



Reference No. 262/U/493

In the matter of Ravenstonedale
Common, Ravenstonedale Parish,
Eden District, Cumbria

SECOND DECISION

This decision is supplemental to a decision dated 23 July 1982 and made in this matter about the ownership of the above described land ("the CL 39 Land") being that comprised in the Land Section of Register Unit No. CL 39 in the Register of Common Land maintained by the Cumbria County Council, after a hearing at Penrith on 12 March 1982 at which Mr D R Penrose and Mr J P Merrett ("the Claimants") claiming as Trustees of the Hewetson Trust, were represented by Mr T A Hodges solicitor of Fell, Kilvington & Co, Solicitors of Kirkby Stephen and Mr James Henry Hird attended in person. In such decision, stating its effect shortly, I rejected the claim of Mr Hird being the owner of a small part of the CL 39 Land and said that I was satisfied that the Claimants are the owners of the CL 39 Land and directed the County Council to register them as owners accordingly.

Since the hearing Mr Hird has applied (letter dated 16 November 1982 from his Solicitors) that I reopen the case as regards a piece of fenced off land ("the OS 531 Piece") which compared with the rest of the CL 39 Land is very small and which was shown edged red on the plan enclosed with the application on the grounds that he owns it. Page 2 of this decision ("the Decision Plan") is an uncoloured copy of such plan the red edging being shown thereon by a thick black line.

In support of the application and enclosed with it are: (1) copy of a statutory declaration made by Mr James Henry Cowperthwaite on 18 September 1917 that in about 1860 his father Thomas Cowperthwaite enclosed 785 square yards and that he from that year until his death in 1913 and afterwards he the declarant up to 1917 had been in undisturbed possession of it; (2) copy of a conveyance dated 18 September 1917 by James Henry Cowperthwaite of the said 785 square yards to Mr James Metcalfe; (3) copy of an assent dated 10 July 1935 by which Mr James Frederick Metcalfe as personal representative of Mr James Metcalfe (he died 19 December 1934) has ~~assented~~^{assented} to the said 785 square yards vesting in Mr Charles Anthony Jackson Metcalfe; and (4) copy conveyance dated 7 September 1970 by Mr C A J Metcalfe to Mr J H Hird of the said 785 square yards for the purposes of identification edged red on the plan annexed thereto being a plan substantially the same as the Decision Plan above mentioned. In the same application Mr Hird said that he had used the said land since his purchase in 1970 as his own, undisturbed and undisputed.

The solicitors ~~who~~^{making} the said application are Fell, Kilvington & Co who are also solicitors for the Hewetson Trust, and in it they as such solicitors say that the Trust do not object to the application or to the land being vested in Mr Hird rather than the trustees of such Trust, and suggest that the agreement of the Claimants to Mr Hird being the owner of the OS 531 Piece is an exceptional circumstance such as would allow me to correct my July 1982 decision without the need for a further public hearing.

I agree with this suggestion. Accordingly I set aside my July 1982 decision so far as I altogether rejected the claim of Mr Hird to be the owner of any part of the CL 39 Land and stated that I was satisfied that the Claimants are the owners of



the CL 39 Land and accordingly directed on the County Council to register them as the owners of it (meaning the whole of it); and in substitution I now say that upon a consideration of the copy documents above summarised and the agreement thereto of the Claimants through their Solicitors I am satisfied that Mr Hird and the Claimants are the owners of the CL 39 Land as hereinafter specified and I shall accordingly pursuant to Section 8(2) of the Act of 1965 direct the Cumbria County Council as registration authority to register Mr James Henry Hird of 125 Westburn Avenue, Keighley, West Yorkshire as the owner of the OS 551 Land in this decision defined by reference to the Decision Plan herein mentioned and to register Mr Derek Roch Penrose of Park House, Barlow, Bakewell, Derby and Mr John Peter Merrett of 52 Kirkland, Kendal, Cumbria as the owners of the remainder of the CL 39 Land.

Nothing in this Second Decision affects my said July 1982 decision so far as it relates to the Greenrigg Land therein mentioned.

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 14th — day of December — 1982.

