

|  |
| --- |
| **Application Decision** |
|  |
| **by Harry Wood** |
| **Appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 25 February 2025** |
| **Application Ref: COM/3356581**  **Aldringham Green, Suffolk**  Register Unit No: CL174  Commons Registration Authority: Suffolk County Council   * The application, dated 27 November 2024, 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 Aldringham-cum-Thorpe Parish Council (the Parish Council). * The works comprise (all measurements are approximate) a 3.51m high x 4.5m wide traditional oak timber framed hexagonal village shelter covering 16m² with clay tiled roof and brick paviour flooring. 2m high temporary Heras fencing will surround the shelter during construction. | |

**Decision**

1. Consent is granted for the works in accordance with the application dated 27 November 2024 and the plans submitted with it subject to the following conditions:
2. The works shall begin no later than 3 years from the date of this decision.

REASON: To provide certainty to users of Aldringham Green.

1. Any common land impacted by the works shall be fully reinstated within one month from the completion of the works (note that this does not apply to any physical changes or permanent features introduced as part of the works for which consent is granted).

REASON: To retain access for the public over Aldringham Green.

1. For the purposes of identification only, the location of the proposed works is shown in red on the attached plan.

**Preliminary Matters**

1. I have had regard to Defra’s Common Land consents policy of November 2015 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.
2. This application has been determined solely on the basis of written evidence.
3. I have taken account of the representations made by Natural England (NE) and the Open Spaces Society (OSS).
4. I am required by section 39 of the 2006 Act to have regard to the following in determining this application:-
5. the interests of persons having rights in relation to, or occupying, the land (and in particular persons exercising rights of common over it);
6. the interests of the neighbourhood;
7. the public interest. (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); and
8. any other matter considered to be relevant.

**Reasons**

1. The Parish Council advises that Aldringham has no village hall or other meeting place and that Aldringham Green (the Green) provides a space for periodic commemorative celebrations and other village gatherings; notably a monthly rural coffee caravan and an annual Christmas carol service. The Green is a valuable and popular village asset for community recreation and includes a children’s playground. The proposed shelter will provide a focal point for other community activities and will offer some protection from the weather.

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

1. The Parish Council advises that the Green is owned by Mr Hamish Ogilvie, who was consulted about the application but did not comment. The register for common land unit CL174 records no rights of common.
2. There is no evidence to suggest that the interests of those occupying the land wilI be harmed by the proposed works and rights of common are not at issue.

***The interests of the neighbourhood and public rights of access***

1. The interests of the neighbourhood relates to whether the works will unacceptably interfere with the way the common land is used by local people and is closely linked with interests of public access.
2. Photographs of the application land submitted with the application show it to be an open grassed area close to the children’s play area. The application plan shows that the shelter will be positioned in the centre of the open area.
3. The Parish Council advises that a consultation of 54 households confirmed 52 to be fully supportive of the proposal. Whilst that does not in itself prove there is no local opposition to it, no local people submitted objections to the proposal following the formal consultation required by the Section 38 application process.
4. The Parish Council suggests that the Green is subject to section 193 of the Law of Property Act 1925, whereby members of the public have a right of access for air and exercise, including on horseback. However, no evidence has been submitted to show this.
5. The works will permanently remove a small area of grass from public use but the public will be able to make use of the shelter as well as will local people, so there will be no loss of publicly available space.
6. I consider that the works are consistent with the way this part of the common is used by local people and that the shelter will contribute to the holding of established events on the Green without harming rights of public access.

*Nature conservation and conservation of the landscape*

1. NE advises that Adringham Green is not subject to any statutory designations for nature conservation and, based on the plans submitted, NE considers that the proposed development will not have any adverse impacts on such nationally protected sites.
2. The common has no particular landscape interest designation. The Parish Council advises that the shelter site is partially screened by trees and shrubs on two sides and a thick wooded area to the north provides screening along the Aldringham Lane (B1353) frontage to the green. Whilst this may be the case, the shelter will be a new structure in an open area and will affect views across the Green from local residences and roads to a certain extent. However, from drawings of the proposed shelter and a photograph submitted by the Parish Council showing a shelter of similar design at a different location, I consider that it will not be an unattractive addition to the Green or look out of place in its surroundings.
3. I am satisfied that the works are unlikely to harm nature conservation interests and will not unacceptably harm landscape interests.

*Archaeological remains and features of historic interest*

1. Historic England and Suffolk County Council Archaeological Service were consulted about the proposals but neither commented. I am satisfied that the works required to erect the shelter will involve no significant excavation of the soil and there is no evidence to suggest they will harm archaeological remains or features of historic interest.

**Other matters**

1. OSS raises concerns about a paling fence, which the Parish Council erected without consent to protect children using the playground from wandering onto Aldringham Lane, and a longstanding line of wooden stakes around two sides of the Green. The stakes prevent vehicular access onto the Green but also mark out several parking spaces on the Green. It may be that consent is needed for the fence and stakes and the Parish Council should consider published guidance and apply accordingly. However the fence and stakes do not form part of the works in the application before me and I consider that their presence does not weigh significantly against consent being given for the proposed shelter.

**Conclusion**

1. I conclude that the proposed works are in the interests of the neighbourhood as the shelter will contribute to established local activities on the Green by providing a focal point for them and giving some protection from the weather. Furthermore, the works will not unacceptably harm the other interests set out in paragraph 6 above. Consent is therefore granted for the works subject to the conditions set out in paragraph 1.

**Harry Wood**

**Plan referred to in Paragraph 2
**