

PART 1

SECTION A, ITEM 1

LAND AT LOWER BRYNAMMAN – COMMONS REGISTRATION ACT 1965 SECTION 13 – APPLICATION TO INCLUDE IN THE REGISTER OF COMMON LAND IN RESPECT OF UNIT CL25A (GWAUN CAE GURWEN COMMON) THAT PARCEL OF LAND WHICH IT IS CLAIMED HAS BECOME COMMON LAND IN SUBSTITUTION OF LAND WHICH IT IS CLAIMED HAS CEASED TO BE COMMON LAND BY VIRTUE OF AN ORDER OF EXCHANGE

Purpose of Report

An application has been received from Celtic Energy Limited to amend the Register of Common Land by adding land to the West of Gorsto Farm, Lower Brynamman to Register Unit CL25A, Gwaun-Cae-Gurwen Common in substitution for land to the east of the filling station on Amman Road, Lower Brynamman.

Background

An Order of Exchange dated 20 October 2009 was issued by the (then) Welsh Assembly Government (Appendix A). This Order had the effect that land to the West of Gorsto Farm, Lower Brynamman (an area of land measuring approximately 9.31 hectares, shown hatched green on the accompanying plan) became common land and land to the east of the filling station on Amman Road, Lower Brynamman (an area of land measuring approximately 1.41 hectares shown hatched red on the accompanying plan) ceased to be common land.

Subsequently an application to formally amend the Register of Common Land dated 5 September 2013 was received from Celtic Energy Limited being owner of the two parcels of land.

Section 13 of the Commons Registration Act 1965 provides for the amendment of the Register of Common Land where any land becomes common land or any land registered under the Act ceases to be common land. The procedure to be followed in determining an application for such an amendment of the Register of Common Land is set out in Regulation 5 of the Commons Registration (New Land) Regulations 1969.

In accordance with this procedure a notice in the prescribed Form 33 was sent to all interested parties and published in the Western Mail dated 11 April 2014 inviting objection. One letter of objection was received (Appendix B).

This Cabinet Board must therefore decide whether the application to amend the Register of Common Land is made out.

Recommendation

It is RECOMMENDED that the application to amend the Register of Common Land be approved.

Reason for Proposed Decision

To record correctly the status of the two parcels of land

Wards Affected

Lower Brynamman, Gwaun-Cae-Gurwen and Cwmllynfell

Officer Contact

Mr. P. Williams, Solicitor
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PART 1

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COMPLIANCE STATEMENT

LAND AT LOWER BRYNAMAN – COMMONS REGISTRATION ACT 1965 SECTION 13 – APPLICATION TO INCLUDE IN THE REGISTER OF COMMON LAND IN RESPECT OF UNIT CL25A (GWAUN CAE GURWEN COMMON) THAT PARCEL OF LAND WHICH IT IS CLAIMED HAS BECOME COMMON LAND IN SUBSTITUTION OF LAND WHICH IT IS CLAIMED HAS CEASED TO BE COMMON LAND BY VIRTUE OF AN ORDER OF EXCHANGE

(a) **Implementation of Decision**

The decision is proposed for implementation after the three day call-in period.

(b) **Sustainability Appraisal**

Community Plan Impacts

Economic Prosperity	-	No Impact
Education and Lifelong Learning	-	No Impact
Better Health and Well Being	-	No Impact
Environment and Transport	-	Positive Impact
Crime and Disorder	-	No Impact

Other Impacts

Welsh Language	-	No Impact
Sustainable Development	-	No Impact
Equalities	-	No Impact
Social Inclusion	-	No Impact

(c) **Consultation**

There has been no requirement under the Constitution for external consultation on this item.

