



Application Decision

by **Richard Holland**

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

Decision date: 24 August 2018

Application Ref: **COM/3204705**

Little Burstead Common and Land Near Little Burstead Common, Billericay, Essex

Register Unit No: CL 477 and CL 105

Commons Registration Authority: Essex County Council

- The application, dated 7 June 2018, 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 Savills for UK Power Networks.
 - The works of approximately one and a half days' duration to install underground low and high voltage electricity cables comprise:
 - i. excavation of a 500mm wide trench for the laying of 185m of electricity cable on CL 477;
 - ii. excavation of a 500mm wide trench for the laying of 100m of electricity cable on CL 105; and
 - iii. temporary security/safety fencing (approximately 1m high) as necessary during the period of works.
-

Decision

1. Consent is granted for the works in accordance with the application dated 7 June 2018 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; 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 proposed works is shown in red on the attached plans.

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 the Open Spaces Society (OSS) and Historic England (HE), neither of which object to the proposals.
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. Having held a hearing on 20 and 22 February 1979 into the ownership of various lands, the Commons Commissioner was not satisfied that any person was the owner of CL 477 or CL 105 and that they remained subject to local authority protection under section 9 of the Commons Registration Act 1965 (now under section 45 of the Commons Act 2006).
8. The common land register records rights of grazing, estovers and turbary in favour of the Earl and Countess of Mexborough (CL 477) and rights of grazing in favour of Mr Roger Asplin (CL 105). These rights holders were consulted by the applicant about the proposals but did not comment. The applicant has advised that none of the rights are exercised. There is no evidence before me to suggest that the proposals will harm the interests of those occupying or having rights over the land.

The interests of the neighbourhood and public rights of access

9. The works are needed to reinforce the electricity supply in the area. The interests of the neighbourhood test relates to whether the works will impact on the way the common land is used by local people and is closely linked with interests of public access. Both commons would appear to be subject to general access, with no particular local use made of them. The two commons and the sections of underground cabling proposed for them are entirely separate; one trench will extend across the entire length of CL 477 and the other trench will bisect CL 105. However, the trenches will be backfilled as the cable is laid so there will be no point at which local or wider public access across the line of the trenches will be completely prevented. Furthermore, the period of works is short (one day and half a day for CL 477 and CL 105 respectively) so any impediment to access at any given point along the cable routes will be very temporary.
10. The permanent works will be underground with no above ground features to impact on access and the common land affected will be quickly reinstated upon completion of the works. Any necessary safety fencing will be removed as the trenches are backfilled. I conclude therefore that the works will not have a significant or lasting impact on the interests of the neighbourhood or public rights of access.

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.

The public interest

Nature Conservation

11. 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.

Conservation of the landscape

12. The works will allow the removal of unsightly overhead power cables in the area, which the applicant says are more difficult to maintain and are prone to outages due to adverse weather conditions or contact with trees. Ten or so spans of overhead electricity line will be removed, which I consider to be of clear benefit to the landscape. Full reinstatement of the land, which can be required by attaching a suitable condition to any consent, will ensure that the cable undergrounding works will not harm the landscape.

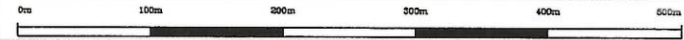
Archaeological remains and features of historic interest

13. HE advised that it has no objections to the proposals but that a programme of archaeological mitigation should be approved by Essex County Council Place Service. The applicant separately consulted the relevant Essex County Council Archaeological Service about the proposals but it did not comment so there is no reason to think that such a mitigation programme is necessary in this case. I am satisfied that there is no evidence to suggest the works will harm archaeological remains or features of historic interest.

Conclusion

14. I conclude that the proposed works will not significantly harm the interests set out in paragraph 6 above; indeed, they will be in the public interest by reducing the risk of power cuts and by allowing the removal of overhead cables to the benefit of the landscape. Consent is therefore granted for the works subject to the conditions set out in paragraph 1.

Richard Holland



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.

