



## Application Decision

**by Richard Holland**

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

**Decision date: 16 February 2017**

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### **Application Ref: COM/3163455**

### **Site of Stainton Village Hall, Penrith, Cumbria**

Register Unit No: CL 239

Commons Registration Authority: Cumbria County Council.

- The application, dated 16 November 2016, 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 Stainton Village Hall Committee.
- The works are to replace the Village Hall and comprise:
  - i. demolition of the existing single-storey building occupying 184.5 square metres;
  - ii. erection on the same plot of a new single-storey building occupying 250 square metres; and
  - iii. erection of Heras round top temporary safety/security site fencing (2 metres high x 3.5 metres wide).

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### **Decision**

1. Consent is granted for the works in accordance with the application dated 16 November 2016 and accompanying plans, subject to the condition that the works shall begin no later than three years from the date of this decision.
2. For the purposes of identification only the location of the works is shown in red on the attached plan.

### **Preliminary Matters**

3. I have had regard to Defra's Common Land Consents Policy<sup>1</sup> 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.
5. I have taken account of the representations made by the Open Spaces Society (OSS), which does not object to the proposals, and Dacre Parish Council (DPC), which supports them.
6. Eden District Council granted planning permission for demolition of existing village hall and erection of new village hall on 5 February 2015 (Ref 14/1080).
7. I am required by section 39 of the 2006 Act to have regard to the following in determining this application:-

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<sup>1</sup> Common Land Consents Policy (Defra November 2015)

- 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;<sup>2</sup> and
- d. any other matter considered to be relevant.

## **Reasons**

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

8. The land is owned by DPC, which advised that it fully and strongly supports the application. There are no registered rights of common. I am satisfied that the 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***

9. The interests of the neighbourhood test relates to whether the works will unacceptably interfere with the way the common land is used by local people. The common land unit is narrow and comprises the existing village hall, a small adjoining car park and an area of trees and grass. The highway pavement which runs along the west side of the site is also within the common land boundary. The main use of the common land is as a village hall and associated car park. However, a permanent building such as a village hall is normally incompatible with the use of common land because it is not intrinsically linked to the enjoyment or management of the common. Nevertheless, the present hall has existed on the site for many years and was standing when the land was registered as common land. I am sure that, in the eyes of the local community, the hall is an accepted, established and valued feature of the common. With this in mind I consider that, as the application proposal is merely to replace the present longstanding hall with a somewhat larger one, it would not be in the public interest to refuse consent simply because the works are not consistent with common land use.

10. The area occupied by the present hall and the car park will be completely closed to public access during the demolition and re-building works, which are expected to take around 10 to 12 months. The area of the common occupied by the adjoining pavement will be separated from the work site by safety/security fencing and will be in place for the duration of the works. The applicant has confirmed that the fencing will not encroach onto the pavement, which will remain open to public use throughout. The area of grass and trees will be unaffected by the proposals. The exclusion of public access to the car park for up to a year or so is clearly unavoidable if the works are to comply with health and safety controls. Given this, and the fact that the present building has effectively excluded access since the land was registered as common land, I do not consider that the proposed works will restrict public access to the common unduly.

### ***Nature conservation***

11. There is no evidence before me to indicate that the proposed works will harm nature conservation interests.

### ***Conservation of the landscape***

12. The existing village hall has formed part of the local landscape since 1922. The applicant describes its current appearance as tired and shabby. The extent to which the new building will impact on the landscape is largely dependent on its size and design. The new building will have a larger footprint and the roof line will be approximately one metre higher. However, plans submitted with the

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<sup>2</sup>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.

application indicate that the design is not radically different from that of the existing building and when viewed from the road the new building will not look significantly bigger or more intrusive. It is a condition of the planning permission that, in the interests of visual amenity, details of the hall's external render and roofing material shall be approved by the local planning authority.

13. Overall, I conclude that the proposals are likely to benefit the public interests in the conservation of the landscape by providing a sympathetically designed and proportioned replacement for an old and rundown building in a poor state of repair.

