



Agenda

Notice of a public meeting of

Planning and Regulatory Functions Sub – Committee

Prior to the start of the meeting there will be a training session for Members, commencing at 10am

To: Councillors Tim Grogan, Pat Marsh, John McCartney, Bob Packham, Andy Paraskos (Chair), Roberta Swiers and David Webster.

Date: Tuesday, 14th February, 2023

Time: 10.45 am

Venue: Council Chamber, County Hall, Northallerton, DL7 8AD

Business

1. Chair's welcome and apologies
2. Minutes of the Meeting held on 13th October 2021 (Pages 3 - 6)
3. Declarations of Interest
4. Public Questions/Statements

Members of the public may ask questions or make statements at this meeting if they have given notice (including the text of the question/statement) to Steve Loach of Democratic Services (contact details provided on the Agenda) by midday on Thursday 9th February 2023. Each speaker should limit themselves to 3 minutes on any item. Members of the public who have given notice will be invited to speak:-

- at this point in the meeting if their questions/statements relate to matters which are not otherwise on the Agenda (subject to an overall time limit of 30 minutes);
- when the relevant Agenda item is being considered if they wish to speak on a matter which is on the Agenda for this meeting.

5. **Application to surrender a registered right of common and application for removal of the right from the register of common land.**

(Pages 7 - 50)

**Commons Act 2006 Part 1 – Section 13 The Commons
Registration (England) Regulations 2014, Schedule 4, Paragraph
7.**

**Application Reference Number CA7 007, Right entry 12
exercisable over Land in the Manor of Spaunton (CL162)**

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

6. **Other business which the Chairman agrees should be considered as a matter of urgency because of special circumstances.**

Barry Khan
Assistant Chief Executive
(Legal and Democratic Services)
County Hall
Northallerton

6th February 2023

For enquiries relating to this agenda please contact Steve Loach Tel: 01609 532216 or e-mail:
stephen.loach@northyorks.gov.uk

Website: www.northyorks.gov.uk

North Yorkshire County Council

Planning and Regulatory Functions Sub-Committee

Minutes of the remote meeting held on 13 October 2021 commencing at 10.00 a.m. via Microsoft Teams

Present:-

County Councillors Peter Sowray MBE (Chairman), David Blades, John McCartney and Zoe Metcalfe.

Apologies were received from County Councillor Clive Pearson.

Officers: Jayne Applegarth (Commons Registration Officer), Simon Evans (Legal Services) and Steve Loach (Democratic Services).

Copies of all documents considered are in the Minute Book

All decisions made by the Committee are subject to the procedure set out in Minute 37, below.

37. Welcome, introductions and apologies

The Chair welcomed everyone to the meeting and outlined the following:-

Under his delegated decision making powers in the Officers' Delegation Scheme in the Council's Constitution, the Chief Executive Officer has power, in cases of emergency, to take any decision which could be taken by the Council, the Executive or a committee. Following on from the expiry of the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020, which allowed for committee meetings to be held remotely, the County Council resolved at its meeting on 5 May 2021 that, for the present time, in light of the continuing Covid-19 pandemic circumstances, remote live-broadcast committee meetings should continue (as informal meetings of the Committee Members), with any formal decisions required being taken by the Chief Executive Officer under his emergency decision making powers and after consultation with other Officers and Members as appropriate and after taking into account any views of the relevant Committee Members. This approach was reviewed by full Council at its July meeting and it was agreed to continue with this approach with a further review taking place at the County Council Meeting in November.

Members and officers introduced themselves.

38. Minutes

Resolved -

That the Minutes of the meeting held on 26 July 2021, having been printed and circulated, be taken as read and confirmed and signed by the Chairman as a correct record.

39. **Declarations of Interest**

There were no declarations of interest.

40. **Public Questions or Statements**

None received.

41. **Application to amend the register to record an historic event Commons Act 2006 Part 1 – Schedule 3 The Commons Registration (England) Regulations 2014 Schedule 4 Paragraph 19 - Application Reference Number CA14 046 - Right entry 12 exercisable over Swineside Moor (CL 37)**

Considered -

The report of the Corporate Director - Business and Environmental Services on an 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 attached and identified on the related supplemental map edged but not coloured red in Appendix 1 to the report.

Severance occurred historically where rights previously recorded as attached to an area of land were split from that land by means of a suitable legal instrument (e.g. a conveyance) and/or treated independently of that land and as a separate asset.

As the Commons Registration Authority (CRA) the County Council is responsible for maintaining the Registers of Common Land and Town and Village Greens for North Yorkshire. Part 1 of the Commons Act 2006 took full effect in North Yorkshire in December 2014.

The application was submitted by Mr Christopher John Marshall and Mrs Josephine Jill Marshall through their solicitor. The Application was dated the 13 October 2018 and received by the County Council on 19 October 2018. The Application was accepted as being duly made on 19 February 2019. A copy of the application including all supporting documentation was appended to the report.

Details of the legal criteria in respect of the application were outlined in the report and it was noted that the CRA needed to be satisfied that, on the balance of probabilities, a severance occurred where an application claimed to be the case.

The report also outlined the Application Land and Rights Timeline (according to documentation held by the CRA and submitted by the applicant.)

The details of officers' comments on each of the statutory provisions in relation to the application were set out at Section 5 of the Report.

Officers felt that, on the balance of probabilities and for the reasons set out in the Report, the legal tests at Schedule 3, paragraph 2 (b) of the Act and Schedule 4, paragraph 19 of the Regulations were met by the applicant.

The Commons Registration Officer highlighted the following points:-

- 14 September 1967: John Atkinson applied to register 188 gaits exercisable over Swineside Moor attached to Great Swineside Farm. This was provisionally entered into the register as right entry number 1.
- 1 October 1970: Being undisputed the rights were automatically declared final without being reviewed by the Commons Commissioner.

NYCC Planning and Regulatory Functions Sub-Committee -
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- 20 June 1973: John Atkinson conveys part of Great Swineside Farm to Krishna Properties Limited.
- 24 June 1977: Barclays Bank Limited (who provided the mortgage for Krishna Properties Limited) sold part of Great Swineside Farm land (approximately 44%) and 125 grazing rights (approximately 66%) to Mr and Mrs C.J. Marshall (the Applicants). A disproportionate apportionment of rights to the proportion of land sold.
- 19 August 1977: T.W. Dent submits an application seeking to amend right entry 1. He has purchased 17 grazing rights but no land Appendix 7. Right entry 1 is replaced by right entries 8 and 9 Appendix 2.
- 24 October 1978: John Atkinson conveyed 41 gaits to T.W. Dent and partners with no land.
- 20 December 2016: Mr and Mrs Marshall submit an application to declare an entitlement to exercise grazing rights for 125 gaits. This is accepted and the register is amended showing the 125 gaits as attached to part of the land that the rights were attached to. Right entry 8 is replaced by right entries 12 and 13.
- 26 April 2018: Alan G. Dent and Audrey M Bainbridge submit a historic event application to record the transfer of 41 gaits held in gross by T.W. Dent to them on 3 May 1990. This is accepted and the register amended on 11 July 2018. Right entry 12 is replaced by right entries 16 and 17.
- 27 July 2018: The Commons Registration Officer writes to Mr and Mrs Marshall, in accordance with The Regulations, informing them that their declaration is cancelled due to the information received when Alan Dent and Audrey Bainbridge's application was submitted.
- 13 October 2018: Mr and Mrs Marshall submit this application seeking to record a historic severance.

- In accordance with the appropriate Regulations the County Council publicised the application by issuing a notice on the County Council's website and by serving notices to all relevant parties on 20 February 2019.

- There was one representation received in response to the Notice, from The Open Spaces Society, who objected to the application on the grounds that no evidence of severance had been demonstrated.

