



Application Decision

by Richard Holland

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

Decision date: 7 November 2019

Application Ref: COM/3234295

Lane End and Green Street Green, Kent

Register Unit No: CL 69

Commons Registration Authority: Kent County Council

- The application, dated 10 July 2019, 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 (UK) Ltd for UK Power Networks.
 - The works of approximately two weeks duration comprise:
 - i. underground installation of approximately 38m of new low voltage electricity cable;
 - ii. removal of a section of overhead line; and
 - iii. temporary plastic security/safety fencing (approximately 1m high) enclosing an area of approximately 120 square metres during the period of works.
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Decision

1. Consent is granted for the works in accordance with the application dated 10 July 2019 and the plans 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 fencing shall be removed, and the land shall be fully reinstated, within one month from the completion of the works.
2. For the purposes of identification only, the location of the proposed works is shown on the attached plan.

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.
5. I have taken account of the representations made by Natural England (NE) and the Open Spaces Society (OSS), neither of which object to the application.

¹ 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;² and
 - d. any other matter considered to be relevant.

Reasons

The interests of those occupying or having rights over the land

7. The land is owned by Darenth Parish Council, which was consulted about the application but did not comment. Kent County Council has confirmed that the common land register for CL 69 has no Rights section and that there are no registered rights of common. The Land section of the register records that The Church Commissioners for England claim to be entitled to the rights and interests of the Lord of the Manor. It also records that Kent County Council and Herbert and Gertrude Wingrove claim a right of vehicular access over the common to School House and to OS field 485 respectively. All were consulted but did not comment. I am satisfied that the works are unlikely to harm the interests of those occupying or having rights over the land.

The interests of the neighbourhood and public rights of access

8. 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.
9. The common comprises sections of grassed roadside verge along approximately 2.5km of the B260 and B262 roads between the villages of Lane End and Green Street Green. The verges vary greatly in width and are widest at the Green Street Green end where the works are proposed. The section of verge concerned is approximately 80m wide and I consider it to be a large open space of good recreational value to the neighbourhood.
10. The new underground cable will serve five properties situated just outside the common land boundary. It is needed to secure the electricity supply as there are safety issues with the existing overhead line such that it needs to be removed.
11. The application plan shows that most of the cable route within the common land boundary will be under the hard-surfaced access track that serves the properties, thus minimising the area of green space that will need to be temporarily disturbed and enclosed to install the cable. The permanent works will be at the edge of the common and entirely underground. All temporary fencing will be removed once the works are completed, which is expected to be within approximately two weeks. I conclude that the works will not have an unacceptable or lasting impact on local use of, and public access over, the common.

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

12. In making its representation NE made no comments about nature conservation. There is no evidence before me to suggest that the works will impact on any designated sites or harm any other nature conservation interests.

Conservation of the landscape

13. The common has no special designated landscape status but has value as an open green space. I consider the cable undergrounding works to be in the interests of the landscape as they will allow unsightly overhead lines to be removed. NE and OSS raised no objections to the proposals subject to the land being suitably reinstated on completion of the works. The applicant has confirmed that the land will be reinstated, which can be ensured by attaching a suitable condition to the consent. I conclude that although the plastic fencing will cause some visual harm in the short-term the works will be of long-term benefit to the landscape.

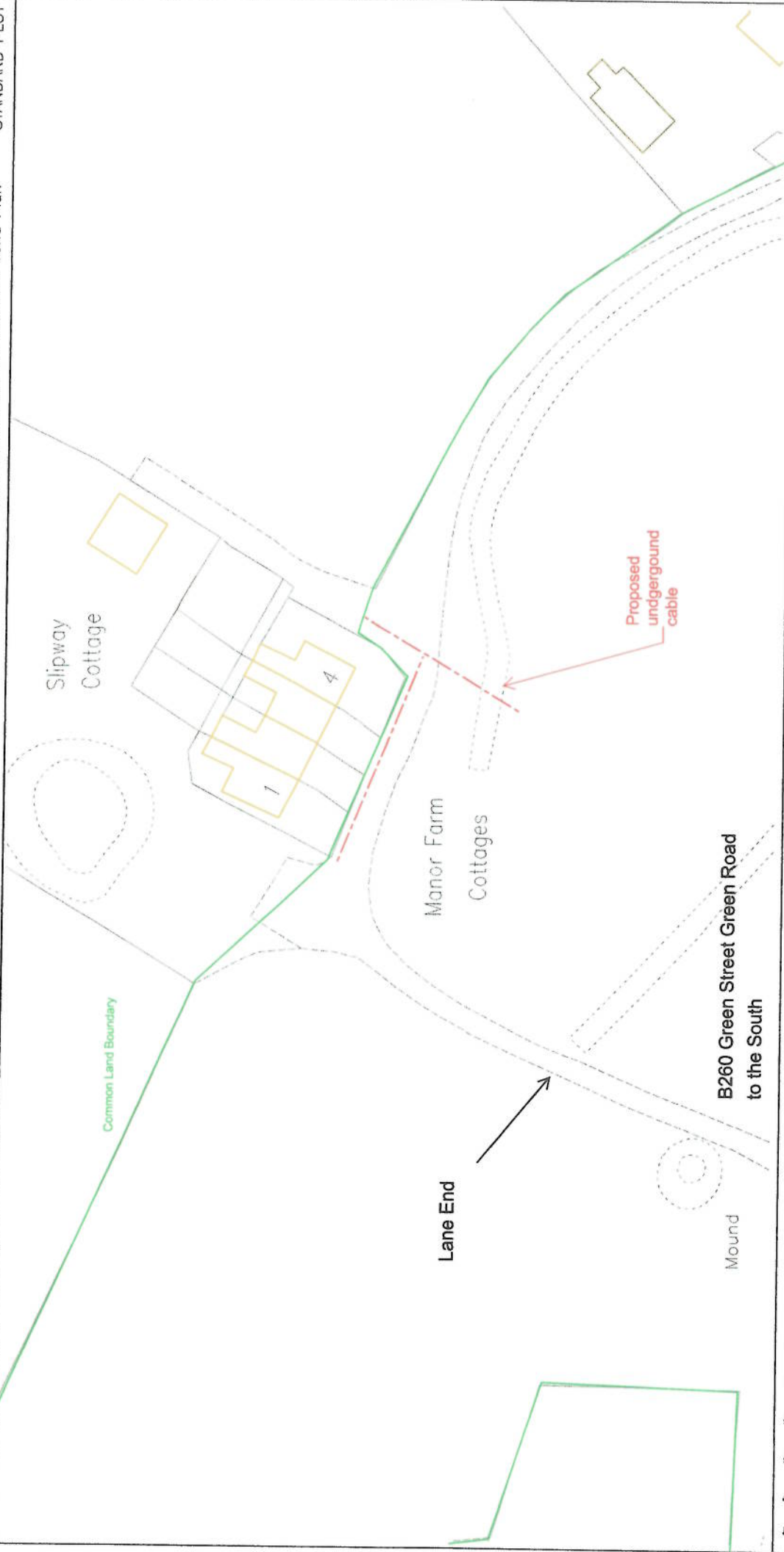
Archaeological remains and features of historic interest

