

NORTH YORKSHIRE COUNCIL

COMMONS ACT 2006 — SCHEDULE 2, PARAGRAPH 4

Notice of an application to register waste land of a manor as common land

Application Reference Number: CA13 028

Greta Wood (Mill Hill Waste), Burton-in-Lonsdale

Application has been made to the North Yorkshire Council by The Open Spaces Society under Schedule 2(4) of the Commons Act 2006 and in accordance with Schedule 4(14) of the Commons Registration (England) Regulations 2014.

The application, which includes documentary evidence, can be viewed at:

<https://www.northyorks.gov.uk/environment-and-neighbourhoods/land-and-waterways/common-land-and-village-greens/common-land-applications-and-decision-notice>

or you can request a copy by contacting the Commons Registration Officer: -

email: commons.registration@northyorks.gov.uk , telephone: 01609 534753

or write to: North Yorkshire Council, Commons Registration, County Hall, Northallerton, North Yorkshire DL7 8AD

Any person wishing to make a representation regarding this amendment:

- should quote the Application No. CA13 028
- must state the name and postal address of the person making the representation and the nature of that person's interest (if any) in any land affected by the application.
- may include an e-mail address of the person making the representation
- must be signed by the person making the representation
- must state the grounds on which the representation is made
- should send the representation to: Commons Registration Officer, Commons Registration North Yorkshire Council, County Hall, Northallerton, North Yorkshire DL7 8AD or e-mail to commons.registration@northyorks.gov.uk on or before 22 September 2023

Representations cannot be treated as confidential, and a copy will be sent to the applicant in accordance with Regulation 25 of the 2014 Regulations. Should the application be referred to the Planning Inspectorate for determination, in accordance with Regulation 26 of the 2014 Regulations, any representations will be forwarded to the Planning Inspectorate.

A summary of the effect of the application (if granted) is as follows: the Registration Authority will register the application land as common land.

Dated: 3 August 2023

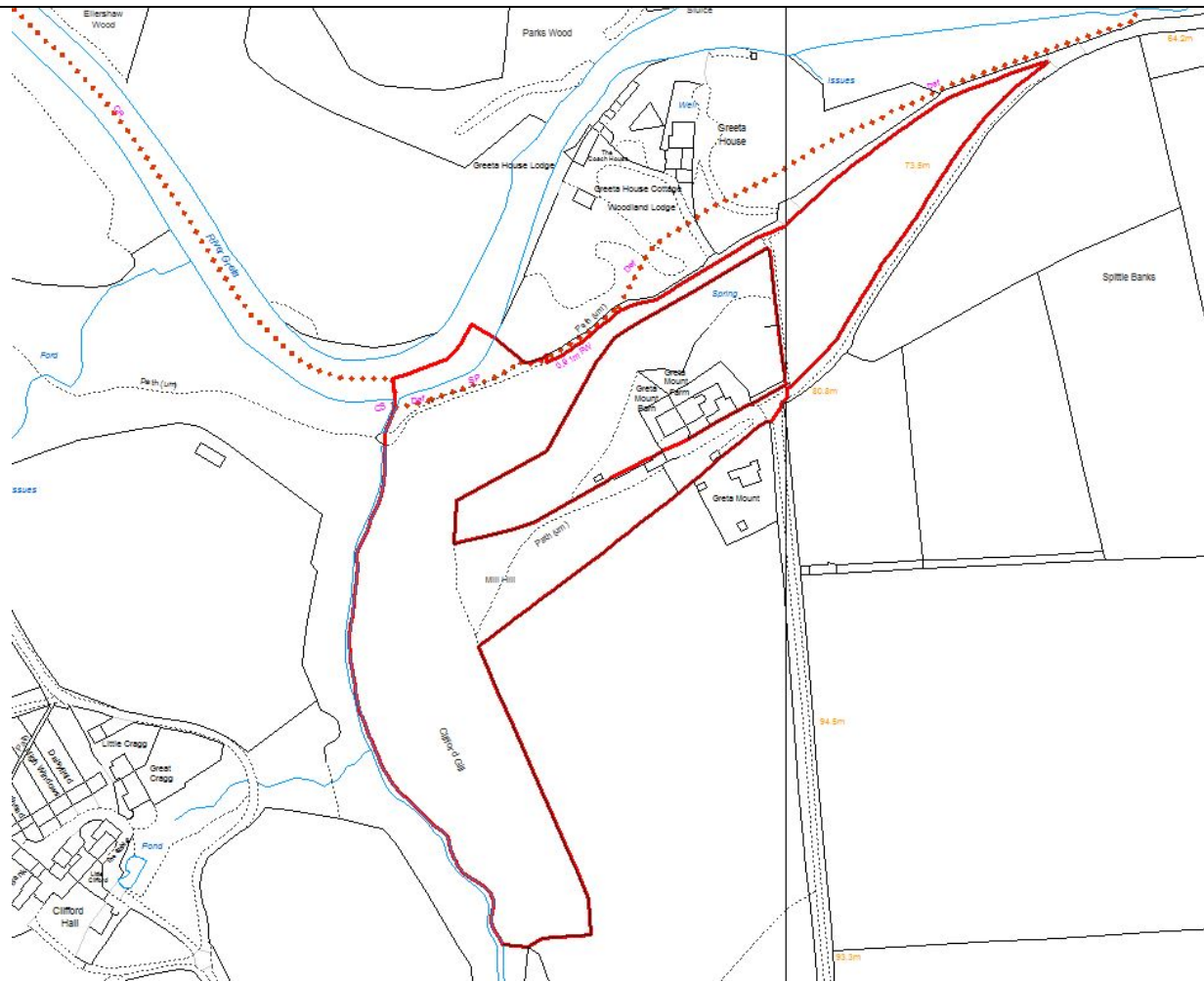
Karl Battersby

Corporate Director – Environment
North Yorkshire Council

Schedule

Description of the land seeking to be registered as common land

Greta Wood (Mill Hill Waste), Burton-in-Lonsdale, as edged red on the notice plan.



COMMONS ACT 2006

CA13 APPLICATION (Ref. No. CA13 028) SEEKING TO REGISTER LAND AS COMMON LAND AT GRETA WOOD, BURTON-IN-LONSDALE LOCATION PLAN

NOTICE PLAN



Application site

Commons Act 2006: Schedule 2

Application to correct non-registration or mistaken registration

This section is for office use only

Official stamp

Application number

<p>COMMONS ACT 2006</p> <p>NORTH YORKSHIRE COUNCIL</p> <p>COMMONS REGISTRATION AUTHORITY</p> <p>DATE: 26 APR 2023</p>
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<p>CA13 028</p>
<p>Register unit number allocated at registration (for missed commons only)</p>
<p> </p>

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

- Any person can apply under Schedule 2 to the Commons Act 2006.
- All applicants should complete boxes 1-10.
- Applications must be submitted by a prescribed deadline. From that date onwards no further applications can be submitted. Ask the registration authority for details.
- You will be required to pay a fee unless your application is submitted under paragraph 2, 3, 4 or 5 of Schedule 2. Ask the registration authority for details. You would have to pay a separate fee should your application relate to any of paragraphs 6 to 9 of Schedule 2 and be referred to the Planning Inspectorate.

