



Application Decision

by **Richard Holland**

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

Decision date: 20 May 2016

Application Ref: COM 755

Horsell Common, Woking, Surrey

Register Unit No: CL 100

Commons Registration Authority: Surrey County Council

- The application, dated 16 November 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 c/o Wragge Lawrence Graham & Co LLP, Two Snowhill, Birmingham B4 6WR.
 - The works to replace existing steel pylons and overhead cables with underground cables comprise: (i) the digging of a temporary trench 274m long x 0.9m wide to lay power cables. (ii) temporary 2m high Heras fencing to protect excavated areas (iii) the erection of two wooden poles to carry electrical infrastructure installation, and (iv) backfilling and reinstatement of the land.
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Decision

1. Consent is granted for the works in accordance with the application dated 16 November 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 works shall not begin until a programme of archaeological works in accordance with a written Scheme of Investigation which has been prepared in consultation with Surrey County Council is in place; and
 - iii. the temporary fencing shall be removed, and the land fully reinstated, 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 and yellow on the attached plan.

Preliminary Matters

3. I have had regard to Defra's Common Land consents policy¹ 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.
4. This application has been determined solely on the basis of written evidence.

¹ Common Land consents policy (Defra November 2015)

5. I have taken account of the representations made by Historic England, Natural England, Open Spaces Society, Surrey County Council Heritage Conservation Team (SCCHCT) and by Mr Roland Tegeder on behalf of eight local residents.
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;² and
 - d. any other matter considered to be relevant.

Reasons

The interests of those occupying or having rights over the land

7. The land is owned and managed by the Horsell Common Preservation Society (HCPS), which requested the works and supports the application. There are no registered rights of common over the land. 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 and the protection of public rights of access

8. The interests of the neighbourhood test relates to whether the works will impact on the way the common land is used by local people. The HCPS asked for the works because they will allow for the removal of two unsightly pylons and the interconnecting cables. The only above ground works will be two wooden "H" poles. I agree that these will be far less visually harmful than the steel pylons they will replace and consider that the works will markedly improve the common's appearance and thus enhance local people's enjoyment of it. The works will therefore be in the interests of the neighbourhood.
9. Public rights of access will be affected to some degree by the safety fencing in place during the two to five week period of the works. The applicant advises that not all of the cable route will be fenced off at any one time and backfilling of the trench will be completed where possible before the contractor leaves the site each day to minimise the use of such fencing. The Open Spaces Society has no objection to the proposals provided that the common is fully reinstated after the works are complete. As the majority of the proposed works are underground, 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

10. Natural England considers that the works will not have a detrimental effect on landscape, access or the biodiversity of the common as a whole. There is no evidence before me which leads me to think that the works will harm any statutorily protected sites or other nature conservation interests.

²Section 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.

Conservation of the landscape

11. It follows that the works to reposition the cables underground will require excavation of the land to the detriment of the landscape. The use of public safety fencing during the works will further impact on the landscape. However, the works will be of short duration, all fencing will be removed on completion of the works and the land affected will be fully reinstated to its previous condition. In this respect there will be no lasting harm to the landscape. The two "H" poles will harm to some extent the appearance of the common but this harm is easily outweighed by the removal of the pylons and overhead cables and the visual enhancement that this will bring about. The overall impact of the works on the appearance of the common will be positive. I note that the Horsell Common Preservation Society was keen to preside over the re-opening of the Burial Ground following renovation work without the 'continuing looming presence of the pylon'.

Archaeological remains and features of historic interest

12. The works are located very near to a listed Muslim Burial Ground and three Bronze Age barrows which SCCHCT says are of National Importance. Historic England and SCCHCT consider that the undergrounding of the cables will enhance the setting of the Muslim Burial Ground and the Bronze Age barrows but advise that ground disturbance from the proposed excavation works and contractor activity around the site may impact on both known and unknown underground features. In response, the applicant proposes to agree an archaeological Scheme of Investigation with Surrey County Council and I am satisfied that with a such an arrangement in place, which can be secured by a condition attached to this consent decision, any archaeological remains or historic features will be adequately protected.

Other matters

13. Mr Tegeder argues that the "H" pole nearest to Paddock Way will be visually intrusive and so harm the living conditions of local residents. He has also questioned the structural safety and soundness of the works. However, these matters are outside the scope of what can be considered when deciding this application. Mr Tegeder's is concerned that the local council delayed making the application documents available for public inspection and that some documents were missing. Nevertheless, while this is regrettable, Mr Tegeder and local residents have had an opportunity to see and comment on the proposals.

Conclusion

14. I conclude that with suitable conditions in place the proposed works will not seriously harm the interests set out in paragraph 6 above; indeed, they will be in the public interest by enhancing the appearance of the common and improving the setting of the Muslim Burial Ground and three Bronze Age barrows. Consent is therefore granted for the works subject to the conditions set out in paragraph 1.

Richard Holland

* Overview of Works

TITLE: Horsell Common, Monument Road, Woking, Surrey. GU21 5LW

JOB NO: Diversion of existing 33Kv Overhead Network

STANDARD PLOT

