

875



**FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)**

Case Reference : CHI/43UL/OAF/2013/0004

Properties : 6 & 8 Wey Hill, Haslemere, Surrey GU27 1BX

Applicant : Angelina Dawson

Representative : Comptons, Solicitors

Respondent : Unknown

Representative : N/A

Type of Application : Enfranchisement - Leasehold Reform Act 1967

Tribunal Members : Mr B H R Simms FRICS MCI Arb (Chairman)
Mr RT Wilson LLB (Legal Member)
Mr N I Robinson FRICS (Valuer Member)

Date and venue of Hearing : 22 April 2013 – Paper Track

Date of Decision : 04 September 2013

DECISION

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DECISION

1. a) Terms of acquisition and b) Forms of Transfer:

The transfers of the properties shall be in the forms of the drafts attached to this decision and initialed by the chairman

2. c) Price:

The price to be paid for 6 Wey Hill is £2.50 (Two pounds and fifty pence), and the price to be paid for 8 Wey Hill is £4.20 (Four pounds and twenty pence).

REASONS

BACKGROUND

3. The Applicant seeks to acquire the freehold of each of the properties under the terms of the Leasehold Reform Act 1967 (“the Act”).
4. The lease, under which the Applicant holds the properties is dated 20 April 1688 and is for a term of 500 years from 29 September 1687 at a rent of 12d (5p) per annum. The identity and whereabouts of the freehold reversioner to the lease is unknown.
5. The Applicant commenced proceedings in Guildford County Court to enable the freehold to be vested in her. By paragraph 4 of an Order dated 24 January 2013 the file was referred to the Leasehold Valuation Tribunal for determination of *a) the appropriate terms of acquisition; and b) approval of a form or forms of conveyance which contain(s) such provisions as may be so approved for the purpose of giving effect to the relevant terms of acquisition in accordance with section 27(3) of the Act; and c) the price payable in respect of each house in accordance with section 27(5) of the Act.*
6. Directions for the conduct of the case were made by the Tribunal on 18 February 2013 and, following a request by the Applicant, Notice was given that the Tribunal intended to proceed to determine the matter on the basis only of written representations and without an oral hearing. Notice was also given that the matter may be considered by a Chairman sitting alone.

INSPECTION

7. Members of the Tribunal inspected the exterior of the property and with the assistance of the occupying tenant of No.8 inspected the rear garden areas. The boundaries of the properties are unclear from a site inspection and we deal with this issue in detail later.

8. No.6 is an end of terrace two storey house (including a room in the roof) built of brick with a tile-covered pitched roof. There is a small fenced rear garden to which we had no access. At the front there is a paved area used for car parking.
9. No.8 adjoins and is a similar, although much larger and inner terrace house. This property also has a larger rear garden which we inspected. There is a similar arrangement at the front for car parking.
10. Both properties appear to be in residential occupation although we did not make an internal inspection.

EVIDENCE

11. Documents submitted to the County Court were provided to the Tribunal. These include a copy of the Order and various witness statements of Mr Daniels and uncoloured Land Registry plans. In addition as part of the proceedings before this Tribunal the Applicant's solicitors provided a valuation report of each property prepared by Mr Cohen BSc FRICS IRRV Hons of Talbot Surveying Services Ltd, a copy of a draft transfer in respect of each property, and email correspondence between Comptons and the Land Registry.
12. Following the Tribunal's inspection the extent of the land to be enfranchised could not be clearly identified. Following the Tribunal's request on two occasions Comptons attempted to clarify the extent of the freehold land by providing further duplicate copies of leasehold title plans, some now coloured, and a brief explanation of the situation. Comptons could not readily identify the land to be enfranchised but the Tribunal has done the best it can with the evidence supplied. Although the case is to be determined on the basis only of written representations and without an oral hearing the Applicant did not provide a Statement of Case or Witness Statement.
13. The Tribunal did not receive full valuation reports in the appropriate form from Mr Cohen of Talbot Surveying Services Ltd or any other valuer as Expert Witness. The documents purported to be written as a report of an expert witness but they are prepared for the Applicant's solicitor and not the Tribunal. They are specifically stated to be for the use of Mr Daniels of Comptons and are not available to third parties. In the circumstances the Tribunal has taken the valuation reports as informative without relying on its contents as expert evidence.

EXTENT OF THE LAND TO BE ENFRANCHISED

14. As explained above the Tribunal has had difficulty in identifying the extent of the land to be demised, it has not been provided with any definitive plans but takes comfort from the letter from the Applicant's solicitor dated 31st May 2013 which states: "The Applicant seeks only the freehold of land which is contained within the various leasehold titles..."

15. The Tribunal is proceeding on the basis that 6 Wey Hill will comprise the freehold land represented by the leasehold titles: SY488034, SY617057, SY676446 and SY774262. This freehold does not include the forecourt currently used for parking or the passage at the side of the house to provide access to the rear. There would appear to be no rights granted with the freehold over these additional areas.
16. The Tribunal is proceeding on the basis that 8 Wey Hill will comprise the freehold land represented by the leasehold titles: SY677461 and SY488449. This freehold only includes a tiny part of the forecourt adjoining the house but does not include the main forecourt currently used for parking.

