

NORTH YORKSHIRE COUNTY COUNCIL

PLANNING AND REGULATORY FUNCTIONS SUB-COMMITTEE

15 NOVEMBER 2013

THE GREEN, MAIN STREET, SEAMER
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 The Green, Main Street, Seamer, 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 Seamer Parish Council.
- 3.2 The Application Site is situated at the junction of Main Street and a road known as The Green in northern Seamer. The Application Site is bounded to the east by a wall separating the site from Main Street which incorporates a pedestrian access and a vehicular access. A post and rail fence separates the site from residential properties to the west. The northern and southern boundaries are hedges, the latter separating the site from The Green.

4.0 APPLICATION

- 4.1 The Application was submitted by Seamer Parish Council (“the Applicant”) through their clerk Anthony Spencer. The Application was signed by him on 26 October 2012 and received by the County Council on 29 October 2012 and accepted as duly made on 31 October 2012. A copy of the standard Form 44 as completed by the Applicant comprises Appendix 2.
- 4.2 Amongst the documentary evidence accompanying the Application was a Conveyance dated 15 March 1981 indicating the Application site had been transferred to the Parish Council, a declaration by the Parish Clerk, on behalf of the Applicant, with regard to ownership of the Application site and a further declaration by the Parish Clerk, on behalf of the Applicant, there was no leaseholder of the land nor any proprietor of any relevant charge over the Application site. Copies of all the documentary evidence (exhibits 1 to 5) comprise Appendix 3.
- 4.3 The Applicant was asked to provide proof of ownership and duly registered the Application Site at the Land Registry. A copy of the Register of Title was received by the Registration Authority on 11 February 2013. A copy of the Register of Title 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.

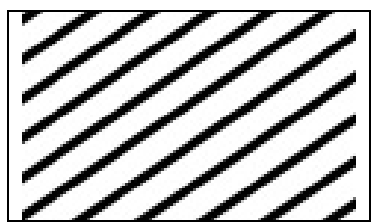
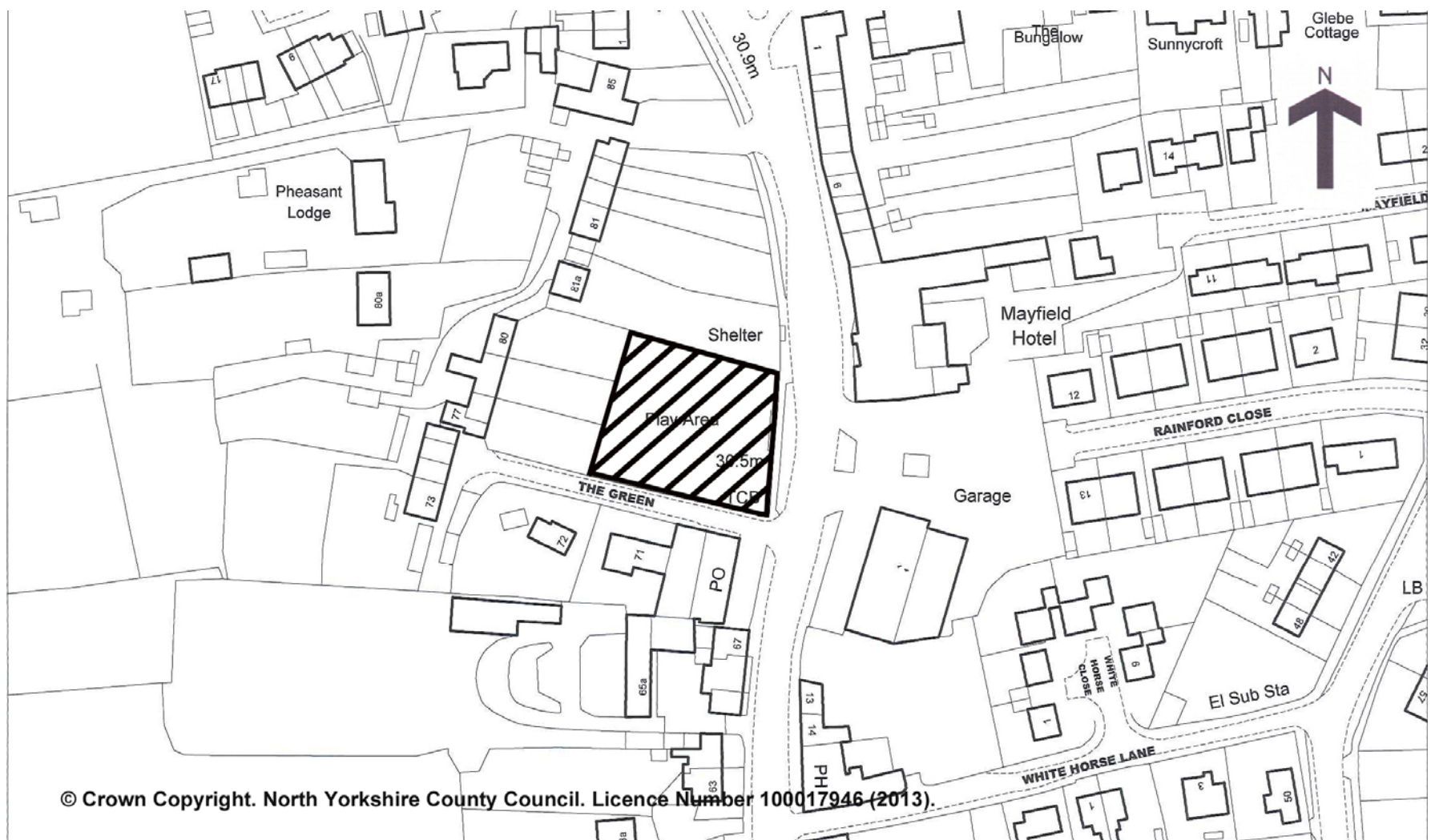
DAVID BOWE
Corporate Director – Business and Environmental Services

