



# Application Decision

**by Richard Holland**

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

Decision date: 23 November 2015

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## Application Ref: COM 719

### Inchfield Pasture, Walsden, West Yorkshire

Register Unit No: CL 407

Commons Registration Authority: Calderdale Council

- The application, dated 30 July 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 ADAS UK Ltd on behalf of Northern Powergrid, Alix House, Falcon Court, Preston Farm, Stockton-on-Tees TS18 3TU.
  - The works comprise: (i) replace two sections of existing electrical overhead line and their wooden poles and erect an additional conductor to upgrade the sections from single phase to three phase capacity. (ii) install an underground electric cable (approximate length 730m) alongside Foul Clough Road to link the two sections of overhead line (iii) remedial reinforcement works to southern side of an existing road bridge structure (along the cable route) crossing Red Clough and (iv) install temporary plastic safety fencing (approx. height 1.2m) around the area of works being excavated and to backfill and reinstate the land.
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## Decision

1. Consent is granted for the works in accordance with the application dated 30 July 2015 and the plan 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 land shall be fully reinstated within one month of the completion of the works; and
  - iii. the temporary fencing shall be removed within one month of completion of the works.
2. For the purposes of identification only, the locations of the proposed works are shown in red 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.

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

4. This application has been determined solely on the basis of written evidence.
5. I have taken account of the representation made by Historic England (HE).
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);
  - 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 land concerned is in the ownership of the Public Trustee (Commons Commissioner Decision 45/U/194 dated 27 May 1976). Rights of pasture are held by Calderdale Water Board (now Yorkshire Water Services, which does not exercise the right) and the eight Freeholders of Inchfield Pasture, three of which exercise their rights. One right of turbury and one right of estovers is held by one of the non-exercising Freeholders. The Secretary of the Freeholders, who is also one of the three to exercise grazing rights, signed a wayleave agreement on 27 July 2015 agreeing and consenting to the works.
8. In light of the above, I am satisfied that the works will not harm the interests of those having rights in relation to, or occupying, the land (and in particular persons exercising rights of common over it).

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

9. The interests of the neighbourhood test relates primarily to whether the works will impact on the way the common land is used by local people but also relates to wider neighbourhood interests. The proposed works are needed to improve the electricity distribution network in the area and ensure safe and secure supply for its customers. The applicant explains that the existing overhead network lies within an isolated and exposed location and has now reached the end of its serviceable life. It has become prone to faults resulting in an increased risk of loss of power to the associated supplies. The interconnection between the two updated overhead sections provided by the new underground cable will allow for increased reliability and switching capacity. The reinforcement works to the small Red Clough bridge structure will benefit those who use Foul Clough Road in terms of increased safety as well as serving to protect the route of the underground cable.
10. I consider that the proposed works will interfere negligibly with the way in which the public use the common land as they will be mainly underground and the common will be reinstated upon completion. The works will benefit the wider

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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.

interests of the neighbourhood by securing the electricity supply in the area and reinforcing a locally used road at the point it crosses Red Clough.

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

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

11. The applicant advises that the underground cable will be laid in sections of 70 – 100 metres and that the land will be backfilled after completion of each section. The temporary fencing will be taken down and moved along the cable route as the works progress. It is envisaged that the works will be completed in approximately five weeks.
12. As the majority of the proposed works are underground and are of short duration and the associated fencing is temporary, I consider that public rights of access over the common will not be unduly restricted.

#### *Nature Conservation*

13. The application land is less than 2km from the South Pennine Moors Site of Special Scientific Interest (SSSI). Natural England has advised that it has no objection to the proposals with regard to impact on designated sites and I am satisfied that they will not harm nature conservation interests.

#### *Conservation of the landscape*

14. The temporary fencing will be of short duration and the land affected will be fully and suitably reinstated to its previous condition. With the exception of an additional conductor, the overhead works will be like-for-like replacement of existing cabling and poles. The works to the bridge structure will be at or below road level. I consider therefore that the works will have a minimal visual impact on the common and will not unacceptably harm its appearance.

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

15. HE is content that the proposed works will not harm designated heritage assets. I note that the County Archaeological Service has been consulted about the application and has advised that there are currently no known significant archaeological implications associated with the proposed works. I am therefore satisfied that the proposed works will not unacceptably impact upon archaeological remains or any historic features.

### **Conclusion**

16. I conclude that the proposed works will not harm the interests set out in paragraph 6 above; indeed, they will be in the public interest by improving electricity supplies to the neighbourhood and maintaining the integrity of a small bridge structure. Consent is therefore granted for the works subject to the conditions set out in paragraph 1.

**Richard Holland**