

**Content of email dated 17 July 2023 from Mr H Craddock of the Open Spaces Society:**

Dear commons registration team

The society is responding to notice of application under para.7 of Sch.2 to the Commons Act 2006 to deregister register unit no. MCL61 in Llanfair Caereinion. The society has no legal interest in the application land.

We can see the basis of a case made by the applicant. However, the application lacks a full explanation of the evidence adduced with it, some of the evidence is unreadable, and there is a fundamental flaw in the presumption that the land was wrongly registered.

Firstly, the application contains a commendable range of supporting documents. These include a number of indentures and conveyances which are said to include the application land. However, no evidence is provided to support this assertion. The indentures and other documents refer to field parcel numbers included in the transaction, but no explanation is made as to how those field parcel numbers relate to the application land. Presumably, the field numbering relies either on the tithe map or Ordnance Survey large scale plans, but the latter is not supplied showing the field numbers referred to, and the tithe map is unreadable (see below).

Secondly, several of the documents supplied by the applicant appeared to have been redacted by the authority, in such a way that the document has been rendered unreadable. This appears to have occurred because the documents have been supplied in electronic form, have been printed out, have been redacted manually, and then have been scanned back to electronic form. See in particular 04-Doc Ref 2\_Tithe Map Records (the tithe map), and 06-Doc Ref 4 (the Finance Act records). Please may these be supplied in a form which is legible?

Thirdly, the applicant states that:

*The mistake was made in 1968 when Mr J Penri Jones, Tynybryn registered the incorrect area. (ref.8). His application form included a map (ref:9), showing the area he was applying to register, marked green, yet a much larger area was registered.*

However, this statement is incorrect. It is apparent from the land section of the register that the register unit provisionally was registered on the initiative of the commons registration authority, without any application having been made for that purpose, under s.4(2)(a) of the Commons Registration Act 1965. No evidence has been adduced as to the basis of that provisional registration, or why it might have been at fault.

We agree that the application of Mr J P Jones is puzzling. Mr Jones appeared to append to his application, for provisional registration of a right of common, a single map which purported to show both the servient tenement (*i.e.* the common over which he claimed to exercise a right of common) and the dominant tenement (the land to which was attached the right). If that is correct,

then the servient tenement was hatched and outlined in green, and formed the eastern block of the register unit. There are some markings on the original application map which suggest that the western block of the register unit also was contemplated as part of the servient tenement, but those markings subsequently were crossed out prior to the application being made.

We concede that it is probably more than coincidental that Mr Jones made his application on 27 and 28 June 1968, and the registration authority on its own initiative decided to register MCL61 on 29 June 1968. Nevertheless, what is missing is an explanation why the authority decided provisionally to register as common land a larger area than identified in Mr Jones' application. It would be helpful from this perspective to know what other applications were made under the 1965 Act in relation to the register unit, and what rights are registered in the rights section of the register please? And what records are held by the authority as to the circumstances in which the provisional registration was made on the initiative of the authority?

**Content of email dated 14<sup>th</sup> September 2023 from the Commons Registration Authority to Mr H Craddock of the Open Spaces Society:**

Please find attached response from the applicant to your representation. [See appendix 17]

On behalf of the Commons Registration authority I can concur that Register unit CL61 (Montgomery) was registered on the initiative of the commons registration authority, without any application, under s.4(2)(a) as stated in the Land Section. Regrettably there is no information kept in the Council records that provides an explanation as to why the land was registered. It is assumed that this was in consequence to the CR Form 9 submitted by Mr John Penri Jones, albeit that a larger area was registered than the area hatched in green. No other applications were received in respect of this register unit, hence there is only one entry in the rights section.

The Council does hold a copy of a letter dated 10<sup>th</sup> August 1972 and accompanying plan in which Mr Jones' solicitor states that his client intended to claim a right of common over land edged in blue on an accompanying plan. This document was submitted as part of the application documents labelled 12-Doc Reg10\_Solicitor letter and map.

In relation to '06-Doc Ref 4 (the Finance Act records) please find attached a non-redacted copy. Unfortunately, on scanning the document, it does distort viewing of the valuation schedule extract for the parish of Llanfair Caereinion. Using a magnifying glass, it is thought to say:

No. of Assessment	No. Of Poor Rate	Christian Names and Surnames of Occupiers	Christian Names and Surnames of Owners with their residence	Description of Property	Street/ Location	Estimated Extent		Gross Annual Value		Rateable Value		Reference to Map	Extent as determined by Valuer				Original Gross Value
						Area		£	s	£	s		Area	R	P	Y	
170 - 1	3	Robert Davies	p**** in possession c/o **** Blunt & Brocklehurst C Macclesfield	Ag Land	Waenglapiau ***	118	2*	44		39	10	***	205	1	3	1	1530
	4	"	"	**				6		5	10						

**Content of email dated 21 November 2023 from Mr H Craddock of the Open Spaces Society:**

Thank you for your email of 14 September and reminder.

In our view, the position has become clearer in the light of the additional or more legible evidence.

We suggest that Mr Jones sought to register his rights of common over the township turbary, which is immediately north of the application land, and identified as such on the tithe map. He mistakenly submitted a plan which identified the wrong land as servient tenement, somewhat to the south of the turbary. In turn, for reasons which are not recorded, the commons registration authority did not act directly on the application, but instead acted on its own initiative under s.4(2)(a) of the Commons Registration Act 1965 to register not only the land formally (but wrongly) identified in the application, but adjoining land, as a common. Presumably, it felt able to proceed in this way because Mr Jones had applied to register a right of common, and provided that the authority acted first to register the 'common', Mr Jones' application could be dealt with consequentially, to register a right over part of the common, and noted in the land section of the register (there is no such note in the copy supplied, but perhaps it appears in the original provisional register?).

There is, we accept, no evidence that any of this land is or was within living memory common land. It is unfortunate that Mr Jones did not correctly identify the turbary in his application. Had he done so, it might be argued that the commons registration authority had made a mistake in registering the wrong land, which now could be rectified on an application for the purposes of s.19(2)(a) of the 2006 Act. However, in the circumstances, we cannot see any way to achieving the correct registration of the turbary. But we agree that the application under para.7 appears correctly made and supported.