#### ***Archaeological remains and features of historic interest***

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

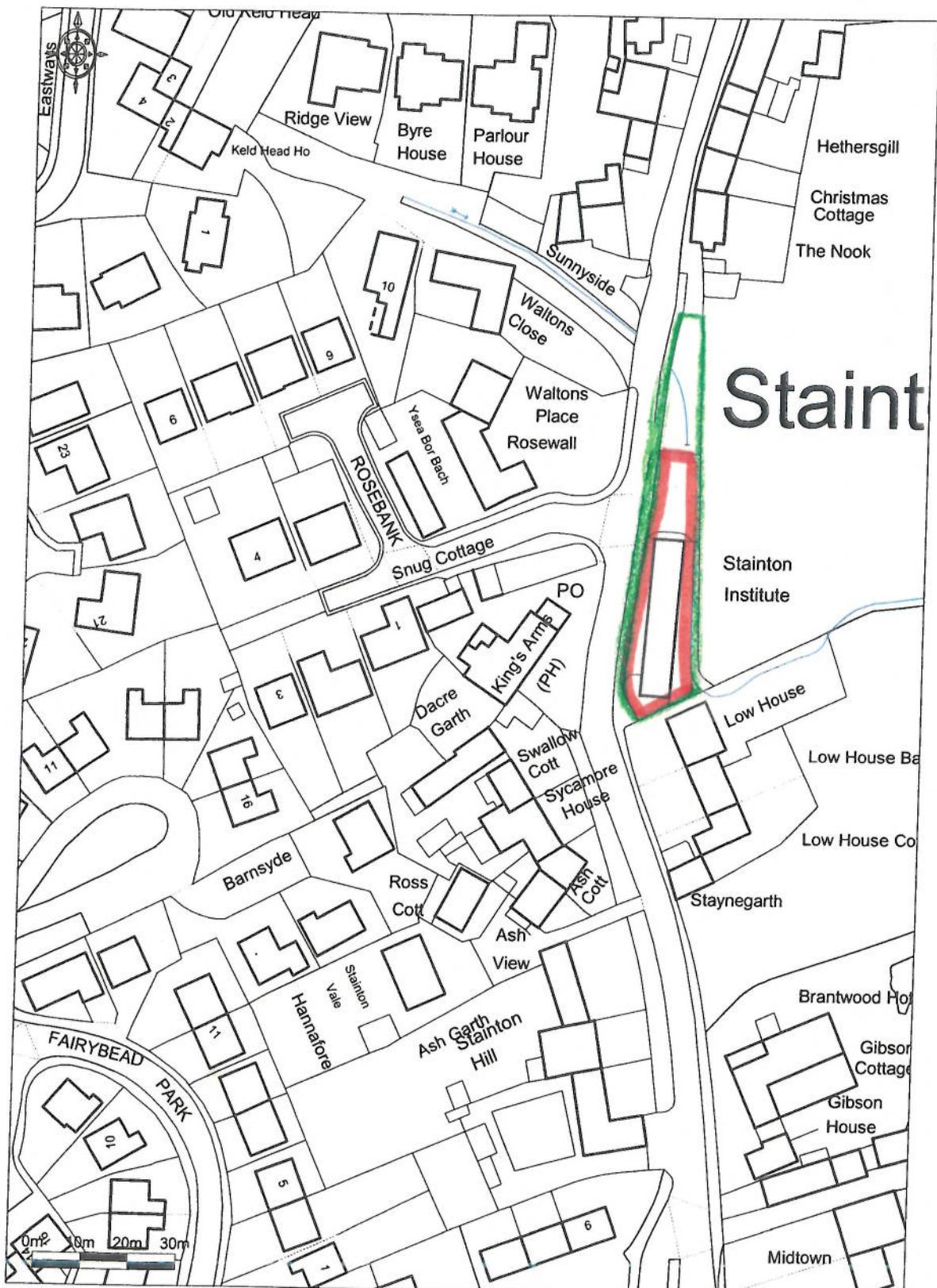
#### **Other matters**

15. The applicant has said that the current building is in a very poor state of repair; the heating is wholly inadequate, the kitchen does not meet the requirements of current legislation and there are no disabled toilet facilities. The building is described as unattractive, cold and inhospitable. The applicant is also concerned that the walls no longer have the inherent strength to support the weight of the roof and that structurally the building is wholly unsuitable for renovation. The proposed new building will increase the internal floor space by 65.5 square metres without encroaching onto the car park area; this will provide improved kitchen and toilet facilities, a meeting room, a plant room and a store. The replacement hall will therefore confer a wider benefit on the local community.

#### **Conclusion**

16. I conclude that the proposed works will not seriously harm the interests set out in paragraph 7 above given that a village hall has been on the site for many years. Moreover, the provision of a replacement village hall with improved facilities will benefit the local community. Consent is therefore granted for the works subject to the condition set out in paragraph 1.

**Richard Holland**



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