



COMMONS REGISTRATION ACT 1965

Reference No. 268/U/207

In the Matter of the Village Green,  
Newby Wiske, Hambleton District,  
North Yorkshire

DECISION

This reference relates to the question of the ownership of land known as the Village Green, Newby Wiske, Hambleton District, North Yorkshire being the land comprised in the Land Section of Register Unit No VG 38 in the Register of Town or Village Greens maintained by the North Yorkshire County Council of which no person is registered under section 4 of the Commons Registration Act 1965 as the owner.

Following upon the public notice of this reference no person claimed to be the freehold owner of the land in question and no person claimed to have information as to its ownership.

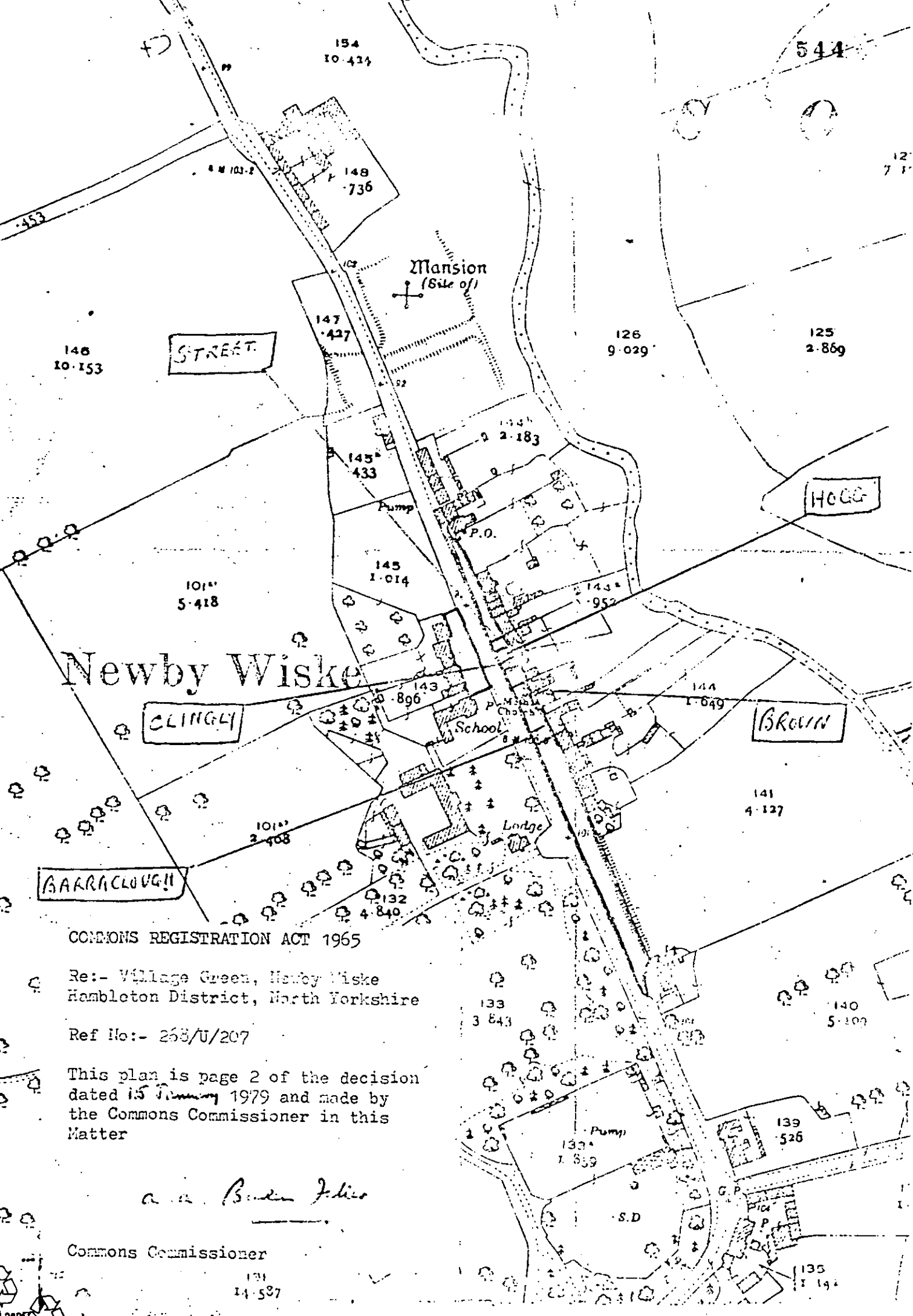
I held a hearing for the purpose of inquiring into the question of the ownership of the land at Northallerton on 21 February 1978. At the hearing (1) Mr Clifford Hogg and Mrs Isabella Hogg, (2) Mr Alfred Street, (3) Mr John Herbert Clingly and Mrs Marjorie Clingly, (4) Mr Lawrence James Brown and Mrs Doris May Brown, and (5) Mr Richard William Barraclough were all represented by Mr D J Cole solicitor of Northallerton; and (6) Newby Wiske Parish Council were represented by Mr Campbell their chairman.

