



Application Decision

by **Richard Holland**

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

Decision date: **11 July 2016**

Application Ref: COM 792

BAAS HILL COMMON, HERTFORDSHIRE

Register Unit No: CL 89

Commons Registration Authority: Hertfordshire County Council

- The application, dated 10 May 2016, is made under Section 38 of the Commons Act 2006 (Act) for consent to carry out restricted works on common land.
 - The application is made by Curwens LLP on behalf of Poynter Homes Limited.
 - The works comprise: hard surfaced, tarmac, vehicle crossover over an area of 20 square metres.
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Decision

1. Consent is granted for the works in accordance with the application dated 10 May 2016 and the plan submitted with it subject to the condition that the works shall begin no later than 3 years from the date of this decision.
2. For the purposes of identification only the location of the proposed works is shown outlined in red on the attached plan.

Preliminary Matters

3. I have had regard to Defra's Common Land Consents Policy Guidance¹ 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.
4. This application has been determined solely on the basis of written evidence.
5. I have taken account of the representations made by The Open Spaces Society (OSS) and Historic England (HE).
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;

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

- 7. The landowner, Borough of Broxbourne Council, has been consulted about the application and has not objected. There are no common rights registered over the common. I am satisfied that the proposed works will not impact adversely on the interests of those occupying the common and the interests of those having rights over the land is not at issue.

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 explains that the property formally known as 'The Links' has been split into two separate dwellings. The proposed works are needed to provide access to the second property, the first property already having an existing access across the common.
- 9. The site of the proposed works is part footpath and part road side verge along a public highway. The site appears to have little recreational value, other than for access. I do not consider that the proposed works will prevent local people, or indeed the wider public, from continuing to walk on the common in the way that they are used to. I conclude that the proposed works will not harm the interests of the neighbourhood or the protection of public rights of access.

Nature Conservation

- 10. I am satisfied that there is no evidence before me to indicate that the proposed works will harm nature conservation interests.

Conservation of the landscape

- 11. The tarmac access will cover a total area of 20 m². While tarmac, by its nature, will have a visual impact on the common, the affected common is already partly hard surfaced. I consider that any visual impact in this case is likely to be very small or negligible. I note that a number of accessways serve neighbouring properties and the works will not be out of keeping with the character of the common in this area. I conclude that the proposed works will not harm the conservation of the landscape.

Archaeological remains and features of historic interests

- 12. HE confirms that the proposed works do not have a direct effect on any designated assets. I am satisfied that the works will not harm any archaeological remains or features of historic interest.

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.

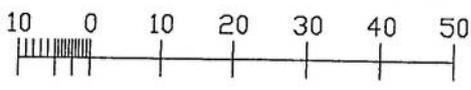
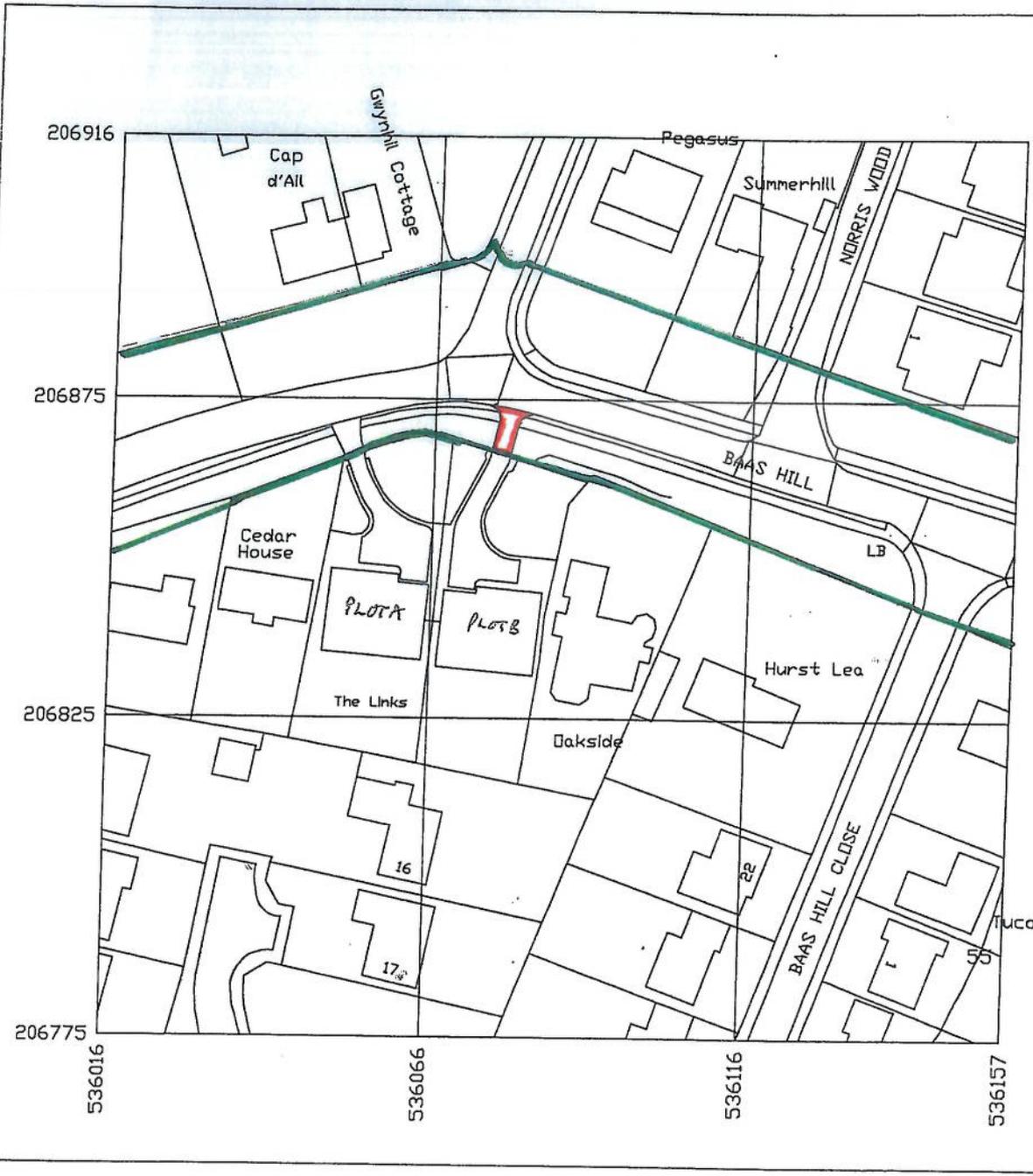
Other relevant matters

13. Defra's policy advises that *'where it is proposed to construct or improve a vehicular way across a common... such an application may be consistent with the continuing use of the land as common land, even where the vehicular way is entirely for private benefit, because the construction will not in itself prevent public access or access for commoners' animals'*. I am satisfied that the proposals are consistent with these policy objectives.

Conclusion

14. I conclude that the works will not harm the interests set out in paragraph 6 above and are consistent with Defra's policy guidance. Consent is therefore granted for the works subject to the condition set out in paragraph 1.

Richard Holland



Metres
Scale 1:1000 @A4

Produced on 29 April 2016 from the Ordnance Survey National Geographic Database and incorporating surveyed revision available at this date.
 This map shows the area bounded by 536016,206775 536016,206916 536157,206916 536157,206775
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