Author of Report: Doug Huzzard / Chris Stanford

Background Documents:

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

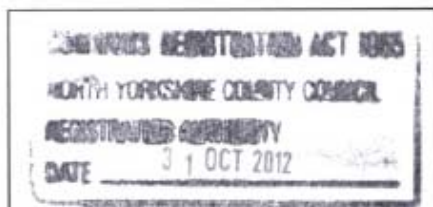
APPENDIX 1



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

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: SEAMER PARISH COUNCIL

Full postal address:

Seamer Parish Council
c/o Clerk to the Council
90 Tennyson Avenue
Scarborough

Postcode YO12 7RE

Telephone number: (01723) 507835
(incl. national dialling code)Fax number:
(incl. national dialling code)

E-mail address: clerk@seamercrossgates.plus.com

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 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:

THE GREEN

Location:

MAIN STREET, SEAMER, SCARBOROUGH

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:

Main Street
Seamer Parish
Scarborough
North Yorkshire

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).

| | |
|--|--|
| <p>Note 8 Please use a separate sheet if necessary.</p> <p>Where relevant include reference to title numbers in the register of title held by the Land Registry.</p> <p>If no one has been identified in this section you should write "none"</p> <p>This information is not needed if a landowner is applying to register the land as a green under section 15(8).</p> | <p>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</p> <div style="border: 1px solid black; padding: 10px; min-height: 150px;"> <p style="text-align: center;">NONE</p> </div> |
| <p>Note 9 List all such declarations that accompany the application. If none is required, write "none".</p> <p>This information is not needed if an application is being made to register the land as a green under section 15(1).</p> | <p>9. Voluntary registration – declarations of consent from 'relevant leaseholder', and of the proprietor of any 'relevant charge' over the land</p> <div style="border: 1px solid black; padding: 10px; min-height: 150px;"> <p style="text-align: center;">NONE REQUIRED</p> </div> |
| <p>Note 10 List all supporting documents and maps accompanying the application. If none, write "none"</p> <p>Please use a separate sheet if necessary.</p> | <p>10. Supporting documentation</p> <div style="border: 1px solid black; padding: 10px; min-height: 150px;"> <p>Documents attached:</p> <ul style="list-style-type: none"> Exhibit 1: Map showing location of 'The Green' Exhibit 2: Copy of Conveyance of 'The Green' to the Council Exhibit 3: Map showing the location of Seamer Parish Exhibit 4: A Declaration as to Ownership Exhibit 5: A Declaration that no consents are required from any leaseholder as none exist </div> |

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.

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.

11. Any other information relating to the application

Date:

26 Oct 2012

Signatures:



(Clerk to Seamer Parish Council)

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.

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

I. ANTHONY SPENCER solemnly and sincerely declare as follows:—

² Delete and adapt as necessary.

1.² I am ((the person (~~one of the persons~~) who (has) (~~have~~) signed the foregoing application)) (~~(the solicitor to (the applicant) (one of the applicants))~~).

³ 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.

