



Application Decision

by Richard Holland

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

Decision date: 30 June 2016

Application Ref: COM 786
Passfield Common, Hampshire

Register Unit No: CL 92

Commons Registration Authority: Hampshire County Council

The application, dated 01 April 2016, is made under Section 23 of the National Trust Act 1971 (the 1971 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 388 metres of a 63 mm diameter gas main; and
 - temporary 1.2 metre high plastic barrier fencing.
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Decision

1. Consent is granted for the works in accordance with the application dated 01 April 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 green 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 23, 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).

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 National Trust, as landowner, consents to the proposed works and considers the works desirable in the broader public interest. The applicant confirms that the proposed works will be laid in an existing tract and connect into a main located off the common on private property. There is no indication that the temporary works will impact on grazing rights which exist 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 has advised that it has a statutory obligation to replace an existing steel gas pipe which has come to the end of its life to ensure the continued integrity of the gas distribution system. The applicant has confirmed that the minimum amount of fencing will be used to ensure public safety and maintain access rights to the common. Trenching will be backfilled as quickly as possible with a maximum length of 50 metres of open excavation at any one time. The works are expected to last three weeks. The OSS does not object to the proposed works as public access will not be affected and the common will be fully reinstated.
9. I accept that the works are necessary to maintain the integrity of the gas supply. 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 of the gas supply.

Nature conservation

10. The common is designated a Site of Special Scientific Interest (SSSI) and is part of the Wealden Heaths Special Protection Area (SPA). On behalf of the applicant Wessex Ecology has, as required by Natural England, carried out a Habitat Regulations Assessment (HRA). The HRA concludes that the works will have 'No Likely Significant Effect' on qualifying species of the SPA (Dartford Warbler, Nightjar and Woodlark). I am satisfied that there is no evidence before me to indicate that the proposed works will harm nature conservation interests.

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.

Conservation of the landscape

11. The proposed works are mainly confined to an existing track near the common land boundary. 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 a short duration. I am satisfied that the works will conserve the landscape in the long term.

