



The Planning Inspectorate
Yr Arolygiaeth Gynllunio

Commons Act 2006 Section 16

**Notes for completing an application to
deregister and exchange common land
or town or village greens**



INVESTOR IN PEOPLE

May 2013



Notes for completing an application form for consent to construct works on common land

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Notes for making an application for consent to construct works on common land

Note: The information contained within this guidance relates to procedures in [Wales only](#).

This leaflet should be read in addition to the leaflet 'General Overview for applications under Section 16 and Section 38'.

The information in this leaflet was correct when it was published, but it has no legal status.

From 1st April 2013 the Countryside Council for Wales ceased to operate in Wales, and their functions were taken over by Natural Resources Wales.

Notes on completing an application to deregister and exchange, common land

1. Introduction

These notes are to assist you if you are considering applying to deregister and exchange common land or town or village greens. References throughout these notes to 'Common Land' apply equally to 'Town or Village Greens'.

Before proceeding to read these notes and complete the application form, please read the 'Common Land Guidance - General Overview' note. That paper explains the matters you should consider before deciding to make an application under section 16, and the steps you should take before applying. Section 16 of the Commons Act 2006 applies only to common land and town or village greens registered under the Commons Registration Act 1965.

Welsh Ministers have appointed The Planning Inspectorate to undertake all of the processing of section 16 (see Annex E) applications on their behalf up to providing a recommendation on whether or not an application should be approved. The final decision on an application will be taken by officials of the Welsh Government.

The Planning Inspectorate is an Agency of the Welsh Government and the Department for Communities and Local Government. Our main work is the processing of planning and enforcement appeals and holding inquiries into local development plans. We also deal with a wide variety of other appeal casework including Environmental appeals and Rights of Way Orders. We deal with appeals in Wales from our office in Cardiff and appeals in England from our Bristol office.

2. **Section 16 of the Commons Act 2006**

Before making an order of exchange, the Welsh Ministers must have regard to:

- (a) the interests of persons having rights in relation to, or occupying, the release land (and in particular persons exercising rights of common over it);
- (b) the interests of the neighbourhood;
- (c) the public interest; and
- (d) any other matter considered to be relevant.

In cases where the release land is not more than 200 square metres, and no replacement land is being offered, the Welsh Ministers must have particular regard under the above criteria to the extent to which the absence of replacement land is prejudicial to the interests specified in (a) to (c) above. "Public interest" includes the public interest in nature conservation; landscape conservation; the protection of public rights of access to any area of land; and the protection of archaeological remains and features of historic interest.

3. **Completing your application form**

SECTION A – The common land (or town or village green) to be deregistered – the "release land"

Note 1

The applicant must be the owner of the release land. In the case of land in joint ownership all the joint owners must sign the application.

If the owner of the release land does not also own the replacement land, then the owner/s of the replacement land must join in the application (at Section B2 of the application form) and co-sign the application (at Section L).

Applicants should provide proof of ownership. Where possible, office copies of the title registered at HM Land Registry should be supplied. If title is not registered, other proof of ownership should be supplied.

Note 2

Before applying, check with the **commons registration authority** in your area (**usually the borough, county borough or county council**) that the land has been registered as a common under the Commons Registration Act 1965. If the land is registered as common land, then you should send us copies of the register (held by the **commons registration authority**) with your application. This will include details of land, rights and ownership, and the register map.

The **commons registration authority** may hold other information which will help you in completing the rest of this form.

The commons register will not show which commoners are active, but your informal consultations before you begin to complete the application form should reveal them.

Note 3

Any documents you send us, including letters from third parties, will be made available to any interested parties on request. You should make the relevant parties aware of this.

Note 4

It is important to tell us, at Question 10, of any other persons having interests in or occupying the release land. Section 16(9) of the Act states that where a “relevant leaseholder” or a “proprietor of any relevant charge” has a legal right over the common land to be exchanged (or over any replacement land) then the consent of that person must be gained by the applicant(s) before submitting an application.

“Relevant leaseholder” means a leaseholder under a lease for a term of more than seven years from the date on which the lease was granted.

