

## **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 CA14/81**

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.

The application was made as a primary application in conjunction with secondary application CA14/82.

#### **Decision**

The Committee resolved to accept the application to amend the register by registering severance of part of the Right amounting to 399.81 sheep rights, those being the quantifiable rights attributed to the part of the Dominant Tenement not transferred by the conveyance dated 18 January 1971 which expressly transferred all 750 sheep grazing rights.

#### **Reasons**

The Committee considered a report written by the Commons Officer (“the Officer”) which recommended that the application be accepted. The Officer concluded that there was sufficient evidence that severance of part of the Right occurred on 18 January 1971 when the entirety of the quantifiable part of the Right was transferred, with only part of the land to which the Right attached.

One objection was received and carefully considered, which claimed that the entirety of the quantifiable part of the Right had become severed in 1971, but on balance the Officer agreed with the Applicant’s assertion that only that part of the Right above and beyond the proportional amount attached to the transferred land had been severed. The Officer did however agree with the objector in that the unquantifiable elements of the Right, those being the right to cut and take bracken and peat, cannot be severed and should remain attached to the land.



**Outcome**

The register for CL29 Coniston Fell, Dunnerdale Fell, Seathwaite Fell, Torver High Common has been amended to show a portion of the quantifiable Right as having been severed from the land and held in gross.

Signed:



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David Haughian – Assistant Director Community Infrastructure

Dated: 15<sup>th</sup> July 2024