



Application Decision

by **Richard Holland**

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

Decision date: **16 October 2018**

Application Ref: COM/3210271

WEST LAWN COMMON, HEREFORDSHIRE

Register Unit No: CL 55

Commons Registration Authority: Herefordshire Council

- The application, dated 21 August 2018, 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 Bella Bathurst.
 - The works comprise the re-grading and re-surfacing of an existing track for a length of 276 m. The first steeper part of 41 m in length will comprise two 600 mm wide concrete strips with topsoil seeded with grass between and the remaining 235 m will be resurfaced hardcore track.
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Decision

1. Consent is granted for the works in accordance with the application dated 21 August 2018 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 as red line 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 Robert Lyne and 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);
 - 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 common has no known owner. There are rights to graze, cut and remove bracken and take tree loppings registered over the common. I note that Mr Lyne, a commoner, does not object to the works and no objections have been received from other commoners. I am satisfied that the interests of those occupying the common is not at issue and the proposed works will not impact on the interests of those having rights over the land.

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 proposed works are needed to improve the long term usability and condition of an existing track serving West Lawn Cottage. The track is currently not easily accessible by vehicular traffic, which has in the past delayed emergency vehicles from reaching the property. The works will raise levels and create a track with a more even contour. Planning permission (174392) has been granted for the re-grading work.
- 9. The applicant has advised that the land between the concrete strips (41m in length) will be grassed to maintain a softer surface for walkers and horse riders. The surface of the remaining length of track will be much the same as at present.
- 10. I do not consider that the works will prevent local people or the public from using 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

- 11. 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 proposed works will harm nature conservation interests.

Conservation of the landscape

- 12. The track is located in an area screened from the surrounding common by embankments topped by hedges and trees. The majority of the track will be re-graded with gravel matching the existing surface. The surface between the concrete strips will be reseeded with grass reinforced with geoweb.
- 13. I accept that the works are needed to improve the condition of the track for its users. Concrete strips will be a somewhat intrusive feature on the common but the total area will be relatively small and the visual impact mitigated by reseeded with grass. The use of gravel matching the existing for much of the track's length will also help minimise the visual impact. I am satisfied that the

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.

proposed works will not unduly harm the character and appearance of the landscape. The OSS does not object to the works provided that, where applicable, the common is reinstated after the works are completed. However, the only part of the common affected by the works is that occupied by the track itself so a conditional consent to this effect is not needed.

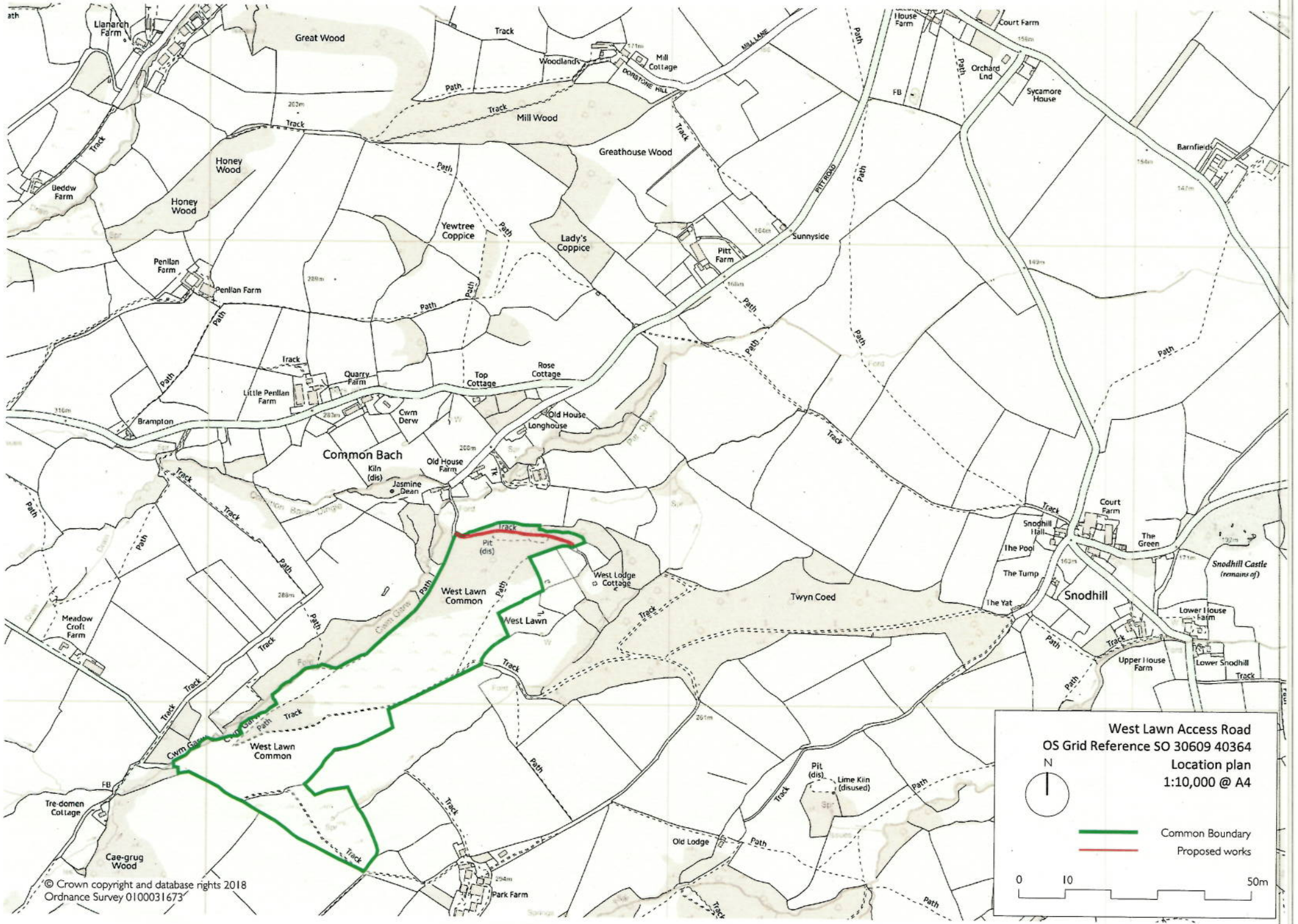
Archaeological remains and features of historic interests

14. The applicant has submitted comments from Historic England advising that there is no record of any designated features within the study area and recommending that the relevant Historic Environment Record/Sites and local authority is contacted. I note that the Archaeological Advisor at Herefordshire Council confirmed it could foresee no archaeological implications. I am satisfied based on the information submitted that the works will not harm any archaeological remains or features of historic interest.


Conclusion

15. I conclude that the works will not seriously harm the interests set out in paragraph 6 above. Consent is therefore granted for the works subject to the condition set out in paragraph 1.


Richard Holland




West Lawn Access Road
OS Grid Reference SO 30609 40364
Location plan
1:10,000 @ A4



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Common Boundary
Proposed works



0 10 50m