PRICE TO BE PAID

17. In determining the purchase price the Tribunal had to determine which basis of valuation applies in this case. The relevant financial limits apply and the property falls to be valued within S. 9(1) of the Act.
18. The price to be fixed shall be:

The amount at which at the relevant time the house and premises if sold in the open market by a willing seller (with the tenant and members of his family not buying or seeking to buy), might be expected to realise on the following assumptions:

- a) *On the assumption that the vendor was selling for an estate in fee simple, subject to the tenancy but on the assumption that this part of the act conferred no right to acquire the freehold; and if the tenancy has not been extended under this Part of this Act, on the assumption that (subject to the landlord's rights under S.17 below) it was to be so extended.*
 - b) ...
 - c) *on the assumption that (subject to paragraphs a) and b) above) the vendor was selling with and subject to the rights and burdens with and subject to which the conveyance to the tenant is to be made.*
19. Having examined the documents submitted in evidence the Tribunal is satisfied that there are no onerous or adverse covenants which might affect the valuation.
 20. The first element of value is the capitalised value of the ground rent payable in perpetuity. The rent payable is modest but well secured and we have adopted the same 6% all risks yield as Mr Cohen.
 21. As the unexpired term of the lease is more than 174 years the calculation of a modern ground rent (S.15) produces a modest amount but for completeness the

- Tribunal has valued using the standing house method. There was no evidence provided of the sales of vacant land.
22. The first element to be valued is the income from the ground rent of 5p per annum. The Tribunal has only been provided with a poor copy of the manuscript deed but the witness statement to the court of Jonathan Daniels of Comptons solicitors recites the terms quoted and the Applicant's valuer refers to a ground rent of 12d (5p). It is unclear but the 5p rent would appear to relate to both properties however the valuer has chosen to allocate 5p ground rent to each property. A further error appears in the valuations in that 15p rather than 5p has been used in the calculations. Doing the best it can with the information provided the Tribunal allocates 2.5p ground rent to each property.
 23. Turning now to the entirety value of the houses. The Tribunal has not made its own enquiries but has had regard to the evidence adduced by Mr Cohen. This is 16 Wey Hill described as "...a well-maintained two-storey 2 bedroom terrace house sold by Mann Countrywide for £211,500 in March 2012." It is understood to have been in good condition with a 100ft rear garden and an arrangement with the Council to park two cars [presumably elsewhere] at no cost.
 24. He has not inspected the interior of the properties but from his own research and enquiries he believes that No.6 "*...is very small, very probably a one-bedroom house...with limited grounds and parking for no more than one car.*" And that No.8 "*...is unlikely to be especially large, most probably with three bedrooms...with limited grounds and parking for no more than one or two cars*". Without further explanation the valuer arrives at a standing house value of £150,000 for No.6 and £300,000 for No.8 at the date of his valuation. The valuations are not dated.
 25. Our own inspection and study of the Land Registry plans indicates that there are no parking spaces included with the freeholds and No.8 has quite a large garden. The correct date for the valuation should be the date of the application to court 19 November 2012. At this date the sale in March 2012 will need to be adjusted downwards to reflect the downfall in the market. The subject properties are in poorer condition and would appear to have smaller accommodation than the comparable. Street parking is restricted and the nearby car park is pay and display. The ability to park vehicles off road is a valuable asset which is not available at the subject premises. On this basis the Tribunal values No.6 at £130,000 and No.8 at £250,000.
 26. Mr Cohen has adopted a 40% site value and the Tribunal uses the same proportion producing a site value and a Sec.15 rent at 6% of £52,000 and £3,120 p.a. for No.6 and £100,000 and £6,000 p.a. for No.8 respectively.
 27. The decisions in "Sportelli" laid down deferment rates to be used in all but exceptional circumstances at 4.75% for houses. The Tribunal has not received any evidence to suggest that anything other than this rate should be used.

28. On this basis the price to be paid is £2.50 for No.6 and £4.20 for No.8, in accordance with the attached calculations, and the Tribunal so Determines.

TRANSFERS

29. The Tribunal has not been provided with a formal epitome of title to the land to be enfranchised and accordingly makes no warranty that adequate or any title has been deduced. The Applicant's solicitors are directed to lodge a copy of this decision with HM Land Registry when they come to register the transfers.
30. The approved draft transfers are attached at Appendix II

Dated 04 September 2013

Brandon H R Simms FRICS MCI Arb
Chairman

APPENDICES

I Calculations

II Approved draft transfers

APPEALS

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.

