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# Application Decision

**by Richard Holland**

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

Decision date: 11 June 2019

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**Application Ref: COM/3225691**

**St. Agnes Beacon, Cornwall**

Register Unit No: CL 567

Commons Registration Authority: Cornwall Council.

- The application, dated 25 March 2019, is made under Section 23 of National Trust Act 1971 (the 1971 Act) for consent to carry out restricted works on common land.
  - The application is made by Western Power Distribution (South West) Plc.
  - The works comprise the laying of 245 m of underground electricity cables and the removal of 408 m of existing overhead lines and poles. The working area will be protected by double clipped barrier system. The works are temporary for 4 months.
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## Decision

1. Consent is granted for the works in accordance with the application dated 25 March 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 barriers 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 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 23, 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 representation made by 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 National Trust, as landowner, has been consulted and confirms that the works are 'desirable' under section 23 of the 1971 Act. There are no rights registered over the common. I am satisfied that the works will not harm the interests of those occupying the land and the interests of those having rights over the land is not at issue.

### ***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 with the way the common is used by local people. The proposed works will replace an existing overhead electricity line with an underground cable. The cable will be laid using an open cut trenching technique. Temporary barriers of no more than 30 m x 5 m at any one time will enclose the site to protect the public during working hours. The trench will be backfilled daily and barriers only used to enclose limited onsite machinery/materials outside of working hours. The OSS supports the application as it considers the works beneficial to the landscape and people's enjoyment of the common.
9. I am satisfied that the relatively limited area of common impacted and the short duration of the works will not unacceptably interfere with how the public and local people use the common. Indeed, the interests will, in the long term, benefit from the removal of the above ground electrical apparatus and the resulting improvements to the visual amenity of the common.

### ***Nature conservation***

10. The applicant confirms that all the recommendations made in an Ecological Walkover Report (20 July 2018) will be adhered to. I am satisfied that there is no evidence before me to indicate that the works will harm nature conservation interests.

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

11. The common is within an Area of Outstanding Natural Beauty (AONB). The applicant explains that it is working with Cornwall AONB to identify AONBs that would benefit from having overhead lines and poles removed and replaced with underground cables. The common has been identified as an area that will benefit from uninterrupted views of the AONB, coastline and historic mining features.
12. I note that a Screening Opinion Request dated 9 January 2019 submitted by the applicant concludes that the works will not have a significant impact on the environment. I consider that the impact of the works will be minimised by the working methodology which includes works being undertaken in small sections, open trenching backfilled daily and all sub soil and top soil replaced and left to allow for natural compaction and regrowth. I am satisfied that the works will, in the long term, improve the appearance of the landscape and enhance the natural beauty of the AONB.

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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.

