



In the Matter of Cranberry Moor
and Grimehills Moor, Blackburn Borough,
Lancashire

DECISION

This reference relates to the question of the ownership of land known as Cranberry Moor and Grimehills Moor, Blackburn Borough being the land comprised in the Land Section of Register Unit No. CL 158 in the Register of Common Land maintained by the Lancashire County Council of which no person is registered under section 4 of the Commons Registration Act 1965 as the owner.

Following upon the public notice of this reference Metrolands Investments Limited claimed to be the owners of the land in question and no other person claimed to have information as to its ownership.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Preston on 25 November 1981. At the hearing Metrolands Investments Limited were represented by Mr M D Malone solicitor of Henry Fallows & Co, Solicitors of Darwen.

The land ("the Unit Land") in this Register Unit is in two pieces: one ("Cranberry Moor") irregular in outline being about 700 yards long from north to south with an average width of about 300 yards, and situated a short distance southeast of Darwen; the other ("Grimehills Moor") about 300 yards long and about 150 yards wide and situated a short distance southeast of Cranberry Moor and a little to the north of Whittlestone Head. In the Rights Section there is one registration only: being of a right attached to Haydocks Farm to graze 10 cows and to cut and take peat but so that in the exercise of this right no peat shall be cut from the part of the land over the tunnel or from the other land (if any) hatched blue on a plan ("the Objection Plan") attached to Objection No. 139 made by British Railways.

Mr Malone in the course of his evidence produced: (1) a conveyance dated 28 April 1921 by which Major Arthur Campbell Duckworth conveyed to Mr Thomas Lightbown all his estate and interest in the moors known as Cranberry Moss and Grimehills Moor containing about 47a. 2r. 9p. and more particularly delineated on the map in the margin and therein surrounded by a sepia line; (2) a conveyance dated 10 August 1960 by Miss Mine Lightbown as personal representative of Mr T Lightbown (he died 13 December 1948) after reciting that he at his death was seised in fee simple in possession of the said two moors, conveyed the same to Tabonier Caterers Limited describing the same as in and by reference to the said 1921 conveyance; and (3) a conveyance dated 10 July 1973 by which Tabonier Caterers Limited after reciting similarly their seisin of the said two moors conveyed the same (with the Cranberry Fold Inn and other lands) to Metrolands Investment Limited describing the same by reference to the said 1960 conveyance.

From the plan in the 1921 conveyance Mr Malone identified the Unit Land with that thereby and by the 1960 conveyance conveyed except that from these conveyances is excluded a strip ("the Tunnel Strip") crossing Cranberry Moor as delineated on the 1921 conveyance plan. At page 2 of this decision is an uncoloured extract

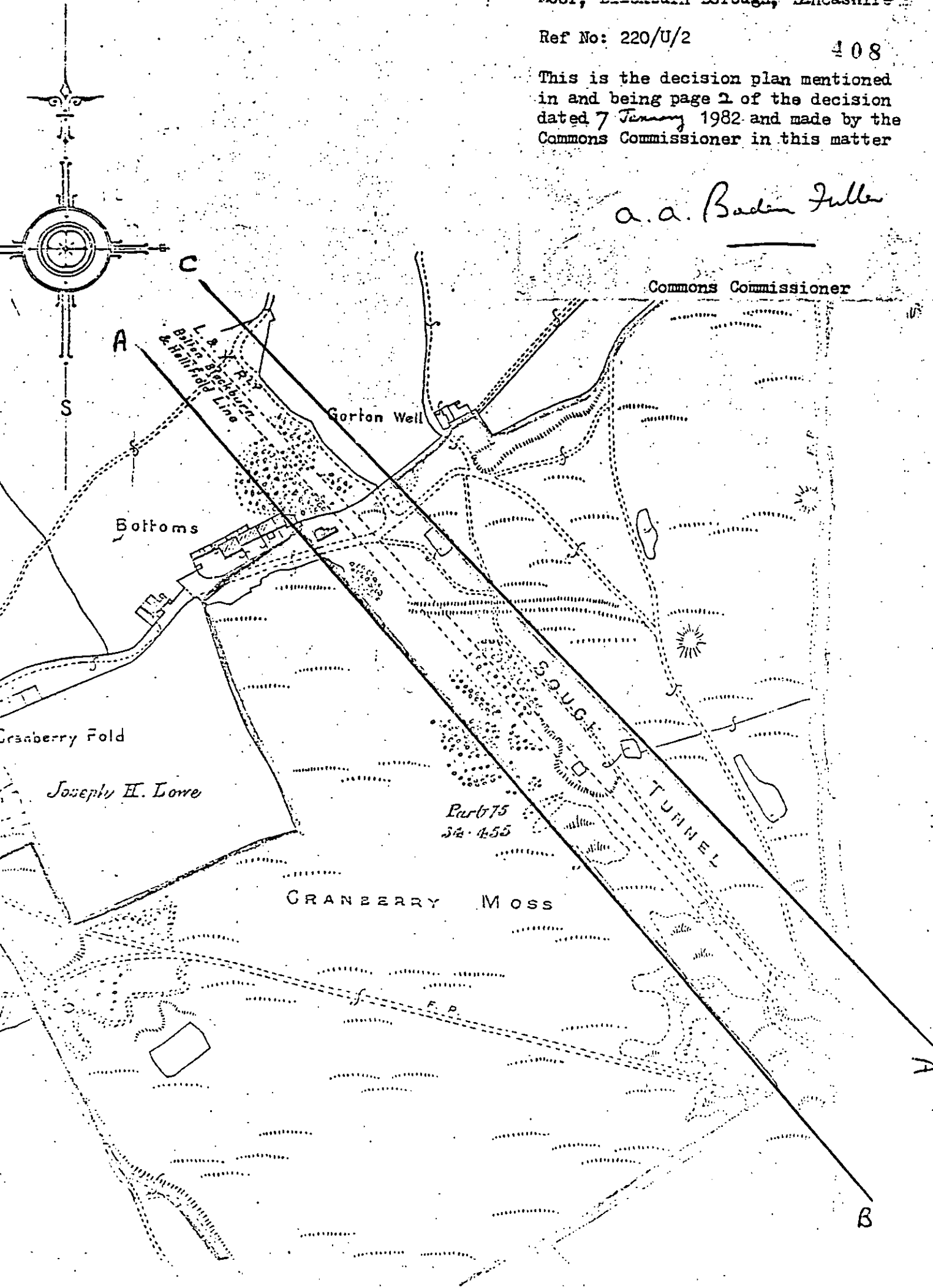
Re: Cranberry Moor and Grimshills Moor, Blackburn Borough, Lancashire

