



Application Decision

Site visit made on 18 June 2020

by Rory Cridland LLB(Hons), Solicitor

an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs

Decision date: 22 July 2020

Application Ref: COM/3241643

Widemarsh Common, Hereford, Herefordshire

- Register Unit: VG23
 - The application, dated 20 March 2019, is made under Schedule 2 of the Commons Act 2006 ("the 2006 Act") to remove land from the register of town or village greens on grounds specified in paragraph 8(2) of Schedule 2 to the 2006 Act (buildings registered as town or village green).
 - The application is made by Herefordshire Council.
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Decision

1. The application is granted and the land, part of register unit VG23, edged red on the plan appended to this decision shall be removed from the Register.

Preliminary Matters

2. The Registration Authority has referred the application to the Planning Inspectorate in accordance with Regulation 26 of The Commons Registration (England) Regulations 2014 (the Regulations).

The Main Issues

3. Paragraph 8 of Schedule 2 to the 2006 Act provides that land can be removed from the register where: (a) the land was provisionally registered as a town or village green under section 4 of the Commons Registration Act 1965 ("the 1965 Act"); (b) on the date of the provisional registration the land was covered by a building or was within the curtilage of a building; (c) the provisional registration became final; and (d) since the date of the provisional registration the land has at all times been, and still is, covered by a building or within the curtilage of a building.

Reasons

Whether the land was provisionally registered as common land under section 4 of the 1965 Act and whether the provisional registration became final

4. The extracts of the Register provided by the Council show that the land was provisionally registered as a town or village green on 4 March 1968. The provisional registration became final on 16 August 1971.

Whether on the date of the provisional registration the land was covered by a building or was within the curtilage of a building and has at all times been, and still is, covered by a building or within the curtilage of a building

5. The application land forms part of Widemarsh Common and consists of a small attractive pavilion and toilet block both of which face out towards the larger area of recreation ground.
6. The historic mapping provided by the Council shows a pavilion and toilet block covering the application land prior to 1943. In addition, I noted on site that while the toilet block appears to be the more recent addition, both structures are of some considerable age. Furthermore, there is nothing to suggest that the buildings depicted on the maps are not the same as those currently on the land.
7. In the absence of any evidence which would indicate otherwise, I am satisfied that, on the balance of probabilities, the application land was covered by a building at the time of provisional registration and has at all times been, and still is, covered by a building.

Other Matters

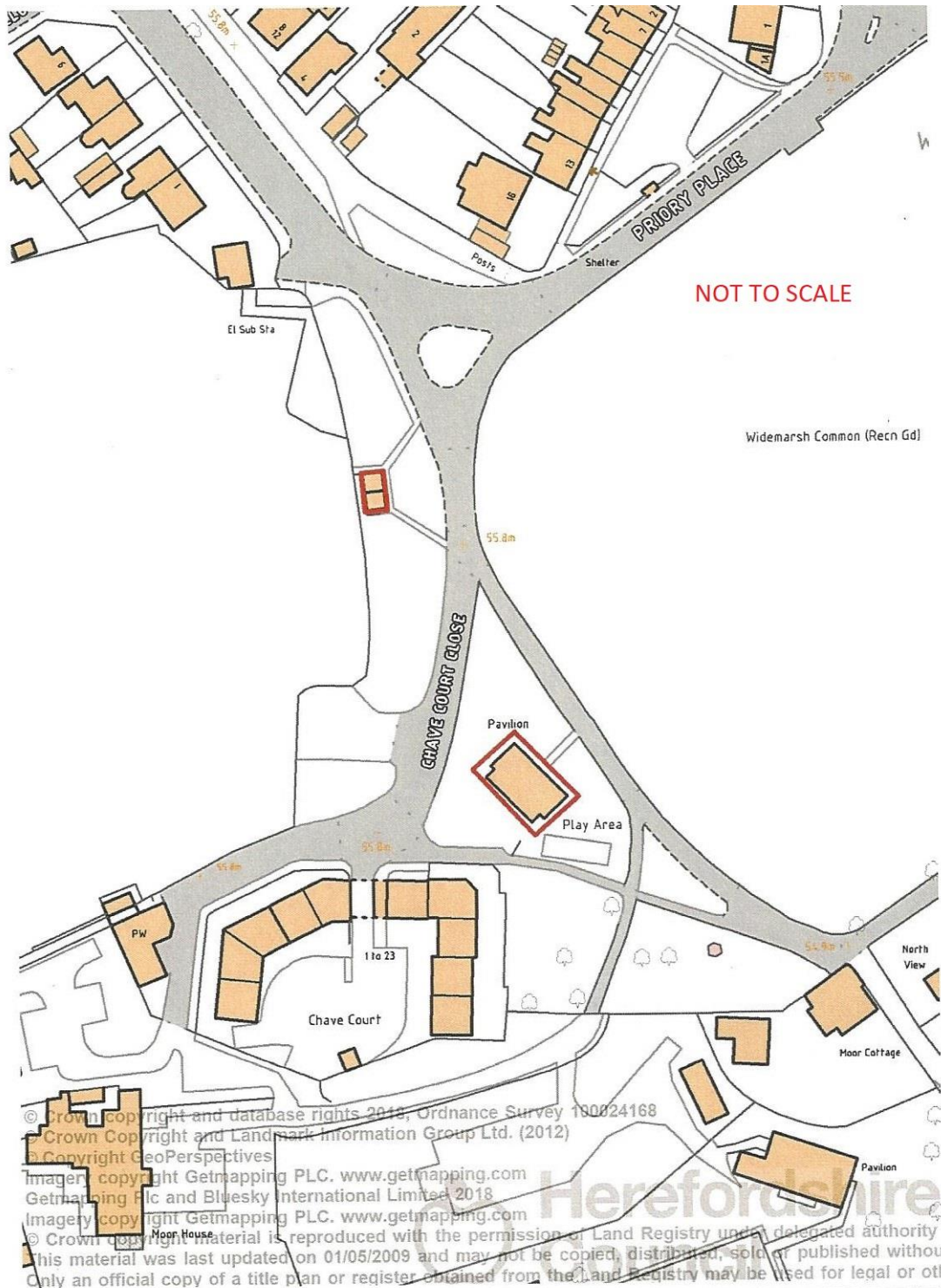
8. I note the objection received from the Open Spaces Society which questions the reasons that the Council would seek to deregister the application land where the building in question forms part of the facilities provided on the green. Furthermore, I note their assertions that this is not a case of mistaken registration and, as such, should not benefit from the provisions for deregistration under Schedule 2 paragraph 8.
9. However, Schedule 2 Paragraph 8 makes no distinction between different types of building or the uses to which they might be put. Instead, it applies a number of criteria which, if met, justify the removal of land from the register. In the present case, I consider the factual circumstances necessary to meet the criteria are met. The purpose to which the building may in future be put or the reasons for the Council's application are not matters for my consideration.

Conclusion

10. Having regard to these and all other matters raised in the written representations, I conclude that the application should be granted.

Rory Cridland

INSPECTOR



Location:VG23 Widemarsh Common

Description: WCs and Pavilion