
Application Decision

by Richard Holland

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

Decision date: 17 December 2019

Application Ref: COM/3234303
Yateley Common, Yateley, Hampshire

Register Unit No: CL 24

Commons Registration Authority: Hampshire County Council.

- The application, dated 17 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 Dalcour Maclaren Ltd for Southern Electric Power Distribution.
 - The works of approximately one week's duration at each of two sites comprise:
 - i. underground installation of two sections of 11kv cable (approximately 14.5m and 4m); and
 - ii. temporary 6ft high Heras safety/security fencing enclosing two areas (290m² and 80m²) for the duration of the works.
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Decision

1. Consent is granted for the works in accordance with the application dated 17 July 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 common shall be restored and all fencing removed within one month from the completion of the works.
2. For the purposes of identification only the location of the works is shown in red on the attached plans.

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 the Open Spaces Society (OSS), Historic England (HE) and Hampshire County Council Historic Environment Team, none of which object to the application.
6. I am required by section 39 of the 2006 Act to have regard to the following in determining this application:-

¹ Common Land Consents Policy (Defra November 2015)

- 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 works are proposed for two separate sites. The larger works are within an area of the common to the north of the B3272 Reading Road known as Darby Green Playing Fields, which is owned by Yateley Town Council. The smaller works are at land south of the B3272 off of Stroud Lane, which is owned by Hampshire County Council. Both were consulted by the applicant but did not comment. I am satisfied that the works are unlikely to harm the interests of either Council.
8. The common land register records numerous rights of grazing, turbury, estovers, common in the soil, pannage and piscary over the common. The applicant says a check of the register indicated that no rights are exercised over the two areas of land concerned and I consider that this is likely to be the case, especially over the Playing Fields. Even if rights are exercised, I consider that the short duration of the works will not seriously harm rights holder interests.

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

9. In each case the works are required to upgrade the existing electricity network due to a high number of faults in the local area. The interests of the neighbourhood test relates to whether the works will unacceptably interfere with the way the common land is used by local people and is closely linked with the interests of public access.
10. The larger site is at the edge of Darby Green Playing Fields and, as such, would seem to have little recreational value other than for general access. The applicant confirms that pedestrian and vehicular access to the Playing Fields and its car park will remain open whilst the works take place. The smaller site lies between Stroud Lane and the property known as Bluebells. Vehicular access will be restricted during the Stroud Lane works but local residents will be given notice and emergency access will be maintained.
11. As the permanent works will be entirely underground and all fencing will be removed once the works are completed, which is expected to be within a week or so, I conclude that the works will not have an unacceptable or lasting impact on local and public access rights over the common.

Nature conservation

12. Much of Yateley Common lies within the Castle Bottom to Yateley and Hawley Commons Site of Special Scientific Interest (SSSI) and the Thames Basin Heaths Specially Protected Area (SPA). Natural England (NE) was consulted by the applicant about the proposals but did not comment on them.
13. Darby Green is not within the designated SSSI/SAC area and there is no evidence to suggest that the works there will harm nature conservation interests. The Stroud Lane works are within the SSSI/SPA area and the works there could therefore have more impact on these interests. However, the scale of the works is very small, with just 4m of underground cable proposed, and I am satisfied that they are unlikely to harm the statutorily protected site or other nature conservation interests.

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.

Conservation of the landscape

14. The works will leave no above ground features. The fencing will be removed and the land will be re-instated upon completion of the works, which can be ensured by attaching a suitable condition to the consent. I am satisfied that the works will have no long-term impact on the landscape.

Archaeological remains and features of historic interest

15. HE considers that, on the basis of the information provided, it is not necessary for the application to be notified to HE under the relevant statutory provisions. Hampshire County Council's Historic Environment Team advises that there are no issues they wish to raise. There is no evidence before me that leads me to think the works will harm the above interests.

Other relevant matters

16. 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.....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

17. I conclude that the proposed works will not harm the interests set out in paragraph 6 above and will confer a public benefit by ensuring a safe and secure electricity supply to the local community. Consent is therefore granted for the works subject to the conditions set out in paragraph 1.