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

4.⁴ 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'

4 Continued

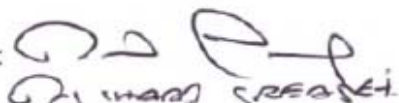
~~QC~~ ~~been received and are exhibited with this declaration; or~~
(ii) where no such consents are required, a declaration to that effect.

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 ANTHONY SPENCER)
)
)
at SCARBOROUGH)
NORTH YORKSHIRE)
)
this 26th day of OCTOBER '12)


Signature of Declarant

Before me *

Signature: 
QUINN CREAGH

Address: 32 QUEEN ST
SCARBOROUGH
NORTH YORKSHIRE

Qualification: SOLICITOR

* 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

EXHIBIT 1

SCARBOROUGH BOROUGH COUNCIL



Reproduced by permission of Ordnance Survey on behalf of HMCo. © Crown copyright and database rights 2012. Ordnance Survey Licence number 10002427

Date 18/10/2012
Scale 1:1250

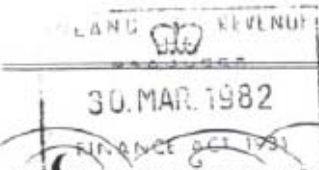
THIS IS THE EXHIBIT MARKED '1' REFERRED TO IN
THE STATUTORY DECLARATION OF ANTHONY
SPENCER


Made this 26th day of OCTOBER 2012

Before me: 

Qualification: SA SPENCER

EXHIBIT 2





is made the

Fifteenth day of *March* One thousand
 nine hundred and eighty ^{two} ~~one~~ BETWEEN MARION JOYCE ACKLAND BELL
 formerly of 31 School Road Marsh Lane Eckington near the City of
 Sheffield but now of 23 School Road Marsh Lane Eckington aforesaid
SUSAN CHRISTINE WOOTTON formerly of 42 Lightwood Road Marsh Lane
 Eckington aforesaid but now of 31 School Road Marsh Lane Eckington
 aforesaid and BARBARA ANN HODGE formerly of 33 Ridge Road Marsh
 Lane Eckington aforesaid but now of 31 School Road Marsh Lane
 Eckington aforesaid (hereinafter called "the Vendors") of the first
 part THE SCARBOROUGH BOROUGH COUNCIL (hereinafter called "the
 Borough Council") of the second part and THE PARISH COUNCIL OF THE
 PARISH OF SEAMER near Scarborough in the County of North Yorkshire
 (hereinafter called "the Parish Council") of the third part _____

W H E R E A S :- _____

(1) Basil Vivian Hodge late of 31 School Road Marsh Lane Eckington
 aforesaid (hereinafter called "the Testator") died on the Nineteenth
 day of September One thousand nine hundred and seventy nine having
 by his Will dated the Second day of May One thousand nine hundred
 and seventy five appointed Lloyds Bank Limited to be Executor and
 Trustee thereof _____

(2) Letters of Administration to the estate of the Testator with
 his said Will annexed were on the Twelfth day of November One
 thousand nine hundred and seventy nine granted to the Vendors out
 of the Sheffield District Probate Registry the said Lloyds Bank

Limited the sole Executor named in the said Will having renounced Probate thereof _____

(3) The Testator was at the date of his death seised of the property hereinafter described for an estate in fee simple in possession free from incumbrances _____

(4) The Vendors have not given or made any assent or conveyance in respect of a legal estate in or affecting the said property or any part thereof _____

(5) The Vendors have agreed with the Borough Council for the sale to it of the said property at the price of Four thousand pounds and the Borough Council has agreed to re-sell the same to the Parish Council at the price of One pound _____

NOW THIS DEED WITNESSETH as follows:- _____

1. IN consideration of the sum of Four thousand pounds paid by the Borough Council to the Vendors (the receipt whereof the Vendors hereby acknowledge) and the sum of One pound paid by the Parish Council to the Borough Council (the receipt whereof the Borough Council hereby acknowledges) the Vendors as personal representatives of the Testator in exercise of their statutory powers and by the direction of the Borough Council hereby convey and the Borough Council as trustee hereby conveys and confirms unto the Parish Council ALL THAT piece of land containing 0.16 hectares or thereabouts situate at Seamer near Scarborough in the County of North Yorkshire (forming part of the property comprised in a Conveyance dated the Twenty fourth day of January One thousand nine hundred and sixty three and made between Dorothy Mary Midgley of the one part and the Testator of the other part) which said piece of land is

delineated on the plan annexed hereto and thereon edged pink TO HOLD
the same unto the Parish Council in fee simple _____

2. THE Vendors hereby acknowledge the right of the Parish Council
to production of the documents specified in the Schedule hereto and
to delivery of copies thereof _____

3. IT is hereby certified that the transaction hereby effected
does not form part of a larger transaction or of a series of
transactions in respect of which the amount or value or the aggregate
amount or value of the consideration exceeds Twenty thousand pounds.


