



# Application Decision

by **Richard Holland**

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

Decision date: 28 November 2017

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## Application Ref: COM/3182327

### Land at Bull Lane, Long Melford, Suffolk

Register Unit No: CL 96

Commons Registration Authority: Suffolk County Council

- The application, dated 9 August 2017, 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 Hopkins Homes Limited.
  - The works comprise one vehicular and three pedestrian hard surfaced accesses (one of which includes a hard surfaced footway along the highway verge) to the adopted public highway, Bull Lane Long Melford. The total maximum area of common land covered by the works is 16.5 m<sup>2</sup> and a length of 33 m.
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## Decision

1. Consent is granted for the works in accordance with the application dated 9 August 2017 and accompanying plan, subject to the condition that the works shall begin no later than three years from the date of this decision.
2. For the purposes of identification only the location of the works are shown in red on the attached plan.

## Preliminary Matters

3. I have had regard to Defra's Common Land Consents Policy<sup>1</sup> 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. The applicant explains that the common is a linear strip of roadside verge of unspecified width and as it has not been possible to determine the boundary of the common, the works may include areas of common. It is difficult to determine the exact extent of the common from the information submitted with the application. Nevertheless, I have decided the application on the basis that the works are on common land.
5. This application has been determined solely on the basis of written evidence.
6. I have taken account of the representations made by Historic England (HE) and Long Melford Parish Council.
7. I am required by section 39 of the 2006 Act to have regard to the following in determining this application:-

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<sup>1</sup> Common Land Consents Policy (Defra November 2015)

- 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;<sup>2</sup> and
- d. any other matter considered to be relevant.

## **Reasons**

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

8. The landowners, C R B Hewitson and B T J Stevens have been consulted about the application and have not objected. There are no rights registered over the common. I am satisfied that the proposed works will not harm the interests of those occupying the land and the interests of those having rights over the land is not at issue.

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

9. The interests of the neighbourhood test relates to whether the works will impact on the way the common land is used by local people. Four narrow strips of roadside verge (0.5 m width), along the boundary of the common, are needed to provide three hard surfaced pedestrian accesses and a hard surfaced vehicular access. The works form part of a proposed housing development on land to the south of Bull Lane which the local planning authority has apparently resolved to grant planning permission. The resolved permission provides for the construction of one hard surfaced vehicular access and three pedestrian hard surfaced accesses from the site to Bull Lane and for the formation of a hard surfaced footway along the highway verge. The applicant confirms that there is no alternative to the proposed works as the only available access from the development site crosses the common onto the highway (Bull Lane). I note that the Parish Council has objected to the application although it has not gone into any detail, only saying that it wishes to protect common land around Long Melford.
10. The common appears to have no recreational value and the applicant confirms that it is currently unsuitable for pedestrian use. The use of the accesses by vehicles and those on foot will therefore have very little or no impact on how the common is used by local people or on public rights of access. I am satisfied that the proposed works will not impact on the interests of the neighbourhood or the protection of public rights of access; the works may have a minor benefit by improving pedestrian access along Bull Lane.

### ***Nature conservation***

11. Natural England did not have any specific comments on the application as the area on which the works are proposed is very small. 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 applicant confirms that the proposed works consist of a tarmac hard surface. The tarmac surface will, by its nature, have an urbanising impact on the landscape. However, I consider that as the works involve very narrow strips of roadside verge any impact is likely to be limited and outweighed by the minor improvements to pedestrian access. I conclude that the works will conserve the landscape.

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<sup>2</sup>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.