APPENDIX I**TRIBUNAL CALCULATIONS****6 Wey Hill, HASLEMERE Surrey, GU27 1BX**

		Ground Rent	£0.025	
YP	174.64 years @	6.00%	=	16.6660 £0.42

Standing House

		Entirety value	£130,000	
	Site @	40%	£52,000	
		S.15 Rent @	6%	£3,120
YPRP	174.64 years @	6.00%	=	0.00063 <u>£1.98</u>
				PRICE TO BE PAID <u>£2.40</u>
				Say £2.50

8 Wey Hill, HASLEMERE Surrey, GU27 1BX

		Ground Rent	£0.025	
YP	174.64 years @	6.00%	=	16.6660 £0.42

Standing House

		Entirety value	£250,000	
	Site @	40%	£100,000	
		S.15 Rent @	6%	£6,000
YPRP	174.64 years @	6.00%	=	0.00063 <u>£3.81</u>
				PRICE TO BE PAID <u>£4.22</u>
				Say £4.20

APPENDIX II

Draft Transfers

SEE NEXT PAGE 9

B Approved by Tribunal
CH1/43UL/OAF

**Land Registry
 Transfer of whole of registered title(s)**

TR1

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

Leave blank if not yet registered.

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

Give full name(s).

Complete as appropriate where the transferor is a company.

Give full name(s).

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

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

1	Title number(s) of the property:
2	Property: THE FREEHOLD OF THE LAND AND PROPERTY COMPRISED IN EXISTING LEASEHOLD TITLES SY677461 AND SY488449 BEING THE HOUSE KNOWN AS 8 WEY HILL HASLEMERE SURREY GU27 1BX TOGETHER WITH FREEHOLD LAND ADJOINING THERETO AS SHOWN EDGED RED ON THE PLANS ATTACHED HERETO
3	Date:
4	Transferor: PERSONS UNKNOWN PURSUANT TO COURT ORDER DATED 17 JANUARY 2013 <u>For UK incorporated companies/LLPs</u> Registered number of company or limited liability partnership including any prefix: <u>For overseas companies</u> (a) Territory of incorporation: (b) Registered number in the United Kingdom including any prefix:
5	Transferee for entry in the register: ANGELINA MARGARET DAWSON <u>For UK incorporated companies/LLPs</u> Registered number of company or limited liability partnership including any prefix: <u>For overseas companies</u> (a) Territory of incorporation: (b) Registered number in the United Kingdom including any prefix:
6	Transferee's intended address(es) for service for entry in the register: TUDOR HOUSE DIPPENHALL STREET CRONDALL FARNHAM SURREY GU10 5NY
7	The transferor transfers the property to the transferee

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

Place 'X' in any box that applies.
Add any modifications.

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

Complete as necessary.

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

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

Please refer to Land Registry's Public Guide 18 - *Joint property ownership* and Practice Guide 24 - *Private trusts of land* for further guidance. These guides are available on our website www.landregistry.gov.uk

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

	<p>8 Consideration</p> <p><input type="checkbox"/> The transferor has received from the transferee for the property the following sum (in words and figures):</p> <p><input type="checkbox"/> The transfer is not for money or anything that has a monetary value</p> <p><input checked="" type="checkbox"/> Insert other receipt as appropriate:</p> <p>THE SUM OF £ TO BE PAID INTO COURT</p>
	<p>9 The transferor transfers with</p> <p><input type="checkbox"/> full title guarantee</p> <p><input checked="" type="checkbox"/> limited title guarantee</p>
	<p>10 Declaration of trust. The transferee is more than one person and</p> <p><input type="checkbox"/> they are to hold the property on trust for themselves as joint tenants</p> <p><input type="checkbox"/> they are to hold the property on trust for themselves as tenants in common in equal shares</p> <p><input type="checkbox"/> they are to hold the property on trust:</p>
	<p>11 Additional provisions</p> <p>This transfer is made to give effect to the Leasehold Reform Act 1967 section 8</p>

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

If there is more than one transferee and panel 10 has been completed, each transferee may also execute this transfer to comply with the requirements in section 53(1)(b) of the Law of Property Act 1925 relating to the declaration of a trust of land. Please refer to Land Registry's Public Guide 18 - Joint property ownership and Practice Guide 24 - Private trusts of land for further guidance.

12 Execution

Signed as a deed by District Judge sitting in the Guildford County Court on behalf of the Transferor pursuant to an Order of the Guildford County Court dated 17 January 2013 in Claim Number 2GU0999

Signature.....

in the presence of:

Signature of witness.....