- In response to the Open Spaces Society's objection the Applicants' solicitor provided further explanation regarding the transfer of the rights and their subsequent treatment. They state that the conveyance between Barclays Bank Limited and Mr and Mrs C J Marshall on 24 June 1977 transferred 125 sheep gaits separate to the land. They further argue that if the 1978 Conveyance between Mr John Atkinson (the registered right holder for Right Entry 1) and T.W. Dent & Partners that was submitted to the CRA under a separate application to record a historic severance was deemed to have severed part of the original right entry 1 from the land, then the 1977 Conveyance involving the Applicants, also part of original Right Entry 1, would also have constituted a historic severance

- The Open Spaces Society continued with their objections arguing that the Applicants had provided very little evidence of severance or that if severance had occurred then the application should be to record a historic transfer of a right held in gross.

- The Applicant made no further response.

Members discussed the report and the following issues and points were raised:-

- ◆ A Member referred to the submission of evidence in relation to the application, and wondered how the position was from a legal aspect in respect of the non-written

evidence referred to by officers and in the report. In response the Legal Officer clarified that the legislation allowed for the consideration of all evidence, including that not provided in hard copy. Further enquiries are undertaken with the parties involved to corroborate the written evidence, and this was taken account of.

- ◆ Members acknowledged that the application was complex, which was also acknowledged by the objector, and praised officers for the calibre of the report presented, and work undertaken to explain the position in relation to the application.

Resolved –

That the following recommendation of this Sub-Committee be referred to the Chief Executive Officer for consideration under his emergency delegated powers:-

That the application be approved on the grounds set out in the report.

42. Such other business as, in the opinion of the Chairman should, by reason of special circumstances, be considered as a matter of urgency

The Chair confirmed that there was no other business on this occasion.

The meeting concluded at 10.12 a.m.

SL

North Yorkshire County Council

Business and Environmental Services

Planning and Regulatory Functions Sub Committee

14 February 2023

Application to surrender a registered right of common and application for removal of the right from the register of common land.

Commons Act 2006 Part 1 – Section 13

**The Commons Registration (England) Regulations 2014
Schedule 4 Paragraph 7**

Application Reference Number CA7 007

Right entry 12 exercisable over Land in the Manor of Spaunton (CL162)

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 surrender of a registered right of common and removal of the registered right from the register of common land.

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. The provisions of the Act are applied through the Commons Registration (England) Regulations 2014.
- 2.3 Section 13 of the Act in part sets out that: -
- (1) *The surrender to any extent of a right of common which is registered in a register of common land or town or village greens—*
 - (a) *only has effect if it complies with such requirements as to form and content as regulations may provide; and*
 - (b) *does not operate at law until, on an application under this section, the right is removed from the register.*
 - (2) *The reference in subsection (1) to a surrender of a right of common does not include a disposition having the effect referred to in section 7(1)(a).*
 - (3) *A right of common which is registered in a register of common land or town or village greens cannot be extinguished by operation of common law.*

And

Schedule 4 paragraph 7 of the Commons Registration (England) Regulations 2014 (“The Regulations”) sets out that:

- 7. - (1)** *An application under section 13 of the 2006 Act may only be made by—*
- (a) *the owner of the land to which the right of common is attached or, in the case of a right of common in gross, the owner of that right; or*
 - (b) *the owner of the land or of any part of the land over which the right of common is exercisable.*

- (2) *Where the applicant is the owner of the land (or of any part of the land) over which the right of common is exercisable, the application must show that the following persons consent to it—*
 - (a) *the owner of the land to which that right is attached or, as the case may be, the owner of the right of common in gross.*
 - (b) *any relevant leaseholder of the land to which that right is attached.*
 - (c) *any person having the benefit of a relevant charge over the land to which that right is attached.*
- (3) *The application must include—*
 - (a) *evidence of the applicant’s capacity to make the application by virtue of sub-paragraph (1)(a) or (b);*
 - (b) *the numbers of the register unit and the rights section entry in the register of common land or town or village greens for the right of common to which the application relates; and*
 - (c) *except where the right of common is held in gross, a description of the land to which the right of common is attached.*
- (4) *Where it relates to only part of a right of common which is attached to land, the application must—*
 - (a) *identify that part of the land to which it is attached; and*
 - (b) *be accompanied by an application made for the purposes of section 8 of the 2006 Act.*

2.4 A CRA needs to be satisfied that evidence of ownership of the land that the rights are attached to or ownership of the common land that the rights are exercisable over have been submitted and any relevant consents have been obtained.

3.0 Application

3.1 The application was submitted by Daniel Johnathan Mann and Helen Louise Saunders (“the Applicant”). The Application was dated the 6 April 2022 and received by the County Council on 12 April 2022. The Application was accepted as being duly made on 22 April 2022.

3.2 A copy of the Application comprises **Appendix 1**, and additional supporting documentation is held in **Appendix 2**.

3.3 Application Land and Rights Timeline

(according to documentation held by the CRA and submitted by the applicant)

28 May 1968: At the time of the first creation of the Register of Common Land under the 1965 Registration Act, Rose Farrow registered the right to graze 16 sheep over the Manor of Spaunton. These rights were registered as attached to the property Rose Cottage as shown on the supplemental map referred to in column 4 of the register entry number 12. Rose Farrow registered these rights in her capacity as tenant of Rose Cottage **Appendix 3**. The owner of Rose Cottage at the time was Zillah Hamilton.

11 April 2001: Jane Redgate registers ownership of Rose Cottage with the Land Registry. Title Number NYK249252. **Appendix 2**.

6 April 2022: Daniel Johnathan Mann and Helen Louise Saunders (the Applicants) purchase Rose Cottage **Appendix 1**.

4.0 Representations

- 4.1 Under Regulation 21 of the Regulations, the CRA 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 25 April 2022, in accordance with Regulation 21(5)(a) of the Regulations.
- 4.2 There was one representation received in response to the notice, from Jonathan Allison Chairman of The Spaunton Protection Association who objected to the application **Appendix 4**.
- 4.3 Mr Allison objected on the grounds that The Act established that common rights cannot be alienated from the land or sold away.
- 4.4 The Applicant did not wish to make a formal comment on the objection but they did pass the objection on to the representative of the owner of the common land who stated that they did not agree with the objection as surrender of common rights was permitted under The Act **Appendix 5**.
- 4.5 Mr Allison was emailed regarding his statement that The Act prevented this type of application and was invited to expand on his objection, in particular to clarify which part of The Act would prohibit a common right from being surrendered. Mr Allison restated that he believed that The Act did not allow for the alienation of rights from the land. A further email was sent explaining the difference between a Section 9 and a Section 13 application and Mr Allison was invited to withdraw his representation objecting to the application. However, no response has been received from Mr Allison **Appendix 6**. Under the Officers Delegation Scheme, part of the County Council's Constitution any applications with unresolved objections shall be referred by the Corporate Director of Business and Environmental Services to the Planning and Regulatory Functions Sub-Committee for determination.

5.0 Assessment – have the relevant tests been met?

- 5.1 Officers comments on the statutory provisions are set out below –
- 5.2 Section 13 of the Act requires the application to meet the requirements set out in paragraph 7 of the Regulations:

Section 1 of Part A of the application form identifies Daniel Johnathan Mann and Helen Louise Saunders (the Applicants) as the surrendering right holders, evidenced by the HM Land Registry TR1 form dated 6 April 2022 (**see Appendix 1**). Although the Land Registry Plan shows that not all the land that the rights are attached to is included in NYK316833, upon measuring the area, the land not included is extremely small and following Defra guidance is not significant when considering the merits of this application. **Appendix 7**.

The applicants have therefore evidenced their capacity to apply to have the rights surrendered under Regulation 7(1)(a).

This criteria has been met by the application.

Section 4 and 5 of Part A of the application has correctly identified the register unit and right entry concerned and given a description of the land that the rights are attached to as specified in Regulation 7(3)

Regulations 7(2) and 7(4) are not applicable to this application.

