
Application Decision

by Richard Holland

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

Decision date: 28 May 2020

Application Ref: COM/3245505

Sneedham's Green, Matson, Gloucestershire

Register Unit No: CL252

Commons Registration Authority: Gloucestershire County Council

- The application, dated 22 January 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 Mrs Sarah Hughes.
 - The works comprise a tarmac/asphalt surfaced vehicular driveway covering 79 square metres (12.7 metres long) to serve Snow Capel House, Matson.
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Decision

1. Consent is granted for the works in accordance with the application dated 22 January 2020 and the plan submitted with it subject to the following conditions:
 - i. the works shall begin no later than 3 years from the date of this decision; and
 - ii. the land shall be fully reinstated within one month of completion of the works.
2. For the purposes of identification only the location of the works is shown 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. The application form and published application notice give the area to be surfaced as 79 square metres, of which 25.6 square metres is said to be registered common land. However, the common land register map shows that the whole 79 square metres lies within the common land boundary, which has been drawn differently on the application plan. Whilst this is an anomaly, I am satisfied that the application plan shows the true extent of the proposed driveway and that its full dimensions are given in both the application form and the published notice. I am further satisfied that the anomaly has not prejudiced any party who may have wished to make representations about the application.
5. This application has been determined solely on the basis of written evidence. I have taken account of the representations made by Natural England (NE), Historic England (HE) and the Open Spaces Society (OSS), none of which raised objections to the proposed works.
6. I am required by section 39 of the 2006 Act to have regard to the following in determining this application:-

¹ 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;² and
- d. any other matter considered to be relevant.

Reasons

The interests of those occupying or having rights over the land

- 7. The land is owned by Gloucester City Council, which was consulted about the application but has not commented. The common land register records three rights to graze over the land. The applicant advises that one of the rights holders is her late grandfather and that one of the other two is also thought to be deceased. The remaining rights holder, Mr Jason Herbert, grazes sheep on the main common and through Matson. The applicant advises that Mr Herbert's sheep rarely venture as far as Snow Capel House. Mr Herbert was consulted by the applicant but has not commented on the application.
- 8. I am satisfied that the works are unlikely to harm the interests of those having rights in relation to, or occupying, the land.

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

- 9. Access to Snow Capel House is from the highway (Winnycroft Lane) via a private vehicular road (the road), which serves several properties. Planning permission has been granted for the erection of a dwelling at a neighbouring property to Snow Capel House; the two properties currently share a driveway. The applicant seeks a separate access to Snow Capel House from the road to safeguard privacy.
- 10. The interests of the neighbourhood test relates to whether the works will affect the way the common land is used by local people and is closely linked with public rights of access. The applicant says the affected land can only be accessed on foot via a steep embankment or by walking down the road and, as the road leads only to dwellings, it is not accessed by the public. Nevertheless, the road is only private with regard to the use of vehicles. It lies within the common land boundary and the public has a right to walk over it. However, given their positioning, I consider it unlikely that the road and the footprint of the proposed driveway are used by anyone other than residents of, and visitors to, the dwellings. I conclude that the proposed driveway will have a negligible impact on the interests of the neighbourhood and public rights of access as local people and the wider public will continue to be able to walk over it should they wish to.

Nature conservation

- 11. NE advised that it had no comments to make. Land adjacent to the application site is maintained by the applicant, who intends to clear undergrowth and introduce beehives or bee-friendly plants on the land to support the local bee population. Whilst I can give this little weight as it relates to land outside the application site, there is no evidence before me to suggest that the works will harm nature conservation interests.

Conservation of the landscape

- 12. The land has no particular landscape designation. The applicant advises that the road slopes down towards Snow Capel House and cannot be viewed from the main highway due to its location and dense embankment vegetation. I am satisfied that the proposed driveway will not be widely visible and will not have a significant impact on the landscape.

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.

Archaeological remains and features of historic interest

13. HE advised that the proposals will not impact on any designated heritage assets and that it has no comments to make. There is no evidence that any archaeological remains and features of historic interest will be affected by the proposed driveway.

Conclusion

14. The applicant has not made clear how the privacy of those occupying Snow Capel House would be compromised by the erection of a dwelling at the neighbouring property. Nevertheless, as the driveway will not harm the interests set out in paragraph 6 above it would not be in the public interest to withhold consent. Consent for the works is therefore granted.

