



# Application Decision

**by Richard Holland**

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

Decision date: 10 January 2017

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## **Application Ref: COM/3163022**

### **Redhill & Earlswood Common, Surrey**

Register Unit No: CL 39

Commons Registration Authority: Surrey County Council

The application, dated 9 November 2016, 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 Southern Gas Networks Plc.

The works comprise:

- pipe laying, backfilling and reinstatement; and
  - temporary fencing which will be removed upon completion of the reinstatement.
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## **Decision**

1. Consent is granted for the works in accordance with the application dated 9 November 2016 and accompanying plan, subject to the following conditions:-
  - i. the works shall begin no later than three years from the date of this decision;
  - ii. any temporary fencing or safety barriers shall be removed within one month of completion of the works; and
  - iii. the common shall be restored within one month of the completion of the works.
2. For the purposes of identification only the location of the works is shown as a red line on the attached plan.

## **Preliminary Matters**

3. I have had regard to Defra's Common Land Consents Policy<sup>1</sup> 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.
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 (OSS), Natural England (NE) and the Heritage Conservation Team at Surrey County Council.

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<sup>1</sup> 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;<sup>2</sup> and
  - d. any other matter considered to be relevant.

## **Reasons**

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

7. The landowner, Reigate and Banstead Borough Council, has been consulted about the application and has not objected to the proposed works. There are no rights registered over the common. I am satisfied that the proposed works will not harm the interests of those occupying or having rights over the land.

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

8. The interests of the neighbourhood test relates to whether the works will unacceptably interfere with the way the common is used by local people. The applicant explains that the works are required to support the existing gas network in the Reigate area and to provide gas to the residents in properties adjacent to the common. The fencing is required to ensure public safety. The works are expected to last three weeks.
9. I accept that the works are necessary to meet the demand for the supply of gas in the area. The permanent works are underground and the temporary fencing will be removed upon completion of the works. I conclude that the works will not impact on the interests of the neighbourhood or unacceptably restrict public rights of access. The neighbourhood will benefit from the maintenance and extension of the existing gas network.

### ***Nature conservation***

10. NE comment that as the works will be limited in nature and that any damage to the common will be rectified, it does not see the works as having an effect on either the landscape, access or the biodiversity of the common as a whole. In view of NE's comments, I am satisfied that the proposed works will not harm nature conservation interests.

### ***Conservation of the landscape***

11. The applicant explains that the site of the proposed works has been chosen to minimise impact as it follows the route of a nearby footpath. All permanent works will be underground and the common fully restored upon completion of the works. I consider that any impact on the visual appearance of the common will be minimal and of short duration. I am satisfied that the works will conserve the landscape in the long term.

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<sup>2</sup>Section 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. The Heritage Conservation Team at Surrey County Council considers that the proposed works will not have an adverse impact in heritage terms and do not object to the proposed works. I am satisfied that the proposed works will not harm any archaeological remains or features of historic interest.