The Land ("the Unit Land") in this Register Unit is made up of two strips, one ("the West Piece") about 50 yards long on the west side of and open to the made up footpath and carriageway of the public road which runs northsouth through the Village, and the other ("the East Piece") about 300 yards long on the east side of and also open to the said path and way.

For the purposes of exposition, I have in the Schedule hereto specified the parts of the Unit Land which are claimed by those represented by Mr Cole and which I have identified on the plan being page 2 of this decision. The parts so claimed are hereinafter referred to as "the Street Part", "the Hogg Part", and so on.

Mr Hogg in the course of his evidence produced: (1) a copy of a conveyance dated 29 November 1958 by which Miss A E Kirby conveyed to him and his wife the dwellinghouse Rosebank, (2) a photograph showing part of the East Piece and Rosebank and the adjoining dwellinghouses east of it, (3) a statement dated 20 February and signed by Mr Street, and (4) a conveyance dated 9 December 1921 by which Mrs M A Fife and two others conveyed to Mr Street the said dwellinghouse and other land. By the 1958 conveyance the Hogg Part was expressed to be conveyed to Mr and Mrs Hogg "Secondly ... for all the estate and interest of the Vendor therein". Mr Hogg said (in effect):- The Hogg Part is (as it appears on the photograph) grass land which he had ever since his purchase maintained by keeping the grass cut and the edges tidy. He had on it with the permission of the Parish Council planted two trees.





