

NORTH YORKSHIRE COUNCIL

COMMONS ACT 2006 — SCHEDULE 2, PARAGRAPH 4

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

Application Reference Number: CA13 033

Osmotherley Moor, Osmotherley (CL253)

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 033
- 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 17 April 2024

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: 27 February 2024

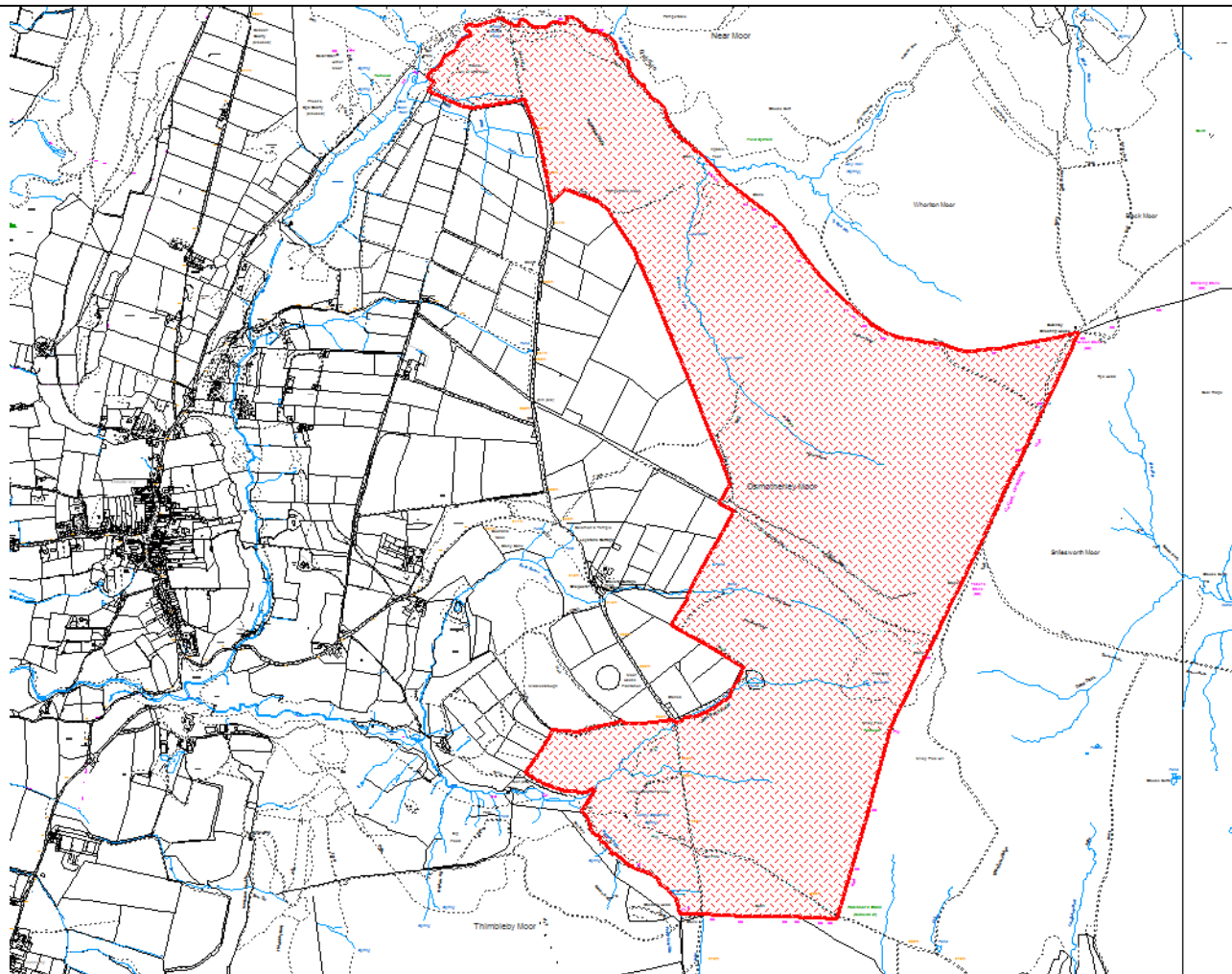
Karl Battersby

Corporate Director – Environment
North Yorkshire Council

Schedule

Description of the land seeking to be registered as common land

Osmotherley Moor, Osmotherley, as edged red on the notice plan.



COMMONS ACT 2006

CA13 APPLICATION (Ref. No. CA13 033) SEEKING TO REGISTER LAND AS COMMON LAND KNOWN AS OSMOTHERLEY MOOR, OSMOTHERLEY 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

COMMONS ACT 2006

NORTH YORKSHIRE COUNCIL

COMMONS REGISTRATION AUTHORITY

DATE: 30 JAN 2024

CA13 033

Register unit number allocated at registration (for missed commons only)

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:

2 2 24 09014 2 3

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
25a Bell Street,
Henley-on-Thames,
Oxfordshire

Postcode RG9 2BA

Telephone number:

Fax number:

E-mail address:

3. Name and address of representative, if any

Name:

Firm:

Postal address:

Postcode

Telephone number:

Fax number:

E-mail address:

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:

CL 253 (part of)

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 in consequence of a rights application (No.1662). Following an objection (No. 402), the applicant withdrew the application and the provisional registration was cancelled. The application land is therefore eligible for registration under para.4(5) of Schedule 2 to the Commons Act 2006.

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:

Osmotherley Moor

Location:

East of the village of Osmotherley, North Yorkshire.

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

**7. Declarations of consent**

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. 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 (CL253)
- b) Register Map (C North Yorkshire SE49NE)
- c) Application No.1662 and letters
- d) Objection Nos. 402 and 509

Note 9

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.

9. Any other information relating to the application

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Note 10

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.

10. Signature

Date:

30 January 2024

Signatures:

**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 Q5

Registration History

The provisional registration of the application land was made in consequence of a rights application (No.1662) made by Mrs Annie Potts on 27 October 1969. The application was received by the commons registration authority (the CRA) on 28 October 1969 and entered in the land section of the register of common land on 17 December 1969 and in the rights section of the register on 18 December 1969.

The agents for Sir Richard L. Barwick made an objection (No. 402) on 28 April 1972 which was entered in the register of common land on 22 June 1972. The objection stated that 'The rights claimed by Mrs. Annie Potts of 20 West End, Osmotherley do not exist at all'. The County Surveyor made two objections (Nos. 485 and 509) on 27 July 1972 relating to the exclusion of highway from the registration. The former was entered in the register of common land on 7 August 1972 and the latter on 21 August 1972.

By way of her solicitor, Mrs Potts withdrew her application by letter in July 1973.¹ The land section of the register of common land records 'Registration Withdrawn, 19 July, 1973'. Over the page, the register records that Objection No. 402 was upheld, and that the registration was withdrawn. The date of this entry in the register of common land is 20 July 1973. The register also records the interest of the Church Commissioners (the successors to the Ecclesiastical Commissioners), to the mines and minerals beneath the soil. This interest will be returned to later.

The entries in the register of common land recording the sequence of events indicate that following the objection made by Sir Richard L. Barwick, Mrs Annie Potts withdrew her application. The application land is therefore eligible for registration as common land under paragraph (4)(5) of Schedule 2 to the Commons Act 2006.

Description of the Application Land

The land subject to the application is shaded blue on the application plan. The land shaded pink is excluded from the application because it has been enclosed and does not meet the criteria for registration.

First, the application land is of manorial origin as demonstrated by the historical evidence (see below). Second, all the land fulfills the descriptive character of waste as defined in the case of *Attorney General v Hanmer*, i.e., the application land is, 'the open, uncultivated and unoccupied lands parcel of the manor other than the demesne lands of the manor'.² Photographs relating to the application land are in the Appendix.