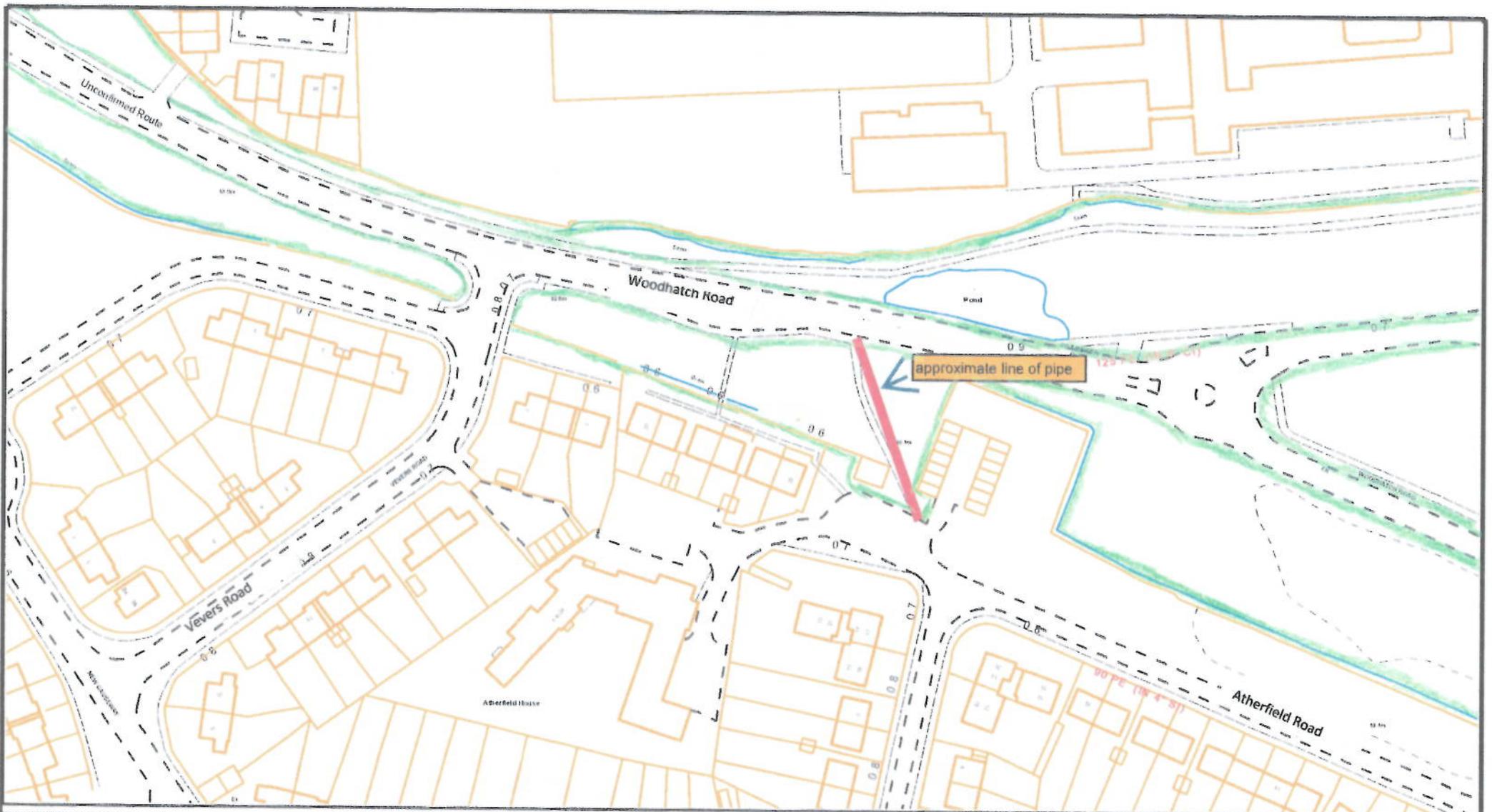
### **Other relevant matters**

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. 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(1), so that an exchange of land is proposed and can be considered on its merits. However, consent under section 38 may be appropriate where the works are of temporary duration (such as a worksite), where the works will be installed underground (such as a pipeline or pumping station), or where their physical presence would be so slight as to cause negligible impact on the land in question (such as a control booth or manhole), and the proposals ensure the full restoration of the land affected and confer a public benefit"*. I am satisfied that the proposed works accord with this policy objective.

### **Conclusion**

14. I conclude that the proposed works will not harm the interests set out in paragraph 6 above and will confer a public benefit through the maintenance and extension of the existing gas network in the area. Consent is therefore granted for the works subject to the conditions set out in paragraph 1.

**Richard Holland**



SCALE : 1 : 1250	LP MAINS	
USER ID : km55788	MP MAINS	
DATE : 31/10/2016	IP MAINS	
INTERNAL USE ONLY	LHP MAINS	
GRID REFERENCE : E526110,N148667,TQ 26 48	HISTORY DATA	
	LAs	
	GTs	
	SSSIs	

Some examples of Plant Items	Depth of Cover			Diameter Change	
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This plan shows the location of those pipes owned by Scotia Gas Networks (SGN) by virtue of being a licensed Gas Transporter (GT). Gas pipes owned by other GTs or third parties may also be present in this area but are not shown on this plan. Information with regard to such pipes should be obtained from the relevant owners. No warranties are given with regard to the accuracy of the information shown on this plan. Service pipes, valves, siphons, sub-connections etc are not shown but their presence should be anticipated. You should be aware that a small percentage of our pipes/assets may be undergoing review and will temporarily be highlighted in yellow. If your proposed works are close to one of these pipes, you should contact the SGN Plant Protection Team on 08450703497 for advice. No liability of any kind whatsoever is accepted by SGN or its agents, servants or sub-contractors for any error or omission contained herein. Safe digging practices, in accordance with HS (G)47, must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that plant location information is provided to all persons (whether direct labour or sub-contractors) working for you on or near gas apparatus. Information included on this plan should not be referred to beyond a period of 28 days from the date of issue.

Intranet WebGIS 2.1

**Redhill and Earlswood common**

Surrey County Area

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