IN WITNESS whereof the Vendors have hereunto set their hands and
seals the Borough Council has caused its Common Seal to be hereunto
affixed and *Michael Linton Jefferson* and *Andrew Thomas Fonby Young*
two members of the Parish Council have on behalf of the Parish
Council hereunto set their hands and seals the day and year first
hereinbefore written _____

THE SCHEDULE BEFORE REFERRED TO

| | | |
|---------------|------|---|
| 24th January | 1963 | The hereinbefore mentioned <u>CONVEYANCE</u> of this date |
| 24th January | 1963 | <u>LEGAL CHARGE</u> made between the Testator (1) and Penrican Investments Limited (2) (with Receipt endorsed dated 9th April 1965) |
| 9th April | 1965 | <u>MORTGAGE</u> made between the Testator (1) and Penrican Investments Limited (with Receipt endorsed dated 23rd April 1970) |
| 12th November | 1979 | <u>LETTERS OF ADMINISTRATION</u> with the Will annexed to the estate of the Testator |

SIGNED SEALED AND DELIVERED by the)
said MARION JOYCE ACKLAND BELL in)
the presence of :-)

M. Bate
2, Mollard Place, Shiff. 14.
Shop Managers

M J-a Bell 

Handwritten notes in left margin:
...
...
...

Letter name & address

Signature

Letter name & address

Signature

SIGNED SEALED AND DELIVERED by the)
said SUSAN CHRISTINE WOOTTON in)
the presence of :-)

S C Wootton

M. Bate
2, Motland Place Sheff. 14.

Shop Managers

SIGNED SEALED AND DELIVERED by the)
said BARBARA ANN HODGE in the)
presence of :-)

B. Hodge

M. Bate
2, Motland Place Sheff. 14

Shop Managers.

THE COMMON SEAL of THE SCARBOROUGH)
BOROUGH COUNCIL was hereunto affixed)
in the presence of :-)

2528

Elizabeth Jackson

Mayor

Kevin B...

Chief Executive

SIGNED SEALED AND DELIVERED by the)
said MICHAEL LINTON JEFFERSON)
in the presence of :-)

Michael Linton Jefferson

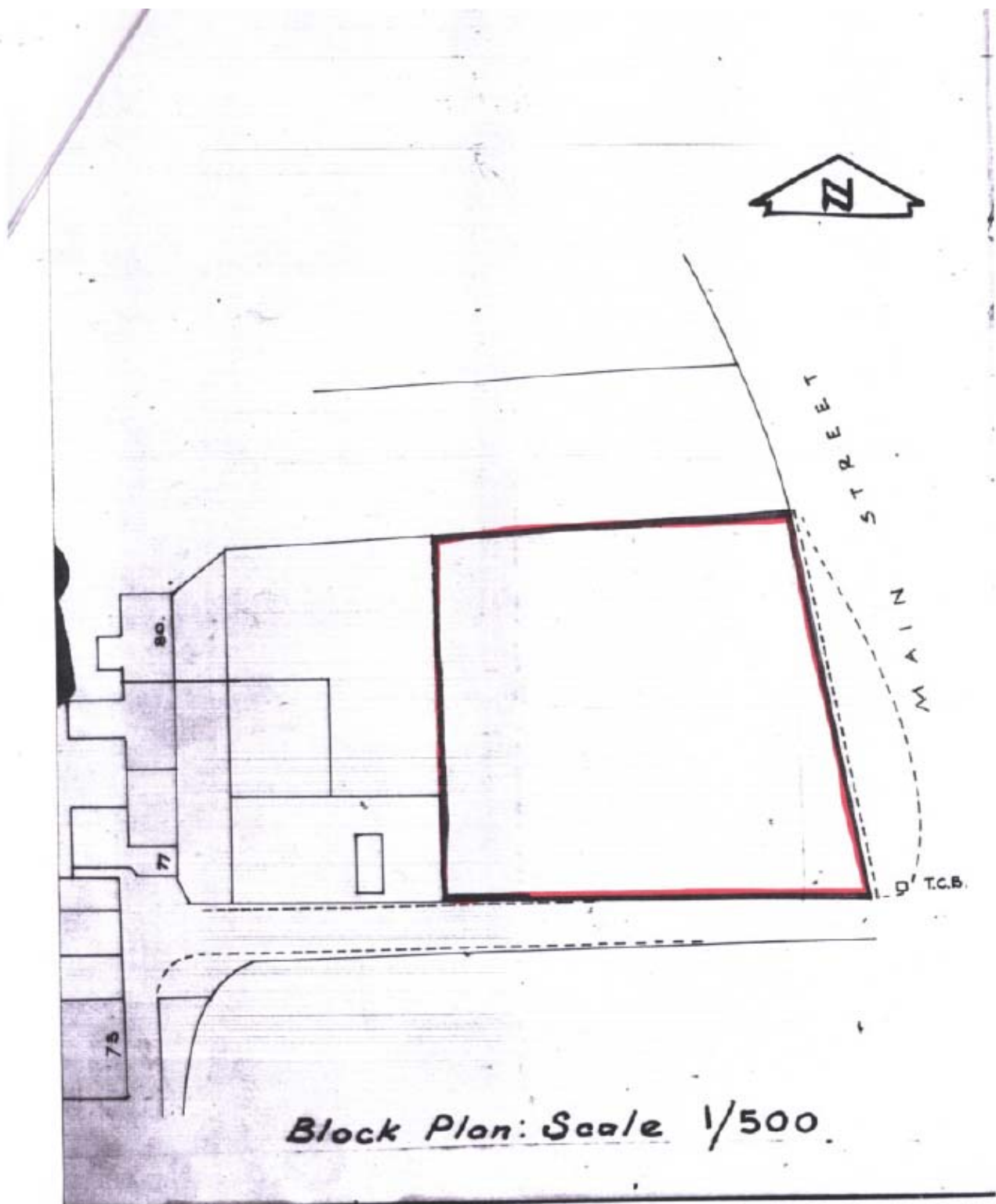
22, CHARITY ROAD,
EAST AYTON, SCARBOROUGH.

