

|  |
| --- |
| **Application Decision** |
|  |
| **by Richard Holland** |
| **Appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 5 April 2023** |
| **Application Ref: COM/3307623**  **Great Bookham Common, Surrey**  Register Unit No: CL96  Commons Registration Authority: Surrey County Council   * The application, dated 21 September 2022, 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 (SGN). * The works to replace existing equipment comprise:  1. below ground gas pressure controller (governor); 2. above ground vent mounted control cabinet (0.3m x 0.46m) on a 3m high steel pipe vent stack; and 3. temporary 2m high Heras safety fencing enclosing approximately 200 square metres for the duration of the works. | |

**Decision**

1. Consent is granted for the works in accordance with the application dated 21 September 2022 and the plans submitted with it subject to the following conditions:
2. the works shall begin no later than 3 years from the date of this decision; and
3. all temporary fencing shall be removed and the land shall be fully reinstated within one month from the completion of the works.
4. For the purposes of identification only, the location of the proposed works is shown on the attached plan.

**Preliminary Matters**

1. I have had regard to Defra’s Common Land consents policy of November 2015 (the Defra policy) in determining this application under section 23 of the 1971 Act, 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.
2. This application has been determined solely on the basis of written evidence. I have taken account of the representations made by Natural England (NE) and the Open Spaces Society (OSS).
3. I am required by section 39 of the Commons Act 2006 to have regard to the following in determining this application:-
4. the interests of persons having rights in relation to, or occupying, the land (and in particular persons exercising rights of common over it);
5. the interests of the neighbourhood;
6. the public interest. (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); and
7. any other matter considered to be relevant.

**Reasons**

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

1. The land is owned by the National Trust (NT), which confirms in its letter of 30 June 2022 that the works will improve the enjoyment of the common visually, make it more open and reduce flooding problems around the gas governor site. On that basis NT considers the works to be desirable for the purpose of improving opportunities for the enjoyment of the property by the public and that the works are in the interests of visitors to the common.
2. The common comprises several roadside strips of land running north/south along Little Bookham Street. The common land register records two rights to graze up to four and six animals respectively, together with rights of estovers, and one right to graze up to three animals. The rights apply to the whole common.
3. The works are proposed to be carried out at the southern end of the most southern strip of common at the corner of Little Bookham Street and Sole Farm Road. The applicant advises that due to its position the application land is not generally used for the exercising of any of the registered rights. I am satisfied that this is likely to be the case and that the rights of common are unlikely to be harmed by the proposed works. Certainly, no rights holders have objected to the application.

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

1. SGN owns and operates the gas distribution system in the area. The governor is an essential part of the system but has been in service since 1981 and needs to be replaced as the control equipment is obsolete and is not capable of being updated to the required operational standards. SGN confirms there are no available alternative relocation sites and I am satisfied that it is necessary for its equipment to remain located on the common.
2. The interests of the neighbourhood test relates to whether the works to replace the equipment will impact on the way the common land is used by local people and is closely linked with interests of public access. A photograph of the application land submitted by SGN shows a pavement separating the edge of the grassed common from the highway. I consider it likely that the land is used mainly by dog walkers and by pedestrians as a short cut across the corner of Little Bookham Street and Sole Farm Road.
3. The application, as originally made, was for a separate vent stack and control cabinet. SGN subsequently advised that a vent mounted control cabinet will be used and will be positioned at the eastern edge of the common. There will no longer be a need for two separate structures on the common and the proposals will allow for the removal of the current control cabinet which impedes access to some extent.
4. SGN also proposes to slightly raise the ground around the governor pit to reduce the accumulation of standing water, which will benefit those wishing to walk over the area.
5. I conclude that the proposed permanent works will be beneficial to the above interests by reducing existing impediments to public access. All temporary fencing will be removed once the works are completed, which is expected to be within about six weeks; this can be secured by attaching a suitable condition to the consent.

***The public interest***

*Nature conservation*

1. NE confirms that the common is not subject to any statutory designations for nature conservation and exists as strips of semi natural grassland within areas of residential development. NE advises that it has no concerns as to any impact on nature conservation and I am satisfied that nature conservation interests will not be harmed by the works.

*Conservation of the landscape*

1. The works propose changes to the current equipment layout that will reduce its visual impact. The new combined vent stack and control cabinet will be positioned in front of a line of trees and vegetation at the eastern edge of the common, which will provide some screening and is away from the more exposed corner of the common. This will allow the existing free-standing control cabinet, which sits in a visually prominent position, to be removed. I consider that slightly raising the ground level around the governor pit to reduce the accumulation of standing water will also be of some slight benefit to the appearance of the common
2. I conclude that the works will improve the landscape by reducing the visual impact of the gas equipment at the site.