- 5.3 **Objection from The Spaunton Protection Association**
Mr Allison, as Chair of the Spaunton Protection Association, objected on the grounds that The Act established that common rights cannot be alienated from the land or sold away.

The Act provides for the right holder of common rights to surrender their rights and have those rights removed from the register as set out in Section 13. This application has been submitted under Section 13 of The Act. Therefore it is a valid application. The basis for Mr Allison's objection is incorrect and as such has no bearing on the determination of this application.

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 8**.

9.0 Climate Change Implications

- 9.1 As the Application seeks to change the status of the grazing rights and not the merits or otherwise of making the change; a full climate change impact assessment is not required

10.0 Conclusion

- 10.1 It is your officer's view that on the balance of probabilities, and for the reasons set out in this report, the legal tests as set out in Section 13 of the Act and Schedule 4, paragraph 7 of The Regulations are met by the Application and that consequently it should be approved

11.0 Recommendation

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

KARL BATTERSBY
Corporate Director - Business and Environmental Services

Author of Report: Jayne Applegarth – Commons Registration Officer

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

FORM CA7

Commons Act 2006: section 13**Surrender of a registered right of common and application for removal of the right from the register of common land or town or village greens****This section is for office use only**

Official stamp

<p>COMMONS ACT 2006 NORTH YORKSHIRE COUNTY COUNCIL REGISTRATION AUTHORITY DATE: 12 April 2022</p>

Application number

CA7 007

Register unit number

CL 162

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

- **This form provides (in Part A) for the express surrender by way of deed of a right of common which is registered in the commons register and (in Part B) for the application to remove such right from the register, under section 13 of the Commons Act 2006.** Although there is no requirement that you use a solicitor or other professional adviser to complete the form, please be aware that the commons registration authority can only assist in completion of the clerical aspects of the form, and persons with legal queries should seek advice from a solicitor or other professional adviser before completing the form.
- The express surrender of a registered right of common will in most cases need to be effected by way of deed to operate at law (see section 52(1) of the Law of Property Act 1925). You need not use the form of deed in Part A of this form to effect such a surrender, but if you do not, you will instead need to attach to your application your own deed of surrender (or, if a deed is not required, explain why this is the case). Where the deed of surrender in Part A is not being used, only Part B of this form needs to be completed. The surrender of a registered right of common is not effective in law until the registered right has been removed from the register of common land or of town or village greens pursuant to an application made using Part B of this form.
- Only the following persons can apply to remove a registered right of common from the register under section 13: the owner of either the land to which the right of common is attached (known as the Dominant Land) or owner of the right in gross (in either case the Surrendering Rightholder) or the owner of any part of the land over which the right is exercisable (the Servient Landowner).
- You will be required to pay a fee for your application. Ask the registration authority for details. You would have to pay a separate fee should your application be referred to the Planning Inspectorate.

PART A: DEED OF SURRENDER

Note 1

The Surrendering Rightholder is either the owner of the right of common in gross confirmed in box 4 or of the Dominant Land described in box 5.

If there is more than one Surrendering Rightholder, list all their names and addresses in full. Use a separate sheet if necessary. State the full title of the organisation if the Surrendering Rightholder is a body corporate or an unincorporated association, and the company registration number if applicable.

Note 2

The Servient Landowner is the owner of the common land described in box 6. If there is more than one Servient Landowner, list all their names and addresses in full. Use a separate sheet if necessary. State the full title of the organisation if the Servient Landowner is a body corporate or an unincorporated association, and the company registration number if applicable.

1. Surrendering Rightholder

Name:

DANIEL JOHNATHAN MANN + HELEN LOUISE SAUNDERS.

Postal address:

Rose Cottage, Hutton Le Hole, York

Postcode Y062 6UB

2. Servient Landowner

Name:

GEOFFREY GEORGE WINN-DARLEY

Postal address:

BALMOORS, HUTTON LE HOLE YORK

Postcode Y062 6UE

Note 3

Enter the names and addresses in full of other persons who are a party to the deed of surrender. For example, a mortgagee or holder of a relevant charge over the Dominant or Servient Land might wish to be a party to the deed.

Note 4

Enter the names and addresses in full of other persons who are a party to the deed of variation. For example, a mortgagee or the holder of a relevant charge over the Existing and/or New Servient Land might wish to be a party to the deed of variation.

3. Additional parties to the deed of surrender

Name:

Postal address:

Postcode

4. Right of Common to be surrendered

Description of right of common:

To graze (a) 16 Sheep; or (b) Sheep and cattle and horses together to a limit of 16 gaits, each head of cattle or horse counting as 8 gaits and each sheep as 1 gait and to cut and take away straw over the whole of the land comprised in this register unit

Register unit number(s):

CL 162

Rights section entry number(s):

12 (TWELVE)

If the right is a right in gross (i.e. it is not attached to land) please tick here:

Note 5

Insert description of the land to which the right of common is attached (not relevant for rights in gross). This is known as the Dominant Land. If the right to be surrendered is only part of the registered right(s) of common attached to the land, please identify the land to which it relates.

You should give a grid reference or other identifying detail such as the Land Registry title number, to enable the land to be located.

You must supply an Ordnance map of the Dominant Land, which must be at a scale of at least 1:10,560 and show the boundary accurately edged in blue.

Note 6

Insert description and particulars of the area of land over which the right is exercisable. This is known as the Servient Land. You should give a grid reference or other identifying detail such as the Land Registry title number, to enable the land to be located.

5. Dominant Land

Name by which the land is usually known:

Rose Cottage, Hutton Le Hole York
YO62 6UB.

Location (postal address, Ordnance Survey grid reference or Land Registry title number):

NYK249252

I confirm that the Dominant Land is shown edged blue on the attached map:

6. Servient Land

Name by which the land is usually known:

Spaunton Moor, York

Location (postal address, Ordnance Survey grid reference or Land Registry title number):

NYK230643.

The property referred to at Entry 1 of
the Ownership section of register unit
CL162

Note 7

This is the operative section of the surrender. Please seek legal advice before completing this form if you are unsure about its effect.

There are two types of title guarantee, though either may be modified. In providing such guarantees the Surrendering Rightholder(s) give(s) certain binding promises relating to the surrender. If you have any concerns or queries about the effect of these title guarantees please seek legal advice before completing this form. Insert any modifications to the title guarantees in this box.

Note 8

Insert here any consideration payable and any other agreed terms (e.g. consent of the Servient Landowner's chargee). This will include any additional provisions required if the surrender is of only part of a registered right of common.

Please seek legal advice if you are unsure of the effect of provisions included in this box.

7. Surrender

The Surrendering Rightholder hereby surrenders with full/~~limited~~ title guarantee (*delete as necessary*) the right of common described in box 4, to the intent and purpose that such right shall be extinguished.

The Servient Landowner hereby accepts the surrender.

[Empty box for modifications to title guarantees]

8. Additional provisions relating to the Surrender

[Empty box for additional provisions]



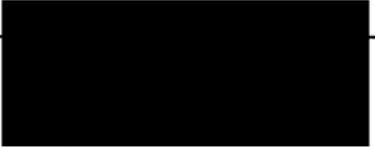

Note 9

Every Surrendering Rightholder must execute this form as a deed. The Land Registry has issued guidance on the execution of deeds. However, please seek legal advice if you are unsure how to execute. If there are additional parties to the surrender, they should also execute.

Note 10

Insert the date of completion of the deed of surrender in this box.