Richard Holland



Location Plan 0 115 230 Meters Scale: 1:5,000



Site Plan 0 25 50 75 100 125 Meters Scale: 1:500



- Key:**
- Working Area
 - Easement
 - Common Land
 - SSSI

Notes:

Coordinate System: British National Grid
 Projection: Transverse Mercator
 Datum: OSGB 1936

Grantor:
 Hampshire County Council

Signed:

Date:

Location:
 Land adjacent to Stroud Lane, Blackwater,
 Camberley Surrey
 GU17 0AW

Coords: 483,377 159,492
 Scheme Name:
 UGOH 72000 - Darby Green

Drawing Name:
 Information Plan

Drawing No: 170836_PLN_INFO_2:1_A

Rev	Date	Description
-	02.07.2019	First Issue
A	15.07.2019	Second Issue - Adding SSSI

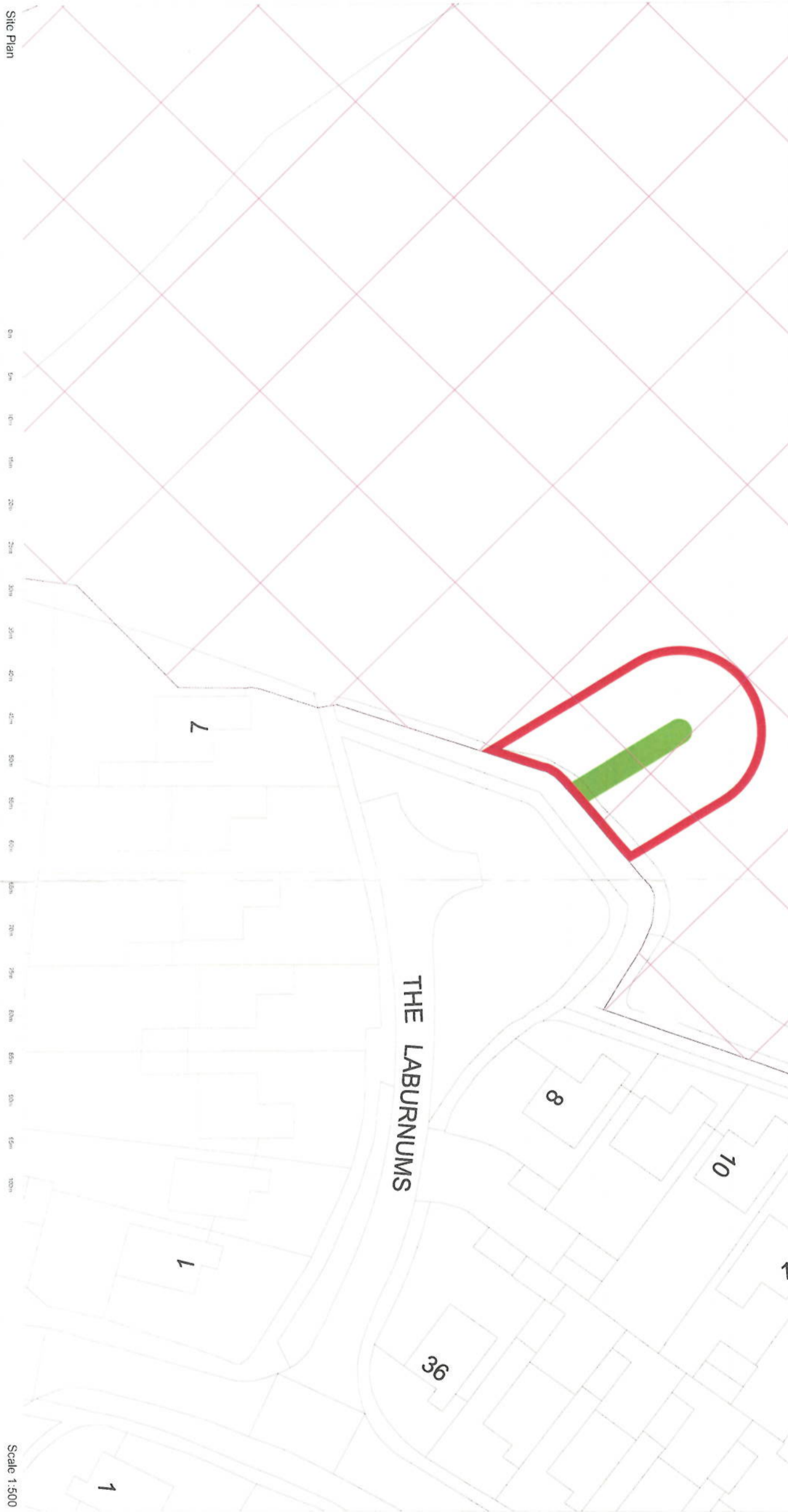
Drawn: LM / TF
 Approved: ZG
 Sheet No: 1 of 1
 Sheet Size: A3



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- Key:
- Easement
 - Common Land
 - Working Area

Notes:



Interest:
N/A

Location:
Land adjacent to The Laburnums,
Blackwater, Camberley,
Hampshire, GU17 0EF

Coords: 483630, 160184

Scheme Name:
UGOH 72000 Darby Green

Drawing Name:
Information Plan

Drawing No: 170836_PLN_INFO_1.1

Rev	Date	Description
-	26.06.2019	First Issue

Drawn: PUJ
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