

Application Decision

by **Richard Holland**

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

Decision date: 14 October 2020

Application Ref: COM/3257235

Wacton Common, Norfolk

Register Unit No: CL 17

Commons Registration Authority: Norfolk County Council.

- The application, dated 29 July 2020, is made under Section 38 of Commons Act 2006 (the 2006 Act) for consent to carry out restricted works on common land.
 - The application is made by Michael Riordan and Sarah Riordan.
 - The works comprise the laying of a new water supply mains in a back filled trench of approximately 130 m in length and a total area of 39 m². The duration of the works is approximately two days.
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Decision

1. Consent is granted for the works in accordance with the application dated 29 July 2020 and accompanying plan, subject to the following conditions:-
 - i. the works shall begin no later than three years from the date of this decision; and
 - ii. the common shall be restored within one month from the full completion of the works.
2. For the purposes of identification only the location of the works is shown as a red line within the common land boundary outlined in green 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. This application has been determined solely on the basis of written evidence.
5. I have taken account of the representation made by the Open Spaces Society (OSS), Natural England (NE) and Historic England (HE).
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 is owned by the Angmering Park Estate Trust. The applicants explain that the land agent, acting on behalf of the commoners, sub-lets the registered rights of grazing in the summer months and will work with the landowner and those with rights over the land to ensure that there is no disruption to grazing which includes undertaking works outside the summer grazing season.
- 8. I note that the landowner, the land agent and commoners have been consulted about the application and have not objected to the works. I am satisfied that the interests of those occupying or having rights over the land will not be harmed by the works.

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 unacceptably interfere with the way the common is used by local people. The works are needed to replace an existing pipe that is over 50 years old which serves a nearby property, Le Grys Farm, adjoining the common. The supply to the property suffers from reduced pressure which may be due to deterioration/leakage of the existing pipe. The route of the works has been chosen as the shortest and least disruptive.
- 10. I am satisfied that the works will have no significant or lasting impact given that they are of short duration and involve a short section of the common. I conclude that the interests of the neighbourhood will not be harmed and public rights of access will be protected.

Nature conservation

- 11. The common has no special wildlife status but NE advised that as Norfolk Wildlife Trust (NWT) has an interest in the management of the site, the applicants should agree a plan of works with it. In response, the applicants said that they are willing to agree such a plan to minimise any potential damage to the site. On this basis, I am satisfied that the works will not harm nature conservation interests.

Conservation of the landscape

- 12. A trench will be dug to lay the underground works and backfilled to minimise any exposed trenching. The applicants confirm that the common will be restored to its previous level and the top layer reinstated or reseeded. I am satisfied that the works will not have a lasting visual impact and the landscape will be conserved in the long term.

Archaeological remains and features of historic interest

- 13. HE commented that it did not object in principle to the application on heritage grounds and advised that the Norfolk Historic Environment Service is notified. The applicants have submitted a response from Norfolk County Council's Historic Environment Strategy and Advice Team confirming that the works would not have any significant impact on the historic environment and it would not wish to make any recommendations for archaeological work. Based on the evidence before me, I am satisfied that the proposed works will not harm any archaeological remains or features of historic interest.

Other relevant matters

- 14. Defra's policy guidance advises that that "*works may be proposed in relation to common land which do not benefit the common, but confer some wider benefit on the local community, such as minor*

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.

works undertaken by a statutory undertaker (e.g. a water utility) to provide or improve the public service to local residents and businesses. In such cases, our expectation is that applications for such purposes on common land are more likely to be successful under section 16(1), so that an exchange of land is proposed and can be considered on its merits. However, consent under section 38 may be appropriate where the works are of temporary duration (such as a worksite), where the works will be installed underground (such as a pipeline or pumping station), or where their physical presence would be so slight as to cause negligible impact on the land in question (such as a control booth or manhole), and the proposals ensure the full restoration of the land affected and confer a public benefit”.

Conclusion

15. I conclude that, while the occupants of only a single residential property will benefit, the works will have no significant or lasting impact on the interests set out in paragraph 6 above; they therefore accord with Defra’s policy. Consent is therefore granted for the works subject to the conditions set out in paragraph 1.

Richard Holland

Le Grys Farm, Wacton NR15 2UR



Ordnance Survey

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Boundary Survey - 21 June 2019

This survey has been merged with Ordnance Survey Master Map Data Boundaries and physical objects have only been level within the red line boundaries shown on this drawing. See License details No. AL10005917. All Ordnance Survey mapping is subject to their own accuracy and tolerances.

The red line boundary indicated on this overlay is subject to a General Boundaries condition unless otherwise stated under Section 6(1) Land Registry Act 2002.

All surveyed detail relates to Ordnance Survey GPS datum. Control was established using Ordnance Survey's Active GPS Network OSGB2(36), transferred from ETRS89 using OSGM2 and OSTN02 models.

