

## North Yorkshire County Council

## Business and Environmental Services

## Planning and Regulatory Functions Sub Committee

7 February 2020

**Application to amend the register to record an historic event  
Commons Act 2006 Part 1 – Schedule 3  
The Commons Registration (England) Regulations 2014  
Regulation 42 and Schedule 4 Paragraph 19**

**Application Reference Number CA14 118  
Right entry 8 exercisable over Westerdale Moor, Westerdale (CL 8)**

**Report of the Corporate Director - Business and Environmental Services****1.0 Purpose of Report**

- 1.1 To report on an application (“the Application”) seeking to amend the register of Common Land to reflect the severance of rights registered from the land to which they are currently recorded as being as attached and identified on the related supplemental map edged red **Appendix 1**.
- 1.2 Severance occurs where rights previously considered and/or recorded as attached to an area of land are legally treated independently of that land and as a separate asset.

**2.0 Background**

- 2.1 Under the provisions of the Commons Act 2006 (“the Act”) the County Council is a Commons Regulation Authority (“CRA”) and so responsible for maintaining the Registers of Common Land and Town and Village Greens for North Yorkshire.
- 2.2 Part 1 of the Commons Act 2006 took full effect in North Yorkshire from 15 December 2014 and at the same time it became effective in Cumbria through the Commons Registration (England) Regulations 2014.
- 2.3 The Regulations provided for an initial transitional period for the correction and amendment of registers. That period has now expired but the Regulations further provided for later amendment and correction subject to including in the consideration of an application an additional fairness test.
- 2.4 Schedule 3, paragraph 2(2) of the Act lists the qualifying events that might lead to a correction of the Commons Register and includes the following at 2(2)(b):-  
 (2) *The following are qualifying events for the purposes of this Schedule -*  
 (b) *any relevant disposition in relation to a right of common registered under the 1965 Act, or any extinguishment of such a right, where occurring at any time -*  
     (i) *after the date of the registration of the right under that Act; and*  
     (ii) *before the commencement of this paragraph;*

Para 2(3) explains that “relevant disposition” includes the following:-

- (3) *In sub-paragraph (2)(b) “relevant disposition” means—*
- (c) *in the case of a right of common attached to land, the apportionment or severance of the right*

2.5 Regulation 42(1) of the Regulations provides for amending a register outside the aforementioned transitional period:-

**Regulation 42 —**

- (1) *A 2014 registration authority may, subject to regulation 41(5), amend its registers after the end of the transitional period in consequence of a qualifying event, pursuant to an application made before or after the end of that period.*

and Regulation 41(5) sets out a fairness test that needs to be applied to such applications :-

**Regulation 41 —**

- (5) *Where this paragraph applies, the determining authority may not determine that a register entry should be amended if it considers that, by reason of reliance reasonably placed on the register by a person since the end of the transitional period, it would be unfair to do so.*

2.6 Schedule 4 paragraph 19 of the Regulations sets out that:

**19.**

- (1) *An application to amend a register in consequence of the severance of a right of common from land to which it was attached, which is a qualifying event by virtue of paragraph 2(2)(b) of Schedule 3 to the 2006 Act, may only be made by;*
- (a) *the person to whom the right of common was transferred upon being severed;*
- (b) *the owner of the right of common at the date of the application; or*
- (c) *the owner of land to which the right of common is registered as being attached.*
- (2) *The application must include—*
- (a) *evidence of the applicant’s capacity to make the application (as described in sub-paragraph (1));*
- (b) *the numbers of*
- (i) *the register unit; and*
- (ii) *the entry in the rights section of that register unit, which are to be amended; and*
- (c) *a description of the land to which the right of common was attached, and evidence of the ownership of that land at the time of the severance of the right of common.*
- (3) *The application must include or be accompanied by;*
- (a) *the written instrument (if any) which the applicant claims has effected the severance of the right of common; and*
- (b) *if there is no such instrument, or if that instrument does not express an unambiguous common intention by the parties to it that the right of common should be severed;*
- (i) *other documentary evidence, contemporaneous to the time at which the applicant claims that the right of common was severed, of a common intention by the transferor and transferee of the right of common that it was to be severed; or*
- (ii) *evidence that the right of common has subsequently been treated as severed.*

- 2.7 A CRA needs to be satisfied on the balance of probabilities that a severance occurred where an application claims that to be the case.

### 3.0 Application

- 3.1 An application (the “Application”) was submitted by Mrs Felicity Careen Pearson through her solicitors Pinkney Grunwells Lawyers LLP (“the Applicant”) dated the 8 October 2018 and received by the County Council on 21 December 2018. The Application was accepted as being duly made on 1 February 2019 following a request by the County Council for clarification on the content of the original submission.
- 3.2 The Application seeks to amend the Register of Common Land to reflect that rights recorded at entry No 8 for Common Land unit number CL8 (Westerdale Moor, Westerdale) were in the past severed from the land to which they were recorded as being attached which is identified on the associated supplemental map for right entry 8 a copy of which comprises **Appendix 1**
- 3.2 A copy of the Application including supporting documentation comprises **Appendix 2**.

### 4.0 Representations

- 4.1 In accordance with Regulation 21 of the Regulations the County Council publicised the Application by issuing a notice on the County Council’s website and by serving notices on all relevant parties. The notices were posted on 7 February 2019, in accordance with Regulation 21(5)(a) of the Regulations.
- 4.2 There was one representation received in response to the notice: from The Open Spaces Society which objected to the Application on the grounds that insufficient evidence was submitted to show that the rights have been severed **Appendix 3**.
- 4.3 In response to the Open Spaces Society’s objection, the Applicant provided further documentation to demonstrate how the rights have been used as if they had been severed from the land since their purchase in 1998 **Appendix 4**.
- 4.4 The Open Spaces Society requested a copy of the supplemental map and register page for Right Entry 8 and restated that it felt there has been no evidence of severance **Appendix 5**.

### 5.0 Assessment

- 5.1 Officers comments on each of the statutory provisions are set out below -
- 5.2 Schedule 3 paragraph 2(2)(b) of the Act:  
(2) *The following are qualifying events for the purposes of this Schedule -*  
(b) *any relevant disposition in relation to a right of common registered under the 1965 Act, or any extinguishment of such a right, where occurring at any time—*  
(i) *after the date of the registration of the right under that Act; and*  
(ii) *before the commencement of this paragraph;*

Section 7 of the Application refers to a transfer between the representatives of Ralph Edmund Fishpool (currently named in the register at right entry 8) and Neville Pearson (the Applicant’s husband, now deceased) in 1998.

The transfer clearly comprises a disposition of the rights concerned and took place after the rights were the subject of final registration on 11 March 1975 and prior to the commencement of Part 1 of the Commons Act 2006 in North Yorkshire, which occurred on 15 December 2014 (see para 2.2 above)

The Application included evidence of the transfer of the Applicant's late husband's interests to his wife following his death **Appendix 6**.

5.3 Schedule 3 paragraph 2(3) of the Act :

(3) *In sub-paragraph (2)(b) "relevant disposition" means;*

(c) *in the case of a right of common attached to land, the apportionment or severance of the right*

5.3.1 In the leading case of *Bettinson v Langton (2001)* the House of Lords determined that the very process of creating a register of common rights under the Commons Registration Act 1965 turned such rights into an entity in their own right capable of being dealt with as an asset separately (severed from) from the land to which they were recorded in a register as being attached. They were severable.

*The conclusion is, in my opinion, inescapable that subsection (3) transformed the right, on registration, from being a right limited by levancy and couchancy to being a right for a fixed number of animals.*

*It is the general law, established by the authorities to which I have referred, that when applied to... registered grazing rights..., impels the conclusion that the rights are severable"*

*(extract from Lord Fosco's leading judgment)*

5.3.2 The Commons Act 2006 subsequently introduced provisions to outlaw severance of common rights but only in respect of any disposition/event taking place after 28 June 2005. The disposition relied on by the Application, which is the subject of this report, took place in 1998.

5.3.3 In the lead up to the Commons Act 2006 becoming legislation DEFRA issued an explanatory note to members of parliament in January 2006 (**Appendix 7**) which confirmed at para 54 the significance of the *Bettinson v Langton* decision –

*In Bettinson v. Langton, the judicial committee of the House of Lords determined that a consequence of the quantification of grazing rights as required by section 15 of the 1965 Act was to enable a commoner to dispose of rights of common independently from the land to which they were traditionally attached (or, alternatively, to sell the land and retain the rights). This is known as 'severance'. Rights which have been severed become 'rights held in gross' and may be freely bought and sold as an incorporeal asset.*

5.3.4 Further, para 58 of the same explanatory note explained that "*non pro-rata apportionment is a form of severance*". Effectively where rights were recorded in the register as attached to an area of land and that land and the rights were subsequently dealt with via a disposal in disproportionate shares then the rights were effectively severed from the land.

5.3.5 The 1998 transfer document (**Appendix 4**) relating to what is relied in the Application as a relevant disposal shows that only some of the land to which the rights were originally recorded as being attached was transferred but all 131 grazing rights were transferred. A plan identifying that part of the Dominant Tenement that was included in the transfer comprises **Appendix 8**.

5.3.6 Clearly whilst all the registered rights at Right Entry 8 were transferred in 1998 only a part of the associated Dominant Tenement (by implication a disproportionate part) was transferred and so the rights were effectively treated separately from and severed from the land. There is nothing in the terms of the transfer to indicate that the rights were considered in the transaction as attached to the land or to be so treated in the future.

5.3.7 In its objections the Open Spaces Society takes the view that at least a portion of the rights continued to be attached following the 1998 transfer but that approach is not reflective of the Bettison decision or the DEFRA explanatory notes nor of the fact that only after the introduction of the Commons Act 2006 was there any statutory provision giving effect to pro-rata (in strict reference to land area) apportionment of common rights.

5.4 Schedule 4 para 19 of the Act

(3) *The application must include or be accompanied by;*

(a) *the written instrument (if any) which the applicant claims has effected the severance of the right of common; and*

(b) *if there is no such instrument, or if that instrument does not express an unambiguous common intention by the parties to it that the right of common should be severed;*

(i) *other documentary evidence, contemporaneous to the time at which the applicant claims that the right of common was severed, of a common intention by the transferor and transferee of the right of common that it was to be severed; or*

(ii) *evidence that the right of common has subsequently been treated as severed.*

5.4.1 The written instrument relied on by the Application as effecting the severance (ie the 1998 transfer) is covered in paragraphs 5.2 and 5.3 above and it alone is considered enough evidentially to justify approval of the Application.

5.4.2 The Regulations set out that a Registration Authority can additionally accept evidence that rights have been “treated as severed” in considering an application to amend its register. The Applicant has provided documents, that the common rights have been treated as severed rights by the fact that the applicant has been exercising all 131 grazing rights previously attached to Right Entry 8 whilst only owning part of the original dominant tenement. As the party exercising the rights the Applicant has been entitled to take part in the MAFF 1998 Moorland Scheme and the 2008 and 2018 North York Moors National Park Authority Entry Level Stewardship Scheme; has received payments from the Rural Payments Agency and submitted photographs of sheep being grazed on the moors (**Appendix 9**). On the balance of probabilities officers are satisfied that the rights have been treated as separate to the dominant tenement and so severed since 1998.

5.5 Regulation 41(5) of the Regulations –

(5) *The determining authority may not determine that a register entry should be amended if it considers that, by reason of reliance reasonably placed on the register by a person since 1st October 2011, it would be unfair to do so.*

5.5.1 The requirement contained within this provision has become known more colloquially as “the fairness test”. Government guidance on the test has included the following brief lines –

*For the fairness test, check if someone has relied on the register as it is, and would be negatively affected if the register was amended.*

*The registration authority may only grant the application if, in addition to the usual criteria, it determines that it would be fair to do so having regard to any reliance placed on the unamended register by a third party (the fairness test)*

5.5.2 The Application at section 10 has made no meaningful attempt to deal with the legal test at hand. Meantime the County Council has received no contact from any persons with a legal interest regarding the rights attached to Wood End Farm following the issuing of public notice of the Application. The CRA has written to the owner of the farm stading and remaining land currently known as Wood End Farm regarding this application and has received no response.