9. Execution of deed

 KATE JANE IANSON  Harrowells Solicitors Moorgate House Clifton Moorgate York YO30 4WY DX.61464 Haxby	 KATE JANE IANSON  Harrowells Solicitors Moorgate House Clifton Moorgate York YO30 4WY DX 61464 Haxby
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10. Date of Surrender

6 th April 2022

PART B: REGISTRATION

Note 11

*Insert name
of commons
registration
authority.*

11. Commons Registration Authority

To the:

North Yorkshire County Council

Tick the following box to confirm that you have enclosed the appropriate fee for this application:



Note 12

An application to remove a right of common from the commons register under section 13 can be made only by either: (i) the owner(s) of the land to which such right is attached (the Dominant Land) or (if the right is in gross) the owner(s) of such right (in either case known as the Surrendering Rightholder); or (ii) the owner of the land over which such right is exercisable (the Servient Landowner). (In each case, if there is more than one Surrendering Rightholder or Servient Landowner, then all such Rightholders or, as the case may be, Landowners, must apply). Use a separate sheet if necessary. State the full title of the organisation if the applicant is a body corporate or an unincorporated association, and the company registration number if applicable. 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 13 is not completed all correspondence and notices will be sent to the first named applicant.

12. Name and address of the applicant

Name: DANIEL JOHNATHAN MANN + HELEN LOUISE JANNIDOUZIS

Postal address: Rose Cottage, Hutton Le Hole York
Postcode Y0626UB

Telephone number: []

Fax number: []

E-mail address: []

Note 13

This box should be completed if a representative, for example 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.

Note 14

For further details of the requirements of an application, including evidence, refer to paragraph 7 of Schedule 4 to the Commons Registration (England) Regulations 2014.

13. Name and address of representative, if any

Name:

KATIE JANE IANSON

Firm

HARROWELLS LIMITED

Postal address:

Harrowells Limited
Solicitors
Moorgate House
Clifton Moorgate
York YO30 4WY

Postcode

Telephone number:

[REDACTED]

Fax number

[REDACTED]

E-mail address

[REDACTED]

14. Basis of application for registration and qualifying criteria

Tick one of the following boxes to indicate the capacity in which you are applying. Are you the:

Surrendering Rightholder (the owner of the Dominant Land or of the right of common in gross):

or

Servient Landowner (the owner of the land over which the right of common to be surrendered and extinguished was exercisable):

Note 15

Box 15 requires completion only if Part A of the Form is not used. Enter the description of the Right of Common to be surrendered. Insert the numbers of the register unit(s) and rights section number entry number(s) of the right in the common land register. Indicate whether the right is in gross. If your application relates to only part of a right, this application must be accompanied by application under section 8 to apportion the right.

15. Right of Common to be removed from the register

Description of right of common:

Register unit number(s):

Rights section entry number(s):

If the right is a right in gross (i.e. it is not attached to land) please tick here:

Tick this box if you have applied to register an apportionment of the right:

Note 16

Box 16 requires completion only if Part A of the Form is not used (but an Ordnance map of the Dominant Land is required).

Insert description of the land to which the right of common is attached (not relevant for rights in gross). This is known as the Dominant Land. If the right surrendered is only part of a registered right of common attached to land identify the land to which it relates.

You should give a grid reference or other identifying detail such as the Land Registry title number, to enable the land to be located. You must supply an Ordnance map of the Dominant Land, which must be at a scale of at least 1:10,560 and show the boundary accurately edged in blue. If the right is held in gross please disregard this box.

16. Dominant Land

Name by which the land is usually known:

Location (postal address, Ordnance Survey grid reference or Land Registry title number):

I confirm that the Dominant Land is shown edged blue on the attached map:

Note 17

Box 17 requires completion only if Part A of the Form is not used.

Insert description and particulars of the area of land over which the right is exercisable. This is known as the Servient Land. You should give a grid reference or other identifying detail such as the Land Registry title number, to enable the land to be located.

Note 18

Where the applicant is the Servient Landowner, consent of the Surrendering Rightholder(s) is required to the application. Either list or enter here all declarations of consent from the Surrendering Rightholder(s), or include in the box any declarations made and signed. Include the full name and address of every Surrendering Rightholder.

17. Servient Land

Name by which the land is usually known:

Location (postal address, Ordnance Survey grid reference or Land Registry title number):

18. Declarations of consent from every Surrendering Rightholder (where the applicant is the Servient Landowner)

N/A.

Note 19

List all supporting documents which accompany the application. This will include evidence of your capacity to apply. 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. List the documents in the box, or write in any evidence. Use a separate sheet if necessary.

19. Supporting documentation

Transfer to Applicants dated 6th April 2022

Note 20

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.

20. Any other information relating to the application

Note 21

The application must be signed and dated by each individual applicant, or by the authorised officer of an applicant which is a body corporate or an unincorporated association. Please add the date next to the signature.

21. Signature of Applicant(s)

Name(s)

HARROWEUS LIMITED.

Signature(s)



REMINDER TO PERSONS COMPLETING THIS FORM

You are responsible for telling the truth in this form 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 form and all associated documentation.

Data Protection Act 1998

This form, any supporting information, 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 including this form and accompanying documents to others, which may include other local authorities, Government Departments, public bodies, other organisations and members of the public.

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.

Any parts of the form that are not typed should be completed in black ink and in block capitals.

If you need more room than is provided for in a panel, and your software allows, you can expand any panel in the form. Alternatively use continuation sheet CS and attach it to this form.

For information on how HM Land Registry processes your personal information, see our [Personal Information Charter](#).

Leave blank if not yet registered

Insert address including postcode (if any) or other description of the property, for example 'land adjoining 2 Acacia Avenue'.

Remember to date this deed with the day of completion, but not before it has been signed and witnessed.

Give full name(s) of all the persons transferring the property.

Complete as appropriate where the transferor is a company.

Give full name(s) of all the persons to be shown as registered proprietors.

Complete as appropriate where the transferee is a company. Also, for an overseas company, unless an arrangement with HM Land Registry exists, lodge either a certificate in Form 7 in Schedule 3 to the Land Registration Rules 2003 or a certified copy of the constitution in English or Welsh, or other evidence permitted by rule 183 of the Land Registration Rules 2003.

Each transferee may give up to three addresses for service, one of which must be a postal address whether or not in the UK (including the postcode, if any). The others can be any combination of a postal address, a UK DX box number or an electronic address.

1	Title number(s) of the property: NYK249252
2	Property: Rose Cottage, Hutton-le-Hole, York, North Yorkshire, YO62 6UB
3	Date: 6 th April 2022
4	<p>Transferor: JANE REDGATE</p> <p><u>For UK incorporated companies/LLPs</u> Registered number of company or limited liability partnership including any prefix:</p> <p><u>For overseas companies</u> (a) Territory of incorporation:</p> <p>(b) Registered number in the United Kingdom including any prefix:</p>
5	<p>Transferee for entry in the register: DANIEL JOHNATHAN MANN and HELEN LOUISE SAUNDERS</p> <p><u>For UK incorporated companies/LLPs</u> Registered number of company or limited liability partnership including any prefix:</p> <p><u>For overseas companies</u> (a) Territory of incorporation:</p> <p>(b) Registered number in the United Kingdom including any prefix:</p>
6	<p>Transferee's intended address(es) for service for entry in the register:</p> <p>Rose Cottage, Hutton-le-Hole, York, North Yorkshire, YO62 2UB</p>
7	The transferor transfers the property to the transferee

Place 'X' in the appropriate box. State the currency unit if other than sterling. If none of the boxes apply, insert an appropriate memorandum in panel 11.

Place 'X' in any box that applies.

Add any modifications.

Where the transferee is more than one person, place 'X' in the appropriate box.

Complete as necessary.

The registrar will enter a Form A restriction in the register *unless*:

- an 'X' is placed:
 - in the first box, or
 - in the third box and the details of the trust or of the trust instrument show that the transferees are to hold the property on trust for themselves alone as joint tenants, or
- it is clear from completion of a form JO lodged with this application that the transferees are to hold the property on trust for themselves alone as joint tenants.

Please refer to [Joint property ownership](#) and [practice guide 24: private trusts of land](#) for further guidance. These are both available on the GOV.UK website.

Insert here any required or permitted statement, certificate or application and any agreed covenants, declarations and so on.

