
Application Decision

by **Richard Holland**

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

Decision date: 7 April 2016

Application Ref: COM 752
Perry Hill Common, Surrey

Register Unit No: CL353 and CL363

Commons Registration Authority: Surrey

- The application, dated 6 November 2015, 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 on behalf of Southern Gas Networks Plc by Chris Raven, Land Services Ltd, 23 Park Road, Egham, Surrey, TW20 9BJ.
- The works comprise: laying of 215m of 180mm gas main with associated trenches and safety barriers.

Decision

1. Consent is granted for the works in accordance with the application dated 6 November 2015 and the plans submitted with it subject to the following conditions.
 - i. the common shall be restored, and all fencing removed, within one month of completion of the works; and
 - ii. the works shall begin no later than three years from the date of this decision.
2. For the purposes of identification only the location of the works is shown in red on the attached plan.

Preliminary Matters

3. I have had regard to Defra's Common Land Consents Policy Guidance¹ 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.
4. This application has been determined solely on the basis of written evidence.
5. I have taken account of the representations made by the Open Spaces Society and Natural England.

¹ Common Land Consents Policy (Defra November 2015)

6. 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;² and
 - d. any other matter considered to be relevant.

Reasons

The interests of those occupying or having rights over the land

7. The land is owned by Surrey County Council. The Council has not objected to the works. There are rights of common registered, but they are not currently exercised. As the works are temporary in nature, the rights holder will not be inconvenienced. I consider that the proposed works will not adversely affect the interests of those persons having rights in relation to the land.

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

8. The works, which are expected to last for no more than 3 weeks, will be carried out on the roadside verge of Coombe Lane and the edge of Perry Hill Common, leaving the main body of the common free for recreation. Access to the verge will be impeded but only temporarily. The applicant has stated that the trench will be backfilled as the pipe is laid, so that only a small area of the common is inaccessible at any one time. The Open Spaces Society has no objection to the application provided the common is fully reinstated when the works are complete.
9. I am satisfied therefore that the works will not unacceptably restrict public rights of access or interfere with the use of the common by people in the neighbourhood.

Nature conservation

10. The common is a grassed verge and not designated as being of particular conservation value. Natural England states it does not see the works as having a detrimental effect on the biodiversity of the common. I do not consider that the works proposed will harm nature conservation interests.

Conservation of the landscape

11. The works will clearly have a temporary impact on the appearance of the common due to the necessary safety barriers, which are designed to be highly visible. The applicant has confirmed however that the minimum amount of fencing will be used to ensure public safety. After the works are complete the common will be reinstated, and there will be no lasting impact on the common's appearance. I therefore consider that the landscape will not be harmed by the proposed works.

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.

Archaeological remains and features of historic interest

12. There is no evidence before me of archaeological features within the application site or nearby and I am satisfied that the proposed works will not harm any archaeological remains or features of historic interest.

Conclusion

13. 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. water utility) to provide or improve the public service to local residents and businesses. In such cases 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'*.
14. Having regard to the interests set out in paragraph 6 above, I conclude that the works will not harm the common or the interests of those using it while allowing for improvements to the gas distribution system; they will therefore accord with Defra's policy and consent should be granted.

Richard Holland