5.5.3 In the circumstances there does not appear to be any evidence of reliance having been placed on the content of register as it stands such that by amending it now there would be prejudice caused to any third party.

## **6.0 Financial Implications**

6.1 There are no financial implications to the Council that ordinarily arise from its decision on the Application though it may incur costs in defending any legal challenge made to that decision. It is outside the Council's control whether or not any interested party attempts such a challenge.

## **7.0 Legal Implications**

7.1 The mechanism for challenge by an aggrieved party to any decision reached by the County Council in this matter would be by Judicial Review.

## **8.0 Equalities Implications**

8.1 Consideration has been given to the potential for any adverse equality impacts arising from the recommendation and an Equality Impact Assessment screening form is attached at **Appendix 10**.

## **9.0 Conclusion**

9.1 It is your officer's view that on the balance of probabilities a severance of the grazing rights occurred historically and that consequently the Application should be approved and the Register of Common Land should be amended accordingly. This application does not seek to sever the unquantified rights of turbary, stones and bracken listed in Right Entry 8 of common land unit CL8 and therefore these rights are unaffected by this application and would remain unaltered in the register.

## **10.0 Recommendation**

10.1 That the application is approved on the grounds set out in this report.

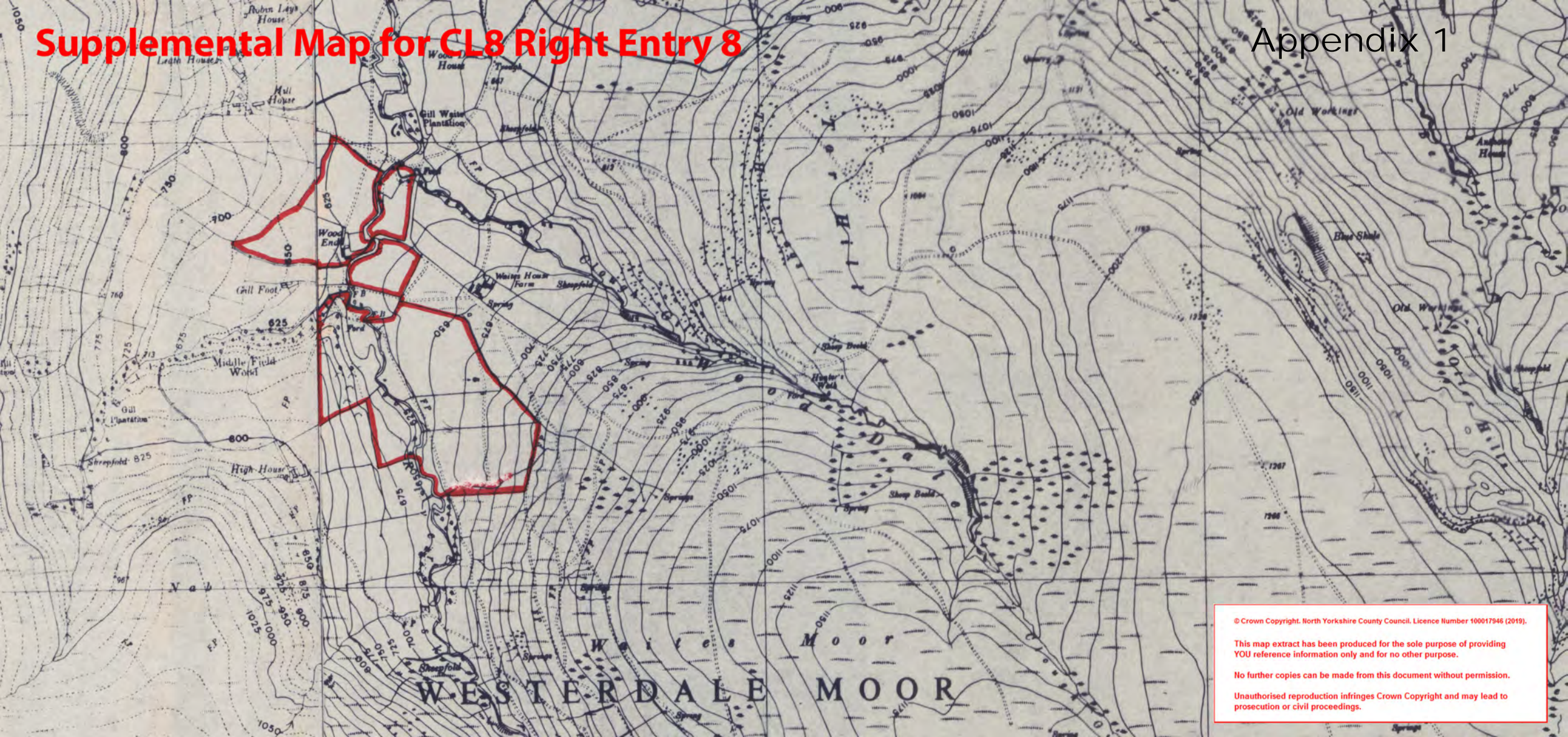
DAVID BOWE  
Corporate Director - Business and Environmental Services

Author of Report: Jayne Applegarth

Background Documents: Application case file held in Commons Registration, Network Information and Compliance – Business and Environmental Services



# Supplemental Map for CL8 Right Entry 8



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This map extract has been produced for the sole purpose of providing YOU reference information only and for no other purpose.

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## Commons Act 2006: Schedule 3

## Application to amend the register to record an historic event

## This section is for office use only

Official stamp

<p>COMMONS ACT 2006</p> <p>NORTH YORKSHIRE COUNTY COUNCIL</p> <p>REGISTRATION AUTHORITY</p> <p>DATE 21 DEC 2018</p>
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Application number

CA14 118
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Register unit number  
allocated at registration  
(for new common land  
only)

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Applicants are advised to read 'Part 1 of the Commons Act 2006: Guidance to applicants' and to note:

- Applicants should complete boxes 1–7 and 9–12, unless the application is to register an apportionment in which case box 8 should be completed and box 7 omitted.
- There is generally a restriction on the persons who can apply under Schedule 3 to the Commons Act 2006.
- An application under Schedule 3 must relate to an historic event which occurred after 2 January 1970 but before the day on which Schedule 3 commenced in your area (ask the registration authority) but which has not been recorded in the register of common land or town or village greens.
- You will be required to pay a fee for your application unless it is submitted during the transitional application period. Ask the registration authority for details. You would have to pay a separate fee should your application be referred to the Planning Inspectorate after the transitional application period has elapsed.

**Note 1**

Insert name  
of commons  
registration  
authority.

Ask the registration  
authority when  
the transitional  
application period  
ends.

**1. Commons Registration Authority**

To the:

NORTH YORKSHIRE COUNTY COUNCIL
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Tick the box to confirm that you have:

enclosed the appropriate fee for this application:

have applied during the transitional application period, so no fee has been enclosed:



**Note 2**

If there is more than one applicant, list all their names and addresses in full. Use a separate sheet if necessary. State the full title of the organisation if the applicant is a body corporate or an unincorporated association. If you supply an email address in the box provided, you may receive communications from the registration authority or other persons (e.g. objectors) via email. If box 3 is not completed all correspondence and notices will be sent to the first named applicant.

**Note 3**

This box should be completed if a representative, e.g. 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. If you supply an email address in the box provided, the representative may receive communications from the registration authority or other persons (e.g. objectors) via email.

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

Name:

MRS FELICITY CAREN PEARSON

Postal address:

HIGH HOUSE  
 WESTERDALE  
 WHITBY  
 NORTH YORKSHIRE

Postcode YO21 2D1

Telephone number:

Fax number:

E-mail address:

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

Name:

AMY E ARNOLD

Firm:

PINNEY CROWNELLS LAWYERS LLP

Postal address:

42 BAXTERGATE  
 WHITBY  
 NORTH YORKSHIRE

Postcode YO21 1BN

Telephone number:

01947 601122

Fax number:

01947 820069

E-mail address:

**Note 4**

For further details of the requirements of an application, including the persons who are entitled to apply in respect of each provision, refer to paragraphs 15, 16, 17, 18, 19, 20 or 21 of Schedule 4 to the Commons Registration (England) Regulations 2014.

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

Describe the capacity in which you are entitled to apply — see note 4 (e.g. as person entitled to exercise right of common which has been varied):

As person entitled to exercise rights of common

Tick the box below which best describes why you are applying under Schedule 3:

- creation of a right of common:
- surrender or extinguishment of a right of common:
- variation of a right of common:
- apportionment of a right of common:
- severance of a right of common:
- transfer of a right of common in gross:
- statutory disposition affecting the commons registers:

In which month and year did the event above take place?

DECEMBER 1998

Register unit number (not required for creation of right of common):

CL8

Rights entry number (not required for creation of a right of common nor for statutory dispositions which do not affect rights of common):

8

**Note 5**

*This box is to identify the common over which the right previously created has become exercisable. It should be completed only if your application is to register a right of common or vary a right because it has become exercisable over new land. The accompanying Ordnance map must be at a scale of at least 1:2,500, or 1:10,560 if the land is wholly or predominantly moorland, and show the land by means of distinctive colouring within an accurately identified boundary.*

**5. Description of the land over which the right is exercisable**

Name by which the land is usually known:

WESTERDALE MOOR

Location:

Tick the box to confirm that you have attached an Ordnance map of the land:

**Note 6**

*This box should be completed only where the historic event relates to a right which is attached to land. This would include: creation of a right (unless the right of common is held in gross); surrender of a right; variation of a right; and severance of a right, in which case you must supply an Ordnance map of the dominant tenement to which the right is attached. The map must be at a scale of at least 1:10,560 and show the land by means of distinctive colouring within an accurately identified boundary. This requirement also applies to apportionments but the map must show the whole of the dominant tenement before the apportionment and the part of the land to which the right was attached following the apportionment. Give a grid reference or other identifying detail to enable the land to be located. If available please also give the Land Registry title number.*

**6. Description of the land to which the right is attached, if relevant**

Name by which the land is usually known:

LAND FORMERLY FORMING PART OF  
WOOD END FARM WESTERDALE WHITBY  
NORTH YORKSHIRE

Location:

Shown edged red on plan attached  
(NZ 6504 6403) to the Transfer date  
3.12.1998

Tick the box to confirm that you have attached an Ordnance map of the land:



**Note 7**

Describe the amendment to be made to the register.

**7. Description of the historic event to be registered (except apportionment)**

By a Transfer dated 3 December 1998 made between Douglas Jeffrey and Jean Mary Jeffrey as Pers Reps Ralph ~~Edmund~~ Edmund Fishpool Deceased (1) Neville William Pearson and Felicity Correen Pearson (2) the Transferees purchased 34.40 acres of land together with the right to graze 131 sheep on Westerdale Moor (copy Transfer attached).  
Grant of Probate for Neville William Pearson dated 15 April 2015 also attached.

Tick this box if your application relates to a right of common held in gross:





**Note 8**

*If you are applying to register an apportionment you must submit a separate 'primary' application along with this application. A primary application can be made where only part of the apportioned right attached to land has been surrendered, extinguished, varied, severed from the land to which it was attached, or is the subject of a statutory disposition.*

**8. Details of the apportionment**

Specify the name and address of the owner of the land to which is attached the part of the right of common which is the subject of the primary application:

Specify the rateable apportionment of the right (i.e. the quantity of the right which attaches the relevant land following the apportionment):

If the right is to be apportioned otherwise than rateably, explain the basis for that claim and state which evidence you have provided which corroborates that claim:

**Note 9**

List all supporting documents (deeds or other legal documents) and maps accompanying the application, or primary application if relevant. This includes evidence of your capacity to apply and copies of any relevant instrument giving effect to the event to be registered. There may be further evidential requirements: see the Guidance. There is no need to submit copies of documents issued by the registration authority or to which it was a party but they should still be listed. Use a separate sheet if necessary.

**Note 10**

A test of fairness does not apply during the transitional period (ask the registration authority whether it currently applies). If you apply after that period you must explain why, taking into account the effect of your application and any persons affected by it, it would be fair for the registration authority to amend the register.