8 Consideration

- The transferor has received from the transferee for the property the following sum (in words and figures):

Four Hundred and Twenty Thousands Pounds (£420,000.00)

- The transfer is not for money or anything that has a monetary value

- Insert other receipt as appropriate:

9 The transferor transfers with

- full title guarantee
 limited title guarantee

10 Declaration of trust. The transferee is more than one person and

- they are to hold the property on trust for themselves as joint tenants
 they are to hold the property on trust for themselves as tenants in common in equal shares
 they are to hold the property on trust:

11 Additional provisions

The transferor must execute this transfer as a deed using the space opposite. If there is more than one transferor, all must execute. Forms of execution are given in Schedule 9 to the Land Registration Rules 2003. If the transfer contains transferee's covenants or declarations or contains an application by the transferee (such as for a restriction), it must also be executed by the transferee.

If there is more than one transferee and panel 10 has been completed, each transferee must also execute this transfer to comply with the requirements in section 53(1)(b) of the Law of Property Act 1925 relating to the declaration of a trust of land. Please refer to Joint property ownership and practice guide 24: private trusts of land for further guidance.

Examples of the correct form of execution are set out in practice guide 8: execution of deeds. Execution as a deed usually means that a witness must also sign, and add their name and address.

Remember to date this deed in panel 3.

12 Execution

Signed as a deed by
JANE REDGATE
in the presence of:

JK



Signature of witness.....



Name (in BLOCK CAPITALS).....
YERRA FLYNN

Address *x*.....
1 WHITE HORSE CLOSE

.....
SEAMER YO12 4QH
.....

witness

Signed as a deed by
DANIEL JOHNATHAN MANN
in the presence of:

.....

Signature of witness.....

Name (in BLOCK CAPITALS).....

Address.....

.....

The transferor must execute this transfer as a deed using the space opposite. If there is more than one transferor, all must execute. Forms of execution are given in Schedule 9 to the Land Registration Rules 2003. If the transfer contains transferee's covenants or declarations or contains an application by the transferee (such as for a restriction), it must also be executed by the transferee.

If there is more than one transferee and panel 10 has been completed, each transferee must also execute this transfer to comply with the requirements in section 53(1)(b) of the Law of Property Act 1925 relating to the declaration of a trust of land. Please refer to Joint property ownership and practice guide 24: private trusts of land for further guidance.

Examples of the correct form of execution are set out in practice guide 8: execution of deeds. Execution as a deed usually means that a witness must also sign, and add their name and address.

Remember to date this deed in panel 3.

12 Execution

Signed as a deed by
JANE REDGATE
in the presence of:

Signature of witness.....

Name (in BLOCK CAPITALS).....

Address

Signed as a deed by
DANIEL JOHNATHAN MANN
in the presence of:

Signature of witness.....

Name (in BLOCK CAPITALS) **KATIE JANE LAWSON**

Address

Harrowells
Solicitors
Moorgate House
Clifton Moorgate
York YO30 4WY
DX 61464 Haxby

Signed as a deed by
HELEN LOUISE SAUNDERS
in the presence of:

Signature of witness

Name (in BLOCK CAPITALS) **KATE JANE LANGRISH**

Address

Harrowells
Solicitors
Moorgate House
Clifton Moorgate
York YO30 4WY
DX 61464 Haxby

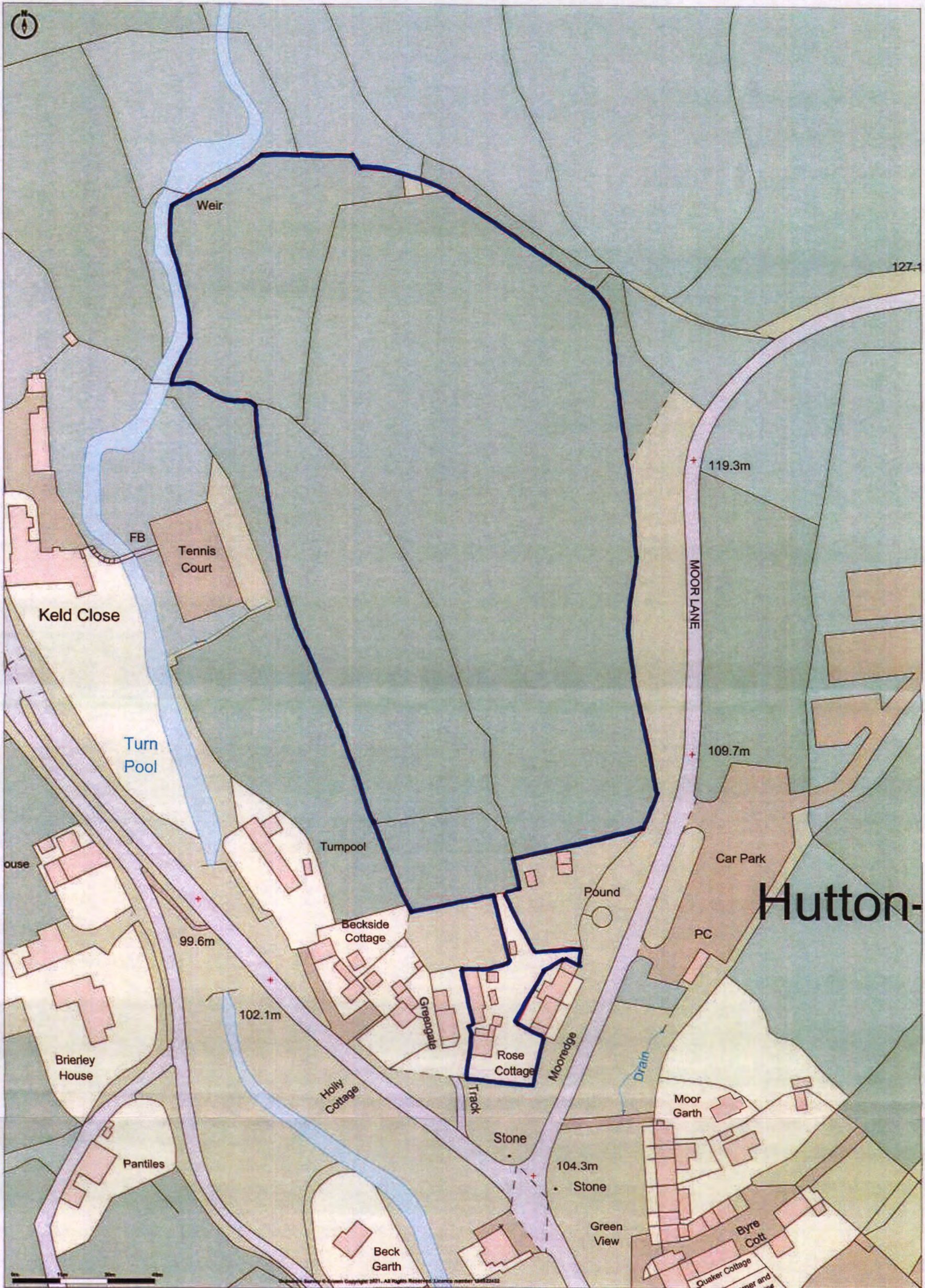
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Cundalls

Register unit No. C.L. 162
Edition No.