SIGNED SEALED AND DELIVERED by the)
said ANDREW THOMAS FENBY YOUNG)
in the presence of :-)

Andrew Thomas Fenby Young

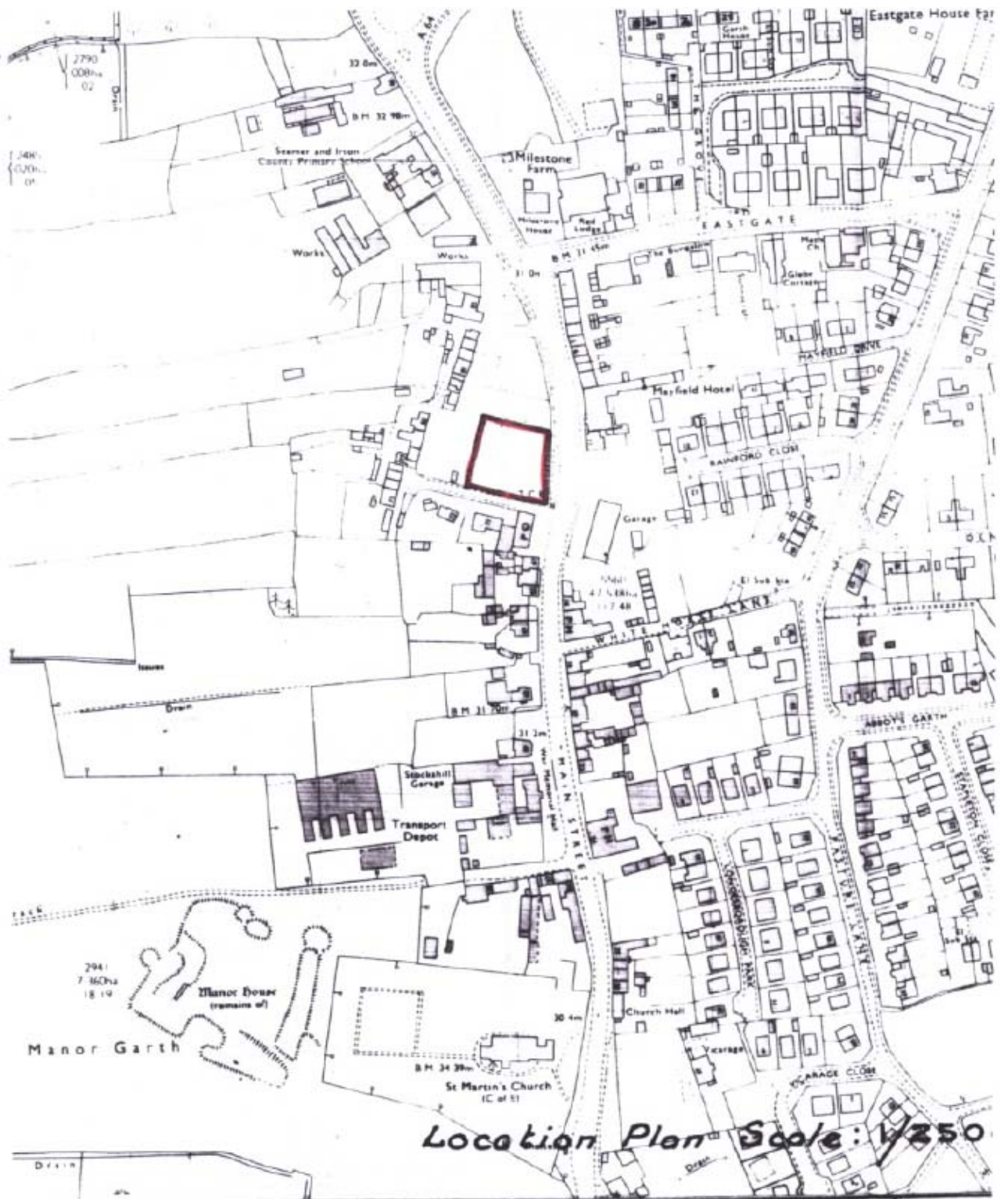
22, CHARITY ROAD,
EAST AYTON, SCARBOROUGH.

