

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 insufficient land as common at Brockdish Common, Common Lane, Brockdish, CL 125

Final 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, was a mistake made by the Commons

Registration Authority (CRA), as stated by the Parish Council in the application for the correction of the register under section 19?

If such a mistake was made, are there grounds for stating that section 19(5) applies?

On the balance of probabilities it is likely that a mistake was made by the Commons Registration Authority by not including all of the land referred to by Mr Bishop on the plan which accompanied his application for the registration of common rights. This was no doubt due in part to the lack of clarity on the plan which featured hand drawn lines with the words 'to the River Waveney' which accompanied the original application for registration in 1968.

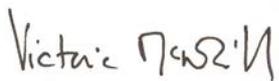
This finding is lent further weight when the area of the land concerned is taken into account and compared with the Land Register which states that the total area for the land parcels for Unit CL 125 amounts to 1.679 hectares 'or thereabouts' (4.14 acres). The application land is approximately 0.62 acres, with the registered common land parcel units for CL125 totalling 3.1 acres. When added together with the area measurement for the application land, this gives a total of 3.72 acres or 1.50 hectares.

This is then a difference of 0.42 of an acre from the 4.14 acre original and 0.17 difference from the 1.67 hectare measurement. Given that the facilities for digitally measuring the area of land would not have been so readily available in 1968 and that the words used to describe the area then being registered as '1.679 hectares or *thereabouts*' it is fair to find that the original area measurement must have included the application land.

Added to this the statements from parishioners, confirming that as far as they were concerned, the common extended down to the river, it is clear that the registration should have included what is now being referred to as the application land in the original registration.

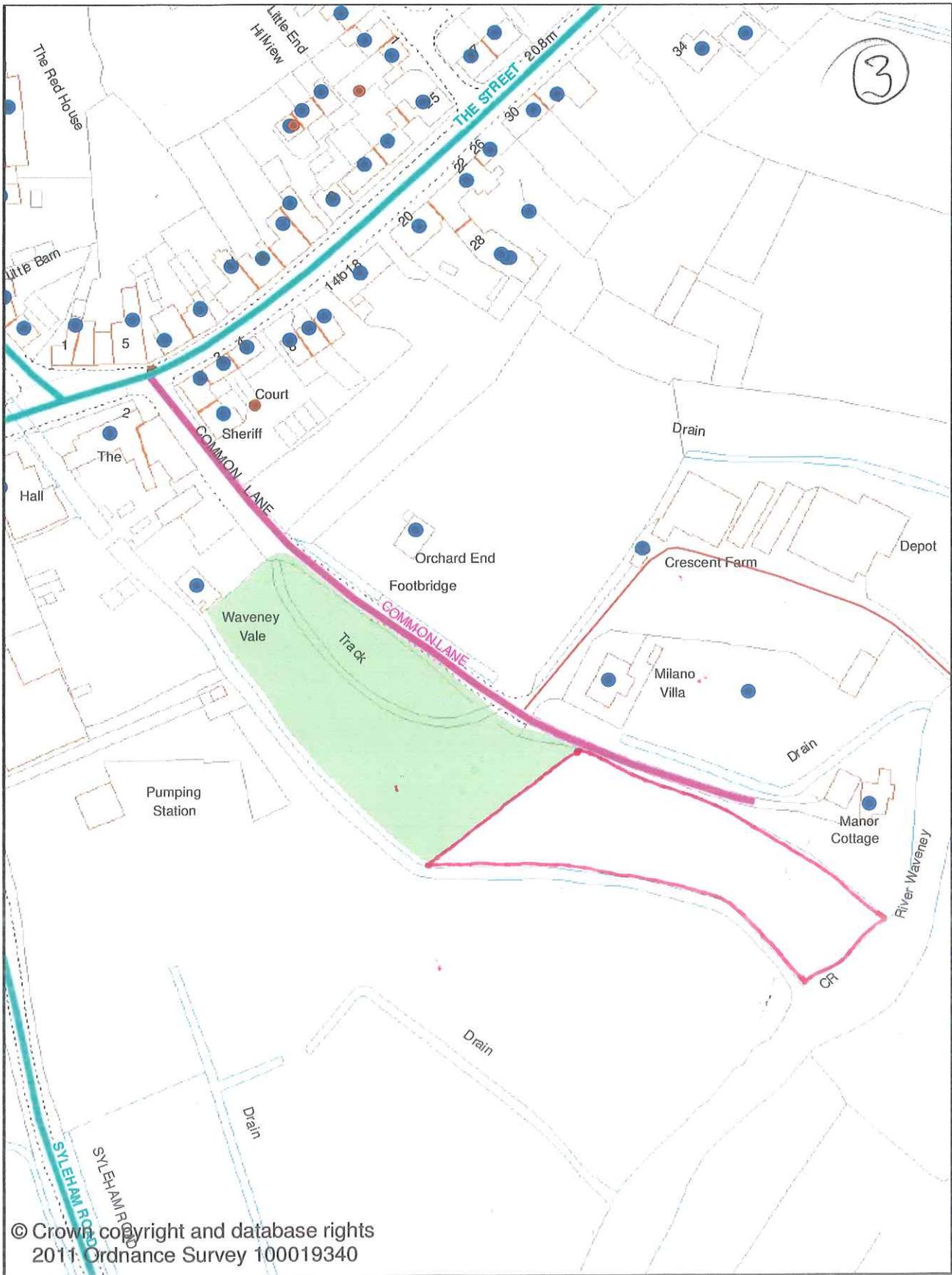
The CRA has not been supplied with any cogent evidence that section 19(5) of the Commons Act 2006 applies to this application.

The application is granted.

A handwritten signature in black ink that reads "Victoria McNeill". The signature is written in a cursive style.

Victoria McNeill,
Chief Legal Officer
Norfolk County Council

Date 31 August 2017.



CL125 coloured green Norfolk County Council	Date created: 05/04/2016	
	Center of map: 621,385.9685 279,534.4522	

Commons Act 2006 section 19 application by Brockdish Parish Council for the addition and registration to Unit CL 125 Brockdish Common of the land edged in red as common land