



Ein cyf/Our ref: COM/3259082

Mr David Howells,



15 December 2021

Dear David,

COMMONS ACT 2006- APPLICATION BY D. J. HOWELLS AND D. M. HOWELLS UNDER SECTION 16 OF THE COMMONS ACT 2006 IN RESPECT OF COMMON LAND AT CASTLEBYTHE COMMON, PUNCHESTON, PEMBROKESHIRE.

1. Following your application reference COM/3259082 made under section 16 of the Commons Act 2006 (the 2006 Act) for the deregistration and exchange of common land at Castlebythe Common (CL191), Puncteston, Pembrokeshire, I have received the report by the Inspector, Joanne Burston BSc MA MRTPI AIPROW, from the Planning Inspectorate Wales (PINS).

Summary of decision.

2. The formal decision is detailed at paragraph 19. The application is approved.

Procedural matters.

3. Welsh Ministers have appointed PINS to undertake the processing of section 16 applications on their behalf, including the making of recommendations to Welsh Ministers on whether or not an application should be approved.
4. In considering an application to exchange land it is necessary for the proposals to be advertised to allow those with private interests and third party rights the opportunity to make representations on the application. The Inspector's report notes the application was advertised in the Pembrokeshire Herald on 11 September 2020. Notices were posted at the site and sent to relevant parties.

5. One representation was received from Pembrokeshire County Council. PINS did not consider it necessary to hold an independent public local inquiry. An unaccompanied site visit was carried out on 2 February 2021.

Considerations

6. The Welsh Government has issued guidance on 'Common Land Consents'. Welsh Ministers seek to adhere to the guidance in processing and determining applications. I note every application must be considered on its own merits and a determination may, in exceptional circumstances, depart from the guidance if it appears appropriate to do so.
7. Section 16(1) of the 2006 Act provides the owner of any land registered as common land may apply for the land (Release Land) to cease to be so registered. If the area of Release Land is greater than 200m² a proposal must be made to replace it with other land to be registered as common land (Replacement Land).
8. In determining this application, regard is to be had to:
 - i) the interests of persons having rights in relation to, or occupying, the release land (and in particular persons exercising rights of common over it);
 - ii) the interests of the neighbourhood;
 - iii) the public interest;
 - iv) any other matter considered to be relevant.
9. Section 16(8) of the 2006 Act sets out that 'public interest' includes the public interest in nature conservation, the conservation of the landscape, the protection of public rights of access to any area of land, and the protection of archaeological remains and features of historic interest.
10. Welsh Government's aim is to protect common land as part of its strategic objectives in relation to biodiversity and for the sustainable use of natural resources to improve the benefits to local communities, the economy and the environment. The 2006 Act provides for the safeguarding of commons for current and future generations, helping the Welsh Government to ensure the stock of common land is not diminished.

Inspector's Report

11. Consideration has been given to the Inspector's report. The Inspector's conclusion is set out at paragraph 39 of her report which is enclosed. The Inspector at paragraph 44 of the report, recommends 'the application to deregister and exchange common land at CL191 is granted in accordance with the terms of the application dated 8 September 2020 and the plans submitted therewith and that an Order pursuant to Section 17 of the 2006 Act be made.
12. The Inspector in making her recommendation considered a range of issues: statutory requirements, policy guidance issued by the Welsh Government and the representation received as a result.

Conclusions reached by the Inspector

13. In considering the application the Inspector applies the statutory tests under section 16(6) of the 2006 Act, and I consider these below.
14. Section 16(6)(a) requires me to have regard to the interests of persons having rights in relation to, or occupying, the release land (and in particular persons exercising rights of common over it). The Inspector concludes the proposal would offer slightly poorer grazing, this would not unacceptably interfere with the interests of those having rights over the land or exercising their rights of common over it. The graziers have not objected to the proposal. I agree with the Inspector's conclusion as the land stands, it offers poorer grazing opportunities. I also note the Replacement Land is larger in size than the Release Land and in time, I believe this land will offer greater grazing opportunities for those with rights.
15. When considering the interests of the neighbourhood (section 16(6)(b)) the Inspector concludes neither the release land nor replacement land offers any significant benefit to inhabitants of the neighbourhood. She believes the dedicated 5 metre wide access route would provide some benefit in terms of accessibility. Having reviewed the Inspector's analysis, and considered the statutory requirements, I agree with this assessment.
16. When considering the public interest as required by section 16(6)(c) the Inspector states the proposal would not have a negative impact on the public interest in regards to nature conservation. When assessing the impact on conservation of landscape, the Inspector believes there would be no conflict with the purposes of National Parks and the proposed exchange could increase the opportunity for the public to enjoy satisfying views over adjoining countryside. In regards to the protection of public rights of access, the Inspector believes the proposed deregistration and exchange would not have a significant effect on the medium to long term public access to common land and only minor and limited short-term harm during the creation of various accesses. The Inspector is also satisfied archaeological remains and features of historical interest will be protected and I note Cadw did not object to the proposal. I am of a similar opinion to the Inspector regarding the public interest overall. I note you worked with Pembrokeshire Coast National Park Authority to identify the land least likely to have an impact on the landscape. Having considered this and the statutory requirements I agree with the Inspector's assessment.
17. Section 16(6)(d) requires me to have regard to other relevant matters. The Inspector notes there would be no reduction in the overall area of common land as a result of the exchange; in fact, there would be an increase. She also acknowledges the improvements, as set out by the landowner, would benefit the rural economy and maintain local infrastructure and expertise capable of long term sustainable agricultural management. The Welsh Government places high value on this as set out in our Well-Being of Future Generations Act 2015.
18. I have considered the report and the issues considered by the Inspector and agree with her conclusion the application should be granted and an Order of Exchange should be made. I believe the considerations in section 16(6) of the 2006 Act support this conclusion. I believe the Replacement Land has the potential to offer the graziers at least equal benefit in the long term and it is larger than the Release land. In particular, I agree with the Inspector the proposal would benefit the rural economy. The Welsh Government is committed to securing a prosperous Wales as set out in the Well-being of Future Generations Act 2015.

Formal Decision

19. I have considered the Inspector's Report and noted the case for the applicant, the representation and the Inspector's conclusions. In conclusion, for the reasons given above, and in exercise of my authority as Minister for Rural Affairs and North Wales, and Trefnydd, one of the Welsh Ministers, I hereby grant the application (COM/3259082) to deregister common land at Castlebythe Common CL191), Puncheston, Pembrokeshire, and provide replacement land, in accordance with the terms of the application COM/3259082 dated 8 September 2020 and the plans submitted therewith and an Order pursuant to Section 17 of the 2006 Act shall be made.
20. I enclose a copy of the Inspector's Report and a copy of the Order made under Section 17(1) and 17(2) of the 2006 Act, which has today been sent to Pembrokeshire County Council.
21. The Welsh Ministers' decision on this application will be published as required by regulation 19 of the Deregistration and Exchange of Common land and Greens (Procedure) (Wales) Regulations 2012.
22. This letter does not convey any approval or consent which may be required under any enactment, by-law, order, regulation or private agreement other than sections 16 and 17 of the 2006 Act.

Yours sincerely,

A handwritten signature in black ink that reads "Lesley Griffiths". The signature is written in a cursive style with a large, sweeping flourish at the end of the name.

Lesley Griffiths AS/MS

Y Gweinidog Materion Gwledig a Gogledd Cymru, a'r Trefnydd
Minister for Rural Affairs and North Wales, and Trefnydd