### **Archaeological remains and features of historic interest**

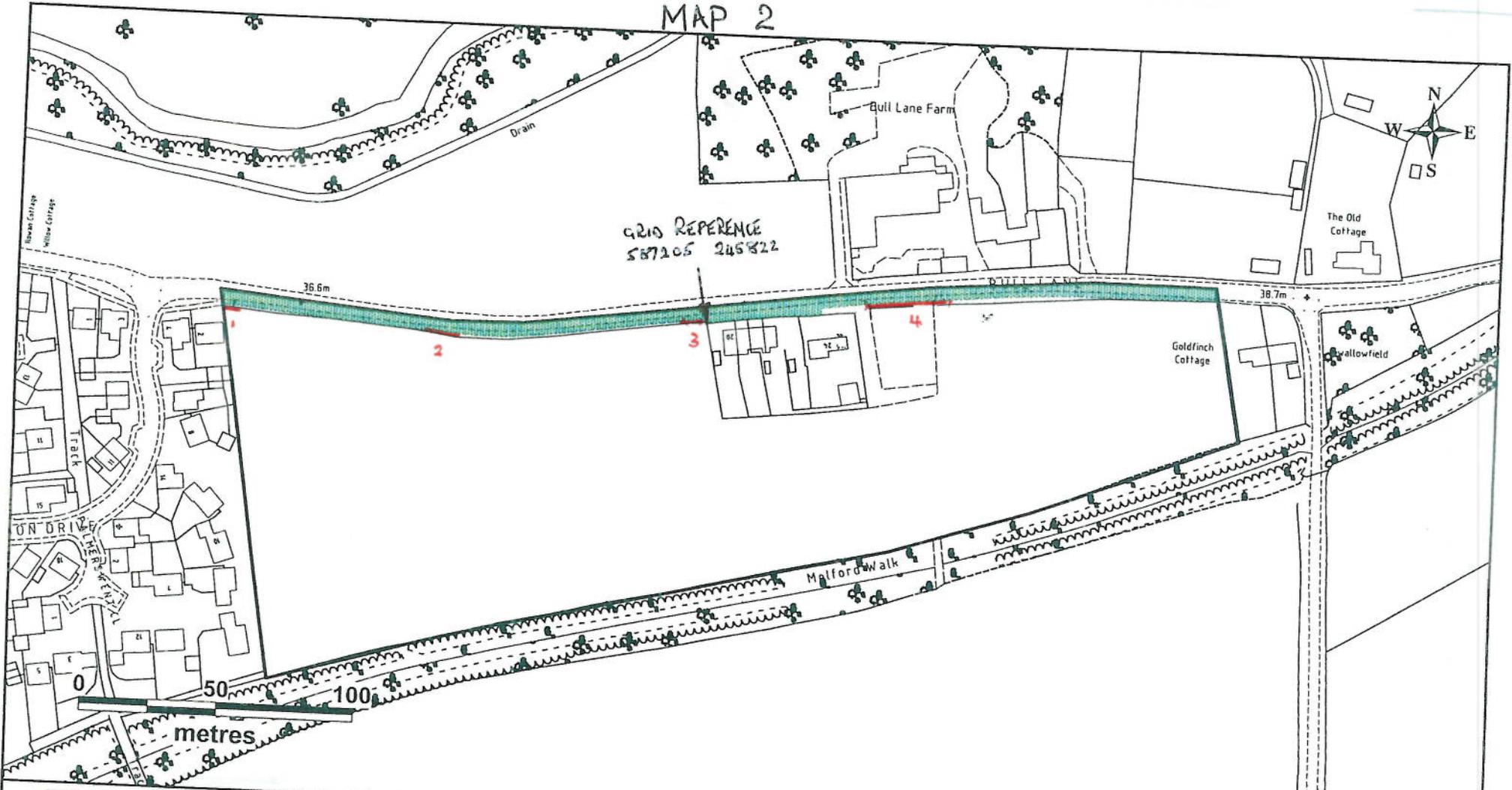
13. HE comments that it does not object to the application in principle on heritage ground, but recommends that the works are subject to archaeological mitigation. The resolved planning permission requires that archaeological mitigation takes place on land which includes the application site; the applicant confirms that it agrees with HE's recommendations. On this basis, I am satisfied that the proposed works will not harm any archaeological remains and features of historic interest.

### **Conclusion**

14. Defra's policy guidance advises that *"Where it is proposed to construct or improve a vehicular way across a common, consent will be required under section 38 if the works involve the 'laying of concrete, tarmacadam, coated roadstone or similar material' (other than for the purposes of repair of the same material). Such an application may be consistent with the continuing use of the land as common land, even where the vehicular way is entirely for private benefit, because the construction will not in itself prevent public access, or access for commoners' animals. However, by its very nature, paving will have an impact on the enjoyment of the common, by reducing the area available for recreation and grazing, by causing harm to habitat, perhaps by affecting drainage, and by introducing an urbanising feature into what will normally be an essentially open and natural setting. The Secretary of State takes the view that, in some circumstances, a paved vehicular way may be the only practical means of achieving access to land adjacent to the common. Where an existing unsurfaced means of access is already in use, a sympathetic paving proposal may be aesthetically preferable"*. I am satisfied that the works accord with the policy guidance. Furthermore, the works help facilitate the provision of much needed housing and I have given weight to this when reaching my decision.
15. Consent is granted for the works subject to the condition set out in paragraph 1.

**Richard Holland**

MAP 2



Resource Management,  
Endeavour House, 8 Russell Road, Ipswich, Suffolk. IP1 2BX.

Scale 1:2000

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Bull Lane, Long Melford  
Extent of maintainable highway is considered to be shown as coloured green

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Iovidg

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DRAWING No.

DATE  
01/12/2015