Note 1

*Insert name
of commons
registration
authority.*

1. Commons Registration Authority

To the: North Yorkshire Council

Tick the box to confirm that you have:

enclosed the appropriate fee for this application:

or

have applied under paragraph 2, 3, 4 or 5, 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:

The Open Spaces Society

Postal address:

c/o Frances Kerner
The Open Spaces Society
25a Bell Street
Henley on Thames
Oxfordshire

Postcode RG9 2BA

Telephone number:

[Redacted telephone number]

Fax number:

[Empty fax number box]

E-mail address:

[Redacted email address]

3. Name and address of representative, if any

Name:

[Empty name box]

Firm:

[Empty firm box]

Postal address:

[Empty postal address box]

Postcode

Telephone number:

[Empty telephone number box]

Fax number:

[Empty fax number box]

E-mail address:

[Empty email address box]

Note 4

For further details of the requirements of an application refer to Schedule 4, paragraph 14 to the Commons Registration (England) Regulations 2014.

4. Basis of application for correction and qualifying criteria

Tick one of the following boxes to indicate the purpose for which you are applying under Schedule 2 of the Commons Act 2006.

To register land as common land (paragraph 2):

To register land as a town or village green (paragraph 3):

To register waste land of a manor as common land (paragraph 4):

To deregister common land as a town or village green (paragraph 5):

To deregister a building wrongly registered as common land (paragraph 6):

To deregister any other land wrongly registered as common land (paragraph 7):

To deregister a building wrongly registered as town or village green (paragraph 8):

To deregister any other land wrongly registered as town or village green (paragraph 9):

For waste land of a manor (paragraph 4), tick one of the following boxes to indicate why the provisional registration was cancelled.

The Commons Commissioner refused to confirm the registration having determined that the land was no longer part of a manor (paragraph 4(3)):

The Commons Commissioner had determined that the land was not subject to rights of common but did not consider whether it was waste land of a manor (paragraph 4(4)):

The applicant requested or agreed to cancel the application (whether before or after its referral to a Commons Commissioner) (paragraph 4(5)):

Please specify the register unit number(s) (if any) to which this application relates:

CL238

Note 5

Explain why the land should be registered or, as the case may be, deregistered.

5. Description of the reason for applying to correct the register:

The application land was provisionally registered as common land by an application made by the 'Inhabitants of Burton-in-Lonsdale acting by the Parish Council' to register a right of common. An objection was made by Bentham Parish Council following which the applicant withdrew the application. The land is therefore eligible for re-registration under paragraph 4(5). Continuation Sheet to Q5 describes the registration history and provides evidence that the application land is waste land of a manor.

Note 6

You must provide an Ordnance map of the land relevant to your application. The relevant area must be hatched in blue. The map must be at a scale of at least 1:2,500, or 1:10,560 if the land is wholly or predominantly moorland. Give a grid reference or other identifying detail.

Note 7

This can include any written declarations sent to the applicant (i.e. a letter), and any such declaration made on the form itself.

If your application is to register common land or a town or village green and part of the land is covered by a building or is within the curtilage of a building, you will need to obtain the consent of the landowner.

6. Description of land

Name by which the land is usually known:

Greta Wood. Register of common land refers to the land as Mill Hill Waste.

Location:

Immediately south of Burton-in-Lonsdale

Tick the box to confirm that you have attached an Ordnance map of the land: No map supplied because we are applying for all the land.

7. Declarations of consent

None required.

Note 8

List all supporting documents and maps accompanying the application, including if relevant any written consents. This will include a copy of any relevant enactment referred to in paragraphs 2(2)(b) or 3(2) (a) of Schedule 2 to the Commons Act 2006 or, in relation to paragraph 4 (waste land of a manor) evidence which shows why the provisional registration was cancelled. 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.

8. Supporting documentation

1. Supporting documents:

Site Visit Photographs

2. Documents relating to the Commons Registration Act 1965 on which we rely are not included pursuant to r.16(3), save where provided in Continuation Sheet to Q5:

a) Register of Common Land (CL238)

b) Register Maps (North Yorkshire SD67SE and SD67SW)

c) Application No.683.

d) Objection No.60.

<p>Note 9 <i>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.</i></p>	<p>9. Any other information relating to the application</p> <div style="border: 1px solid black; height: 250px; width: 100%;"></div>
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<p>Note 10 <i>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.</i></p>	<p>10. Signature</p> <p>Date: 26 April 2023</p> <p>Signatures: </p>
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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.

Continuation Sheet to Q.5

Registration History

The application land was provisionally registered as common land (CL238) on 27 May 1968 by an application (No. 683) made by the 'Inhabitants of Burton-in-Lonsdale acting by the Parish Council' to register a right of common. The provisional registration was entered in the register on 28 June 1968.

An objection (No. 60) was made by Bentham Parish Council and received by the commons registration authority on 10 March 1970. The objection stated that, 'the land was not common land at the date of registration by being Parish Waste by virtue of an Inclosure Award'. The objection was entered in the register of common land on 3 August 1970. The papers relating to the objection have not survived.¹

Following the objection, the applicant agreed to the cancellation of the provisional registration and this agreement was duly noted in the register of common land on 26 August 1971. Accordingly, the application land is hatched green on the register map (see Figure 1)

Figure 1: Extract from North Yorkshire SD67SE showing CL238



¹ Email from commons registration authority of 29 July 2021 refers.

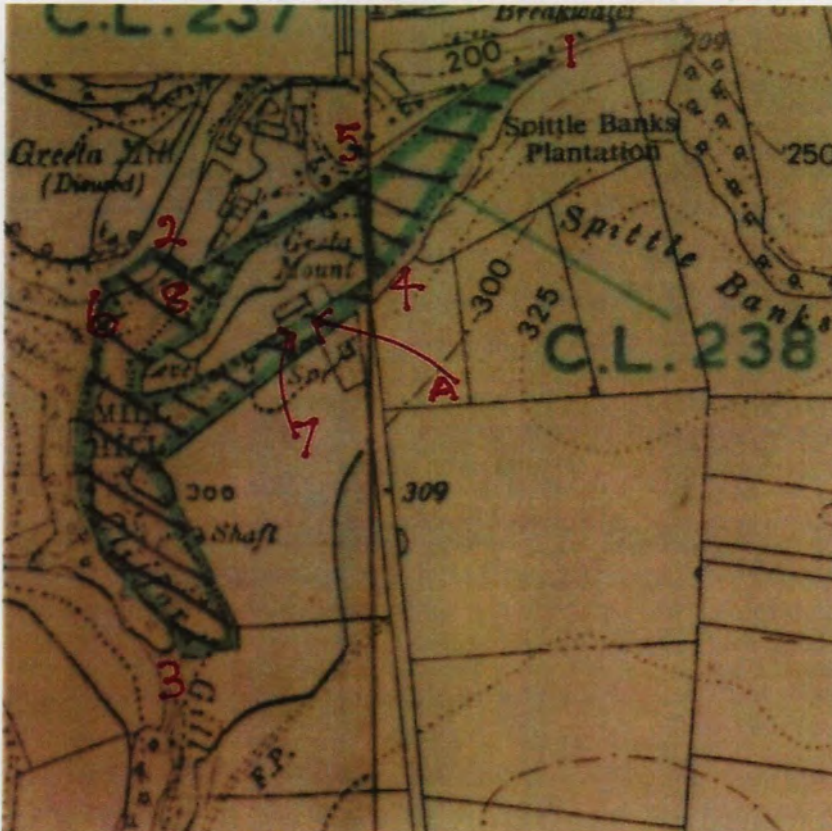
Under paragraph 4(5) of Schedule 2 to the Commons Act 2006 the application land is eligible for registration as common land.