¹ There are two letters relating to the withdrawal of the application which are held by the CRA. One is dated 13 July 1973 and the other 18 July 1973.

² (1858) 27 LJ Ch 837.

Open

The application land is open on its northern and eastern boundaries. On the western boundary there are walls abutting the application land. The walls enclose parcels of land and are fenced against the waste which is to be expected because on the vast majority of commons, there is a customary obligation to fence against the common. On the south boundary there is a fence but this does not extend to the entire length of the boundary. We do not believe there is any fencing along Oakdale Beck, which is a natural and former boundary between the township of Thimbleby and the township of Osmotherley, but even if there were, this would not render the land enclosed because the land is open on the northern and eastern boundary. In summary, the application land is open.

Uncultivated

We understand that shooting of game takes place on the application land and that the herbage is managed to support the game population. This is entirely consistent with the management and use made of the application land in the nineteenth century when the sporting rights were let by the lord of the manor and common rights were exercised. In relation to letting of the land, we provide an extract from para.3-31 in *Gadsden and Cousins on Commons and Greens* (3rd edition) concerning the decision made by the commons commissioner relating to *Twm Barlwm Common*³:

'the fact that [the land] has been let is a relative consideration but is not conclusive. A tenancy merely gives a right to occupy. If a tenant never goes to the land he has taken it may well remain unoccupied. If he does make use of it the question whether the land is 'occupied' is a question of fact'

In relation to works on common land, [Guidance](#) issued by the Department for the Environment Food and Rural Affairs (Defra) states that consent is not required on common land for the erection of shooting butts that are smaller than 10 square metres. This suggests that grouse shooting is a recognised activity on common land.

Unoccupied

We note that for the protection of game, dogs are not allowed on the land with the exception of registered assistance dogs and dogs kept under effective control on public rights of way. The application land is mapped as open country to which the public have the right of access on foot. Furthermore, as stated the exercise of sporting rights is entirely consistent and supportive of the application land being waste land of a manor. We observed on our site visit that there was no activity on the application land other than the grazing of sheep, walking for recreation and evidence of the land being used for grouse shooting. The land is not used to the exclusion of others and is therefore not occupied.

³ 1986) 273/D/106-7.

Historical Evidence

The application land was situated in the manor of Northallerton which was formerly held by Bishop of Durham. In the nineteenth century the manor was transferred to the Bishop of Ripon (the Bishopric of Ripon).⁴

In 1755, part of Osmotherley Moor, in the manor of North Allerton, was inclosed by act of parliament (the Act of 1755).⁵ Richard, Lord Bishop of Durham was lord of the manor of North Allerton at the time. The act recites that in 1754, several proprietors had signed an agreement petitioning the lord of the manor for inclosure of the moor. The land subject of the act was described as:

a large Common Moor or Tract of Wast Land called Osmotherley Common or Osmotherley Moor.....in the township of Osmotherley and within the manor of North Allerton containing 2,300 acres

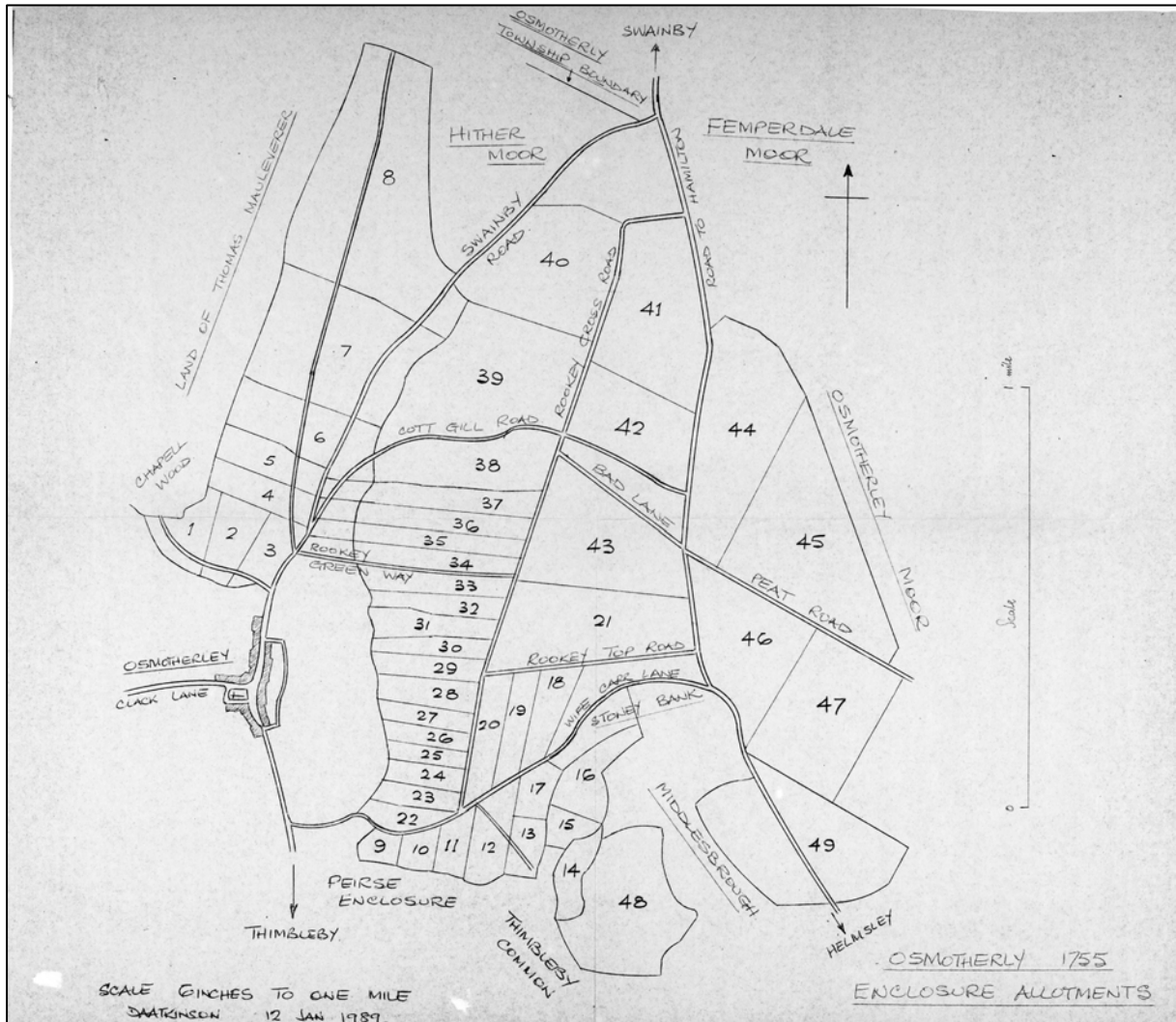
There is no map accompanying the inclosure award, but a modern re-construction shows the land that was finally inclosed (see Figure 1).⁶

⁴ In the historical record, the manor is sometimes spelt as Northallerton, North Allerton. and is also referred to as the manor of Allertonshire (see Lambeth Palace Library (LPL): ECE/7/1/14774 Part 1. Copy of letter from W T Jefferson to Captain Tucker of the OS Office, April 1852. The various spellings are faithfully reproduced here.

⁵ Parliamentary Archives: HL/PO/PB/1/1755/28G2n110. An Act for confirming and establishing an Agreement for inclosing Osmotherley Moor or Common in the County of York and for rendering the said agreement more effectual for the purposes thereby intended.

