

COMMONS ACT 2006 SCHEDULE 2 paragraphs 6 and 7

The Commons Registration (England) Regulations 2014 No. 3038

**APPLICATION TO CORRECT MISTAKEN REGISTRATION OF PLUM TREE
(FORMERLY PEAR TREE) COTTAGE, CURTILAGE AND LAND AS COMMON
LAND AT LITTLE NEATHERD, NEATHERD COMMON, DEREHAM, NR20 3BL**

FINAL DECISION

An application, dated 9 February 2015 was made to Norfolk County Council, as the relevant Commons Registration Authority, on the prescribed form CA 13 under the Commons Act 2006, Schedule 2, paragraphs 6 and 7. The application sought the removal of that part of the freehold land contained within Title Number NK436912, being Plum Tree Cottage, Neatherd Moor, Dereham NR20 3BL which had been included in the common land registration for Neatherd Common. It was submitted by Mr Lewis Mantle and Mrs Kate Mantle, the registered freehold proprietors of Plum Tree Cottage.

Schedule 2 paragraphs 6 and 7 of the Commons Act 2006 set out the circumstances in which buildings registered as common land may be removed from the register:-

6. Buildings registered as common land

(1) If a commons registration authority is satisfied that any land registered as common land is land to which this paragraph applies, the authority shall, subject to this paragraph, remove that land from its register of common land.

(2) This paragraph applies to land where—

(a) the land was provisionally registered as common land under section 4 of the 1965 Act;

(b) on the date of the provisional registration the land was covered by a building or was within the curtilage of a building;

(c) the provisional registration became final; and

(d) since the date of the provisional registration the land has at all times been, and still is, covered by a building or within the curtilage of a building.

7. Other land wrongly registered as common land

(1) If a commons registration authority is satisfied that any land registered as common land is land to which this paragraph applies, the authority shall, subject to this paragraph, remove the land from its register of common land,

(2) This paragraph applies to land where –

(a) the land was provisionally registered as common land under section 4 of the 1965 Act

(b) the provisional registration of the land as common land was not referred to a Commons Commissioner under section 5 of the 1965 Act;

(c) the provisional registration became final; and

(d) immediately before its provisional registration the land was not any of the following –

(i) land subject to rights of common

(ii) waste land of a manor;

(iii) a town or village green within the meaning of the 1965 Act as originally enacted or;

(iv) land of a description specified in section 11 of the Inclosure Act 1845 (c.118).

How the tests under Schedule 2 paragraph 6 relate to Plum Tree Cottage, Neatherd Moor, Dereham

It is helpful to list the tests as a series of questions which have been set out below with the answers;

Question (a)

Was the land provisionally registered as common land under section 4 of the Commons Registration Act 1965?

Answer – yes, the Land Register records that the land was provisionally registered on 4/3/1967

Question (b) was the land, on the date of the provisional registration, covered by a building or within the curtilage of a building?

Answer – yes. The applicant has provided convincing evidence in the form of old

Ordnance Survey maps which record that at least since 1872 the land boundaries of Plum Tree Cottage have remained the same and again that since that date a building has occupied the same 'footprint' albeit extended, in the same position. Messrs Mills & Reeve, in correspondence with the Commons Registration Authority in the 1990s, refer to a Conveyance in their possession of 1897 which describes the cottage as 'adjoining common pasture' and all the OS maps since the late 1800s to date, record the cottage and the curtilage.

Question (c) Did the provisional registration become final?

Answer - yes, the Land Register records "The registration at entry No1 above, being undisputed, became final on 1 October 1970".

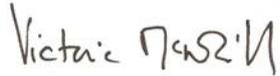
Question (d) Since the date of the provisional registration has the land at all times been, and continues to be, covered by a building or within the curtilage of a building?

Answer, yes - Ordnance Survey maps record physical features which were on the ground when the survey was undertaken. They can accordingly be relied upon to provide a snapshot of what was featured on the ground at the time of the survey. The Ordnance Survey maps submitted by the applicant record that since 1872 the land boundaries of Plum Tree Cottage have remained the same and that since that date a building has occupied the same 'footprint', albeit extended. In addition, the referenced aerial photographs and those from the site visit undertaken by the Commons Registration Authority officers together with those supplied by the applicant, confirm that the same cottage is in place on this footprint. It is also clear from the evidence that the majority of the land has for many years been capable of being distinguished from the rest of the common by the living boundary hedging. The boundaries of the curtilage have also been confirmed by the Dereham Town Council.

On this evidence it is considered that the requirements of Schedule 2, paragraph 6 of the Commons Act 2006 have been satisfied in the case of Plum Tree (Peartree Cottage), Little Neatherd, Neatherd Moor, Dereham..