**9. Supporting documentation**

Office Copy 157K 279514  
Transfer 3-12-1998  
Court of Probate 15-4-2015

**10. Fairness test**

The applicant purchased 34-40 acres of land together with the sheep grazing rights amounting to 131 rights in December 1998 and therefore apply to have the Register updated and amended to show change of ownership

<p><b>Note 11</b> List 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.</p>	<p><b>11. Any other information relating to the application</b></p> <div style="border: 1px solid black; height: 150px; width: 100%;"></div>
<p><b>Note 12</b> The application must be signed by each individual applicant, or by the authorised officer of an applicant which is a body corporate or an unincorporated association.</p>	<p><b>12. Signature</b></p> <p>Date: <span style="border: 1px solid black; padding: 2px 20px;">21.12.18</span></p> <p>Signatures: <span style="border: 1px solid black; padding: 20px 20px; display: inline-block;"> <p style="text-align: center;">PINKNEY GRUNWELLS Lawyers LLP 42 Baxtergate Whitby, YO21 1BN DX 61750 Tel: 01947 601122</p> </span></p>

**REMINDER TO APPLICANT**

You are responsible for telling the truth in presenting the application and accompanying evidence. You may commit a criminal offence if you deliberately provide misleading or untrue evidence and if you do so you may be prosecuted.

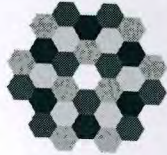
You are advised to keep a copy of the application and all associated documentation.

**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 commons 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.

A copy of this form and any accompanying documents may be disclosed upon receipt of a request for information under the Environmental Information Regulations 2004 or the Freedom of Information Act 2000.





# Official copy of register of title

Title number NYK279514

Edition date 04.07.2013

- This official copy shows the entries in the register of title on 4 July 2013 at 17:05:39.
- 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 4 July 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](http://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 The Freehold land shown edged with red on the plan of the above title filed at the Registry and being High House, Westerdale, Whitby (YO21 2DY).

NOTE: The land tinted green on the title plan is not included in the title.

- 2 The land tinted pink on the title plan has the benefit of the following rights granted by but is subject to the following rights reserved by a Transfer thereof dated 3 December 1998 made between (1) Douglas Jeffrey and Joan Mary Jeffrey (Transferor) and (2) Neville William Pearson and Felicity Careen Pearson (Transferee):-

"The property and each and every part thereof is sold with the following rights in favour of the Transferees and their successors in title

(a) The right to graze 131 sheep on Westerdale Moor Westerdale

(b) Full right and liberty to use all sewers drains water courses wires cables and other services laid or passing over through or under the adjoining property known as Wood End Farm Westerdale and the right to enter upon the said adjoining property for the purpose of inspecting maintaining cleansing and renewing any such services the Transferees making good all damage caused thereby

There is excepted and reserved in fee simple to the Transferors and their successors in title the owners and occupiers for the time being of all or any part of the adjoining property Wood End Farm Westerdale full right and liberty to use all sewers drains water courses wires cables and other services laid or passing over through or under the land hereby transferred and the right to enter upon the property hereby transferred for the purpose

Title number NYK279514

## A: Property register continued

of inspection maintaining cleansing and renewing any such services the Transferors making good all damages caused thereby."

## 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 PROPRIETOR: NEVILLE WILLIAM PEARSON and FELICITY CAREEN PEARSON of High House, Westerdale, Whitby YO21 2DY.

End of register

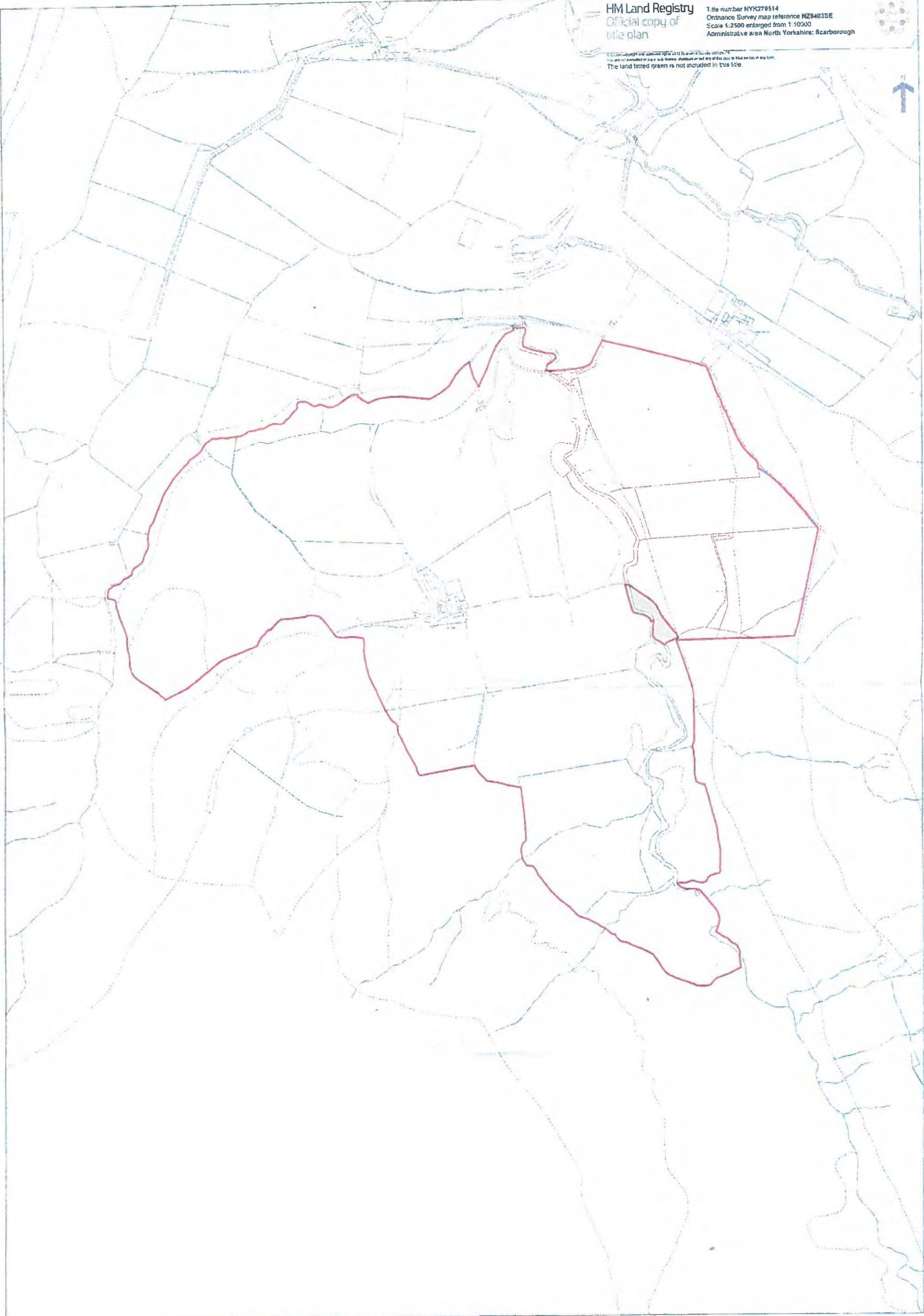


HM Land Registry  
Official copy of  
title plan

Title number NYK279514  
Ordnance Survey map reference NZ8403SE  
Scale 1:2500 enlarged from 1:10000  
Administrative area North Yorkshire: Scarborough



© Crown Copyright and database right 2017. Ordnance Survey 100020774.  
This map is published in copy and electronic form and may be used for any purpose.  
The land tinted green is not included in this title.



This official copy issued on 4 May 2017 shows the state of this title plan on 4 May 2017 at 16:00:43. 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.  
This title is dealt with by HM Land Registry, Durham Office.



# Transfer of whole of registered title(s)

HM Land Registry **TR1**

(if you need more room than is provided for in a panel, use continuation sheet CS and staple to this form)

## 1. Stamp Duty



Place "X" in the box that applies and complete the box in the appropriate certificate.

I/We hereby certify that this instrument falls within category  in the Schedule to the Stamp Duty (Exempt Instruments) Regulations 1987

It is certified that the transaction 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 the sum of

£ 60,000:00

## 2. Title Number(s) of the Property (leave blank if not yet registered)

## 3. Property

34.40 ACRES OF LAND BEING PART OF WOOD END FARM WESTERDALE WHITBY COMPRISED IN A CONVEYANCE DATED 30TH DECEMBER 1953 AND MADE BETWEEN ELIZABETH ANN FENTRISS MILNER (1) RALPH EDMUND FISHPOOL AND RHODA FISHPOOL (2) WHICH SAID PROPERTY IS MORE PARTICULARLY

If this assent is made under section 37 of the Land Registration Act 1925 following a not-yet-registered dealing with part only of the land in a title, or is made under rule 72 of the Land Registrations Rules 1925, include a reference to the last preceding document of title containing a description of the property.

4. Date 3rd December 1998

## 5. Transferor (give full names and Company's Registered Number if any)

DOUGLAS JEFFREY AND JOAN MARY JEFFREY AS THE PERSONAL REPRESENTATIVES OF RALPH EDMUND FISHPOOL DECEASED

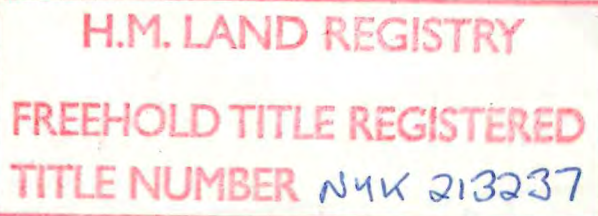
## 6. Transferee for entry on the register (Give full names and Company's Registered Number if any: for Scottish Co. Reg. Nos. use an SC prefix. For foreign companies give territory in which incorporated.)

NEVILLE WILLIAM PEARSON AND FELICITY CAREEN PEARSON

Unless otherwise arranged with Land Registry headquarters, a certified copy of the transferee's constitution (in English or Welsh) will be required if it is a body corporate but is not a company registered in England and Wales or Scotland under the Companies Acts.

## 7. Transferee's intended address(es) for service in the U.K. (including postcode) for entry on the register

HIGH HOUSE FARM WESTERDALE WHITBY NORTH YORKSHIRE YO21 2DY



## 8. The Transferor transfers the property to the Transferee.

## 9. Consideration (Place "X" in the box that applies. State clearly the currency unit if other than sterling. If none of the boxes applies, insert an appropriate memorandum in the additional provisions panel.)

