
Application Decision

by Richard Holland

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

Decision date: 26 February 2019

Application Ref: COM/3218349
Nutfield Marsh Common, Surrey

Register Unit No: CL 65

Commons Registration Authority: Surrey County Council.

- The application, dated 3 December 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 Southern Gas Networks Plc.
 - The works comprise the replacement of a section of gas main, small excavations and the insertion of a new 150 m Polyethylene pipe. The excavations will be protected by temporary fencing.
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Decision

1. Consent is granted for the works in accordance with the application dated 3 December 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 temporary fencing shall be removed no later than one month from the completion of the works; and
 - iii. the common shall be restored no later than one month from the completion of the works.
2. For the purposes of identification only the location of the works is shown as a thick 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. I have taken account of the representation made by the Open Spaces Society (OSS).
5. 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;

¹ Common Land Consents Policy (Defra November 2015)

- 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

- 6. The common has no known owner. The applicant confirms that the registered right of herbage is not exercised. I am satisfied that the interests of those occupying the land is not at issue and works will not harm the interests of those having rights over the land.

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

- 7. 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 works are required as part of a larger gas main replacement project to comply with safety policy and prevent leakage, by removing cast iron mains from the gas distribution system. Temporary fencing is required for health and safety reasons and to provide site security during the works and will be removed on completion.
- 8. The works will only impact a small area of the common (3 x 50 m sections) at any one time and are of short duration (four weeks in total). Therefore, I do not consider that the works will unacceptably impede access. I am satisfied that the works will have neither a significant or lasting impact on the common and will not harm the interests of the neighbourhood or public rights of access.

Nature and landscape conservation

- 9. There is no evidence before me to indicate that the proposed works will harm nature conservation interests. All permanent works will be below ground. Upon completion of the works, any above ground works will be removed, all excavations will be backfilled and the ground reinstated. I am satisfied that the impact on the landscape will be temporary and will conserve the landscape in the long term.

Archaeological remains and features of historic interest

- 10. There is no evidence before me to indicate that the proposed works will harm any archaeological remains or features of historic interest.

Conclusion

- 11. Defra's policy guidance advises that 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.
- 12. I conclude that the proposed works will not harm the interests set out in paragraph 5 above and will confer a public benefit by ensuring the continued safe operation of the gas network in the local area. Consent is therefore granted for the works subject to the conditions set out in paragraph 1.

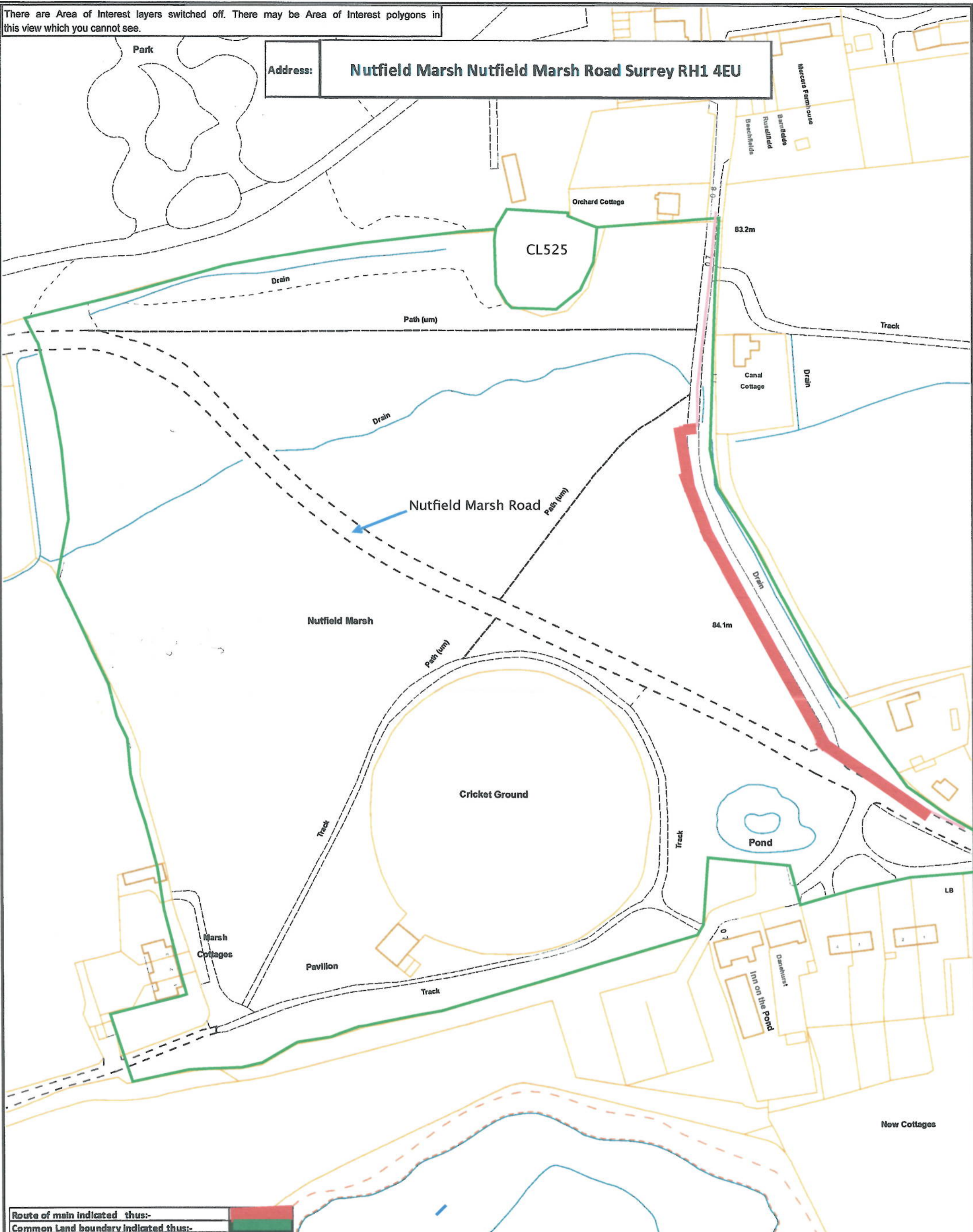
Richard Holland

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.

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

Address:

Nutfield Marsh Nutfield Marsh Road Surrey RH1 4EU



Route of main indicated thus:-

Common Land boundary indicated thus:-



Drawn by:	K.Miller
Date:	16-Nov-18
Scale:	1:1250 A3
O.S Ref:	TQ3051
Project type:	Replacement
Project No:	SEN31264
Drawing No:	WL006468

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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