⁶ LPL: ECE/7/1/14774 Part 1. On 14 October 1889, the deputy steward of the manor reported that in 1857 (18 September 1857) he had tried to locate the map believing it to be in the Exchequer Building, Durham but had never heard any more about its location. The building now forms part of Palace Green Library, University of Durham.

Figure 1: Modern construction of land allotted in 1755.



Source: North Yorkshire County Record Office (NYCRO)-CRONT 1204.

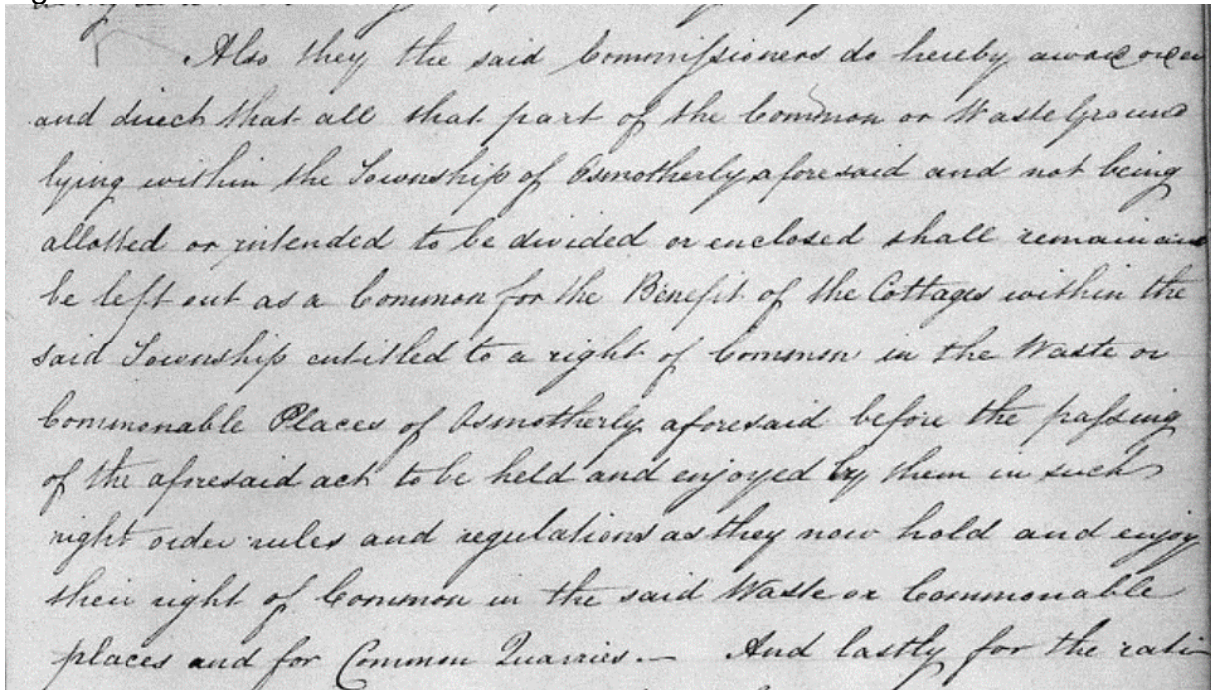
Significantly, the inclosure award recorded that only about half of Osmotherley Moor was inclosed:

....and do also, with the consent and approbation of the said several proprietors and owners testified as aforesaid hereby given, order and determine to divide assign set out and allot 1,080 Acres in Statute Measure of the Moors Common, or Waste Grounds as fit to be divided and no more and by and with the like consent and approbation of the said several proprietors and owners do make the following division partition and allotments thereof ⁷

⁷ University Library and Collections, Durham University (DU): DHC1/M.76, f.251v. Indenture of award upon the division of Osmotherley Common, Yorkshire, September 1755.

The remaining part of the common (about 1,220 acres) was left as a common for the benefit of the cottages situated within the township of Osmotherley, to which were attached rights of common (see Figure 2).

Figure 2: Extract from Inclosure Award.



Source: DU-Reproduced by permission of Durham University Library and Collections-DHC1/M.76, f.265.

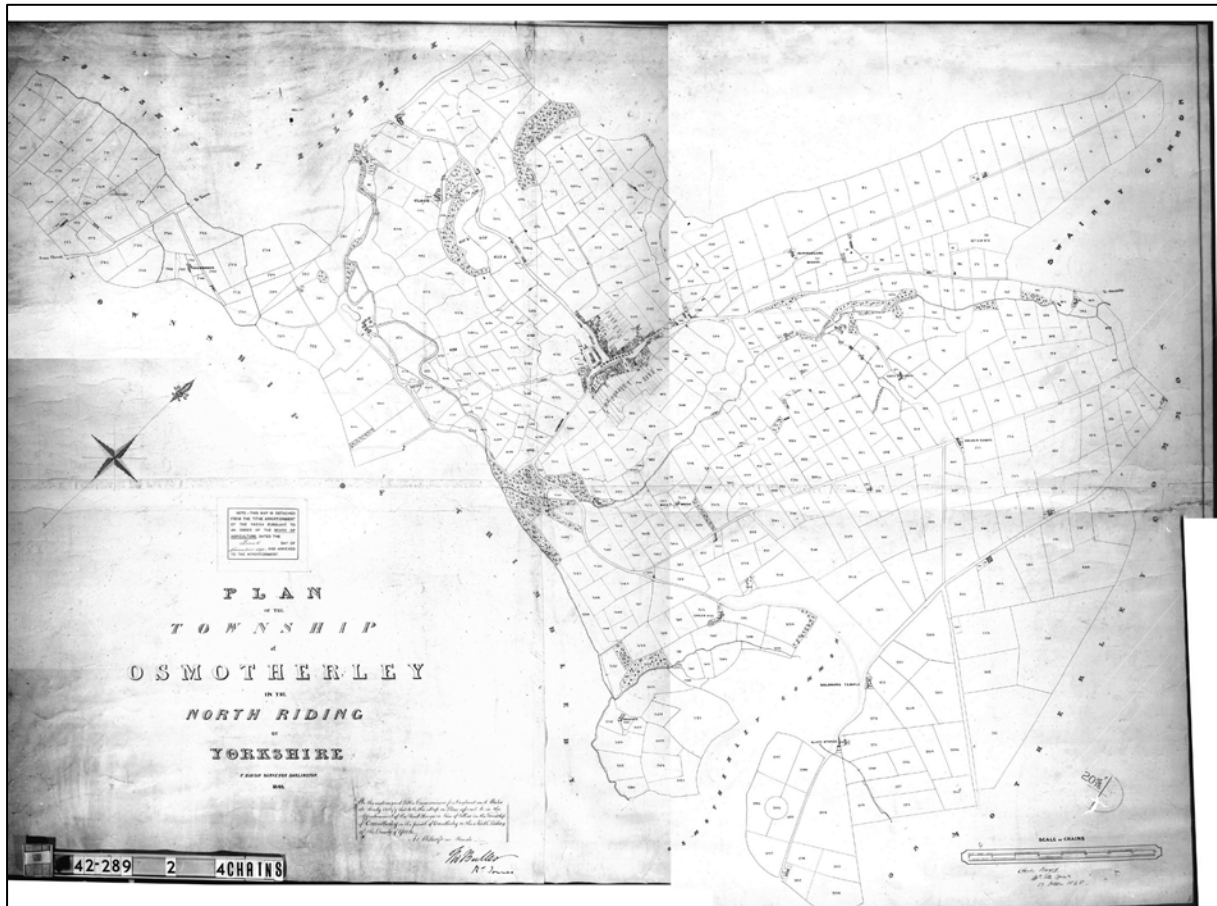
Transcription:

Also they the said Commissioners do hereby award order and direct that all that part of the Common or Waste Ground lying within the Township of Osmotherly aforesaid and not being allotted or intended to be divided or enclosed shall remain and be left out as a Common for the Benefit of the Cottages within the said Township entitled to a right of Common in the Waste or Commonable Places of Osmotherly aforesaid before the passing of the aforesaid act to be held and enjoyed by them in such right order rules and regulations as they now hold and enjoy their right of Common in the said Waste or Commonable places and for Common Quarries...

