

## NORTH YORKSHIRE COUNTY COUNCIL

### PLANNING AND REGULATORY FUNCTIONS SUB-COMMITTEE

27 SEPTEMBER 2013

### STAVELEY VILLAGE GREEN, STAVELEY APPLICATION TO REGISTER LAND AS A TOWN OR VILLAGE GREEN

#### Report of the Corporate Director – Business and Environmental Services

#### **1.0 PURPOSE OF REPORT**

- 1.1 To report on an application (“the Application”) for the registration of an area of land at Staveley identified on the plan at Appendix 1 (“the Application Site”) as a Town or Village Green.

#### **2.0 LEGAL CRITERIA**

- 2.1 Under the provisions of the Commons Act 2006 (“the Act”) the County Council is a Commons Registration Authority and so responsible for maintaining the Register of Town & Village Greens for North Yorkshire.

- 2.2 Section 15(8) of the Act sets out that:-

*The owner of any land may apply to the Commons Registration Authority to register the land as a town or village green*

- 2.3 Section 15(9) of the Act sets out that:-

*An application under subsection (8) may only be made with the consent of any relevant leaseholder of, and the proprietor of any relevant charge over, the land*

- 2.4 Section 15(10) of the Act sets out that:-

*In subsection (9)-*

*“relevant charge” means-*

- (a) *In relation to land which is registered in the register of title, a registered charge within the meaning of the Land Registration Act 2002(c.9);*
- (b) *In relation to land which is not so registered-*
  - (i) *a charge registered under the Land Charges Act 1972;*
  - (ii) *a legal mortgage, within the meaning of the Law of Property Act 1925(c.20), which is not registered under the Land Charges Act 1972;*

*“relevant leaseholder” means leaseholder under a lease for a term of more than seven years from the date on which the lease was granted.*

- 2.5 A Commons Registration Authority needs to be satisfied on the balance of probabilities that all the elements of section 15(8) and 15(9) have been demonstrated to have been met by an application relying on those provisions for it to be approved. The onus of proof rests with an applicant.
- 2.6 A Commons Registration Authority is not required to advertise the Application and does not have to examine the merits of registering the land. It need only be satisfied that the Applicant is legally entitled to apply to register.
- 2.7 Once all the criteria have been met an application made under the Commons Act 2006 Section 15(8) **cannot** be refused by the Commons Registration Authority.

### **3.0 APPLICATION SITE**

- 3.1 The Application Site, shown hatched on the plan at Appendix 1, is owned by Staveley Parish Council.
- 3.2 The triangular piece of land is situated at the junction of Main Street, Minskip Road and the Flats in eastern Staveley. The site forms an island and is surrounded by publicly maintainable highway.

### **4.0 APPLICATION**

- 4.1 The Application was submitted by Staveley Parish Council (“the Applicant”) through their clerk Bernard Atkinson. The Application was signed by him on 23 April 2013, received by the County Council on 8 May 2013 and accepted as duly made on 8 May 2013. A copy of the standard Form 44, as completed by the Applicant, comprises Appendix 2.
- 4.2 A map of the Application Site comprises Appendix 3.
- 4.3 An extract from Harrogate Borough Council's Online Planning Application Information which confirms that planning permission for the change of use of the Application Site, from allotments to (unregistered) village green status, was granted on 13 August 1987 (Ref. No: 87/02635/FUL) comprises Appendix 4.

### **5.0 DECISION MAKING**

- 5.1 The decision whether or not to approve the Application rests with the County Council in its role as a Commons Registration Authority
- 5.2 It is not relevant to consider the merits or otherwise of the land being proposed for registration. The County Council must direct itself only to whether or not all the relevant criteria set out in Sections 15(8) and 15(9) have been met.

### **6.0 EQUALITIES IMPLICATIONS**

- 6.1 Consideration has been given to the potential for any equality impacts arising from the recommendation. It is the view of officers that the recommendation does not have an adverse impact on any of the protected characteristics identified in the Equalities Act 2010.

