



Ein cyf/Our ref: COM/3263690

Mr & Mrs Evans,



13 January 2022

Dear Mr & Mrs Evans,

COMMONS ACT 2006- APPLICATION BY MR & MRS EVANS UNDER SECTION 16 OF THE COMMONS ACT 2006 IN RESPECT OF COMMON LAND AT 'THE PATCH' COMMON, YSTRDAGYNLAIS, POWYS.

1. Following your application reference COM/3263690 made under section 16 of the Commons Act 2006 (the 2006 Act) for the deregistration and exchange of common land at 'The Patch' Common (CL128), Ystradgynlais, Powys, I have received the report by the Inspector, Vicki Hirst BA (Hons) PG Dip TP MA MRTPI, 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 Brecon and Radnor Express on 18 November 2020. Notices were posted at the site and sent to relevant parties.

5. Three representations were received from Cadw, Open Spaces Society and Ystradgynlais Town Council. PINS did not consider it necessary to hold an independent public local inquiry. An unaccompanied site visit was carried out on 29 March 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 that 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 38 of her report which is enclosed. The Inspector at paragraph 41 of the report, recommends 'the application to deregister and exchange common land at The Patch, Ystradgynlais, Powys is approved and 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 not unacceptably interfere with the interests of those having rights over the land. There are no rights of common over the land and the replacement land will offer better opportunities for the public to use for air and exercise. I believe the exchange will enhance the stock of common land.
15. When considering the interests of the neighbourhood (section 16(6)(b)) the Inspector concludes there would be no impact on the neighbourhood arising from the removal of the release land from the common and the replacement would offer a more beneficial area for recreation, air and exercise. Having reviewed the Inspector's considerations, 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, she believes there would be no harm to the public interest in regards to landscape . In regards to the protection of public rights of access, the Inspector believes the proposed deregistration and exchange would bring a positive improvement to public rights of access. 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 share similar opinions to the Inspector regarding the public interest overall. In particular I believe the replacement land would offer a much more beneficial area for enjoyment and recreation and would link the existing amenity area at Coronation Park with the common. 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 the application is predicated on the building a residential development comprising 117 houses. Housing provision is clearly in the public interest and the development has the benefit of outline planning permission. She has no reason to believe the development will not go ahead. The development of the land is an important consideration and I agree with the Inspector. The provision of housing is a key benefit of the exchange.
18. I have considered the report and the issues considered by the Inspector and agree with her conclusion that the application should be granted and an Order of Exchange should be made. I believe the considerations that form section 16(6) of the 2006 Act development support this conclusion. I believe the Replacement Land has the potential to offer the neighbourhood and the public a greater area for recreation. The exchange will facilitate the provision of housing which I consider to be an important wider public benefit.

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/3263690) to deregister common land at 'The Patch' Common (CL128), Ystradgynlais, Powys, and provide replacement land, in accordance with the terms of the application COM/326390 dated 8 December 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 Powys 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.

Lesley Griffiths AS/MS

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