



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 739

Brewers Green Common, Roydon, Norfolk

Register Unit No: CL 190

Commons Registration Authority: Norfolk County Council

- The application, dated 30 September 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 c/o Freedom Group, Unit 8, Windmill Avenue, Woolpit Business Park, Woolpit, Suffolk IP30 9UP.
 - The works comprise: (i) removal of approximately 660m of electrical overhead line and wooden poles. (ii) installation of approximately 630m of underground low voltage electric cable to replace the overhead line (iii) installation of temporary orange plastic warning fencing (approx. height 1m) around the area of works being excavated, and (iv) backfilling and reinstatement of the land.
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Decision

1. Consent is granted for the works in accordance with the application dated 30 September 2015 and the plan submitted with it subject to the following conditions:
 - i. the works shall begin no later than 3 years from the date of this decision;
 - ii. a suitably qualified archaeologist shall be appointed to monitor and advise on any ground disturbance throughout the excavation works; and
 - iii. the temporary fencing shall be removed, and the land fully reinstated, within one month of completion of the works.
2. For the purposes of identification only, the locations of the proposed underground works are shown as a broken line highlighted in pink 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.

¹ Common Land consents policy (Defra November 2015)

5. I have taken account of the representations made by Historic England (HE), the Open Spaces Society, Mr B Clarke and Mr G Courtier.
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 common land unit is owned by Mr Steven R Jones, who has given his support and approval to the application. Two rights to graze a total of 30 cattle, three horses and 12 geese are registered over the land. The applicant has advised that the rights are not exercised and no rights holders have objected to the application.
8. In light of the above, I am satisfied that the works will not harm the interests of those having rights in relation to, or occupying, the land (and in particular persons exercising rights of common over it).

The interests of the neighbourhood

9. The interests of the neighbourhood test relates primarily to whether the works will impact on the way the common land is used by local people but also relates to wider neighbourhood interests. The proposed works are needed to secure and improve the existing electricity infrastructure in the area. Removing the overhead lines will also address a significant safety issue in eliminating low clearance across residential driveways.
10. I consider that the proposed works will interfere negligibly with the way in which the public use the common land as they will be mainly underground and the common will be reinstated upon completion. The works will benefit the wider interests of the neighbourhood by securing the electricity supply in the area and improving public safety.

The public interest

The protection of public rights of access

11. The applicant advises that the trenching for the underground cable will be dug in shortened sections. The minimum amount of public safety fencing will be used and not all of the cable route will be fenced off at any one time.

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.

12. As the majority of the proposed works are underground, are of short duration and the associated fencing is temporary, I consider that public rights of access over the common will not be unduly restricted.

Nature Conservation

13. Natural England has not commented on the application and there is no evidence before me which leads me to think that the works will harm any statutorily protected sites or other nature conservation interests.

Conservation of the landscape

14. A stated aim of the proposals is to reduce the visual impact of the electricity supply network by removing a substantial length of overhead cable. It follows that the works required to replace the overhead cables with underground ones will require excavation of the land to the temporary detriment of the landscape. The use of high visibility orange public safety fencing during the works will further impact on the landscape. However, the works will be of short duration, all fencing will have been removed by the time the works are complete and the land affected will be fully and suitably reinstated to its previous condition. The applicant has advised that none of the new electrical infrastructure will be visible following completion of the works. I therefore consider that the proposed works will conserve, and are likely to improve, the landscape.

Archaeological remains and features of historic interest

15. HE has advised that ground disturbance from the proposed excavation works may impact on an area with high archaeological potential; including a 13th Century moated enclosure. The applicant has agreed to HE's recommendation that a suitably qualified archaeologist is present during the works to monitor such ground disturbance. I am satisfied that with a such an arrangement in place, as required by a condition attached to this consent decision, the proposed works are unlikely to unacceptably impact upon archaeological remains or any historic features.

Conclusion

16. I conclude that the proposed works will not harm the interests set out in paragraph 6 above; indeed, they will be in the public interest by securing future electricity supplies to the neighbourhood and improving public safety and landscape interests. Consent is therefore granted for the works subject to the conditions set out in paragraph 1.

Richard Holland