Register of COMMON LAND

See Overleaf
for Notes

RIGHTS SECTION—Sheet No. 4 - SECTION B

7/74 7140 196423 5m H&S(P)Ltd Gp841

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
12 27th June, 68	587 28th May, 68	Rose Farrow, Rose Cottage, Hutton le Hole, York. Tenant.	To graze (a) 16 sheep; or (b) sheep and cattle and horses together to a limit of 16 gaits, each head of cattle or horse counting as 8 gaits and each sheep as 1 gait and to cut and take away peat over the whole of the land comprised in this register unit. (Registration Provisional)	Rose Cottage, Hutton le Hole shown edged red on the supplemental map bearing the number of this register unit.
(See entry No. 166... below)				
13 27th June, 68	592 28th May, 68	Henry Wheatley Snaith and Clara Phyllis Snaith, 22 Ridgeway, Acomb, York. Joint Owners.	To graze 12 sheep or 4 sheep and 1 head of cattle or 4 sheep and 1 horse and to cut and take away peat, top stones and bracken over the whole of the land comprised in this register unit. (Registration Provisional)	Allan's Close, shown edged red on the supplemental map bearing the number of this register unit.
(See entry No. 166... below)				
14 27th June, 68	491 28th May, 68	William Ernest Snowden, Camomile Farm, Lastingham. Owner.	To graze (a) 41 sheep; or (b) sheep and cattle and horses together to a limit of 41 gaits, each head of cattle or horse counting as 8 gaits and each sheep as 1 gait and to cut and take away peat, top stones and bracken over the whole of the land comprised in this register unit. (Registration Provisional)	Camomile Farm and Cottage at Blandsby shown edged red on the supplemental map bearing the number of this register unit.
(See entry No. 166... below)				
15 27th June, 68	951 15th Nov., 67	Edward Wilkinson, Village Farm, Snape, Bedale, Yorks. Owner.	To graze (a) 107 sheep, or (b) sheep and cattle and horses together to a limit of 107 gaits, each head of cattle or horse counting as 8 gaits and each sheep as 1 gait and to cut and take away peat over the whole of the land comprised in this register unit. (Registration Provisional)	Banks Farm, Rosedale Abbey, shown edged red on the supplemental map bearing the number of this register unit.
(See entry No. 166... below)				

Registration Amendment : Entry No. 15 above is replaced by Entry No. 182 below

Page 31



Official copy of register of title

Title number NYK249252

Edition date 22.11.2002

- This official copy shows the entries on the register of title on 01 FEB 2021 at 12:20:34.
- 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 08 Mar 2021.
- Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
- This title is dealt with by HM Land Registry, Durham Office.

A: Property Register

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

NORTH YORKSHIRE : RYEDALE

- 1 (11.04.2001) The Freehold land shown edged with red on the plan of the above Title filed at the Registry and being Rose Cottage, Hutton-le-Hole, (YO62 6UB).

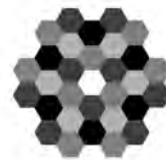
B: Proprietorship Register

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

Title absolute

- 1 (11.04.2001) PROPRIETOR: ZILLAH HAMILTON of Bonnybank, Middleton, Pickering, N Yorkshire.

End of register



Official copy of register of title

Title number NYK249252

Edition date 01.02.2021

- This official copy shows the entries on the register of title on 14 FEB 2022 at 14:52:21.
- 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 14 Feb 2022.
- Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
- This title is dealt with by HM Land Registry, Durham Office.

A: Property Register

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

NORTH YORKSHIRE : RYEDALE

- 1 (11.04.2001) The Freehold land shown edged with red on the plan of the above Title filed at the Registry and being Rose Cottage, Hutton-le-Hole, (YO62 6UB).

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 (01.02.2021) PROPRIETOR: JANE REDGATE of 20 Moor Lane, East Ayton, Scarborough YO13 9EW.

End of register

These are the notes referred to on the following official copy

The electronic official copy of the title plan follows this message.

Please note that this is the only official copy we will issue. We will not issue a paper official copy.

This official copy was delivered electronically and when printed will not be to scale. You can obtain a paper official copy by ordering one from HM Land Registry.

There is an/are application(s) pending in HM Land Registry and if we have only completed the mapping work for a pending application affecting the title concerned, such as a transfer of part:

- additional colour or other references, for example 'numbered 1', may appear on the title plan (or be referred to in the certificate of inspection in form CI), but may not yet be mentioned in the register
- colour or other references may also have been amended or removed from the title plan (or not be referred to in form CI), but this may not be reflected in the register at this stage.

This official copy is issued on 24 August 2022 shows the state of this title plan on 01 August 2022 at 11:47:04. 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 the HM Land Registry, Durham Office .



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Register unit No. C.L. 162
Edition No.

Register of COMMON LAND

See Overleaf
for Notes

RIGHTS SECTION—Sheet No. 4 - SECTION B

7/74 7140 196423 5m H&S(P)Ltd Gp841

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
12 27th June, 68 <div data-bbox="390 853 729 1035" style="border: 1px solid black; padding: 5px;">(See entry No. 166... below)</div>	587 28th May, 68	Rose Farrow, Rose Cottage, Hutton le Hole, York. Tenant.	To graze (a) 16 sheep; or (b) sheep and cattle and horses together to a limit of 16 gaits, each head of cattle or horse counting as 8 gaits and each sheep as 1 gait and to cut and take away peat over the whole of the land comprised in this register unit. (Registration Provisional)	Rose Cottage, Hutton le Hole shown edged red on the supplemental map bearing the number of this register unit.
13 27th June, 68 <div data-bbox="361 1123 701 1267" style="border: 1px solid black; padding: 5px;">(See entry No. 166... below)</div>	592 28th May, 68	Henry Wheatley Snaith and Clara Phyllis Snaith, 22 Ridgeway, Acomb, York. Joint Owners.	To graze 12 sheep or 4 sheep and 1 head of cattle or 4 sheep and 1 horse and to cut and take away peat, top stones and bracken over the whole of the land comprised in this register unit. (Registration Provisional)	Allan's Close, shown edged red on the supplemental map bearing the number of this register unit.
14 27th June, 68 <div data-bbox="361 1411 701 1588" style="border: 1px solid black; padding: 5px;">(See entry No. 166... below)</div>	491 28th May, 68	William Ernest Snowden, Camomile Farm, Lastingham. Owner.	To graze (a) 41 sheep; or (b) sheep and cattle and horses together to a limit of 41 gaits, each head of cattle or horse counting as 8 gaits and each sheep as 1 gait and to cut and take away peat, top stones and bracken over the whole of the land comprised in this register unit. (Registration Provisional)	Camomile Farm and Cottage at Blandsby shown edged red on the supplemental map bearing the number of this register unit.
15 27th June, 68 <div data-bbox="370 1765 701 1935" style="border: 1px solid black; padding: 5px;">(See entry No. 166... below)</div>	951 15th Nov., 67	Edward Wilkinson, Village Farm, Snape, Bedale, Yorks. Owner.	To graze (a) 107 sheep, or (b) sheep and cattle and horses together to a limit of 107 gaits, each head of cattle or horse counting as 8 gaits and each sheep as 1 gait and to cut and take away peat over the whole of the land comprised in this register unit. (Registration Provisional)	Banks Farm, Rosedale Abbey, shown edged red on the supplemental map bearing the number of this register unit.

Registration Amendment : Entry No. 15 above is replaced by Entry No. 182 below

Page 36

Supplemental Map for CL162 - Right Enry 12

Page 37

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From: Jon & Madge Allison <[REDACTED]>
Sent: 28 April 2022 14:45
To: commons Registration
Subject: RE: Application Notification

On behalf of the CL162 Appleton & Spaunton Protection Association I must object to this proposal as the Common Act established that common rights cannot be alienated from the land or sold away. Lacking any justification for this proposal our objection must stand.

Yrs Jonathan Allison (Chairman of the Association)

From: commons Registration <commons.Registration@northyorks.gov.uk>
Sent: 26 April 2022 09:26
To: Undisclosed recipients:
Subject: Application Notification

Good Morning

Following your request to be notified of any applications submitted regarding common land unit CL162, Manor of Spaunton, please refer to the attached seeking to surrender rights attached to Rose Cottage, right entry 12. Application reference CA7 007.

Kind Regards

Jayne Applegarth
Commons Registration Officer

Tel: 01609 534753
commons.registration@northyorks.gov.uk

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<https://www.northyorks.gov.uk/coronavirus-advice-and-information>

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From: Amanda Wearing <[REDACTED]>
Sent: 06 July 2022 12:39
To: commons Registration
Cc: Katie Daniel
Subject: Application CA7 007 - Rose Cottage Hutton le Hole

Categories: Jayne Applegarth

Our Reference: JM/MW/23838

Dear Jayne

Further to our conversation on the telephone recently I write just to confirm that we do not agree with the statement made in the objection as rights of common can be surrendered.

