
Penderfyniad y Cynnig

Ymweliad â safle a wnaed ar 15/10/2018

gan Joanne Burston BSc MA MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 09/11/2018

Proposal Decision

Site visit made on 15/10/2018

by Joanne Burston BSc MA MRTPI

an Inspector appointed by the Welsh Ministers

Date: 09/11/2018

Proposal Ref: COM/3197227

Land at Cefn Hengoed and Hirwaun Common, Pencoed

Register Unit: CL 21

Commons Registration Authority: Bridgend County Borough Council

- The proposal is made by Bridgend County Borough Council ('the Council') under Section 19(2)(a) of the Commons Act 2006 ('the 2006 Act') to correct a mistake made by the Commons Registration Authority in making or amending an entry in the register.
 - The proposal land is two parcels of land within the boundaries of Pencoed Primary School.
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Decision

1. The proposal is granted and the parcels of land shown hatched in red on the plan attached to this decision shall be removed from the register of common land. The Commons Registration Authority are hereby required to amend the Commons Register accordingly.

Procedural Matters

2. I carried out an accompanied site inspection on 15 October 2018. My decision has been made on the basis of my observations on this visit, taking account of the proposal and the representation received in response to the advertisement of the proposal.
 3. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' well-being objective of supporting safe, cohesive and resilient communities.
 4. The application was made on 28 February 2018 by Bridgend County Borough Council itself, and thus constitutes a proposal rather than an application. The Open Spaces Society objection refers to the confusion caused by the use of the term 'application' on the statutory notice rather than 'proposal'. Nevertheless, although I consider that the lack of clarity with regard to the correct terminology was regrettable, I do not find that any prejudice has been suffered by anyone as a consequence. I have therefore proceeded to determine the matter on the basis that the proposal has been properly made and advertised.
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Main Issue

5. The proposal has been made in accordance with the provisions of section 19(2)(a) of the 2006 Act which provides that a Commons Registration Authority (CRA) may amend its register of common land to correct a mistake made by the CRA in making or amending an entry in the register.
6. Section 19(4)(a) permits a CRA to make amendments on its own initiative. The main issue is whether a mistake was made by the CRA in making an entry in the register and whether the correction of the register would be unfair on anyone.
7. The onus of proving the case in support of the correction of the register of common land rests with the body making the proposal, and the burden of proof is the normal, civil standard, namely, the balance of probabilities.

The Proposal

8. The proposal is to remove from the register two parcels of land within the boundaries of Pencoed Primary School ('the proposal land') from register unit number CL 21 Cefn Hengoed and Hirwaun Common, often referred to locally as the Coity Wallia Common.
9. The Council explains that the proposal land should not have been included as part of the Commons Register (CR). The application to register the Cefn Hengoed and Hirwaun Common is dated 28th February 1967 and the application with a plan (the Application Plan) was submitted to Glamorgan County Council on the 2 March 1967.
10. On the 26 April 1967 Glamorgan County Council recorded the land as common land. However, there are discrepancies in asserting that the proposal land was intended to be included as part of the original commons application for the Cefn Hirgoed and Hirwaun Common.
11. In essence the Application Plan identifies the land that was proposed to be registered as common land for Cefn Hirgoed and Hirwaun Common edged in green. However, there are also a number of areas of land that are edged in green but that also contain diagonal hatched markings. The diagonal hatched markings include parcels of land that form part of the School Property. On the reverse of the Application Plan is a note that reads, "*Commons area that are diagonally hatched so should be excluded*". It is the understanding of the Council that the 1967 application to register the Cefn Hirgoed and Hirwaun Common erroneously included the site of Pencoed School by including the diagonally hatched areas of land in the commons register. This error could not be later rectified due to legal reasons.
12. The Council submits that this evidence demonstrates that an error was made by including the school property in the commons register unit CL 21.

Reasons

Whether a mistake was made by the registration authority such that the register should be corrected

13. Cefn Hirgoed and Hirwaun Common was subject to a claim under the 1965 Act made by the clerk to the Coity Wallia Board of Conservators. The Application Plan clearly shows the area of the common to be registered, edged in green. However, there is a section of the plan which is hatched and notated that it should be excluded from the common. Furthermore, a notation on the plan, dated 1969 states that the hatched area "removed from the register".

14. Due to the thickness of the hatching on the Application Plan it is difficult to clearly decipher the land in question and I also note that an objector has raised a concern relating to mapping discrepancies. Nevertheless, the hatching would seem to broadly relate to the land occupied by Pencoed Primary School when compared with the conveyance plans and historic maps.
15. I accept that, while it is not clear why the proposal land was registered as common by the CRA, the submitted maps and associated notations are sufficiently clear to show that mistakes were made in drawing and that the proposal land should not have been registered.