“Relevant charge” means:

(a) in relation to land which is registered in the register of title, a registered charge within the meaning of the Land Registration Act 2002, or

(b) in relation to land which is not so registered, (i) a charge registered under the Land Charges Act 1972, or (ii) a legal mortgage, within the meaning of the Law of Property Act 1925, which is not registered under the Land Charges Act 1972.

Note 5

You should pay particular attention to the descriptions of the lands to be exchanged, so that they can be used as the basis for the descriptions in the advertisement and in the deregistration order (if one is ultimately made).

The descriptions should be sufficiently detailed so as to enable a person reading them to easily identify the lands concerned.

SECTION B – The land to be given in exchange – the “replacement land”

Note 6

See Annex E of these notes for the text of section 16.

If the land to be released from the common is more than 200 square metres in area, you must include a proposal to offer replacement land.

If the release land is not more than 200 square metres, section 16 does not oblige you to offer replacement land. However, in considering an application with no provision for replacement land, the Welsh Ministers will have particular regard to the extent to which the absence of replacement land

would be damaging to the interests specified in sections 16(6)(a) to (c). It is unlikely that applications with no provision for replacement land will succeed unless there are special circumstances. Such circumstances could be where the application is in the public interest and there is no practicable possibility of securing replacement land.

Where the release land is not more than 200 square metres and you do not propose to provide replacement land, you should fully justify why such land is not being provided. Any such justification should include a description of any alternative courses of action that have been considered and indicate, for example, why there is no need for replacement land to be provided.

Note 7

The replacement land must not already be registered as common land or as a town or village green (see section 16(5)(b)) of the 2006 Act, or be subject to a statutory right of access.

Note 8

The public has a right of access to almost all registered common land (by virtue of the Countryside and Rights of Way Act 2000), and town or village greens are by definition subject to access by local inhabitants. We would not expect to see the stock of public access land diminished by an offer of replacement land that was already subject to some form of public access. An exception to this assumption might be where the proposed exchange land, whilst being open to non-statutory public access, might be under threat of development, and its registration as common land would protect it for the future as well as securing permanent, statutory public access.

Note 9

Refer to Note 4 for explanations of “relevant leaseholder” and “relevant charge”.

We would not normally expect to see proposed replacement land that was encumbered with private rights which could potentially affect the public’s eventual right to use the land. You should consider all rights which might exist. For example, shooting rights would jeopardise the public’s opportunity to use the land.

SECTION C – Access arrangements and current features of the lands

Note 10

If the exchange is for the purpose of providing a vehicular access, your attention is drawn to the House of Lords judgment: *Bakewell Management Limited (Respondents) v Brandwood and others (Appellants)* 2004 [2004] UKHL 14.

www.publications.parliament.uk/pa/ld200304/ldjudgmt/jd040401/bake-1.htm

This judgment **may** provide a solution for those people who have to drive across common and other land to access their property but who have previously been unable to acquire a legal right to do so. You should note that town and village greens are protected by various legislation which could prevent the driving of vehicles on them.

Note 11

Where replacement land is being offered, it need not be adjacent to the common containing the release land – although this would be preferable. Your proposal should explain how access to the replacement land will be provided and, if the replacement land is adjacent to the common containing the release land, how it would be integrated into the remainder of the common.

When considering existing boundary features, please give details of those that exist both on the release and replacement land and on any land abutting the replacement land.

Note 12

It is particularly important to consider what rights, easements or other legal incumbrances are attached to the proposed replacement land, because these could potentially affect the use of the land in future as common land.

SECTION D – Details of the exchange or deregistration

Note 13

Please provide full details of the reasons for the proposed exchange and the circumstances surrounding it. You should also address such questions as:

- What options have you considered for achieving your aims, and why did you decide on this one?
- Were any options considered which did not involve the deregistration of any common land, or which involved the deregistration of a smaller area of common land?
- Why were these rejected?

We strongly encourage you to consult informally on your proposals at an early stage in their development. See the 'Common Land Guidance - General Overview' note for guidance on informal consultation, with particular regard to the section on *What steps should I take before applying?*

Note 14

See the Introduction to these Notes for a description of the issues that the Welsh Ministers must consider when deciding an application under section 16.

Note 15

In an application where more than two parcels of land are involved, care must be taken to make clear the exchange or exchanges which are contemplated.

SECTION E – Designations

Note 16

Natural Resources Wales will know whether or not these designations apply to the land.