Name (in BLOCK CAPITALS)

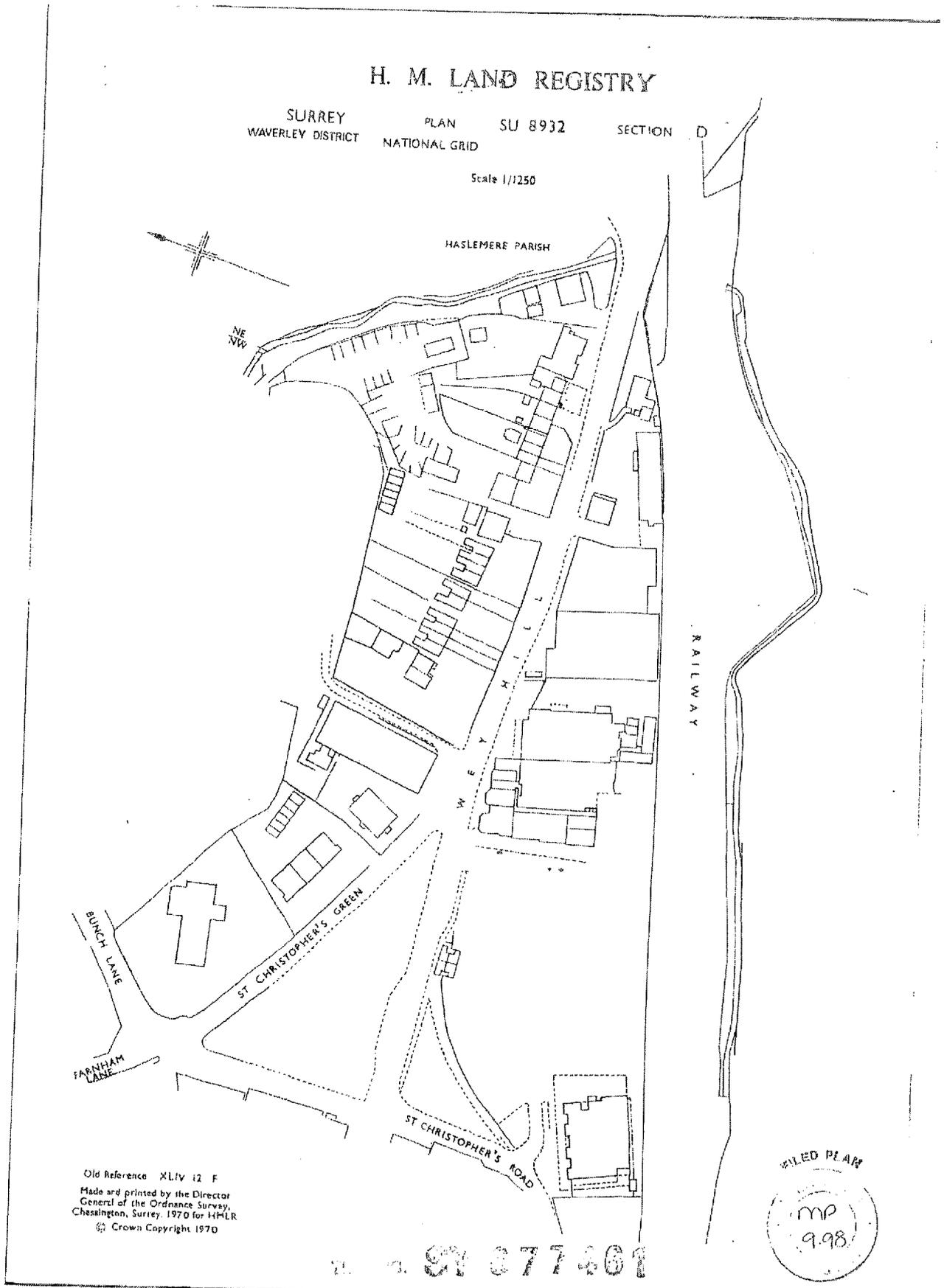
Address

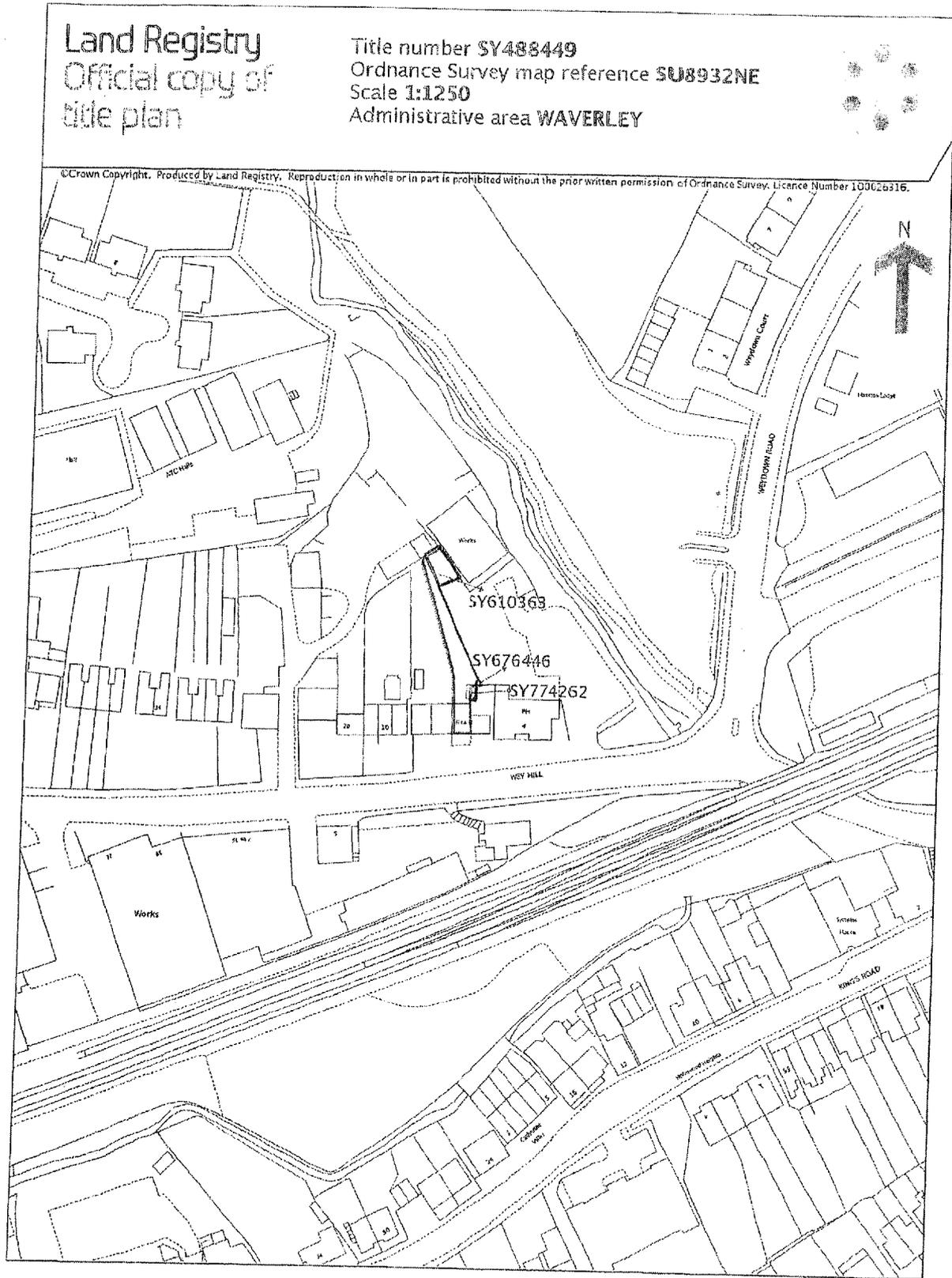
WARNING

If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.

Failure to complete this form with proper care may result in a loss of protection under the Land Registration Act 2002 if, as a result, a mistake is made in the register.

Under section 66 of the Land Registration Act 2002 most documents (including this form) kept by the registrar relating to an application to the registrar or referred to in the register are open to public inspection and copying. If you believe a document contains prejudicial information, you may apply for that part of the document to be made exempt using Form EX1, under rule 136 of the Land Registration Rules 2003.





Approved by Tribunal
