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| **Application Decision** |
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| **by Harry Wood** |
| **Appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 6 October 2025** |

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| **Application Ref:** COM/3359648**Tooting Bec Common and Graveney Common**Register Unit Number: CL30 & CL31Commons Registration Authority: Wandsworth Borough Council |
| * The application, dated 24 January 2025, 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:
1. Excavation of a pit for the installation of a new gas governor to replace an existing governor. The governor will be accessible via fitting covers flush with the ground and will cover approximately 250m2
2. Temporary Harras fencing for the installation of the new governor. The fencing will enclose a working area of approximately 450m2. A total length of approximately 130m of fencing will be in place at one time.

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**Decision**

1. Consent is granted for the works in accordance with the application dated 24 January 2025 and the plans submitted with it subject to the following conditions:
2. the works shall begin no later than three years from the date of this decision;

REASON: To provide certainty to users of Tooting Bec and Graveney Commons.

1. the land shall be fully reinstated within one month from the completion of the works (note that this does not apply to any physical changes or permanent features introduced as part of the works for which consent is granted);

REASON: To retain access for commoners across Tooting Bec and Graveney Commons.

1. Any temporary fencing shall be removed within one month of completion of the works.

REASON: To retain access for commoners and the public over Tooting Bec and Graveney Commons

1. For the purposes of identification only the location of the works is shown on the attached plans.

**Preliminary Matters**

1. I have had regard to Defra’s Common Land Consents Policy Guidance (November 2015) 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 guidance if it appears appropriate to do so. In such cases, the decision will explain why it has departed from the guidance.
2. This application has been determined solely on the basis of written evidence. I have taken account of the representations made Natural England (NE)
3. I am required by section 39 of the 2006 Act 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;
7. any other matter considered to be relevant.

**Reasons**

1. The applicant explains the works are to replace an obsolete governor which is essential to provide a safe and secure gas supply benefitting the local area. The existing governor is situated in a low-lying area which is subject to flooding by runoff water from the road, posing a risk to the safe operation of the governor and making maintenance difficult. The new proposed site is outside of this flood affected area.

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

1. The applicant outlines that Wandsworth Borough Council are the owners of the land. The Council has been consulted and provided no comment in this case. The Common land registers records no rights over the common land at Tooting Bec and Graveney Commons.
2. I have received no comments in regard to the above issue and therefore I am satisfied that the planned works would not interfere with the interest of those occupying or having rights over the land.

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

1. The interests of the neighbourhood relate to whether the works will unacceptably interfere with the way the Commons is used by local people and is closely linked with interests of public access.
2. Tooting Bec and Graveney Commons encompass a large area of green space surrounded by an urban environment and it follows that the area of green space is available for the use of those living close by. The Commons are formed of multiple areas of wide-open green spaces with trees bordering the fields. The works are taking place on a parcel of land next to Tooting Bec Road.
3. The applicant explains that these works are for the replacement of an existing gas line governor. These works will not introduce a significant new impediment to the Commons being mainly located below ground level. The access point for the governor will sit level with the ground and is therefore unlikely to affect peoples access to the Commons.
4. The temporary fencing would impact access to the Commons by blocking access to the areas of the Commons where the works are taking place. However, the impact will be minimal when considering the overall size of the Commons, which will remain accessible via other routes. The fencing is also planned to be temporary in nature.
5. I am satisfied that such fencing is appropriate on health and safety grounds and that it will be removed on completion of the works, which can be secured by attaching a suitable condition to the consent.
6. The excavation of the gas governor would also introduce an impediment to access of the Commons however is also planned to be temporary in nature.
7. NE have stated that they do not anticipate that the works will have any significant adverse effects on accessibility for the public.
8. Overall, I do not believe the works as planned would create any unacceptable impediment to people’s access to and across the Commons or affect the recreational value of the Commons.

***The public interest***

1. As well as having regard to the public interest in the protection of public rights of access, I must also have regard to the public interest in nature conservation, the conservation of the landscape and the protection of archaeological remains and features of historic interest.

***Nature conservation and conservation of the landscape***

1. While the proposed works within this application are intended to be permanent, the permenant aspects of the works are mainly located underground. The above ground elements of the work will be temporary in nature.
2. The planed gas governor will be located underground level with only the access cover being at ground level and will not have a negative impact on the biodiversity or landscape value of the Commons.
3. Both the excavation of the Commons and the use of fencing will impact the Commons in the short term. However, they are both temporary in nature and any adverse effect can be mitigated by the appropriate conditions attached to this consent.
4. Overall, I do not view that the works as planned would adversely impact the visuals or landscape value of the Common.
5. NE have been consulted on the application and outline that do not anticipate that the works will have any significant adverse effects on any protected sites, or the common’s biodiversity or landscape. However, they outline that there appear to be mature trees in the proximity of the location of works. Therefore, they expect that a suitable approach be used to ensure that there is no damage to the trees root structure.

***Other matters***

1. In considering this case I need to consider Section 38 of the 2006 Act as it relates to Commons within London Boroughs. I need to be assured that the works as planned do not constitute enclosure to the point of the exclusion of others access to the Commons.
2. Although the fencing being used would introduce an obstacle to access, they are planned to be temporary in nature and therefore would not prevent people accessing the Commons to the point of exclusion. Additionally, the permanent features are located underground level and would not create barriers that would prevent people from accessing the Commons.
3. I therefore conclude that the works are suitable under section 38 where exclusion to people’s access is concerned.

***Protection of archaeological remains and features of historic interest.***

1. English Heritage has been consulted on the application and have not provided comment.
2. There is no evidence before me to suggest that these interests will be harmed by the proposed works.

***Conclusion***

1. In this case I conclude that the works will not introduce an unacceptable barrier to public access to the Commons and the recreational value of the Commons will not be affected. Additionally, the nature conservation***,*** landscape value and historic interests of the Commons will not be affected. The proposed the works will not seriously harm the other interests set out in paragraph 5 above and are consistent with the current use of this area of the Common. Consent for the works is therefore granted subject to the conditions set out at paragraph 1 above.

Harry Wood

Figure 1 – Location of works on the Common