Appendix A: Order of Exchange



Llywodraeth Cynulliad Cymru
Welsh Assembly Government

THE WELSH ASSEMBLY GOVERNMENT

ORDER OF EXCHANGE

WHEREAS Celtic Energy Limited, being the person interested under the provisions of the Inclosure Acts 1845 to 1882 and the Commons Act 1899 in the lands and hereditaments specified in the First Schedule hereunder written, situate in the Parish of Llangwig, Lower Brynamman, in the Borough of Neath Port Talbot, and being the person interested under the provisions of the said Acts in the lands and hereditaments specified in the Second Schedule hereunder written, also situate in the said Parish of Llangwig, Lower Brynamman, being desirous of effecting an Exchange of the said lands and hereditaments, made due application to the Welsh Ministers to direct inquiries respecting such Exchange and to proceed with the same under the provisions of the said Acts;

AND WHEREAS due notice by advertisement in two successive weeks of the said proposed Exchange has been given, and one calendar month has elapsed from the publication of the last of such advertisements and no notice of dissent from such proposed Exchange has been given, and the Welsh Ministers having duly made inquiries are of opinion that such Exchange would be beneficial to the owners of such respective lands and hereditaments, and that the terms thereof are just and reasonable;

NOW The Welsh Ministers, in pursuance of the said Acts and of all other powers enabling them in that behalf, hereby Order and Declare that the lands and hereditaments specified in the said First Schedule and shown striped red on the plan numbered '1' and hereunto annexed, with the rights, easements and appurtenances thereto belonging, shall be given by the said Celtic Energy Limited and taken by the said Celtic Energy Limited in exchange for the lands and hereditaments specified in the said Second Schedule and shown striped green on the plan numbered '2' and hereunto annexed;

AND that the said lands and hereditaments specified in the said Second Schedule and shown as aforesaid on the plan numbered '2', with the rights, easements and appurtenances thereto belonging, shall be given by the said Celtic Energy Limited and taken by the said Celtic Energy Limited in exchange for the said lands and hereditaments specified in the said First Schedule and shown as aforesaid on the plan numbered '1'; to the intent that the lands taken in the Exchange, being the lands and hereditaments specified in the said Second Schedule as aforesaid, shall be and enure to, for and upon the same Uses, Trusts, Intents and Purposes, and subject to the same Conditions, Charges and Incumbrances as the lands given in Exchange would have stood limited or been subject to if this Order had not been made.

THE FIRST SCHEDULE
(The Common Lands to be exchanged)

Land and hereditaments in which Celtic Energy Limited as aforesaid is the person interested, situate in the Parish of Llangwig, in the County Borough of Neath Port Talbot, and which are to be exchanged for the land and hereditaments specified in the Second Schedule hereto.

COLOUR ON MAP NO.1 ANNEXED scale 1:1250 AND MAP NO.3 ANNEXED scale 1:2500	DESCRIPTION	AREA
Striped red	<p>Land on Gwaun Cae Gurwen and Penllerfedwen Common at the north west corner, to the east of the filling station on Amman Road, Lower Brynamman; all rights attached to the land</p> <p>The mines and minerals are in the same ownership as the surface and are intended to pass with the surface.</p>	approximately 1.41 ha

THE SECOND SCHEDULE
(The Lands proposed to be exchanged for the Common Land)

Land and hereditaments in which Celtic Energy Limited as aforesaid is the person interested, situate in the Parish of Llangwig, Lower Brynamman, in the County Borough of Neath Port Talbot and which are to be exchanged for the land and hereditaments specified in the First Schedule hereto.

