I J Harris	WJ Watkins
Mr G., Mrs C. and J. Holland	B.R. & T.J. Powell	Julian Rees
David Gwyn Dobbs	C.M. Taylor	Geoff Stokes
WL GM & DP Mantle	H. Price	Huw Morris
IW & W Vaughan & Gibbs	Terry Thomas	Gareth Thomas
ER Morris and son	Carl K. Davies, Kirsty L/ Davies	John Merrick
J A W Powell	D. Williams	Norma Challenger
Skinner Thomas and Skinner	Glyn Bowen	
WJ & GC Thomas	J. & J. George Phillips	
Execs of HJ Thomas	H J Morris	

SECTION D – The proposal (see Note 5 and 6)

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

- (a) fencing
- (b) building/s
- (c) other structure/s
- (d) ditch/es, trench/es, embankments/s .
- (e) other works .

Please specify

Sealed path (tarmac)

11. Area and extent of works

(a) What area will be occupied by the works or enclosed by the fencing? 6090 sq m sq m/ha

(b) What length of works/fencing is proposed? 1,740 m

12. Are the proposed works:

- (a) permanent?
- (b) time-limited? (see Note 7)
- (c) a mixture of both (a) and (b)

For time-limited works, how long will they be needed? weeks/months/
years

13. Is this application, or any part of it, for works that have already been constructed? (see Note 8) Yes No

14. Describe the proposed works below - Review

Proposed works

They are to upgrade the surface of an existing track to a standard set out in Welsh government's Active Travel Act Guidance with a sealed tarmacked surface. The resulting track will be approximately 3.5m wide and will not result in any loss of grazing. No work has been carried out at the date of submission of this proposal. The alignment has been chosen after discussions involving the land owners and Local Authority (BGCBC), the Commoners, local town councilors, Brecon Beacons NP, local community groups and Sustrans. The commoners have been consulted by the secretary of the common and have confirmed their support towards the proposal.

This improvement will:

- Provide a good quality path constructed to standards set out in Welsh Governments Active Travel Act guidance for walking and cycling, for the benefit of residents and visitors.
- Avoid the steep and busy section of NCN 46 currently on the A4047 at Beaufort.
- Provide a traffic free path between the community of Garnlydan, Brynmawr and Brynmawr Comprehensive School.
- Improve access to the countryside, linking the proposed path to existing walking and cycling paths constructed as part of section 2 and 3 of the A465 dualling works.

Background information

Prior to the development of the A465 dualling Sustrans along with its partner local authorities (Rhondda Cynon Taff, Merthyr, Caerphilly & Blaenau Gwent) have been developing National Cycle Network (NCN) route 46. This route will run from Neath, across the Heads of the Valleys and then, via Abergavenny and Hereford, to Birmingham. (See map SE-105 Brynmawr GA)

During the period 2010 to 2012 Sustrans obtained funding via the Heads of the Valleys (HOV) and Valleys Region Park (VRP) to develop NCN 46. Much of the route was completed including a continuous section through Blaenau Gwent Borough and County Council (BGCBC). The design of the route in BGCBC took into account the development of the dualling and the de-trunking of some sections of the A465 especially section 3, where walking and cycling measures were introduced. However, for a continuous route to be developed, the route still passes along some busy "A" roads and some unacceptable gradients.

Current proposal

Sustrans has been awarded a Welsh Government Rural Development Program (RDP) grant and through this funding is supporting BGCBC in looking at developing walking and cycling provisions to join two existing sections of NCN Route 46 between Garnlydan and Brynmawr (See map SE-105 Brynmawr Detail).

The project will produce a feasibility study of the proposed route to be used by BGCBC to bid for funding for delivery. BGCBC has already secured funding under the "Safe Routes in Communities" Programme of the WG. The feasibility work also includes obtaining planning permission and section 38 permission. The project engages local stakeholders in the process and will provide training and marketing opportunities in relation to active travel.

15. Say more about the nature and purpose of the proposal, and explain why the proposed works are needed on the common (see Note 9) Review

The proposal relates to the delivery of the Welsh Government Active Travel Act. By providing new active travel infrastructure in the area, it will improve connections for local people as well as visitors to the area. The route will encourage active travel choices and empower individuals and communities to create better places and spaces to move through and live in, increasing levels of low carbon travel for local journeys (Active Travel Wales Act, 2013).

The proposed development will also contribute to deliver the national "Prosperity for All" strategy. By providing improved walking and cycling links, the route will better connect rural communities to work places and increase the opportunities generated by active tourism in the area (prosperous and secure Wales). The route will link to Brecon Beacons and to the benefits of tourism and conservation generated by the National Park. Local people will also have additional opportunities to walk and cycle in a safe and friendly environment, easily accessible from their doorstep, hence increasing their level of activity, with positive benefits for their health.

Through signage and interpretation, the route will raise awareness about the historical and present features of common land, contributing to a more responsible interaction between the user and the place. Finally, the route will link to other existing NCN routes, therefore contributing to deliver opportunities for a united and connected Wales at low carbon emission.