We note there is a process that now needs to be followed before the application will ultimately be completed and we look forward to hearing further from you in due course.

Yours sincerely

John Myers
Partner
Oglethorpe Sturton & Gillibrand LLP

[REDACTED]

Also at **Kirkby Lonsdale**

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From: Jon & Madge Allison <[REDACTED]>
Sent: 28 April 2022 14:45
To: commons Registration
Subject: RE: Application Notification

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Yrs Jonathan Allison (Chairman of the Association)

From: commons Registration <commons.Registration@northyorks.gov.uk>
Sent: 26 April 2022 09:26
To: Undisclosed recipients:
Subject: Application Notification

Good Morning

Following your request to be notified of any applications submitted regarding common land unit CL162, Manor of Spaunton, please refer to the attached seeking to surrender rights attached to Rose Cottage, right entry 12. Application reference CA7 007.

Kind Regards

Jayne Applegarth
Commons Registration Officer

Tel: 01609 534753
commons.registration@northyorks.gov.uk

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Jayne Applegarth

From: commons Registration
Sent: 11 July 2022 15:46
To: 'Jon & Madge Allison'
Subject: Application CA7 007

Good Afternoon Jonathan

The application CA7 007 seeking to surrender 16 sheep rights attached to Rose Cottage, right entry 12 in the common land unit CL162, is now being reviewed before determination.

This application was made under Section 13 which allows for the owner of the land to which the rights are attached to surrender those rights. The applicants Daniel Mann and Helen Saunders, as the new owners of Rose Cottage, have applied to surrender their rights.

In considering your objection on behalf of the Spaunton Protection Association, I would be grateful if you could confirm which section of the Commons Act 2006 you feel prohibits the surrender of these rights of common?

Kind Regards
Jayne

Jayne Applegarth
Commons Registration Officer

Tel: 01609 534753
commons.registration@northyorks.gov.uk

OFFICIAL

Jayne Applegarth

From: commons Registration
Sent: 26 July 2022 15:21
To: Jon & Madge Allison
Subject: Application CA7 007

Good Afternoon Jonathan

Further to my email dated 11 July 2022, I would be grateful to receive any further details that you may have regarding the grounds for the Spaunton Protection Association's objection to application CA7 007 by the close of business on 10 August 2022. After this date I will continue with the determination process based on the information previously received.

Kind Regards
Jayne

Jayne Applegarth
Commons Registration Officer

Tel: 01609 534753
commons.registration@northyorks.gov.uk

OFFICIAL

Jayne Applegarth

From: Jon & Madge Allison [REDACTED]
Sent: 26 July 2022 15:46
To: commons Registration
Subject: RE: Application CA7 007

Categories: Jayne Applegarth

Jayne:

My understanding of the legal position is that the common rights go with the land and cannot be alienated and that this was established with the legislation in 2006 and the Commons act. Your own legal team or the Open Spaces Society should be able to confirm the legal position.

Yrs

Jonathan Allison

Chairman of the Appleton & Spaunton Common Protection Association

From: commons Registration <commons.Registration@northyorks.gov.uk>

Sent: 26 July 2022 15:21

To: Jon & Madge Allison [REDACTED]

Subject: Application CA7 007

Good Afternoon Jonathan

Further to my email dated 11 July 2022, I would be grateful to receive any further details that you may have regarding the grounds for the Spaunton Protection Association's objection to application CA7 007 by the close of business on 10 August 2022. After this date I will continue with the determination process based on the information previously received.

Kind Regards

Jayne

Jayne Applegarth

Commons Registration Officer

Tel: 01609 534753

commons.registration@northyorks.gov.uk

OFFICIAL

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Jayne Applegarth

From: commons Registration
Sent: 26 July 2022 16:39
To: Jon & Madge Allison
Subject: RE: Application CA7 007

Good Afternoon Jonathan

Thank you for your prompt reply.

Section 9 of the Commons Act 2006 does prohibit a right of common from being severed from the land after 28 June 2005, however Application CA7 007 is not seeking to sever the rights from the land. The applicants are seeking to surrender their rights under Section 13.

Application CA7 007 has been made under Section 13 of the Commons Act 2006:-

13 Surrender and extinguishment

(1) The surrender to any extent of a right of common which is registered in a register of common land or town or village greens—

(a) only has effect if it complies with such requirements as to form and content as regulations may provide; and

(b) does not operate at law until, on an application under this section, the right is removed from the register.

(2) The reference in subsection (1) to a surrender of a right of common does not include a disposition having the effect referred to in section 7(1)(a).

(3) A right of common which is registered in a register of common land or town or village greens cannot be extinguished by operation of common law.

And under Schedule 4(7) of the Commons Registration (England) Regulations 2014:-

7.—(1) An application under section 13 of the 2006 Act may only be made by—

(a) the owner of the land to which the right of common is attached or, in the case of a right of common in gross, the owner of that right; or

(b) the owner of the land or of any part of the land over which the right of common is exercisable.

(2) Where the applicant is the owner of the land (or of any part of the land) over which the right of common is exercisable, the application must show that the following persons consent to it—

(a) the owner of the land to which that right is attached or, as the case may be, the owner of the right of common in gross;

(b) any relevant leaseholder of the land to which that right is attached;

(c) any person having the benefit of a relevant charge over the land to which that right is attached.

(3) The application must include—

(a) evidence of the applicant's capacity to make the application by virtue of sub-paragraph (1)(a) or (b);

(b)the numbers of the register unit and the rights section entry in the register of common land or town or village greens for the right of common to which the application relates; and

(c)except where the right of common is held in gross, a description of the land to which the right of common is attached.

(4) Where it relates to only part of a right of common which is attached to land, the application must—

(a)identify that part of the land to which it is attached; and

(b)be accompanied by an application made for the purposes of section 8 of the 2006 Act.

As the applicants are the current owners of the land that the rights of common are attached, this is a valid application for consideration.

I hope that helps clarify the basis on which this application has been submitted.

In light of the above if you may wish to withdraw your representation.

I would be grateful if you could confirm such by the close of business on 12 August 2022.

