

|  |
| --- |
| **Application Decision** |
|  |
| **by Richard Holland** |
| **Appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 6 October 2022** |
| **Application Ref: COM/3288940**  **Buckle Wood, Cranham Wood and Cranham Common, Gloucestershire**  Register Unit No: CL12  Commons Registration Authority: Gloucestershire County Council   * The application, dated 13 December 2021, 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 is made by Western Power Distribution. * The works of approximately 6 weeks duration comprise:  1. a permanent ground mounted electricity substation (3.11m long x 2.27m wide x 2.27m high); 2. installation of 1650m of permanent underground cables; and 3. removal of 10 poles and 987m of overhead wires. | |

**Decision**

1. Consent is granted for the works in accordance with the application dated 13 December 2021 and the plans submitted with it subject to the following conditions:
2. the works shall begin no later than 3 years from the date of this decision; and
3. the land shall be fully reinstated within one month from the completion of the works.
4. For the purposes of identification only, the location of the proposed works is shown in red on the attached plan.

**Preliminary Matters**

1. I have had regard to Defra’s Common Land consents policy of November 2015 (the Defra policy) in determining this application under Section 38, which has been published for the guidance of both the Planning Inspectorate and applicants. However, every application will be considered on its merits and a determination will depart from the policy if it appears appropriate to do so. In such cases, the decision will explain why it has departed from the policy.
2. This application has been determined solely on the basis of written evidence. I have taken account of the representations made by Natural England (NE); the Open Spaces Society (OSS); and the Cotswolds Conservation Board.
3. I am required by section 39 of the 2006 Act to have regard to the following in determining this application:-
4. the interests of persons having rights in relation to, or occupying, the land (and in particular persons exercising rights of common over it);
5. the interests of the neighbourhood;
6. the public interest. (Section 39(2) of the 2006 Act provides that the public interest includes the public interest in; nature conservation; the conservation of the landscape; the protection of public rights of access to any area of land; and the protection of archaeological remains and features of historic interest); and
7. any other matter considered to be relevant.

**Reasons**

***The interests of those occupying or having rights over the land***

1. The application land is owned by Cranham Common Trust (CCT), which was consulted about the application but did not comment on the proposals. CCT leases the application land to NE, which occasionally grazes sheep. In turn, NE has an agreement with the National Trust (NT), whereby NT owns and manages a herd of cows on the common. NE advises that it is supports the proposals, subject to separate NE assent procedures. NT was consulted about the application but did not comment.
2. The common land register records various rights of grazing, turbury and estovers. CCT advised in its email to the applicant of 23 November 2021 that no commoners exercised any rights of common. In its email to the applicant of 24 November 2021 the Cranham Common Management Committee (CCMC) confirmed that no commoners were exercising grazing rights on the common. I am satisfied that the works are unlikely to harm the interests of those occupying or having rights over the land.

***The interests of the neighbourhood and public rights of access***

1. The proposed works are funded by an Ofgem grant to CCT under the visual amenity scheme for Areas of Outstanding Natural Beauty (AONBs). The interests of the neighbourhood test relates to whether the works will impact on the way the common land is used by local people and is closely linked with interests of public access.
2. With a footprint of just over 7m², the substation will take up a very small area of the common. The application plan shows that most of the underground cable route is within existing tracks or adjacent to them. Whilst some of the remaining route crosses more open areas of the common, no temporary security/safety fencing is proposed. The works area will instead be marked by spikes and bunting, which will alert the public to the works whilst minimising interruption to access. The cables will be entirely underground and all excavated trenches will be backfilled once the undergrounding works are completed, which is expected to be within approximately 6 weeks.
3. I am satisfied that the works will not have an unacceptable impact on public access over the common.

***The public interest***

*Nature conservation*

1. NE advises that the application land falls within the Cotswolds Commons and Beech Woods Site of Special Scientific Interest (SSSI) and that the principal designated feature of the common is its unimproved calcareous grassland. The site is also designated as a National Nature Reserve (NNR) and the applicant advises that it is near to the Cotswolds Beechwoods Special Area of Conservation (SAC).
2. In commenting on the proposals, NE did not identify any harm to nature conservation interests in the carrying out of the works and has provided pre-NE assent advice to the applicant.
3. The applicant is engaging with NE and NT to mitigate disturbance to the designated areas and I am satisfied that suitable measures will be put in place to ensure that nature conservation interests will not be harmed by the works.

*Conservation of the landscape*

1. OSS raised concerns about the proposed siting of the substation in what appeared to be a prominent position on the common and also about the possibility of surrounding protective fencing being erected which would add to the visual harm. The applicant advised that the substation will be unfenced as all apparatus will sit within green housing that will not rise above the height of existing vegetation to be retained. The substation needs to be located close to the existing overhead transformer, which will be removed, to limit the distance to the domestic properties it will supply so that voltages do not drop below requirements. The location was agreed in consultation with CCT, NE and the Cotswolds AONB conservation officer.
2. The works are proposed to improve the landscape and Ofgem funding has been awarded for that purpose. The landscape will be improved by the removal of visually intrusive overhead electrical cables and poles, which will be made possible by laying new underground cables and installing a new substation.
3. Whilst the cable trenches will cause some visual harm, it will be short term and the land will be re-instated upon completion of the works, which can be ensured by attaching a suitable condition to the consent. The proposed substation will be coloured to blend in, so far as possible, with its surroundings and may be partially screened by vegetation, but it is a sizable structure and will cause some visual harm. However, I conclude that this harm will be outweighed by the benefits to the landscape of the removal of overhead lines and poles.
4. The application land falls within the Cotswolds AONB, which is now known as Cotswolds National Landscape. The Cotswolds Conservation Board supports the proposals and considers that they will considerably enhance the scenic beauty, tranquillity and secluded rural character of the locality. The Board further considers that the works will conserve and enhance the natural beauty of the Cotswold National Landscape and I am satisfied that they will.

*Archaeological remains and features of historic interest*

1. There is no evidence before me to suggest that these interests will be harmed by the works.

**Conclusion**

1. I conclude that the proposed works will, on the whole, enhance the landscape by removing unsightly overhead lines and poles and will not significantly harm the other interests set out in paragraph 5 above. Consent is therefore granted for the works subject to the conditions set out in paragraph 1.

**Richard Holland**