Richard Holland



Drain

Wayside

DO NOT SCALE

Capel Cottage

Snow Capel House

WINNYCROFT LANE

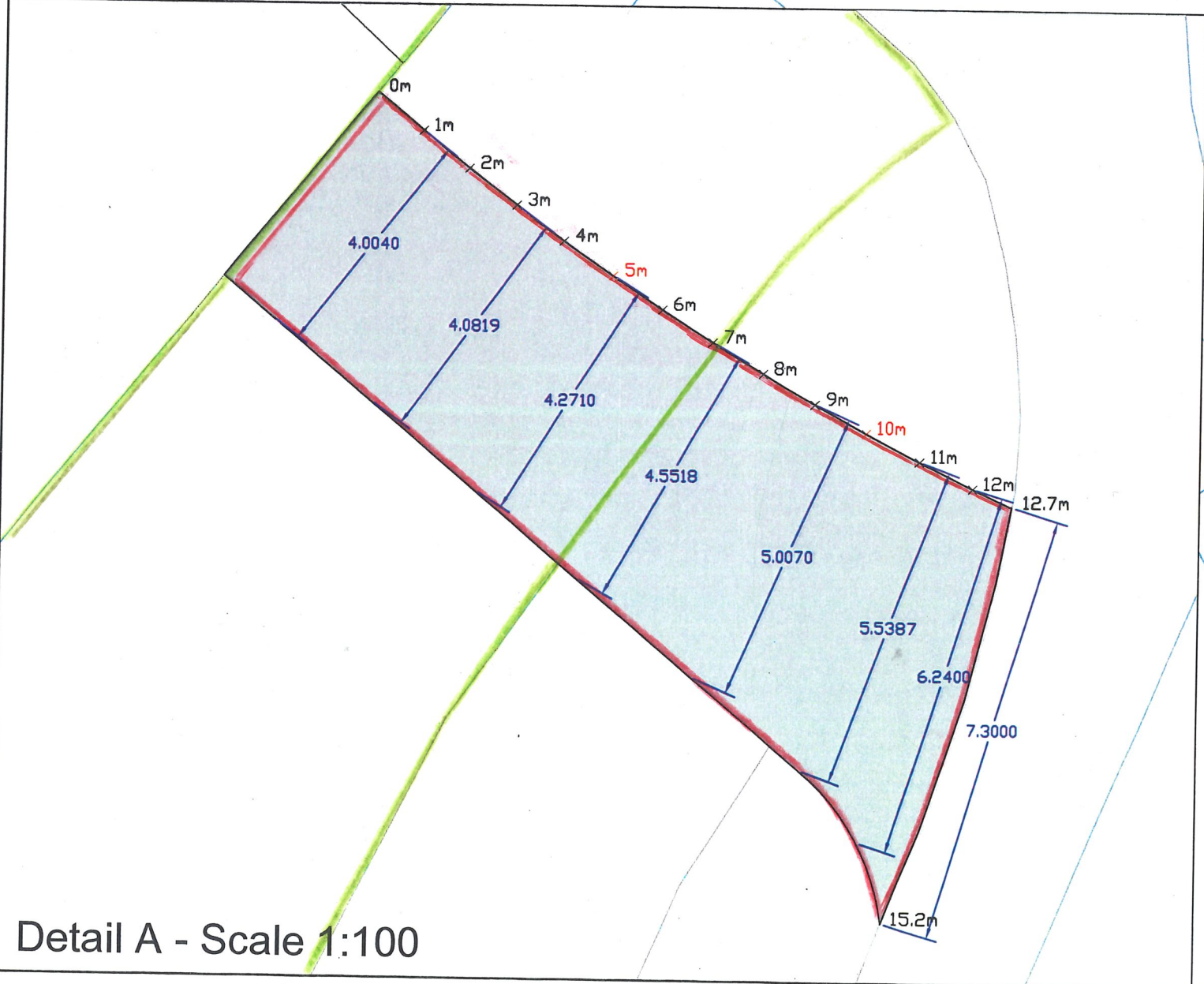
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--- UNADOPTED (PRIVATE)
■ HIGHWAY (ADOPTED)

Refer to Detail A

Rev.	Description	Prep.	Chk'd.
Rev.	Issue Status	App.	Date

Pond



Detail A - Scale 1:100

A3 Scale 1:500

Title		
Access to Snow Capel House Sneedhams Green Matson Gloucester GL4 6EQ		
Original scale	Pin No.	
As Shown	-	
Prepared	Checked	Approved
RL	DEH	DEH
Drawing No.	Revision	
001	-	