
Application Decision

by Richard Holland

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

Decision date: 18 January 2019

Application Ref: COM 3215932
Peasmarsh Common, Guildford, Surrey

Register Unit No: CL 288

Commons Registration Authority: Surrey County Council.

- The application, dated 2 November 2018, is made under Section 38 of Commons Act 2006 (the 2006 Act) for consent to carry out restricted works on common land.
 - The application is made by Land Services Limited for Southern Gas Networks Plc.
 - The works of approximately four weeks duration comprise:
 - i. insertion of approximately 60m of polyethylene pipe into an existing iron gas main;
 - ii. up to 6 excavations of approximately 5m x 1m along the pipe route to aid insertion; and
 - iii. a mixture of 2m high Heras type fencing and plastic 1.2m high road works barrier fencing enclosing each excavation in turn.
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Decision

1. Consent is granted for the works in accordance with the application dated 2 November 2018 and accompanying plan, subject to the following conditions:-
 - i. the works shall begin no later than three years from the date of this decision; and
 - ii. all fencing shall be removed and the common shall be fully 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 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.
4. This application has been determined solely on the basis of written evidence.
5. I have taken account of the representation made by the Open Spaces Society (OSS), which does not object to the application.
6. I am required by section 39 of the 2006 Act to have regard to the following in determining this application:-

¹ Common Land Consents Policy (Defra November 2015)

- 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 landowner, Guildford Borough Council, was consulted by the applicant about the application but did not comment. The common land register records one right to graze 8 cows, 4 calves, 10 geese and 240 chickens. The same rights holder also has the right of pannage for 7 pigs together with the right of pasture and the right of estovers over the whole of the common. The applicant has said that no rights are exercised. There is no evidence before me to suggest that the works will harm the interests of persons having rights in relation to, or occupying, the land (and in particular persons exercising rights of common over it).

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

- 8. The erection of a building close to the existing medium pressure gas main compels Southern Gas Networks Plc to upgrade the main by inserting the polyethylene pipe into it in order to meet the required safety standards for proximity to a habitable building.
- 9. The interests of the neighbourhood test relates to whether the works will unacceptably interfere with the way the land is used by local people and is closely linked with public rights of access. The affected pipe route runs through a wooded area in the south western corner of the common, which is open to general public access via a public footpath. It is described by the applicant as a section of the common that is sparsely tree covered, as is shown in photographs submitted, and not used for recreational activities.
- 10. The application plan shows that the route does not cross the footpath and is not close enough for the works to impact on it. The route extends for approximately 60 metres but there will be no need for a continuous open trench. Excavation will instead be limited to a 5m² pit at each end and up to four additional, slightly smaller, pits where the pipe route bends and access to the main may be required to ensure the polyethylene pipe can progress through it. The safety/security fencing will only be necessary where excavations are required and not all the excavations will be open at the same time.
- 11. The works will be mostly carried out by hand and small light machinery, which will limit any interference with users of the common. The permanent works are underground, with no new above surface features proposed. The common land affected will be reinstated and all temporary fencing will be removed upon completion of the works, which is expected to be within four weeks. I conclude that the works will not have a significant or lasting impact on the interests of the neighbourhood or public rights of access.

Nature conservation

- 12. Natural England was consulted about the application but did not comment. There is no evidence before me that leads me to think the works will harm nature conservation interests.

Conservation of the landscape

- 13. The area has no specific landscape designation. All the permanent works will be underground and the land will be restored on their completion, which can be required by attaching a suitable condition

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.

to any consent. I consider that the works are not extensive and any visual impact they will have on the landscape will be small and short term, especially as scrub present at the site will help to shield ground level disturbance.

