



Application Decision

by **Richard Holland**

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

Decision date: 15 November 2017

Application Ref: COM 3184709

Green Street and Cradle End Common, Hertfordshire

Register Unit No: CL 187

Commons Registration Authority: Hertfordshire County Council

- The application, dated 31 August 2017, 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 the installation of a series of underground cables in the roadside verge which will require a small trench to be excavated and then backfilled once the apparatus is in.
 - The works will be fenced off with safety barriers along the excavated route.
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Decision

1. Consent is granted for the works in accordance with the application dated 31 August 2017 and accompanying plan, subject to the following conditions:
 - i. the works shall begin no later than 3 years from the date of this decision; and
 - ii. all temporary fencing shall be removed and the land shall be fully reinstated within one month of completion of the works.
2. For the purposes of identification only the location of the works is shown as a red and blue broken line 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.
5. I have taken account of the representations made by the Open Spaces Society (OSS), and 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;

¹ Common Land Consents Policy (Defra November 2015)

- 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 owner of the common land, The Marquess of Salisbury, has been consulted about the application and has not objected to the proposed works. There are no registered rights of common. 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

- 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 applicant explains that a section of high voltage overhead line that currently over sails a row of residential properties will be removed and replaced with a series of permanent underground cables. Temporary safety fencing will be used to protect the public during the works. The applicant confirms that access to other areas of the common will still be maintained. The works are expected to last one to two weeks.
- 9. I conclude that as all above ground works are temporary and will be removed on completion of the scheme, the works will have no significant or lasting impact on the interests of the neighbourhood or public rights of access to the common.

Nature conservation

- 10. I am satisfied that there is no evidence before me to indicate that the proposed works will harm nature conservation interests.

Conservation of the landscape

- 11. The applicant explains that the removal of the high voltage electricity cable will improve the visual appearance of the area and benefit those who reside in Cradle End.
- 12. The proposed works will be undertaken on a small section of roadside verge and the common reinstated upon completion of the works. I conclude that the proposed works will conserve the landscape in the long term.

Archaeological remains and features of historic interest

- 13. HE does not object to the proposed works but advises that archaeological staff at Hertfordshire County Council are consulted regarding the impact on undesignated archaeological remains. The applicant confirms that they consulted Hertfordshire Archaeology about the application. Hertfordshire Archaeology has not commented on the application and, in the absence of evidence to the contrary, I am satisfied that the proposed works will not harm any archaeological remains and features of historic interest.

Conclusion

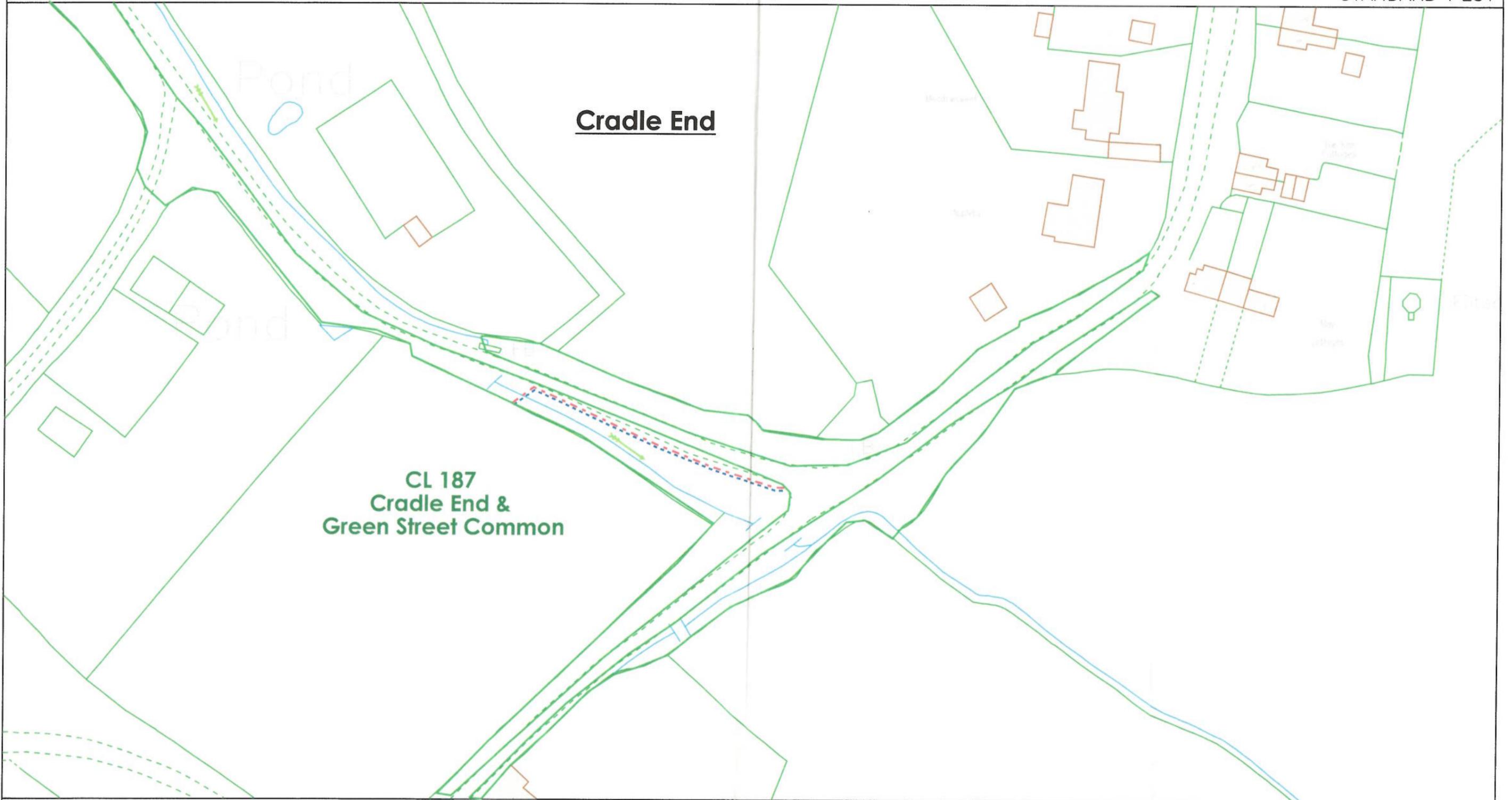
- 14. Defra's policy advises that *"...works may be proposed in relation to common land which do not benefit the common, but confer some wider benefit on the local community, such as minor works undertaken by a statutory undertaker (e.g. a water utility) to provide or improve the public service to local residents and businesses. In such cases, our expectation is that applications for such purposes on common land are more likely to be successful under section 16(1), so that an exchange of land is proposed and can be considered on its merits. However, consent under section 38 may be appropriate where the works are of temporary duration (such as a worksite), where the works will*

