

# Application Decision

**by Richard Holland**

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

Decision date: 22 March 2019

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**Application Ref: COM/3220675**  
**Hawridge And Cholesbury Common, Buckinghamshire**

Register Unit No: CL 21

Commons Registration Authority: Buckinghamshire County Council.

- The application, dated 27 December 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 a new section of low voltage electricity cables approximately 80 m and 5 m in length and temporary fencing.
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## Decision

1. Consent is granted for the works in accordance with the application dated 27 December 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; and
  - ii. the temporary fencing shall be removed and the common restored within one month of full completion of the works.
2. For the purposes of identification only the location of the works is shown as a broken red line on the attached plan.

## Preliminary Matters

3. I have had regard to Defra's Common Land Consents Policy<sup>1</sup> 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 Natural England (NE) and the Open Spaces Society (OSS).
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);

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

- 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***

7. The landowner, Mrs Christine Stott, has been consulted and has not objected to the application. The applicant confirms that rights of grazing, herbage, turbary and estovers are registered and exercised over the common. The commoners and those with easements and rights of access over the common have been consulted about the application and none have objected. Given that the works are located at the edge of the common and are of short duration, I am satisfied that they 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 unacceptably interfere with the way the common is used by local people. The proposed works will replace an existing overhead electricity line near neighbouring properties with new underground low voltage cables and are needed to resolve safety issues and improve reliability. The works will be undertaken in sections of no more than 50 m and are expected to last 10 days. Temporary fencing will be used to protect the public from the excavated area.
9. I note that the OSS does not object to the application. I accept that the works are needed on the common and that fencing is required to meet health and safety requirements. I do not consider that the works will unduly interfere with access or local people's use of the common. I am satisfied that the works will not have a significant or lasting impact on the common and will not harm the interests of the neighbourhood or public rights of access.

### ***Nature conservation***

10. NE confirmed that they had no comments to make about the application and there is no evidence before me to indicate that the works will harm nature conservation interests.

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

11. The works are located in the Chilterns Area of Outstanding Natural Beauty (AONB). The underground cables will replace an unsightly overhead line which will be removed. All permanent works are underground and the common will be reinstated upon completion of the works. I am satisfied that the works will help improve the appearance of the landscape and enhance the natural beauty of the AONB.

### ***Archaeological remains and features of historic interest***

12. There is no evidence before me to indicate that the proposed works will harm any archaeological remains or features of historic interest.

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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.

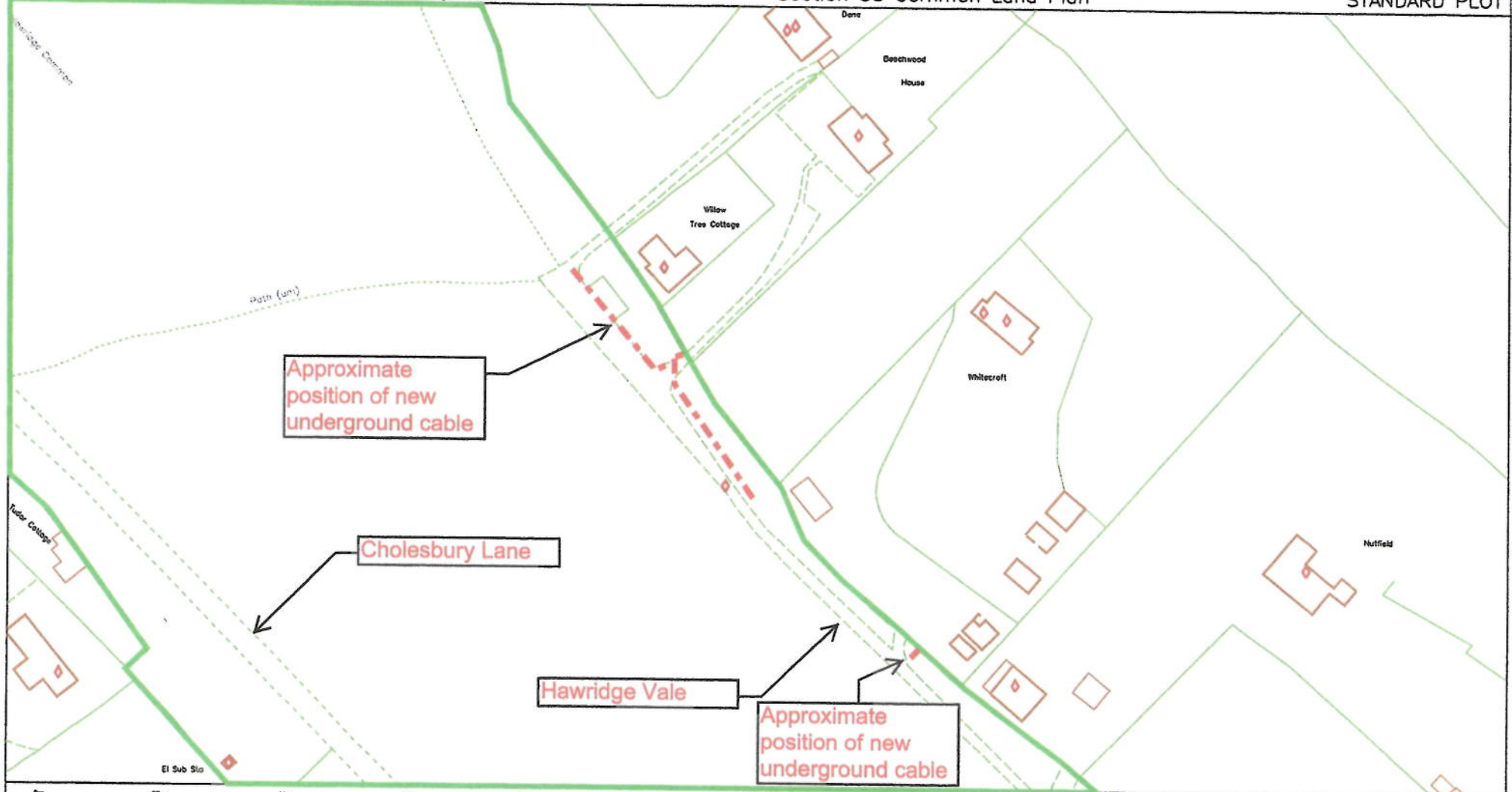
## **Other relevant matters**

13. Defra's policy guidance advises that 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 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 works accord with the policy guidance.

## **Conclusion**

14. I conclude that the proposed works will not have a significant or lasting impact or harm the interests set out in paragraph 6 above and will confer a public benefit by securing the electricity supply and by enhancing the appearance 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 signs, 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 damages, 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 accuracy 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 : SP9406NE  
 Scale 1:1250  
 (When Plotted at A4)  
 Plotted on : 07/12/2018  
 Plotted by : Ali Waugh

IF IN DOUBT - ASK! PHONE 0800 056 5666  
**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 G55

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.