## **7.0 FINANCE**

7.1 There are no financial implications associated with the introduction of these proposals.

## **8.0 CONCLUSIONS**

8.1 For the Application to be approved the County Council must be satisfied that, on the evidence available to it, all the criteria contained in Section 15(8) and 15(9) of the Act are met.

8.2 It is your officer's view that, on the balance of probabilities, the relevant criteria of Section 15(8) and 15(9) have been satisfied.

## **9.0 RECOMMENDATION**

9.1 That the Committee resolves to register the Application Site as a Town or Village Green

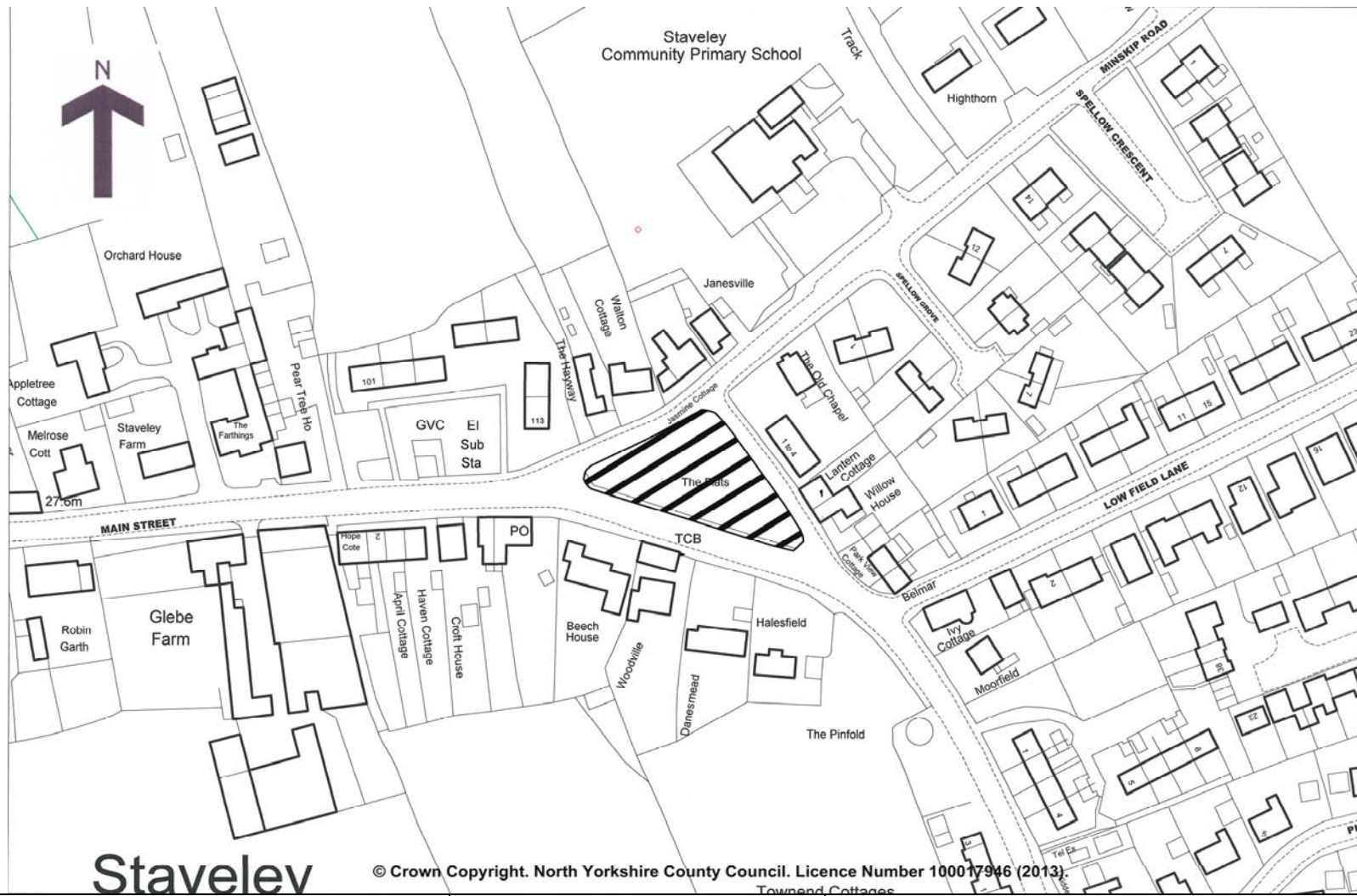
DAVID BOWE  
Corporate Director – Business and Environmental Services

