



COMMONS REGISTRATION ACT 1965

Reference Nos 20/D/64
20/D/65

In the Matter of Bean Well, Aldingham,
South Lakeland District, Cumbria

DECISION

These disputes relate to the registration at Entry No 1 in the Land Section of Register Unit No CL. 26 in the Register of Common Land maintained by the Cumbria County Council and are occasioned by Objection No 4 made by Mr Bruce Wilson and by Objection No 66 made by Mr Thomas George Usher Roberts and Mrs Shirley Stelfox Clark and noted in the Register on 4 December 1970.

I held a hearing for the purpose of inquiring into the dispute at Kendal on 25 April 1978. At the hearing Aldingham Parish Council on whose application the registration was made were represented by Mr M S Graham solicitor of Livingston & Co Solicitors of Ulverston, and Mrs S S Clark was represented by Mr R F Hart-Jackson solicitor of Hart-Jackson & Sons, Solicitors of Ulverston.

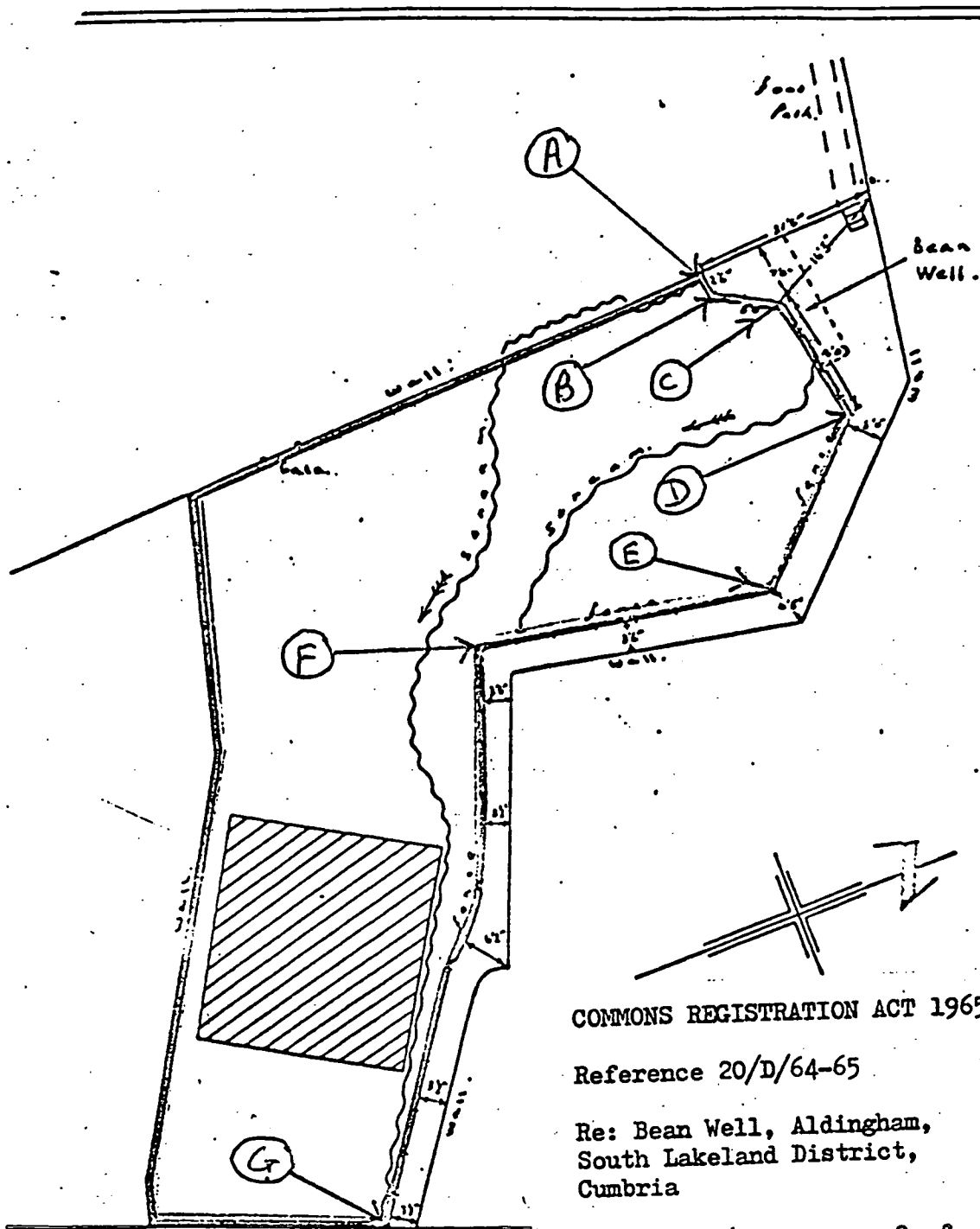
The land ("the Unit Land") in this Register Unit is an L-shaped piece which is a short distance southeast of Baycliff, and one of whose sides joins (or is very near to) the sea shore. In the Ownership Section Mr T G U Roberts and Mrs S S Clark are registered as the owners of the part west of the line A-B and north of the line CD on the Register map (that is all except a small piece at the northeast corner and a narrow strip along the south side).