In summary, the application land was in the manor of North Allerton and was considered waste land of the manor. It was not inclosed under the Act of 1755 and remained open and subject to rights of common.

The Tithe survey of the Township of Osmotherley (1847/8) does not apportion any rent charge to the application land. This is because the land was not subject to tithes (see Figure 3).

Figure 3: Tithe Map of the township of Osmotherley. Only part of the application land is recorded on the map. It is named but has no apportionment.



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

Returning to the letting of sporting rights, the lord of the manor, as owner of the soil of the waste, held the right to take animals 'ferae naturae'. This right is a manorial incident but in everyday parlance is usually known as a sporting right. The lord of the manor might exercise this sporting right himself or let the right to another person. Robert Haynes, owner of the Thimbleby Estate rented the sporting rights on the uninclosed moor from the Bishop of Ripon from about 1849; the letting of the sporting rights continued after administration of the manor was transferred to the Ecclesiastical Commissioners, with Mr Haynes still renting the rights in 1889.⁸ By 1890 illegal activity on the moor prompted the deputy steward of the manor to take action. He prepared a notice setting out the history of the inclosure of Osmotherley Moor, informing the local population that only the occupiers of the 47 tenements to which common rights were attached, were permitted to exercise common rights; only those who held rights could take turves from the moor and turn their sheep on it. He went on to threaten legal action against future offenders (see Figures 4 and 5).⁹

⁸ LPL: ECE/7/1/14774 Part 1. Letter from Robert Haynes, 4 May 1852 and letter 21 October 1889 to Ecclesiastical Commissioners from Kirkleatham, Redcar.

⁹ LPL: ECE/7/1/14774 Part 1, Draft Notice, 23 August 1890.

Figure 4: First page of Common Rights Notice.

Demotherley Moor
Common Rights
Notice

9120²
23 AUG 1890

In consequence of the irregularities prevailing as to the exercise of the rights of common upon Demotherley Moor within and parcel of the Manor of Northallerton the attention of the Commoners is directed to the following facts and to their legal position.

The Moor formerly contained 2300 acres of unenclosed land but by virtue of an act of 28 Geo. II for the enclosure thereof and of an award date 23rd September 1755, 1030 acres parcel of the said Moor were enclosed and awarded to the several persons (24⁷ in number) mentioned in the award owners and proprietors of certain Cottages or Tenements situate within the township of Demotherley in respect of and as appurtenant to such Cottages or Tenements thus leaving 1270 acres still unenclosed.

The Commissioners appointed to make the award thereby awarded orders and directed that all that part of the Common or waste grounds lying within the township of Demotherley aforesaid that thereby allotted or intended to be divided or enclosed should remain and be left as a Common for the benefit of the Cottagers within the said township entitled to a right of Common in the waste or commonable places of Demotherley aforesaid before the passing of the aforesaid act to be held and enjoyed by them in and by such right orders rules and regulations as they now hold and enjoy their right of common in the same waste

Source: LPL: ECE/7/1/14774 Part 1, Draft Notice, 23 August 1890.

Figure 5: Second page of Common Rights Notice.

and commonable places and for common
 quarries"

Under these circumstances the right of
 Common is strictly limited to the ^{of ancient} ~~of ancient~~
 tenements above mentioned and can only
 exercised by the actual occupiers ^{for the time}
 being of such tenements and not by any
 other person even with the leave of such
 occupiers

The Practice of letting a common right
 is perfectly illegal

No one has a right to get turves or
 peat and burn the Moor for that purpose
 or turn on other than his own sheep or
 unless he is possessed of a common right

An action will lie at the suit of any of
 the Commoners or the Lords of the Moor
 against anyone turning sheep or stock on
 the Moor who has no title.

With the view of ascertaining who are
 the present bonifide owners of Common
 rights I am prepared to produce a copy of
 the Awerth and furnish any information
 in my power and to prepare an authentic
 list of those ^{legally} entitled ^{to common rights} of the claimants
 will please to send in their names with
 particulars of claim shewing, if possible, the
 devolution of title.

Deputy Steward of the Moor
 of Northallerton

Northallerton

In summary, in the nineteenth century the sporting rights had been let out, and common rights to take away turf and graze sheep persisted, albeit there seems to have been confusion over who actually held them. The letting out of the sporting rights did not render the land occupied. This is because the land was not used to the exclusion of others and while at times there may have been competing interests on the moor, the land remained waste land of the manor.

In 1890 the Ecclesiastical Commissioners were advised that inclosure of the uninclosed moor was unlikely and that the land in itself was of little value save for the minerals below the soil, and the sporting rights.¹⁰

Following offers to buy, on 29 November 1906 the Ecclesiastical Commissioners conveyed the uninclosed moor with the exception of the mines and minerals lying below a distance of 50 feet, to John Storey Barwick who had purchased the neighbouring Thimbleby Estate in 1898.¹¹ The conveyance included, 'all Manorial and other rights to which the Commissioners may be entitled in respect of the said hereditaments'. The conveyance was also subject to 'all rights of common.'¹² The practical effect of the sale of the moor severed it from the manor but did not change the use made of it. The shooting rights were now held by John Storey Barwick but the commoners' exercise of rights persisted. Shooting of game, as before the sale, existed alongside the exercise of common rights.

In summary, the application land is waste land of the manor of North Allerton. It has persisted as waste land for centuries and is open, uncultivated and unoccupied and meets the criteria for registration as common land. The waste has been subject to the exercise of sporting rights, whether let out or exercised 'in house', and such exercise was and remains consistent with its status as waste.

¹⁰ LPL: ECE/7/1/14774 Part 1. 10 July 1890. Copy of letter from Mess^{rs} Smiths and Gore to the Ecclesiastical Commissioners.

¹¹ *Newcastle Journal*, 17 December 1898 and LPL: ECE/7/1/14774 Part 2; The Thimbleby Estate had been out up for sale in 1895 but failed to attract a buyer.