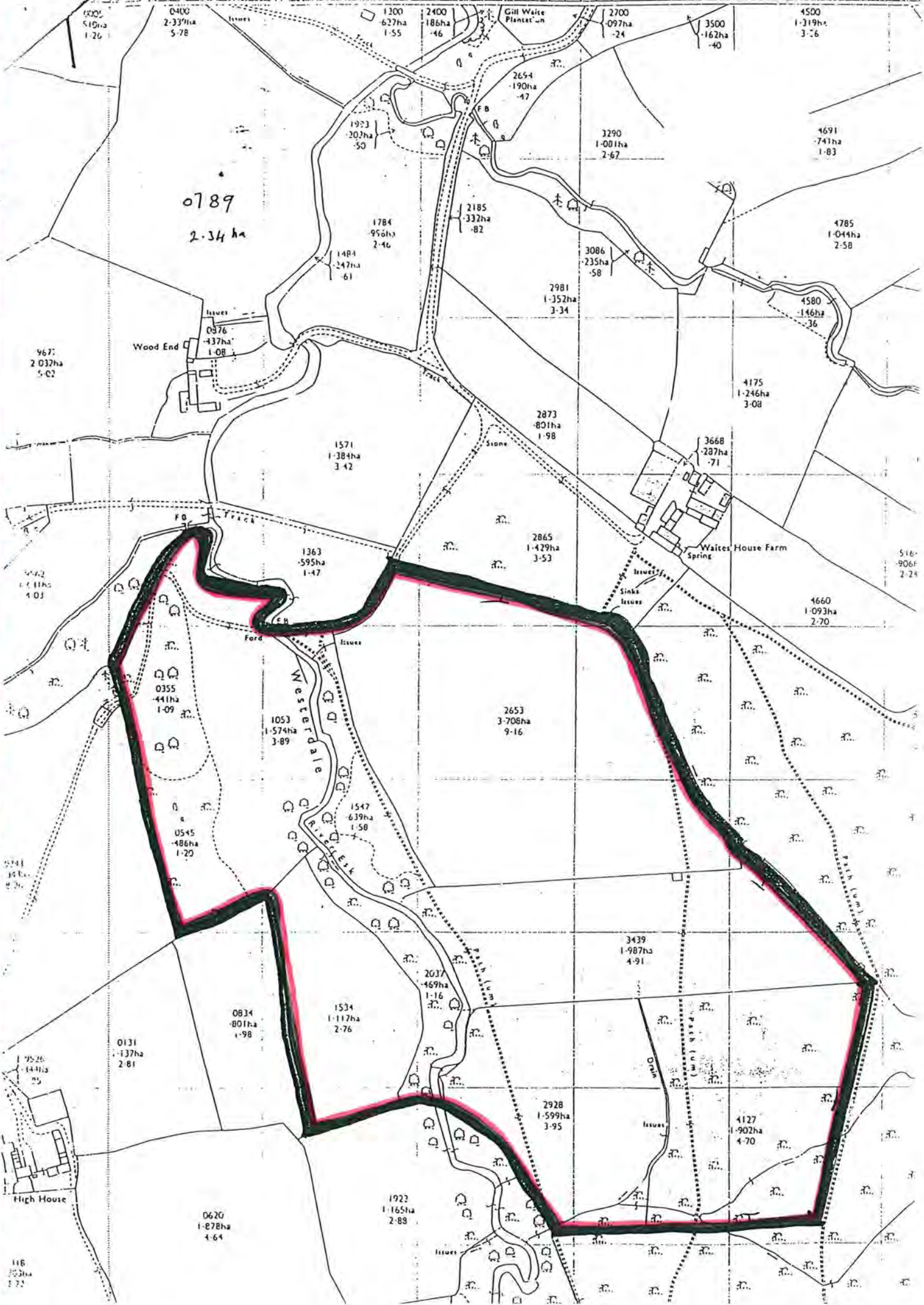
The Transferor has received from the Transferee for the property the sum of (in words and figures) FORTY THREE THOUSAND POUNDS (£43,000:00)

(insert other receipt as appropriate.)

The Transfer is not for money or anything which has a monetary value



650 651 652 653 654 655



0789  
2.34 ha

Wood End

Waites House Farm

Westerdale

High House

1300 627ha 1.55  
2400 186ha .46  
2700 097ha .24  
3500 162ha .40  
4500 1319ha 3.26  
1923 207ha .50  
2654 190ha .47  
3290 1081ha 2.67  
4691 741ha 1.83  
1784 956ha 2.46  
2185 332ha .82  
3086 235ha .58  
4785 1044ha 2.58  
1481 247ha .61  
2981 1352ha 3.34  
4580 146ha .36  
967 2032ha 5.02  
0976 437ha 1.08  
4175 1246ha 3.08  
2873 801ha 1.98  
3668 287ha .71  
1571 1384ha 3.42  
2865 1429ha 3.53  
516 906ha 2.24  
6660 1093ha 2.70  
0355 441ha 1.09  
1053 1574ha 3.89  
2653 3708ha 9.16  
1547 639ha 1.58  
0545 486ha 1.22  
3439 1987ha 4.91  
0131 137ha 2.81  
0834 801ha 1.98  
1534 1117ha 2.76  
2037 469ha 1.16  
2928 1599ha 3.95  
4127 1902ha 4.70  
9526 1441ha 3.52  
1922 1165ha 2.88

10. The Transferor transfers with (place "X" in the box which applies and add any modifications)

full title guarantee       limited title guarantee

11. Declaration of trust *Where there is more than one transferee, place "X" in the appropriate box.*

- The transferees are to hold the property on trust for themselves as joint tenants.  
 The transferees are to hold the property on trust for themselves as tenants in common in equal shares.  
 The transferees are to hold the property (complete as necessary)

12. Additional Provision(s) *Insert here any required or permitted statement, certificate or application and any agreed covenants, declarations, etc.*

THE PROPERTY AND EACH AND EVERY PART THEREOF IS SOLD WITH THE FOLLOWING RIGHTS IN FAVOUR OF THE TRANSFEREES AND THEIR SUCCESSORS IN TITLE  
(A) THE RIGHT TO GRAZE 131 SHEEP ON WESTERDALE MOOR WESTERDALE  
(B) FULL RIGHT AND LIBERTY TO USE ALL SEWERS DRAINS WATER COURSES WIRES CABLES AND OTHER SERVICES LAID OR PASSING OVER THROUGH OR UNDER THE ADJOINING PROPERTY KNOWN AS WOOD END FARM WESTERDALE AND THE RIGHT TO ENTER UPON THE SAID ADJOINING PROPERTY FOR THE PURPOSE OF INSPECTING MAINTAINING CLEANSING AND RENEWING ANY SUCH SERVICES THE TRANSFEREES MAKING GOOD

13. *The Transferors and all other necessary parties should execute this transfer as a deed using the space below*  
*Forms of execution are given in Schedule 3 to the Land Registration Rules 1925. If the transfer contains recipients' covenants or declarations or contains an application by them (e.g. for a restriction), it must also be executed by the Transferees.*

SIGNED AS A DEED BY DOUGLAS  
JEFFREY IN THE PRESENCE OF:

15 High Street  
Stokeley  
Warr

SIGNED AS A DEED BY JOAN MARY  
JEFFREY IN THE PRESENCE OF:

SIGNED AS A DEED BY NEVILLE WILLIAM  
PEARSON IN THE PRESENCE OF:

Schunter  
Stokeley

SIGNED AS A DEED BY FELICITY CAREEN  
PEARSON IN THE PRESENCE OF:



**Continuation sheet  
for use with  
application and  
disposition forms**

HM Land Registry

**CS**

1. Continued from Form

TR1

Title number(s)

2. *Before each continuation, state panel to be continued, e.g. "Panel 12 continued".*

PANEL 3 CONTINUED

DESCRIBED ON THE PLAN ANNEXED HERETO AND THEREON EDGED RED

PANEL 12 CONTINUED

ALL DAMAGE CAUSED THEREBY

THERE IS EXCEPTED AND RESERVED IN FEE SIMPLE TO THE TRANSFERORS AND THEIR SUCCESSORS IN TITLE THE OWNERS AND OCCUPIERS FOR THE TIME BEING OF ALL OR ANY PART OF THE ADJOINING PROPERTY WOOD END FARM WESTERDALE FULL RIGHT AND LIBERTY TO USE ALL SEWERS DRAINS WATER COURSES WIRES CABLES AND OTHER SERVICES LAID OR PASSING OVER THROUGH OR UNDER THE LAND HEREBY TRANSFERRED AND THE RIGHT TO ENTER UPON THE PROPERTY HEREBY TRANSFERRED FOR THE PURPOSE OF INSPECTION MAINTAINING CLEANSING AND RENEWING ANY SUCH SERVICES THE TRANSFERORS MAKING GOOD ALL DAMAGES CAUSED THEREBY

Continuation sheet

1

of

1

*(Insert sheet number and total number of continuation sheets e.g. "sheet 1 of 3")*



COPIES OF THIS GRANT ARE NOT VALID UNLESS  
THEY BEAR THE IMPRESSED SEAL OF THE COURT

**IN THE HIGH COURT OF JUSTICE**  
**The District Probate Registry at Newcastle Upon Tyne**

4

BE IT KNOWN that **NEVILLE WILLIAM PEARSON**

of **High House Farm Westerdale Whitby YO21 2DY**

died on the **20th** day of **January 2015**  
domiciled in **England and Wales**

AND BE IT FURTHER KNOWN that the last Will and Testament of the said deceased (a copy of which is annexed) was proved and registered in the High Court of Justice and that Administration of all the estate which by law devolves to and vests in the personal representative of the said deceased was granted by the said Court on this date to the Executor

**FELICITY CAREEN PEARSON** of **High House Farm Westerdale Whitby YO21 2DY**

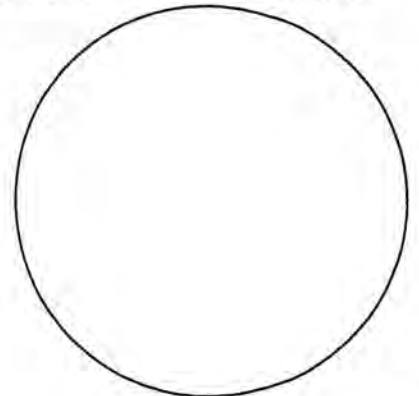
WE CERTIFY that this is a true  
and correct copy

PINKNEY GRUNWELLS  
Lawyers LLP  
42 Baxtergate  
Whitby  
YO21 1BN

6.11.17

It is hereby certified that it appears from information supplied on the application for this grant that the gross value of the said estate in the United Kingdom amounts to £150,000 and the net value of such estate amounts to £150,000

DATED the **15th** day of **April 2015**



~~DISTRICT REGISTRAR~~ / PROBATE OFFICER

Extracted by **THORP PARKER NEWTONS** Martin House High Street Stokesley North Yorkshire TS9 5AD



# Register of COMMON LAND

Register unit No. C.L.8

Edition No.

COMMONS REGISTRATION ACT 1965

NORTH ABERDEENSHIRE COUNTY COUNCIL  
REGISTRATION AUTHORITYDate **28 JUN 1968**See Overleaf  
for Notes

RIGHTS SECTION—Sheet No. 2

1 No. and date of entry	2 No. and date of application	3 Name and address of every applicant for registration, and the capacity in which he applied	4 Particulars of the right of common, and of the land over which it is exercisable	5 Particulars of the land (if any) to which the right is attached
6 28th June, 1968 (See Entry No. 35 below)	792 31st May, 1968	Thomas William Watson, Daleside Farm, Westerdale, Whitby.  Owner	The right to graze <sup>75</sup> ewes and followers, and the right of turbary, bracken and stone over the whole of the land comprised in this register unit.  (Registration Provisional)	All that land known as Daleside Farm in the Parish of Westerdale shown edged red and hatched blue on the supplemental map (O.S. No. NZ 60 SE) bearing the number of this register unit.
7 28th June, 1968 (See Entry No. 38 below)	793 31st May, 1968	<del>Leonard Gray, High House, Westerdale, Whitby, Owner</del>  NOT KNOWN AT THIS ADDRESS (See entry No. 52 below)	<del>The right to graze <sup>75</sup>ewes and followers and the right of turbary, bracken and stones over the whole of the land comprised in this register unit.  (Registration Provisional)</del>	<del>All that land known as High House in the Parish of Westerdale shown edged red and hatched blue on the supplemental maps (O.S. Nos. NZ 60 SE &amp; NZ 60 SW) bearing the number of this register unit.</del>
8 28th June, 1968 See Entry No. 36 below	794 31st May, 1968	<del>Ralph Edmund Fishpool and Mrs. Rhoda Fishpool, Wood End Farm, Westerdale, Whitby. Joint Owners</del>  NOT KNOWN AT THIS ADDRESS	<del>The right to graze <sup>131</sup>ewes and followers and the right of turbary, bracken and stones over the whole of the land comprised in this register unit.  (Registration Provisional)</del>	<del>All that land known as Wood End Farm in the Parish of Westerdale shown edged red coloured brown on the supplemental maps (O.S. Nos. NZ 60 SE and NZ 60 SW) bearing the number of this register unit.</del>
9 28th June, 1968 (See Entry No. 35 below)	795 31st May, 1968	<del>Ronald Thompson, Leith House, Westerdale, Whitby. Tenant</del>	<del>The right to graze 60 ewes and followers, and the right of turbary, bracken and stones over the whole of the land comprised in this register unit.  (Registration Provisional)</del>	<del>All that land known as Hill House Farm in the Parish of Westerdale shown edged red and hatched blue on the supplemental maps (O.S. Nos. NZ 60 SE and NZ 60 SW) bearing the number of this register unit.</del>
10 28th June,	796 31st May,	Ronald Thompson, Leith House Farm, Westerdale, Whitby.	<sup>130</sup> The right to graze 200 ewes and followers and the right of turbary, bracken and stone over the whole	All that land known as Leith House Farm in the Parish of Westerdale shown edged red coloured green on the supplemental

Registration Amendment; Entry No 9 above is replaced by Entry No 49 below.