You are strongly advised to carry out informal consultation on all proposals affecting common land. This is particularly important where land is also designated as a Site of Special Scientific Interest (SSSI) because SSSIs are subject to their own special statutory protections. Similar considerations

apply for land designated as a Special Area of Conservation (SAC), a Special Protection Area (SPA) or Wetland listed in accordance with the Ramsar Convention.

Where the release land is in or near an SSSI, SAC, SPA or Wetland you are advised to discuss your ideas with Natural Resources Wales at a very early stage. Natural Resources Wales will advise you on any constraints and requirements that may apply to the operations that you propose to carry out on the release land if it is deregistered. Natural Resources Wales are also one of the bodies you must consult with when a section 16 application is made, giving them a formal opportunity to write to us with their views within 28 days.

Contact details:

Cyfoeth Naturiol Cymru - Natural Resources Wales.
Unit 5/7
Plas Carw
Cefn Coed Parc
Nantgarw
CF15 7QQ

Tel: 0300 065 3000

Email: enquiries@naturalresourceswales.gov.uk

Note 17

Information on scheduled ancient monuments can be found by contacting Cadw;

Contact details:

Cadw
Welsh Government
Plas Carew
Unit 5/7 Cefn Coed
Parc Nantgarw
Cardiff

Tel: 01443 336000

Fax: 01443 336001

Email: cadw@wales.gsi.gov.uk

SECTION F – Adjacent common land

Note 18

In deciding your application, we will take account of any previous applications to deregister any part of the common. We will also consider the potential impact of the proposed exchange on the common itself, and on all common land in the vicinity.

SECTION G – Public access

Note 19

Consult the commons register or the **registration authority** for the information requested in questions 36 and 37.

Note 20

Section 193 of the Law of Property Act 1925 gives a public right of access for air and exercise to any common which lies in an area which was a borough or urban district before 1 April 1974. These are often known as 'urban' commons. Section 193 can also be applied voluntarily to other commons by way of a Deed made by the owner of the land.

An Order of Limitation usually restricts the type or amount of public access to the land to which section 193 applies.

Note 21

Although not directly related to the questions in Section G, you should be aware that Part 1 of the Countryside and Rights of Way Act 2000 introduced a public right of access on foot to all registered common land (to which a right of access did not already apply). This right can be subject to certain exceptions and limitations.

SECTION H – Schemes of management and local Acts

Note 22

Generally, if a deregistration order is made it will cease certain "relevant provisions" from applying to the release land, and will transfer them to the replacement land (see section 17(6) of the Act). "Relevant provision" means a provision contained, or made under:

- (a) section 193 of the Law of Property Act 1925;
- (b) an Act under the Commons Act 1876 confirming a provisional order of the Inclosure Commissioners;
- (c) a scheme under the Commons Act 1899;
- (d) section 1 of the Commons Act 1908.

If a deregistration order is made, and you require any special arrangement to be made in it, you should tell us precisely the effect that you wish the order to achieve.

If there is a local Act, read its terms carefully and reassure yourself that it does not prevent you from making an application to deregister the release land.

SECTION I – Advertisement and consultation

Note 23

You must advertise your proposal within 7 days of making this application, and allow a minimum of 28 days for people to write to us with their views.

The advertisement must be based on the form of notice at **Annex A** (an example notice is at **Annex B**).

When completing the notice:

- In the schedules to the notice, your description of the lands should be accurate and detailed enough for readers to be able to easily identify the lands and to know whether they wish to object to, or support, your application;
- The address for inspecting the application form and map should be easy for people who live near the common to get to. Applicants often use public libraries, council offices, or post offices. A private address is not normally appropriate; but may be acceptable in very exceptional cases where there might only be dwellings in a remote community, rather than places where there are public buildings.
- The closing date for writing to us must be no less than 28 days from the appearance of the notice. In the case of organisations you write to, you must ensure that they receive the notice at least 28 days before the closing date.

We can offer advice on drafting the advertisement, including whether the use of a private address for inspection of the application is acceptable, but responsibility for describing the lands rests with you.