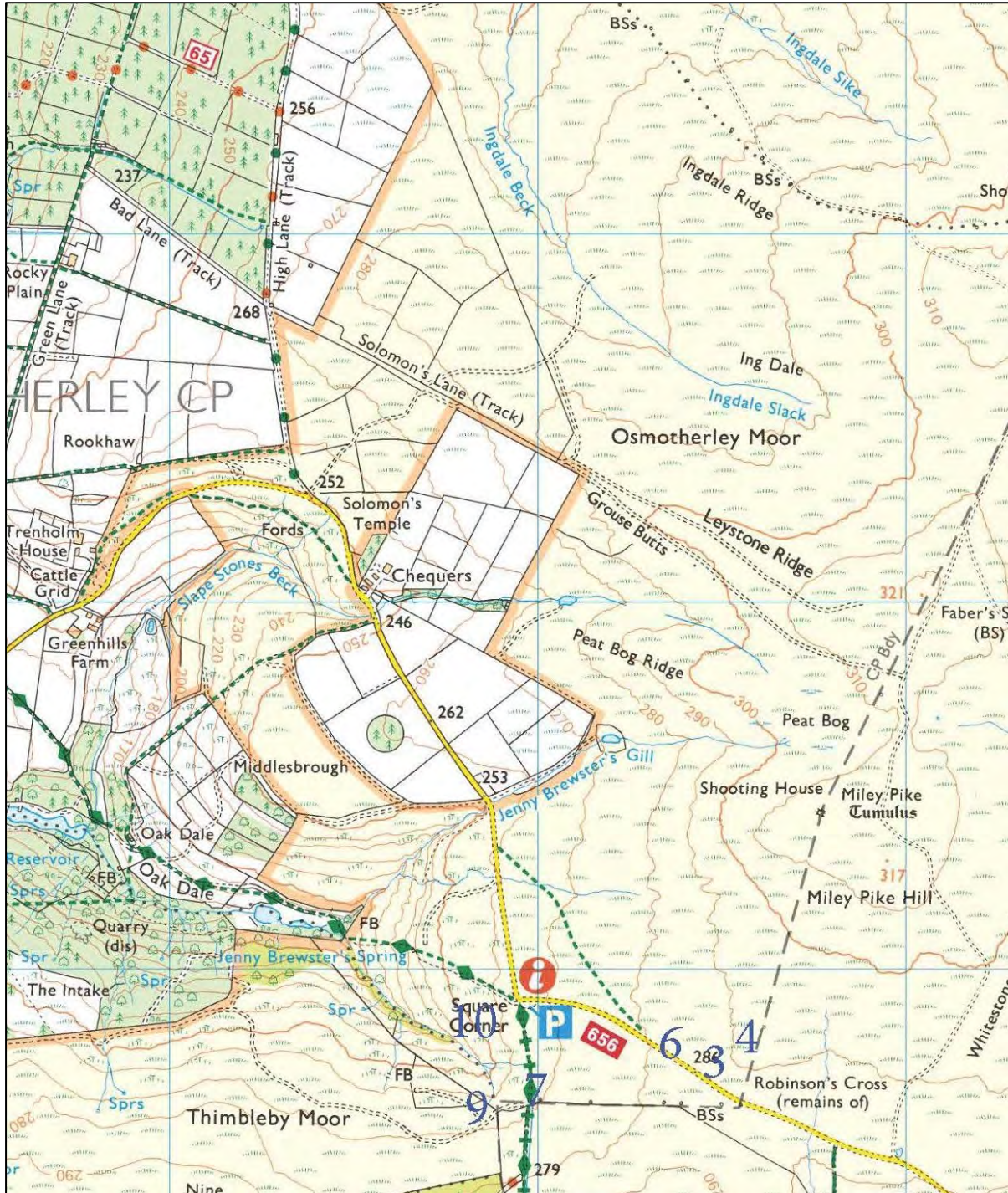
¹² LPL: 309,978.

Appendix

Photographs

Several photographs were taken when the site was visited. The original numbering of the photographs is respected and relates to where the photograph was taken. Map 1 shows the location of photographs 3-10 and Map 2 shows the location of photographs 18-29.

Ordnance Survey Map1: Photographs 3-10 (3, 4, 6, 7, 9 and 10)



Source: Ordnance Survey OL26.

Photograph 3: No boundary to road or towards the North North-West.



Photograph 4: Looking south. Fence to the south-west visible. No boundary fence or wall on eastern boundary.



Photograph 6: Fence to south-west in distance visible from unbounded road. No fences to north or east.



Photograph 7: From gate which is situated 300m south of Square Corner.



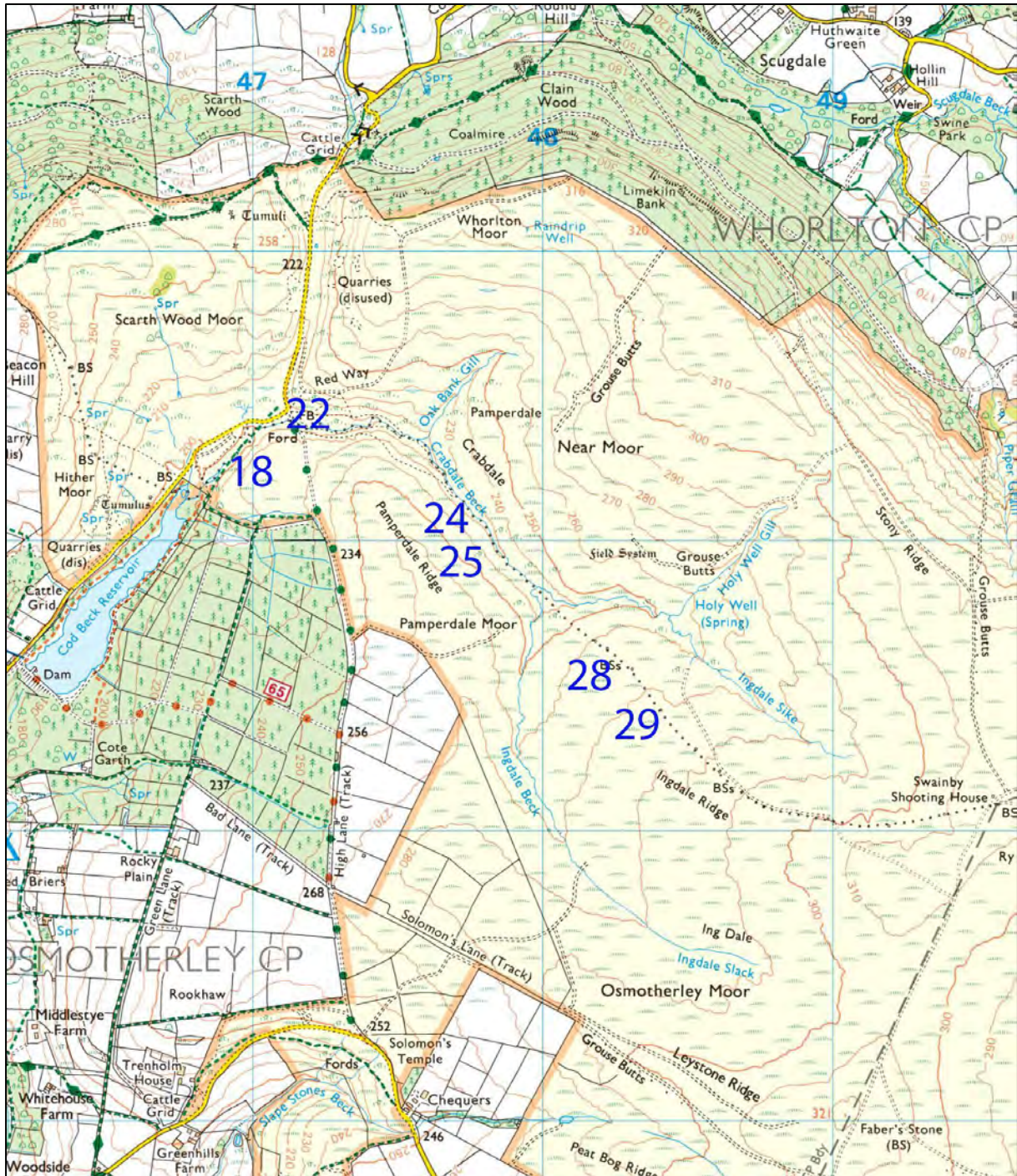
Photograph 9: Looking south-west. Taken about 60m west of the gate at Photo 7. There are no fences or walls along this track up to the gate.



Photograph 10: Looking north from Square Corner. No fences either side of the road.



Ordnance Survey Map 2: Photographs 18-29 (18, 22, 24, 25, 28, 29)



Source: Ordnance Survey OL26.

