

COMMONS ACT 2006 section 19

The Commons Registration (England) Regulations 2014 No.3038

Application to correct the register on the basis of a mistake by the Commons Registration Authority in registering land and a building at Rose Cottage, High Common, Swardeston as common land – Swardeston Common, CL 99

DECISION

Section 19 of the Commons Act 2006 allows applications to correct certain errors in the registers. Section 19(2) sets out the purposes for which a correction can be made.

Section 19 reads as follows:-

19. Correction

(1) A commons registration authority may amend its register of common land or town or village greens for any purpose referred to in subsection (2)

(2) Those purposes are -

(a) correcting a mistake made by the commons registration authority in making or amending an entry in the register;

(b) correcting any other mistake, where the amendment would not affect -

(i) the extent of any land registered as common land or as a town or village green: or

(ii) what can be done by virtue of a right of common

(c) removing a duplicate entry from the register;

(d) updating the details of any name or address referred to in an entry

(e) updating any entry in the register relating to land registered as common land or as a town or village green to take account of accretion or diluvion

(3) References in this section to a mistake include -

(a) a mistaken omission, and

(b) an unclear or ambiguous description

and it is immaterial for the purposes of this section whether a mistake was made before or after the commencement of this section.

(4) An amendment may be made by a commons registration authority
(a) on its own initiative (NB this power is not yet in force in Norfolk)
(b) on the application of any person.

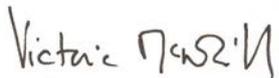
(5) A mistake in a register may not be corrected under this section if the authority considers that, by reason of reliance reasonably placed on the register by any person or for any other reason, it would in all the circumstances be unfair to do so

Taking this test into account, the Commons Registration Authority (CRA) has to be satisfied that the mistake referred to by Mrs Broome, in her application for the correction of the register under section 19, was made when the common was first registered. The CRA carried out the prescribed consultations and investigations and found that such a mistake had been made, although not to the full claimed width of the strip of land running alongside the southern boundary of Rose Cottage.

The original plan which accompanied application numbered 369 received by the CRA on 29 January 1968 submitted by Mr Ralph Frank Blazey for the registration of the common showed the land to be registered outlined in thick red crayon. It can be seen from that plan that the land on which Rose Cottage was built was specifically excluded from that outline. The application plan is now faded and the thickness of the crayon line makes it difficult to determine whether any margin was left around the two cottages. The Ordnance Survey plan of 1905 does assist however as close inspection reveals a strip of land on the south side of Rose Cottage as being distinct from the property. This is useful supporting evidence for the existence of the historic fence line given that Ordnance Survey records physical features. This is lent further support by Statutory Declarations from 7 local individuals produced by South Norfolk Council. These declarations record that a strip of land, with an average width of 4 feet ran alongside the southern wall of Rose Cottage, never formed part of the common and was in fact enclosed by a white/green painted picket fence erected by the then owner of the cottage, Evelyn Burgess.

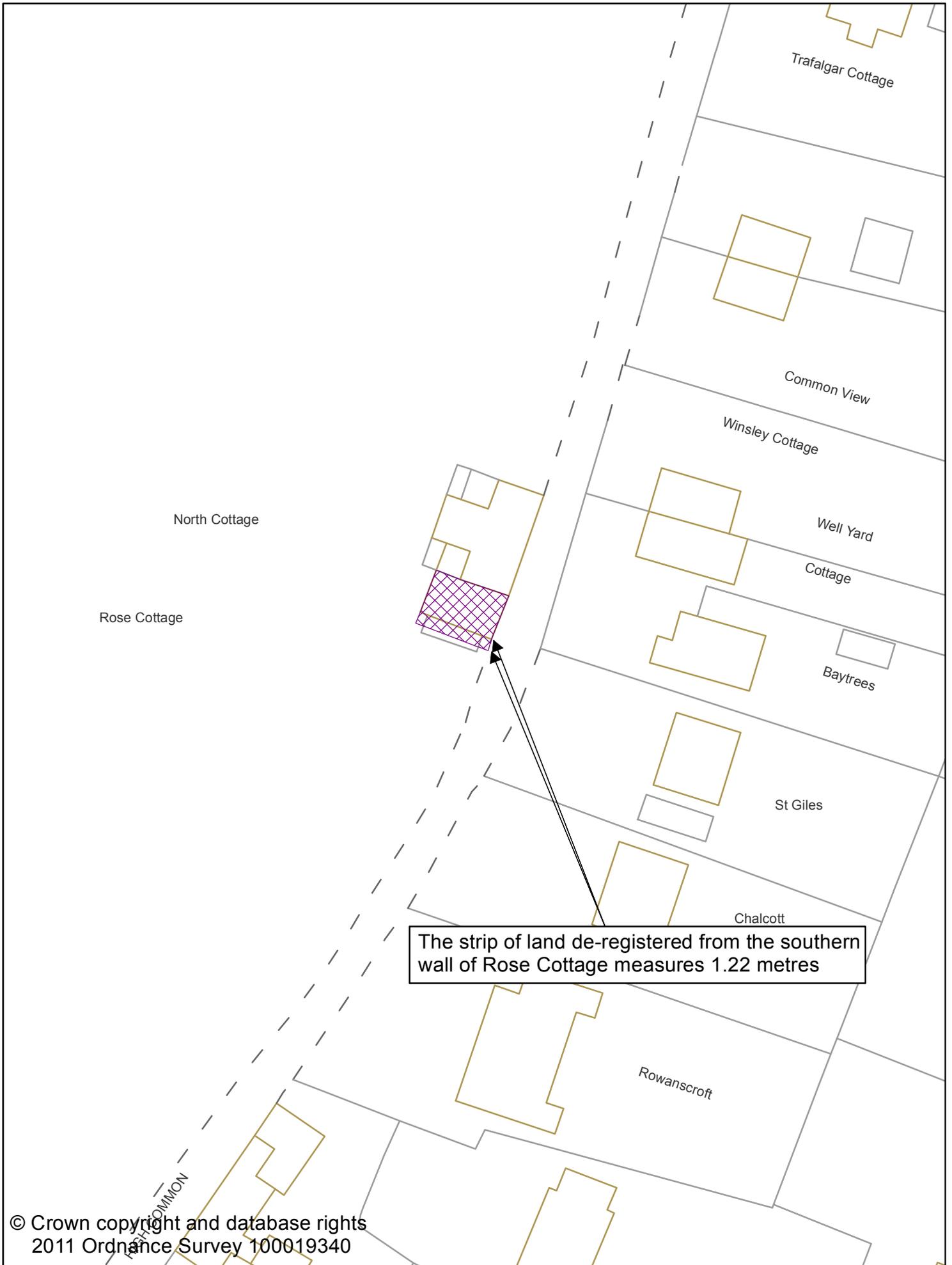
To sum up, Rose Cottage, the land upon which it was built and a narrow strip of land, some 4 feet in width, running alongside the southern wall of the cottage, should not have been included by the CRA in the registration as common land.

In the light of this evidence the application of Mrs Broome of Rose Cottage, High Common, Swardeston, of 16 October 2015, to remove Rose Cottage and the land upon which it is built from the common land register for Swardeston Common, unit CL99 is granted subject to a decrease in the claimed width of the strip of land running alongside the southern wall of Rose Cottage from 1.5 metres to 1.22 metres. A plan, showing the extent of land cross hatched in purple to be removed from the registers of common land for Swardeston, Unit CL99, is attached.



Victoria McNeill,
Head of Law
Norfolk County Council

Date 22 September 2016



The strip of land de-registered from the southern wall of Rose Cottage measures 1.22 metres

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