The notice must be:

- advertised in a main local newspaper circulating in the area in which the release land and any replacement land are situated;
- sent to all the organisations and individuals listed in Section I of the application form, using the letter at **Annex C**;
- posted at the main points of entry to the common and the replacement land. If there are no such places, the adverts must be posted at conspicuous places on the boundaries of the lands;
- placed at the inspection point with the application and the map.

You may also choose to send the notice to other bodies with an interest in the land or its flora and fauna (for example, Wildlife Trust, Local Access Forum, Ramblers' Association, local amenity society). You may be aware of bodies who would benefit from receiving a copy of the notice as a result of the informal consultation process.

You must consult all known commoners. As a minimum, you must write to the occupier of any property shown on the commons register as having rights of common attached to it, and any other person known to you as being entitled to exercise rights, **if** you believe that those rights are being exercised or are likely to be affected by the application. Where practical, you should write to the occupiers of all properties on the register, but we recognise that this will not always be viable where there are a large number of rights registered.

You must write to us as early as possible, using the letter at **Annex D**, to confirm that you have met the advertising requirements. We will not be able to proceed with considering your application until we have this confirmation from you.

Note 24

If there are objections or representations, we will copy them to you and ask for your comments within a specified timescale. We may then conclude

that we can reach a decision based solely on written evidence and a site visit, or that a public inquiry or hearing is needed. If there are no (or few) objections, it is more likely that a decision will be made solely on the basis of the written evidence (and the findings of the site visit – see 'Common Land Guidance - General Overview' note). It is therefore in your interests to have established local support for your application before submitting it. We will keep you informed about the progress of your application.

Please note the evidence you submit, whether in the application itself or in correspondence, may be disclosed to objectors, or to anyone interested in the application at any stage. Any responses you make to objectors should, therefore, only include comments that are relevant to the points raised, and not include other matters which you would not wish to be disclosed.

Note 25

The Open Spaces Society campaigns to protect common land, open spaces and public rights of way in England and Wales.

Contact details:

Open Spaces Society
25a Bell Street
Henley-on-Thames
Oxfordshire RG9 2BA
Tel: 01491 573535
Fax: 01491 573051
Email: hq@oss.org.uk

SECTION J – Maps

Note 26

Provide **two identical copies** of an up-to-date map with your application. This is in addition to the register map, which you must also send us a copy (see **Note 2**). With regard to the application map:

- It is **essential** that the map is accurate because, if your application is successful, it will be attached to the Order and used by the commons registration authority to amend the commons register;
- The map should be based on Ordnance Survey Sheets of the latest Edition and on a scale of no less than 1:2,500 if available and not less than 1:10,000 if no other option available and map is sufficiently clear (or if the common has not been mapped by the Ordnance Survey at a scale of 1:2,500);
- Areas, lengths and positions not given by the written details should be ascertained by measurement on the ground and inserted on the map. As far as possible, please show measurements of the boundaries along each piece of land. Ensure that the scale of the map is clearly shown, so we can check the measurements of the release and replacement lands;
- The lands referred to in Sections A and B of the application form should preferably be shown on the same map and must be shown by edgings of red and green respectively (i.e. release land edged in RED and replacement land edged in light GREEN). This map should also

show (in DARK GREEN) the common land boundary in relation to the release and replacement lands (details of the common boundary are on the register map);

- If, due to their distance apart, the lands cannot be shown on one map, at 1:2,500 scale, please show the lands on separate maps at that scale, and provide a third map on a smaller scale showing all the lands concerned;
- All maps should clearly show at least two road names or other features to assist easy identification of the site.

SECTION K – Public inquiry or hearing

Note 27

An inquiry or hearing will not be held in every case for applications under section 16. Where needed, it is usual practice for inquiries to be held in public halls, council buildings, council chambers or committee rooms, and some are held in hotels, schools, theatres etc. The choice of venue will generally need to accord with the requirement of our Inquiries Venue Facilities note. The note can be found here:

http://www.planningportal.gov.uk/uploads/pins/venue_and_facilities_for_publicinquiries_and_hearings.pdf

Applicants should use their local knowledge, and feedback gained from their informal consultations, to judge levels of opposition/support for their proposal. The venue should be large enough to accommodate comfortably the numbers of people expected to attend. Large venues are not desirable for a hearing or an inquiry where few people are likely to attend. Similarly, small venues are inappropriate for inquiries which are the subject of significant public interest. The venue should be unaffected by noise and other disturbance associated with activities in other parts of the building or the surrounding area e.g. playgroups, sports and games, building works etc.