Photograph18: Taken from west side of Cod Beck looking towards minor road. No physical boundary.



Photograph 22: Taken from sharp bend in minor road looking south up track. Boundary open.



Photo 24: Taken from the east side of Pamperdale Moor. No fencing boundary to the east. Looking north-east.



Photo 25: Taken from the east side of Pamperdale Moor. No fencing boundary to the east. Looking south-east.

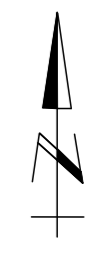
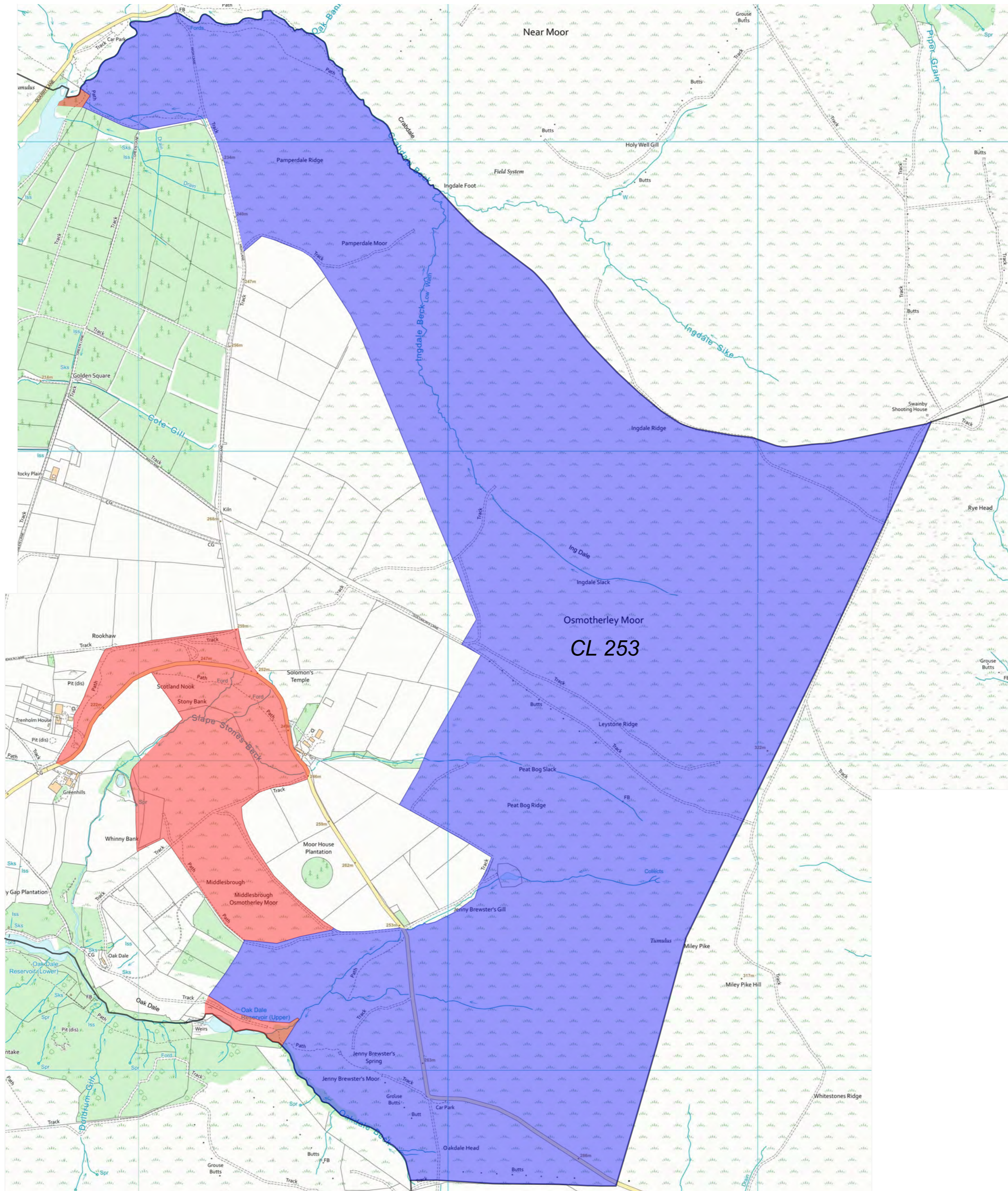


Photo 28: Looking east south-east. No physical boundary.



Photo 29: Looking south, all open and unenclosed.





The land shaded blue is the land referred to in the application.



The land shaded red is enclosed and does not form part of the application land.



Administrative boundaries

Landman LLP

ON BEHALF OF



1B Oaklands Court, Tiverton Business Park,
Tiverton, Devon, EX16 6TG
T: 01884 214052

Client
Open Spaces Society
Site:
Grid Ref. SE488971
Osmotherley
North Yorkshire

Project
Commons Act 2006
Schedule 2, Paragraph 4

Title Application Plan:
CL253 Osmotherley Moor
Drawing No. 1 Issue: 9
Scale 1:10,000 when printed at A2
02 January 2024

Copyright Landman LLP
Ordnance Survey Crown Copyright 2024
OS Licence No. 100022432
E&O E
For submission with CA13 registration application.

0 50 100m 200 300 400 500m 1000m
1:10000

Register of COMMON LAND

COMMONS REGISTRATION ACT 1965
NORTH RIDING COUNTY COUNCIL
REGISTRATION AUTHORITY
Date 7.9. DEC. 1969.

Register unit No. C.L.253

Edition No.

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 17th Dec. 69	The tract of land known as Osmotherley Moor in the Parish of Osmotherley shown marked with a green verge line inside the boundary on Sheet 40B of the register map and distinguished by the number of this register unit. Registered in consequence of Application No. 1662 (Rights) (Registration Provisional) Registration Withdrawn, 19th July, 1973.

No. and date of note	Notes	No. and date of note	Notes
1 17th Dec.69	<p>The Church Commissioners claim to be entitled to the rights and interests of the Lord of the Manor of Northallerton in that capacity other than the ownership of the land comprised in that part of the register unit hereinbefore mentioned.</p> <p>The Church Commissioners also claim to be owners in fee simple of all mines and minerals whatsoever whether opened or unopened within and under and lying below a depth of fifty feet from the surface of the land comprised in that part of the register unit hereinbefore mentioned and all ironstone lying within and under the said land and whether within or below a depth of fifty feet from the surface with the right to work the same by surface and underground workings and other rights incident thereto as more fully specified in a Conveyance dated the 29th November, 1906 and made between the Church Commissioners for England and John Storey Barwick.</p>		
2 22nd Jun.72	<p>The objection no. 0402 of Messrs. Owen & Craddock, The Estate Office, Oak House, Bedale, for Sir Richard L. Barwick, Bt. made 28th April, 1972 is noted in respect of the registration at Entry No. 1 in this section.</p> <p>Objection Upheld, Registration Withdrawn, 20th JULY, 1973.</p>		
3 7th Aug.72	<p>The objection no. 0485 of The County Surveyor, North Riding of Yorkshire County Council, County Hall, Northallerton made 27th July, 1972 is noted in respect of the registration at Entry No. 1 in this section.</p> <p>Registration withdrawn.</p>		
4 21st. Aug.72	<p>The objection no. 0509 of The County Surveyor, North Riding of Yorkshire County Council, County Hall, Northallerton made 27th July, 1972 is noted in respect of the registration at Entry No. 1 in this section.</p> <p>Registration withdrawn.</p>		

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

Register of COMMON LAND

COMMONS REGISTRATION ACT 1965
NORTH RIDING COUNTY COUNCIL
REGISTRATION AUTHORITY
Date **29 DEC 1969**

Register unit No. C.L.253
Edition No.

