

Application Decision

by Richard Holland

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

Decision date: 17 June 2020

Application Ref: COM/3249814

Cow Paddle, Lincolnshire

Register Unit No: CL 1

Commons Registration Authority: Lincolnshire County Council.

- The application, dated 20 March 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 Western Power Distribution (East Midlands) Plc.
 - The works comprise the laying of 1764 m underground electricity cables. The working area will be protected by 2650 m of 2 m high heras type fencing panels during the construction phase (12 to 18 months).
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Decision

1. Consent is granted for the works in accordance with the application dated 20 March 2020 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 outlined 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.
5. I have taken account of the representations made by North Kesteven District Council and Virgin Media Ltd.
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 applicant has advised that the landowner, The City of Lincoln Council, fully supports the proposed works and has agreed to grant permanent easement rights. 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 the way the common is used by local people. The proposed works are needed to improve reliability and meet the growing demands for increased electrical capacity in Lincoln city. The applicant explains that consent was granted for cabling works in December 2018 (COM/3205128 and COM/3205444) however due to complications it has been forced to amend the route. The new route is closer to the main bulk supply point substation and is intended to minimise disruption to residents and the general public during the construction phase. The applicant explains that alternative routes would have needed to pass through the city centre and require the identification of a suitable river crossing point. Temporary fencing will maintain the health and safety of the public and secure the site during construction which is expected to last up to 18 months.
9. I accept that the temporary fencing is needed for the health and safety of the public. I note that public access will be maintained to the rest of the common and nearby common land (South Common) and the applicant has advised that it is likely that the works will be carried out in smaller phases to reduce fencing on the common. The temporary fencing will be removed upon completion of the works. I am satisfied that any impact will be of short duration and will not interfere with the way the common is used by local people, and the general public, in the long term.

Nature conservation

10. The applicant confirms that an ecological survey has been completed and the recommendations 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 permanent works will be laid underground mainly using open cut trenching techniques, with a short section using directional drilling methods. Once the works are complete, the trench will be backfilled and the area reinstated to either its original condition or improved where appropriate. The ground will be levelled and prepared to accept new grass seed. Site visits will be made to check reinstatements are satisfactory and ensure that the land is

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.

fully restored. I am satisfied that as all above ground works will be removed and the common fully reinstated or improved, the landscape will be conserved in the long term.

Archaeological remains and features of historic interest

12. The applicant confirms that an archaeological survey has been completed and the recommendations will be adhered to. I am satisfied that there is no evidence before me to indicate that the works will harm archaeological remains or features of historic interest.