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

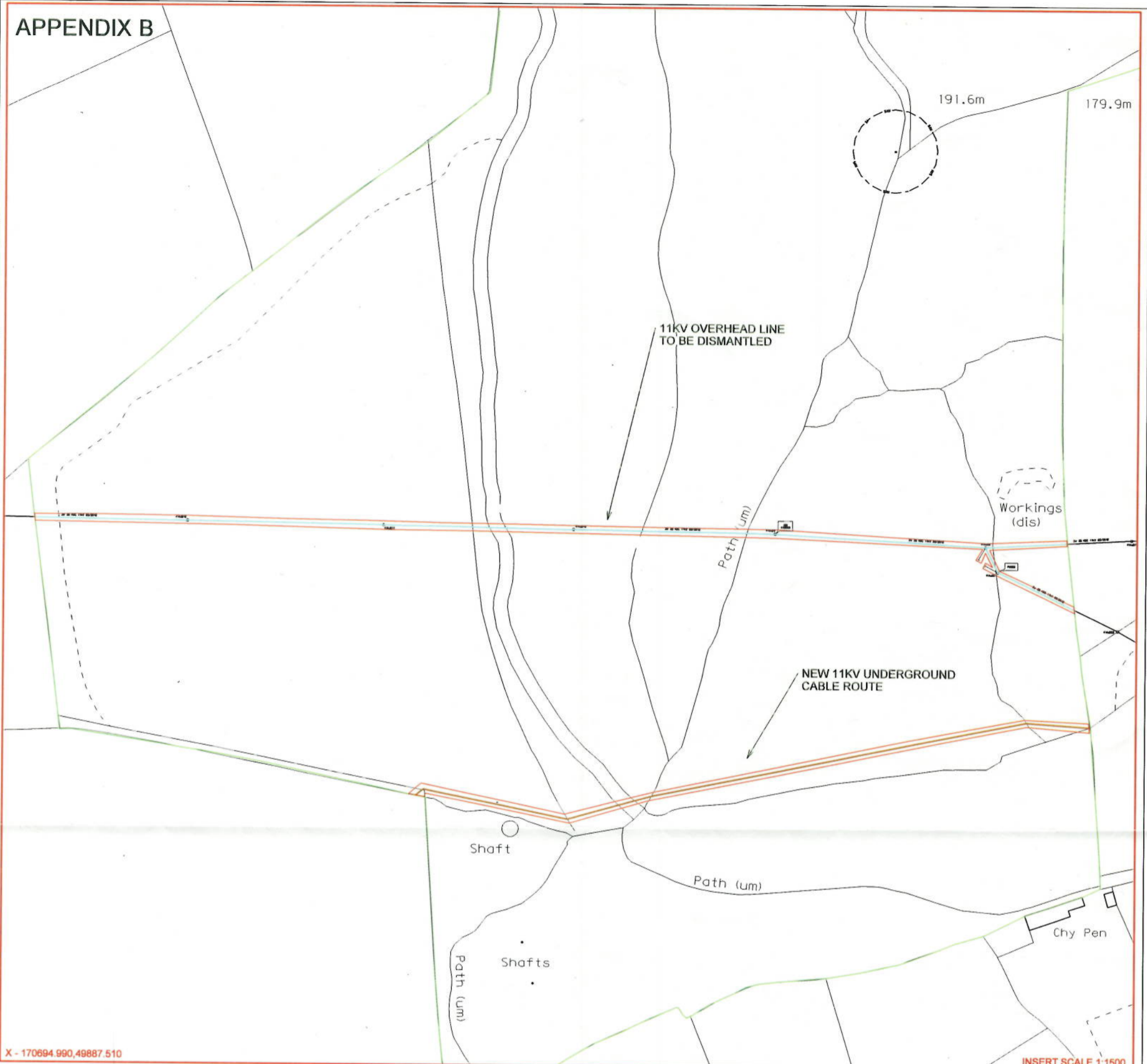
13. The common is part of the Cornish Mining World Heritage Site. The applicant confirms an archaeological watching brief will be carried out in accordance with the recommendations of the Rapid Archaeological Impact Assessment to minimise any impact on site. In view of the applicant assurances, I am satisfied that the works will not have a lasting or significant impact on archaeological remains or features of historic interest and the historic mining features of the area.

### **Conclusion**

14. I conclude that the proposed works will enhance the way in which the common is used by local people and its appearance and will not harm the other interests set out in paragraph 6 above. Consent is therefore granted for the works subject to the conditions set out in paragraph 1.

