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| **Application Decision** |
| Site visit on 8 September 2025 |
| **by J Ingram LLB (Hons) MIPROW** |
| **an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 26 September 2025** |

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| **Application Ref: COM/3343039****Brickendon Common, Hertfordshire** |
| Register Unit: CL177 |
| Common Registration Authority: Hertfordshire County Council |
| * The application, dated 16 April 2024, is made under Section 38 of the Commons Act 2006 (“the 2006 Act”) for consent to carry out restrictedworks on common land.
* The application is made by UK Power Networks.
* The application is for works involving the erection of a substation and underground cables and the use of temporary fencing during the works.

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**Decision**1. Consent is granted for the works in accordance with the application and the submitted plans 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 Brickendon Common.1. the land shall be fully reinstated within one month from the completion of the works (note that this does not apply to any physical changes or permanent features introduced as part of the works for which consent is granted);

REASON: To retain access for commoners and the public across Brickendon Common.1. any temporary fencing shall be removed within one month of completion of the works.

REASON: To retain access for commoners and the public and over Brickendon Common. |

**Procedural Matters**

1. For the purposes of identification only, the location of the relevant works is shown on the attached plan.
2. I carried out an unaccompanied site visit on Monday 8 September 2025.
3. Following advertisement of the application, a total of 4 representations were received.

**The Application**

1. This application made under Section 38 of the 2006 Act seeks consent for a new electrical substation and underground cables. The substation would measure 1.8 metres x 1.3 metres with a legal footprint of 3 metres x 3 metres to provide room for door opening and ventilation. The underground cables would run southerly along Brickendon Lane from the substation to the village of Brickendon, and northerly, for a shorter distance to an existing substation. During construction works temporary fencing would be used around the areas of the substation and cable trench for health and safety purposes. The total area of the common is 4.69 hectares. It includes Brickendon Lane, the grass verges either side of the lane, and two areas known as Well Green and Edwards Green.
2. On 16 February 2024 the applicant wrote to the Local Planning Authority to give notice of their intention to install the electricity substation under permitted development rights. The applicant states no objection was received from the Local Planning Authority.
3. The applicant states the consent would ensure the continued safe and reliable operation of the local electricity network. The equipment to be installed is of a similar capacity to a current substation that is being removed from a residential garden for safety reasons, however, it has been designed to be viable to support the existing and foreseeable needs of the local area.
4. Four representations were made in response to the application. Three raise concerns about certain aspects of the application, including the location and impact of the proposed substation. One representation does not have any concerns with regard to the proposed works provided that the temporary fences associated with the works are removed on completion and the trenches infilled appropriately.

**Main Issues**

1. Section 38 of the 2006 Act provides that a person may apply for consent to carry out restricted works on land registered as common land. Restricted works include any that prevent or impede access over the land, including the erection of fencing.
2. In deciding whether or not to grant consent, I am required by Section 39 of the 2006 Act to have regard to the following:
3. the interests of persons having rights in relation to, or occupying, the land (and in particular persons exercising rights of common over it);
4. the interests of the neighbourhood;
5. the public interest which includes the 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
6. any other matter considered to be relevant.
7. In considering these tests, I have had regard to the Department for Environment, Food and Rural Affairs Common Land Consents Policy of November 2015 (“the consents policy”) which has been published for the guidance of both the Planning Inspectorate and applicants.

**Reasons**

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

1. The applicant states that landowner consent has been granted for the works.
2. There are rights of way recorded in the Common Land Register for vehicles, agricultural implements, pedestrians and livestock over the land known as Well Green and Edwards Green. This does not include the area of the proposed works. The same commoners also have the right to cut hay over the whole of the common with the exception of one area. The applicant has advised that these rights are not exercised. No response has been received from the commoners.
3. I am satisfied that the planned works would not have a significant impact on those occupying or having rights over the land. The proposed substation would be on the highway verge and although it would be permanent, it would affect a very small area of the overall area of the common over which the recorded rights could be exercised. Therefore, the amount of hay that would be lost would be minimal.