Description of the application land

This description is supplemented by photographs which are in the Appendix.

The application land meets the descriptive character of waste land as defined in the case of *Attorney General v Hanmer*, i.e., the application land is open, uncultivated and unoccupied.² For ease of explanation, parts of the application land are identified by number (see Figure 2).

Figure 2: Map showing various parts of CL238 identified by number.



Source: Register map.

Open

The application land is bounded on the north between points 1 and 2 by walls surrounding Greta House gardens and paddocks. It is only reasonable that the adjoining land should be physically enclosed, for on the vast majority of commons, there is a customary obligation to fence against the common (see Historical Evidence below relating to the neighbouring enclosures). Between points 2 and 3, the application land is open to the watercourse of Clifford Gill. On the south between points 3 and 4 the application land is bounded, as

² *Attorney General v. Hanmer* (1858) 2 LJ Ch 837.

expected, by walls and fences against adjoining fields. Between points 4 and 1, the application land lies open to the road.

The Woodland Trust 'welcome' signs are sited at points 1, 5 and 6. There is a grassed area at the section of the application land marked A where there is also a gate at point No. 7. The gate does not prevent or hinder access because there is a 'welcome sign' at Point 7 and entry can be made on foot between the grassed area at 'A' and the land characterised by woodland beyond the gate. We note that the inclosure map (see Historical Evidence below and Figure 3) shows an occupation way running between Clifford Gill and Mill Hill.

The land is therefore open and is only bounded where it meets adjoining property.

Uncultivated

The vegetation is semi-natural woodland and scrub, dense in places but containing well-worn paths. There is no engagement with farming or activity with the soil which causes the soil to be broken for productive purposes and therefore the land can be described as uncultivated.

Unoccupied

There is no profitable use of the land to the exclusion of others such as intensive grazing, quarrying or paintball events and therefore the land can be described as unoccupied. There are footpaths running through the application land some of which are reinforced in wetter patches with broken brick, tile, or stone.

The application land is leased to the Woodland Trust who manage the site to improve woodland diversity and increase people's understanding and enjoyment of woodland.³

Management of the wood does not render the land occupied. Historically, waste land of a manor characterised by woodland was managed and regulated through the manor court. This might include felling of trees, pruning and planting of trees.

Historical Evidence

The application land is waste land of the manor of Ingleton. A perambulation of the manor made in 1754 records the north boundary of the manor as it travels west from Ingleton along the course of the River Greta. The boundary travels past the northern part of the application land and beyond to Ravens Close which is shown west of the application land on the map recording the inclosure of Bentham Moor.⁴ The perambulation confirms that the application land is in the manor of Ingleton (see extract below)

Beginning where Thornton River called Doe runs into and meets Ingleton River called Greet so down said River unto Parks on an old Watercourse there to the River again so down said River and then westward by Guyholme to Greet Gill and up said Greet Gill to Sharps House and through part of it and on Best Beck by John Howson's of Gill on the East Side of Ravens Close to the River Wenning and so up said River to Mill Air and on the south side of the Fence in said Mill Air to the River again and up the same to

³ Management Plan 2015-2020 for Greta Wood

⁴ North Yorkshire County Record Office (NYCRO): MIC 604.

Eska Beck and Eska Lane by the backside of Eska House to the Boundary stone on Beckwith down Beckwith Sike to the River Wenning so up said River to Meer Gill and up same to the Common called Bentham Moor to the Graystone on Whitestone Green on the East Side of Threap Haw....⁵

In 1768, 'certain commons and waste grounds called Bentham Moor as lieth in the manor of Ingleton...' were inclosed by Act of Parliament. The application land was part of the commons and waste lands and was subject to an allotment of land described as clay. This allotment will be described in more detail but it must be remembered that use of the word allotment does not mean that the land was inclosed, *i.e.*, the extinguishment of common rights. The word allotment means:

A share or portion of land assigned to a person or appropriated for a particular purpose; a plot ⁶

Although the manor of Ingleton was situated south of the River Greta, the inhabitants of the township of Burton (in the parish of Thornton-in-Lonsdale) which is situated north of the river had made use of the waste which was situated on the site of the application land. Before 1768, the people of the township of Burton had taken clay from the waste on the south side of the river, but we do not know the arrangements for their access and extraction of the clay. Use of the waste for the extraction of clay on the site of the application land before 1768 is confirmed in the text of the inclosure award:

'The said pieces of parcels of ground to be used by the owners and proprietors of lands and hereditaments within the Township of Burton aforesaid for the getting of clay for the making of pots and other purposes in manner as accustomed before the passing of the said Act'

The Act confirmed arrangements for the taking of clay that had been in place before 1768. Under the Act then, the land did not cease to be waste land of the manor of Ingleton but rather that the customary access and use that the inhabitants of Burton had enjoyed before continued. While the extract from the text of the award refers to the owners and proprietors, elsewhere in the award, the owners and proprietors are referred to as 'inhabitants'.⁷ A stone quarry was also allotted on the waste west of the land described as clay; this quarry no longer functions.

