

**Commons Act 2006
Schedule 3**

Application to amend the register to record an historic event – historic severance of a right of common.

NOTICE OF DETERMINATION

Application Number: CA14/69

Notice is hereby given that Cumbria County Council, as the Commons Registration Authority (“the CRA”) has considered an application submitted by William Anthony Shaw Kilvington and Sandra Atkinson (“the Applicants”) to amend the register to record an historic severance of part of the right of common to graze (a) 300 ewes with their unweaned lambs and 100 hogs or 40 head of cattle, or sheep and cattle together on the basis of 1 beast to 10 sheep, (b) 3 horses with their foals and (c) 12 pigs over the whole of the land comprised in register units CL94 and CL93 (“the Right”). The Right was as attached to land at Daisy Farm, Outhgill, Mallerstang, Westmorland at entry 17 of CL94 and at entry 23 of CL93 comprising O.S. plots numbered 139, 140, 143, 144, 145, 157, 158, 159, 160, 164, 166, 167, 167a, 168, 176, 213 and 220 on the O.S Map (Edition of 1915) of the parish of Mallerstang, Westmorland. As a result of a Transfer made on 18th April 1998 the right to graze (a) 300 ewes with their unweaned lambs and 100 hogs or 40 head of cattle, or sheep and cattle together on the basis of 1 beast to 10 sheep and (c) the right to graze 12 pigs were transferred along with field O.S. 220, and as a result of an application made in May 1998 all of the above sheep and pig rights were shown as attached to O.S. 220 at entry 43 of CL94 and entry 66 of CL93. The remaining right to graze (b) 3 horses with their foals was shown as attached to the rest of the dominant tenement at entry 67 of CL93 and entry 44 of CL94.

The applicants claim that the effect of the Transfer of 18th April 1998 was to sever a portion of the rights, leaving a portion proportionally attached to the transferred land which formed part of the original dominant tenement, and the remaining rights held in gross.

This application was made as a primary application in conjunction with secondary application CA14/70.

Decision

The CRA resolved to accept the application to amend the register by registering the severance of the proportion of the Right which was attached to O.S. plots numbered 139, 140, 143, 144, 145, 157, 158, 159, 160, 164, 166, 167, 167a, 168, 176, and 213 (“the Plots”).

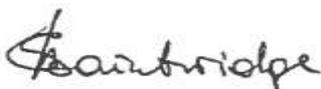
Reasons

The Commons Registration Officer (“the Officer”) assessed the application and found it to be duly made under the criteria prescribed by the relevant regulations and guidance. No objections were received to the application.

The Officer concluded that there was sufficient evidence that severance of the proportion of the Right attached to the Plots took place upon the Transfer dated 18th April 1998.

The registers for CL93 North and East Mallerstang and CL94 Western Mallerstang Common have been amended to show the proportion of the Right which was previously attached to the Plots as severed from the land and held in gross, and the remainder of the Right as attached to the rest of the dominant tenement.

Signed



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Svetlana Bainbridge – Commons Registration Officer

Dated: 4th February 2019