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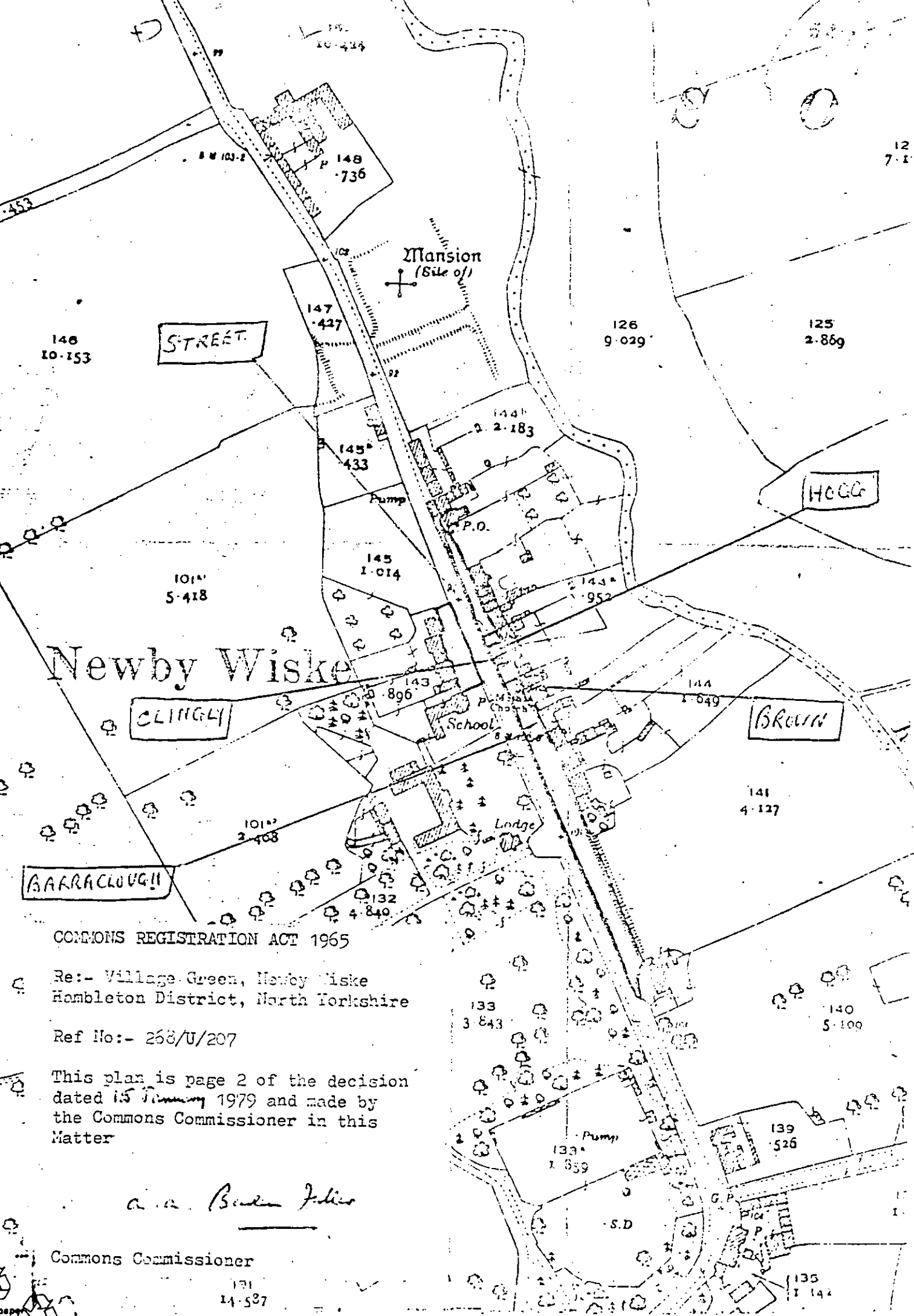
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This plan is page 2 of the decision  
dated 15 January 1979 and made by  
the Commons Commissioner in this  
matter

*a. a. Boden Jones*

Commons Commissioner

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# Newby Wiske

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Mr Clingly in the course of his evidence said (in effect):- He and his wife purchased Rose Cottage in April 1976 and since then they had maintained the Clingly Part as described by Mr Hogg.

Mr Brown in the course of his evidence produced a conveyance dated 12 September 1972 by which Laurel Cottage (described by reference to an indenture of 8 November 1921) was conveyed to him and Mrs Brown. He said (in effect):- There was a tree stump on the Brown Part (the tree was moved about 20 years ago); he cleared this away and laid out the Brown Part with grass, and looked after it as if it was his garden ever since.

Mr Barraclough in the course of his evidence produced a conveyance dated 14 February 1973 by which Mrs E Bayle conveyed to him Inglenook, and a conveyance dated 1 October 1957 by which Mr J L Hall conveyed it to Mr T A and Mrs E Bayle. He said (in effect):- When he purchased, Mrs Bayle said her ownership went right down to the footpath (at the west side of the East Piece). He too had maintained the Part, having put down some selective weed killer, cut the grass fairly regularly and cut the sides (but not so good as Mr Hogg).

Mr Stevens in his statement said that he had owned Wetwang for 56 years, but he being 35 years of age, was unable to attend the hearing in person. Mr Hogg and Mr Clingly however confirmed that the Street Part had been maintained either by him or for him in the same way as the other parts.

Mr Campbell said that the Parish Council did not dispute the claims made, but wished to claim ownership of the remainder of the Unit Land, because they understood that the adjoining owners did not wish to claim.