Kind Regards
Jayne

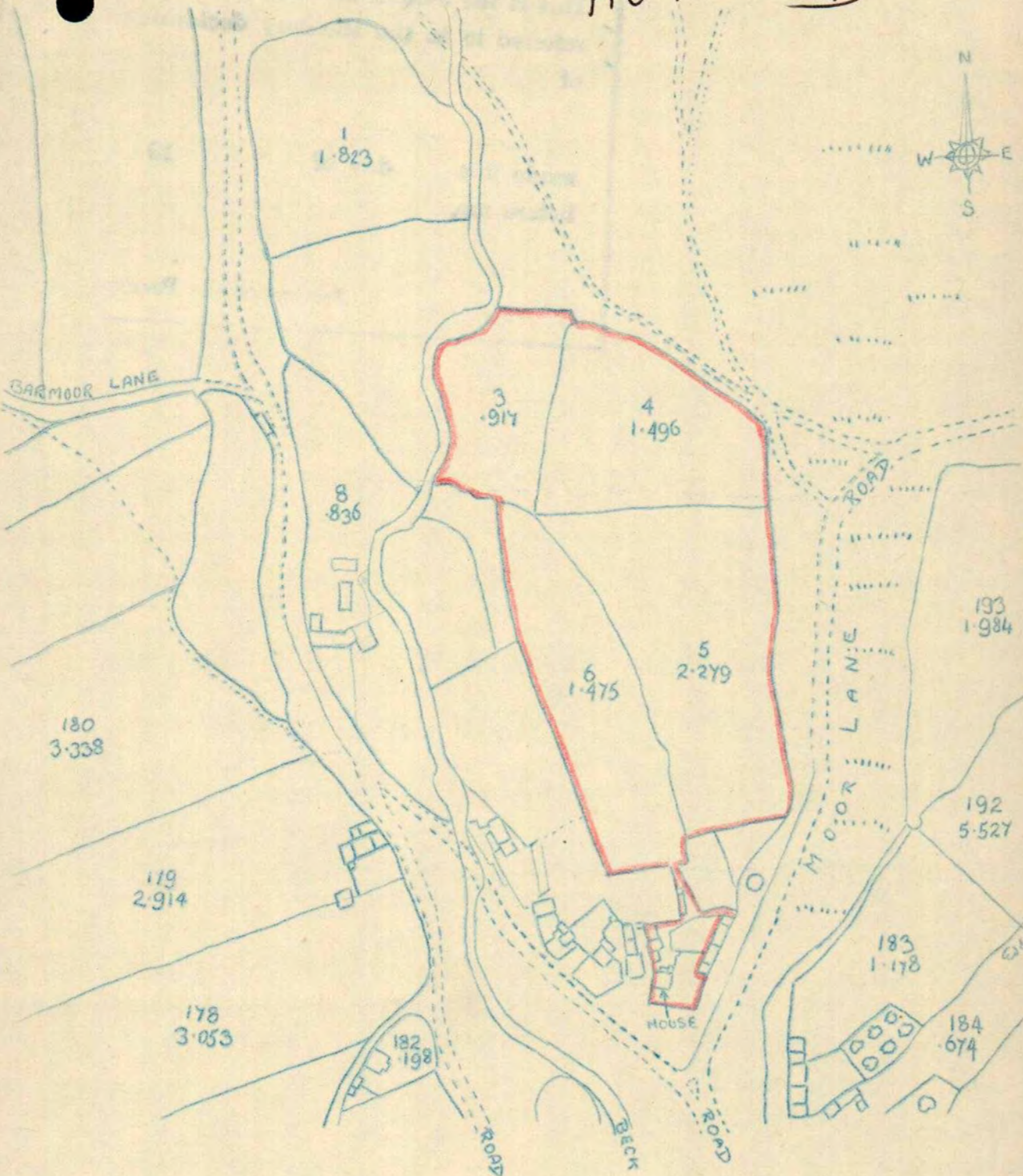
Jayne Applegarth
Commons Registration Officer

Tel: 01609 534753

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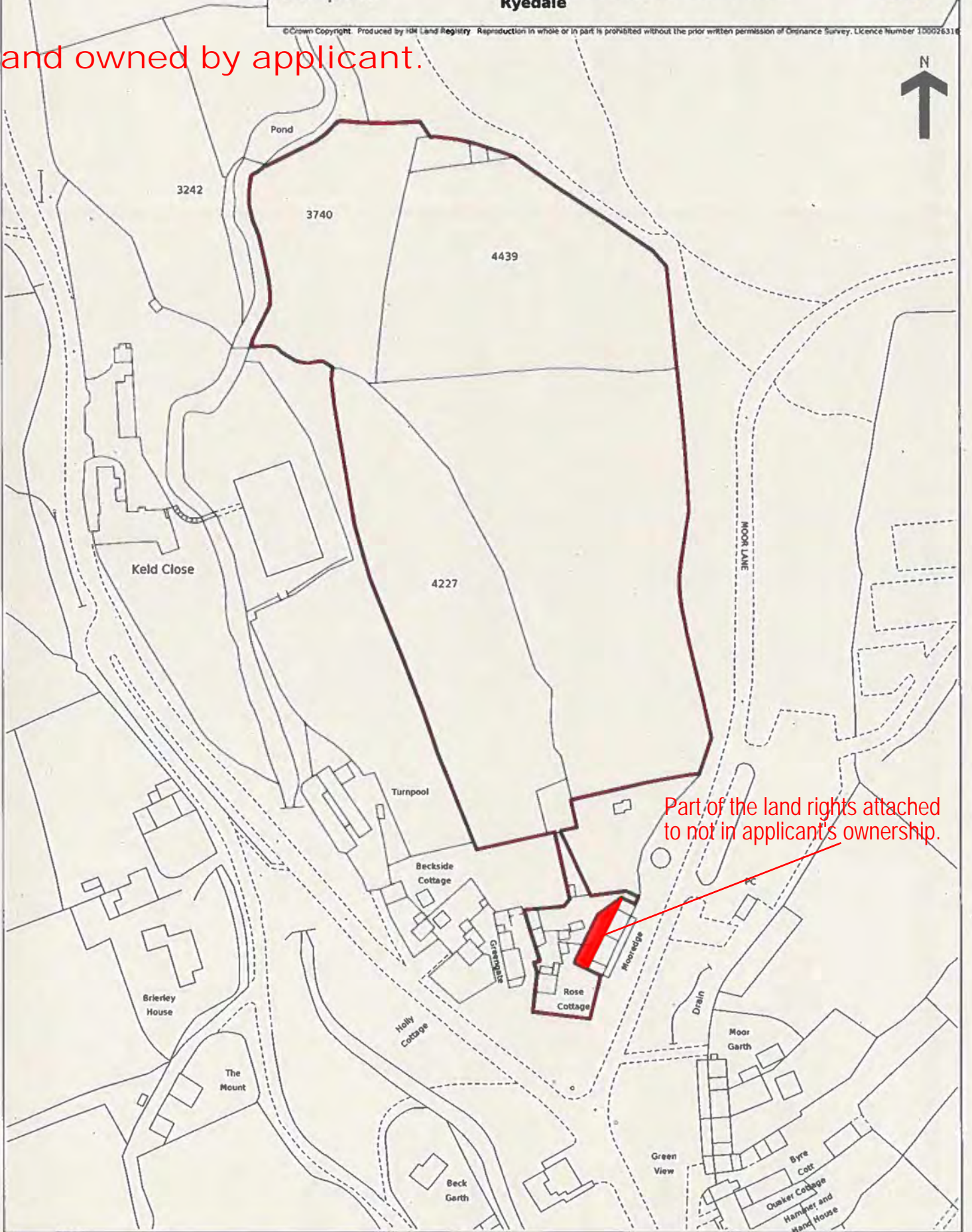


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Land owned by applicant.



Part of the land rights attached to not in applicant's ownership.

Initial equality impact assessment screening form (As of October 2015 this form replaces 'Record of decision not to carry out an EIA')			
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 CA7 007 which is seeking to record the surrender of rights of common 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.		
Is there likely to be an adverse impact on people with any of the following protected characteristics as defined by the Equality Act 2010, or NYCC's additional agreed characteristics? As part of this assessment, please consider the following questions:			
<ul style="list-style-type: none"> To what extent is this service used by particular groups of people with protected characteristics? Does the proposal relate to functions that previous consultation has identified as important? Do different groups have different needs or experiences in the area the proposal relates to? 			
If for any characteristic it is considered that there is likely to be a significant 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 Equality rep for advice if you are in any doubt.			
Protected characteristic	Yes	No	Don't know/No info available
Age		✓	
Disability		✓	
Sex (Gender)		✓	
Race		✓	
Sexual orientation		✓	
Gender reassignment		✓	
Religion or belief		✓	
Pregnancy or maternity		✓	
Marriage or civil partnership		✓	
NYCC additional characteristic			
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		

<p>Will the proposal have a significant effect 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.</p>	<p>No</p>			
<p>Decision (Please tick one option)</p>	<p>EIA not relevant or proportionate:</p>	<p><input checked="" type="checkbox"/></p>	<p>Continue to full EIA:</p>	
<p>Reason for decision</p>	<p>The application has met all the criteria contained in the Commons Act 2006 and the Commons Registration (England) Regulations 2014.</p>			
<p>Signed (Assistant Director or equivalent)</p>	<p>Barrie Mason</p>			
<p>Date</p>	<p>22/12/2022</p>			

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