



Application Decision

by I Stevens BA (Hons) MCD MBA MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 24/04/2025

Reference: CAS-03810-S5T6Y7

Site address: Cefn Bryn Common, Llanrhidian, Gower, Swansea

- The application, dated 20 September 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 relates to Cefn Bryn Common (CL 8), and the Commons Registration Authority is the City and County of Swansea Council.
 - The application is made by National Grid Electricity Distribution.
 - The works comprise the dismantling of an existing 33kv overhead line, to be replaced with 33kv underground cable.
 - An unaccompanied site visit was made on 27 March 2025.
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Decision

1. The application is allowed, and consent is granted for the dismantling of an existing 33kv overhead line, to be replaced with 33kv underground cable, in accordance with the application dated 20 September 2024 and the plans submitted with it and subject to the following conditions:
 - i) All works shall be completed in accordance with the document 'Technical Note: Ecology Survey Notes re: undergrounding and line removal,' by Amber environmental consultancy, dated 15 January 2024 (amended 5 February 2024).

Reason: To ensure the works are carried out in accordance with the approved document submitted with the application.
 - ii) The works shall be completed within 12 months of the date of this decision.

Reason: To ensure the works are carried out in a timely manner in the interests of those exercising their rights on the common.

Procedural Matters

2. As some of the works have commenced, I have determined the application on the basis it seeks retrospective consent in part.
3. I have taken the description of works in the above banner heading and formal decision from the public notice as it is more succinct than the version in the application form.

The Application

4. The application site forms part of Cefn Bryn Common, which is registered as common land (CL 8) and extends to some 824.07 hectares. There are rights to use the common for estover and grazing. The application seeks consent to replace a section of existing 33kv overhead line with underground cable between the primary substation at Llanrhidian and Cilibion. Most of the overhead line to be removed crosses land within the common. Approximately 2.5km of underground cable will be buried within the B4271 highway, mostly outside the common. At Cilibion, the cable will run underground within the common from the highway to a field gate, joining a new H pole which will connect with the existing overhead line. None of the trenches will be left open overnight.
5. The existing poles are to be removed by helicopter, whilst vehicular access onto the common will be required for carrying equipment to physically disconnect lines from the poles. The cable line will be winched back to the highway.
6. The application site is in the Gower Area of Outstanding Natural Beauty (AONB). The applicant states the works are the result of ongoing discussions for visual improvements to the AONB. An AONB steering group has, with advice from the applicant, selected this area and received funding for the works to take place as part of a project focussed on improving visual amenity within the national landscape.
7. In accordance with The Works on Common Land, etc. (Procedure) (Wales) Regulations 2012, the application has been publicised through a newspaper notice, site notice and letters. No representations have been received.

Main Issues

8. 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 (including 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
 - d) Any other matter considered to be relevant.

Reasons

The interests of persons having rights in relation to the land

9. The applicant advises there are ten active commoners who are exercising their grazing rights on the common. Although I saw no animals during my site visit, there was evidence of grazing near the route of the overhead cables. No objections in principle to the works have been received from Cefn Bryn Commoners Management Committee or individual rights holders. The landowner does not object to the works and a wayleave agreement was submitted with the application.
10. The removal of a grassed area to dig the trench and lay underground cable at Cilibion would interfere with commoners' grazing rights. The area of trench would be up to 65m long between the highway and field gate. In the context of the overall common, the works would affect a small portion of land available for grazing and other rights. The works would be temporary in nature, taking approximately 8-10 weeks to complete. There may be a period following reinstatement when the land would not be available for grazing, but

this is likely to be short-term in duration. During this period, the ability to access surrounding common to exercise grazing rights would be unaffected.

11. Similarly, the removal of existing poles and cables would be short term in duration, requiring some vehicle access on to the common. There is no suggestion that the works would affect the ability to access surrounding common. Given the significantly greater area of common unaffected by the works, the short-term disturbance would not unacceptably interfere with the interests of persons having rights in relation to the land.

The interests of the neighbourhood

12. There is no definition of neighbourhood in the 2006 Act. The Welsh Government's Common Land Consents Guidance, August 2014 (the Guidance) requires consideration to be given to whether the works mean that local people will be prevented from using the common in the way that they are used to. It also requires consideration to be given to whether the works would interfere with the future use and enjoyment of the land as a whole.
13. The application form says that the public do not have a right of access to the common for air and exercise under Section 193 of the Law of Property Act 1925. However, I have no reason to believe that the Countryside and Rights of Way Act 2000 does not apply to this land and as such a right of access on foot is available to the public. This part of the common is within walking distance of Llanrhidian to the north, and its location in the Gower national landscape is likely to be of interest to local and visiting recreational users.
14. As set out above, the works would limit public access to a small part of the common for a brief period. The impact on the use of the common for recreational use would be limited in scope and duration. With land reinstated upon completion of works, local people's enjoyment of the common would be able continue.
15. I conclude that the works would not unacceptably affect the interests of the neighbourhood.