Author of Report: Doug Huzzard / Chris Stanford

### Background Documents:

Application case file held in County Searches Information - Business & Environmental Services

# APPENDIX 1



FORM 44

## Commons Act 2006: Section 15

# Application for the registration of land as a Town or Village Green

Official stamp of registration authority  
indicating valid date of receipt:

Application number:

Register unit No(s):

VG number allocated at registration:

(CRA to complete only if application is successful)

Applicants are advised to read the 'Guidance Notes for the completion of an Application for the Registration of land as a Town or Village Green' and to note the following:

- All applicants should complete questions 1–6 and 10–11.
- Applicants applying for registration under section 15(1) of the 2006 Act should, in addition, complete questions 7–8. Section 15(1) enables any person to apply to register land as a green where the criteria for registration in section 15(2), (3) or (4) apply.
- Applicants applying for voluntary registration under section 15(8) should, in addition, complete question 9.

**Note 1**

Insert name of  
registration  
authority.

**1. Registration Authority**

To the

NORTH YORKSHIRE COUNTY COUNCIL

**Note 2**

If there is more than one applicant, list all names. Please use a separate sheet if necessary. State the full title of the organisation if a body corporate or unincorporate.

If question 3 is not completed all correspondence and notices will be sent to the first named applicant.

**Note 3**

This question should be completed if a solicitor is instructed for the purposes of the application. If so all correspondence and notices will be sent to the person or firm named here.

**2. Name and address of the applicant**

Name:

Full postal address:

Postcode

Telephone number:   
(incl. national dialling code)

Fax number:   
(incl. national dialling code)

E-mail address:

**3. Name and address of solicitor, if any**

Name:

Firm:

Full postal address:

Post code

Telephone number:   
(incl. national dialling code)

Fax number:   
(incl. national dialling code)

E-mail address:

**Note 4**

*For further advice on the criteria and qualifying dates for registration please see section 4 of the Guidance Notes.*

*\* Section 15(6) enables any period of statutory closure where access to the land is denied to be disregarded in determining the 20 year period.*

**4. Basis of application for registration and qualifying criteria**

If you are the landowner and are seeking voluntarily to register your land please tick this box and move to question 5.

Application made under **section 15(8)**:

If the application is made under **section 15(1)** of the Act, please **tick one** of the following boxes to indicate which particular subsection and qualifying criterion applies to the case.

**Section 15(2)** applies:

**Section 15(3)** applies:

**Section 15(4)** applies:

If **section 15(3) or (4)** applies please indicate the date on which you consider that use as of right ended.

If **section 15(6)\*** applies please indicate the period of statutory closure (if any) which needs to be disregarded.

**Note 5**

The accompanying map must be at a scale of at least 1:2,500 and show the land by distinctive colouring to enable to it to be clearly identified.

\* Only complete if the land is already registered as common land.

**Note 6**

It may be possible to indicate the locality of the green by reference to an administrative area, such as a parish or electoral ward, or other area sufficiently defined by name (such as a village or street). If this is not possible a map should be provided on which a locality or neighbourhood is marked clearly.

**5. Description and particulars of the area of land in respect of which application for registration is made**

Name by which usually known:

STAVELEY VILLAGE GREEN

Location:

JUNCTION OF MAIN STREET + MINSKIP ROAD  
STAVELEY

Shown in colour on the map which is marked and attached to the statutory declaration.

