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| **Application Decision** |
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| **by Richard Holland** |
| **Appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 17 May 2023** |

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| **Application Ref: COM/3316962**  **INGOLDISTHORPE COMMON, NORFOLK**  Register Unit No: CL 361  Commons Registration Authority: Norfolk County Council |
| * The application, dated 09 February 2023, 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 removal of the existing overhead line. * Installation of two new wooden ‘H’ poles 11m x 295mm, approximately 65m of new underground cable and temporary fencing (approximately 200m at any one time) to be erected around section of the cable route. |

Decision

* 1. Consent is granted for the works in accordance with the application dated 9 February 2023 and accompanying plan, subject to the following conditions:
  2. the works shall begin no later than three years from the date of this decision; and
  3. all fencing shall be removed and the common restored within one month from the completion of the works.
  4. For the purposes of identification only the location of the works are shown in red on the attached plan.

**Preliminary Matters**

* 1. I have had regard to Defra’s Common Land Consents Policy (November 2015) 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.

1. This application has been determined solely on the basis of written evidence.
2. I have taken account of the representations made by Natural England (NE), Historic England (HE), Norfolk Wildlife Trust (NWT) and the Open Spaces Society.
3. I am required by section 39 of the 2006 Act to have regard to the following in determining this application:-
4. the interests of persons having rights in relation to, or occupying, the land (and in particular persons exercising rights of common over it);
5. the interests of the neighbourhood;
6. the public interest; Section 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; and
7. any other matter considered to be relevant.

Reasons

***The interests of those occupying or having rights over the land***

1. The landowner, Ingoldisthorpe Parish Council, has been consulted and has not objected to the works. There are no registered rights of common. There is no indication that the works would impact 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***

1. The interests of the neighbourhood test relates to whether the works will unacceptably interfere with the way the common is used by local people. The applicant explains that the works are to improve the local electricity network by installing a new underground cable and removing an old section of overhead line. The temporary fencing is needed to ensure public safety and secure the works. The duration of the works is approximately a month. The applicant confirms that the temporary fencing will be removed upon completion.
2. I note that the temporary fencing is of short duration and required to maintain public safety. I am satisfied that the modest footprint of the above ground works, the two new H poles, will not interfere with the way the common is used. I conclude that the works will not harm the interests of the neighbourhood or public rights of access long term.

***Nature conservation and conservation of the landscape***

1. NE advise that the site is not subject to any statutory designations for nature conservation for which assent is needed, although it is aware that it is part of a larger County Wildlife Site. NWT consider that the digging of a trench to lay the required cable will result in long-term damage to part of the mature woodland present on site. It expects the proposal to make clear the scale of the impacts and demonstrate through a clear commitment to long-term management and restoration actions how the long-term outcome of the works will result in a net gain for biodiversity.
2. In response to the concerns raised, the applicant explains that it does not deem there to be any long-term impact on the site or compromise to the local wildlife following completion of the work and proposed reinstatement. It is not proposed to remove or alter the overhead tree canopy. The new underground cable is to be laid largely along existing trodden woodland paths and low-level vegetation will need to be removed to lay the cable into the adjacent field. Excavations will be backfilled with materials from on site. Vegetation will be able to re-establish and grow over the area of reinstatement (rewild). The applicant does not believe a long-term management plan is required at this site or that it is appropriate to ensure a net gain for biodiversity in the County Wildlife Site. NWT made no further comments in response.
3. NE advise that, subject to its standing advice and provided any excavations are backfilled using original material from the site, it does not anticipate any significant impact on local biodiversity. NE add that it does not anticipate any long-term adverse effects from the works on the common’s landscape. In response to NWT’s representations, the applicant has discussed the proposals with NWT and it is apparently satisfied that the works do not involve the removal of large areas of vegetation. Given the relatively small-scale nature of the works, the majority of which are either temporary or underground, I am satisfied that any impact will be limited. I conclude that, overall, the works will not harm nature conservation interests and will conserve the landscape in the long term.

***Archaeological remains and features of historic interest***

1. HE considers that the proposed works would not have any adverse impact on designated heritage assets. The applicant has advised that Norfolk Council were asked to complete an archaeological search. The council has confirmed to the applicant that the works will not have any significant impact on the Historic Environment and does not wish to make any recommendations for further archaeological related work. I am satisfied that the works will not harm archaeological remains and features of historic interest.

**Conclusion**

14. Defra’s policy advises 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.”*

15. I conclude that the works will not harm the interests set out in paragraph 6 above. I am satisfied that the works accord with Defra’s policy and will confer a public benefit by helping to improve the local electricity network. Consent is therefore granted for the works subject to the conditions set out in paragraph 1.

**Richard Holland**