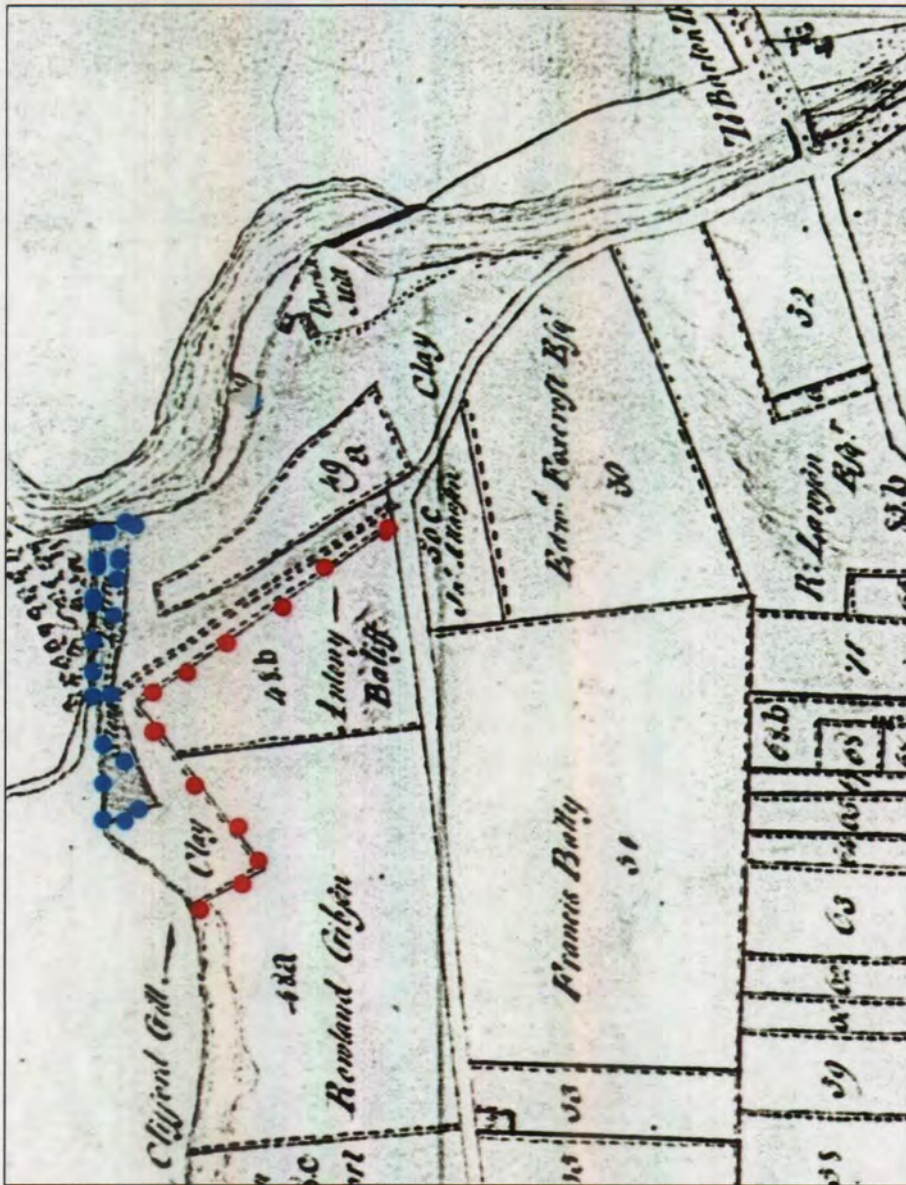
The responsibility for erecting fences between the land set aside for getting clay and two other allotments was given to the owners and proprietors of lands and hereditaments within the township of Burton. They were required to make fences between the land designated as 'clay' and allotments marked Number 48A and 48B (see Figure 3)

⁵ Ingleton Manor: Transcripts of Court Rolls *c.* 1692-1804. Reproduced with the kind permission of J. Sykes, A. Webster, J. Price, P. Robinson and M. Slater. Yorkshire Dales Community Archives - Capturing the Past.

⁶ Oxford English Dictionary.

⁷ See description of land, *i.e.* clay, surrounding Allotment No.49a-'clay for the use of the inhabitants of the Township of Burton'.

Figure 3: Blue dots outlining stone quarry sited on the application land. Red dots show fences for which the owners and proprietors of the Township of Burton were responsible (see above registration map to compare sites).



Source: NYCRO: Inclosure award and map of Bentham MIC 603 and 604.

The Tithe Survey for the parish of Bentham (1839) describes the application land as 'waste' (Tithe Apportionment No. 738). No rent charge was levied on this apportionment because it was not agriculturally productive and was therefore not subject to tithes. It is clear that before and after the Act of 1768, the land was considered waste land (see Figures 4 and 5).

Figure 4: Extract from the Tithe map of Bentham. Tithe Apportionment No. 736, site of application land outlined by red dots.



Source: © Crown Copyright Images reproduced by courtesy of The National Archives, London, England. www.NationalArchives.gov.uk & www.TheGenealogist.co.uk

Figure 5: Extract from Tithe Apportionment No. 738 of Bentham described as waste.

Bentham parish of	Themselves					
		280a	Pen fold		6	
		204	Old Workhouse		4	
		205	New Workhouse		8	
		207	Gardens		89	
		162	Waste	1		
		208	do	1	3	
		674	Quarry		12	
		930	do	1	19	
		<u>708</u>	<u>Waste</u>	7	34	
		042	do	1	10	
		764	Quarry		15	
				14	30	
						5

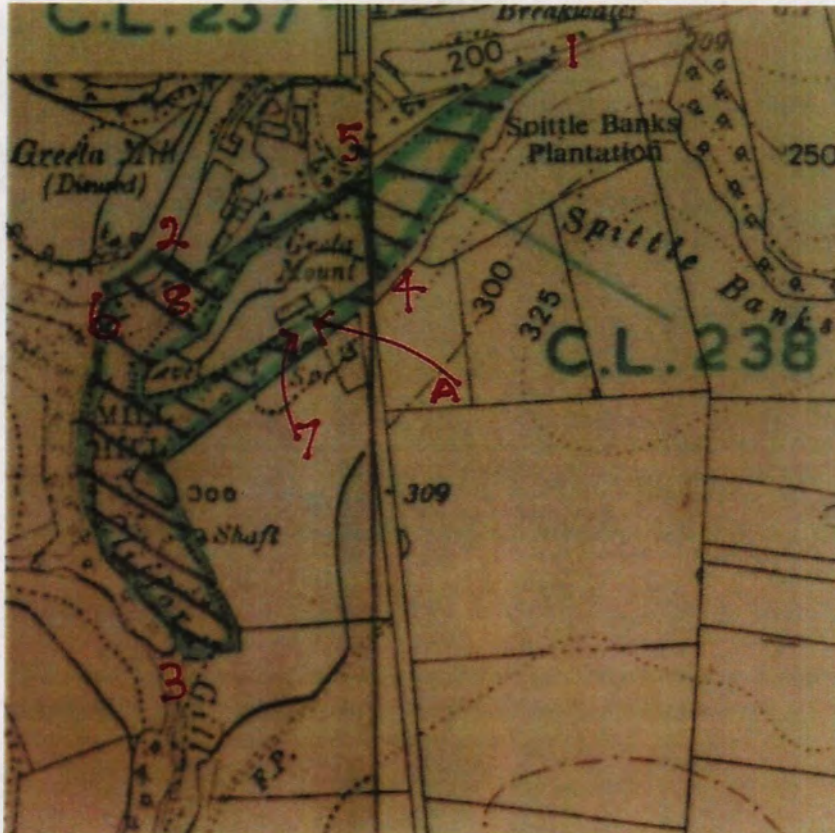
Source: © Crown Copyright Images reproduced by courtesy of The National Archives, London, England. www.NationalArchives.gov.uk & www.TheGenealogist.co.uk

Summary

Before the Act of 1768, the application land which was situated in the manor of Ingleton, was used by the people of the Township of Burton for the taking away of clay. The Act of 1768 confirmed the arrangements that had existed before 1768 and since this date, the land has continued to remain open, uncultivated and unoccupied.

