

Waverley Borough Council

Policy on Consent for use of Common Land and Council- owned Land

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Consent for use of Common land and Council owned land

This policy governs the Council's consideration of applications for consent for the use of common land and Council-owned land and property.

The Council will carry out its responsibilities as guardian for common land and as owner by seeking to protect its interests in all land and property assets within the Borough, however small, when considering whether to grant consent for the use of that land.

Common land (Unregistered land)

The regulation of commons is contained in the Commons Act 2006, which protects common land and town or village greens. The Act enables a local authority to protect unregistered common land where the owner cannot be identified, by conferring some powers akin to ownership. This includes reinforcing existing protections against abuse, encroachment and unauthorised development.

The Council recognises that the protection of common land has to be proportionate to the harm caused. The Council will assess harm from social, environmental and economic perspectives and with reference to its Corporate Strategy, Capital Strategy and the Council's declared Climate Emergency, and taking into account the effect on the enjoyment of the land by users.

The Council recognises that some specified works can be carried out without the need for consent. The Council will follow the guidance set out by the Government for the use of common land:

<https://www.gov.uk/guidance/carrying-out-works-on-common-land>

The Commons Act 2006 also provides a mechanism for seeking consent from the Planning Inspectorate rather than the Council for works over any land which is registered as common land.

As detailed in the Common Land Consent Policy, the objectives of the Government in the consent process administered by the Planning Inspectorate are to seek to achieve the following outcomes:

- the stock of common land and greens is not diminished so that any deregistration of registered land is balanced by the registration of other land of at least equal benefit;
- any use of common land or green is consistent with its status (as common land or green), so that
- works take place on common land only where they maintain or improve the condition of the common or where they confer some wider public benefit and are either temporary in duration or have no significant or lasting impact.

The Common Land Consent Policy can be found via the following link:

The Council as owner

This policy applies to land and property assets.

In accordance with the Council's Corporate Strategy 2019-2023 the Council has a sense of responsibility for its environment and stewardship of the Borough.

Anyone wishing to have access over a Council asset will have to apply for consent. Consent may be granted by means of access agreement in the form of a Wayleave or Easement.

- Wayleave – a licence to access land and/or property in return for a specified payment.
- Easement – a contractual agreement in which the owner of the property grants a right to use the property for a specified period of time in return for a specified payment.

Decisions to allow consent over Council-owned land will follow the objectives sought by the Government for the use of common land as detailed above.

The Council will take into account the following factors when considering all applications:

- the future use of the asset and whether granting consent over would restrict the Council from fulfilling the potential of the asset
- maintaining the integrity of the asset
- consideration of the surrounding community
- alignment with the Corporate Strategy
- subsequent owners and any constraints
- balancing against interests of local tax payers (residents)

Applications will be considered on a application-by-application basis and decisions will be referred to the Executive (and full Council, if necessary) for approval where appropriate. Permission may be granted, with or without conditions, or refused at the discretion of the Council.