No. and date of note	Notes	No. and date of note	Notes
6 15th Sept.70	<p><del>The objection No. 0164 of The Rt. Hon. R.F. Wood, P.C., M.P., C.C. Egerton, Esq., M.C., and M.J.B. Todhunter, Esq., made August, 1970 is noted in respect of the registration at Entry No. 6 in this section.</del></p> <p>Objection <del>Upheld</del> withdrawn - 11.10.71</p>		
7 15th Sept.70	<p><del>The objection No. 0165 of The Rt. Hon. R.F. Wood, P.C., M.P., C.C. Egerton, Esq., M.C. &amp; M.J.B. Todhunter, Esq., is noted in respect of the registration at Entry No. 7 in this section.</del></p> <p>Objection Upheld - registration modified 9th April 1975</p>		
8 15th Sept.70	<p><del>The objection no. 0166 of The Rt. Hon. R.F. Wood, P.C., M.P., C.C. Egerton, Esq., M.C. &amp; M.J.B. Todhunter, Esq. is noted in respect of the registration at Entry No. 8 in this section.</del></p> <p>Objection upheld - registration modified 19/2/74</p>		
9 15th Sept.70	<p><del>The objection no. 0167 of The Rt. Hon. R.F. Wood, P.C., M.P., C.C. Egerton, Esq., M.C. &amp; M.J.B. Todhunter, Esq. is noted in respect of the registration at Entry No. 9 in this section.</del></p> <p>Objection withdrawn. - 11.10.71</p>		
10 15th Sept.70	<p><del>The objection no. 0168 of The Rt. Hon. R.F. Wood, P.C., M.P., C.C. Egerton, Esq., M.C. &amp; M.J.B. Todhunter, Esq. is noted in respect of the registration at Entry No. 10 in this section.</del></p> <p>Objection upheld - registration modified 19/2/75</p>		
8 21/4/17	<p>New contact name for Wood End farm - Right Entry 8 is Tracey Roche.</p>		
7 21/4/17	<p>New contact name for High House, Westerdale, Whitby YO21 2DY is Mrs FC Pearson and Mrs B Brown.</p>		

**NOTE:** This section contains the registration of every right of common registered under the Act as exercisable over the whole or any part of the land described in the land section of this register unit.

Registration authority

NORTH YORKSHIRE COUNTY COUNCIL

Register unit No. CL. 8

Edition No.

# Register of COMMON LAND

RIGHTS SECTION—Sheet No. 8

See Overleaf  
for Notes

1 No. and date of entry	2 No. and date of application	3 Name and address of every applicant for registration, and the capacity in which he applied	4 Particulars of the right of common, and of the land over which it is exercisable	5 Particulars of the land (if any) to which the right is attached
36 17th March 1975		The registrations at Entry Nos. 1, 4, 5, 8, 10, 16, 18, 24, 29 & 32 which were disputed became final on the 19th February 1975 with amendments (substitution of figures) pursuant to Section 6(2) of the Commons Registration Act 1965, in accordance with Notices of Final Disposal of Disputed Registrations, made by the Chief Commons Commissioner, dated 3rd March 1975.	Nos. 1, 4, 5, 8, 10, 16, 18, 24, 29 & 32 which were disputed became final on the 19th February 1975 with amendments (substitution of figures) pursuant to Section 6(2) of the Commons Registration Act 1965, in accordance with Notices of Final Disposal of Disputed Registrations, made by the Chief Commons Commissioner, dated 3rd March 1975.	
37 17th March 1975		The registrations at Entry Nos. 12 & 21 which were disputed became VOID on the 19th February 1975 pursuant to Section 6(2) of the Commons Registration Act 1965 in accordance with Notices of Final Disposal of Disputed Registrations, made by the Chief Commons Commissioner, dated 3rd March 1975.	Nos. 12 & 21 which were disputed became VOID on the 19th February 1975 pursuant to Section 6(2) of the Commons Registration Act 1965 in accordance with Notices of Final Disposal of Disputed Registrations, made by the Chief Commons Commissioner, dated 3rd March 1975.	
38 22nd April 1975		The registrations at Entry Nos. 7 and 27 which were disputed became FINAL on the 9th April 1975 with amendments (substitution of figures) pursuant to Section 6(2) of the Commons Registration Act 1965, in accordance with Notices of Final Disposal of Disputed Registrations, made by the Chief Commons Commissioner, dated 11th April 1975.	Nos. 7 and 27 which were disputed became FINAL on the 9th April 1975 with amendments (substitution of figures) pursuant to Section 6(2) of the Commons Registration Act 1965, in accordance with Notices of Final Disposal of Disputed Registrations, made by the Chief Commons Commissioner, dated 11th April 1975.	
39 15th July, 1987	N.Y.242 18/5/87	Registration amendment: Entry No. 16 above is replaced by Entry Nos. 40 and 41 below.		
40 15th July, 1987	N.Y.242 18/5/87	Alfred Grice and Edith May Grice Hall Farm, Westerdale, Nr. Whitby, North Yorkshire.	The right to graze 54 ewes and followers over the whole of the land comprised in this register unit. (Registration amendment)	Land formerly forming part of Church Farm in the Parish of Westerdale shown edged and hatched red on the supplemental maps (O.S. Nos. NZ 60 NE & NZ 60 SE) bearing the number X of this register unit.
41 15th July, 1987	N.Y. 242 18/5/87	John Leslie Smithson Bonas, Church Farm, Westerdale, Whitby.	The right to graze 36 ewes and followers and the right of turbary, bracken and stone over the whole of the land comprised in this register unit. (Registration amendment)	Land formerly forming part of Church Farm in the Parish of Westerdale shown edged red on the supplemental maps (O.S. Nos. NZ 60 NE & NZ 60 SE) bearing the number X of this register unit.

**From:** Hugh Craddock <  
**Sent:** 11 March 2019 13:30  
**To:** commons Registration  
**Subject:** RE: CA14 118 - WESTERDALE MOOR (CL8) - RIGHT ENTRY 8

**Categories:** Jayne Applegarth

Hi Tracey

Thank you for notice of application CA14/118. The society objects to the application being granted. We have no legal interest in the land to which the application relates.

The application states no basis on which it might be shown that there has been a severance of the rights. The only relevant information disclosed by the application is that land to which rights of common were attached, together with the rights, were transferred in 1998. Neither the application form, nor any supporting document, makes any statement about severance having taken place, or why it might be concluded that there was a severance. The response at item 10 is consistent with an application for apportionment.

On this basis, the application is incapable of being granted.

regards

Hugh

*Hugh Craddock  
Case Officer  
Open Spaces Society  
25a Bell Street  
Henley-on-Thames  
RG9 2BA  
Email:*

*[www.oss.org.uk](http://www.oss.org.uk)*

*Tel: 01491 573535*

*Please note that I work Mondays, Wednesdays and Thursdays  
(Registered in England and Wales, limited company number 7846516  
Registered charity number 1144840)*

***Please [support our campaign](#) now to stop  
the wrongful deregistration of common land.***



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The Open Spaces Society has staff with exhaustive experience in handling matters related to our charitable purposes. While every endeavour has been made to give our considered opinion, the law in these matters is complex and subject to differing interpretations. Such opinion is offered to help members, but does not constitute formal legal advice.

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**From:** commons Registration [<mailto:commons.Registration@northyorks.gov.uk>]

**Sent:** 07 February 2019 10:00

**Subject:** CA14 118 - WESTERDALE MOOR (CL8) - RIGHT ENTRY 8

Good Morning

Following your request to be notified attached is a notice that has appeared on our website today.

Reference CA14 118 – Westerdale Moor (CL8) – Right Entry 8.

Kind regards

Tracey Taylor

Commons Registration Assistant

Tel. 01609 532364

[commons.registration@northyorks.gov.uk](mailto:commons.registration@northyorks.gov.uk)

42 Baxtergate, Whitby YO21 1BN  
 Telephone: 01947 601122  
 Fax: 01947 820069  
 DX 61750 Whitby  
 Website: [www.pinkneygrunwells.co.uk](http://www.pinkneygrunwells.co.uk)  
 Email: [solicitor@pinkneygrunwells.co.uk](mailto:solicitor@pinkneygrunwells.co.uk)

Also at 8 - 10 Quay Road, Bridlington, YO15 2AP. Telephone: 01262 673445  
 23 Exchange Street, Driffield, YO25 6LF. Telephone: 01377 253911  
 25 Bridlington Street, Hunmanby, Filey, YO14 0JR. Telephone: 01723 890634  
 64 Westborough, Scarborough, YO11 1TS. Telephone: 01723 352125



# Pinkney Grunwells

LAWYERS LLP

Our Ref: ARA/CT/65562 Your Ref: CA14/118/TT/73356

Ms T Taylor  
 Common Registration Assistant  
 North Yorkshire County Council  
 County hall  
 NORTHALLERTON  
 North Yorkshire  
 DL7 8AH

06 June 2019

Dear Ms Taylor

## Commons Act 2006

**CA14 118 Application to Amend the Common Land Register to record an Historic Event -  
 Westerdale Moor - CL8 - Rights entry number 8**

**Our Client: Mrs Felicity Careen Pearson**

Following receipt of the Notice of Objection from the Open Spaces Society and having taken my Client's instructions and enclose various items of evidence in support of our Client eligibility to have these rights records in her sole name and would confirm that our Client and her late Husband have exercised the sheep rights over the Westerdale Common being CL8 entry 8 of the register which were purchased in 1998 together with land at Wood End Farm Westerdale jointly with their existing rights CL8 entry 7 for a number of years and attach the following:

1. 1995 MAFF Moorland Scheme Common Land map showing coloured green the area over which my Client is entitled to exercise grazing rights on the common.
2. Copy correspondence extracts from MAFF 1998 in respect of the Moorland Scheme and from North York Moors National Park Authority 2008 in respect of the Entry Level Stewardship (ELS) Schemes showing the schemes which my client was entitled to take part in
3. Copy RPA Remittance Advice 21 April 2005 confirming payments received.
4. Photographic evidence of the sheep out on the common from 1983.
5. Extracts from the current Westerdale ESS Partnership Agreement showing the rights recorded together with Copy Grazing Rights Lease Agreement dated 27.2.18

### Members

Teresa A Bennion LL.B  
 Daniel Boynton  
 Hayley E Garnett BA Hons

### Solicitors

Amy R Arnold BA Hons (Law)  
 Zoe L Colling LL.B  
 \* Roger E Dean LL.B TEP  
 Rebecca A Grainger LL.M

### Solicitors

\* Alison J Jeffels  
 \* Victoria E Moss BA Hons  
 \* Tracy E Murray LL.B. Hons

### Solicitors

Peter R Noble LL.B. Hons  
 Christina A Severn LL.M  
 Amanda J Ward BA Hons  
 \*\* Catherine S Webster LL.B Hons

### Executives

Rachel Blandford-Neuson FCILEx  
 Deborah J Davis FCILEx  
 Hanna K Froggatt FCILEx  
 Carol Sherwood FCILEx

\* Member of Solicitors for the Elderly \*\* Member of Family Panel \*\* Member of Children's Panel  
 Contracted with the Legal Aid Agency



~~Yours~~ sincerely

~~Amy R~~ Arnold - Solicitor  
Pinkney Grunwells Lawyers LLP

e-mail:

secretary direct dial:

*Follow us on Twitter - @PGlawyers – and find us on Facebook  
(just search Pinkney Grunwells Lawyers LLP)*



**Ministry of Agriculture, Fisheries and Food**

North East Regional Service Centre  
Government Buildings, Crosby Road, Northallerton DL6 1AD  
Telephone: 01609 773751 Ext. Fax: 01609 780179  
GTN: 5234

Mr N W and Mrs F C Pearson  
High House  
Westerdale  
WHITBY  
North Yorkshire  
YO21 2DY

Our Reference: 48/149/0027

Date: 28 September 1998

Dear Mr and Mrs Pearson

**MOORLAND SCHEME UNDERTAKING  
INTRODUCTION AND SUMMARY TERMS**

1. I am writing to confirm the Ministry's acceptance of your request to reduce your flock by a further eighty (80) ewes. My letter of 27 August 1998 refers.
2. The purpose of the Moorland Scheme is that, in order to protect and improve the moorland environment, you should observe specified stocking density limits on the moorland you enter into the Scheme and follow a moorland management plan. You should also abide by certain rules relating to the management of your in-bye land. You have been accepted into the Scheme on the basis that you will comply with all the terms of the Scheme as they affect you in return for annual payments which will be paid to you by the Minister. These will include removing sufficient ewes from your flock to enable you to meet the specified stocking density limits and following the moorland management plan.
3. The Moorland Scheme operates in accordance with the Moorland (Livestock Extensification) Regulations 1995 (Statutory Instrument No. 1995/904). This letter, together with the enclosed Moorland Management Plan and Farm Map, sets out in general terms how the Moorland Scheme applies to you. If you agree to the terms, please sign and date this letter in the box below my signature, and return the document to me as soon as possible and no later than 12 October 1998. A spare copy is enclosed for you to keep. When the Ministry receives these signed documents from you there will be a binding agreement between you and the Ministry, which will be deemed to have effect from 1 October 1998. The revised agreement will last for the remaining three years out of your initial five year agreement, until 30 September 2001.