Appendix Photographs

The photographs are referenced to the numbers and letter 'A' marked on the following extract from the registration map.



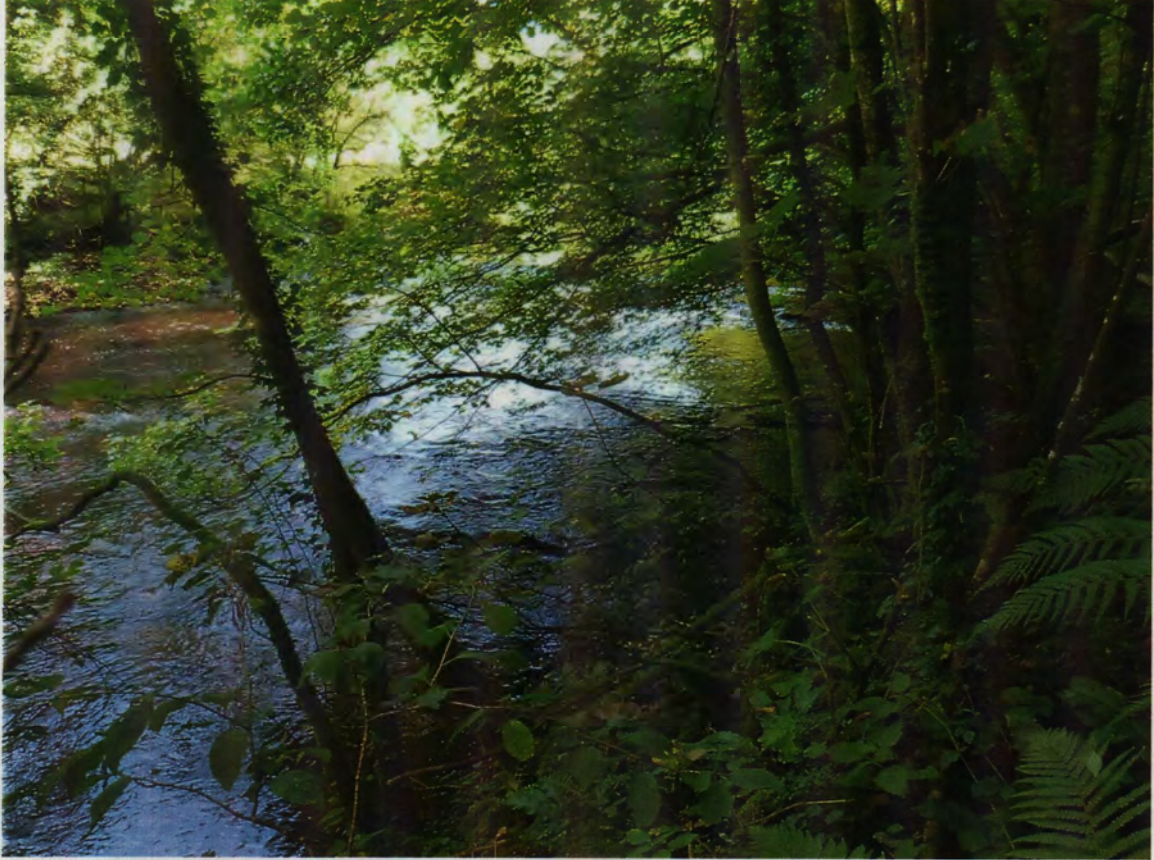
Photograph 1: Looking southwest at Point 1, 'welcome' sign to application land.



Photograph 2: Looking east, woodland near Point 5.



Photograph 3: River Bank between Point 6 and Point 2.



Photograph 4: Looking southwest from Point 4 towards gate at Point 7 permitting access beyond grassed area.



Photograph 5: Welcome sign, a little west of Point 7.



Photograph 6: Looking northwest to Point 7 with Point 4 in the distance (by telegraph pole behind car).



Photograph 7: Sign southwest of Point 5.



Photograph 8: Sign at Point 6.



Photograph 9: Looking south from near Point 6, track up Clifford Gill.



Register of COMMON LAND

See Overleaf
for Notes

LAND SECTION—Sheet No. 1

No. and date of entry	Description of the land, reference to the register map, registration particulars etc.
1 28th June 1968	<p>The piece of land known as Mill Hill Waste Land, Burton in Lonsdale, in the Parish of Burton in Lonsdale, in the Rural District of</p> <p>Settle in the West Riding of the County of York, as marked with a green verge line inside the boundary on Sheets 97 & 136 of the register map and distinguished by the number of this register unit. Registered in consequence of Application No.683 (rights) made 27th May 1968 by the Parish Council, Burton in Lonsdale, via Carnforth.</p> <p>(Registration provisional). (See entry No. 2 below)</p>
2 26th August, 1971.	The registration at entry No. 1 above is cancelled under section 5 of the Act.

No. and date of note	Notes	No. and date of note	Notes
1 3rd August, 1970	The objection No. 60 of Bentham Parish Council, Bentham, Nr. Lancaster made the 10th March, 1970 is noted in respect of registration entry No. 1 in this section. (See Note 2 below)		
2 26th August 1971.	The objection No. 60 having been agreed and entry No. 1 having been cancelled, Note No. 1 above is also cancelled.		

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

WEST RIDING COUNTY COUNCIL

Register unit No. C.L.238

Edition No. I

Register of COMMON LAND

See Overleaf
for Notes

RIGHTS SECTION—Sheet No. I

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
1 28th June 1968	632 27th May 1968	The inhabitants of Epton in Lonsdale acting by the Parish Council (Owner)	(a) A right of estovers (b) A right to get clay and to quarry stone (c) A right of piscary over the whole of the land comprised in this register unit. (Registration provisional) (See entry No. 2 below)	
2 26th August 1971.		The registration at entry No. 1	above is cancelled under section 5(5) of the Act.	

No. and date
of note

Notes

No. and date
of note

Notes

1
3rd August,
1970

Every objection to the registration, whether as common land or as a town or village green, of any land comprised in this register unit has effect as an objection to any registration (whenever made) under section 4 of the Commons Registration Act 1965 of any rights over that land, whether that registration appears in this register or in the Register of Town or Village Greens. If any of the land is also registered as a town or village green, a note to that effect will appear in each section of this register unit. (See Note 2 below)

2
26th August
1971.

The land referred to in objection No. 60 having been removed from the register Note No. 1 above is cancelled.

NOTE: This section contains the registration of every person registered under the Act as owner of any of the land described in the land section of this register unit. It does not contain any registration in respect of land of which the freehold is registered under the Land Registration Acts 1925 and 1936, but the absence from this section of a registration in respect of any land described in the land section does not necessarily indicate that the freehold of that land is registered under those Acts.