The works will help to improve the common by increasing active travel in the area. Higher usage will also help to prevent anti-social behaviour and access on the common by motorised vehicles such as quads, motorbikes and mopeds. Several options have been discussed to deliver the route. The current option represented the most direct and accessible link from Garnlydan to Brynmawr for residents and visitors.

The works fulfil the criteria set out in Section 39 of the Commons Act 2006. In particular:

- The interests of the commoners will be respected as the route will not take more space than the existing track. The Commoners association has been involved since the initial stage of discussions and is supportive of the project.

The project is actively seek the views and encouraging engagement with the commons adjoining land owners and neighbours.

- In terms of public interest, public access will be guaranteed as the proposal will include suitable (stock proof where required) access controls that will be DDA compliant and will help to deter anti-social behaviour caused by illegal use of off road motorcycles. These controls are mainly outside of the common and the common will be accessed via surrounding open land. Therefore the access controls will assist in protecting both the common and the surrounding open land. (See map for access control points)

- Signage and interpretation will help to enhance the area and raise awareness about the history of the common and its features.

- No archaeological remains have been recorded in the area where the proposed route will be constructed (see attached map)

16. It is strongly recommended that you consult **informally** on your proposals at an early stage in their development. (**See Note 10** and 'Common Land Guidance - General Overview' note)

What **informal** consultation have you carried out? Give details below

Consultations have been carried out since the beginning of the process with the Chair of the Common and its Secretary. The Secretary of the Commons has taken part to every stakeholders' meetings held so far in relation to this project and has supported Sustrans is completing this form, providing detailed information about the Common.

Commoners have been consulted through the Secretary of the Common and have expressed their support to the proposal.

Formal consultations will be conducted as required once the application under Section 38 will be submitted.

SECTION D1 – Additional questions where proposed works involve fencing

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

17. Please give details of:

(a) the type(s) of fence proposed

No fencing is proposed as part of the works.

(b) the height of fencing

No fencing is proposed as part of the works.

18. Please give **full** details of the need for fencing. This should cover: why fencing of this type is needed, what the aim of the fencing is, and why it is the length proposed.

No fencing is proposed as part of the works.

19.(a) What other measures (i.e. alternatives to fencing) have you considered? Why are these not available to you, or not considered to be practical?

The works will be adding a sealed (tarmac) surface to the existing track. Visually the new surface will stand out (bright black tarmac) but will soon fade to dull grey a similar in colour to the existing track. We therefore suggest that overall the view will remain unchanged (See Photo 1 attached)

(b) Give details of any measures proposed to mitigate the visual effect of the fencing.

No fencing is proposed as part of the works.

20.(a) How will you ensure that the public and others with rights (e.g. common rights holders) will have access to the land after the fencing is in place? Give details of the number, type and location of stiles and gates (see also question 17.(b)).

All point where the common is crossed currently has open access. There are no stiles, gates, gaps or other access means on the route alignment proposed.

(b) Will the fencing cross any public right of way or road? (See 'Common Land Guidance - General Overview' note) ... Yes No

If **yes**, has the consent of the highway authority been given for any stile, gate or cattle grid and bypass which may be required? Yes No

No fencing is proposed as part of the works.

If **Yes**, please enclose a copy. Copy enclosed

If **No**, but consent is needed please give:

Date of Application

Reference Number

Highway Authority Contact: Name

Tel

E-mail

Details of Application and stage reached

SECTION E – Other consents (see Notes 11 and 12)

21.(a) Is planning permission needed for your proposal? Yes No

If **Yes**, has planning permission already been obtained? Yes No

If **Yes**, please enclose a copy. Copy enclosed Yes

If **No**, but application has been made please give:

Date of Application

Reference Number

Planning Authority Contact: Name

Tel

E-mail

Details of Application and stage reached

Permission acquired to upgrade an existing cycle route with full footway/cycleway construction and macadam finish at footway/cycleway link between the existing National Cycle Network (NCN) route 465 & NCN 466 Garnlydan to Brynmawr

(b) Has an Environmental Impact Assessment screening opinion been adopted? Yes No
(See 'Common Land Guidance - General Overview' note)

If **Yes**, has a screening application been approved by Welsh Government? Yes No

If **Yes**, please enclose a copy. Copy enclosed

If **No**, but an opinion is needed, please give details of application:

Potential impacts on ecological features from the proposed works have been assessed. Where impacts are anticipated, the value of the ecological feature and scale of the impact have been assessed. This has been undertaken in accordance with CIEEM Guidelines for Ecological Impact Assessment (CIEEM 2016). This is considered in light of current ecological legislation and planning policy and so considers impacts on designated nature conservation sites, protected and notable species and landscape scale impacts such as habitat fragmentation.

SECTION F – Designations

22.(a) Is the proposal in or near a Site of Special Scientific Interest (SSSI), a Special Area of Conservation (SAC) a Special Protection Area (SPA), a wetland listed in accordance with the Ramsar convention? (See Note 13 and General Overview) Yes No

If **Yes**, please give details, identify on the map (see Section K), and provide evidence that you have consulted Natural Resources Wales

The nearest SAC is the Usk Bat Sites and the nearest SSSI is Mynydd Llangattock. Both are 280m to the north of the proposed site and are on opposite sides of the A465. Sustrans conducted an ecology desk top study in January and commissioned a bird nesting survey which is currently being conducted. The survey will be concluded before the works start and the report will contain recommendations about mitigating the impact of construction works on wildlife and vegetation.