**LAND TO WHICH THE UNDERTAKING APPLIES**

4. The land to which the terms of this letter apply is shown on the Farm Map initially sent to you on 24 October 1996.

# North York Moors National Park Authority



A member of the Association of National Park Authorities  
The Old Vicarage, Bondgate, Helmsley, York YO62 5BP  
Tel: 01439 770657 e-mail: [general@northyorkmoors-npa.gov.uk](mailto:general@northyorkmoors-npa.gov.uk)  
Fax: 01439 770691 [www.moors.uk.net](http://www.moors.uk.net)

Andy Wilson  
Chief Executive (National Park Officer)

Mr & Mrs Pearson  
High House  
Westerdale  
Whitby  
North Yorkshire  
YO21 2DY

Your ref:

Our ref: AEW/2110/5/65

Date: 5 November 2008

Dear Mr & Mrs Pearson

## North York Moors Farm Scheme – High House, Westerdale

Following your successful application into the Entry Level Stewardship (ELS) Scheme, I am writing to confirm that the North York Moors Farm Scheme (FS) Agreement at High House will be terminated on the day before the start date of your ELS Agreement.

Natural England has confirmed that the start date of your ELS Agreement is 1 November 2008. Therefore, I can make a part annual payment to ensure that your FS Agreement runs up to the day before the start date of your ELS Agreement.

Your last annual payment was for the period of 1 January 2007 to 31 December 2007. Therefore a further 10 months annual payment is due for the period 1 January 2008 to 31 October 2008.

$\text{£}2642.78 \text{ (Annual Payment)} \div 366 \text{ days (1 year)} \times 305 \text{ days (Jan-Oct inc.)} = \text{£}2202.32$

I will request your final part annual payment, the sum of **£2202.32** along with your first annual payment (**£1610.55**) for your new FS Agreement once both signed copies of the new FS Agreement have reached me.

If you have any queries please do not hesitate to contact me at the National Park Office.

Yours sincerely

Ami Walker  
Farm Conservation Adviser



45AEW545R

**REMITTANCE  
ADVICE**

N W & F C PEARSON  
HIGH HOUSE  
WESTERDALE  
WHITBY  
YO21 2DY

Payee Reference No. 316064

Payment Reference No. 1307171

Date 21-APR-05

Payment in respect of N W & F C PEARSON

Description	Amount Payable £
204140810:002)204140810 Scheme: Suckler Cow Premium Scheme Original Amount = 803.35 Modulation = 28.11 Net =	775.24 CR
141778:36) Scheme: Beef Special Premium Scheme Original Amount = 378.92 Modulation = 13.27 Net =	365.65 CR
1400043950)1400019571 Scheme: Extensification Premium Scheme Original Amount = 1,178.87 Modulation = 41.26 Net =	1,137.61 CR
<b>Total £ 2,278.50 CR</b>	

Any enquiry about this payment should be referred to your RPA Office (see over).

**THE NET PAYMENT WILL BE CREDITED TO YOUR BANK ACCOUNT ON THE DATE SHOWN ABOVE.  
CHANGING YOUR BANK ACCOUNT DETAILS? PLEASE SEE OVER\***

**PLEASE KEEP THIS STATEMENT SAFE TO CHECK AGAINST YOUR PAYMENT.**



Our sheep, running  
out of high pads  
inade onto the moor  
That's a nice sight.

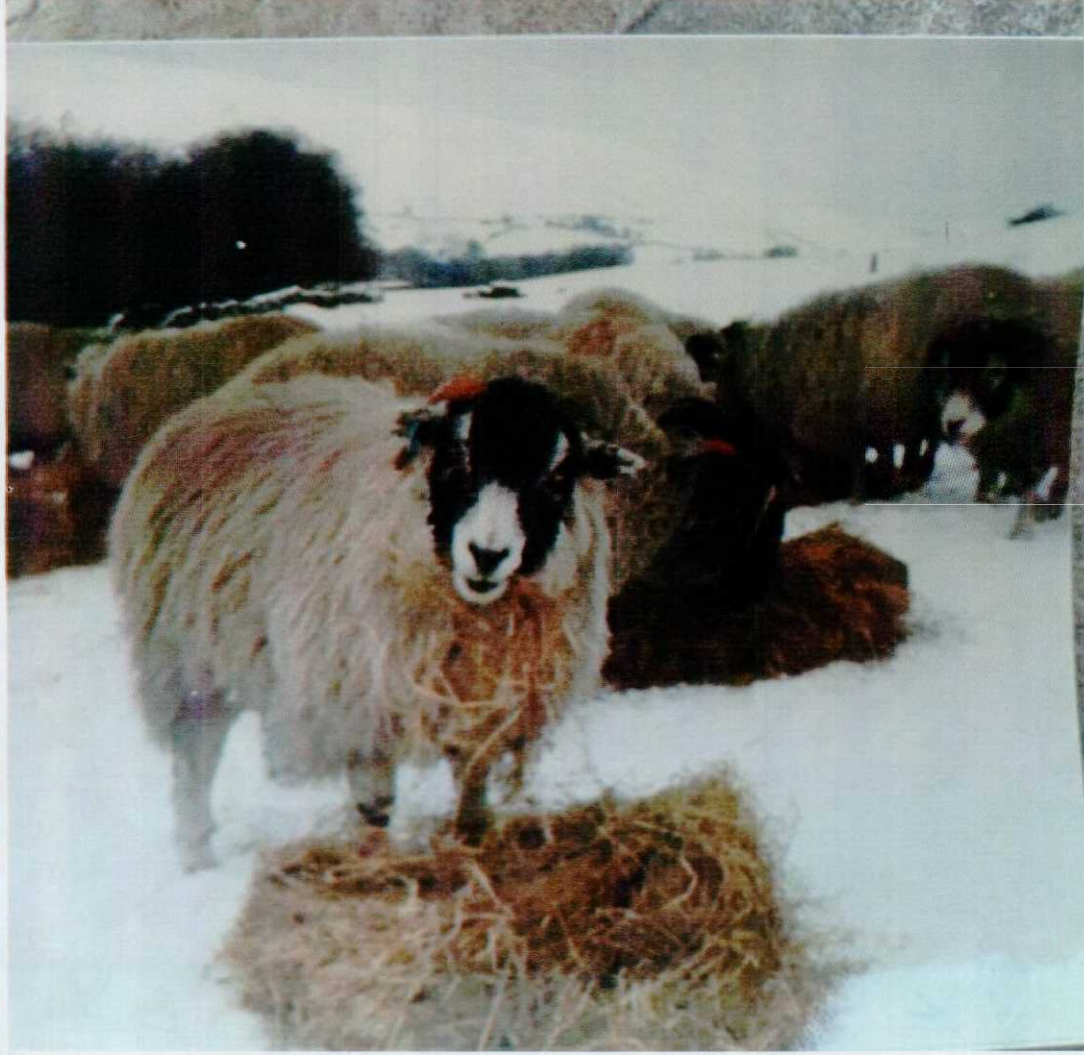
2nd August 1983

High House.













**Grazing Rights Lease Agreement**

**Westerdale Common CL0008**

**Rights:** Register of Common Land entry no. 7  
75 ewes

High House, Westerdale

131 ewes

entry no. 8: Woodend Farm, Westerdale

**From:** 01 March 2018

**To:** 28 February 2020

**Terms:** in exchange for an equal split for the use of 206 grazing rights the graziers hereby agree to exercise the rights as stated in the Westerdale ESS Partnership Agreement and pay the UELS element to the lessors within a month of receipt from Natural England.

**Lessors:**

B & D Brown & F Pearson

signed. ....

**Lessees:**

RG Findlay

signed.....

27.2.18

JP Murray

signed.....

RA, M & EJ Thompson

signed.. ..



**TABLE 1**

Property on Commons Register	Number of rights
Dale view	150
Carr House	32
Brown Hill House	160
Broadgate	250
Daleside	75
High House	75
Woodend	131
Leith House	130
Hill House	60
Grange Farm	120
Church Farm	90
Waites Farm	175
Millinder House	40
Quarry Farm	250
Town Farm	40
Riddings	40
Hall Farm	200
Dale Head	100
<b>TOTAL</b>	<b>2118</b>



TABLE 2

Grazier		Actual heft area = total common area	Rights available based on latest information	Potential /current number of ewe equivalents could be committed for 5 months	LSU summer	Hectarage based on number of ewe equivalents committed	Hectarage based on active graziers total available rights	Minimum sheep required to meet area based on rights	Maximum ewe equivalents permitted on area (subject to having available rights)	Hectarage based on rights as percentage of total rights available	Minimum sheep required to meet area based on % of total rights rights	Maximum ewe equivalents permitted on area (subject to having available rights)
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Inactive graziers			496									
										370.71	232	463
TOTAL	0	1583	1622	1472	117.76	1583	1583.00	989.38	1978.75	1583.00	989	1979

Current summer stocking rate	0.0744
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Minimum stocking density used in table is 0.05 of LSU and Maximum 0.1

A ewe equals 0.08 of a LSU

Graziers would be expected to undertake a minimum of 5 months of summer grazing



SCHEDULE 6

Uplands Entry Level Stewardship (UELS) - The parties are entering this agreement with the intention of entering UELS when it becomes available (expected July 2010) UELS will be amended to the ESS agreement and all parties agree to be bound by the terms of the agreement once UELS is amended to it.



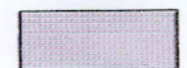
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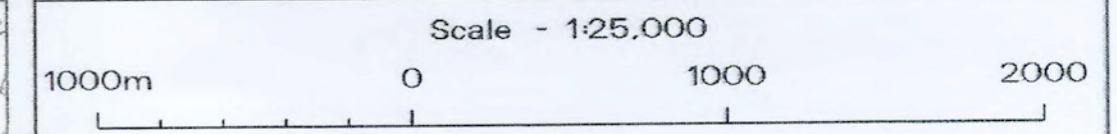
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Mr C Grice	254	177.86	11	
<b>TOTAL</b>	<b>2242</b>	<b>1569.89</b>	<b>100%</b>	



# MOORLAND SCHEME COMMON LAND

HOLDING NUMBER 48\149\0027  
 N.W. & F.C. PEARSON  
 HIGH HOUSE  
 WESTERDALE, WHITBY  
 NORTH YORKSHIRE  
 YO21 2DY  
 Date: 11\08\95

-  Common land boundary.
-  Moorland grazing unit.
-  Other moorland.



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**MINISTRY OF AGRICULTURE  
 FISHERIES AND FOOD**





## Jayne Applegarth

---

**From:** Hugh Craddock <[REDACTED]>  
**Sent:** 13 June 2019 16:42  
**To:** commons Registration  
**Subject:** RE: Application CA14 118 Westerdale Moor (CL8) Right Entry 8  
**Categories:** Simon Evans, Jayne Applegarth

Hi Jayne

We seem to be at cross purposes.