***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. It may also relate to any positive or negative impact the works may have on the local community.
2. The laying of underground cables along Brickendon Lane, which forms part of the common, would be required as part of the works. Once the cables are installed the excavation will be refilled with the material extracted at the site. For the duration of the works, the excavation and temporary fencing, would introduce impediments to access across this area of the common. However, this impediment would be temporary in nature.
3. The installation of the substation would, however, be permanent and the public would therefore lose access to this area. However, I consider the impact will be minimal when considering the size of the substation and the overall size of the common which the public would still be able to access. Furthermore, the land is a small area of highway verge and the usability for recreational purposes is very limited.
4. Overall, I do not consider that the works will cause an unacceptable impediment to the public’s access of the common or affect the recreational value of the common.
5. The reasons for the works are stated above in paragraph 7. The applicant states that there have been extensive attempts to find a suitable alternative site for the substation. They state the proposed location is the only viable solution for which landowner consent for the works has been agreed.
6. There are properties in the immediate area of the proposed substation. The objectors refer to the visual impact of the substation, which is referred to below. In addition, they point out that substations emit noise and claim this would be audible from the nearby properties. The applicant states that the site has been assessed and is acceptable to their design standards covering safety, noise and vibration requirements.
7. I consider that the consent may have some negative impact on the owners of the properties immediately adjacent to the proposed substation. However, I consider this would be minimal and mitigated. The works would ensure the continued safe and reliable operation of the local electricity network which would benefit the wider local community. I am therefore satisfied that the works proposed in the application are a positive benefit to the interest of the neighbourhood.

***The public interest***

*Nature conservation*

1. Brickendon Common is not subject to any statutory designations for nature conservation.
2. Natural England does not anticipate any benefits to nature conservation arising from the proposed works, but neither does it identify any harms that would result.
3. I am of the view that the works will not negatively impact on nature conservation interests of the Common.

*Conservation of the landscape*

1. Concerns have been raised regarding the visual impact of the substation, the objectors state there are likely to be alternative sites that are screened from view. They state that placing the substation on the roadside would be unsightly and would negatively impact the character of the area.
2. The applicant has stated they plan to mitigate the visual impact of the substation. The proposed substation is the smallest size possible, and it is proposed to be coloured green.
3. Natural England have commented that the siting of the substation does not appear to involve the removal of any vegetation. In addition, the proposed location next to the road and opposite other buildings, its relatively small size is unlikely to have any significant impact on the visual amenity of the area.
4. On balance, whilst accepting the proposed works would have some visual impact, I accept that this would not be significant. As such, I consider it would not materially impact on the public interest in conservation of the landscape.

*Archaeological remains and features of historic interest*

1. There is nothing to suggest that the proposed works would impact on any archaeological remains or features of historical interest.
2. I am therefore satisfied that the proposal would not adversely impact on the public interest in the protection of archaeological remains and features of historic interest.

*Conclusions on the public interest*

1. I have concluded that the proposed works would have some visual impact. There would also be some restrictions on public access. However, on balance the proposals provide some mitigation. Overall, I am satisfied that there are no sufficiently adverse impacts on the public interest that would cause me to conclude the application should not be granted.

**Other relevant matters**

1. Paragraph 3.2 of the Consents Policy seeks the outcome that works take place on common land only where they maintain or improve the condition of the common or where they confer some wider public benefit and are either temporary in duration or have no significant or lasting impact.
2. I consider that the works proposed in this case would not maintain or improve the condition of the common, however, the wider public benefits of a reliable local electricity network are clear. Further, I consider that the impact of the permanent substation on the highway verge would not be significant.

**Conclusions**

1. In this case I conclude that the works would not introduce an unacceptable barrier to public access to the Common as the fences would be temporary in nature and the recreational value of the Common would not be affected. Additionally, the nature conservation***,*** landscape value and historic interests of the Common would not be significantly affected. The works will not seriously harm the other interests set out in paragraph 10 above. Consent for the works is therefore granted subject to the conditions set out at paragraph 1 above.
2. On balance, I consider the limited harm I have identified is outweighed by the wider public benefit the works would confer. Consequently, I conclude that consent should be granted.

**Conditions**

1. I have imposed conditions requiring that the land be fully reinstated and any temporary fencing shall be removed within one month of the completion of the works. These conditions are to ensure access is retained for commoners and the public across Brickendon Common.
2. The works shall begin no later than 3 years from the date of this decision. This condition is to provide certainty to the users of Brickendon Common

J Ingram

**Inspector**

