



# **The Commons of Wortham and Burgate**

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(This edition supersedes all previous editions)

This document is aimed at landowners, commoners and parishioners who are interested in, or responsible for protecting and managing the common land in Wortham and Burgate.

## What is common land?

We hope to help you understand:

- The importance and history of common land.
- How commons were created; the land, its ownership and 'rights of common'.
- How you can help to protect and maintain the local common land.

## Why is common land different from other land?

Most common land dates back to medieval times when much of the land was managed within self-governing manors held by a Lord of the Manor. Of the different types of common, it is mainly the pasture and waste that have survived since they had little crop growing value. The Lord of the Manor allowed his tenants to use this pasture and waste for grazing livestock, removing wood, turf or even fish, or gathering acorns. This usage became enshrined, over time, as 'rights of common' and the users as 'commoners'.

These rights include:	Found on:
<ul style="list-style-type: none"> <li>• <b>Common in the soil</b> - the right to remove sand, gravel, or stone for use on a commoner's holding.</li> </ul>	The Ling
<ul style="list-style-type: none"> <li>• <b>Estovers</b> – the right to remove wood and bracken for fuel, building repair and animal bedding.</li> </ul>	The Ling, Magpie Green, Long Green and Burgate Little Green
<ul style="list-style-type: none"> <li>• <b>Pannage</b> – the right to allow pigs to eat acorns and beech mast.</li> </ul>	None in Wortham and Burgate
<ul style="list-style-type: none"> <li>• <b>Pasture</b> – the right to turn animals out onto the common to graze.</li> </ul>	The Ling, Long Green, The Marsh, Burgate Little Green and Stubbings Green
<ul style="list-style-type: none"> <li>• <b>Piscary</b> – the right to remove some fish from estate rivers.</li> </ul>	None in Wortham and Burgate
<ul style="list-style-type: none"> <li>• <b>Turbary</b> - the rights to cut and use turf or peat for household fuel.</li> </ul>	The Ling and The Marsh

The protection of these rights over the centuries inadvertently protected commons from change and helped them remain rich in wildlife and archaeology.

This is because much of the land that became common was considered wasteland, as it was either too isolated from the main estate area or difficult to cultivate. In addition the traditional 'management' by commoners exercising their rights results in the tremendous diversity of flora and fauna that remains on many commons today. Being mostly uncultivated and unploughed, many commons still show archaeological features such as drove roads and settlements, and more recent industrial archaeology, such as pits from which the clay was used to build adjacent cottages.

Some facts:

- Common land is not land that is owned by everyone (a popular misconception) - all commons have an owner, whether a private individual, a public body (e.g. parish council) or charitable body such as the National Trust and have been registered under the Commons Registration Act 1965.
- The public have a statutory right of access on foot to registered common land.
- Commoners are those who have specific rights, for example to graze livestock on the common.
- Common rights are attached to specific properties, rather than people and are passed on down through the centuries with the property's deeds. The commoners are the current owners of these properties.
- Common land with no known owner (known as manorial waste) can be taken under management by the local authority.

## Our local commons

Wortham and Burgate have over 250 acres (100 hectares) of registered common land in separate and distinct areas *viz* Burgate Great Green, Burgate Little Green, Furze Way, Stubbings Green, Wortham Long Green, The Marsh, Magpie Green and the Ling. These are owned entirely or in part by a number of different local people including the parish council.