 CHAIRMAN

Land Registry Transfer of whole of registered title(s)

TR1

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

Leave blank if not yet registered.

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7	The transferor transfers the property to the transferee

H. M. LAND REGISTRY

SURREY WAVERLEY DISTRICT PLAN SU 8932 SECTION NATIONAL GRID

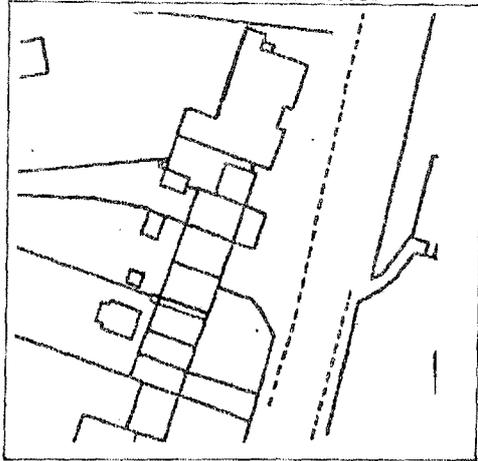
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HASLEMERE PARISH



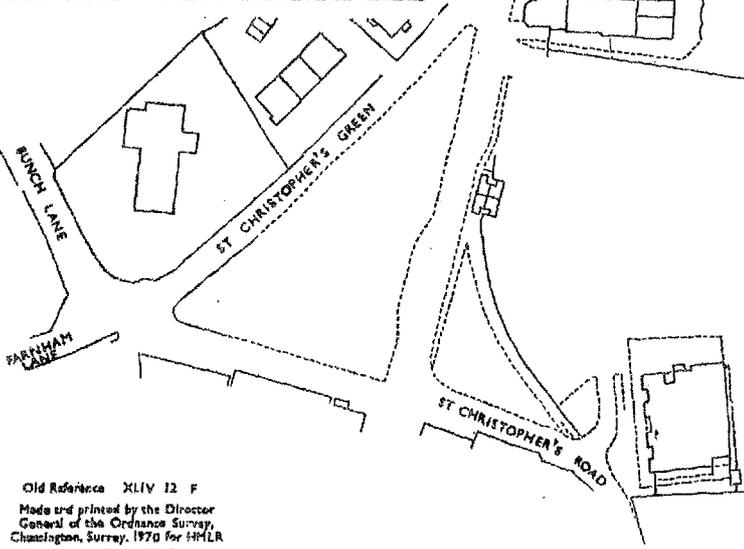
NE
NW

ENLARGEMENT SCALE 1/625



SEE ENLARGEMENT

RAILWAY



Old Reference XLIV 12 F
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TITLE No. SY676446

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

Place 'X' in any box that applies.
Add any modifications.

