Appendix 2

Commons Act 2006: section 19
Application to correct the register

This section is for office use only

Official stamp

Application number

COMMONS ACT 2006
CUMBRIA COUNTY COUNCIL
COMMONS REGISTRATION AUTHORITY
13 DEC 2019

Applicants are advised to read 'Part 1 of the Commons Act 2006: Guidance to applicants' and to note:

- All applicants should complete boxes 1–8.
- Any person can apply under section 19 of the Commons Act 2006.
- You will be required to pay a fee unless your application is to correct a mistake made by the registration authority (section 19(2)(a)) or to remove a duplicate entry (section 19(2)(c)). Ask the registration authority for details. You would have to pay a separate fee should your application be referred to the Planning Inspectorate, unless it is to correct a mistake made by the authority or to remove a duplicate entry.

Note 1

Insert name of commons registration authority.

1. Commons Registration Authority

To the:

Tick one of the following boxes to confirm that you have:
enclosed the appropriate fee for this application:

or

applied for a purpose in section 19(2)(a) or (c), so no fee is enclosed:
2. Name and address of the applicant

| Name: | THOMAS ALAN BENN |
| Postal address: | MUNGRISDALE PENRITH |
| Postcode: | CA11 |

| Telephone number: |
| Fax number: |
| E-mail address: |

3. Name and address of representative, if any

| Name: | SAMANTHA MCALISTER |
| Firm: | MINIHAN MCALISTER SOLICITORS |
| Postal address: | WARMICK MILL BUSINESS CENTRE WARMICK BRIDGE CARLISLE |
| Postcode: | CA4 8RR |

| Telephone number: | 01228 |
| Fax number: | 01228 |
| E-mail address: | }
4. Basis of application for registration and qualifying criteria

Specify the register unit number to which this application relates:

CL20

Specify the rights number to which this application relates (if relevant):

ENTRIES 46, 1010, 281, 417 AND 418

Tick one of the following boxes to indicate the purpose (described in section 19(2)) of your application. Are you applying to:

Correct a mistake made by the commons registration authority: ☑
Correct any other eligible mistake:
Remove a duplicate entry from the register:
Update the details of any name or address referred to in an entry:
Record accretion or diluvion:

5. Describe the purpose for applying to correct the register and the amendment sought

SEE ATTACHED DOCUMENT
Note 6
List all supporting consents, documents and maps accompanying the application, including evidence of the mistake in the register. There is no need to submit copies of documents issued by the registration authority or to which it was a party but they should still be listed. Use a separate sheet if necessary.

6. Supporting documentation

N/A

Note 7
List any other matters which should be brought to the attention of the registration authority (in particular if a person interested in the land is expected to challenge the application for registration). Full details should be given here or on a separate sheet if necessary.

7. Any other information relating to the application

N/A
**Note 8**
The application must be signed by each individual applicant, or by the authorised officer of an applicant which is a body corporate or an unincorporated association.

<table>
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<th>8. Signature</th>
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<td>Date: 12/12/19</td>
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<td>Signatures:</td>
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**REMEMBER TO APPLICANT**

You are responsible for telling the truth in presenting the application and accompanying evidence. You may commit a criminal offence if you deliberately provide misleading or untrue evidence and if you do so you may be prosecuted.

You are advised to keep a copy of the application and all associated documentation.

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**Data Protection Act 1998**

The application and any representations made cannot be treated as confidential. To determine the application it will be necessary for the commons registration authority to disclose information received from you to others, which may include other local authorities, Government Departments, public bodies, other organisations and members of the public.

A copy of this form and any accompanying documents may be disclosed upon receipt of a request for information under the Environmental Information Regulations 2004 or the Freedom of Information Act 2000.
My understanding of the situation is as follows –

- On 12 November 1968, Sidney Cole made an application to register 250 sheep, 12 cattle and 4 ponies. The rights were attached to 8 fields. These were registered at entry 46.

- In 1972, entry 46 was cancelled and replaced by entry no 101. The same number of rights were registered, but they were attached to 10 fields (rather than 8).

- In 1982, following an objection that more than 4 units per inbye acre had been registered, it was agreed that entry 48 be amended to 308 units (4 x 77 acres).

- Sidney Cole died and his son, Geoffrey Heron Cole, sold the land / rights as follows –
  - 16 October 1987 - 26.45 acres of land and 250 cattle and 12 cattle (298 units) were transferred to Colin Benn. Again, the wording of the conveyance reflected the original registration by Sidney Cole and not the amended rights substituted in 1982.
  - 15 December 1987 – the farmhouse, about 10 acres of land and the right to graze 4 ponies (32 units) were transferred to Mr and Mrs Fearn. The wording of the rights transferred did not reflect the change to the rights held which had been made in 1982.

- On 16 October 1987, some of the land purchased by Colin Benn and all of the rights were transferred to his brothers, me and John Keith Benn, who farmed in partnership.

- On 31 March 2004, John Keith Benn transferred his share of the 250 sheep and 12 cattle rights (298 units) to me. I then applied to register the rights in his name.

- On 7 September 2004 and in error, I was registered as being entitled to 308 units in gross under entry 281. This was incorrect, as I only had 298 units. On 5 July 2004, my solicitor wrote to the CRO and agreed that only 298 units should be registered under entry 281.

- Neither Mr and Mrs Fearn or their successor (Mrs Hill) applied for registration of their 4 ponies. However, in 2017 their second successor, Tony Vaux, made an application to correct the register using Form CA10, pointing out that he had been sold 4 pony rights (32 units) but that all of the rights had been registered to me.

- The decision was made at the CRO to reduce the number of units transferred to Colin Benn on 16 October 1987 (which were then transferred into my sole name in 2004) from 308 to 278.13 units. The balance of 29.87 rights were registered as it first was pre-1987 (see entries 417 and 418).

I am told that the reasoning for the reduction was that Geoffrey Cole thought he had 330 units (250 sheep, 12 cattle and 4 ponies) so each Transferee (the first in October 1987 and the second in December 1987) of a purported 330 units should bare a pro-rata reduction. However, I am not sure how this can be correct at law. My solicitor tells me that, legally, 298 units were transferred on 16 October 1987. When the second transfer was made, legally, Sidney Cole did not have 32 units left – he had 10. It is not right that the reduction be apportioned between the two parties – the reduction should all be borne by the second transferee.

I ask that the error made in 2017 is corrected so that I am registered with 298 units and the remaining 10 should be registered to Tony Vaux (I understand that he will be making an application in due course).