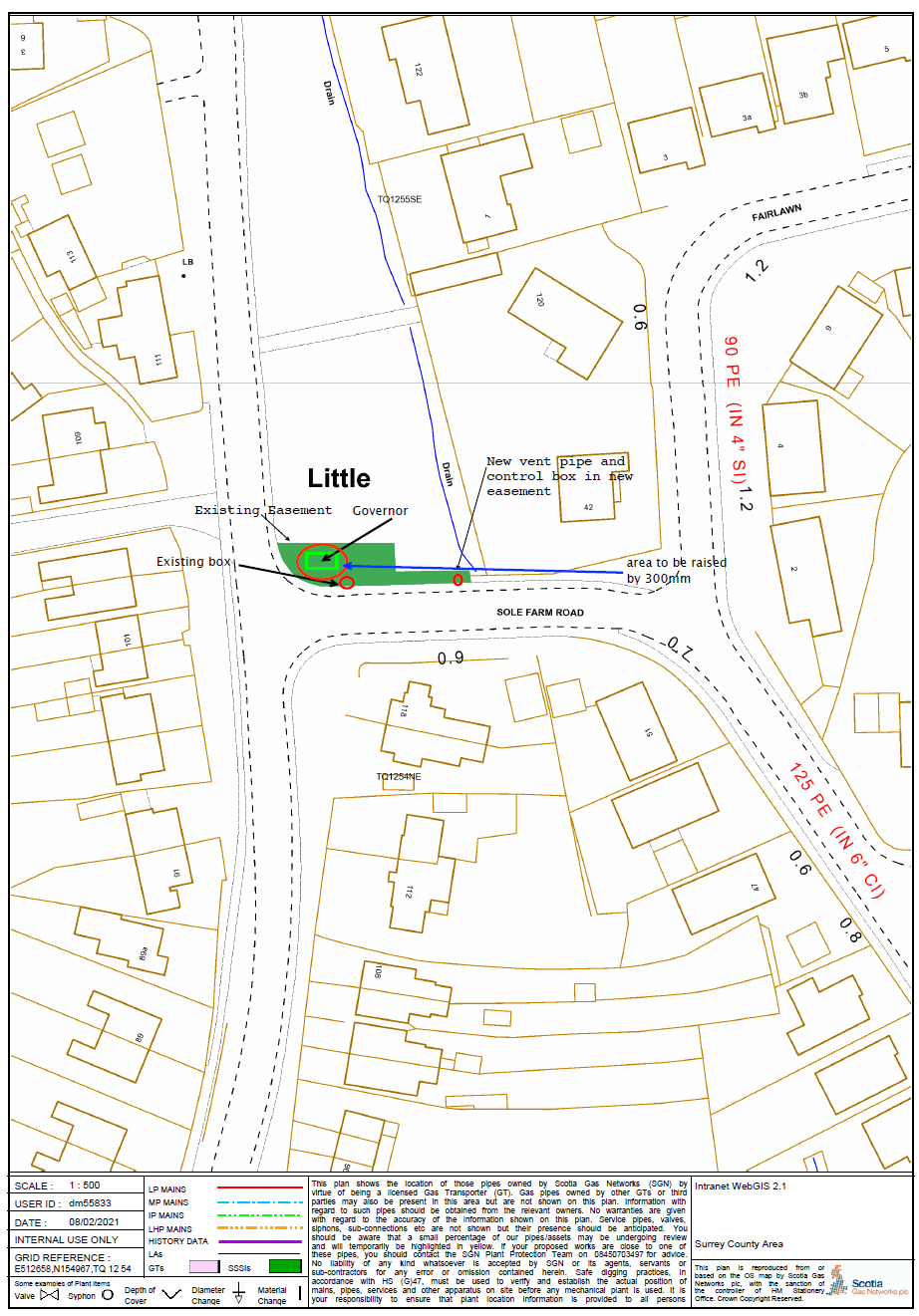
*Archaeological remains and features of historic interest*

1. There is no evidence before me to suggest that the works will harm the above interests.

**Conclusion**

1. I conclude that the proposals will reduce the current gas equipment’s impact on access over the common and its visual impact on the landscape. I further conclude that the other interests set out in paragraph 5 above will not be harmed and that the works are in the wider interests of updating necessary gas infrastructure. Consent should therefore be granted for the works subject to the conditions set out in paragraph 1.

**Richard Holland**

****