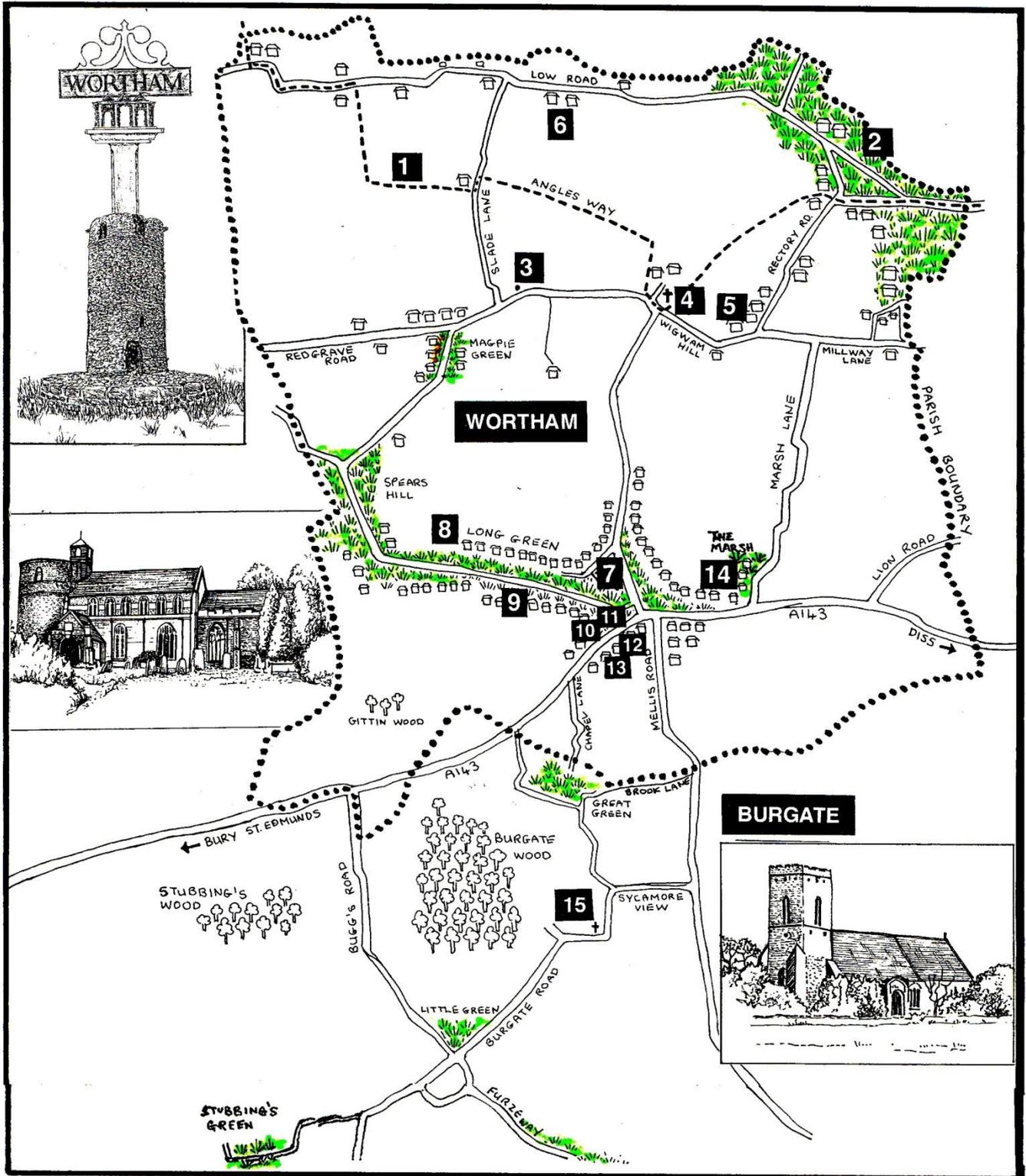
These commons were originally unproductive, poor quality land, often wet and poorly drained, suitable only for grazing by geese and sheep. Each area has a unique character, recognised as having considerable landscape and conservation value.

They are havens for wildlife. This is because they have been managed in the same way for hundreds of years by light grazing and cutting the grass for hay. Herbicides and fertilisers have not been applied so many scarce meadow plants have survived.

**The Ling**, a Site of Special Scientific Interest (SSSI), is a large tract of heathland near the river Waveney and is the only such area for many miles around. It provides an interesting mix of habitats with an impressive variety of plants: woodland and scrub, short acid grassland, ponds and chalky (alkaline) areas combine to provide an impressive selection of wildlife. Look out for the erect, egg-yellow flowers of golden rod. In the small chalky areas you will find Dwarf Thistle, Wild Thyme, Meadow Saxifrage and Dropwort. In the damper hollows Devil's-bit Scabious and Tormentil occur. Sheep's Sorrel, Gorse and large tracts of Heather feature in the heathland areas along with occasional Bee and Pyramidal Orchid. Plenty of fungi, mosses and lichen can also be seen here. Butterflies are abundant in summer especially along the edges of hedgerows. Small Copper, Small Heath and Gatekeeper are very common and Grayling and Green Hairstreak (typical heathland butterflies) are present in good numbers.