See Overleaf
for Notes

RIGHTS SECTION—Sheet No. 1

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 18th Dec.69	1662 22nd Oct.69	Mrs Annie Potts, 20 West End, Osmotherley, Northallerton. Owner	a) The right to graze 50 sheep; b) The right of estovers; c) The right of turbary; over— (a) the whole of the land comprised in this regis- ter unit; and (b) that part of the land comprised in Register Unit No. C.L. 85 lying within the Parish of Osmotherley, the boundary of which is marked with a red line.(Registration Provisional)	20 West End, Osmotherley shown edged red on the supplement- al map bearing the number of this register unit.*

No. and date
of note

Notes

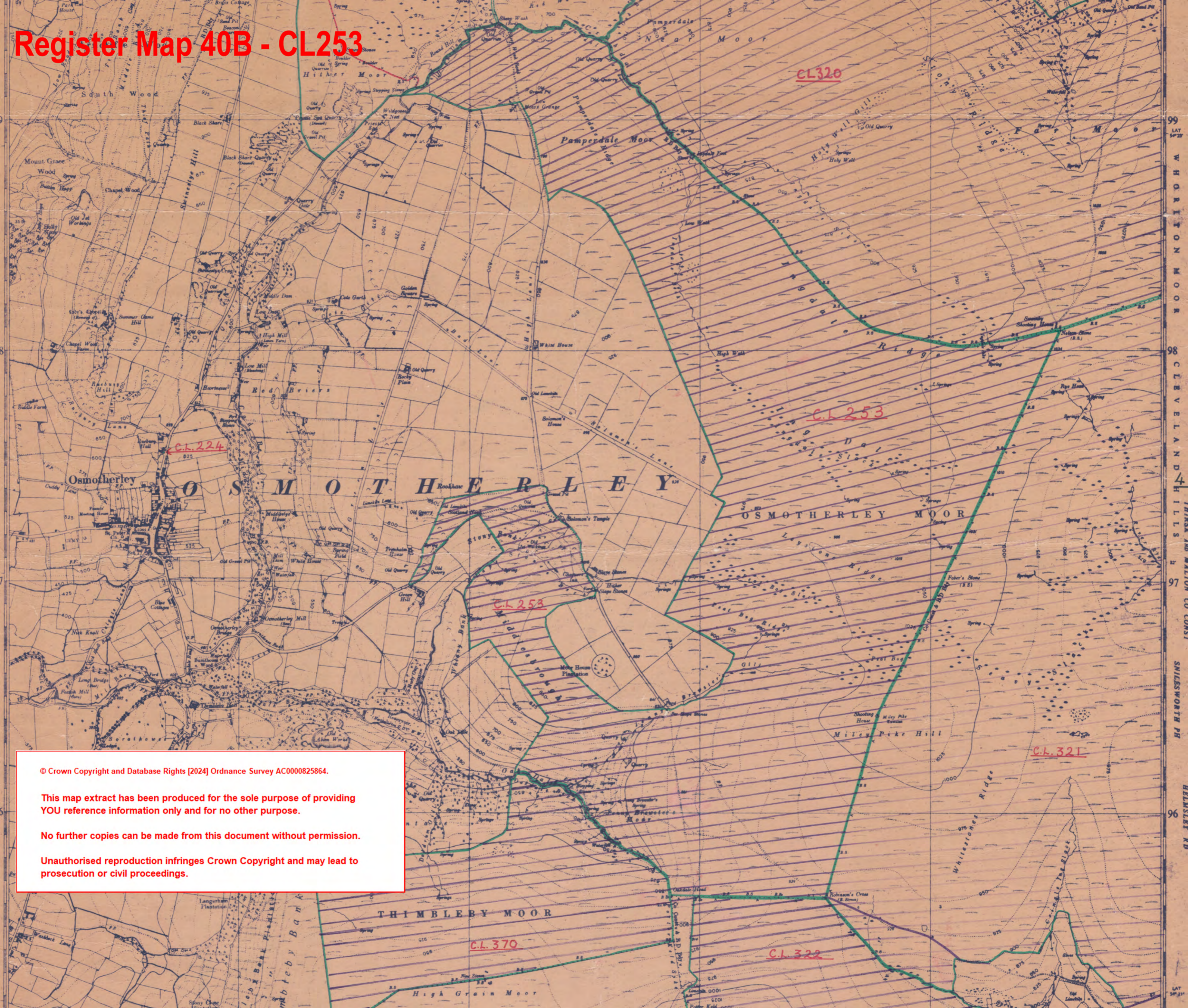
No. and date
of note

Notes

~~2~~ The objection no. 0402 of Messrs. Owen & Cradock, The Estate Office,
22nd Jun.72 Oak House, Bedale, for Sir Richard L. Barwick, Bt. made 28th April,
1972 is noted in respect of the registration at Entry No. 1 in this
section.

Registration withdrawn.

Register Map 40B - CL253



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CL224

CL320

CL253

CL253

CL321

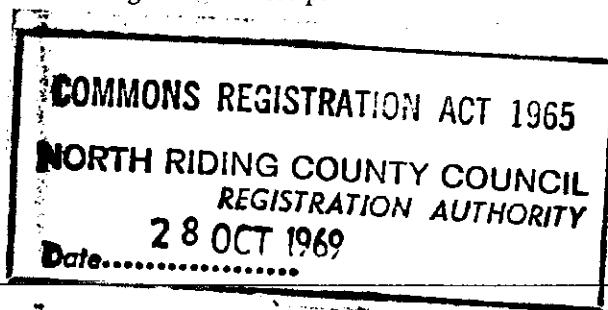
CL370

CL322

Official stamp of registration authority
indicating date of receipt

Application No. 1662

Register Unit No(s)



CL 253

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 incor-
rectly completed application may be rejected.*

¹ Insert name of registration
authority (see Note 1).

To the ¹ NORTH RIDING OF YORKSHIRE COUNTY COUNCIL

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

Part 1.

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

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

MRS. ANNIE POTTS, 20 WEST END, OSMOTHERLEY,
NORTHALLERTON.

Part 2.

Name and address of solicitor, if any.

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

Part 3.

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

(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.)

OWNER

REMITTANCE PASSED TO COUNTY TREASURER

28. OCT. 1969

Handwritten initials and signature

A2043

Part 4.

(See Notes 3 and 4.)

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

Name by which commonly known Osmotherley Moor

Locality Osmotherley

OSMOTHERLEY MOOR
NORTH

Colour on plan² edged in red on Plan "A"

²Delete reference to plan where none is submitted. A plan must be used except as mentioned in Note 4.

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 Commons of Pasture

Right of Estovers

Right of Common of Turbary

(Grazing Rights for 50 sheep)

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.

Cottage with Garth at rear situate on North side of the Town Street of Osmotherley. Now known as 20 West End, Osmotherley, as shewn coloured red on Plan "B".

Note - Main Street on Plan "B" is now West End.

Edged Red.

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.

³ Signature(s) of applicant(s) or of person on his or their behalf.

³ If the applicant is a body corporate or charity trustees the application must be signed by the secretary or some other duly authorised officer.



Date *27th October 1969*

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.

¹ Insert full name(s).

[I] ~~was~~¹ ANNIE POTTS

solemnly and sincerely declare as follows:

² Strike out this paragraph if it does not apply.