As I consider that the application can be granted under Schedule 2 paragraph 6 there is no need, in my view, to establish whether the circumstances can satisfy the requirements of Schedule 2 paragraph 7 and I have not therefore done so.

The Registers of Common Land for Neatherd Moor, Dereham Unit number CL10 will be amended to remove Plum Tree Cottage, curtilage and land from the Registration. A plan showing the extent of Plum Tree Cottage, curtilage and land edged in red to be removed from the Registers is attached.



Victoria McNeill
Head of Law and Monitoring Officer
Norfolk County Council

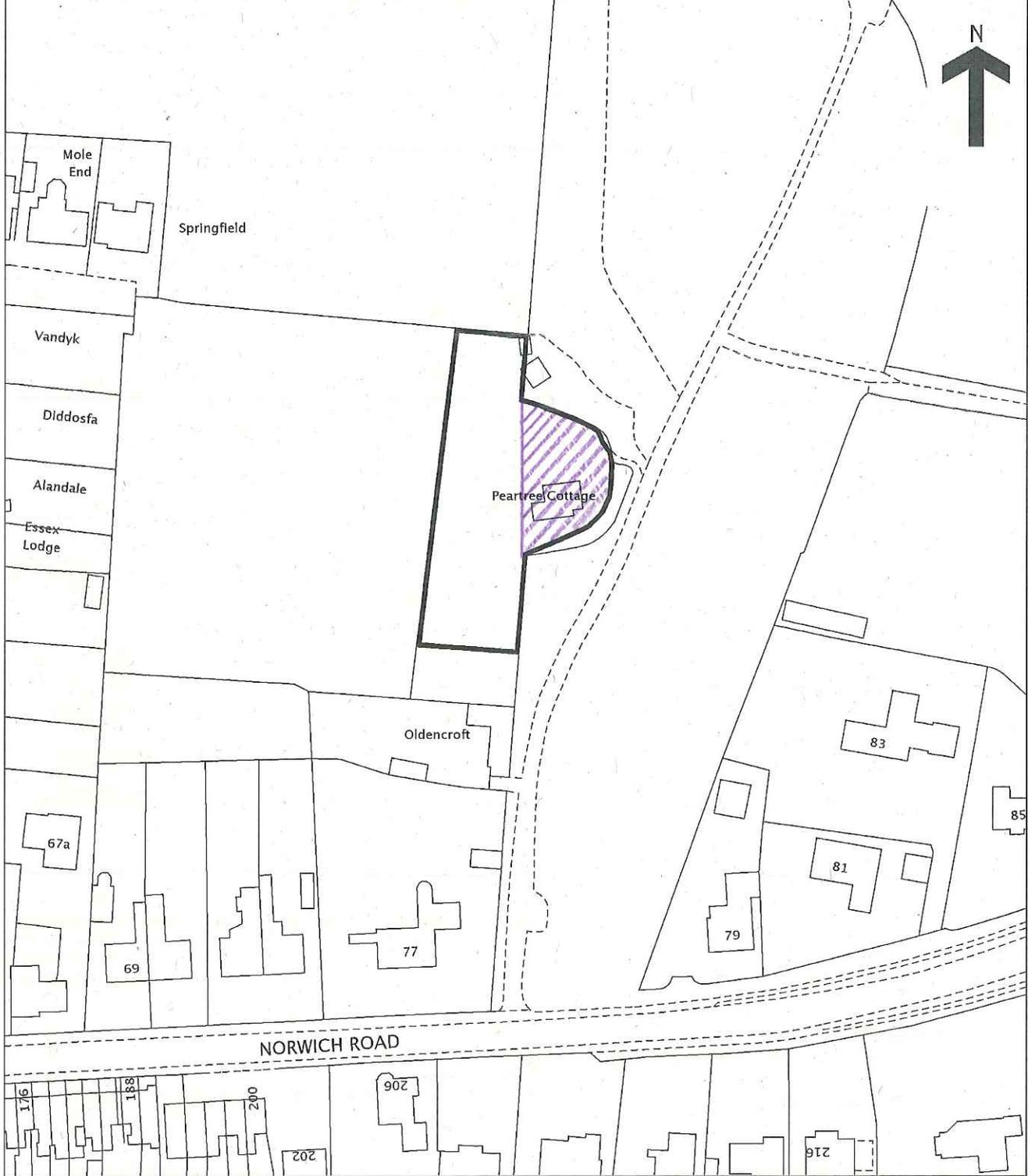
26 February 2016

Land Registry Current title plan

Title number **NK436912**
Ordnance Survey map reference **TG0013SW**
Scale **1:1250 enlarged from 1:2500**
Administrative area **Norfolk : Breckland**



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This is a print of the view of the title plan obtained from Land Registry showing the state of the title plan on 08 March 2016 at 12:39:19. This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground.

This title is dealt with by Land Registry, Kingston upon Hull Office.