3. Complaints and Judicial Review

Complaining to us

If you have a complaint about the way the application is being, or has been handled, either by the Inspector or by our Case Officer, you should contact the Complaints Officer at:

The Complaints Officer
The Planning Inspectorate
Crown Buildings
Cathays Park
Cardiff
CF10 3NQ
Telephone: 029 2082 3889

Email: wales@pins.gsi.gov.uk

Your complaint will be investigated impartially and you can normally expect a reply within three weeks. If an error has been made, we will explain this and offer our apologies, but the law does not allow us to change the decision in any way.

You can find more information on our complaints procedures on our website at:

www.planningportal.gov.uk/uploads/pins/row/complaints_leaflet.pdf

The High Court

Once an application decision is issued we have no power to amend or change it. The only way that a decision may be reviewed is following a successful judicial review.

You must to apply to the High Court for a Judicial Review promptly and in any event not later than 3 months from the date of the decision. To be successful, you would have to show that

- The decision maker has overstepped his/her powers; or that
- Criteria relevant to the type of application have not been met and this has damaged your interests.

You should apply to:

The Administrative Court
Cardiff Civil Justice Centre
2 Park Street
Cardiff
CF10 1ET
Telephone: 029 2037 6400
Website: www.courtservice.gov.uk

If you wish to pursue this course of action, you may want to consider seeking advice from a solicitor or the Citizens Advice Bureau.

The Public Services Ombudsman for Wales

If you think you have been treated unfairly because we or the Inspector have not done our jobs properly, you can contact the Public Services Ombudsman for Wales. The Ombudsman has no power to question the merits of an application or to change the decision. He is concerned only with the way in which we deal with and process applications. The Ombudsman will not usually investigate unless you have complained to us first.

You can contact the Ombudsman at:

Public Services Ombudsman for Wales

1 Ffordd Yr Hen Gae

Pencoed

CF35 5LJ

Telephone: 01656 641150 (all calls are charged at local rate)

Email: ask@ombudsman-wales.org.uk

Website: www.ombudsman-wales.org.uk

The Council on Tribunals

If you have a complaint about the procedure that we used for an application, you can complain to the Council on Tribunals (The Council on Tribunals has no power to question the merits of the application or to change the decision). Their address is:

Council on Tribunals

81 Chancery Lane

London

WC2A 1BQ

Website: www.ajtc.gov.uk

You can find more information on challenging a decision in the High Court on our website at: <http://www.planningportal.gov.uk/>

4. How we use your Personal Information

If you participate in an application under the Commons Act 2006, then the type of personal information contained in your representations will normally include your name, contact details and any other personal information you choose to provide.

We use the information provided to process the application, and this includes making your written representations available to the applicant and other relevant parties.

We publish the Inspector's decision on the Planning Portal. In some cases, we also publish appeal documents and representations, including names and addresses. Phone numbers, fax numbers and e-mail addresses are removed before publication.

The guidance in this leaflet explains the application process in more detail and you are advised to read this leaflet before providing any representations. For further details please see our privacy statement:

www.planningportal.gov.uk/planning/appeals/online/about/privacystatement=wa

If you have any queries about our use of your personal information please contact us at the address below.

Further Information

Further information about our privacy policy is on the Planning Portal at www.planningportal.gov.uk/planning/appeals/online/about/privacystatement=wa or on request. If you have any queries about our policy, or wish to request your personal data, then please contact us through the address below:

Contacting us

The Planning Inspectorate
Crown Buildings
Cathays Park
Cardiff CF10 3NQ
Phone: 029 2082 3866
E-mail: wales@planning-inspectorate.gsi.gov.uk
Website: www.planning-inspectorate.gov.uk

Annex A
Form of Notice advertising your proposals

Section 16 of the Commons Act 2006

Proposed deregistration of common land/village green at:

..... **COMMON/VILLAGE GREEN***
(insert CL/VG unit registration number)
Community/Town* of.....
Borough/County Borough/City/County* of

1. Notice is hereby given that [and *insert names of any joint applicants*] has/have* applied to the Welsh Ministers under section 16 of the Commons Act 2006 for land forming part of the above-mentioned registered common land/village green* (the "release land") to cease to be so registered.