Common land register unit number (if relevant) \*

**6. Locality or neighbourhood within a locality in respect of which the application is made**

Please show the locality or neighbourhood within the locality to which the claimed green relates, either by writing the administrative area or geographical area by name below, or by attaching a map on which the area is clearly marked:

JUNCTION OF MAIN STREET + MINSKIP ROAD  
STAVELEY

Tick here if map attached:



**7. Justification for application to register the land as a town or village green****Note 7**

Applicants should provide a summary of the case for registration here and enclose a separate full statement and all other evidence including any witness statements in support of the application.

This information is not needed if a landowner is applying to register the land as a green under section 15(8).

PLANNING APPLICATION FOR CHANGE OF USE  
TO VILLAGE GREEN APPROVED BY HARROGATE  
BOROUGH COUNCIL DATED 13.10.1987  
(COPY ATTACHED)

LAND OWNED BY STAVELEY + COPROUSE  
PARISH COUNCIL

**Note 8**

Please use a separate sheet if necessary.

Where relevant include reference to title numbers in the register of title held by the Land Registry.

If no one has been identified in this section you should write "none"

This information is not needed if a landowner is applying to register the land as a green under section 15(8).

**Note 9**

List all such declarations that accompany the application. If none is required, write "none".

This information is not needed if an application is being made to register the land as a green under section 15(1).

**Note 10**

List all supporting documents and maps accompanying the application. If none, write "none"

Please use a separate sheet if necessary.

**8. Name and address of every person whom the applicant believes to be an owner, lessee, tenant or occupier of any part of the land claimed to be a town or village green**

STAVELEY & COPPERLE PARISH COUNCIL

**9. Voluntary registration – declarations of consent from 'relevant leaseholder', and of the proprietor of any 'relevant charge' over the land**

**10. Supporting documentation**

HARROGATE BOROUGH COUNCIL APPROVAL  
NOTICE FOR CHANGE OADSE TO VILLAGE GREEN

**Note 11**

*If there are any other matters which should be brought to the attention of the registration authority (in particular if a person interested in the land is expected to challenge the application for registration). Full details should be given here or on a separate sheet if necessary.*

**11. Any other information relating to the application**

**Note 12**

*The application must be signed by each individual applicant, or by the authorised officer of an applicant which is a body corporate or unincorporate.*

Date:

23/4/13

Signatures:

B. Allen

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**REMINDER TO APPLICANT**

**You are advised to keep a copy of the application and all associated documentation. Applicants should be aware that signature of the statutory declaration is a sworn statement of truth in presenting the application and accompanying evidence. The making of a false statement for the purposes of this application may render the maker liable to prosecution.**

**Data Protection Act 1998**

*The application and any representations made cannot be treated as confidential. To determine the application it will be necessary for the registration authority to disclose information received from you to others, which may include other local authorities, Government Departments, public bodies, other organisations and members of the public.*

**Statutory Declaration In Support**

To be made by the applicant, or by one of the applicants, or by his or their solicitor, or, if the applicant is a body corporate or unincorporate, by its solicitor, or by the person who signed the application.

<sup>1</sup> Insert full name (and address if not given in the application form).

I Bernard Atkinson solemnly and sincerely declare as follows:—

<sup>2</sup> Delete and adapt as necessary.

1.<sup>2</sup> I am ((the person (~~one of the persons~~) who (has) (~~have~~) signed the foregoing application)) ((~~the solicitor to (the applicant) (one of the applicants)~~)).

<sup>3</sup> Insert name if Applicable

2. The facts set out in the application form are to the best of my knowledge and belief fully and truly stated and I am not aware of any other fact which should be brought to the attention of the registration authority as likely to affect its decision on this application, nor of any document relating to the matter other than those (if any) mentioned in parts 10 and 11 of the application.