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

If **Yes**, please give details, identify on the map (see Section K), and provide evidence that you have consulted Cadw (see Note 14).

(c) Is the proposal in a National Park or Area of Outstanding National Beauty (AONB)?

Yes No

If **Yes**, please give details and provide evidence that you have consulted the National Park Authority or Natural Resources Wales.

SECTION G – Existing works and adjacent common land (see Note 15)

23.(a) Are there any existing buildings, roads, fences or other constructions on the common?

Yes No

If **Yes**, give details below (see Section K)

There is a very well defined track approximately 3.5m wide on which we propose to upgrade the surface to form the proposed route

(b) 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**, give details and identify the boundaries on the map (see Section K)

x

The Common affected by the works crosses two separate sections of land on opposite sides of the A465. Registration numbers have been provided above (CL 17 and CL 18).

SECTION H – Public access (see Notes 16, 17 and 18)

24.(a) Do the public have a right of access to the common for air and exercise under section 193 of the Law of Property Act 1925?

Yes No

(b) Is the common subject to an Order of Limitation made under section 193?

Yes No

If **Yes**, give its date and other details, and send us a copy of the Order

SECTION I – Schemes of management and local Acts (see Notes 19 and 20)

25.(a) Is there a Scheme of Management for the common made under the Commons Act 1899? Yes No

(b) Is there any other regulatory Scheme or Act for the common? (e.g. a Provisional Order Confirmation Act under the Commons Act 1876) Yes No

If **Yes** to (a) or (b), give its date and other details, and send us a copy of the Scheme or Act.

The only scheme affecting the Common is the Glastir scheme, ending 31st December 2018

SECTION J – Advertisement and consultation (see Notes 21, 22 and 23)

You must advertise your proposal in one main local newspaper and at the main points of entry to the common **within 7 days** of making your application. Use the draft notice at **Annex A** of **Notes**.

You must also send a copy of the notice (using the letter at **Annex C** of **Notes**) to the following:

- the owners of the land
- the commons council or association (if there is one)
- all known commoners
- others with a legal interest e.g. tenants, those with easements, or other rights over the land
- any relevant community/town, borough/county borough, city or county council
- Natural Resources Wales
- Cadw
- National Park authority (if the proposal is in a National Park)
- Open Spaces Society (**see Note 24**)

26. Which newspaper will the advertisement appear in, and on what date?

The Gwent Gazette on

27. Are you the owner of the land? Yes No

If **No**, does the owner support your application?
.....

Yes No

Provide written evidence of the owner's views. Evidence enclosed

SECTION K – Maps (see Note 25)

You must include with your application **two copies** of a map which fully meets the requirements set out in **Note 25**. The map must clearly show what you are proposing to do and where.

28. Two copies of the map that meets the requirements set out in **see Note 25** are enclosed

SECTION L – Public inquiry or hearing (see Note 26 and ‘Common Land Guidance - General Overview’ note)

29. Give the name and address of a suitable place in the locality for holding a public inquiry or hearing, should this be needed.

Municipal Offices - Civic Centre - Ebbw Vale - Gwent

Contact Name/Tel Number:

Kath Rees - kath.rees@blaenau-gwent.gov.uk

Checklist (tick to confirm)

For all applications:

I have read the relevant **Notes** and ‘Common Land Guidance - General Overview’ note

For section 38 applications only:

• I am satisfied that:

- the land is registered as common land or is otherwise within the scope of section 38
- the proposed works would prevent or impede access

For section 23 applications only:

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

For all applications:

• I have:

- answered all the questions on this form in full
- enclosed two copies of the map that meets the requirements of Section K
- enclosed a copy of the commons register in respect of this common, where registered (i.e. details of land, rights, and ownership, and the register map)
- enclosed a copy of any document mentioned in answering the questions on this form (e.g. planning permission, scheme of management, written permission of the landowner, letters from informal consultees etc.)
- understood that any of the application papers may be copied to interested parties on request, and have informed people as necessary

I will within 7 days:

- advertise the proposal in one local newspaper
- post a copy of the notice at the main entry points to the common
- send a copy of the notice to all those listed at Section J
- place a copy of the notice, map and application at the inspection point

I will write to you as early as possible, using the letter at **Annex D** of the **Notes** to confirm that the advertising requirements have been met

SECTION M – Declaration

I/We* apply under section 38 of the Commons Act 2006/section 23 of the National Trust Act 1971* to the Welsh Ministers for CONSENT to construct the works described in Section D of this form.

**delete as appropriate*

Signed

Name (BLOCK letters)

Position (if applicable)

Organisation (if applicable)

Date

You must keep a copy of your completed form

Data Protection Act

Your application will be in the public domain. As such, all papers associated with it will be disclosed during the application process to others, including other Central Government Departments, public bodies, local authorities, other organisations and members of the public.