
Application Decision

by **Richard Holland**

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

Decision date: 1 December 2020

Application Ref: COM/3259540

Bringsty Common, Herefordshire

Register Unit No: CL14

Commons Registration Authority: Herefordshire Council

- The application, dated 10 September 2020, 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 Councillor Nigel Shaw.
 - The works comprise a wooden bus shelter and stone base measuring approximately 1.5 m x 3.15 m (total area of 4.725 m²) and connecting path measuring 1 m x 2 m.
-

Decision

1. Consent is granted for the works in accordance with the application dated 10 September 2020 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 works is shown outlined in red 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 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;
 - c. the public interest;² and
 - d. any other matter considered to be relevant.

¹ Common Land Consents policy (Defra November 2015)

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.

Reasons

The interests of those occupying or having rights over the land

6. The landowner, Herefordshire Council, has been consulted and has not objected to the application. The applicant confirms that rights registered over the common are not exercised. 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

7. The interests of the neighbourhood relates to whether the works affect the way the common land is used by local people. The applicant explains that the works are needed to provide shelter for those awaiting public transport, particularly local school children during term time, and also to encourage and facilitate increased use of public transport. A short path is needed to connect the bus shelter to a tarmac byway open to all traffic (BOAT).
8. I am satisfied that, given their small size when compared with the size of the common, 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

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

Conservation of the landscape

10. The bus shelter will be formed mostly of pre-constructed wood and placed upon an interior stone base. The applicant confirms that the short connecting path will also be constructed of stone or quarry scalplings. The common has no special landscape designation and I conclude that as the works are of a very small scale and in keeping with the rural location the common, the landscape will be conserved.

Archaeological remains and features of historic interest

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

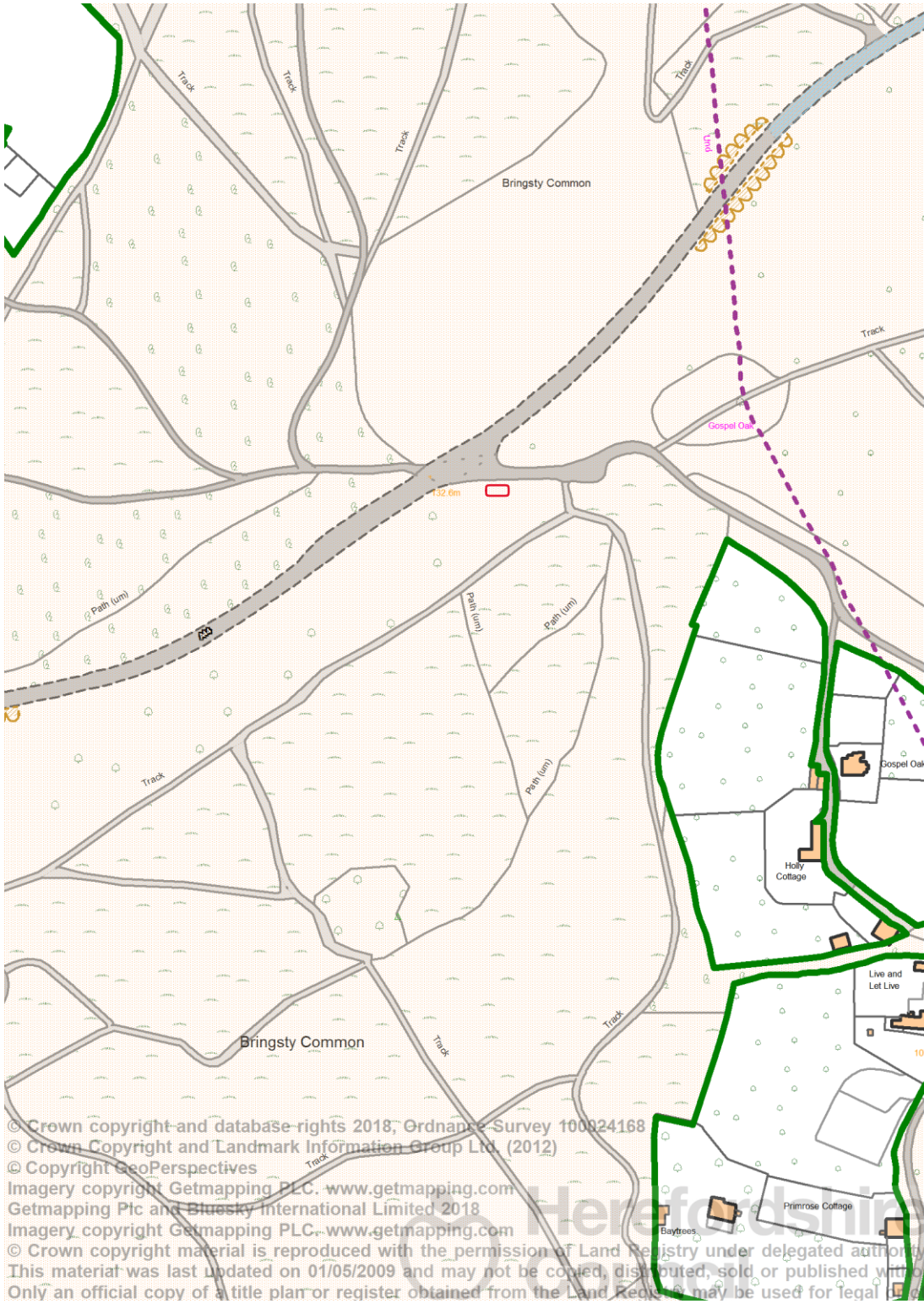
Other relevant matters

12. Defra's policy guidance advises that "*...works may be proposed in relation to common land which do not benefit the common, but confer some wider benefit on the local community, such as minor works undertaken by a statutory undertaker (e.g. a water utility) to provide or improve the public service to local residents and businesses ... consent under section 38 may be appropriate where the works are of temporary duration (such as a worksite), where the works will be installed underground (such as a pipeline or pumping station), or where their physical presence would be so slight as to cause negligible impact on the land in question (such as a control booth or manhole), and the proposals ensure the full restoration of the land affected and confer a public benefit*". I am satisfied that the works contribute to the local community by providing a bus shelter for those using public transport and therefore accord with this policy objective.

Conclusion

13. I conclude that the works will not harm the interests set out in paragraph 5 above and will benefit local people. Consent is therefore granted for the works subject to the condition at paragraph 1 above.

Richard Holland



Location:

Description:

Map Zoom: 382 m

Map Scale: 1:2,636

© Crown copyright and database rights 2018, Ordnance Survey 100024168