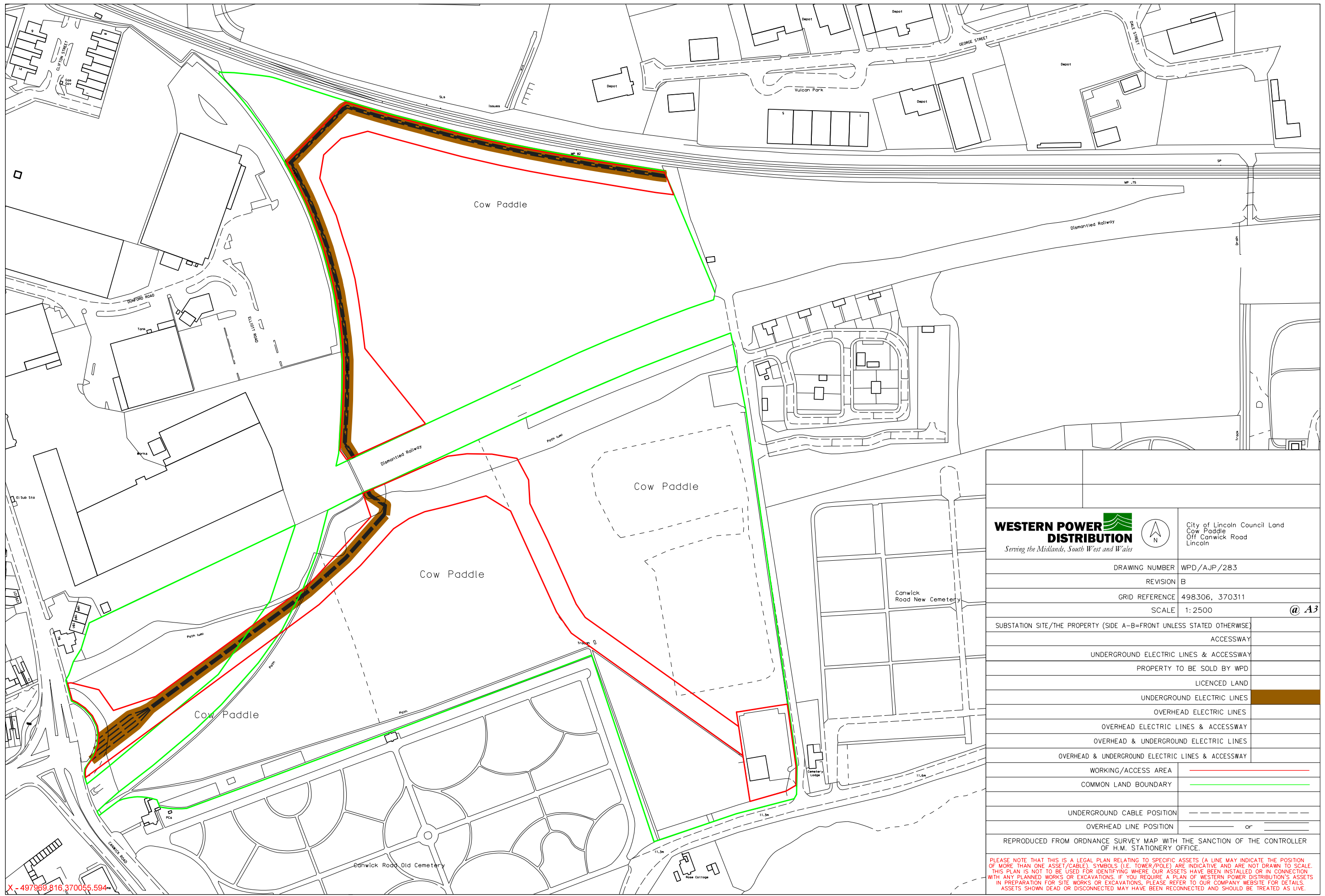
Other relevant matters

13. The applicant confirms that the assets identified by Virgin Media Ltd lie approximately 1km to the east of the site and will not be affected.
14. 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 works accord with the policy guidance.

Conclusion

15. I conclude that the works will not harm the interests set out in paragraph 6 above and will confer a public benefit by helping to improve the reliable supply of, and meet the demand for, electricity in Lincoln city. Consent is therefore granted for the works subject to the conditions set out in paragraph 1.

Richard Holland



WESTERN POWER DISTRIBUTION
Serving the Midlands, South West and Wales



City of Lincoln Council Land
 Cow Paddle
 Off Canwick Road
 Lincoln

DRAWING NUMBER	WPD/AJP/283
REVISION	B
GRID REFERENCE	498306, 370311
SCALE	1:2500 @ A3
SUBSTATION SITE/THE PROPERTY (SIDE A-B=FRONT UNLESS STATED OTHERWISE)	
ACCESSWAY	
UNDERGROUND ELECTRIC LINES & ACCESSWAY	
PROPERTY TO BE SOLD BY WPD	
LICENCED LAND	
UNDERGROUND ELECTRIC LINES	
OVERHEAD ELECTRIC LINES	
OVERHEAD ELECTRIC LINES & ACCESSWAY	
OVERHEAD & UNDERGROUND ELECTRIC LINES	
OVERHEAD & UNDERGROUND ELECTRIC LINES & ACCESSWAY	
WORKING/ACCESS AREA	
COMMON LAND BOUNDARY	
UNDERGROUND CABLE POSITION	
OVERHEAD LINE POSITION	

REPRODUCED FROM ORDNANCE SURVEY MAP WITH THE SANCTION OF THE CONTROLLER OF H.M. STATIONERY OFFICE.

PLEASE NOTE THAT THIS IS A LEGAL PLAN RELATING TO SPECIFIC ASSETS (A LINE MAY INDICATE THE POSITION OF MORE THAN ONE ASSET/CABLE). SYMBOLS (I.E. TOWER/POLE) ARE INDICATIVE AND ARE NOT DRAWN TO SCALE. THIS PLAN IS NOT TO BE USED FOR IDENTIFYING WHERE OUR ASSETS HAVE BEEN INSTALLED OR IN CONNECTION WITH ANY PLANNED WORKS OR EXCAVATIONS. IF YOU REQUIRE A PLAN OF WESTERN POWER DISTRIBUTION'S ASSETS IN PREPARATION FOR SITE WORKS OR EXCAVATIONS, PLEASE REFER TO OUR COMPANY WEBSITE FOR DETAILS. ASSETS SHOWN DEAD OR DISCONNECTED MAY HAVE BEEN RECONNECTED AND SHOULD BE TREATED AS LIVE.

X - 497959.816,370055.594

PLEASE NOTE: This plan ONLY shows assets owned by Western Power Distribution. Electricity assets owned by IDNO's (Independent Network Operators) MAY be present in this area.

Keyblock Revision 22/06/2017