
Application Decision

by **Richard Holland**

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

Decision date: 1 September 2017

Application Ref: COM/3181359

Epsom Commons, Surrey

Register Unit No: CL359, CL453

Commons Registration Authority: Surrey County Council

- The application, dated 14 July 2017, 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 comprised: repairing a series of cable joints on an existing 33,000 volt underground electricity cable. The works occupied approximately 35 m in length. Standard panel Heras fencing was used to secure two work areas of 180 m² and 200 m².
-

Decision

1. Consent is granted for the works in accordance with the application dated 14 July 2017 and accompanying plan.
2. For the purposes of identification only the location of the works is shown outlined in red on the attached plan.

Preliminary Matters

3. The application is made retrospectively.
4. 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.
5. This application has been determined solely on the basis of written evidence.
6. I have taken account of the representation made by 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;

¹ Common Land Consents Policy (Defra November 2015)

- 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. The landowner, Epsom and Ewell Borough Council, has been consulted about the proposed works and did not object. I am satisfied that the works have not harmed the interests of persons occupying or having rights over the land.

The interests of the neighbourhood and the protection of public rights of access

9. The applicant carried out emergency repair works to a 33,000 volt underground cable circuit where an oil leak occurred. The works were needed to maintain the security and reliability of the electricity network in the area and avoid any contamination to the water table and local environment. Heras fencing was required to ensure the health and safety of those working on site and members of the public.
10. The applicant has confirmed that any above ground equipment has been removed. I am satisfied that any impact on the interests of the neighbourhood or public rights of access over the commons was minimal and of short duration.

Nature conservation

11. The applicant has advised that part of the works is located within the Epsom and Ashted Site of Special Scientific Interest. Natural England was consulted about the application but did not have an objection. There is no evidence before me to indicate that the works have harmed nature conservation interests.

Conservation of the landscape

12. I am satisfied that the works have not had any lasting harmful visual impact on the commons and that the landscape has been conserved.

Archaeological remains and features of historic interest

13. There is no evidence before me to indicate that the works harmed archaeological remains or features of historic interest.