14. Kent County Council's Historic Environment Record Officer advised the applicant that the potential for the proposed works to impact on archaeological remains is limited. There is no evidence before me to suggest that the works will harm any such remains or features of historic interest.

Conclusion

15. I conclude that the proposed works will not significantly harm the interests set out in paragraph 6 above; indeed, the removal of overhead lines will improve both the appearance of the landscape and the reliability of a safe electricity supply. Consent is therefore granted for the works subject to the conditions set out in paragraph 1.

Richard Holland



<p>Grid Ref: TQ 58471 70850 Map Centre: TQ5870NW Scale: 1:500 (when Plotted at A3) Plotted on: 06/06/2019 Plotted by: Ali Waugh</p>	<p>UK Power Networks</p>	<p>Plan Provision</p> <p>CHECK IT OUT BEFORE YOU DIG IT OUT CALL 0800 056 5666 EMERGENCY: 0800 056 5666 or 999 Phone 0800 056 5666 (4444) URGENTLY</p>	<p>ALWAYS LOOK UP BEFORE YOU START Refer to HSE Guidance note 056</p>
<p>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.</p>	<p>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, or where such death or personal injury is caused by its negligence. 3. Subject to paragraph 2, UK Power Networks shall be liable to you in contract, in tort (including negligence), for breach of statutory duty or otherwise for any loss or damage, including consequential loss or damage, suffered by you or any third party as a result of using the information provided, or for any economic loss (including without limitation loss of profit, loss of opportunity, loss of reputation or for any economic loss (including without limitation loss of consequential loss or damage) whatsoever, if the information provided to you is incorrect. 4. This plan has been provided to you on the basis of the terms of use set out in the covering letter that accompanied it. You must not use the plan and you must return it to UK Power Networks if you are not the named addressee. 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.</p>	<p>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 any work, you must check the records to determine the location of all known underground plant and equipment.</p>	<p>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 any work, you must check the records to determine the location of all known underground plant and equipment.</p>
<p>1. The position of the apparatus shown on this drawing is believed to be correct but the exact position of the apparatus should be verified by the use of appropriate cable evidence tools prior to excavation using suitable hand tools. 2. The exact position of the apparatus should be verified by the use of appropriate cable evidence tools prior to excavation using suitable hand tools. 3. It must be assumed that each piece of property and item of street furniture has an electricity supply. Service cables shown only where known. 4. It must be assumed that each piece of property and item of street furniture has an electricity supply. Service cables shown only where known. 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 equipment. Do not use plans more than 3 months after the issue date for excavation 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.</p>	<p>1. The position of the apparatus shown on this drawing is believed to be correct but the exact position of the apparatus should be verified by the use of appropriate cable evidence tools prior to excavation using suitable hand tools. 2. The exact position of the apparatus should be verified by the use of appropriate cable evidence tools prior to excavation using suitable hand tools. 3. It must be assumed that each piece of property and item of street furniture has an electricity supply. Service cables shown only where known. 4. It must be assumed that each piece of property and item of street furniture has an electricity supply. Service cables shown only where known. 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 equipment. Do not use plans more than 3 months after the issue date for excavation 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.</p>	<p>1. The position of the apparatus shown on this drawing is believed to be correct but the exact position of the apparatus should be verified by the use of appropriate cable evidence tools prior to excavation using suitable hand tools. 2. The exact position of the apparatus should be verified by the use of appropriate cable evidence tools prior to excavation using suitable hand tools. 3. It must be assumed that each piece of property and item of street furniture has an electricity supply. Service cables shown only where known. 4. It must be assumed that each piece of property and item of street furniture has an electricity supply. Service cables shown only where known. 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 equipment. Do not use plans more than 3 months after the issue date for excavation 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.</p>	<p>1. The position of the apparatus shown on this drawing is believed to be correct but the exact position of the apparatus should be verified by the use of appropriate cable evidence tools prior to excavation using suitable hand tools. 2. The exact position of the apparatus should be verified by the use of appropriate cable evidence tools prior to excavation using suitable hand tools. 3. It must be assumed that each piece of property and item of street furniture has an electricity supply. Service cables shown only where known. 4. It must be assumed that each piece of property and item of street furniture has an electricity supply. Service cables shown only where known. 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 equipment. Do not use plans more than 3 months after the issue date for excavation 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.</p>