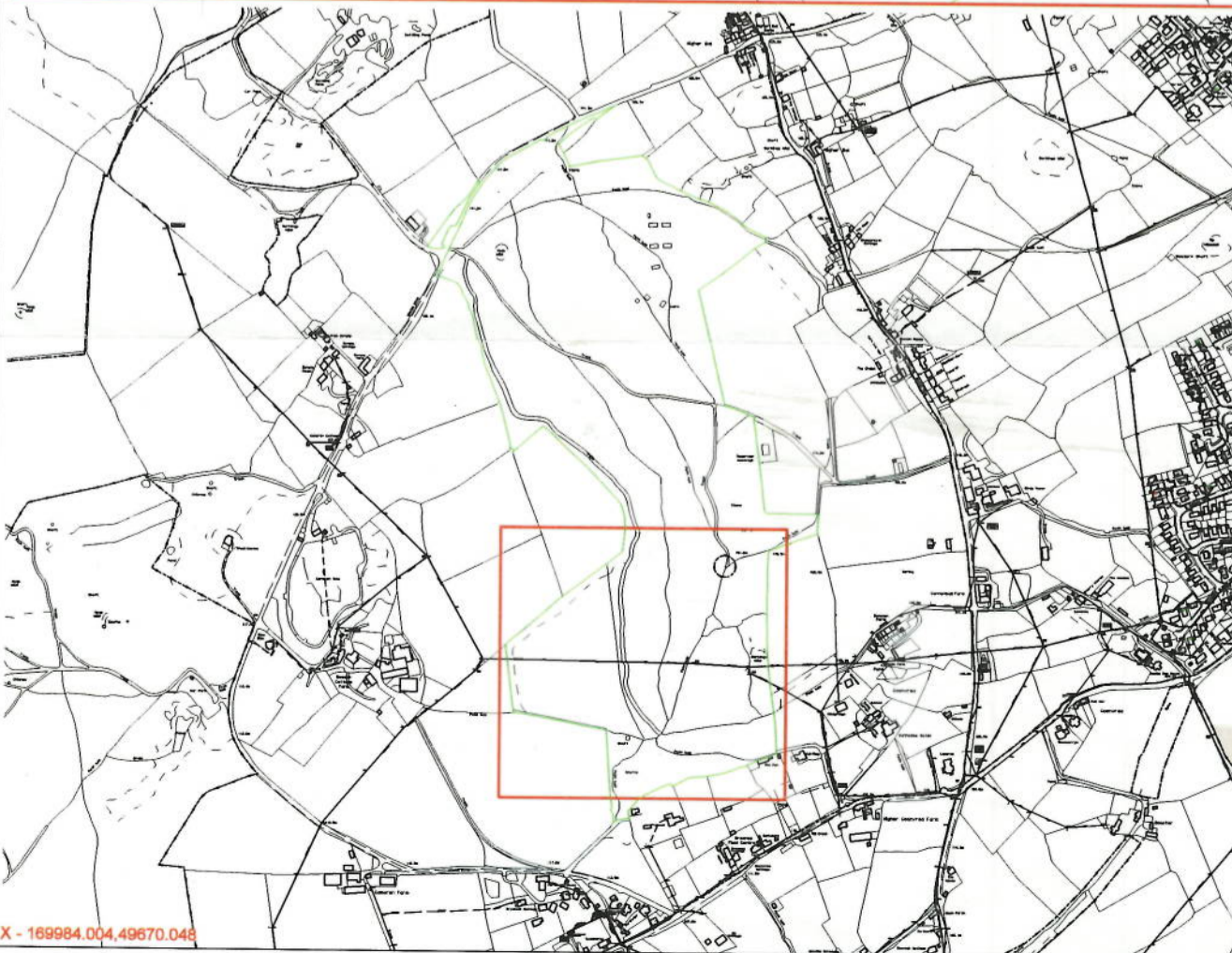
**Richard Holland**

APPENDIX B



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SIGNATURE :		
DATE :		
<p><b>WESTERN POWER DISTRIBUTION</b> Serving the Midlands, South West and Wales</p>		
	TITLE:	<ul style="list-style-type: none"> <li>• ST AGNES BEACON</li> <li>• 11KV UNDERGROUNDING</li> <li>• COMMON LAND CONSENT</li> </ul>
	DRAWING NUMBER	• 2542096CLC
	REVISION	•
	GRID REFERENCE	• SW7050
DATE • 07.02.2019	SCALE 1:10000 @ A3	
SUBSTATION SITE/THE PROPERTY (SIDE A-B=FRONT UNLESS STATED OTHERWISE)		
ACCESSWAY	5	
UNDERGROUND ELECTRIC LINES & ACCESSWAY	11	
PROPERTY TO BE SOLD BY WPD	98	
LICENCED LAND	17	
UNDERGROUND ELECTRIC LINES	3	
OVERHEAD ELECTRIC LINES	118	
OVERHEAD ELECTRIC LINES & ACCESSWAY	20	
OVERHEAD & UNDERGROUND ELECTRIC LINES	13	
OVERHEAD LINE BEING DISMANTLED	30	
PROPERTY BOUNDARY	7	
TOWER/PYLON POSITION <input checked="" type="checkbox"/>	POLE POSITION <input type="checkbox"/>	
STAY POSITION <input type="checkbox"/>		
UNDERGROUND CABLE POSITION		
OVERHEAD LINE POSITION		

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