LV Cable	
HV Cable	
EHV Cables	
Duct	
Pole & Street Furniture	
Substation & Link Box	

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 pions 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 : TQ6592SE

Scale 1:5016
(When Plotted at A4)

Plotted on : 18/05/2018

Plotted by : Jason Everett

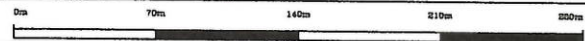
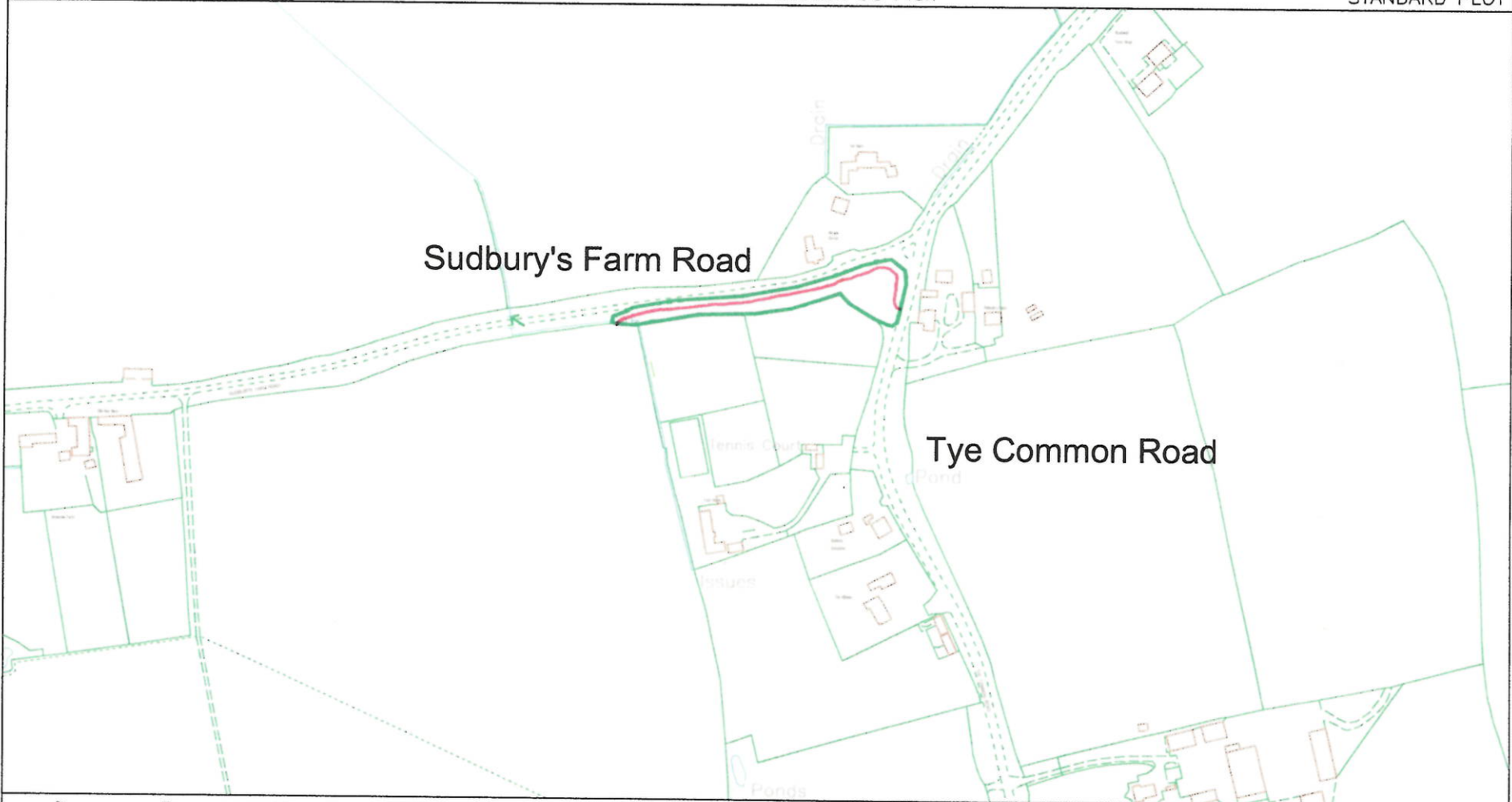


IF IN DOUBT – ASKI PHONE 0800 056 5868
EMERGENCY – If you damage a cable or line
Phone 0800 780 0780 (24hrs) URGENTLY



ALWAYS LOOK UP BEFORE
YOU START WORK
Refer to HSE Guidance
note G58

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.



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.

LV Cable	
HV Cable	
EHV Cables	
Duct	
Pole & Street Furniture	
Substation & Link Box	

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 plants 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 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 : TQ6592NE

Scale 1:3266
(When Plotted at A4)

Plotted on : 07/06/2018

Plotted by : Jason Everett



IF IN DOUBT - ASK! PHONE 0800 050 5889
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.