
Application Decision

by Richard Holland

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

Decision date: 15 March 2019

Application Ref: COM 3212612
Ley Hill Common, Buckinghamshire

Register Unit No: n/a

Commons Registration Authority: Buckinghamshire County Council.

- The application, dated 20 September 2018, is made under Section 38 of 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 installation of new underground electricity cables (high voltage and low voltage) and a 1.0m x 1.0m ground mounted substation on a 1.2m x 1.2m plinth. The cable route will be approximately seven metres in length.
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Decision

1. Consent is granted for the works in accordance with the application dated 20 September 2018 and accompanying plan, subject to the following conditions:-
 - i. the works shall begin no later than three years from the date of this decision;
 - ii. the common shall be fully restored within one month from the completion of the works; and
 - iii. the substation shall be painted Bottle Green RAL 6007.
2. For the purposes of identification only the location of the works is shown in red on the attached plan.

Preliminary Matters

3. Since making the application, the applicant has advised that the substation will be located 50 m further along the road which links Blackwell Hall lane and Ashridge Lane. I do not consider that any interested party will be prejudiced by this slight amendment to the application site location.
4. 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.
5. This application has been determined solely on the basis of written evidence.

¹ Common Land Consents Policy (Defra November 2015)

6. I have taken account of the representations made by the Open Spaces Society (OSS) and the Chilterns Conservation Board.
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;² and
 - d. any other matter considered to be relevant.

Reasons

The interests of those occupying or having rights over the land

8. The landowner, Chiltern District Council, has been consulted and has not commented on the application. The common is exempted from registration under section 11 of the Commons Registration Act 1965. There is no evidence before me to suggest that the works will adversely impact on the interests of those occupying the common and the interest of those having rights over the land is not at issue.

The interests of the neighbourhood and the protection of public rights of access

9. The interests of the neighbourhood test relates to whether the works will unacceptably interfere with the way the land is used by local people and is closely linked with public rights of access. The works are needed to replace existing overhead power lines and a connected transformer following concerns about safety and access. The applicant explains that nearby trees can interfere with the overhead power lines and cause power cuts. The works will reduce the possibility of power cuts and improve access and safety. The OSS does not object to the application.
10. The above ground works will impact on a very small area of common and the cables will be placed underground. I am satisfied that the works will not interfere with the way the common is used by local people and will not harm the interests of the neighbourhood or public rights of access.

Nature conservation

11. There is no evidence before me to suggest that the works will harm nature conservation interests.

Conservation of the landscape

12. The proposed substation lies within the Chilterns Area of Outstanding Natural Beauty (AONB). The works will connect to existing apparatus at the boundary of the common. I note that the Chilterns Conservation Board does not object to the proposed works but recommends setting the substation back or shielding the works using existing vegetation to reduce visibility and that the cabinet is painted green/yellow. In response, the applicant confirms that the cabinet will be painted green and set back from the road. The applicant

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.

explains that vegetation is not planted around electrical equipment (such as the proposed substation) as it hinders access; the application has been made to prevent such issues.

13. I am satisfied that, given the small scale of the above ground works, the substation and plinth will not be unacceptably intrusive. I conclude that the works will conserve the natural beauty of the AONB.

Archaeological remains and features of historic interest

14. There is no evidence before me to suggest that the works will harm any archaeological remains or features of historic interests.