On the day after the hearing I inspected the Unit Land. According to my notes and recollection, I signed a decision in this Matter on 17 April 1978, but I have since been told that it has been misplaced and that a search was to no avail. So I give this second decision, which although not identical with that I signed in April, is I think to the same effect.

Apart from the 1958 conveyance, none of the claimants produced any document which supported their claims that the part of the Unit Land coextensive with the frontage of their houses had somehow become into the same ownership. The 1958 conveyance (as appears from the above quotation from it) is not cogent, particularly as the Hogg Part is not expressed to be included in the 1921 conveyance produced. So I have to consider whether a possessory title has been made out by each claimant.

If I am not satisfied that any person is the owner, I am by subsection (3) of section 8 of the 1965 Act required to direct the registration of the Parish Council as owner; so the Parish Council are the only persons concerned to dispute the claims. The evidence offered in support of a possessory title in most cases covers only a very short period and is in other respects somewhat meagre; Mr Cole suggested that if I allowed an adjournment, it might be strengthened. But in view of the concession made by Mr Campbell, I ought not I think to put the claimants to the expense of obtaining stronger evidence. I am therefore satisfied that (1) Mr Street, (2) Mr and Mrs Hogg, (3) Mr and Mrs Clingly, (4) Mr and Mrs Brown, and (5) Mr Barraclough are the owners of the parts of the Unit Land they respectively claim, and I shall accordingly direct the North Yorkshire County Council pursuant to subsection (2) of section 8 of the 1965 Act to register the persons whose names and addresses are specified in the first column of the Schedule hereto as the owners of the parts specified in the second column of such Schedule of the land in this Register Unit.



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In the absence of any evidence as to the ownership of the remainder of the Unit Land I am not satisfied that any person is the owner of it and I shall accordingly direct the North Yorkshire County Council, as registration authority, to register Newby Wiske Parish Council as the owner of the land under section 8(3) of the Act of 1965.

I am required by regulation 30(1) of the Commons Commissioners Regulations 1971 to explain that a person aggrieved by this decision as being erroneous in point of law may, within 6 weeks from the date on which notice of the decision is sent to him, require me to state a case for the decision of the High Court.

SCHEDULE  
(Parts of Unit Land claimed)

Claimants	Parts claimed
(1) Mr Alfred Street of Wetwang, Newby Wiske	(1) The part coextensive with the frontage of the dwellinghouse Wetwang and separated from other parts of the Unit Land by two straight lines drawn at right angles to the middle line of the made up carriageway nearby on the westsouthwest, and for the purpose of identification on the plan being page 2 of this decision marked "STREET".
(2) Mr Clifford Hogg and Mrs Isabella Hogg both of Rosebank, Newby Wiske	(2) The part coextensive with the frontage of the dwellinghouse Rosebank and separated from other parts of the Unit Land by two straight lines drawn at right angles to the said middle line and for the purpose of identification on the said plan marked "HOGG".
(3) Mr John Herbert Clingby and Mrs Marjorie Clingby both of Rose Cottage, Newby Wiske	(3) The part coextensive with the frontage of the dwellinghouse Rose Cottage and separated from the other parts of the Unit Land by two straight lines drawn at right angles to the said middle line and for the purpose of identification on the said plan marked "CLINGBY".
(4) Mr Lawrence James Brown and Mrs Doris May Brown both of Laurel Cottage, Newby Wiske	(4) The part coextensive with the frontage of the dwellinghouse Laurel Cottage and separated from the other parts of the Unit Land by two straight lines drawn at right angles to the said middle line and for the purpose of identification on the said plan marked "BROWN".



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(5) Mr Richard William Barraclough  
of Inglenook, Newby Wiske

(5) The part coextensive with the  
frontage of the dwellinghouse  
Inglenook and separated from the other  
parts of the Unit Land by two straight  
lines drawn at right angles to the said  
middle line and for the purpose of  
identification on the said plan  
marked "BARRACLOUGH".

Note:- In this Schedule the Unit Land means the land comprised in Register  
Unit No VG 38.

Dated this 15<sup>th</sup> — day of January 1979

a. a. Barker Fuller.

Commons Commissioner