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a. a. Bate Fuller
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Commons Commissioner

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COMMONS REGISTRATION ACT 1965

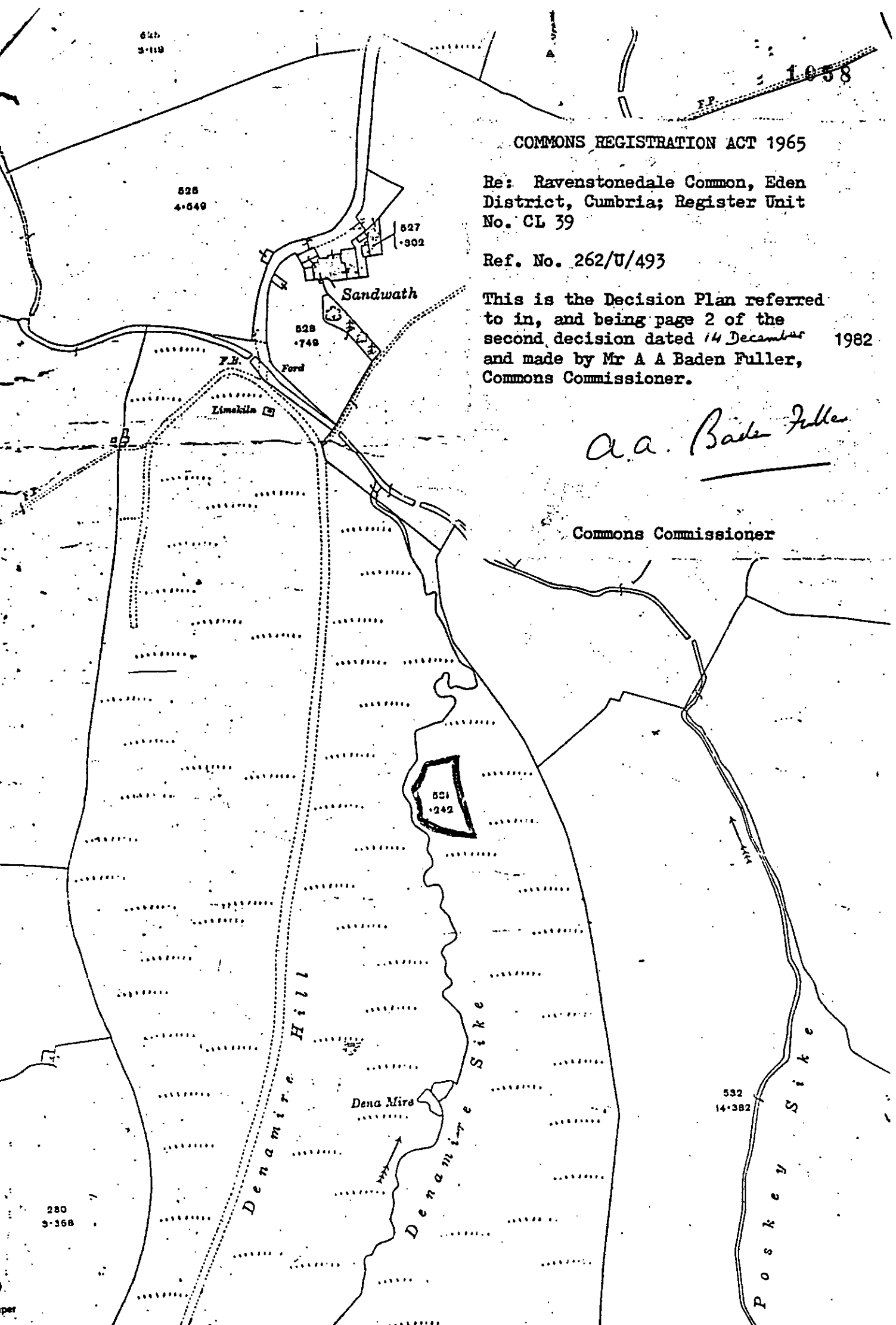
Re: Ravenstonedale Common, Eden District, Cumbria; Register Unit No. CL 39

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This is the Decision Plan referred to in, and being page 2 of the second decision dated 14 December 1982 and made by Mr A A Baden Fuller, Commons Commissioner.

A.A. Baden Fuller

Commons Commissioner



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