Registration authority

WEST RIDING COUNTY COUNCIL

Register unit No. C.L.238

Edition No. 1

Register of COMMON LAND

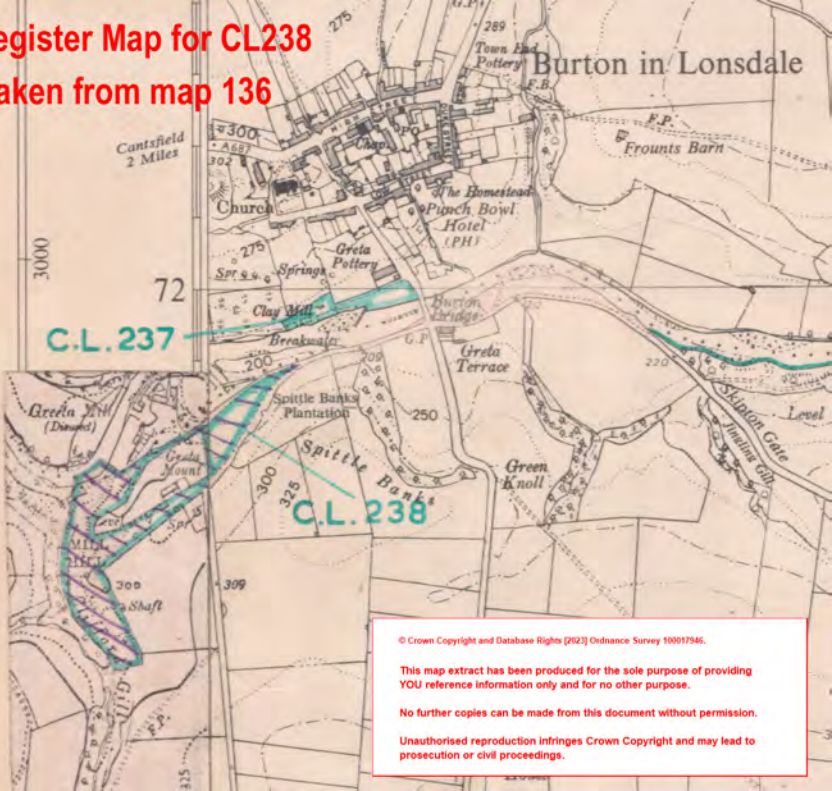
OWNERSHIP SECTION—Sheet No. 1

See Overleaf
for Notes

1 <i>No. and date of entry</i>	2 <i>No. and date of application</i>	3 <i>Name and Address of person registered as owner</i>	4 <i>Particulars of the land to which the registration applies</i>
1	1798	Bridgestock Limited, 5 Cross Street Manchester.	The whole of the land comprised in this register unit
15th May, 1969	26th March, 1969	(Registration provisional) (See entry No. 2 below).	
2 26th August 1971.		The registration at entry No. 1 above is cancelled under section 6(3) of the Act.	

Register Map for CL238

Taken from map 136



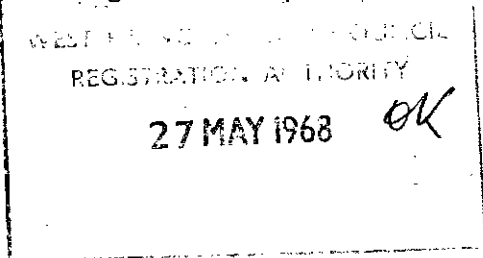
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This map extract has been produced for the sole purpose of providing YOU reference information only and for no other purpose.

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Official stamp of registration authority indicating date of receipt



Application No. 688

Register Unit No(s) 238

COMMONS REGISTRATION ACT 1965

Application for the registration of a right of common

IMPORTANT NOTE: Before filling in this form, read carefully the notes on the back. An incorrectly completed application may be rejected.

Insert name of registration authority (see Note 1).

To the County Council of West Riding of Yorkshire.

Application is hereby made for the registration of the right of common of which particulars are set out below.

Part 1.

(Give Christian names or forenames and surname or, in the case of a body corporate, the full title of the body. If part 2 is not completed all correspondence and notices will be sent to the first-named applicant. See Note 2 for information as to who may apply.)

Name and address of the applicant or (if more than one) of every applicant.

Inhabitants of Burton-in-Lonsdale acting by the Parish Council.

Part 2.

(This part should be completed only if a solicitor has been instructed for the purposes of the application. If it is completed, all correspondence and notices will be sent to the solicitor.)

Name and address of solicitor, if any.

Part 3.

(Read Note 2 and insert "owner" "tenant" or as the case may be. If there is more than one applicant the capacity of each must be stated against his name in this space.)

Capacity in which the applicant is entitled to apply for registration.

Owner

Part 4.

(See Notes 3 and 4.)

Description of the land over which the right of common is exercisable.

Name by which commonly known *Mill Hill Waste Land.*

Locality *Pansh of Bentham.*

**Delete reference to plan where none is submitted. A plan must be used except as mentioned in Note 4.*

Colour on plan *Green and Red.*

Part 5.

(See Notes 3 and 7. If the right is exercisable only during limited periods, full particulars of these periods must be given.)

Description of the right of common.

Right of Estovers ~~is~~ one which is based on long usage.

*Getting of Clay } Enclosures Award
Quarrying of Stone } 1767*

Right of Common of Piscary from Common Land.

Part 6.

(See Note 4. If the right is not attached to any land, the fact should be stated here.)

Description of the farm, holding or other land to which the right is attached, if any.

Part 7.

(See Note 8.)

For applications submitted after 30th June, 1968 (to be disregarded in other cases).

Does the prescribed fee of £5 accompany this application? If not, state whether this is for reason (a) or (b) mentioned in Note 8, and give the appropriate particulars required by that note.

***Signature(s) of applicant(s) or of person on his or their behalf.**

**The application must be signed by the applicant, or by every applicant, personally, unless the applicant is a body corporate or charity trustees, in which case it must be signed by the secretary or some other duly authorised officer.*



*Clerk to the Pansh Council,
Burton in Lonsdale.*

Date

Statutory Declaration in Support

(See Note 6)

To be made by the applicant, or every applicant, personally, unless the applicant is a body corporate or charity trustees, in which case the declaration must be made by the person who has signed the application. Inapplicable wording should be deleted throughout.

Insert full name(s).

[I] [We] Hannah Elizabeth Anne Darke.

Strike out this paragraph if it does not apply.

Insert capacity in which acting.

solemnly and sincerely declare as follows:

- 1. [I am] [~~We are~~] the person(s) who [has] [~~have~~] signed the foregoing application.
- 2. 'I am' Clerk to the applicant(s) and am authorised by the applicant(s) to make the foregoing application on [his] [their] behalf.
- 3. [I] [~~We~~] have read the Notes on the back of the application form and believe that [~~I~~] [~~we~~] [the applicant(s)] [am] [are] [is] entitled, in the capacity or respective capacities stated in the application, to apply for the registration under the Commons Registration Act 1965 of the right of common described in the application.

Strike out this paragraph if there is no plan.

Insert "marking" as on plan (see Note 6).

