



Application Decision

by **Richard Holland**

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

Decision date: **21 December 2015**

Application Ref: COM 686

All Saints Common, South Elmham, Suffolk

Register Unit No: CL15

Commons Registration Authority: Suffolk County Council

- The application, dated 9 March 2015, 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 UK Power Networks.
 - The works comprise the installation of a new H pole with transformer and low voltage underground electricity cables approximately 21 metres in length. Temporary safety fencing will be placed around the area of work.
 - The works will be located opposite Moat Farm, All Saints Common.
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Decision

1. Consent is granted for the works in accordance with the application dated 9 March 2015 and the plan submitted with it subject to the following conditions:-
 - i. the works shall begin no later than three years from the date of this decision;
 - ii. the temporary fencing shall be removed within one month of completion of the works; and
 - iii. the common shall be restored within one month of 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.
5. I have taken account of the representations made by English Heritage (now Historic England), Senior Archaeological Officer Suffolk County Council Archaeological Service, the Open Spaces Society and Natural England.

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. No person is registered in the Commons Register as the owner of the land but the land is subject to the protection of the local authority under Section 9 of the Commons Registration Act 1965 (now under section 45 of the 2006 Act). Three Saints South Elmham Parish Council, which maintains the common, has been consulted about the proposals and has not objected. Common rights holders have also been consulted and have not objected. There is no evidence before me therefore that the works will harm the interests of persons occupying or having rights over the land and I am satisfied that they will not.

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

8. The applicant has advised that the application site is in a rural location with a very limited electricity network. Nearby Moat Farm requires a new service and there is not sufficient capacity on the current transformer (which is also located on the common). The proposed location of the H pole is the nearest connection point meeting the farm's requirements and there are no other reasonable alternatives which would avoid work on the common. The scheme has been developed to be as simple as possible, utilising the existing network efficiently. The proposed work requires an excavation for both the installation of the poles and cable, so temporary safety barriers are to be used during the works for health and safety reasons which are expected to be left up for a maximum of four weeks; however they will be removed immediately once the works have been completed on site.
9. The Open Spaces Society has no objection to the application provided the common is fully reinstated after the works are completed.
10. Although free access over the common may be restricted while the works are being undertaken, this will only be to the working area immediately around the site; the rest of the common will remain accessible, and given that the cable will be installed underground, the land restored on completion of the works and the short time the safety barriers will be in place, I consider that there will be no long term harmful effect on the interests of the neighbourhood or public rights of access.

Nature Conservation

11. The applicant has advised that the site is within a Site of Special Scientific Interest impact zone. Natural England has advised that it does not see the works as having an effect on the landscape, public access or the biodiversity of the common as a whole.

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.

However, it advised that the applicant should check for the presence of any protected species present on the common and take action accordingly. Consequently, the applicant has obtained a detailed ecological report and method statement for the common, which includes mitigation measures should any protected species be present, which the applicant has said it proposes to follow. I am satisfied therefore that the works are unlikely to harm any statutorily protected sites or other nature conservation interests.

Conservation of the landscape

12. By their nature, overhead electricity supply structures will have some impact on an open landscape. However, an 11kv overhead electricity line already crosses the common and there is an H pole with a transformer on it a short distance from that proposed in the application. Furthermore, the cable will be installed underground, and the land will be restored and temporary barriers will be removed when the works are finished. I consider therefore that the visual impact of the works will not be significant.

Archaeological remains and features of historic interest

13. English Heritage has advised that it does not have any objections to the proposed works in principle, but recommended that consultation be undertaken with the Suffolk County Council Archaeological Service. The Senior Archaeological Officer Suffolk County Council Archaeological Service has advised that the works will be unlikely to have a significant impact on archaeological remains and she would not recommend that there needs to be a formal programme of archaeological work. I am content therefore that the proposed works are unlikely to harm any such remains or historic features.

14. Defra's guidance says that consent for works may be appropriate where they are of temporary duration, they will be installed underground or where their physical presence would be so slight as to cause negligible impact, the common will be restored and they confer a public benefit. The application works will not confer a public benefit as such since they serve only a single property. However, because their impact on the common and its users will be insignificant I consider that it would not be in the public interest to withhold consent.

Conclusion

15. I conclude that consent should be granted for the works subject to the conditions set out in paragraph 1.

Richard Holland