

## Claire Lewis (CSP - Countryside Services)

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**From:** Hugh Craddock · [REDACTED]  
**Sent:** 10 January 2018 12:29  
**To:** Commons Registration (CSP - Generic)  
**Subject:** RE: Notice of application received under the Commons Act 2006

Hi Claire

Thank you very much for the scans of the supporting information, and for the clear way in which they were labelled — this has made handling the documents so much easier!

We wish to object to this application, but in doing so, we believe that clarification of and addition to the evidence may enable us to withdraw the objection. We therefore would welcome further comment. The society has no legal interest in the land.

Firstly, there is the question of whether the application land satisfies the test in para.7(2)(a)–(c) of Sch.2 to the 2006 Act. In the extract of the land section of the register (item N), it is stated: 'Commons Commissioners Decision: The registration at entry no.1 above, became final on the 26<sup>th</sup> July 1973, with the following modification:– [A as regards a correction of the area] B The land hatched black comprising an area of 371.110 ha (917.227 acres) has been removed from the register.' It is not clear whether those modifications were in fact the product of a referral to the Commissioner — in which case, application cannot now be made under para.7 — or whether they are merely the result of a withdrawal of an original application to provisionally register the land hatched black. We do not have a copy of the Commons Commissioner's decision into the registration of the land, but one may exist.

The application data contain some evidence that the application land was historically regarded as part of Rhiwgriafol farm, and not common land. However, it is difficult to see the whole picture, as there is no overall analysis of the evidence, its meaning, and the conclusions which may be drawn from it as a whole. I will comment on the evidence in turn, and using the same labels as you used; where there is no comment, it does not seem to offer any evidential value:

- A: Application form: it is stated (item 9) that the Ramblers 'applied to have the land registered as common land but subsequently agreed it was not'. However, no evidence is supplied of this agreement.
- C: OS plan identifying land.
- D: Land Registry title plan.
- E: SPS map.
- F: 1922 conveyance: this asserts the application land to be part of the holding vice the 'Sheepwalk' at the date of conveyance.
- G: Parish tithe map: this shows the application land to be assigned parcel 1033, but no evidence is adduced as to the stated use of the land in the apportionment.
- H/I: Finance (1909–1910) Act 1910: this shows that the owner of hereditaments 170 and 171 did not claim, nor was awarded, any deduction for the status of any part of the land as common land (item (p)(iv)). However...
- J: Finance Act map: ...as the map shows that hereditament 170 included much, if not all, of what was subsequently registered as register unit CL76, including land which was expressly recognised in the 1922 conveyance as 'Sheepwalk', it follows either than the owner did not wish to seek a deduction, or that the owner did not recognise any of that land as common land in 1913 (when the return was made). Either way, nothing can be deduced

from items H–J about the status of the application land. (The extent of hereditament 171 is not marked on the item J map.)

- K: Glastir map.
- L: Glastir survey map.
- M/N: Common land register extracts: these are not in colour, and it is difficult to infer what land is registered within common land register unit CL76. There are various annotations which do not explain themselves (e.g. 'Entry 3 — GIS Map'). There is no evidence as to what rights (if any) were registered as exercisable over the application land, and whether the right holders accede to the application.
- O: Statutory declaration by Geraint Wigley: this is helpful, but not sufficient.

In summary, we do not find the evidence, as presented, is sufficient to show that the statutory tests for deregistration set out in para.7(2)(d) of Sch.2 to the 2006 Act are satisfied as regards the application land. In particular, there is little information as to whether the land satisfied those tests at the date of provisional registration.

The statutory tests for deregistration under para.7 are intended to be challenging. There was no intention, in enacting the 2006 Act, that the registers should generally be reopened to enable any registration under the 1965 Act to be cancelled. It is not for objectors to provide evidence that the application land was properly registered, but for the applicant to supply evidence that the statutory tests are satisfied. At present, the application does not do that, and must be refused.

regards

Hugh

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The Open Spaces Society has staff with exhaustive experience in handling matters related to our charitable purposes. While every endeavour has been made to give our considered opinion, the law in these matters is complex and subject to differing interpretations. Such opinion is offered to help members, but does not constitute formal legal advice.

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**From:** Claire Lewis (CSP - Countryside Services) [mailto:[claire.lewis@powys.gov.uk](mailto:claire.lewis@powys.gov.uk)]

**Sent:** 05 December 2017 09:26

**To:** Hugh Craddock

**Subject:** RE: Notice of application received under the Commons Act 2006

Dear Hugh

Thank you for your email. A scan of application 17-001CA and supporting documents is attached. Please be aware that some of the plans supplied to us are rather large so only an extract has been scanned.

Kind Regards

Claire Lewis  
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