

Commons Act 2006 – Schedule 3

APPLICATION TO AMEND THE REGISTER TO RECORD AN HISTORIC EVENT – HISTORIC APPORTIONMENT OF A RIGHT OF COMMON

Notice of Determination

Application number CA14/82

Notice is hereby given that Westmorland and Furness Council, as the Commons Registration Authority (“the CRA”), has at a meeting of its South Lakeland Local Area Planning Committee (“the Committee”) on 10 May 2024, considered an application submitted by Andrew John Nicholson and James David Nicholson (“the Applicants”). The application relates to a right of common to graze 750 sheep, and to cut and take bracken and peat over Coniston Fell (“the Right”) which is currently recorded at entry 47 of register unit CL29. The application sought to amend the register to record an historic severance of part of the Right, that part amounting to 399.81 of the 750 sheep rights. The Right is currently recorded as being attached to 138.121 acres of land (“the Dominant Tenement”), as described in column 5 of entry 47.

In relation to the grazing rights, the Applicants aimed to show that, based upon the Right being spread evenly over the entirety of the 138.121 acres, the portion of the grazing rights attributed to the 64.492 acres of land conveyed on 18 January 1971 amounted to 350.19 sheep rights. As the conveyance itself specifically states that a total of 750 sheep rights were transferred, then the Applicants have calculated that those additional grazing rights, the remaining 399.81 sheep rights, were transferred without the land to which they once attached and were therefore severed from the land at that point.

The application was made in conjunction with application CA14/81 to record an historic severance of part of the quantifiable Right (“the Primary Application”).

Decision

The Committee resolved to accept the application to amend the register by registering the apportionment of the Right in line with the Applicants’ calculations. The Committee accepted that a total of 750 sheep rights had transferred on 18 January 1971, and that of those 350.19 sheep rights were associated with the land which was also transferred. It follows that the remaining 399.81 sheep rights were associated with the land that was not transferred in 1971.

The unquantifiable elements of the Right, those being the right to take and cut bracken and peat, do not require any apportionment calculations.



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Reasons

The Committee considered a report written by the Commons Officer (“the Officer”) which recommended that the application be accepted in terms of those quantifiable grazing rights. The Officer concluded that the Applicants’ calculations were correct.

The Primary Application was accepted by the Committee.

Outcome

The register for CL29 Coniston Fell, Dunnerdale Fell, Seathwaite Fell, Torver High Common has been amended to show the Right as having been apportioned in line with the Applicants’ calculations. The 399.81 sheep rights associated with the land to which the rights originally attached which was not transferred by the 1971 conveyance were subsequently severed from the land by the Primary Application and are now recorded in the register as being held in gross.

Signed:



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David Haughian – Assistant Director Community Infrastructure

Dated: 15th July 2024