



Application Decision

by Richard Holland

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

Decision date: 29 June 2018

Application Ref: COM/3200474
Highleadon Green, Gloucestershire

Register Unit No: CL35

Commons Registration Authority: Gloucestershire County Council

- The application, dated 7 April 2018, 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 Rudford and Highleadon Parish Council.
 - The works are to construct two wooden bus shelters (three sided, 2.5 m long, 1.75 m deep and 2.1 m high) on existing hard standing areas.
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Decision

1. Consent is granted for the works in accordance with the application dated 7 April 2018 and the plan submitted with it subject to the following conditions:
 - i. the works shall begin no later than 3 years from the date of this decision; and
 - ii. the works shall be removed no later than 20 years from the date they are carried out.
2. For the purposes of identification only the location of the works is shown as coloured red squares within a black circle on the attached plan.

Preliminary Matters

3. I have had regard to Defra's Common Land consents policy¹ 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 representation made by the Open Spaces Society (OSS).
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);

¹ Common Land Consents policy (Defra November 2015)

- 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 landowner, Forest of Dean District Council and the commons association managing the grazing rights over the common, Highleadon Green Association, have been consulted and have not objected to the application. I am satisfied that the works do 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 relates to whether the works affect the way the common land is used by local people. The works are required in response to a request by residents of Highleadon Green for the provision of two bus stops either side of the B4215. The new bus stops will support travel by bus for local residents and the wider public.
9. Given that the works will occupy a very small footprint (less than 0.02% of the total area of the common) and utilise an existing area of hard standing situated on roadside verge, I find that the works are unlikely to interfere with the way the public use the common. I conclude that the works will not harm the interests of the neighbourhood or public rights of access.

Nature conservation

10. Natural England confirmed that it would not be commenting on the application. I am satisfied that there is no evidence before me to indicate that the works will harm nature conservation interests.

Conservation of the landscape

11. The bus shelters are of traditional wooden construction. I consider that as the works are of a very small scale and the use of natural materials is in keeping with the common, they are unlikely to impact visually upon the common. I am satisfied the works will preserve the landscape.

Archaeological remains and features of historic interest

12. I am satisfied that there is no evidence before me to indicate that the works will harm archaeological remains or features of historic interest.

Other relevant matters

13. The OSS supports the application but asks that consent is subject to a condition requiring the removal of the works should the bus stops cease to be served by any bus services. The applicant confirms their agreement to the condition. Modifications or conditions relating to the proposed works may be imposed so long as they are

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.

necessary, relevant, enforceable, precise, and reasonable.³ I am not satisfied that the suggested condition makes clear to the applicant, or the public, exactly when the bus shelters should be removed and therefore does not, in my opinion, meet all the requirements.

14. However, I consider that a condition limiting consent to a period of 20 years is justified and will ensure that the applicant and the public are clear about when the works must be removed. Such a condition will enable the consent to be reviewed in the future to assess whether there continues to be a need for the shelters to remain. An application can be made under section 38 if the works are still required after this time.

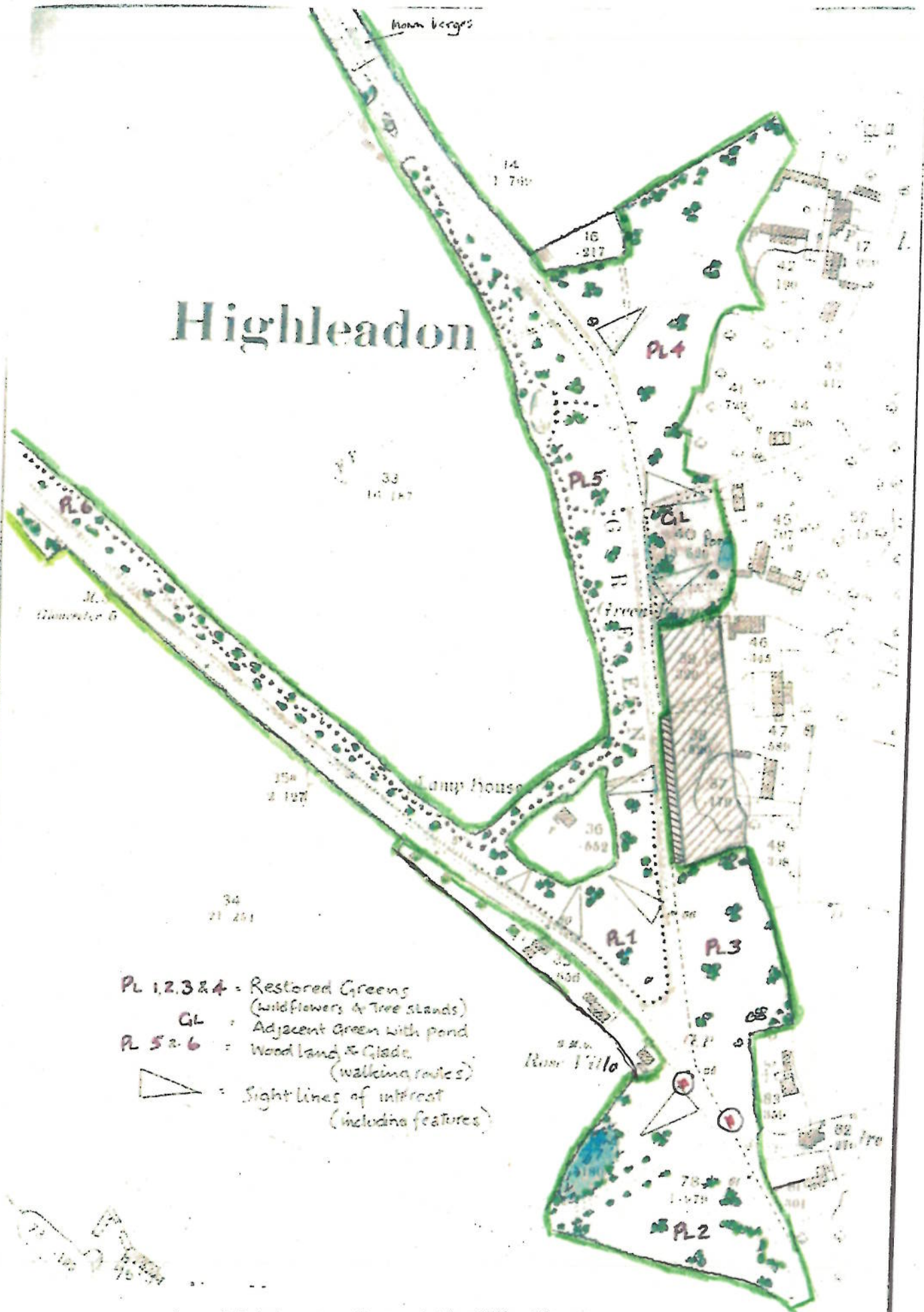
Conclusion

15. I conclude that the works will not harm the interests set out in paragraph 6 above and will benefit local people by supporting public transport in the area. Consent is therefore granted for the works subject to the conditions at paragraph 1 above.

Richard Holland

³www.gov.uk/government/publications/common-land-guidance-sheet-6-section-38-consent-dealing-with-modifications-and-conditions

Highleadon



- PL 1, 2, 3 & 4 - Restored Greens
(wildflowers & tree stands)
- GL - Adjacent Green with pond
- PL 5 & 6 - Woodland & Glade
(walking routes)
- △ - Sight lines of interest
(including features)

LOCATION OF BUS SHELTERS SHOWN
CIRCLED IN RED