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.

be installed underground (such as a pipeline or pumping station), or where their physical presence would be so slight as to cause negligible impact on the land in question (such as a control booth or manhole), and the proposals ensure the full restoration of the land affected and confer a public benefit.”

15. I conclude that the proposed works will not harm the interests set out in paragraph 6 above and accord with the policy guidance as they confer a public benefit by improving the visual appearance of the area surrounding the common. Consent is granted for the works subject to the conditions set out in paragraph 1.

Richard Holland



Cradle End

**CL 187
Cradle End &
Green Street Common**



The quality and accuracy of any print will depend on your printer, your computer and its print settings. Measurements scaled from this plan may not match measurements between the same points on the ground.

- Bury Green Common
- High Voltage Cable
- Low Voltage Cable

1. The position of the apparatus shown on this drawing is believed to be correct but the original landmarks may have been altered since the apparatus was installed.
2. The exact position of the apparatus should be verified – use approved cable avoidance tools prior to excavation using suitable hand tools.
3. It is essential that trial holes are carefully made avoiding the use of mechanical tools or picks until the exact location of all cables have been determined.
4. It must be assumed that there is a service cable into each property, lamp column and street sign, etc.
5. All cables must be treated as being live unless proved otherwise by UK Power Networks.
6. The information provided must be given to all people working near UK Power Networks' plant & equipment. Do not use plans more than 3 months after the issue date for excavation purposes.
7. Please be aware that electric cables/lines belonging to other owners of licensed electricity distribution systems may be present and it is your responsibility to identify their location.

1. UK Power Networks does not warrant that the information provided to you is correct. You rely upon it at your own risk.
2. UK Power Networks does not exclude or limit its liability if it causes the death of any person or causes personal injury to a person where such death or personal injury is caused by its negligence.
3. Subject to paragraph 2 UK Power Networks has no liability to you in contract, in tort (including negligence), for breach of statutory duty or otherwise for any loss, damage, cost, claims, demands, or expenses that you or any third party may suffer or incur as a result of using the information provided whether for physical damage to property or for any economic loss (including without limitation loss of profit, loss of opportunity, loss of savings, loss of goodwill, loss of business, loss of use) or any special or consequential loss or damage whatsoever.
4. This plan has been provided to you on the basis of the terms of use set out in the covering letter that accompanies this plan. If you do not accept and/or do not understand the terms of use set out in the covering letter you must not use the plan and you must return it to the sender of the letter.
5. You are responsible for the security of the information provided to you. It must not be given, sold or made available upon payment of a fee to a third party.

Grid Ref : TL4521NE
 Scale 1:1250
 (When Plotted at A4)
 Plotted on : 21/06/2017
 Plotted by : David Cooper



IF IN DOUBT – ASK! PHONE 0800 056 5866
 EMERGENCY – If you damage a cable or line
 Phone 0800 780 0780 (24hrs) URGENTLY

ALWAYS LOOK UP BEFORE YOU START WORK
 Refer to HSE Guidance note GS6

Maps produced at 1:2500 scale are LV Geo-Schematics which show LV mains cables and overhead lines (in some cases all voltages). Prior to carrying out excavations you must refer to the 1:500 records to determine the location of all known underground plant and equipment.