COLOUR ON MAP NO.2 ANNEXED scale 1:2500 AND MAP NO.3 ANNEXED scale 1:2500	DESCRIPTION	AREA
Striped green	<p>Land to the south of the area known as Cwm Amman Farm, Lower Brynamman on the northern boundary of Gwanun Cae Gurwen and Penllerfedwen Common; all rights attached to the land</p> <p>The mines and minerals are in the same ownership as the surface and are intended to pass with the surface.</p>	approximately 9.31 ha

Approved by Celtic Energy Limited

Signature: *L.H. Humphries*

Date: 3/9/09

Name: LEIGHTON HUMPHRIES

EXECUTED AS A DEED by applying the seal of the Welsh Ministers. The application of the seal of the Welsh Ministers is AUTHENTICATED by

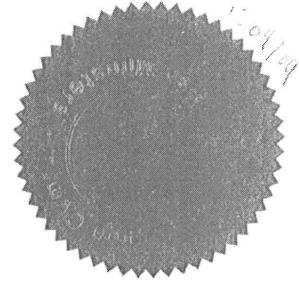
[ELIZABETH VELINA JONES, DEPUTY DIRECTOR OF LEGAL SERVICES]
who is duly authorised for that purpose by the Director of Legal Services by authority of the Welsh Ministers under section 90(2) of the Government of Wales Act 2006.

