



## Application Decision

by **Richard Holland**

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

**Decision date: 9 November 2015**

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### **Application Ref: COM 727**

### **HUDNALL COMMON, HERTFORDSHIRE**

Register Unit No: CL 81

Commons Registration Authority: Hertfordshire County Council

- The application, dated 20 August 2015, is made under Section 23 of the National Trust Act 1971 (the 1971 Act) for consent to carry out restricted works on common land.
  - The application is made by UK Power Networks.
  - The works comprise: a new low voltage electricity cable to reinforce the network in the local area. The cable will cover approximately 25 m<sup>2</sup> and temporary works barriers (approximately 50 m) will be used to cordon off the work site for approximately 7 to 10 days.
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### **Decision**

1. Consent is granted for the works described above in accordance with the application dated 20 August 2015 and the plans submitted with it 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 completion of the works; and
  - iii) the fencing shall be removed within 1 month of the completion of the works.
2. For the purposes of identification only the location of the proposed works is shown as a red line on the attached plan.

### **Preliminary Matters**

3. Since making the application the applicant has confirmed that consent is now sought for an amended route as shown on the plan referred to at paragraph 2 above. I do not consider that any interested party has been prejudiced by this minor amendment to the route of the proposed works.
4. I have had regard to Defra's Common Land Consents Policy Guidance<sup>1</sup> in determining this application under section 23, 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.
5. This application has been determined solely on the basis of written evidence.

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

6. I have taken account of the representations made by the Open Spaces Society (OSS), Natural England (NE) and Historic England (HE).
7. I am required by section 39 of the Commons Act 2006 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);
  - 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***

8. The National Trust, as landowner, consents to the proposed works and considers the works desirable in the broader public interest. There are no rights of common. I am satisfied that the proposed works will not harm the interests of those occupying the land and the interests of those having rights over the land is not at issue.

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

9. The interests of the neighbourhood test relates to the way in which the works will impact on local people's use of the common. The works are intended to reinforce British Telecom's supply and improve broadband speed to residents in the local area. Temporary barriers are needed to ensure the safety of the public and cordon off any machinery or debris while the works are being undertaken.
10. I consider that as the proposed works are situated on a very small area of common and are of short duration, they will not interfere materially with the way in which the common land is enjoyed by local people or unduly impact on public rights of access. Indeed, these works will benefit local residents in particular by improving broadband speed in the area.

### ***Nature conservation***

11. NE does not object to the proposed works but notes that as the Common is a Local Site (County Wildlife Site), it would expect particular care to be taken to ensure that any unnecessary damage to trees and their roots is avoided and that the topsoil and subsoil are appropriately stored and replaced in the correct sequence, and without any surface irregularities which could impede the future management of any grassland areas. The applicant confirms that they will adhere to NE's advice. In view of the applicant's assurances I do not consider that the proposed works will harm nature conservation interests.

### ***Conservation of the landscape***

12. The temporary barriers are needed for up to ten days after which the barriers and all work machinery will be removed. The applicant confirms that all excavation

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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.

and reinstatement work will be carried out in the public highway. All permanent works will be underground and the land will be reinstated upon completion. As the works are confined to the highway and the ground will be reinstated I consider that the proposed works will conserve the landscape.

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

13. HE does not object to the proposed works but says that Hertfordshire County Council should be consulted regarding the impacts on undesignated archaeological remains and historic features, and to advise on an appropriate archaeological mitigation strategy. I note that the applicant has consulted the Hertfordshire County Council Historic Environment Record Service; it has not commented on the application. I conclude that there is no indication that the proposed works will harm any archaeological remains or features of historic interest.

**Conclusion**

14. I conclude that the proposed works will not harm the interests set out in paragraph 7 above and will confer a public benefit by improving broadband speed in the area. Consent is therefore granted for the works subject to the conditions set out in paragraph 1.

**Richard Holland**