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

Complete as necessary.

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

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

Please refer to Land Registry's Public Guide 18 - *Joint property ownership* and Practice Guide 24 - *Private trusts of land* for further guidance. These guides are available on our website www.landregistry.gov.uk

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8	<p>Consideration</p> <p><input type="checkbox"/> The transferor has received from the transferee for the property the following sum (in words and figures):</p> <p><input type="checkbox"/> The transfer is not for money or anything that has a monetary value</p> <p><input checked="" type="checkbox"/> Insert other receipt as appropriate:</p> <p>THE SUM OF £ TO BE PAID INTO COURT</p>
9	<p>The transferor transfers with</p> <p><input type="checkbox"/> full title guarantee</p> <p><input checked="" type="checkbox"/> limited title guarantee</p>
10	<p>Declaration of trust. The transferee is more than one person and</p> <p><input type="checkbox"/> they are to hold the property on trust for themselves as joint tenants</p> <p><input type="checkbox"/> they are to hold the property on trust for themselves as tenants in common in equal shares</p> <p><input type="checkbox"/> they are to hold the property on trust:</p>
11	<p>Additional provisions</p> <p>This transfer is made to give effect to the Leasehold Reform Act 1967 section 9</p>

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

If there is more than one transferee and panel 10 has been completed, each transferee may also execute this transfer to comply with the requirements in section 53(1)(b) of the Law of Property Act 1925 relating to the declaration of a trust of land. Please refer to Land Registry's Public Guide 18 - Joint property ownership and Practice Guide 24 - Private trusts of land for further guidance.

12 Execution

Signed as a deed by District Judge sitting in the Guildford County Court on behalf of the Transferor pursuant to an Order of the Guildford County Court dated 17 January 2013 in Claim Number 2GU0999

Signature.....

in the presence of:

Signature of witness.....

Name (in BLOCK CAPITALS)