There is no doubt here that the applicant exercise the rights in question. The point in doubt is whether the applicant has acquired the rights by severance. The application form appears to suggest that the applicant acquired the rights by acquisition of the farm holding, or some part of that holding, to which they were registered as attached. If so, no severance has occurred (unless there is evidence to the contrary of which we have seen none), and the applicant has the use of the rights without question. She may then be able to apply for apportionment, or a declaration of entitlement to exercise the rights — but not severance.

No doubt the register will make the position clear. The evidence with the application form identifies the land which the applicant and her late husband acquired in 1998. Is it the same land — or part of the same land — as to which the right at register entry 8 is registered as attached? If it is, there appears to have been no severance. Could you please clarify?

regards

Hugh

*Hugh Craddock  
Case Officer  
Open Spaces Society  
25a Bell Street  
Henley-on-Thames  
RG9 2BA*

*Email: [REDACTED]  
[www.oss.org.uk](http://www.oss.org.uk)*

*Tel: 01491 573535*

*Please note that I work Mondays, Wednesdays and Thursdays  
(Registered in England and Wales, limited company number 7846516  
Registered charity number 1144840)*

***Please [support our campaign](#) now to ensure  
highways across commons are not deregistered.***



---

The Open Spaces Society has staff with exhaustive experience in handling matters related to our charitable purposes. While every endeavour has been made to give our considered opinion, the law in these matters is complex and subject to differing interpretations. Such opinion is offered to help members, but does not constitute formal legal advice.

---

COPIES OF THIS GRANT ARE NOT VALID UNLESS  
THEY BEAR THE IMPRESSED SEAL OF THE COURT

**IN THE HIGH COURT OF JUSTICE**  
**The District Probate Registry at Newcastle Upon Tyne**

4

BE IT KNOWN that **NEVILLE WILLIAM PEARSON**

of **High House Farm Westerdale Whitby YO21 2DY**

died on the **20th** day of **January 2015**  
domiciled in **England and Wales**

AND BE IT FURTHER KNOWN that the last Will and Testament of the said deceased (a copy of which is annexed) was proved and registered in the High Court of Justice and that Administration of all the estate which by law devolves to and vests in the personal representative of the said deceased was granted by the said Court on this date to the Executor

**FELICITY CAREEN PEARSON** of **High House Farm Westerdale Whitby YO21 2DY**

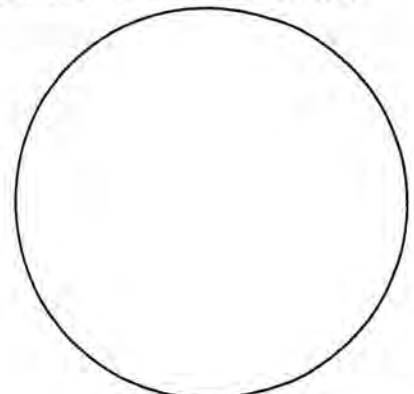
WE CERTIFY that this is a true  
and correct copy

PINKNEY GRUNWELLS  
Lawyers LLP  
42 Baxtergate  
Whitby  
YO21 1BN

6.11.17

It is hereby certified that it appears from information supplied on the application for this grant that the gross value of the said estate in the United Kingdom amounts to £150,000 and the net value of such estate amounts to £150,000

DATED the **15th** day of **April 2015**



~~DISTRICT REGISTRAR~~ / PROBATE OFFICER

Extracted by **THORP PARKER NEWTONS** Martin House High Street Stokesley North Yorkshire TS9 5AD

## Extract from the Commons Bill Explanatory Notes January 2006

### Clause 9 and Schedule 1: Severance

53. Clause 9 effects a prohibition on the severance of rights of common. Before the passing of the 1965 Act, most rights of common were attached to the land farmed by the commoner (the dominant tenement). The reason was that, at common law, the numbers of animals which could be grazed on the common by the commoner was determined by the capacity of the dominant tenement to accommodate animals over the winter (known as rules of 'levancy and couchancy'). Typically the common was not grazed in winter and dates were established when animals were allowed on to the common and when they had to be removed. Livestock usually had to be over-wintered on commoners' own farms which imposed a natural ceiling on their grazing rights. Such rights, while not explicitly quantified, were thus subject to a theoretically measurable constraint. It was therefore not possible to trade in a right of common separately from the land owned by the commoner, as the right could not exist independently of the dominant tenement because it was defined by reference to the dominant tenement. The courts adopted a rule that any purported severance of unquantified rights from the holding to which they were attached would extinguish the rights.

54. Section 15 of the 1965 Act required that, for the purposes of registration, all commoners register the actual number of animals in respect of which they claimed rights of grazing. This meant that, once rights of grazing had been quantified and registered, the capacity of the commoner's own holding to over-winter stock ceased to be relevant. In *Bettison v. Langton*<sup>15</sup>, the judicial committee of the House of Lords determined that a consequence of the quantification of grazing rights as required by section 15 of the 1965 Act was to enable a commoner to dispose of rights of common independently from the land to which they were traditionally attached (or, alternatively, to sell the land and retain the rights). This is known as 'severance'. Rights which have been severed become 'rights held in gross' and may be freely bought and sold as an incorporeal asset.

<sup>15</sup> *Bettison and another v. Langton and others* [2001] 1 AC 27.

55. The problem with grazing rights which have been severed is that the local link between the commoners and the land over which the grazing rights are exercised may be lost since the owner of the rights can sell them to anyone, including farmers who live far away from the common. This can cause management difficulties for common land where some right holders have no close contact with the common and those who manage it.

56. Clause 9 prohibits further severance of rights of common, subject to the exceptions specified in any other Act<sup>16</sup> or in Schedule 1. Clause 9, and therefore the exceptions in Schedule 1, apply to registered rights of common only which would otherwise (apart from clause 9) be capable of being severed. They do not, therefore, apply to rights of common which are unquantified (such as a right to gather firewood or to dig peat for the hearth), nor are they likely to apply to 'appendant rights' (which the courts have held not to be severable, regardless of whether the right is quantified).

<sup>16</sup> The only enactment known to permit severance in certain circumstances is contained in section 33 of the Greenham and Crookham Commons Act 2002.

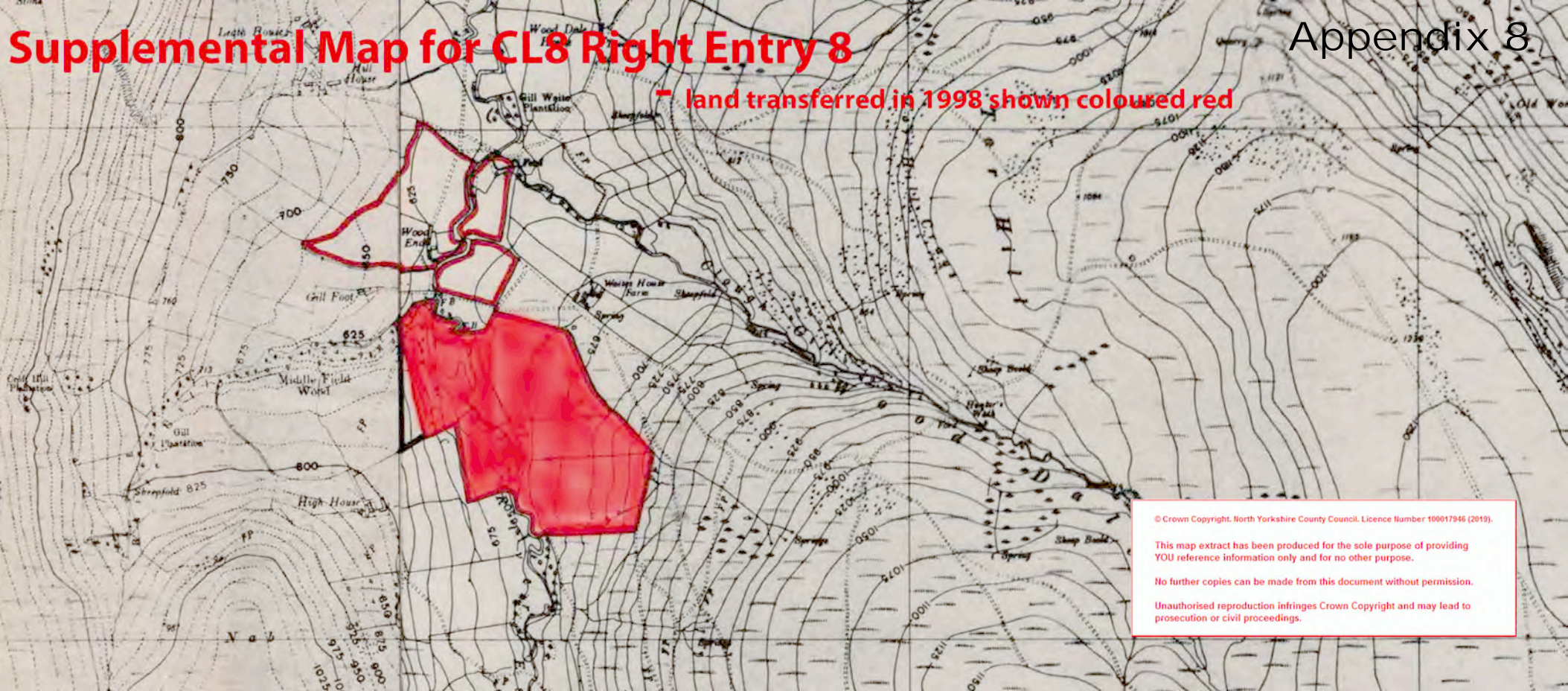


57. *Subsections (3) and (4)* make provision in relation to any disposition of rights of common attached to land, or any disposition of land to which rights of common are attached, made after the commencement of this clause by which rights are purported to be severed, so that the severance is of no effect. *Subsection (3)* provides that an instrument (such as a conveyance) which purports to effect the severance of a right of common from the dominant tenement, is to be void to the extent that it would effect severance. So where a conveyance provides that the rights attached to a dominant tenement are to be conveyed from X to Y (but X remains the owner of the dominant tenement), the conveyance will be void to the extent to which it conveys the rights, and the rights will remain attached to X's dominant tenement. *Subsection (4)* also provides that a disposition of the dominant tenement by which the rights are purported to be reserved to the vendor has effect so that the rights are conveyed with the land, notwithstanding the terms of the conveyance.

58. *Subsection (5)* provides that the apportionment of rights of common must be *pro rata*. To the extent that any instrument purports to apportion otherwise than *pro rata*, it will be void. This means that, where a dominant tenement is divided into two or more parcels in separate ownership (for example, on a sale of a farm in two separate lots), the rights attached to the original dominant tenement are assigned proportionately to the separate parcels according to the area of each parcel relative to the area of the original dominant tenement. The reason for this is that non-*pro rata* apportionment is a form of severance. For example, a commoner might own land to which 100 rights to graze cattle are attached. That commoner sells half that land to X and half the land to Y, but purports to assign 75 of the rights as attached to X's land and 25 as attached to Y's land. In that case the instrument of sale will be void to the extent that it purports to convey more (or for that matter less) than half the rights of common with each of the two parcels of land. The provision ensures that rights of common will continue to be attached to the same land as now, even where apportionment is not registered (see clause 8).

# Supplemental Map for CL8 Right Entry 8

land transferred in 1998 shown coloured red



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CM/NS


**Ministry of Agriculture, Fisheries and Food**

North East Regional Service Centre  
 Government Buildings, Crosby Road, Northallerton DL6 1AD  
 Telephone: 01609 773751 Ext. Fax: 01609 780179  
 GTN: 5234

Mr N W and Mrs F C Pearson  
 High House  
 Westerdale  
 WHITBY  
 North Yorkshire  
 YO21 2DY

Our Reference: 48/149/0027

Date: 28 September 1998

Dear Mr and Mrs Pearson

**MOORLAND SCHEME UNDERTAKING  
 INTRODUCTION AND SUMMARY TERMS**

1. I am writing to confirm the Ministry's acceptance of your request to reduce your flock by a further eighty (80) ewes. My letter of 27 August 1998 refers.
2. The purpose of the Moorland Scheme is that, in order to protect and improve the moorland environment, you should observe specified stocking density limits on the moorland you enter into the Scheme and follow a moorland management plan. You should also abide by certain rules relating to the management of your in-bye land. You have been accepted into the Scheme on the basis that you will comply with all the terms of the Scheme as they affect you in return for annual payments which will be paid to you by the Minister. These will include removing sufficient ewes from your flock to enable you to meet the specified stocking density limits and following the moorland management plan.
3. The Moorland Scheme operates in accordance with the Moorland (Livestock Extensification) Regulations 1995 (Statutory Instrument No. 1995/904). This letter, together with the enclosed Moorland Management Plan and Farm Map, sets out in general terms how the Moorland Scheme applies to you. If you agree to the terms, please sign and date this letter in the box below my signature, and return the document to me as soon as possible and no later than 12 October 1998. A spare copy is enclosed for you to keep. When the Ministry receives these signed documents from you there will be a binding agreement between you and the Ministry, which will be deemed to have effect from 1 October 1998. The revised agreement will last for the remaining three years out of your initial five year agreement, until 30 September 2001.