ADMINISTRATOR, N.H.S.



THE ESTATES MANAGER
ESTATES DEPARTMENT
TOWN HALL
SCARBOROUGH

BOROUGH
BOROUGH OF SCARBO
COMPULSOR



OF SCARBOROUGH
OUGH (THE GREEN, SEAMER)
PURCHASE ORDER 1978.

TRACING
V.O.1
DRAWING
V.O.10

DATED

15th March

1981.

THE PERSONAL REPRESENTATIVES
OF MR. B. V. HODGE DECEASED
(by the direction of The
Scarborough Borough Council)

- to -

SEAMER PARISH COUNCIL

Conveyance

of a piece of land at The Green,
Seamer, near Scarborough in the
County of North Yorkshire

Director of Administration,
Town Hall,
SCARBOROUGH.

SLA/SHK/V.981

EXHIBIT 3

SEAMER PARISH BOUNDARY

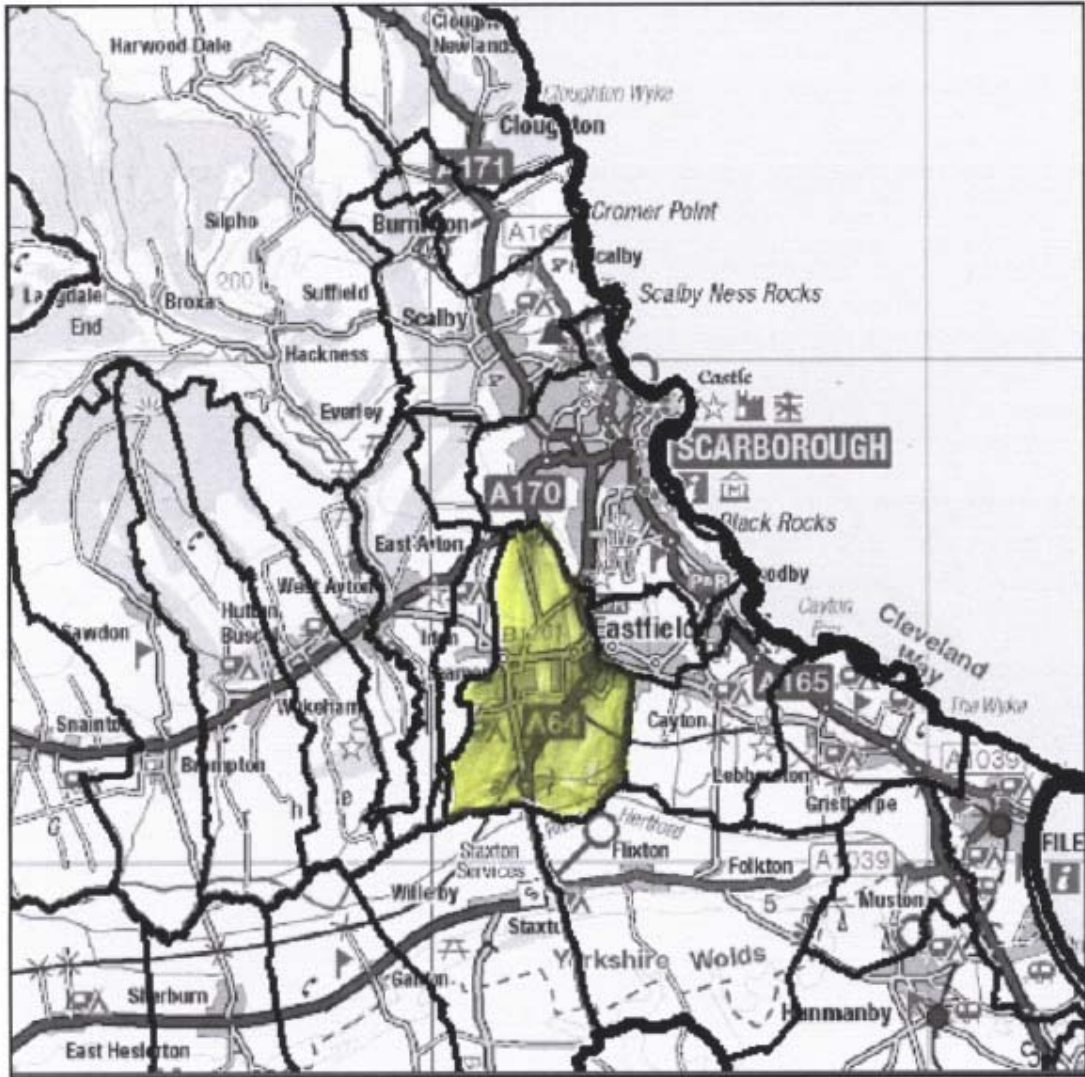


EXHIBIT 4

APPLICATION UNDER SEC15 (8) OF THE COMMONS ACT 2006 FOR THE
REGISTRATION OF LAND AS A VILLAGE GREEN

THE GREEN, SEAMER

DECLARATION AS TO OWNERSHIP

I am the person who has signed the attached application on behalf of Seamer Parish Council as its Clerk to the Council.

I solemnly and sincerely declare that Seamer Parish Council is the owner of the land shown coloured pink on the Map marked Exhibit 1 accompanying this application. The ownership is also set out in the Conveyance accompanying this application marked Exhibit 2.

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 Anthony Spencer
Clerk to Seamer Parish Council
90 Tennyson Avenue
Scarborough
YO12 7RE



Dated this 26th day of SEPTEMBER 2012

EXHIBIT 5

**APPLICATION UNDER SEC15 (8) OF THE COMMONS ACT 2006 FOR THE
REGISTRATION OF LAND AS A VILLAGE GREEN**

THE GREEN, SEAMER

**DECLARATION AS TO CONSENT FROM 'RELEVANT LEASEHOLDER', AND OF THE
PROPRIETOR OF ANY 'RELEVANT CHARGE' OVER THE LAND**

I am the person who has signed the attached application on behalf of Seamer Parish Council as its Clerk to the Council.