4. 'The plan now produced and shown to me marked " F " is the plan referred to in part 4 of the application.

5. 'The plan now produced and shown to me marked " " is the plan referred to in part 6 of the application.

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

Declared by the said Hannah Elizabeth

Anne Darke

.....
.....
.....
.....
.....
.....



at how bentham
in the wharf of the
this 17 day of 5 1966

Before me,

Signature [Redacted]

Address Clouds bank
how bentham lancaster

Qualification Justice of the Peace.

REMINDER TO OFFICER TAKING DECLARATION:
Please initial all alterations and mark any plan as an exhibit.

Notes

1. Registration authorities

The applicant should take care to submit his application to the correct registration authority. This depends on the situation of the land over which rights of common are claimed. Except where there is an agreement altering the general rule (see below), the registration authority for land in an administrative county is the county council; for land in a county borough, it is the county borough council, and for land in Greater London, it is the Greater London Council.

In the case of land which is partly in the area of one registration authority and partly in that of another, the authorities may by agreement provide for one of them to be the registration authority for the whole of the land. Public notice is given of such agreements, but an applicant concerned with land lying close to the boundary of an administrative area, or partly in one area and partly in another, should, if in doubt, enquire whether an agreement has been made and, if so, which authority is responsible for that land.

It is not necessary for the land over which a right of common is exercisable to be registered before an application for the registration of the right itself is made: see Note 9.

2. Who may apply for registration

An application for the registration of a right of common may be made—

- (a) by the owner of the right;
- (b) where the right is attached to any land, and is comprised in a tenancy of the land, by the landlord, the tenant, or both of them jointly;
- (c) where the right belongs to an ecclesiastical benefice of the Church of England which is vacant, by the Church Commissioners.

In a case where the landlord and the tenant of any land are both entitled to apply for the registration of a right of common attached to the land, they may consider it advisable to apply jointly, because—

- (a) if two separate applications relating to the same right are accepted for registration and differ in any material particular, a conflict arises, and each registration has to be treated as an objection to the other. Such a case would normally have to be referred to a Commons Commissioner for decision;
- (b) if a joint application is submitted, and is accepted for registration, both applicants will be entitled to appear before the Commons Commissioner in support of the registration, should any objection to it be referred to him;
- (c) a person entitled to make an application who is content to leave it to another person (independently so entitled) to make it will, on the other hand, have no right to appear at the hearing of any objection to the registration and may have no claim against that other person if for any reason the right is not registered or the registration does not become final, or becomes final with modification.

Where the Church Commissioners apply for the registration of a right belonging to a vacant benefice, the fact should be stated, and the name of the benefice given, in part 3.

Where the applicants are charity trustees, the fact should be stated, and the name of the charity given, in part 3.

3. Meaning of "rights of common"

Rights of common are not exhaustively defined in the Act, but it is provided that they include cattlegates or beastgates (by whatever name known) and rights of sole or several vesture or herbage or of sole or several pasture. They do not, however, include rights held for a term of years or from year to year. Further information is contained in the official explanatory booklet "Common Land", available free from local authorities, from which the following extract is taken:

"A right of common is generally taken to mean a right which a person may have (generally in *common with* someone else) to take part of the natural produce of another man's land; for example, a right to the herbage (a right of common of pasture); a right to take tree loppings or gorse, furze, bushes or underwood (a right of estovers); a right to take turf or peat (a right of common of turbary); a right to take fish (a right of common of piscary); a right to turn out pigs to eat acorns and beebmast (pannage). There are various other types of rights of common, some existing only in particular areas, and it is impossible to give a complete list. The Act does not therefore attempt to give a comprehensive definition of the expression 'rights of common'."

This extract must not be taken as an authoritative statement of the law. Anyone who is not sure whether a right is registrable under the Act should seek legal advice.

4. Land descriptions

(a) *For purposes of part 4.* Except where the land has already been registered under the Act (as to which see below and Note 5), the particulars asked for at part 4 of the form must be given, and a plan must accompany the application. The particulars in part 4 are necessary to enable the registration authority to identify the land concerned, but the main description of the land will be by means of the plan. This must be drawn to scale in ink or other permanent medium and be on a scale of not less, or not substantially less, than six inches to one mile. It must show the land to be described by means of distinctive colouring (a coloured edging inside the boundary will usually suffice), and it must be marked as an exhibit to the statutory declaration. (See Note 6.)

Where the land has already been registered and comprises *the whole of the land* in one or more register units, a plan is unnecessary provided the register and register unit number(s) are quoted (see Note 5). If the application concerns only part of the land comprised in a register unit, however, it will not always be possible to dispense with a plan. A plan will not be needed if the land can be described by reference to some physical feature such as a road, a river or railway, so that the description might, for example, read "The land in register unit No. lying to the south of the road from A to B". Where this method is not practicable the land must be described by a plan prepared as mentioned above. In cases where the procedure of reference to an existing register unit is adopted, part 4 of the form should be adapted accordingly, and where no plan is submitted inappropriate references to a plan should be deleted.

(b) *For purposes of part 6.* If the right is attached to any farm, holding or other land, that land should be described in part 6. This may be done either by a plan prepared as explained in (a) above, or, alternatively, by reference to the numbered parcels on the most recent edition of the ordnance map (quoting the edition), supplemented, where necessary to describe part of a parcel, or any land not numbered on the ordnance map, by a plan prepared in accordance with (a) above. Sufficient particulars of the locality must in any case be given to enable the land to be identified on the ordnance map.

If the right is held in gross, that is, not attached to any land, that fact should be stated in part 6.

5. Inspection and search of registers

To ascertain whether land has been registered under the Act, anyone may inspect the registers at the office of the registration authority, or the copies of register entries affecting the land in their areas held by other local authorities including parish councils. Alternatively, an official certificate of search O.S.C. must be made in writing on C.R. Form No. 21, a separate requisition being required for each register. If the land is registered, the certificate will reveal the register unit number(s) and whether any rights of common and claims to ownership are registered. It is also possible that the land is exempt from registration: the registration provisions of the Act do not apply to the New Forest, Epping Forest or the Forest of Dean, nor to any land exempted by order under section 11. If the land is exempt, the certificate will say so, and it will not be possible to register rights of common over it under the Act, but such rights as exist will not be prejudiced by non-registration.

6. Statutory declaration

The statutory declaration must be made before a justice of the peace, commissioner for oaths or notary public. Any plan referred to in the statutory declaration must be marked as an exhibit and signed by the officer taking the declaration (initialing is insufficient). A plan is marked by writing on the face in ink an identifying symbol such as the letter "A". On the back of the plan should appear these words:

This is the exhibit marked 'A' referred to in the statutory declaration of (name of declarant) made this (date)

19 before me,

.....
(Signature and qualification)

If there is more than one plan care should be taken to choose a different identifying letter for each.