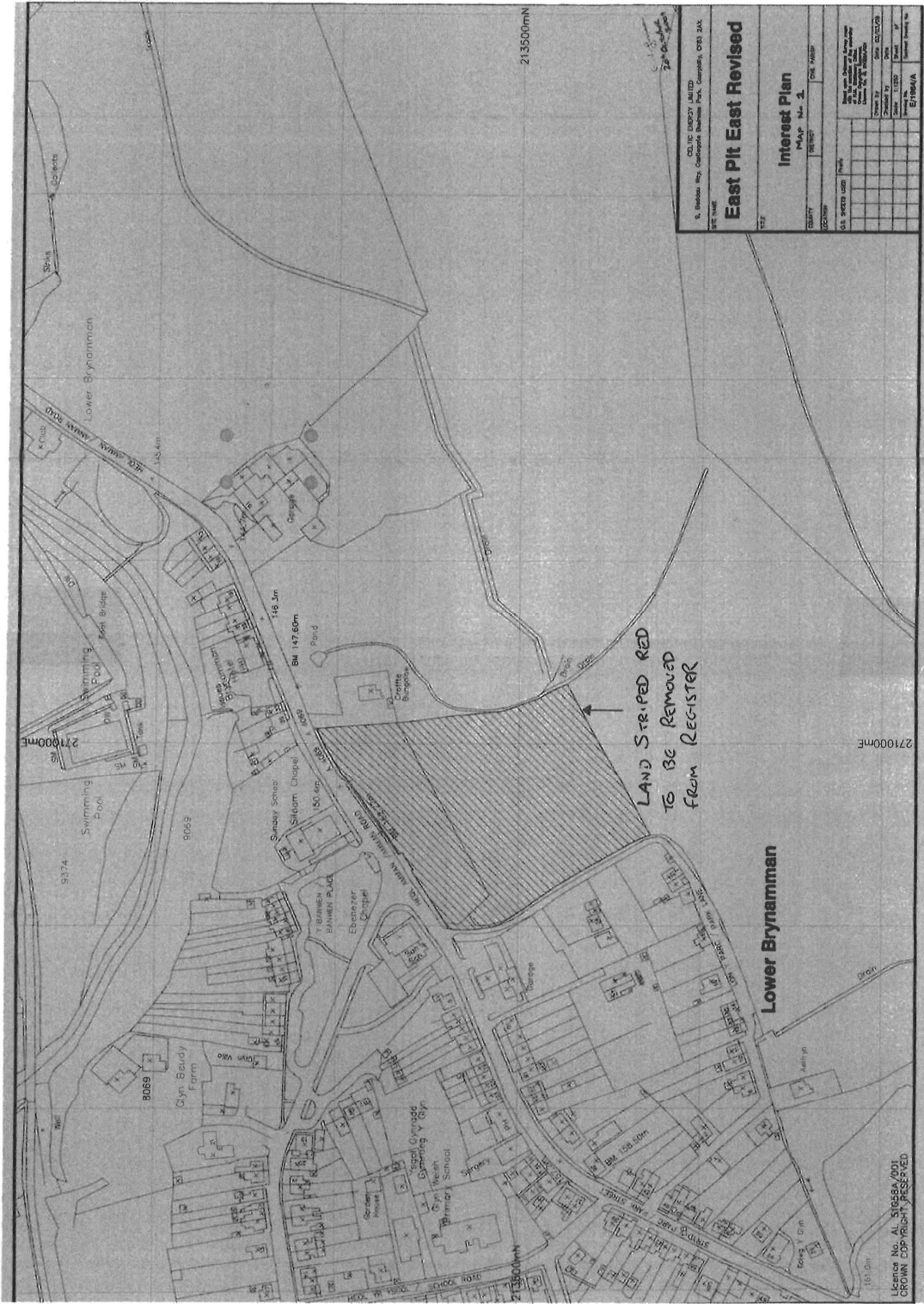
Signature: *E.V. Jones*

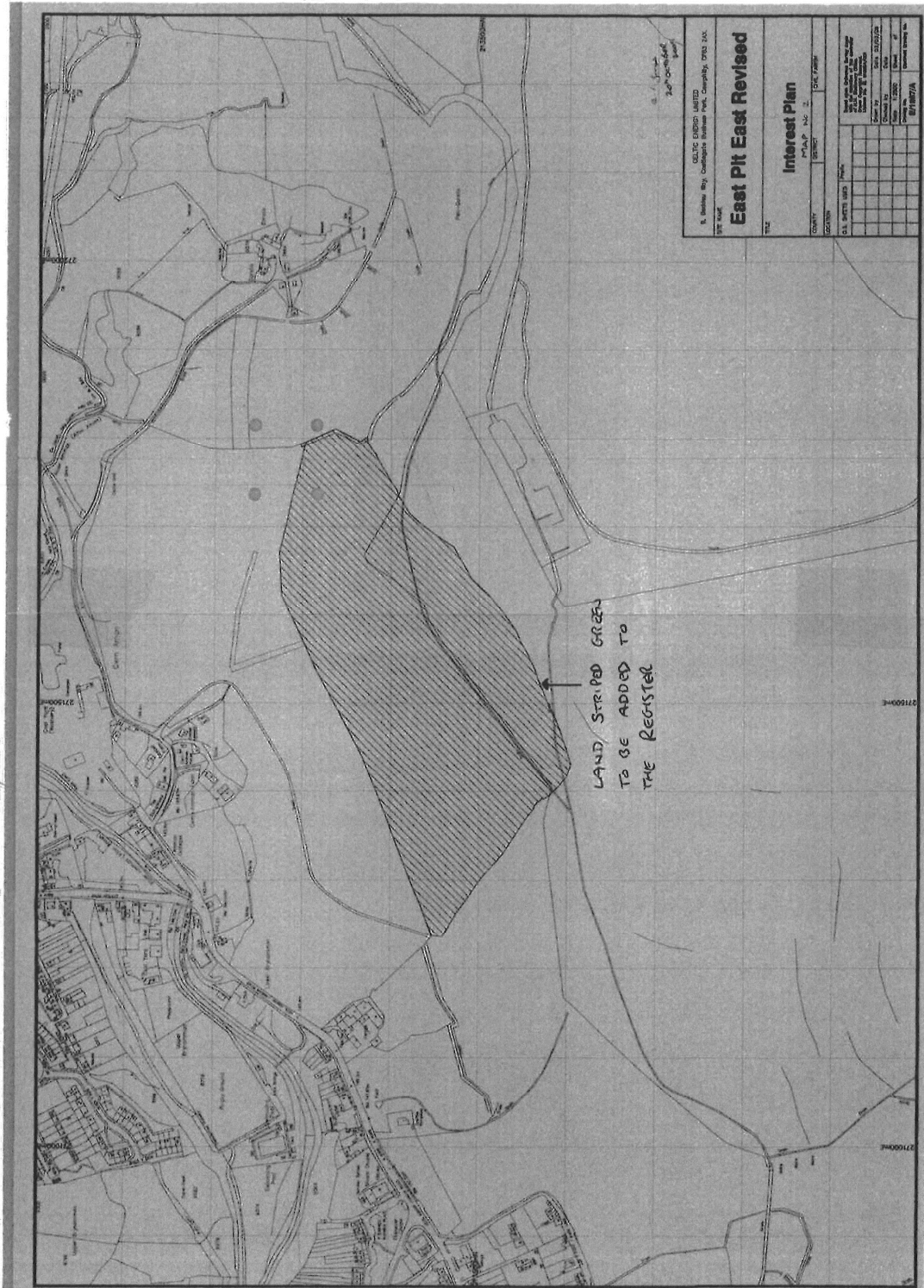
Name: ELIZABETH VELINA JONES