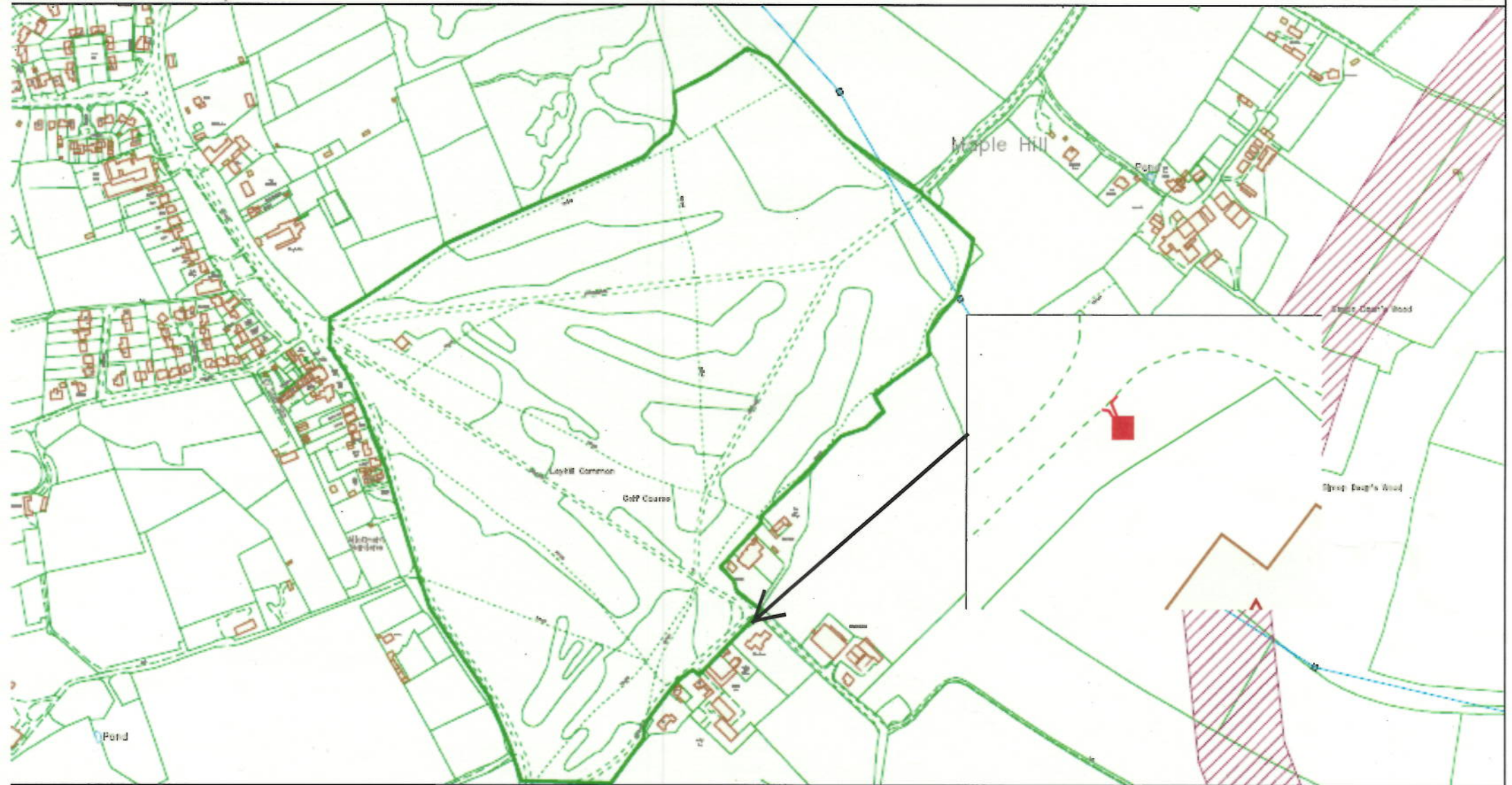
Other relevant matters

15. Defra's policy guidance 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 ... consent under section 38 may be appropriate where the works are of temporary duration (such as a worksite), where the works will 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". I am satisfied that the proposed works accord with this policy objective.

Conclusion

16. I conclude that the proposed works will not harm the interests set out in paragraph 7 above and will confer a public benefit by securing the power supply in the local area. 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 taken on the ground.

- LV Cable
- HV Cable
- EHV Cable
- 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 evidence tools prior to excavation using suitable hand tools.
3. It is essential that all holes are carefully backfilled to the use of machined tines 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. Notes to deny 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, claim, expense or expense 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 income, 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 : SP9901NW

Scale 1:5991
(When Plotted on A4)

Plotted on : 17/09/2018

Plotted by : Alf Waugh



IF IN DOUBT - ASK! PHONE 0800 050 0886
EMERGENCY - If you damage a cable or line
Phone 0800 780 0780 (24hrs) URGENTLY



ALWAYS LOCK UP BEFORE
YOU START WORK!
Refer to HSE Guidance
note G56

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.