Archaeological remains and features of historic interest

14. There is no evidence before me that leads me to think the works will harm the above interests.

Other relevant matters

15. 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.....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

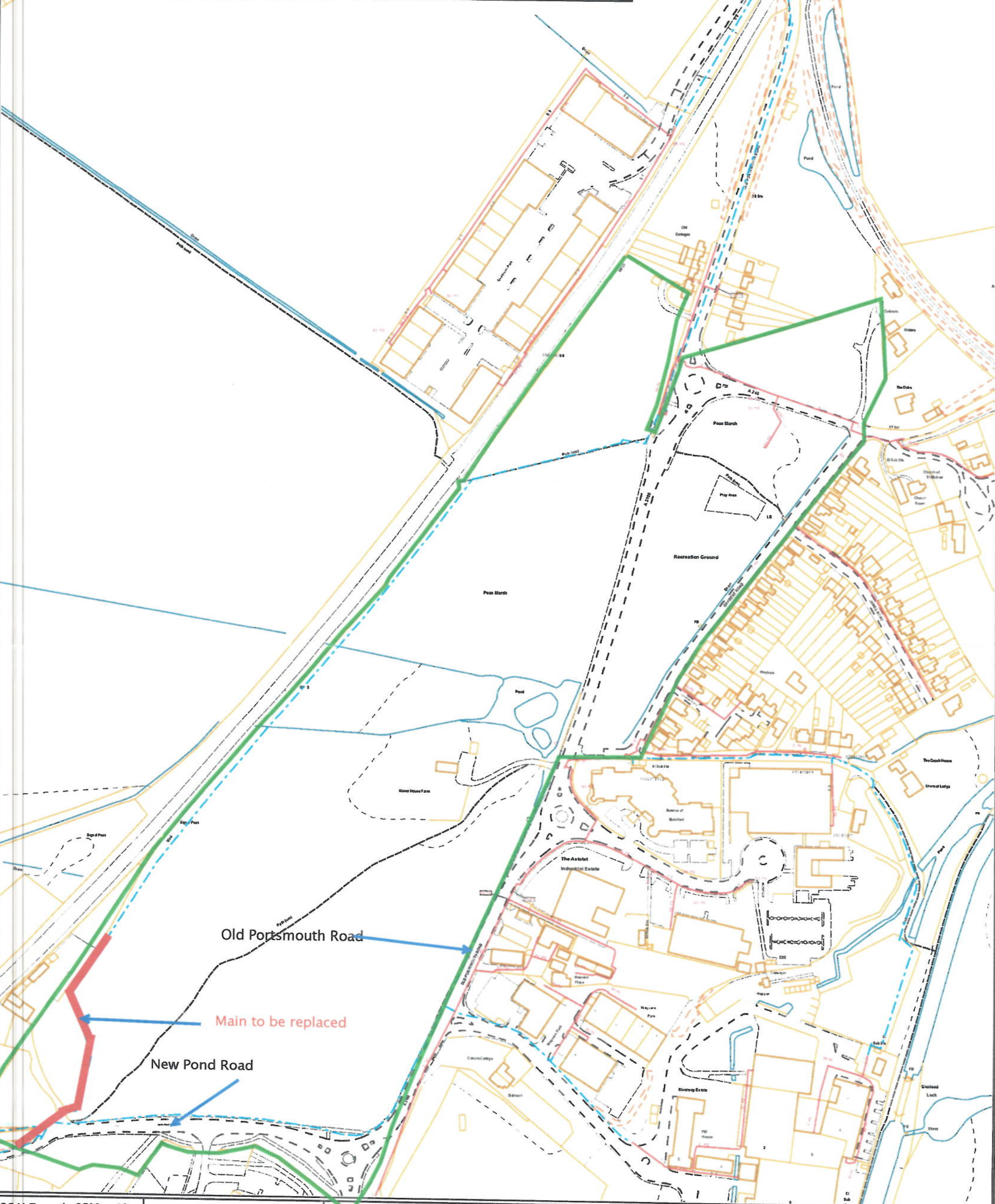
16. I conclude that the proposed works will not harm the interests set out in paragraph 6 above and will confer a public benefit by ensuring that gas infrastructure safety standards are maintained. Consent is therefore granted for the works subject to the conditions set out in paragraph 1.

Richard Holland

There are Area of Interest layers switched off. There may be Area of Interest polygons in this view which you cannot see.

Address:

Land adjacent adj Old Portsmouth Road Guildford GU3 1LX



SCALE : 1 : 2500 A3
USER ID : km55788
DATE : 30/10/2018
GRID REFERENCE :
E498899,N146390,SU 98 46

LP MAINS
MP MAINS
COMMON LAND
BOUNDARY

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

Intranet WebGIS 2.1
Surrey County Area
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