Ref No: 220/U/2

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This is the decision plan mentioned in and being page 2 of the decision dated 7 January 1982 and made by the Commons Commissioner in this matter

a.a. Baden Fuller





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("the Decision Plan") from the 1921 conveyance plan with the addition of two heavy black lines which I have drawn thereon and marked AB and CD; the Tunnel Strip is the part of Cranberry Moss which lies between the said lines AB and CD.

In their said 1971 Objection British Railways Board claim the land hatched blue on the Objection Plan in their ownership. Because of this claim, I consider I should not finally dispose of this reference without giving British Rail an opportunity of attending a hearing producing evidence of ownership. Further the Objection plan and the Decision plan are based on different OS maps, and it is therefore not clear to me that the land hatched blue on the former is the same as the Tunnel Strip ~~assumed~~ between the lines AB and CD on the latter.

So upon the evidence above summarised, my decision is as follows:-

(1) If British Rail do not in accordance with the liberty No. 1 hereinafter granted apply to me to reopen this hearing and set aside this decision as regards any part of the Unit Land which does not lie between the lines AB and CD on the Decision Plan, I am satisfied on the said evidence that Metrolands Investments Limited are the owners of all the Unit Land except the part of Cranberry Moss which lies between the lines AB and CD on the Decision Plan, and I shall accordingly direct Lancashire County Council as registration authority to register Metrolands Investments Limited of Metrolands House, 87 Bradshawgate, Bolton as the owners of all the land in the Register Unit except the said part of Cranberry Moss.

(2) If British Rail do not in accordance with the liberty No. 2 hereinafter granted to them apply to me to reopen this hearing and set aside my decision as regards the whole or any part of the Tunnel Strip as hereinbefore defined, in the absence of any evidence I am not satisfied that any person is the owner of the Tunnel Strip and it will therefore remain subject to protection under section 9 of the Act 1965.

(3) I give British Rail liberty to apply to me: (No. 1) ^{to}reopen this hearing and set aside this decision so far as it relates to any part of the Unit Land which is not included in the Tunnel Strip as herein defined; and (No. 2) to reopen this hearing and set aside this decision so far as is related to the whole or any part of the Tunnel Strip as herein defined. Any such applications ^{should} be made within 42 days of this decision being sent to British Rail Property Board, North Western Region, Manchester and should be in writing (it may be by letter) to the Clerk of the Commons Commissioners summarising the evidence which would be offered if the hearing was reopened; and a copy of the application should be sent to Lancashire County Council for their information as registration authority. Additionally if the application is under liberty No. 1 a copy of the application should be sent to Metrolands Investments Limited at their address as above and to Henry Fallows & Co of Darwen being their solicitors; ~~at~~ present I am inclined to the view that any requisite re-hearing should be in Lancashire. If the application is made only under liberty No. 2 above, I am at present inclined to the view that the re-hearing may at the option of British Rail ~~either~~ in London or Lancashire. 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



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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 7th - day of January 1982

a. a. Baden Fuller.

Commons Commissioner