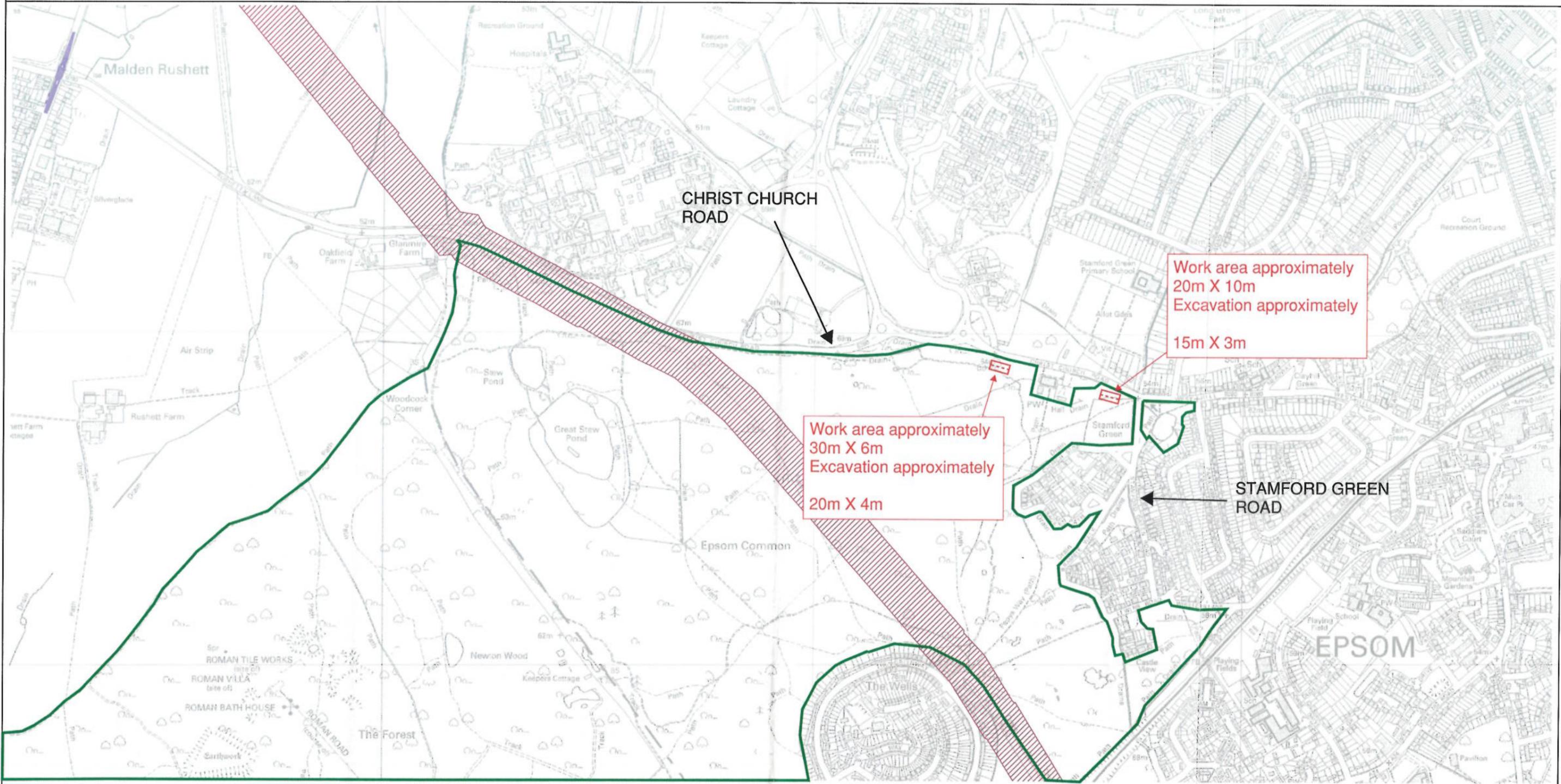
Conclusion

14. Defra's policy guidance 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. In such cases, our expectation is that applications for such purposes on common land are more likely to be successful under section 16 of the Act, so that an exchange of land is proposed and can be taken into account. An application for consent to such works under section 38 will rarely be granted unless there are convincing reasons why an application under section 16 cannot be pursued. Exceptionally, however, consent may be appropriate where the works are of temporary duration (such as a worksite) or where the works will be installed underground (such as a pipeline or pumping station), the proposals ensure the full restoration of the land affected, and the works confer a public benefit'*.

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.

15. I am satisfied that the works accord with Defra's policy objective because they have not harmed the interests set out in paragraph 7 above and have conferred a wider public benefit by securing the electricity network and preventing harm to the local environment. Consent is granted for the works.

Richard Holland



Work area approximately
20m X 10m
Excavation approximately
15m X 3m

Work area approximately
30m X 6m
Excavation approximately
20m X 4m



The quality and accuracy of any print will depend on your printer, your computer and its print settings. Measurements scaled from this plan may not match measurements between the same points on the ground.

LV Cable or Line	
HV Cable or Line	
EHV Cable or Line	
Approx. position	
Ductline	
Pole & Street Furniture	
Substation & Link Box	

- The position of the apparatus shown on this drawing is believed to be correct but the original landmarks may have been altered since the apparatus was installed.
- The exact position of the apparatus should be verified – use approved cable avoidance tools prior to excavation using suitable hand tools.
- It is essential that trial holes are carefully made avoiding the use of mechanical tools or picks until the exact location of all cables have been determined.
- It must be assumed that each property and item of street furniture has an electricity supply. Service cables shown only where known.
- All cables must be treated as being live unless proved otherwise by UK Power Networks.
- The information provided must be given to all people working near UK Power Networks plant & equipment. Do not use plans more than 3 months after the issue date for excavation purposes.
- Please be aware that electric cables/lines belonging to other owners of licensed electricity distribution systems may be present and it is your responsibility to identify their location.

- UK Power Networks does not warrant that the information provided to you is correct. You rely upon it at your own risk.
- UK Power Networks does not exclude or limit its liability if it causes the death of any person or causes personal injury to a person where such death or personal injury is caused by its negligence.
- Subject to paragraph 2 UK Power Networks has no liability to you in contract, in tort (including negligence), for breach of statutory duty or otherwise for any loss, damage, cost, claims, demands, or expenses that you or any third party may suffer or incur as a result of using the information provided whether for physical damage to property or for any economic loss (including without limitation loss of profit, loss of opportunity, loss of savings, loss of goodwill, loss of business, loss of use) or any special or consequential loss or damage whatsoever.
- This plan has been provided to you on the basis of the terms of use set out in the covering letter that accompanies this plan. If you do not accept and/or do not understand the terms of use set out in the covering letter you must not use the plan and you must return it to the sender of the letter.
- You are responsible for the security of the information provided to you. It must not be given, sold or made available upon payment of a fee to a third party.

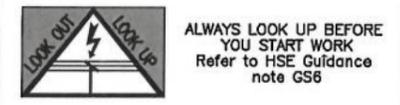
VISITING AN OPEN POINT? Please mark on this plan all locations visited and open points as found, then return updated map to your Business Unit – Thank You.

Contact UK Power Networks on 0800 056 5866 for details of EHV Cable routes before commencing work.

Grid Ref: TQ 18930 60859
Map Centre: TQ1860NE
Scale: 1:8965
(when Plotted at A3)
Plotted on: 23/06/2017
Plotted by: Chris Dunn



Plan Provision
CHECK IT OUT BEFORE YOU DIG IT OUT
CALL 0800 056 5866
EMERGENCY – If you damage a cable or line
Phone 0800 096 3766 (24hrs) URGENTLY



Maps produced at 1:2500 scale are LV Geo-Schematics which show LV mains cables and overhead lines (in some cases all voltages). Prior to carrying out excavations you must refer to the 1:500 records to determine the location of all known underground plant and equipment.