1. ~~² [I am] ~~was~~ the person(s) who [has] ~~made~~ the foregoing application. ~~I am~~ ~~the~~ ~~applicant~~ ~~and~~ ~~am~~ ~~authorised~~ ~~by~~ ~~the~~ ~~applicant~~ ~~or~~ ~~by~~ ~~names~~ ~~stated~~ ~~in~~ ~~the~~ ~~application~~ ~~to~~ ~~make~~ ~~the~~ ~~foregoing~~ ~~application~~ ~~on~~ ~~his~~ ~~or~~ ~~her~~ ~~behalf~~.~~

³ Insert capacity in which acting and adapt as necessary.

3. [I] ~~we~~ have read the Notes on the back of the application form and believe that [I] ~~we~~ [the applicant(s)] [am] ~~are~~ 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.

⁴ Strike out this paragraph if there is no plan.

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

⁵ Insert "marking" as on plan (see Note 6).

5. "The plan now produced and shown to me marked " B " 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 Annie Potts

at Northallerton
in the County of York
this *twenty sixth* day of *October* 19*69*

Before me,

Signature

Address *222 High Street -*

Qualification *Commissioner for South*

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

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 or in certain cases (see below) by someone on his behalf or in his stead;
- (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.

In certain cases a person may be entitled to apply on behalf of the owner of the right or in his stead. Examples are (a) a receiver appointed under section 105 of the Mental Health Act 1959; (b) charity trustees where the right of common is vested in the Official Custodian for Charities; (c) trustees for the purposes of the Settled Land Act 1925 authorised by order under section 24 of that Act. In such cases mention should so far as possible be made in part 3 of (a) the Act of Parliament, statutory instrument, order of court or other authority under which the applicant claims to be entitled to apply; (b) the capacity in which he applies; and (c) the name and address of the person on whose behalf or in whose stead the application is made, and whether that person is owner, landlord or tenant. The registration authority has power to call for such further evidence of the right of the applicant to make the application as it may reasonably require.

Where charity trustees apply (whether the right is vested in themselves or in the Official Custodian) 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 beechmast (*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 may be obtained from the registration authority. A requisition for such search 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.



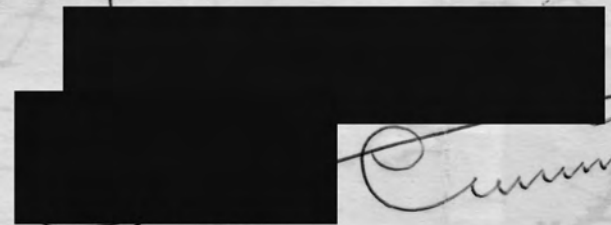
PLAN A
Scale: 6" = 1 Mile

Reproduced from the Ordnance Survey Map with the sanction of the Controller of H.M. Stationery Office

THIS IS THE EXHIBIT
MARKED "A" REFERRED
TO IN THE STATUTORY
DECLARATION OF ANNIE

POTTS MADE THIS 27th
MAY 1869.

BEFORE ME

 *Cum gratia*

(SIGNATURE &
QUALIFICATION)

PLAN A

Scale 1/2" = 1 Mile

JEFFERSON, WILLAN & CO.

SOLICITORS.
COMMISSIONERS FOR OATHS.

BARRY H. TIFFIN

TELEPHONE:
NORTHALLERTON 2160
S.T.O. CODE 0609.

BHT/PK/4975

*Northallerton,
Yorkshire.*

DL7 8LX

13th July 1973

Dear Sir,

Commons Registration Act 1965
Application No. K62
Registered Unit No. GL255 Entry No 1.

We act on behalf of Mrs. Annie Potts of 20 West End, Osmotherley, Northallerton, who made the above application for registration of a right of common on 27th October 1969.

With some regret our client requests that her application be withdrawn. She herself is a serving councillor on Northallerton P.D.C. and has no wish to increase the problems of any local authority at the present time of transition in local government.

Yours faithfully,
JEFFERSON, WILLAN & CO.



The Clerk of the County Council,
North Riding County Council,
County Hall,
Northallerton,
Yorkshire,
DL7 8AD.

JEFFERSON, WILLAN & CO.

SOLICITORS,
COMMISSIONERS FOR OATHS.

BARRY H. TIFFIN.

TELEPHONE
NORTHALLERTON 2180.
S. T. D. CODE 0609

BHT/WK/4875

25 JUL 1973

*Northallerton,
Yorkshire.*

DL7 8LX

18th July 1973

Dear Sir,

Commons Registration Act 1965

Application No. 1662

Mrs. A. Potts

Referring to the recent telephone call of Mr. Pearson, Clerk's Department, in response to our letter of 13th July, we confirm that our client wishes to withdraw her application in regard to both areas of land.

Yours faithfully,
JEFFERSON, WILLAN & CO.

The Clerk of the County Council,
North Riding County Council,
County Hall,
Northallerton,
Yorkshire,
DL7 8AD.



This portion to be detached and sent to the registration authority.

C.R. Form 26 (OBJECTION FORM)

For official use only

Official stamp of registration authority indicating date of receipt.

OBJECTION to registration(s) under the Commons Registration Act 1965.

To the (name of registration authority) North Riding
of Yorkshire County Council.

Objection No. 04 02

I hereby object to the under-noted registration(s) on the grounds stated.

- 1. Name and address of person making the objection. Owen & Craddock
Agents for Sir Richard L. Barwick, Bt.
per The Estate Office, Oak House, Bedale,
Yorkshire.
- 2. Name and address of solicitor if any. (Fill this space only if a solicitor has been instructed for the purposes of the objection. If it is filled, all correspondence and notices will be sent to the solicitor.)
- 3. Reference (if any) of the objector or his solicitor. JC/FMT
- 4. Register in which the registration(s) objected to appear(s). *Common Land/Town or Village Greens
- 5. Register unit number. C.L. 253A.
- 6. Section of register in which registration appears. *Land/Rights/Ownership
- 7. Registration entry number(s). No 1 18/12/69
- 8. Grounds of objection. (If a plan is sent, the fact should be mentioned here. The plan must be signed by the person who signs the form.)

The rights claimed by Mrs. Annie Potts of 20 West End, Osmotherley do not exist at all.

Dated April 28th, 19 72.

Signature...

(In the case of an objection by a body corporate or unincorporate, or charity trustees, this form must be signed by the secretary or some other duly authorised officer.)

*Strike out whichever does not apply.

This portion to be detached and sent to the registration authority.

C.R. Form 26 (OBJECTION FORM)

For official use only

Official stamp of registration authority indicating date of receipt.

OBJECTION to registration(s) under the Commons Registration Act 1965.

To the (name of registration authority) North Riding of Yorkshire County Council.

Objection No. 0509

I hereby object to the under-noted registration(s) on the grounds stated.

- 1. Name and address of person making the objection. County Surveyor, North Riding of Yorkshire County Council, County Hall, Northallerton.
- 2. Name and address of solicitor if any. (Fill this space only if a solicitor has been instructed for the purposes of the objection. If it is filled, all correspondence and notices will be sent to the solicitor.)
- 3. Reference (if any) of the objector or his solicitor.
- 4. Register in which the registration(s) objected to appear(s). *Common Land/Town or Village Green
- 5. Register unit number. C.L. 253
- 6. Section of register in which registration appears. *Land/Right/Ownership
- 7. Registration entry number(s). 1
- 8. Grounds of objection. (If a plan is sent, the fact should be mentioned here. The plan must be signed by the person who signs the form.)

Objection to registration on the grounds that a highway or highways are enclosed in the area being registered.

A highway being that area of land extending 15' on each side of the centre line of the carriageway.

Dated

27 July 1972

Signature



(In the case of an objection by a body corporate or unincorporate, or charity trustees, this form must be signed by the secretary or some other duly authorised officer.)

*Strike out whichever does not apply.