Archaeological remains and features of historic interest

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

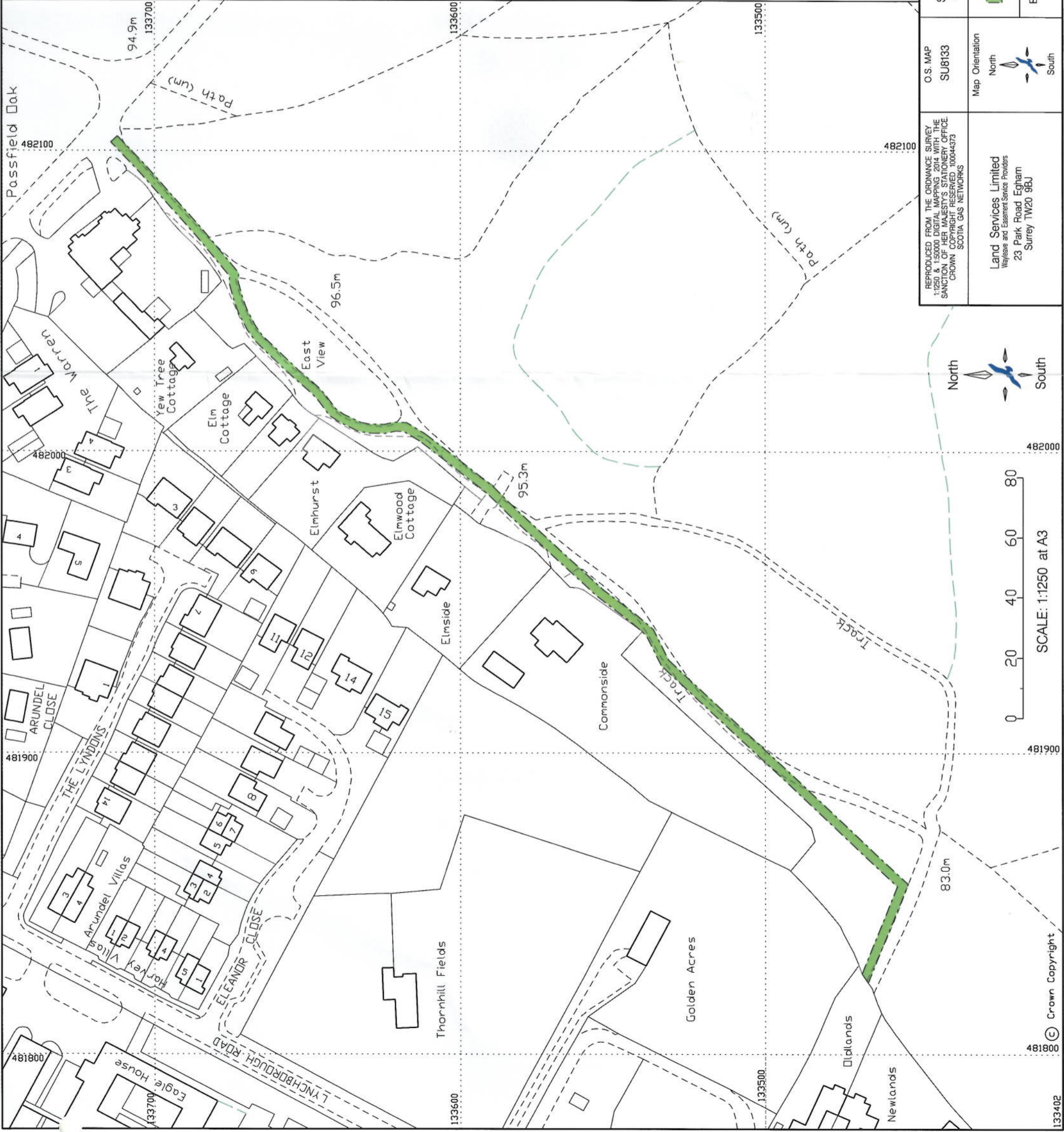
Other relevant matters

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 by ensuring the continued integrity of the gas distribution system. Consent is therefore granted for the works subject to the conditions set out in paragraph 1.

Richard Holland

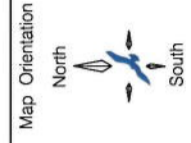


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Wayleave and Easement Service Providers
23 Park Road Egham
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O.S. MAP
SU8133

O.S. REFERENCE
SU 81970 33575
(481970 133575)

3 Metre Easement

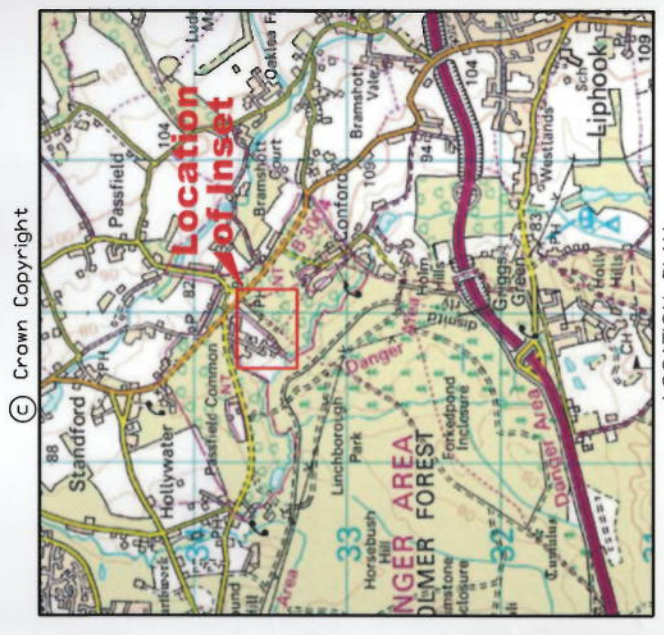
EAST HAMPSHIRE COUNCIL

Easement at Passfield Common
GU30 7RJ Liphook Hampshire

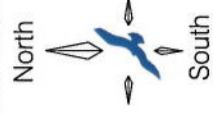
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