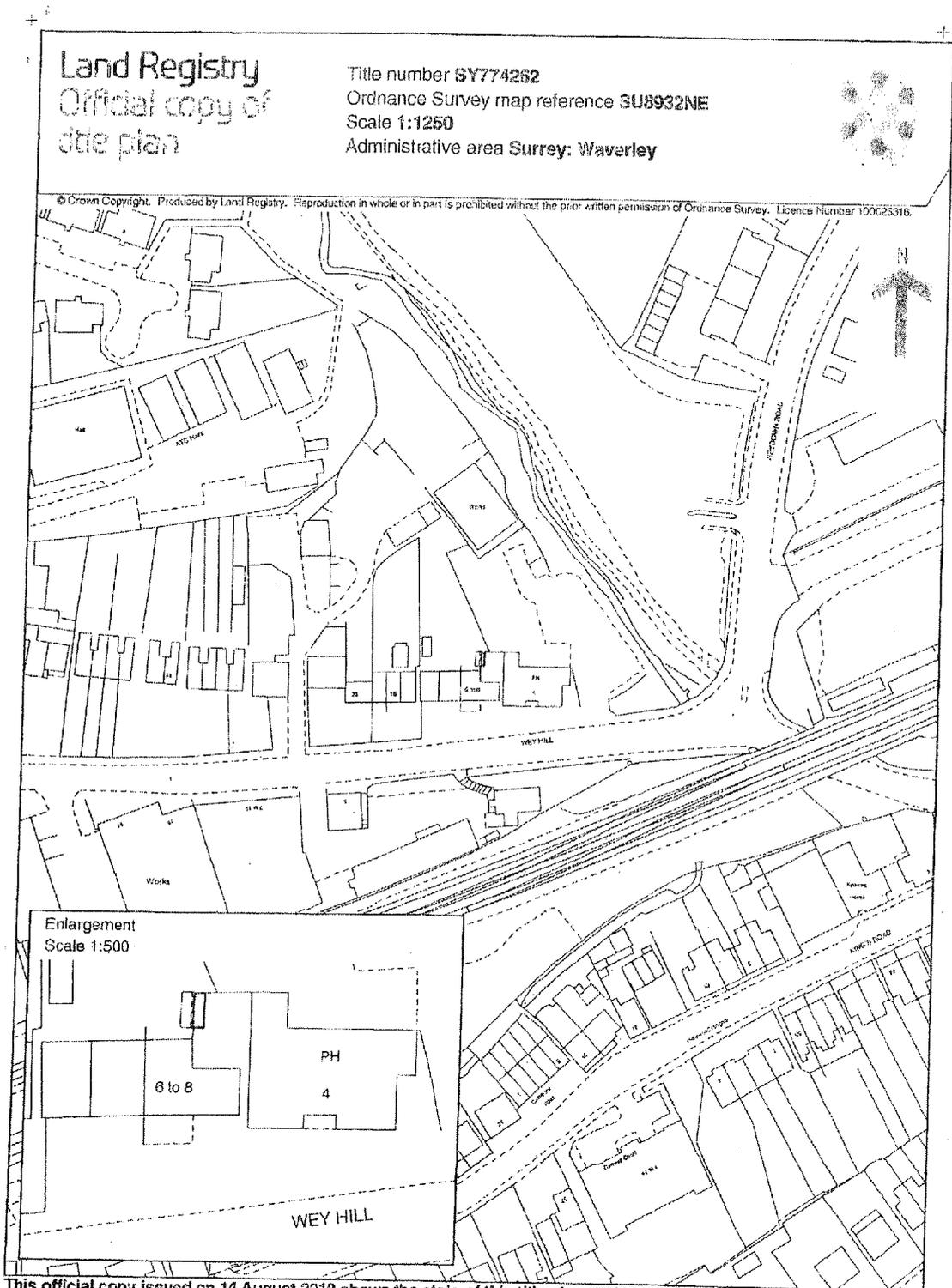
Address

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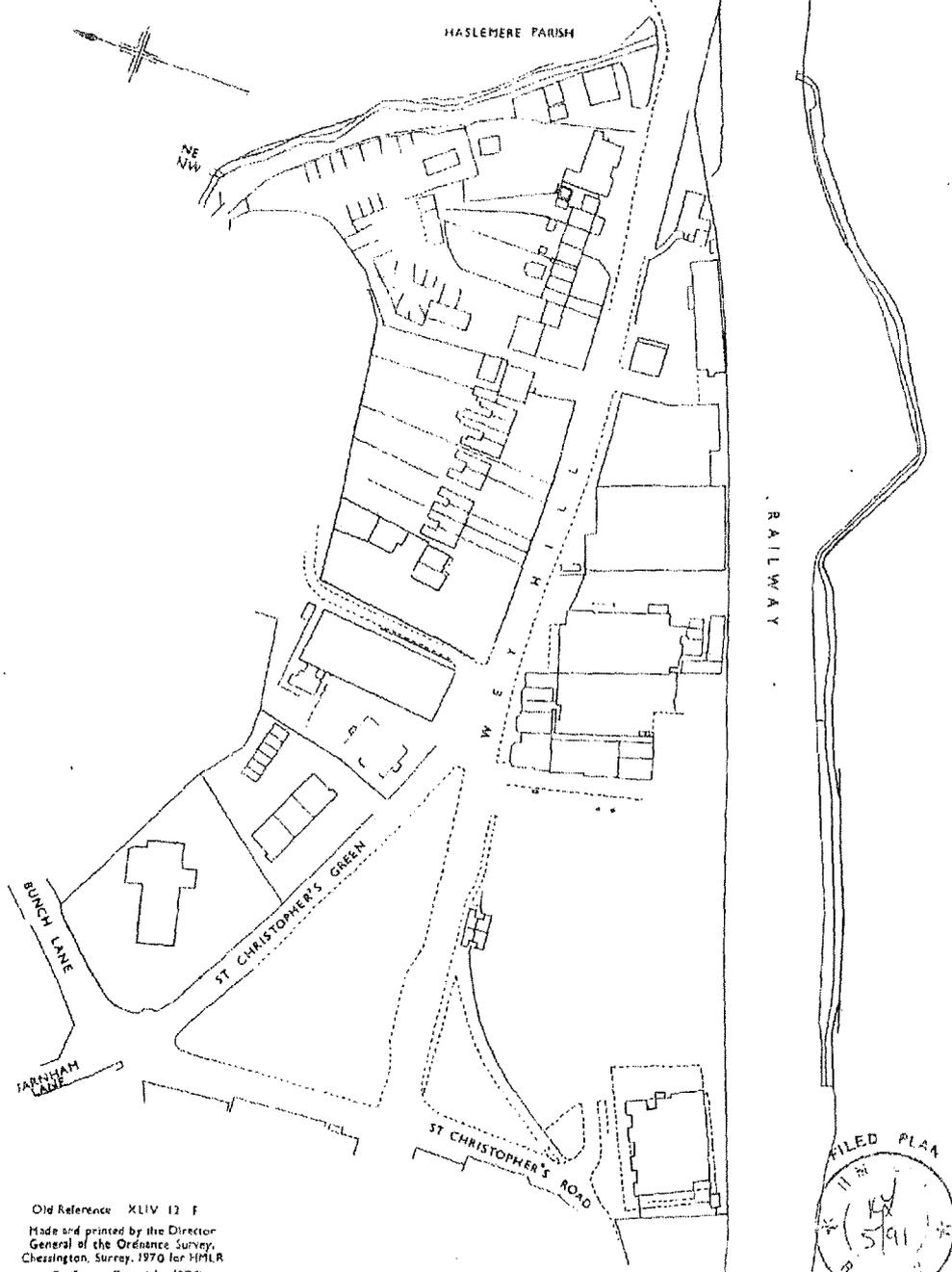


