



Application Decision

by **Richard Holland**

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

Decision date: **20 August 2015**

Application Ref: COM 694

Northchurch and Berkhamsted Common, Hertfordshire

Register Unit No: CL 47

Commons Registration Authority: Hertfordshire County Council

- The application, dated 8 April 2015, is accepted as being made under Section 23 of the National Trust Act 1971 (the 1971 Act) for consent to carry out restricted works on common land.
 - The application is made by Freedom Group on behalf of UK Power Networks, Barton Road, Bury St Edmunds, Suffolk IP32 7BG.
 - The works comprise: (i) to install a new micro electricity substation (approximately 1m in height and covering an area 1.5m x 1.5m) with surrounding permanent wooden post and rail safety fence (approximate height 1m, approximate length 10-12m) to replace an existing pole. (ii) to install underground high voltage electric cables (approximate length 130m and covering approximately 420m²) to replace existing overhead cabling and (iii) to install temporary safety fencing around the area of works being excavated and to backfill and reinstate the land.
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Decision

1. Consent is granted for the works in accordance with the application dated 8 April 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. the land shall be fully reinstated within 1 month of the completion of the works; and
 - iii. the temporary fencing shall be removed once the works have been completed.
2. For the purposes of identification only, the locations of the proposed works are shown in red on the attached plan.

Preliminary Matters

3. Although the applicant sought consent under section 38 of the Commons Act 2006 (the 2006 Act), section 38 does not apply to land owned by the National Trust. The application is therefore determined as if it were made under Section 23 of the National Trust Act 1971.
4. I have had regard to Defra's Common Land Consents Policy Guidance¹ in determining this application under section 23, which has been published for the guidance of both the Planning Inspectorate and applicants. However, every

¹ Common Land Consents Policy Guidance (Defra July 2009)

application will be considered on its merits and a determination will depart from the guidance if it appears appropriate to do so. In such cases, the decision will explain why it has departed from the guidance.

5. This application has been determined solely on the basis of written evidence.
6. I have taken account of the representations made by Historic England (HE), Natural England (NE) and the Open Spaces Society (OSS).
7. 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

8. As landowner, The National Trust consents to the proposed works and considers it desirable for facilitating a significant visual improvement to the landscape. Four rights of estovers are registered over the common, as are several separate rights of vehicular access. Those with common rights were consulted about the application and have not objected to the proposed works. In view of this, and as the majority of the proposed works are underground and the site will be reinstated upon completion, I consider that the works will not unacceptably interfere with the interests of those having rights over the land.

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 improve the electricity distribution network in the area and ensure safe and secure supply for its customers. The applicant explains that the supply is currently feeding off an 11,000 volt overhead electricity line, which poses a safety risk to the supply with open wires going through woodland in close proximity to tree branches.
10. I consider that the proposed works will interfere negligibly with the way in which the public use the common as the works 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.

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 public interest

The protection of public rights of access

11. The applicant advises that the underground cable will be laid in sections and that the land will be backfilled after completion of each section. The temporary fencing will be taken down and moved along the cable route as the works progress. It is envisaged that the works will be completed in approximately two weeks.
12. As the majority of the proposed works are underground and 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. The land subject to the proposed works lies within the Ashridge Commons and Woods Site of Special Scientific Interest (SSSI). NE has advised that it has no concerns about the proposals with regard to the SSSI and I am satisfied that they will not harm nature conservation interests.

Conservation of the landscape

14. The common lies within the Chilterns Area Of Outstanding Natural Beauty (AONB). The proposed micro substation will be above ground level and will introduce a small but visible utility structure into the landscape. However, I consider that the proposed surrounding post and rail fencing will go some way to softening the substation's impact on the landscape. Furthermore, I consider that replacing unsightly overhead lines with underground cabling will outweigh the impact of the substation and will enhance the natural beauty of the AONB.

Archaeological remains and features of historic interest

15. HE is content that the proposed works will not harm designated heritage assets. I note that the County Archaeological Service has been consulted about the application and has not objected to the works. I am therefore satisfied that the proposed works will not 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 enhancing the visual amenity of the common and improving electricity supplies to nearby properties. Consent is therefore granted for the works subject to the conditions set out in paragraph 1.

Richard Holland