3. The map now produced as part of this declaration is the map referred to in part 5 of the application.

<sup>4</sup> Complete only in the case of voluntary registration (strike through if this is not relevant)

4.<sup>4</sup> I hereby apply under section 15(8) of the Commons Act 2006 to register as a green the land indicated on the map and that is in my ownership. I have provided the following necessary declarations of consent:

- (i) a declaration of ownership of the land;
- (ii) ~~a declaration that all necessary consents from the relevant leaseholder or proprietor of any relevant charge over the land have~~

Cont/

B.A.

B.A.

B.A.

B. W. <sup>4</sup> Continued

~~been received and are exhibited with this declaration; or~~  
(iii) where no such consents are required, a declaration to that effect.

And I make this solemn declaration, conscientiously believing the same to be true, and by virtue of the Statutory Declarations Act 1835.

Declared by the said BERNARD  
ATKINSON )  
)  
)  
at 90 High Street, )  
Knowsborough in the County )  
of North Yorkshire )  
this twenty third day of April 2013 )

B. W. *auth.*  
Signature of Declarant

Before me \* Lynda Delf Greenwood

Signature: *LD*

Address: 90 High Street, Knowsborough HG5 0EA

Qualification: Solicitor

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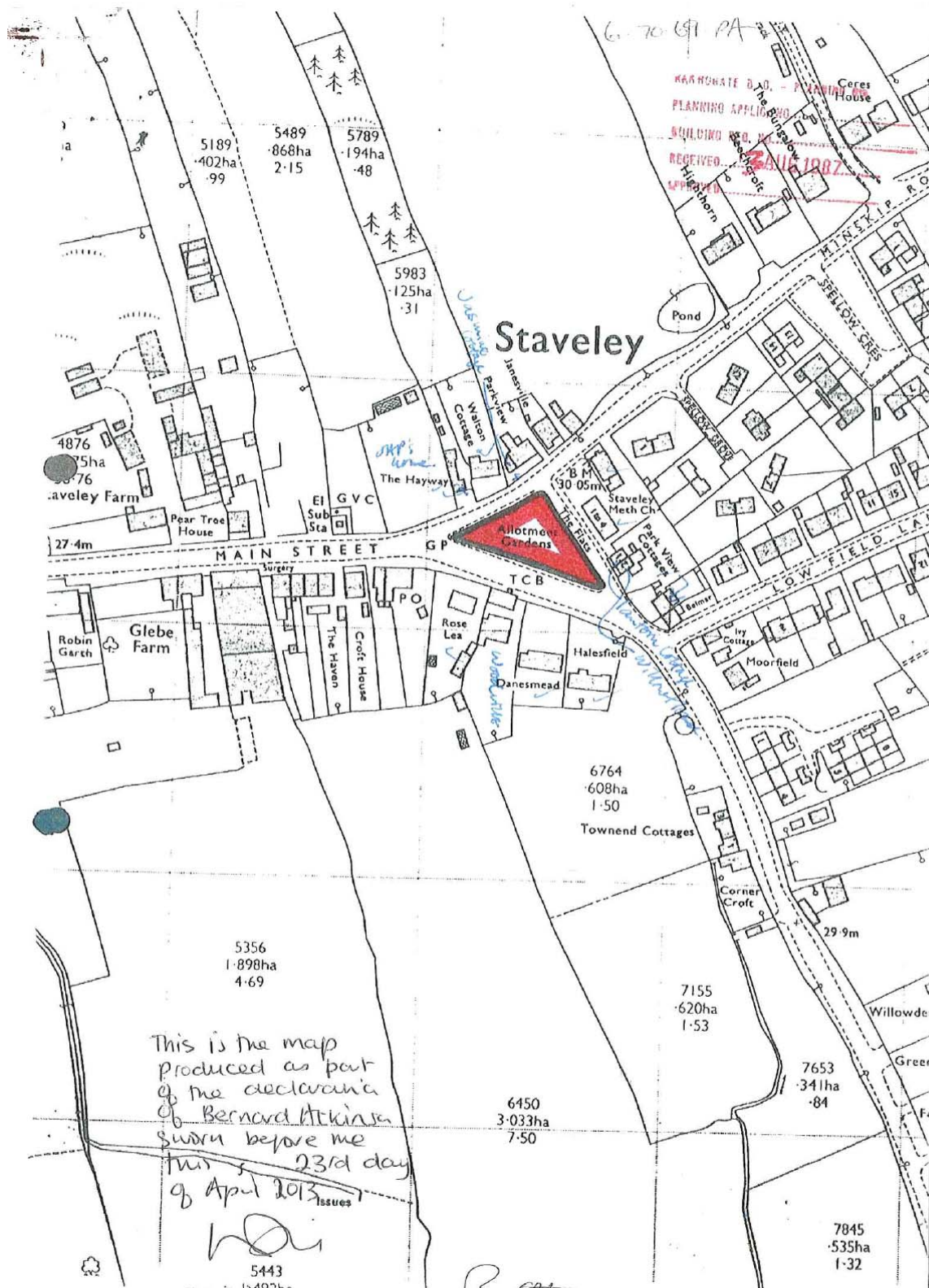
\* The statutory declaration must be made before a justice of the peace, practising solicitor, commissioner for oaths or notary public.