2. The purpose of this application is to enable [*insert details of project*]

[*If replacement land is to be offered:*]

3. It is proposed that land (the "replacement land") be registered as common land/village green* in place of the release land.

4. The release land is described in the First Schedule to this notice, [*and the replacement land is described in the Second Schedule*]. On the plan referred to in paragraph 5 below, the release land is shown edged red, [*the replacement land is shown edged light green,*] and the boundary of the common/village green* is shown edged in dark green.

5. A copy of the application form and plan showing the location of the lands can be inspected at between the hours of 10am and 4pm weekdays (not public holidays) until the day of (*Insert date at least 28 days after the publication of the newspaper*). A copy of the application may be obtained by writing to [give address].

6. Any objections or representations in respect of the proposed deregistration [*and exchange*] should be sent in writing ON or BEFORE that date to: Planning Inspectorate Wales, Cathays Park, Cardiff CF10 3NQ, or Wales@pins.gsi.gov.uk

7. Letters sent to The Planning Inspectorate Wales **cannot be treated as confidential**. They will be copied to the applicant and possibly to other interested parties.

FIRST SCHEDULE
(The release land)

SECOND SCHEDULE
(The replacement land)

(Insert name and address of person making the application)
(Insert date)

** delete whichever does not apply*

Annex B
Example of a Notice (solely for illustration)

Section 16 of the Commons Act 2006

Proposed deregistration of common land at:

GREENFIELD COMMON (CL 123)
Community of Blackford
Borough of Whitechurch
County of North Glamorgan

1. Notice is hereby given that North Glamorgan County Council has applied to the Welsh Ministers under section 16 of the Commons Act 2006 for land forming part of the above-mentioned registered common land (the "release land") to cease to be so registered.

2. The purpose of this application is to enable the construction of additional office space and associated parking on the release land (planning application ref W/106/12345 refers).

3. It is proposed that land (the "replacement land") be registered as common land in place of the release land.

4. The release land is described in the First Schedule to this notice, and the replacement land is described in the Second Schedule. On the plan referred to in paragraph 5 below, the release land is shown edged red, the replacement land is shown edged light green, and the boundary of the common is shown edged in dark green.

5. A copy of the application form and plan showing the location of the lands can be inspected at Blackford Post Office, High Street, Blackford between the hours of 10:00 am and 4:00 pm weekdays (not public holidays) until the twenty-fifth day of May 2008.

6. Any objections or representations in respect of the proposed deregistration and exchange should be sent in writing ON or BEFORE that date to: Planning Inspectorate Wales, Cathays Park, Cardiff CF10 3NQ or Wales@pins.gsi.gov.uk

7. Correspondence sent to The Planning Inspectorate Wales **cannot be treated as confidential**. They will be copied to the applicant and possibly to other interested parties.

FIRST SCHEDULE
(The release land)

2000 square metres of land forming part of Greenfield Common (Register Unit CL 123), Whitechurch, North Glamorgan located at the north-west corner of the common, 200 metres to the west of the children's play area, edged red and indicated by the letters A, B, C and D on the plan referred to in paragraph 5 above.

SECOND SCHEDULE
(The replacement land)

2250 square metres of land situated to the north of, and adjoining the northern boundary of, Greenfield Common, known as "Greenfield Acres" and edged light green and indicated by the letters E, F, G and H on the plan referred to in paragraph 5 above.

Mr J Smith
North Glamorgan County Council
Environment Department
County Hall
High Street
Whitechurch
North Glamorgan
NGH1 2WE

26 April 2008

Annex C

FORM OF LETTER TO SEND TO CONSULTEES ENCLOSING A COPY OF THE
DRAFT NOTICE (allow 5 days for postal delays)

COMMONS ACT 2006 – SECTION 16

I am/We* are applying to the Welsh Ministers under section 16 of the Commons Act 2006 to deregister an area of [Name of] Common/Village Green [and to provide replacement land in exchange for the land to be deregistered].

I am/We* are required to you give notice of our proposals and am/are* sending you a copy of the attached Notice in order to comply with that requirement.