**LAND TO WHICH THE UNDERTAKING APPLIES**

4. The land to which the terms of this letter apply is shown on the Farm Map initially sent to you on 24 October 1996.



# North York Moors National Park Authority



A member of the Association of National Park Authorities  
The Old Vicarage, Bondgate, Helmsley, York YO62 5BP  
Tel: 01439 770657 e-mail: [general@northyorkmoors-npa.gov.uk](mailto:general@northyorkmoors-npa.gov.uk)  
Fax: 01439 770691 [www.moors.uk.net](http://www.moors.uk.net)

Andy Wilson  
Chief Executive (National Park Officer)

Mr & Mrs Pearson  
High House  
Westerdale  
Whitby  
North Yorkshire  
YO21 2DY

Your ref:

Our ref: AEW/2110/5/65

Date: 5 November 2008

Dear Mr & Mrs Pearson

## North York Moors Farm Scheme – High House, Westerdale

Following your successful application into the Entry Level Stewardship (ELS) Scheme, I am writing to confirm that the North York Moors Farm Scheme (FS) Agreement at High House will be terminated on the day before the start date of your ELS Agreement.

Natural England has confirmed that the start date of your ELS Agreement is 1 November 2008. Therefore, I can make a part annual payment to ensure that your FS Agreement runs up to the day before the start date of your ELS Agreement.

Your last annual payment was for the period of 1 January 2007 to 31 December 2007. Therefore a further 10 months annual payment is due for the period 1 January 2008 to 31 October 2008.

$\text{£}2642.78 \text{ (Annual Payment)} \div 366 \text{ days (1 year)} \times 305 \text{ days (Jan-Oct inc.)} = \text{£}2202.32$

I will request your final part annual payment, the sum of **£2202.32** along with your first annual payment (**£1610.55**) for your new FS Agreement once both signed copies of the new FS Agreement have reached me.

If you have any queries please do not hesitate to contact me at the National Park Office.

Yours sincerely

Ami Walker  
Farm Conservation Adviser



45AEW545R

**REMITTANCE  
ADVICE**

N W & F C PEARSON  
HIGH HOUSE  
WESTERDALE  
WHITBY  
YO21 2DY

Payee Reference No. 316064

Payment Reference No. 1307171

Date 21-APR-05

Payment in respect of N W & F C PEARSON

Description	Amount Payable £
204140810:002)204140810 Scheme: Suckler Cow Premium Scheme Original Amount = 803.35 Modulation = 28.11 Net =	775.24 CR
141778:36) Scheme: Beef Special Premium Scheme Original Amount = 378.92 Modulation = 13.27 Net =	365.65 CR
1400043950)1400019571 Scheme: Extensification Premium Scheme Original Amount = 1,178.87 Modulation = 41.26 Net =	1,137.61 CR
<b>Total £ 2,278.50 CR</b>	

Any enquiry about this payment should be referred to your RPA Office (see over).

**THE NET PAYMENT WILL BE CREDITED TO YOUR BANK ACCOUNT ON THE DATE SHOWN ABOVE.  
CHANGING YOUR BANK ACCOUNT DETAILS? PLEASE SEE OVER\***

**PLEASE KEEP THIS STATEMENT SAFE TO CHECK AGAINST YOUR PAYMENT.**



Our sheep, running  
out of high pads  
inade onto the moor  
That's a nice sight.

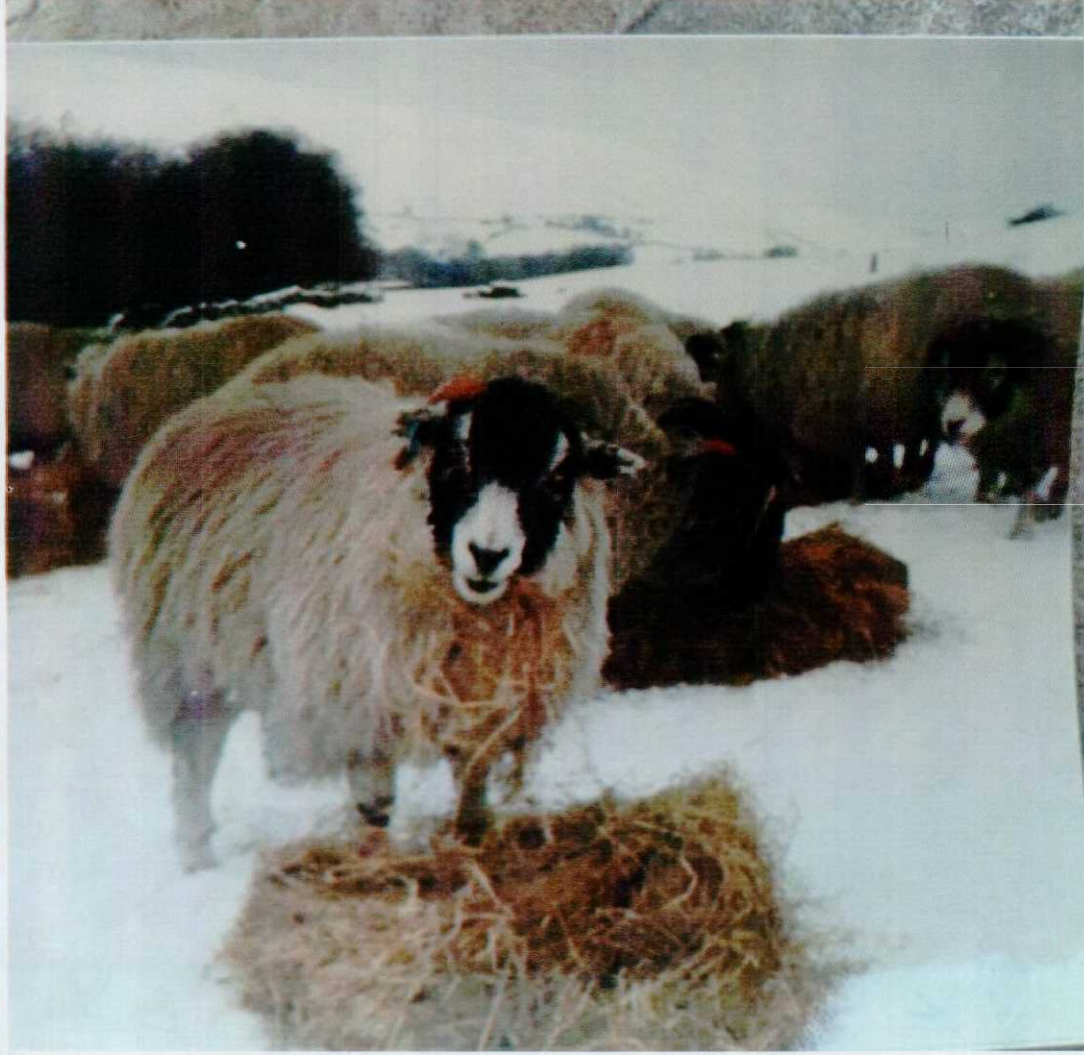
2nd August 1983

High House.















**Grazing Rights Lease Agreement**

**Westerdale Common CL0008**

**Rights:** Register of Common Land entry no. 7  
75 ewes

High House, Westerdale

131 ewes

entry no. 8: Woodend Farm, Westerdale

**From:** 01 March 2018

**To:** 28 February 2020

**Terms:** in exchange for an equal split for the use of 206 grazing rights the graziers hereby agree to exercise the rights as stated in the Westerdale ESS Partnership Agreement and pay the UELS element to the lessors within a month of receipt from Natural England.

**Lessors:**

B & D Brown & F Pearson

signed. ....

**Lessees:**

RG Findlay

signed.....

27.2.18

JP Murray

signed.....

RA, M & EJ Thompson

signed.. ..

**TABLE 1**

Property on Commons Register	Number of rights
Dale view	150
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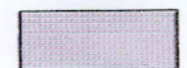
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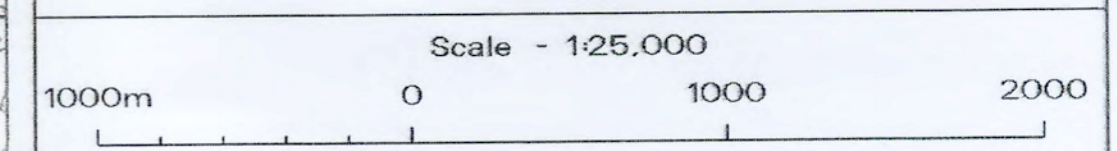
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HOLDING NUMBER 48\149\0027  
 N.W. & F.C. PEARSON  
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**MINISTRY OF AGRICULTURE  
 FISHERIES AND FOOD**





Initial equality impact assessment screening form			
This form records an equality screening process to determine the relevance of equality to a proposal, and a decision whether or not a full EIA would be appropriate or proportionate.			
Directorate	BES		
Service area	H&T		
Proposal being screened	To grant application CA14 118 seeking to record a historic severance from land that the rights are currently registered as attached to in the common land register.		
Officer(s) carrying out screening	Jayne Applegarth		
What are you proposing to do?	Grant the application		
Why are you proposing this? What are the desired outcomes?	It is a statutory duty of the County Council as Registration Authority under the Commons Act 2006 to consider the application submitted. On consideration all the legal tests have been met therefore the application should be granted.		
Does the proposal involve a significant commitment or removal of resources? Please give details.	The County Council as Registration Authority has a statutory duty to maintain the common land register		
<b>Impact on people with any of the following protected characteristics as defined by the Equality Act 2010, or NYCC's additional agreed characteristics</b> As part of this assessment, please consider the following questions: <ul style="list-style-type: none"> <li>To what extent is this service used by particular groups of people with protected characteristics?</li> <li>Does the proposal relate to functions that previous consultation has identified as important?</li> <li>Do different groups have different needs or experiences in the area the proposal relates to?</li> </ul> <p>If for any characteristic it is considered that there is likely to be an adverse impact or you have ticked 'Don't know/no info available', then a full EIA should be carried out where this is proportionate. You are advised to speak to your <a href="#">Equality rep</a> for advice if you are in any doubt.</p>			
Protected characteristic	Potential for adverse impact		Don't know/No info available
	Yes	No	
Age		✓	
Disability		✓	
Sex		✓	
Race		✓	
Sexual orientation		✓	
Gender reassignment		✓	
Religion or belief		✓	
Pregnancy or maternity		✓	
Marriage or civil partnership		✓	
<b>NYCC additional characteristics</b>			
People in rural areas		✓	
People on a low income		✓	
Carer (unpaid family or friend)		✓	
Does the proposal relate to an area where there are known inequalities/probable impacts (e.g. disabled people's access to public transport)? Please give details.	No		
Will the proposal have a significant effect			



<p><b>on how other organisations operate? (e.g. partners, funding criteria, etc.). Do any of these organisations support people with protected characteristics? Please explain why you have reached this conclusion.</b></p>	<p><b>No</b></p>			
<p><b>Decision (Please tick one option)</b></p>	<p>EIA not relevant or proportionate:</p>	<p><input checked="" type="checkbox"/></p>	<p>Continue to full EIA:</p>	
<p><b>Reason for decision</b></p>	<p>The application has met all the criteria contained in the Commons Act 2006 and the Commons Registration (England) Regulations 2014.</p>			
<p><b>Signed (Assistant Director or equivalent)</b></p>	<p>Barrie Mason</p>			
<p><b>Date</b></p>	<p>November 2019</p>			