

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: CA14/78

Notice is hereby given that Cumbria County Council, as the Commons Registration Authority (“the CRA”) has considered an application submitted by **John Mitchell Angus** and **Eve Gabrielle Napoletani** (“the Applicants”) to amend the register to record an historic severance of part of the right of common to graze 1200 sheep, plus lambs under 9 months old, 26 hill cows plus calves under one year old, 12 heifers to include all female over one year old, until calving their first calf on Birker Fell (“the Right”), which was recorded at entry 8 of register unit CL69, Birker Fell. The Right was originally recorded as attached to 104.437 acres of land listed as High Birkerthwaite and Birkerthwaite, and more accurately described in original application number 1659 (“the Dominant Tenement”).

This application was made as a primary application in conjunction with secondary application CA14/79.

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 the 66.137 acres of the Dominant Tenement not included in a conveyance of 26th June 1990 which expressly transferred the entirety of the Right.

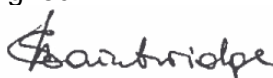
Reasons

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 part of the Right occurred initially on 5th February 1982 when a deed of partition transferred the entire Right with 55.999 acres of the Dominant Tenement, and then subsequently on the 26th June 1990 when a conveyance transferred the entirety of the Right again, but with only 38.3 acres of the 55.999 acre part of the Dominant Tenement transferred in 1982. The Officer accepts that the portion of the Right associated with the part of the Dominant Tenement that was not transferred in 1990 was severed from the land.

The register for CL69 Birker Fell has been amended to show the portion of the Right which was previously attached to that part of the Dominant Tenement not transferred with the 1990 conveyance as having been severed from the land and held in gross, with the remainder of the Right as still being attached to the rest of the Dominant Tenement.

Signed



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Svetlana Bainbridge – Commons Registration Officer
Dated: 24th June 2022