Section 16 of the Commons Act 2006 enables the owner of land registered as common land or a town or village green to apply to the Welsh Ministers for the land or part of the land to be released from registration. If the “release land” is more than 200 square metres in area, an application must be made at the same time to register “replacement land” as common land or a green in its place. If the release land is smaller than 200 square metres, a proposal for replacement land may (but need not) be included.

The Welsh Ministers decision will be based on the merits of the proposal, and will balance all the interests in the common, taking account of all views expressed. Regard must be given to the criteria set out in section 16 of the Act. These are:

- (a) the interests of persons having rights in relation to, or occupying, the release land (and in particular persons exercising rights of common over it);
- (b) the interests of the neighbourhood;
- (c) the public interest, which 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;
- (d) any other matter considered relevant.

These criteria will be viewed in the light of the overriding objective of protecting, maintaining or improving the common, and of ensuring that the overall stock of common land is not diminished. This will enable the diversity, variety, and overall extent, of common land to be safeguarded.

Any objections or representations about the proposal should be sent to The Planning Inspectorate Wales by the closing date specified in the notice. The Planning Inspectorate may copy objections and representations to other application parties.

** delete whichever does not apply*

Annex D

FORM OF LETTER FOR YOU TO SEND TO US CONFIRMING THAT THE ADVERTISING REQUIREMENTS HAVE BEEN MET

COMMONS ACT 2006 – SECTION 16

Further to my application dated (*insert date*), reference number (*if known*), I write to confirm that the advertising requirements set out in Section I of the application form and the related guidance notes have been met.

I confirm that:

A. I have published the notice in (*give the name of the main local newspaper in which the notice was published*) on (*give the date of the advert*). **A copy of the extract from the newspaper is enclosed.** (*This should be the entire sheet, including the extract itself, but also showing the name and date of the newspaper*).

B. I have sent a letter based on the one at Annex C of the guidance notes to all those listed in Section I of the application form. **A copy of the letter sent is attached.** Those consulted were as follows:

(*list all those consulted, including, for organisations, the name of the contact*)

C. I have posted notices at the main points of entry to the lands (*or, if there are no such places, at conspicuous places on the boundaries*), and will maintain them there until the end of the objection period.

D. I have placed a copy of the complete application, including the notice and map, at the inspection point given in the notice. These documents will remain there until the end of the objection period.

Annex E

Commons Act 2006 (c.26) *Part 3 - Works*

16 Deregistration and exchange: applications

(1) The owner of any land registered as common land or as a town or village green may apply to the appropriate national authority for the land ("the release land") to cease to be so registered.

(2) If the release land is more than 200 square metres in area, the application must include a proposal under subsection (3).

(3) A proposal under this subsection is a proposal that land specified in the application ("replacement land") be registered as common land or as a town or village green in place of the release land.

(4) If the release land is not more than 200 square metres in area, the application may include a proposal under subsection (3).

(5) Where the application includes a proposal under subsection (3)—

(a) the replacement land must be land to which this Part applies;

(b) the replacement land must not already be registered as common land or as a town or village green; and

(c) if the owner of the release land does not own the replacement land, the owner of the replacement land must join in the application.

(6) In determining the application, the appropriate national authority shall have regard to—

(a) the interests of persons having rights in relation to, or occupying, the release land (and in particular persons exercising rights of common over it);

(b) the interests of the neighbourhood;

(c) the public interest;

(d) any other matter considered to be relevant.

(7) The appropriate national authority shall in a case where—

(a) the release land is not more than 200 square metres in area, and

(b) the application does not include a proposal under subsection (3),

have particular regard under subsection (6) to the extent to which the absence of such a proposal is prejudicial to the interests specified in paragraphs (a) to (c) of that subsection.

(8) The reference in subsection (6)(c) to the public interest includes the public interest in—

- (a) nature conservation;
- (b) the conservation of the landscape;
- (c) the protection of public rights of access to any area of land;
and
- (d) the protection of archaeological remains and features of historic interest.

(9) An application under this section may only be made with the consent of any relevant leaseholder of, and the proprietor of any relevant charge over—

- (a) the release land;
- (b) any replacement land.

(10) In subsection (9) “relevant charge” and “relevant leaseholder” have the meanings given by section 15(10).