**The Marsh and Long Green** support at least seven species of orchid including some very showy hybrids that appear every year near the playing field. Several other uncommon plants can be found such as Dyer's Greenwood, which produces both green and yellow dyes, and the strange Adder's-Tongue Fern. The ponds hold great crested newts and the anthills are visited by Green Woodpeckers. The Long Green is designated as a Visibly Important Open Space (VIOS).

**Burgate Great and Little Greens** are very different. The Great Green is marshy with acid soils and typical plants include Marsh Pennywort, and two unusual grasses; Mat Grass and Heath Grass. Little Green is dryer with slightly chalky soils and is covered in Cowslips in the spring. A few plants of Sulphur Clover grow here; this is very much a local speciality as it is only found in East Anglia.



## Wortham & Burgate

- 1 Angles Way**  
One of many foot-paths, bridleways and walks criss-crossing the parish.
- 2 Wortham Ling**
- 3 The Tithe Monument**
- 4 St Mary's Church**
- 5 Wortham House**  
The former house of the Rev. Cobbold.
- 6 Wortham Manor**
- 7 Playing Fields**  
This area includes the Community Centre, Sports Pavilion, Cricket Ground, Tennis Courts, Bowls Green, Football Pitch and Children's Play Area.

- 8 Long Green**
- 9 Pond**
- 10 The Coronation Oak & Jubilee Tree**
- 11 The Village Sign**
- 12 Wortham School**
- 13 The Dolphin**
- 14 The Village Shop, Post Office & Tea Rooms**
- 15 St Mary of Pity Church**

## Commons Management

The commons need to be managed, as recommended by Natural England's Countryside Stewardship Scheme (CSS), in order to preserve their open greensward nature as a rare wildlife habitat. This management includes:

- The grazing of appropriate livestock.
- Maintaining the greensward at or above 150mm (6") by "topping" and NOT by mowing.
- Preventing the encroachment of invasive shrubs and trees. (Clearing should be carried out in order to minimise disturbance to wildlife.)
- Discouraging the planting of trees and shrubs.
- Maintaining the free flow of water through ditches.
- Hay cutting, which should be delayed until after the 1st July every third year, to allow reseeding and regeneration of the natural flora.
- Controlling ragwort and thistle growth. (Chemical control by weed wiping is allowed. Application of inorganic fertilizers is inappropriate.)

Parts of Wortham Long Green, Burgate Little Green and the whole of The Marsh and Burgate Great Green are at present managed by the Commons Committee of the parish council under Natural England's CSS. Natural England provides some funds for the routine maintenance of the common, e.g. the cutting of scrub, removing damaged and unsafe trees, draining and clearing ponds and main waterways. Owners of commons not funded under CSS are encouraged to maintain their land in a similar manner.

Wortham Ling is managed by Suffolk Wildlife Trust on behalf of the owners (the Wills family). The remaining commons, with the exception of Magpie Green, Furze Way and Stubbings Green, are County Wildlife Sites.

Anyone wishing to discuss a problem concerning the management of the commons should, in the first instance, contact the relevant Commons Reeve for Wortham or Burgate, or the Chair of the Commons Committee of the parish council (see community website).

The local byelaws affecting the commons, originally made by Hartismere Rural District Council in February 1934 under the Commons Act 1889 are now enforced by Mid Suffolk District Council.



# The Byelaws

Throughout these byelaws the expression "the Council" means the Hartismere Rural District Council or, in the event of the power of enforcing these byelaws being at any time hereafter delegated by the Council to Wortham Parish Council, Wortham Parish Council; and the expression "the Commons" means the pieces of land with ponds, streams, paths and roads thereon commonly known as "Wortham Ling", "The Marsh", "Magpie Green" and "Long Green" situate in the parish of Wortham in the county of Suffolk.