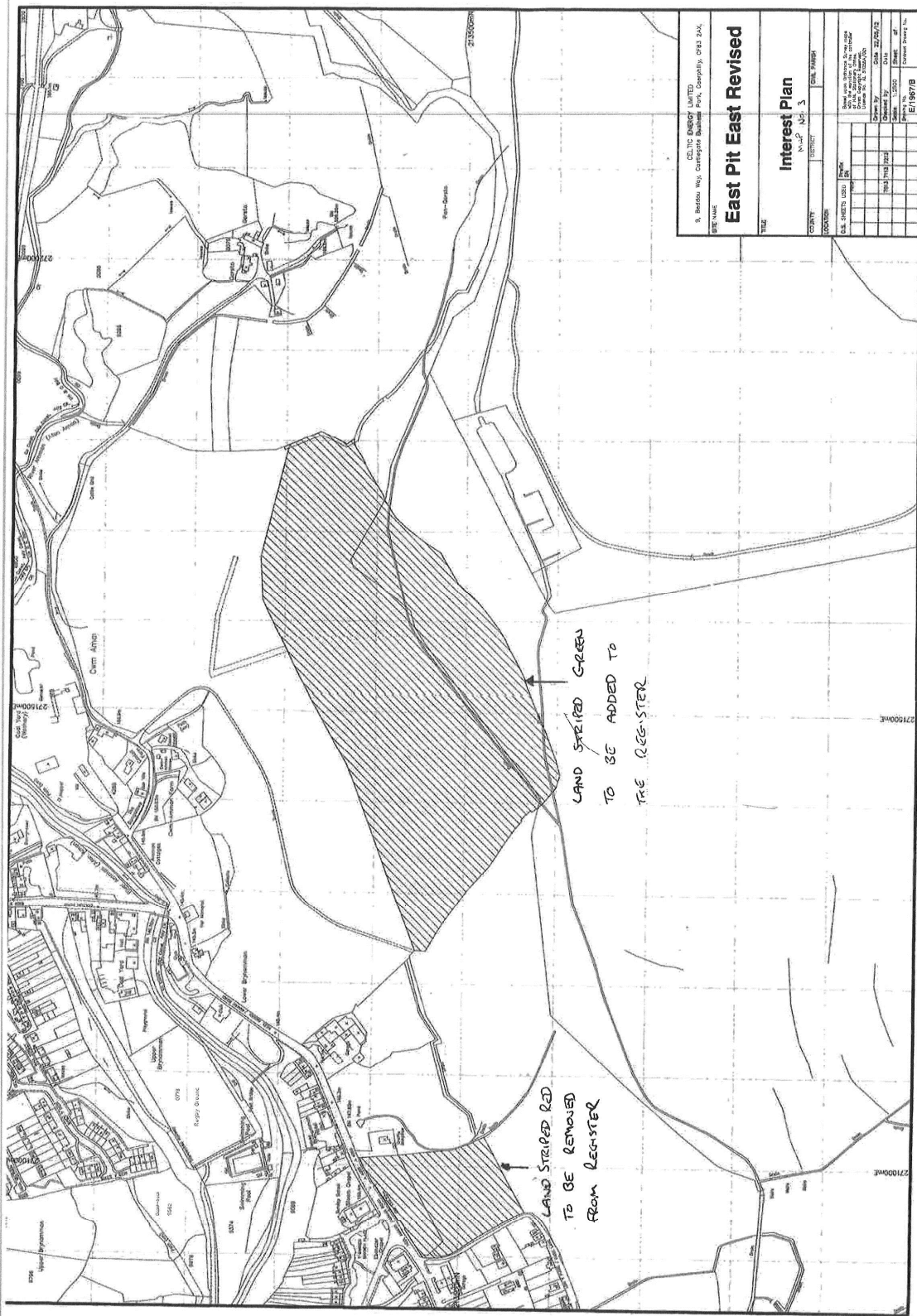
Job Title: DEPUTY DIRECTOR OF LEGAL SERVICES,
WELSH ASSEMBLY GOVERNMENT