Signature of the statutory declaration is a sworn statement of truth in presenting the application and accompanying evidence.

REMINDER TO OFFICER TAKING DECLARATION:

Please initial all alterations and mark any map as an exhibit

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This is the map produced as part of the declaration of Bernard Atkinson sworn before me this 23rd day of April 2013

*[Signature]*  
 5443  
 Solicitor  
 90 High Street  
 Knavesbush

*[Signature]*  
*[Signature]*

## Print Version

[Close Window](#)[Print](#)

### Results for Application Search

THE PADDOCKS, MINSKIP ROAD, STAVELEY. Extending property to provide separate living accommodation

The Paddocks Minskip Road Staveley Knaresborough North Yorkshire HG5 9LQ

Ref. No: 87/04223/FUL | Received: Wed 23 Dec 1987 | Validated: Wed 23 Dec 1987 | Status: Application Refused

Erecting extension to form bedroom and bathroom at first floor level 5 PARK VIEW, STAVELEY.

5 Park View Staveley Knaresborough North Yorkshire

Ref. No: 87/03388/FUL | Received: Wed 28 Oct 1987 | Validated: Wed 28 Oct 1987 | Status: Application Permitted

Erecting bathroom and bedroom extension THE OLD CHAPEL, MINSKIP ROAD, STAVELEY.

The Old Chapel Minskip Road Staveley Knaresborough North Yorkshire

Ref. No: 87/02994/FUL | Received: Thu 10 Sep 1987 | Validated: Thu 10 Sep 1987 | Status: Application Permitted

Erecting extension THE STAVELEY ARMS NORTH STAINLEY RIPON

Staveley Arms North Stainley Ripon North Yorkshire HG4 3HT

Ref. No: 87/02912/FUL | Received: Tue 08 Sep 1987 | Validated: Tue 08 Sep 1987 | Status: Application Permitted

SITE IN CENTRE OF VILLAGE AT THE JUNCTION OF THE PUBLIC HIGHWAYS LEADING TO MINSKIP AND ARKENDALE Change of use from allotments to village green

Main Street Staveley North Yorkshire

Ref. No: 87/02635/FUL | Received: Thu 13 Aug 1987 | Validated: Thu 13 Aug 1987 | Status: Application Permitted

WATH LANE, STAVELEY. erecting detached bungalow and garage

Main Street Staveley North Yorkshire HG5 9LD

Ref. No: 87/02503/REM | Received: Fri 31 Jul 1987 | Validated: Fri 31 Jul 1987 | Status: Application Permitted

domestic extension THE HAYWAY, STAVELEY.