



Application Decision

by Richard Holland

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

Decision date: 1 July 2020

Application Ref: COM/3245094

Shere Heath, Surrey

Register Unit No: CL 197

Commons Registration Authority: Surrey County Council

- The application, dated 10 January 2020, 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 Fisher German LLP for UK Power Networks.
 - The works of up to approximately 5 weeks duration comprise:
 - i. underground installation by open trench of approximately 481m of new high and low voltage electricity cables and above ground installation of a replacement pole and support stay;
 - ii. removal of 12 spans of overhead line (4 x high voltage, 8 x low voltage), 13 poles, three support stays and one pole mounted transformer; and
 - iii. temporary Heras fencing or orange warning safety fencing as necessary during the period of works.
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Decision

1. Consent is granted for the works in accordance with the application dated 10 January 2020 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 in red 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. I have taken account of the representations made by Surrey Hills AONB Board, which supports the application, and the Open Spaces Society (OSS) and Historic England (HE), which do not object to the application.

¹ Common Land consents policy (Defra November 2015)

5. 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

6. The application land has a number of owners, all of whom were consulted about the application. The common land register records one right to graze 25 horses and two cows, together with the right of turbary. The applicant advises that the right is not exercised but that the rights holder was consulted. Thames Water, which has access rights, and a leaseholder, Kelly's Removals & Transport (Guildford) Ltd, were also consulted. None of the above have commented on the application.
7. There is no evidence to suggest that the works are likely to harm the interests of those occupying or having rights over the land (and in particular persons exercising rights of common over it).

The interests of the neighbourhood and public rights of access

8. Consent for the works is sought to address health and safety issues due to there being climbable trees close to the overhead electricity lines; this poses a risk of electrocution to those who may climb the trees. 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 on foot. The application land occupies a wooded triangular area of 6.4 hectares bounded to the east by Hound House Road and to the south by the road known as Parklands. The third side is bounded by the railway line between Chilworth and Gomshall. The application plan shows two linked footpaths running through the application site, providing public access from all three sides, and I consider it likely that the land is well used for recreation by local people.
9. The works will take place across most of the application land but only areas immediately surrounding sections of trench and material storage (e.g. cable drums) will be fenced. Public access to most of the triangle will therefore be maintained throughout the duration of the works, albeit mainly from Hound House Road, which will remain largely unfenced. A traffic management plan for the works, which may include fenced walkways and a crossing point from the common to Parklands, will be in place to ensure safe access around the works for pedestrians
10. I am satisfied that public access to the application land will be maintained as far as is practically possible during the works. As the permanent works will be entirely underground (apart from the replaced pole and stay) and all fencing will be removed once

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 works are completed, which is expected to be within 5 weeks, I conclude that the works will not have an unacceptable or lasting impact on local and public access rights over the common.

The public interest

Nature Conservation

11. Natural England was consulted about the application but did not comment and there is no evidence before me that leads me to think the works will harm any statutorily protected sites or other nature conservation interests. The climbable trees have hitherto been cut back to maintain the required clearance; this will no longer be needed once the overhead cables are removed. The applicant suggests that allowing the trees to grow undisturbed will be of benefit to local wildlife and I consider that this is likely to be the case.

Conservation of the landscape

12. The landscape will be improved by the removal of visually intrusive overhead electrical lines and poles, which will be made possible by the laying of new underground cables. Whilst the fencing will cause some visual harm, it will be short term and the land will be re-instated upon completion of the works, which can be ensured by attaching a suitable condition to the consent.
13. The application land lies within the Surrey Hills Area of Outstanding Natural Beauty (AONB). The AONB Board fully supports the proposed works as they will enhance the landscape in accordance with national and local planning policies, including the Surrey Hills AONB Management Plan 2020-2025. I agree and am satisfied that the works will enhance the natural beauty of the AONB.

