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# Application Decision

**by Richard Holland**

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

Decision date: 17 April 2019

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**Application Ref: COM/3223577**  
**Rye Common (Part) and Hillside Common (Part), Hampshire**

Register Unit No: CL 194

Commons Registration Authority: Hampshire County Council

- The application, dated 20 February 2019, 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 SSE Telecommunications Limited (SSET) on behalf of Southern Electric Power Distribution PLC (SEPD).
  - The works comprise installation of two ducts either side of the access track from Coxmoor Wood substation to two new chambers. The right-hand side works will occupy an area of approximately 564 m<sup>2</sup> and the left-hand-side works will occupy an area of approximately 560 m<sup>2</sup>. Temporary fencing will be in place for the duration of the works which is approximately 4 weeks.
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## Decision

1. Consent is granted for the works in accordance with the application dated 20 February 2019 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 from full completion of the works.
2. For the purposes of identification only the location of the works is shown as parallel red lines 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 Historic England (HE) and the Open Spaces Society (OSS).

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

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;<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, Hampshire County Council, has been consulted and has not objected to the application. There is one right of estovers registered over the common. The applicant confirms that the right is exercised. The commoner has been consulted and has not objected the works. I am satisfied that there is no indication that the works will 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 are needed to improve control and safety of local electricity network between substations and Scottish & Southern Electricity Networks (SSEN)'s control room. Temporary fencing will be erected around the open excavations to protect the public.
9. As the works are located at the edge of the common, are of short duration and will temporarily enclose only a very small area as a proportion of the common as a whole I do not consider that they 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. There is no evidence before me to indicate that the works will harm nature conservation interests.

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

11. The applicant explains that there is only one main access track to the substation. The works follow a direct route to the substation, either side of the access track, to limit the environmental impact on the surrounding area. The common will be reinstated and all areas of the verge top soiled and reseeded upon completion of the works. I am satisfied that the works will have no significant or lasting impact and will conserve the landscape in the long term.

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

12. HE confirmed that it had no comments to make about the application and 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 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 ... 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 local electricity network. Consent is therefore granted for the works subject to the conditions set out in paragraph 1.

**Richard Holland**

Key:

Common Land  
Proposed Works



Notes:

Grantor:

N/A

Signed:

Date:

Location:

Land North of Farnham Road, Farnham, Hampshire, GU10 5DD

NGR: SU 7828 5048

Scheme Name:

BT21CN - Coxmoor Wood

Drawing Name:

Commons Application Plan

Drawing No: 181567\_PLN\_CAP\_4.1

Rev	Date	Description
-	12.02.2019	First Issue

Drawn:	SG
Approved:	HG
Sheet No:	1 of 1
Sheet Size:	A3

