



# Application Decision

by **Richard Holland**

Appointed by the Secretary of State for Environment, Food and Rural Affairs

Decision date: 9 July 2015

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## Application Ref: COM 698

### Lockton High Moor, Lockton Low Moor, Sleights Moor and Goathland Moor

Register Unit Nos: CL330, CL331, CL109 and CL4

Commons Registration Authority: North Yorkshire County Council

- The application, dated 16 April 2015, 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 Bell Ingram Ltd on behalf of Northern Powergrid.
  - The works comprise the replacement of the existing overhead line with an underground cable running in the roadside verge of the A169 from Blue Bank at Sleights to the Hole of Horcum, including 2 x "H" poles and back stays for an overhead section at Ellerbeck, a terminal "H" Pole and twin back stays at Blue Bank. The works will be located alongside the A169 for the entire length, 13.5 Km of which will be on common land.
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## Decision

1. Consent is granted for the works in accordance with the application dated 16 April 2015 and the 1:20,000 scale plan submitted with it (received on 20 May 2015) subject to the following conditions:
  - i. the works shall begin no later than 3 years from the date of this decision;
  - ii. the common shall be restored within 1 month of the completion of the works.
2. For the purposes of identification only the location of the proposed works is shown on the attached plan.

## Preliminary Matters

3. I have had regard to Defra's Common Land Consents Policy Guidance<sup>1</sup> 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 guidance if it appears appropriate to do so. In such cases, the decision will explain why it has departed from the guidance.
4. This application has been determined solely on the basis of written evidence.
5. I have taken account of the representations made by the Open Spaces Society.
6. I am required by section 39 of the 2006 Act to have regard to the following in determining this application:-
  - a. the interests of persons having rights in relation to, or occupying, the land (and in particular persons exercising rights of common over it);

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<sup>1</sup> Common Land Consents Policy Guidance (Defra July 2009)

- b. the interests of the neighbourhood;
- c. the public interest;<sup>2</sup> and
- d. any other matter considered to be relevant.

## **Reasons**

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

7. The landowners and the rights holders have been consulted about the proposed works and have not objected. There is no evidence before me therefore that the works will harm the interests of persons occupying or having rights over the land and I am satisfied that they will not.

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

8. The commons lie within the North York Moors National Park (the National Park). The proposed works are part of the major refurbishment of the existing overhead tower line running through the National Park, which supplies electricity to Whitby. This includes the installation of an underground cable along the route of the A169 and the dismantling of 108 towers. The existing unsightly overhead line is prone to damage during periods of bad weather and I consider that its removal will improve the overall visual amenity of the common, enhancing local people's enjoyment of it and thereby benefitting the neighbourhood, and that the works are necessary to ensure continuity of the electricity supply to Whitby.

### ***The public interest***

#### *The protection of public rights of access*

9. The Open Spaces Society (OSS) has no objection to the application provided the commons are fully reinstated when the works are completed. The applicant provided a copy of the Method Statement which includes sections on reinstatement, with which the OSS was satisfied.
10. The works, which will take about 18 months to complete, may cause some disruption to free access across the common whilst they are being carried out. However, the applicant has produced a detailed method statement outlining working practices which has been agreed with the Yorkshire Wildlife Trust, Natural England and the North York Moors National Park Authority and I am satisfied that any disruption will be short lived and insignificant and there will no lasting harmful effect on public rights of access over the common.

#### *Nature conservation and conservation of the landscape*

11. Approximately 60% of the cable route is located within North York Moors Special Area of Conservation and North York Moors Special Protection Area, both of which are located within the North York Moors Site of Special Scientific Interest. The works are largely restricted to areas either within or close to the highway A169; nevertheless the applicant recognises that the works will take place within an area of significant environmental value and interest and so has employed ecological consultants and, as mentioned above, has liaised with Natural England and the North York Moors National Park Authority to ensure that the works avoid any significant disturbance to the important habitats and

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<sup>2</sup>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.

species as well as the wider environment. Where necessary, special measures, as agreed with Natural England, have been incorporated into the proposals and will be employed during the works to minimise any potential disturbance. Following the completion of the works, there will be complete re-instatement of any affected habitats immediate to the verge of the A169. The 108 towers, currently located within the moorland areas, will be removed, allowing re-instatement of the semi-natural habitat and restoration of the moorland landscape to a more natural state.

12. In view of the safeguards the applicant has put in place, I am satisfied that any harm to nature conservation interests will be kept to a minimum while the works are carried out. In the longer term, the removal of the towers and the re-instatement of affected habitats will improve the appearance and biodiversity of the common. The natural beauty and wildlife of the National Park will therefore be enhanced.

#### *Archaeological remains and features of historic interest*

13. There is no evidence before me of archaeological features within the application site or nearby and I am satisfied that the works will not harm any archaeological remains or features of historic interest.

#### **Conclusion**

14. I am satisfied that the application works will not materially harm the interests outlined in paragraph 6 above. Indeed, they will benefit the local community, the landscape and nature conservation, and by ensuring continuity of the electricity supply to Whitby they will confer a wider public benefit. I conclude therefore that consent should be granted subject to the conditions set out in paragraph 1.

**Richard Holland**