



## Application Decision

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by Declan K Beggan BSc (Hons) MSc DipTP DipMan MRTPI

an Inspector appointed by the Welsh Ministers

Date: 15/05/2025

Reference: CAS-03403-H3S2H7

Site address: Mynydd Y Drym Common and Land at Abercrave Station, Onllwyn, Neath

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- The application dated 12 April 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 Mynydd-y-Drum Common (BCL 78 and CL 98) and Land at Abercrave Station (BCL 136). The Commons Registration Authorities are Powys County Council (BCL 78 and BCL136) and Neath Port Talbot County Borough Council (CL 98).
  - The application is made by Mr Nigel Keith Jones, Estates Specialist, National Grid Electricity Distribution (South Wales).
  - The proposed work includes dismantling existing 33kv and 11kv overhead lines, to be replaced with 33kv and 11kv underground cables.
  - A site visit was made on 6 February 2025.
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### Decision

1. The application is allowed, and consent is granted for dismantling the existing 33kv and 11kv overhead lines, to be replaced with 33kv and 11kv underground cables, in accordance with the application dated 12 April 2024 and the plans submitted with it and subject to the following conditions:
  - i) The works shall begin no later than five years from the date of this decision.  
*Reason: To ensure the works are commenced within a reasonable timeframe.*
  - ii) The works shall be carried out in accordance with the following approved details:
    - Plan titled "Plan Area" at scale 1:10000
    - Plan titled "11 KV Diversion" at scale 1:5000
    - Plan titled "33 KV Diversion" at scale 1:12500
    - Extract from Commons Registration map BCL078 & BCL136 dated 31 March 2023
    - Provisional register Map of Common Land CL 98 dated 16 JAN 1990

Set of three plans with the first page titled with a heading "National Grid" dated 15 April 2024

Two Owner Wayleave Consent Agreements dated 13 May 2023

National Grid Job Method Statement dated 12 April 2024.

*Reason: To ensure the development is carried out in accordance with the approved plans submitted with the application.*

- iii) All works subject to this application, including the temporary fencing, and reinstatement works shall be completed within 12 months of commencement of development.

*Reason: To ensure the site is reinstated in the interests of those exercising their rights over common land.*

- iv) The works shall be carried out in accordance with the recommendations and mitigation stated in the 'Technical Note: Ecological Survey notes re line removal and cable laying' carried out by Amber Environmental Consultancy dated 25 April 2025.

*Reason: To minimise potential impacts on ecology interests.*

## **The Application**

2. The application seeks consent to divert parts of the existing 33kv and 11 kv overhead lines, to be replaced with 33kv and 11kv underground cables in preparation for a major industrial redevelopment of the site. The works will involve dismantling 26 spans of overhead network and replacing it with 4 km of underground cable (1.5 km within common land). Specific to the 11 kv network, 5 spans of overhead lines will be dismantled and replaced with an underground cable, partly to be laid in the highway verge, which is still classed as common land, with 130 metres of underground cable within the common itself. The works are being carried out as part of the construction of a proposal for a Global Centre of Rail Excellence.

## **Main Issues**

4. In determining this application for consent, I am required by Section 39 of the 2006 Act to have regard to:
- a) The interests of persons having rights in relation to, or occupying, the land (and in particular persons exercising their 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 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***

5. The Register of Common Land states that there are no registered rights of common for the Abercrave Station land (BCL 136). I am therefore satisfied that any proposed works

would not interfere with the interests of those having any rights on this part of the common.

6. The land subject to the application works extends to some 10 hectares between the total registered common land of some 1584 acres for CL 78/98 and 2.57 acres for CL 136. In terms of Mynydd-Y Drum Common (CL 78 and CL98) there are multiple common rights registered. CL 78 has rights of pasture to graze cattle, sheep, horses, to cut and take bracken. Whilst CL98 has rights of pasture to graze cattle, sheep and horses. The applicant states the rights are exercised and I noted during my site visit there was livestock on at least part of the land. The public also have rights to use the common for air and exercise under Section 193 of the Law of Property Act 1925.
7. The application details state that the Commoners Association has confirmed that no grazing is undertaken in the area of the proposed 11 kv diversion. The applicant also confirmed that as regards the works to the proposed 33 kv diversion, this is predominately within the former Nant Helen opencast coal site for which grazing rights were suspended with the former owner. The application details highlight that the only grazing impacted will be that temporarily suspended during the construction phase of the development.
8. The works would interfere with the grazing rights of commoners in terms of general access across part of the common, however the extent of land relative to the overall common is minimal, and access for livestock would generally be retained during the course of the works, albeit curtailed with fencing around any open excavations during cable installation for health and safety reasons. In addition, the applicant has pointed out that the bulk of works would be within the area where grazing rights are in any event suspended for a temporary period. I am satisfied that subject to control of the timing of the works, interference would be minimal, and grazing could resume after the works are carried out or when the 'suspension' is no longer operative. In this respect the applicant has given a broad indication of the duration of the works relating to temporary fencing. I consider it reasonable to include a condition that all works, including the temporary fencing and any reinstatement works, are completed within 12 months of commencement. This condition will ensure that interference with commoners' rights is minimised.
9. The public also have rights to use the common for air and exercise. Bearing in mind the relatively modest area of land that would be affected, relative to the overall acreage attached to the common, and that the vast bulk of the land would still be accessible, albeit curtailed with safety fencing, and the temporary nature of the works, I am satisfied such works would not have an unacceptable impact on those exercising their rights to use the common.
10. The safety fencing would be in place for a temporary period and the appellant has indicated a broad timeframe for the laying of the underground cables after which they would be removed and the land reinstated. Whilst some interference with the grazing and access rights would occur, given the limited scale of the area concerned, the fact that it would still be accessible, and its temporary nature, leads me to find overall any interference with the interests of those having rights in relation to the land would be very limited. The previously mentioned time limited condition would safeguard any rights.