The grounds of Objection No 4 (Mr Wilson) are in effect that the said strip was not common land at the date of registration. The ground of Objection No 66 (Mr Roberts and Mrs Clark) are that the land of which they are registered as owners was not common land at the date of registration.

In a letter dated 12 April 1978 Mr Wilson said (in effect):- He wished to withdraw his objection, while at the same time making the following points:- (i) The land when purchased from the Crown Estate Commissioners on 17 June 1963 was not registered and there were no objection from local people, (ii) there was no water cress growing on it and it was overgrown and had been used as a rubbish dump, and (iii) he agreed that the Bean Well as part of the land should have been sold to the Parish. Because of these three points he was withdrawing his Objection in case people might think he was adopting a "dog in the manger" attitude.

In a document dated 3 April 1978 and signed on behalf of the Parish Council and on behalf of Mrs S S Clark (Mr T G U Roberts died on 13 June 1972) it was recorded that they were agreed that the land coloured blue on the plan attached to a conveyance dated 12 March 1975 and made between Mrs S S Clark and the Parish Council was conveyed to the Parish Council in the terms therein set out and that the Parish Council withdraws its application for registration of the Unit Land save so far as it related to the land coloured blue on the said plan the fee simple of which was conveyed to the Parish Council by the said conveyance.

[9. to page 3]



COMMONS REGISTRATION ACT 1965

Reference 20/D/64-65

Re: Bean Well, Aldingham,
South Lakeland District,
Cumbria

This plan (being page 2 of the decision dated 5 May 1978 made by the Commons Commissioner in this matter) with a copy plan attached to a conveyance dated 12 March 1975 and made between Mrs S.S. Clark and Aldingham Parish Council (the letters ABCDEFG having been added to indicate the south boundary of the land thereon coloured blue).

a. a. Baden Fuller

Commons Commissioner

PLAN REFER
B.E.A.N. W.E.L.L., B





At the hearing Mr Graham produced the said conveyance; and ^(an uncoloured) a copy of the plan annexed to it forms page 2 of this decision (the letters ABCDEFG having been added to indicate the south boundary of the land thereon coloured blue). He on behalf of the Parish Council in accordance with the said document signed on their behalf and on behalf of Mrs Clark withdrew their application for registration of all the Unit Land except that coloured blue on the said plan; he explained that such withdrawal, notwithstanding the said letter of Mr Wilson, ^{extended} → to the land described in his objection so that in the result his objection would succeed notwithstanding that he had expressed a wish to withdraw it.

There was some discussion as to the part of the Unit Land northeast of the line AB on the Register map to which neither of the two objections referred and which (or part of which) was not coloured blue on the said plan. Mr Graham and Mr Hart-Jackson said that they were agreed that this part should remain registered.

In my opinion I can properly act on the documents signed on behalf of the Parish Council and Mrs Clark, and accordingly I confirm the registration with the modification that there be removed from the Register all the land south and west of the line ABCDEFG on the plan forming page 2 of this decision.

I am required by regulation 30(1) of the Commons Commissioners Regulations 1971 to explain that a person aggrieved by this decision as being erroneous in point of law may, within 6 weeks from the date on which notice of the decision is sent to him, require me to state a case for the decision of the High Court.

Dated this 5th day of May — 1978

a. a. Baden Fuller

Commons Commissioner