1. No person shall wilfully, carelessly or negligently remove any seat, shelter, pavilion, fence or other thing put up or maintained upon the Commons by the Council.
2. No person shall post or paint any bill, placard, advertisement or notice upon any tree, fence or erection on the Commons without permission from the Council.
3. No person shall, without lawful authority, catch birds, or set traps or nets, or lay snares for birds or other animals, or take birds eggs or nests, or shoot or chase game or other animals on the Commons.
4. No person shall, without lawful authority, draw, drive or place upon the Commons any carriage, cart, caravan, truck, motor vehicle, motor cycle, aeroplane, flying machine or other vehicle, or erect or permit to remain on the Commons any building, shed, tent, fence, post, railing or other structure, whether used in connection with the playing of games or not.
5. No person shall, without the consent of the Council (except in the case of a fair lawfully held), place on the Commons any photographic cart or any show, exhibition, swing, roundabout or other like thing.
6. No person shall, without lawful authority, light any fire on the Commons.
7. No person shall, without lawful authority, fire or discharge any firearm or throw or discharge any missile on the Commons.
8. Where the Council set apart any part of the Commons as may be fixed by the Council and described in a notice board affixed or set up in some conspicuous position on the Commons for the purpose of any game specified in the notice board, which, by reason of the rules or manner of playing, or for the prevention of damage, danger or discomfort to any person on the Commons may necessitate, at any time during the continuance of the game, the exclusive use by the player or players of any space in such part of the Commons, no person shall in any space elsewhere on the Commons play or take part in any game so specified in such a manner as to exclude persons not playing or taking part in the game from the use of such space.
9. A person resorting to the Commons and playing or taking part in any game for which the exclusive use of any space on the Commons has been set apart shall:-
  - (i) not play on the space any game other than the game for which it is set apart ;
  - (ii) in preparing for playing and in playing, use reasonable care to prevent undue interference with the proper use of the Commons by other persons;
  - (iii) when the space is already occupied by other players not begin to play thereon without their permission;
  - (iv) where the exclusive use of the space has been granted by the Council for the playing of a match, not play on that space later than a quarter of an hour before the time fixed for the beginning of the match unless he is taking part therein;
  - (v) except where the exclusive use of the space has been granted by the Council for the playing of a match in which he is taking part, not use the space for a longer time than two hours continuously, if any other player or players make known to him a wish to use the space;
10. No person shall on any part of the Commons which may have been set apart by the Council for any game, play or take part in any game when the state of the ground or other cause makes it unfit for use and a notice is set up in some conspicuous position prohibiting play on that part of the Commons.
11. No groom or other person shall, without lawful authority, at any time break in or exercise any horse on the Commons.

12. No person shall, without lawful authority, turn out or permit to remain on the Commons any cattle, sheep or other animals.

13. No person shall wilfully, carelessly or negligently soil or defile any part of any wall or fence, or any part of any building, barrier or railing, or any fixed or moveable seat, or any other structure or erection on the Commons.

14. No person shall in any part of the Commons wilfully obstruct, disturb, interrupt or annoy any other person in the proper use of the Commons.

15. It shall be lawful for any officer of the Council, after due warning, to remove from the Commons any vehicle or animal drawn, driven or placed or any structure erected or placed thereon in contravention of these byelaws or to exclude from the Commons any person who within his view commits, or whom he reasonably suspects of committing an offence against any such byelaw or against the Vagrancy Act 1824.

16. No person shall hinder or obstruct an officer of the Council in the exercise of his powers or duties under the scheme herein before referred to or under any byelaws made thereunder.

17. Every person who shall offend against any of the foregoing byelaws shall be liable on summary conviction to a fine not exceeding twenty pounds and in the case of a continuing offence to a further fine not exceeding two pounds for each day during which the offence continues after conviction therefore.