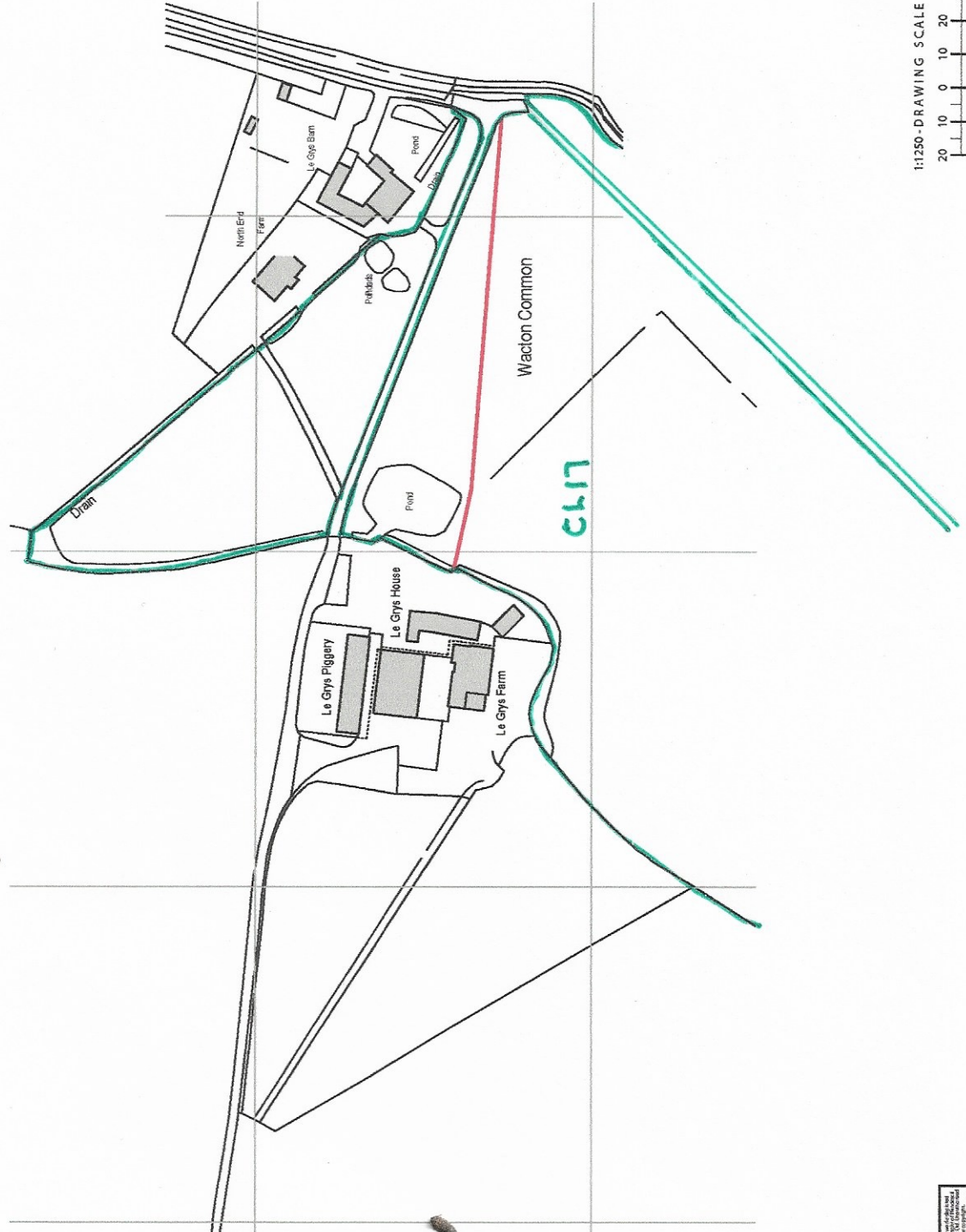
Land Registry Title Plan information

This drawing has been digitally overlaid with Land Registry's title plan NK247505 date not known. The red line boundary indicated on this overlay is subject to a General Boundaries condition unless otherwise stated, under s.6(1), LRA, 2002.

Unlike the tolerances applied to Ordnance Survey mapping (reference Practice Guide 40 - Supplement 1 - The basis of Land Registry plans), there is no standard tolerance, measurement or ratio that can be attributed to the relationship between the position of the General Boundary mapped on a Land Registry title plan and the position of the legal boundary.

Colour Legend

— New Water Main Easement route



Rev.	Date	CSJ	Chgd	Description
0	21/06/19	CSJ		First Issue

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Drawing Title

**New Easement Route of
Water Main**

Scale U.A.D.	Date	Drawn by
1:1250 (A3)	June 2019	CSJ
Drawing No.	24978/006	Rev. -