This official copy issued on 14 August 2012 shows the state of this title plan on 14 August 2012 at 09:15:02. It is admissible in evidence to the same extent as the original (s.87 Land Registration Act 2002).
 This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground. See Land Registry Public Guide 19 - Title Plans and Boundaries.
This title is dealt with by Land Registry, Durham Office.

H. M. LAND REGISTRY

SURREY PLAN SU 8932 SECTION D
WAVERLEY DISTRICT NATIONAL GRID

Scale 1:1250

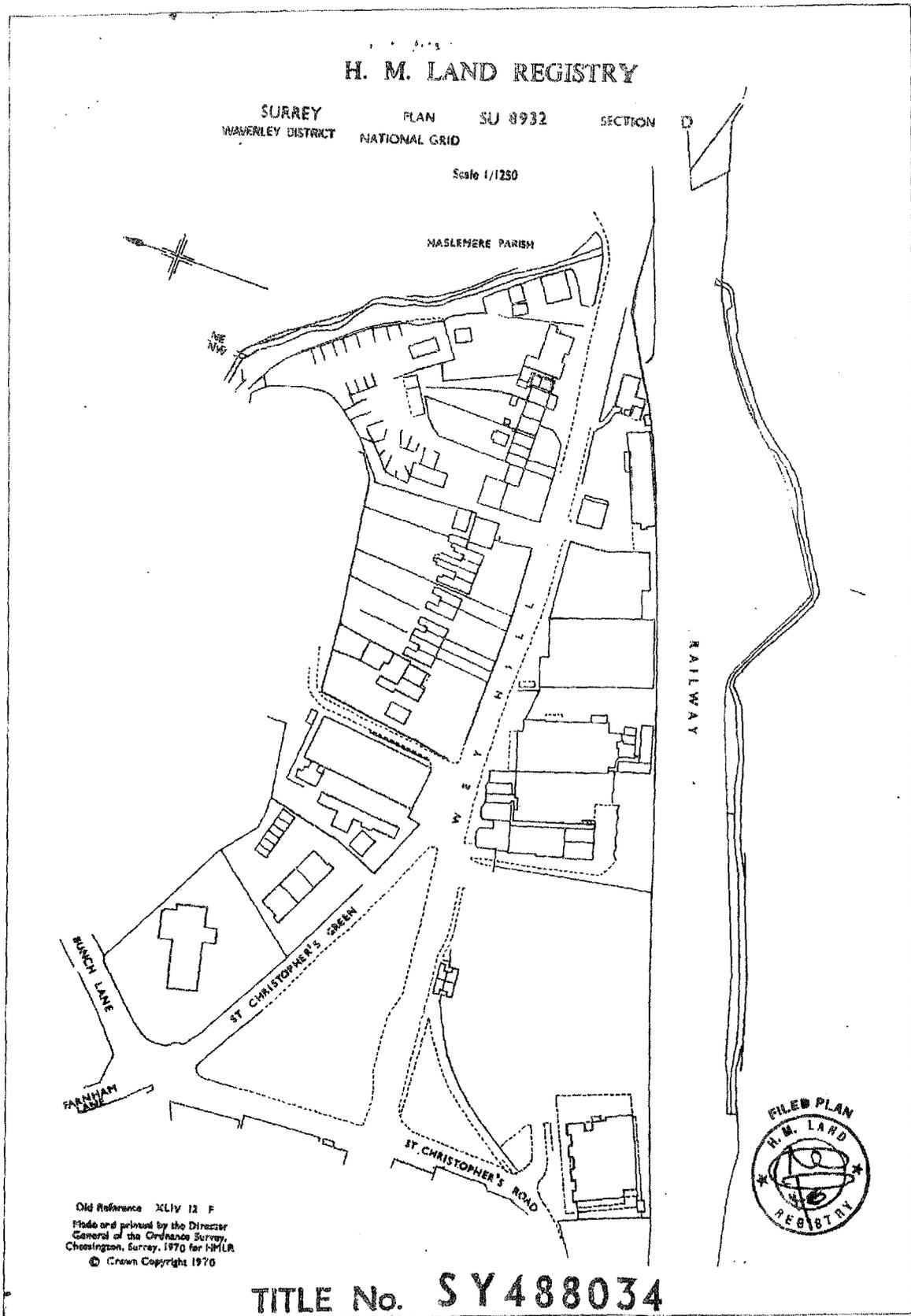


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