7. Grazing rights

The right of common consists of or includes a right to graze animals, or animals of any class, the application must state the number of animals, or the numbers of animals of different classes, to be entered in the register. This presents no difficulty where the right to graze is already limited by number. However, for registration purposes grazing rights not limited by number (sometimes called rights "sans nombre", or without stint) must be quantified. This means that the applicant must enter in part 5 of the application form the number of animals, or the numbers of animals of different classes, which he believes himself entitled to graze. If the application is accepted, the right of grazing will be provisionally registered in accordance with the number or numbers which have been so entered. When the registration has become final the right of grazing will be exercisable in relation to animals not exceeding the number or numbers registered or such other number or numbers as Parliament may later determine. The applicant should not insert a figure higher than that which he believes himself entitled to. If he puts in an excessive figure the provisional registration is likely to be objected to. In that case, unless the registration authority permits it to be cancelled, or the objection is withdrawn, the matter will in due course be referred to a Commons Commissioner for decision, and if the Commissioner orders the figure to be reduced he may also order the applicant to pay the costs of the objector.

8. Submission of application: fees

The application must reach the registration authority properly completed during one of the registration periods allowed under the Act. The first registration period begins on 2nd January 1967 and ends on 30th June 1968, and the second begins on 1st July 1968 and ends on 2nd January 1970.

There is no charge for applications made during the first registration period, but every application made during the second registration period must be accompanied by a fee of £5 unless—

(a) during the first registration period the applicant gave the registration authority notice in C.R. Form No. 5 of his intention to make the application, or

(b) the right of common did not become registrable until after 30th April 1968.

If (a) applies, the applicant should quote in part 7 of the form the number on the acknowledgment from the registration authority. If (b) applies, he should explain in part 7 why the right was not registrable until after 30th April 1968.

9. Action by registration authority

The registration authority will on receipt of the application send an acknowledgment. If this is not received within 10 days the applicant should communicate with the authority. Later, the applicant will be told whether the application has been accepted or rejected. If it is accepted, then —

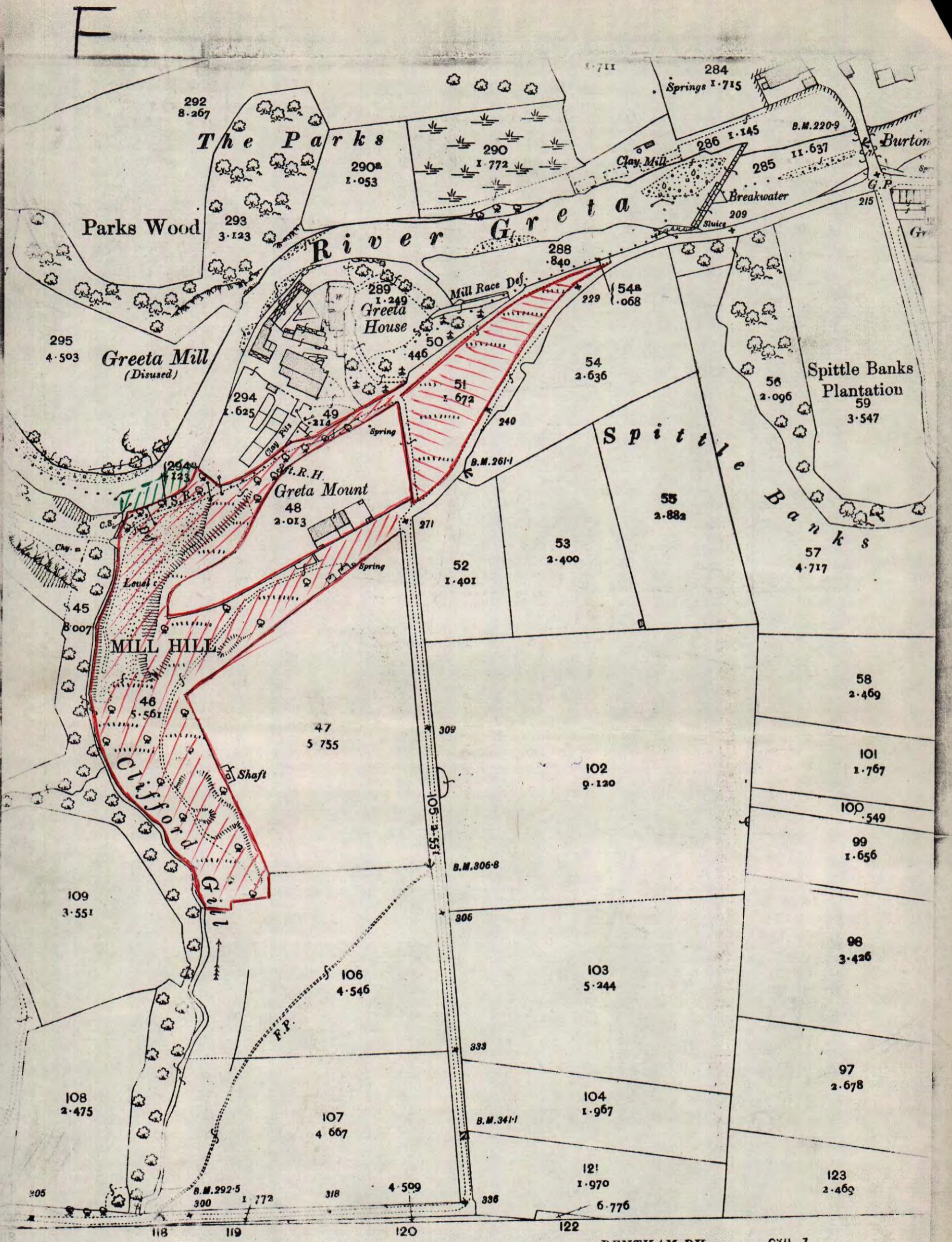
(a) if the land over which the right of common is claimed to be exercisable is not already registered under the Act, it will be provisionally so registered, and the right of common will be provisionally registered as exercisable over it, or

(b) if that land is already registered under the Act, the right of common will be provisionally registered as exercisable over it.

The applicant will also in due course be told of any objection to the registration. (As to objections, see the official explanatory booklet "Common Land", available free from local authorities.)

10. False statements: groundless applications

The making of a false statement to procure registration may render the maker liable to prosecution. Moreover, a registration which is objected to will, unless the registration authority permits it to be cancelled, or the objection is withdrawn, be referred to a Commons Commissioner. If, at the hearing before the Commissioner, the registration cannot be substantiated, it will be removed from the register, and the applicant may be ordered to pay the costs of the objector.



BENTHAM PH. CXII. 7.


Printed and Published by the Director General at the Ordnance Survey Office.
 The Altitudes are given in Feet above the assumed Mean Level of the Sea at Liverpool which is 0.650 of a Foot
 Altitudes indicated thus (B.M. + 54.7) refer to Bench Marks on Buildings, Walls, &c. those marked

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27
4.370

This is the exhibit marked "F" referred to in the
Statutory declaration of H.E. ADAME made this ~~7-3-68~~ Jan.
17.5.68.

Before me,


Justice of Peace. Westhamp Col.

Signature and qualification.