



## Application Decision

by **Richard Holland**

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

Decision date: **18 December 2015**

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### Application Ref: **COM 733**

### **MANORIAL WASTE, GADDESSEN ROW, HERTFORDSHIRE**

Register Unit No: CL 198

Commons Registration Authority: Hertfordshire County Council

- The application, dated 7 September 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 UK Power Networks.
  - The works comprise: a new low voltage underground electricity cable to supply a BT Cabinet on the verge of Gaddesden Row. Temporary fencing will be erected around sections of the cable route while the work is carried out.
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### Decision

1. Consent is granted for the works described above in accordance with the application dated 7 September 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 broken red line on the attached plan.

### Preliminary Matters

3. Since making the application the applicant has amended the route and length of the proposed underground cable as shown on the plan referred to at paragraph 2 above. The applicant confirms that the length of the proposed cable is 400 m (originally 205 m). I do not consider that any interested party has been prejudiced by the amendment.
4. I have had regard to Defra's Common Land Consents Policy Guidance<sup>1</sup> in determining this application under section 38 of the 2006 Act, 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.
6. I have taken account of the representations made by the Open Spaces Society (OSS), Historic England (HE) and Dacorum Borough Council ("the Council").

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<sup>1</sup> Common Land Consents Policy Guidance (Defra November 2015)

7. 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***

8. The landowner has been consulted and has not objected to the works. There are no rights recorded in the commons register. I am satisfied that the proposed works will not harm the interests of those occupying or having rights over the land.

### ***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 proposed cable will connect to an existing BT cabinet already situated on the common and is intended to bring superfast broadband to residents in the local area. All proposed works are limited to the grass verge and will not restrict access to the footpath.
10. I accept that temporary barriers are needed in short sections for three weeks to protect the public from areas of open excavation. The barriers will be removed upon completion. All permanent works will be underground and the ground will be reinstated upon completion. I am satisfied that the works will not adversely impact on the interests of the neighbourhood or unacceptably interfere with public rights of access.

### ***Nature conservation***

11. There is no evidence before me to suggest that the proposed works will impact adversely on nature conservation interests.

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

12. The common is located in the Chilterns Area of Outstanding Natural Beauty (AONB). The works are restricted to an area of roadside verge and will take place for up to three weeks. Any visual impact from the barriers will be temporary and as all permanent works will be underground, and the land fully restored upon completion, there will be no long term harm to the conservation of 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 impact on undesignated archaeological remains and historic features, and to advise on an appropriate archaeological

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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.

mitigation strategy. I note that Hertfordshire County Council has been consulted and 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.

### **Other relevant matters**

14. The Council's Regulatory Services comment that the cable is located within the vicinity of potentially contaminative former land uses, and consequently there may be land contamination issues associated with this site. It recommends that the developer keeps a watching brief during ground works on the site for any potentially contaminated material. Should any such material be encountered, then the Council must be informed without delay and an appropriate course of action agreed. The applicant confirms that further investigations will be carried out to assess the location and area of previous contaminative land uses and how this may affect the work. Appropriate techniques will be used during the work to assess for contaminated land and, if any is found, the Council will be contacted immediately.

### **Conclusion**

15. I conclude that the proposed works will not harm the interests set out in paragraph 7 above and will confer a public benefit by allowing local residents to access superfast broadband. Consent is therefore granted for the works subject to the conditions set out in paragraph 1.

**Richard Holland**