Whether any party places or has placed reliance upon the register such that the correction of the entry would, in all the circumstances, be unfair

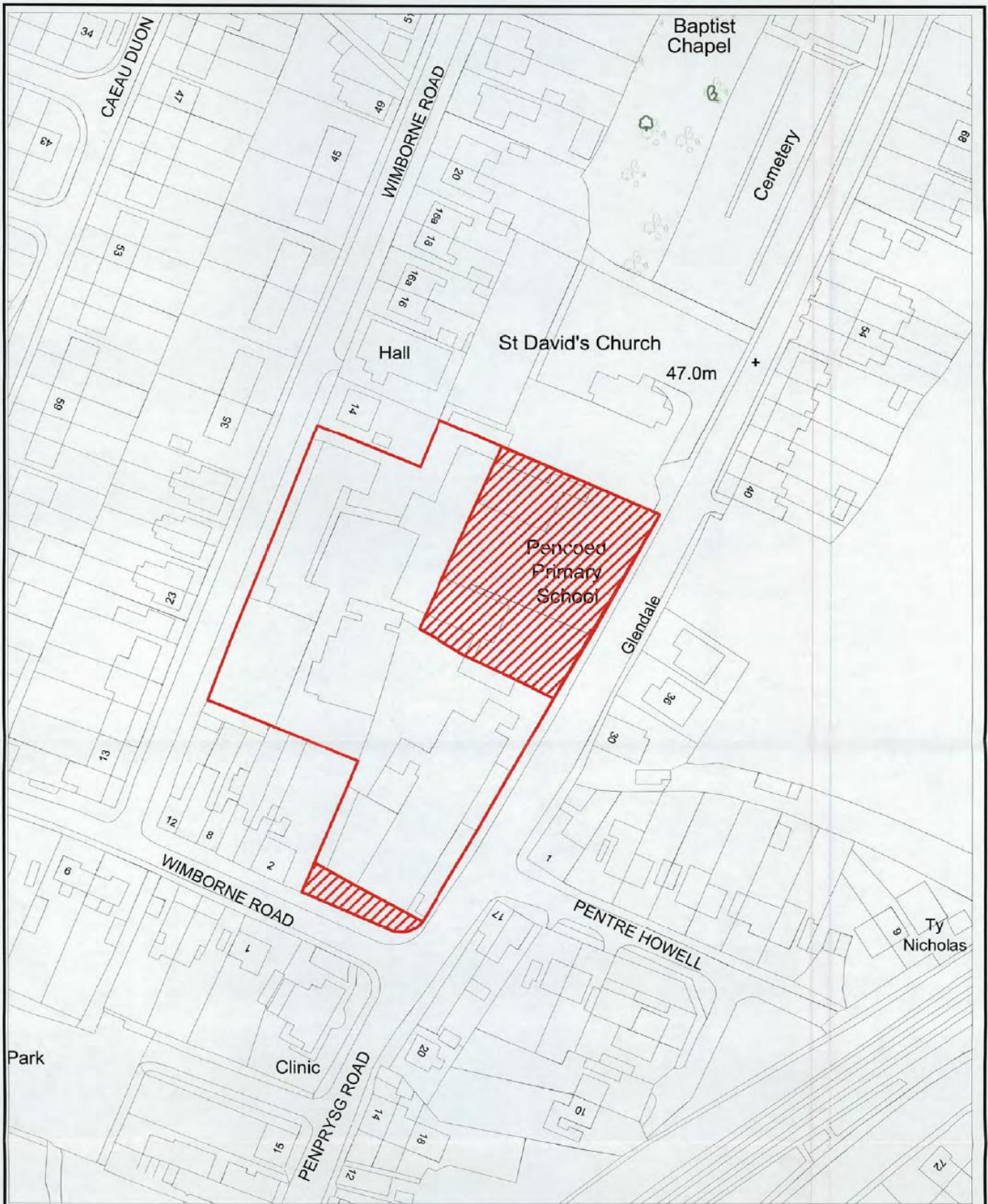
16. The landowner of Cefn Hirgoed and Hirwaun Common make no claim of landownership of the proposal land as they were conveyed as part of the Coity Wallia Award.
17. An objection has been made by a local resident regarding the condition of the proposal land namely stability and contamination. Whilst I do not dispute the importance of these issues, they are not matters for me under this legislation.
18. Furthermore, it is not for me to determine whether or not there has been due diligence in the Council's processes, as that would be a matter for the Council's own complaints procedures. Such matters are therefore beyond the scope of this decision.
19. I therefore conclude that it would not be unfair on any party to remove the two parcels of land from register unit number CL 21.

Conclusions

20. I conclude that the parcels of land subject of this proposal were included in the register of common land by mistake and that they should therefore be removed.

Joanne Burston

INSPECTOR



BRIDGEND COUNTY BOROUGH COUNCIL

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Pencoed Primary School

Generated By: morgas14
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 Plan

Scale 1 : 1250 @ A4
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