The public interest

Nature conservation

16. The application site is within the Gower Commons Special Area of Conservation (SAC) and Cefn Bryn Site of Special Scientific Interest (SSSI). The designations relate, amongst other things, to dry heath, wet heath, flush and springs, Molinia meadows and the southern damselfly. Natural Resources Wales (NRW) has given assent under Section 28(H) of the Wildlife and Countryside Act 1981 (as amended) for works in the SSSI subject to certain conditions.
17. The Welsh Government Land, Nature and Forestry Division provided a screening decision under the Environmental Impact Assessment (Agriculture) (Wales) Regulations 2017. The decision, in a letter dated 13 June 2024, concluded that the works will not cause a negative impact to the ecology and archaeology of the site. As an Environmental Impact Assessment is not required, and the aforementioned regulations apply to the project, the works are exempt from assessment under paragraph (7)(c)(iii) of Regulation 63 of the Conservation of Habitats and Species Regulations 2017.
18. An ecological survey was submitted with the application. A trench will be dug for cable installation in sections. The habitat at Cilbion, where excavation will take place away from the highway, is of short, grazed acid grassland. Habitats under the overhead line include acid grassland, bracken, scrub, gorse, wet and dry heath. Adverse effects to the designated sites could arise from vehicle access and cable winching operations. These

effects could include disturbance to nesting birds and bats, reptiles and amphibians, and damage to the dry heath, wet heath, flush and springs and trees.

19. Several recommendations are made to minimise potential ecological harms. Where poles can be accessed from the highway or hardstanding, this will be the preferred option for works. Existing routes taken by commoners should also be used wherever possible, with vehicular access limited to one mule-type vehicle carrying removal equipment. The use of machinery should be kept to a minimum to prevent damage and compaction of vegetation and wet ground. The cable winching route should be managed to minimise damage to trees and scrub along the line, whilst also avoiding large areas of scrub and gorse. Any helicopter should not land on the common to avoid damage to its features. Hand tools should be used to trim ground vegetation around the poles. The trenches should be backfilled in the order they were excavated, and no trench should be left open overnight. All ground and tracks where the cables are undergrounded should be reinstated to their current condition.
20. The applicant has indicated their willingness to adhere to these recommendations and on the evidence presented, I am satisfied they can be delivered as presented. Given the scope and content of the recommended mitigation measures, I do not consider that the works would result in significant unacceptable effects on nature conservation interests.
21. I therefore conclude that the works would satisfy the duty incumbent on public authorities under Section 6 of the Environment (Wales) Act 2016 and would not harm the public interest in nature conservation terms.

Conservation of the landscape

22. The application site is in the Gower AONB. The national landscape is designated for its landscape interest with the primary purpose of conserving and enhancing its natural beauty. Llanrhidian lies to the north, some distance from the common and separated by natural features and undulating landscape. The surrounding common is a wide, open, and attractive area of land, with views of hills to the distant south. Whilst traffic noise was evident during my site visit, it was intermittent in the distance and the area overall is tranquil.
23. The applicant has explained the works arise from ongoing discussions with AONB stakeholders to improve the visual quality of the designated landscape. In this instance, funding has been secured to deliver the application works. Whilst the existing wooden poles and cables are not particularly tall or conspicuous features in the landscape, they detract from the open characteristics I have described. Laying the cable underground would improve the area's visual character. Replacing an existing single pole with a new H pole at Cilibion to connect with the existing overhead line would be seen within the context of the existing line and apparatus. In that context, the change would not be significantly different or harmful to the surrounding landscape. With the long-term benefits of the works, I am satisfied that it would not have a harmful impact on the landscape.

Protection of archaeological remains and features of historic interest

24. Cadw has not commented on the application in terms of its archaeological and heritage impacts. The Welsh Government screening decision advised that the Archaeological Trust Heneb or Cadw be contacted if any features are found during works because the area is known for its historic interest. On the evidence before me I have no reason to believe that the works would have any adverse effects on features of archaeological or historic interest.

Protection of public rights of access

25. As I have found above, whilst the works would interfere with access over part of the common, this would be limited in scale and temporary in duration. The works would retain public access into the area upon completion. Given these factors, any impacts would be minor. As such, I conclude the works would not unacceptably affect the public interest.

Other Relevant Considerations

26. The Guidance advises that in deciding whether to grant consent, it is necessary to establish whether the works are consistent with the use of the land as common land. As the works would remove overhead cable lines and apparatus, I am satisfied they are consistent with the use of the land as common for grazing. The works would be in the wider public interest with reference to the AONB, and subject to adherence with the ecological survey the works would maintain and enhance biodiversity as per the Section 6 duty incumbent on public authorities.

27. I have considered advice in the Welsh Government Circular 016/2014 "The Use of Conditions for Development Management" in considering the need for conditions. As the works have commenced, a condition requiring works to be completed within 12 months of the date of this decision is reasonable since the recommendations in the ecology survey to undertake works outside the nesting bird season (March to August) but when reptiles are active (March to November). On that basis, 12 months is a reasonable time limit as the works should take 8-10 weeks to complete whilst providing sufficient flexibility to account for the ecology recommendations. A condition requiring works are in accordance with the recommendations in the ecological survey is both necessary and reasonable. This would help ensure that important habitats are not adversely affected and that interference with commoners' rights are kept to a minimum.

Conclusion

28. I have taken into account all other matters raised. I find no matters that lead me to conclude other than the works are acceptable and would be in conformity with the policy objectives set out in the Guidance. For the reasons given above, I allow the application and grant consent for the works subject to the conditions specified in paragraph 1 of this decision.

29. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well-Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives.

I Stevens

INSPECTOR