Note: Attention is drawn to Clause 11 of the Scheme in pursuance of which these byelaws are made which is printed below:-

“11. Nothing in this scheme or any byelaw made thereunder shall prejudice or affect any right of the person entitled as lord of the manor or otherwise to the soil of the common or of any person claiming under him which is lawfully exercisable in, over, under, or on the soil or surface of the common in connection with game, or with mines, minerals, or other substrata or otherwise, or prejudice or affect any right of the commoners in or over the common or the lawful use of any highway or thoroughfare on the common, or affect any power or obligation to repair any such highway or thoroughfare.”

Authors' comments:

Clause 2 - The erection of house name signs is unlikely to be challenged due to the needs of the emergency and postal services to locate properties.

Clause 3 - Fishing by local residents during daylight with the pond owner's permission is also unlikely to be challenged.

Clause 17 - Fines may be levied at present day values.

## Your responsibilities

The Commons Committee needs the full support of all Wortham and Burgate parishioners to protect and maintain the commons.

Volunteers are frequently needed to assist with maintenance tasks on the commons, e.g. litter picking and ragwort pulling. If you are able to help in any way, please contact the Reeve or the Chair of the Commons Committee.

You can support the Commons Committee by:

- Reading and complying with the Byelaws; although these are not applicable to Burgate commons, they do serve as a guide.
- Not dumping garden refuse or other rubbish on the commons; this is classed as fly tipping, can be dangerous and is anti-social.

- Dog walkers picking up their animal's excrement (there are two dog litter bins on opposite sides of the playing fields and four on the Ling).
- Being aware of your boundaries. If your house or property has a boundary with common land, make sure that you know and can prove the limits of your land ownership.
- Ensuring the free flow of water through your ditches.
- Not driving a vehicle over common land, even if it is to reach your own property, without a legal "easement" authority from the land owner.

## **Grazing of Livestock**

"Commoners" who have grazing rights registered with the county council are legally entitled to graze livestock on common land as recorded in the register. These rights are for the grazing of sheep, goats, donkeys, cattle or geese but not horses. Other residents are permitted to graze livestock including horses on a "grace and favour" basis, granted by the landowner. Requests for such grazing should be made in writing to the landowner.

### **Parish Council Grazing Agreement for Long Green Wortham, the Marsh, Burgate Great Green and Burgate Little Green** (not applicable to Commons Rights holders)

Grazing by cattle, horses or sheep all year round is permitted if the following conditions are met:

- Grazing should be managed to ensure that grass growth is removed without poaching when ground conditions are wet, or without over/under-grazing, to achieve areas of closely grazed turf interspersed with taller tussocks. Topping following grazing is required and is the responsibility of the grazier. This can be arranged and charged to the grazier.
- Temporary fencing should be erected at least one meter from highways, and clear of driveways, footpaths and other public rights of way. Clearly visible warning signs should be attached to electric fencing. Fencing should be removed following grazing.
- Supplementary feeding of mineral licks in suitable containers or blocks is acceptable. If required, other supplementary feeding should be provided in suitable off-ground containers.
- Grazing should be rotated within the agreed areas.
- The grazier should take reasonable precautions for the care and safety of their animals. The grazier is legally responsible for any loss or injury which may occur as the result of animals escaping.
- Any short term changes to this agreement deemed necessary will be allowed only with the express permission of the Proper Officer to the council for the length of time stipulated.

## Further Information

1. Our Common Land. The Law and History of Common Land and Village Greens by Paul Clayden MA, published by Open Spaces Society.
2. An information leaflet relating to works on common land and village greens can be obtained from Mid-Suffolk District Council. It contains information and advice for anyone proposing to carry out works on common land.
3. An information leaflet dealing with works exempt from Section 38 consent process (namely erecting temporary fencing or installing a row of obstacles to prevent vehicular access) can also be obtained from Mid-Suffolk District Council or via this link:  
[www.planningportal.gov.uk/uploads/pins/common\\_land/guidance/guidance\\_sheet\\_1c\\_works](http://www.planningportal.gov.uk/uploads/pins/common_land/guidance/guidance_sheet_1c_works)



Illustrations drawn by Jane Durant