I solemnly and sincerely declare that there is no relevant leaseholder of the land nor any proprietor of any relevant charge over the land shown coloured pink on the Map marked Exhibit 1 accompanying this application

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

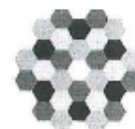
Declared by the said Anthony Spencer }
 Clerk to Seamer Parish Council }
 90 Tennyson Avenue }
 Scarborough }
 YO12 7RE }



Dated this 26th day of October 2012



Land Registry



Official copy of register of title

Title number NYK402010 Edition date 05.12.2012

- This official copy shows the entries in the register of title on 31 January 2013 at 13:10:58.
- This date must be quoted as the "search from date" in any official search application based on this copy.
- The date at the beginning of an entry is the date on which the entry was made in the register.
- Issued on 31 January 2013.
- Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
- For information about the register of title see Land Registry website www.landregistry.gov.uk or Land Registry Public Guide 1 - *A guide to the information we keep and how you can obtain it*.
- This title is dealt with by Land Registry Durham Office.

A: Property register

This register describes the land and estate comprised in the title.

NORTH YORKSHIRE : SCARBOROUGH

- 1 (05.12.2012) The Freehold land shown edged with red on the plan of the above title filed at the Registry and being land on the north side of The Green, Seamer, Scarborough.

B: Proprietorship register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

Title absolute

- 1 (05.12.2012) PROPRIETOR: SEAMER PARISH COUNCIL of 90 Tennyson Avenue, Scarborough YO12 7RE.
- 2 (05.12.2012) The value as at 4 December 2012 was stated to be under £20,000.