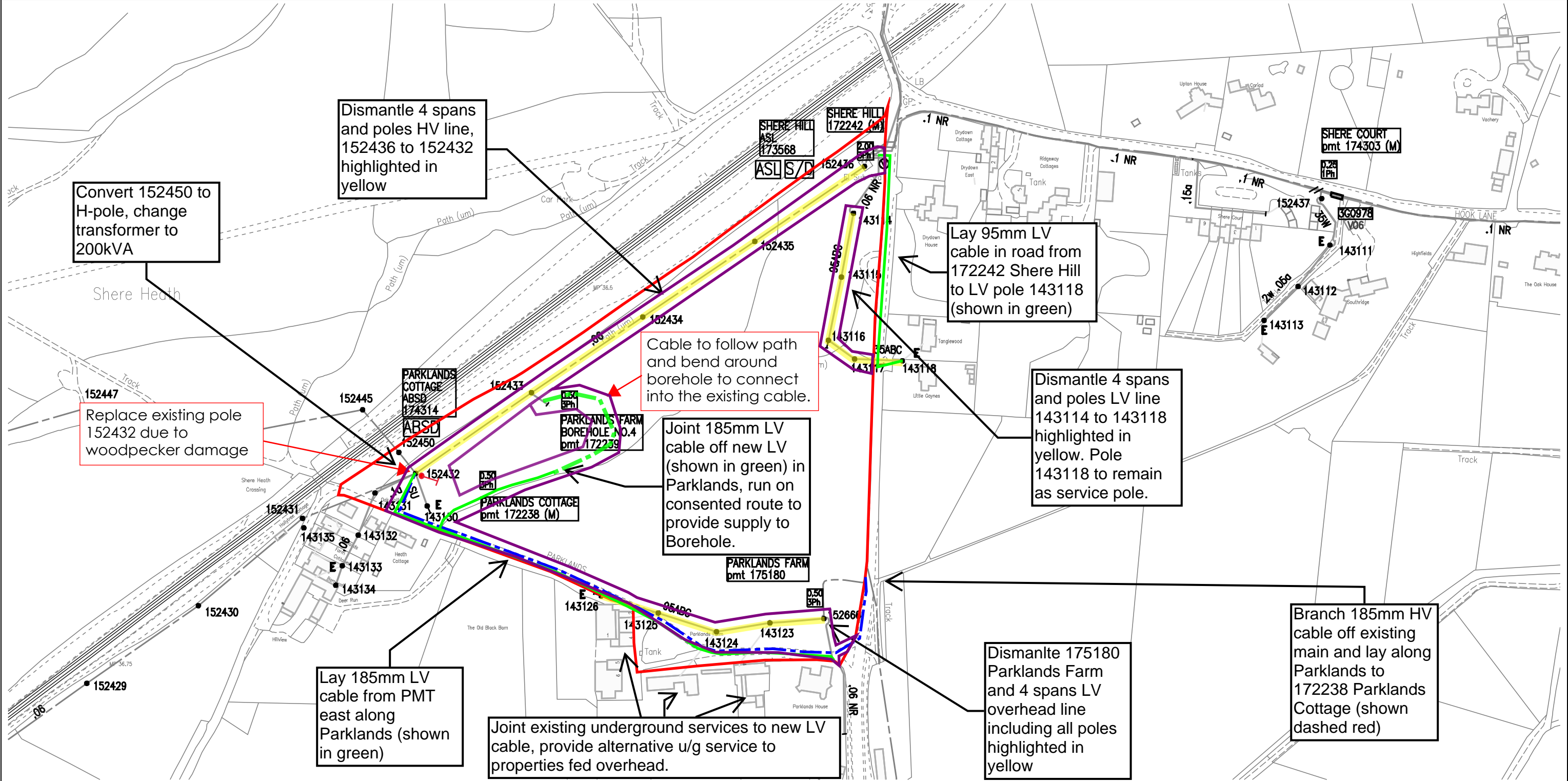
Archaeological remains and features of historic interest

14. HE advised that, having considered the information received when consulted, it did not wish to offer any comments. There is no evidence before me to suggest that the works will harm any archaeological remains or features of historic interest.

Conclusion

15. I conclude that the proposed works will not significantly harm the interests set out in paragraph 5 above; indeed, the removal of overhead lines will improve the landscape and eliminate electrocution risks to those who may climb the nearby trees. Consent is therefore granted for the works subject to the conditions set out in paragraph 1.

Richard Holland



0m

70m

140m

210m

280m

360m

Site of proposed works

High Voltage Cable

Low Voltage Cable

Pole and stay

Overhead lines and pole to be removed

Indicative fenced areas

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 each 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 plant & equipment. Do not use plans 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.

VISITING AN OPEN POINT? Please mark on this plan all locations visited and open points as found, then return updated map to your Business Unit – Thank You.

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 negligence), for breach of statutory duty or otherwise for any loss, damage, cost, claims, demands, 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 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.

Contact UK Power Networks on 0800 056 5866 for details of EHV Cable routes before commencing work.

Grid Ref: TQ 07267 46827

Map Centre: TQ0746NW

Scale: 1:2500

(when Plotted at A3)

Plotted on: 11/10/2019

Plotted by: Love, Derek

Plan Provision

CHECK IT OUT BEFORE YOU DIG IT OUT

CALL 0800 056 5866

EMERGENCY– If you damage a cable or line

Phone 0800 096 3766 (24hrs) URGENTLY

LOOK OUT

LOOK UP

ALWAYS LOOK UP BEFORE YOU START WORK

Refer to HSE Guidance note GS6

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