11. Overall, therefore for the reasons given above I consider any interference with the rights of those using the common would be limited, only affect a modest area of the common and in any event would be time bound.

### ***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. The applicant has confirmed the public have right of access to the common land.
13. As set out above the works would still allow access to the majority of the common, albeit restrict temporarily access in certain areas for safety reasons. As a result, I am satisfied that the works would not unacceptably affect the interests of the neighbourhood in the long term.

### ***The public interest***

#### **Nature Conservation**

14. The land is not located within an area designated for its nature conservation interests and I have no evidence before me that the proposal would detrimentally impact such interests. I note the Welsh Government 'Plant Health and Environmental Protection Branch' highlight the applicant's intention to guarantee that the turfs which are to be removed by the works will be replaced, and that any bare remaining areas of earth will be allowed to re-vegetate naturally (as a result the works do not fall under the EIA (Agri.) (Wales) Regulations 2017).
15. I note the submitted 'Job Method Statement' refers to an engineer confirming with the site ecology team any ecological 'no go zones', and references other measures such as protecting local watercourses from runoff and seeding of the excavated area where required using native grass seed as advised by an ecologist. The works will involve excavations of the existing ground but based on the evidence before me, I am satisfied it would not be harmful to the public interest in nature conservation terms.
16. I also note the contents of the 'Technical Note: Ecological Survey notes re line removal and cable laying' carried out by Amber Environmental Consultancy dated 25 April 2025. The stated recommendations and mitigation should be adhered to minimise potential impacts on ecology interests.

#### **Conservation of the Landscape**

17. In respect of the impact on the landscape, the site does not lie within an area designated for its landscape interest e.g. national park or area of outstanding natural beauty. Nevertheless, the common is an attractive expanse of land. The existing pylons are an unattractive feature within the landscape and their removal and underground cabling would only enhance the rural setting of the commons to the visual amenity of the area. Therefore, I am satisfied the works would not be harmful to the landscape character of the area.

*Protection of archaeological remains and features of historic interest*

18. The Ystradgynlais Tramroad Scheduled Ancient Monument (SAM) is located on the common land and dates from the 1830's and is of national importance for its engineering significance and for being part of the Brecon Forest Tramroad which was an important route for the movement of raw materials in the locality. The remains of the tramroad comprise linear raised earthworks and are clearly evident on the site. The proposed works would involve burying cabling near to the SAM. I note that Cadw advise that the works will not have a detrimental effect on the setting of any heritage asset. Cadw refer to the applicant providing to them a method statement subject to the works being carried out to allow them to assess whether such works require scheduled monument consent.
19. The removal of the overlines would be a significant improvement to the setting of the SAM which weighs in the proposal's favour. Clearly the proposed development being in close proximity to the SAM offers the potential to impact on the heritage asset e.g. a direct physical impact via vehicle movements. However, bearing in mind Cadw's comments which may result in the need for separate consent outside of this process, on the evidence before me, I have no reason to disagree with Cadw's overall assessment and therefore the proposal would not cause any significant impacts on archaeological remains and features of historic interest.

*Protection of public rights of access*

20. As I have found above, whilst the works would interfere with access over part of the common land, this is reasonably limited, notwithstanding the temporary use of safety fencing, and ultimately the proposal would retain public access for the bulk of the common. The proposal would therefore protect existing public rights of access. Given the temporary nature of the works and limited area affected, any impacts would be minor. Overall, I therefore conclude that the works do not unacceptably affect the public interest.

***Other Relevant Considerations***

21. I note the advice in the Guidance that in deciding whether to grant consent it is necessary to establish whether the works are consistent with the use of the land as a common. I am satisfied that the works are consistent with the use of the land as a common for grazing and public access.
22. I note representations from third parties overwhelmingly indicate support for the proposed works although there is one objection with no indication of what their concerns are. Notwithstanding the one letter of objection, I find that for the reasons given above I am satisfied the works would be acceptable. It is also worth noting that the Open Space Society made no comment to the proposal.
23. I have considered the advice in the Welsh Government Circular 016/2014 "The Use of Conditions for Development Management" in considering the need for conditions. A condition requiring the development to be commenced within five years is reasonable and necessary. Furthermore, in the interests of users of the common, a condition shall be imposed that all works, including the temporary fencing, are completed within 12 months of commencement. A condition specifying the details/plans to which the consent relates is necessary to ensure the works are undertaken in accordance with the

application. I have included a condition to ensure that the works are carried out as per the stated recommendations and mitigation in the submitted ecology technical note.

### **Conclusions**

24. I have taken into account all other matters raised. I find no matters that lead me to conclude other than the proposal is acceptable. The works 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 proposed works subject to the conditions specified in paragraph 1 of this decision.
25. 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 this decision is in accordance with the Act's sustainable development principle through its contribution towards one or more of the Welsh Minister's well-being objectives as required by section 8 of that Act.

*D K Beggan*

INSPECTOR