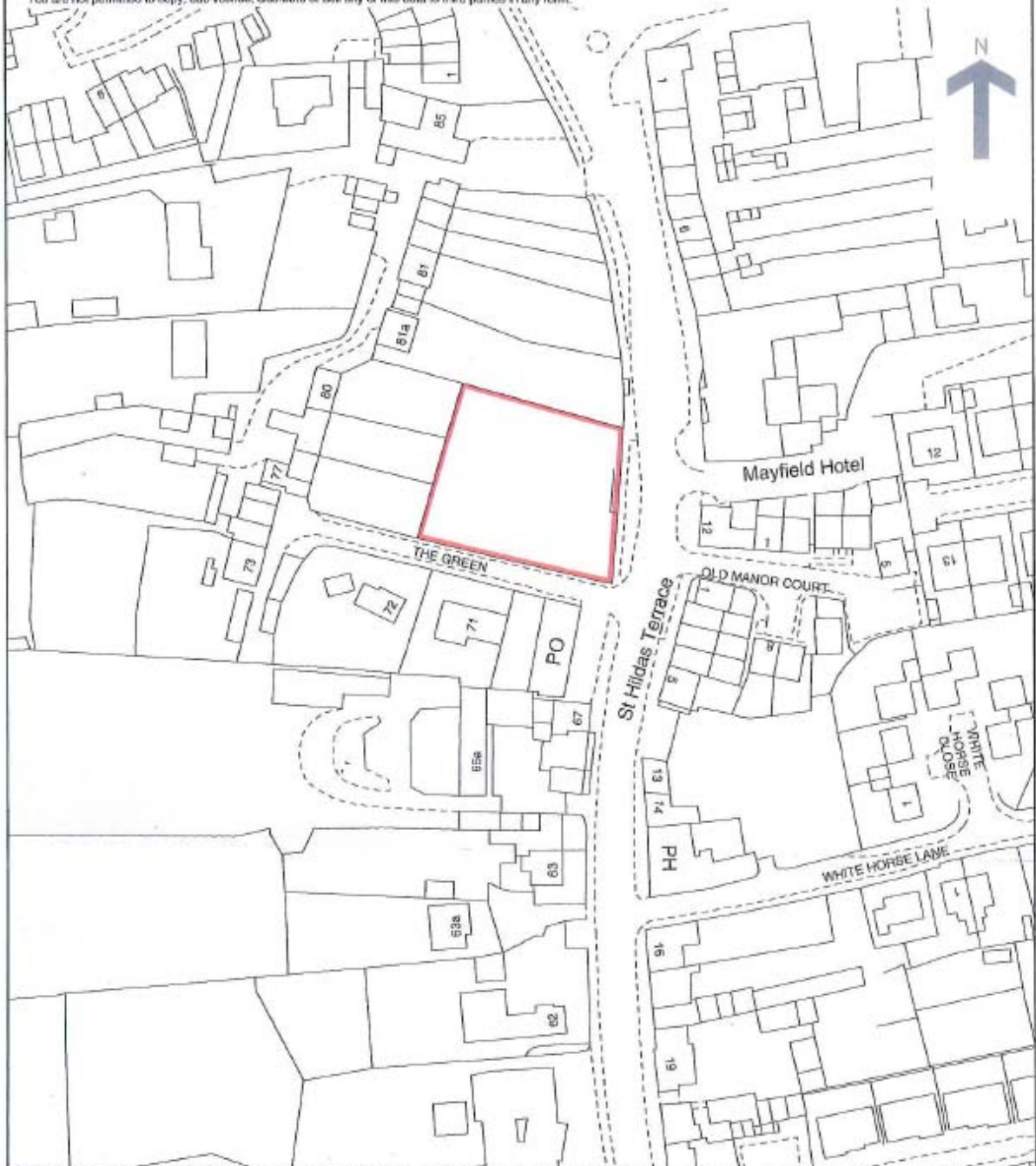
End of register

Land Registry
 Official copy of
 title plan

Title number NYK402010
 Ordnance Survey map reference TA0183NW
 Scale 1:1250 enlarged from 1:2500
 Administrative area North Yorkshire: Scarborough



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 You are not permitted to copy, sub-license, distribute or sell any of this data to third parties in any form.



This official copy issued on 31 January 2013 shows the state of this title plan on 31 January 2013 at 13:10:58. It is admissible in evidence to the same extent as the original (s.67 Land Registration Act 2002). 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. See Land Registry Public Guide 19 - Title Plans and Boundaries. This title is dealt with by Land Registry, Durham Office.