

|  |
| --- |
| **Application Decision** |
|  |
| **by Harry Wood** |
| **Appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 16 January 2025** |

|  |
| --- |
| **Application Ref:** COM 3350284**Shipton Green, Chichester, West Sussex, PO20 7BZ**Register Unit Number: CL23Commons Registration Authority: West Sussex County Council |
| * The application, dated 13 August 2024, 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 Southern Electric Power Distribution Plc.
* The works comprise:
1. The excavation of a trench for the laying of underground electric cable with the trench measuring approximately 20 metres long and 0.3 metres wide.

  |

**Decision**

1. Consent is granted for the works in accordance with the application dated 13 August 2024 and the plans submitted with it subject to the following conditions:
2. the works shall begin no later than three years from the date of this decision;

 REASON: To provide certainty to users of Shipton Green.

1. the land shall be fully reinstated within one month from the completion of the works;

REASON: To retain access for commoners, public and livestock across Shipton Green.

1. For the purposes of identification only the location of the works is shown in green on the attached plan.

**Preliminary Matters**

1. I have had regard to Defra’s Common Land Consents Policy Guidance (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 guidance if it appears appropriate to do so. In such cases, the decision will explain why it has departed from the guidance.
2. This application has been determined solely on the basis of written evidence. I have taken account of the representations made by the Open Spaces Society (OSS), Natural England (NE) and Historic England (HE)
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;
7. any other matter considered to be relevant.

**Reasons**

1. The applicant outlines that the proposed excavations are required in order to lay a new electricity supply to the surrounding area “in order to maintain Scottish and Southern Electricity's (SSEN) safe and secure network.”

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

1. Southern Electric Power Distribution Plc are the applicant and the works are in their interest. The common land register records multiple rights to graze ten cows and two horses over the whole of the land known as Shipton Green.
2. I am satisfied that the applicant has carried out the required consultation and no further comments were received, and the planned works would not interfere with the interest of those occupying or having rights over the land.

***The interests of the*** ***neighbourhood and public access***

1. The interests of the neighbourhood relate to whether the works will unacceptably interfere with the way the common land is used by local people and is closely linked with interests of public access.
2. Shipton Green mainly consists of grassed areas that run parallel with the public carriageway Shipton Green Lane, which runs between Itchenor and Birdham.
3. The digging of the trench would create an impediment to access on the Green where it is located. However, the trench will be temporary in nature. The applicant has outlined the works will be completed within three working days of the works commencing.
4. The electrical wiring would be a permanent feature. However, it is located below the surface of the Green and therefore will not have a significant impact.
5. Overall, I do not believe the works as planned would create any unacceptable barrier to people’s access to and across the Green.
6. I am of the view that this area of land has recreational value as an open area of green space for walking and for open air activities. I do not believe the implementation of these works would interfere with the way the land is currently used.
7. NE have been consulted on the application. They stated that whilst the works may cause temporary disruption to users of the common, based on the information available they do not anticipate that the works will have any significant adverse effects on accessibility for the public.
8. I am of the opinion that the works will only have a minimal impact on people’s ability to access the Green and to the recreational value of the Green for the duration of the works. Furthermore, the works will likely be in the interest of individuals living in the area by improving the electricity network.

***The public interest***

1. As well as the public interest in the protection of public rights of access, the Guidance (November 2015) outlines the public interest in nature conservation, the conservation of the landscape and the protection of archaeological remains and features of historic interest.

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

1. NE have stated that they do not believe that the works will cause any significant adverse effects on any protected sites, or the area’s biodiversity or landscape.
2. The proposed works will have an impact on the visual qualities of the common as they involve the digging of a trench to lay electric cables. However, this impact will be temporary in nature and the impacts can be mitigated by attaching the appropriate condition for the restoration of the Green once the works are complete.
3. Overall, I am of the view that the works will not negatively impact on nature conservation interests of the Green or impact the landscape interests of the Green once the land has been reinstated.

***Protection of archaeological remains and features of historic interest.***

1. The applicant has outlined that they are unaware of any archaeological features within the proposed works area. HE has been consulted on the application and did not comment.
2. There is no evidence before me to suggest that these interests will be harmed by the proposed works if the above conditions and applied by the applicant.

***Conclusion***

1. In this case I conclude that the works will not prevent public access to the Green for a prolonged period, and the works will not harm the other interests set out in paragraph 5 above. Consent for the works is therefore granted subject to the conditions set out at paragraph 1 above.

Harry Wood

Plan 1 – Location of works on the common.