20th OCTOBER 2009









Appendix B: Letter of Objection with English Translation

Eich Cyf: D58/1815

"Castell Newydd"
Heol Aman,
Brynaman,
Rhydeman
SA18 1SN
19 Mai 2014

D. Michael
Pennaeth Lwasanaethau Byffeithiol.
Byngor Burdeistref Sial Castell-nedd
Port Talbot
Y Llanolfan Wdinesig.
Port Talbot



Annwyl Mr Michael

TIR COMIN, HEOL AMAN, BRYNAMAN
COFRESTRY TIR COMIN NEWYDD a DATGOFRESTRY RHAN
O DIR COMIN GWADN CAE GURWEN CL 25A.

Diolch am eich llythys 11 Ebrill 2014 ac hefyd
gopi o'r mapiau a'r hysbysed yn y wasg.

Wedi ystyried yr hysbysed teimlaf fod y
dyddiad a roddwyd fod y tir ar y map 'B'
ddim yn gywir, sef 20 Hydref 2009 - "Land ceased
to be common land"

Pan mae cais yn cael ei wneud i'r
bynnulliad benedlaethol mae'r lwsainidog yn
rhoddi ei ganiatâd i'r tir i gael ei
newid, sef hawl i dymnu allan (Map B' a
rhoddi caniatâd i'r tir newydd i gael ei
gofrestru (Map A).

Dyma'r math o ganiatâd sydd i'w
sicrhau gan y lwsainidog sef y cam
cyntaf yn y broses o dan Ddeddf Tir
Comin 1845 Adran 147.

Yt ydych wedi derbyn cais yn awr i dynnu'r
tir allan o gofrestriad CL25A ac yna gofrestru
y tir a roddwyd i gael ei gofrestru sydd i'w
wleda at Map A. At ôl ystyried y cais
yt ydych wedi gosod hybysiad yn y wasg
ac yn agored i dderbyn sylwadau.

At ôl y dyddiad cau fe fydd yn rhaid
ail ystyried y cais a mynd a'r mater
gerbron y Pwyllgor arfethiedig ac yna o flaen
y byngos i ddod i benderfyniad. Yn dilyn
y penderfyniad os yn gadarnhaol y byddwch
fel awdurdod gofrestru Tir bwrdd yn symud
ymlaen i newid y map cofrestredig ac yna
gwneud y newid ar y gofrestr adran y Tir.

Dyma pan fydd y broses o'r gofrestr yn
dod i ben. Fe fydd lisiâu rhai gwyrbodaeth
o'r newid yna i' byngos befn hysod bynnu
neu yn hytrach y mudiaid newydd ym Mangos
er mwyn iddynt i newid eu mapiau
o dir comin lle mae yna fynediad i
dir comin.

Rwyf wedi delio a'ch Adran Llywodraeth
er rhai blynyddoedd ar y cais cynllunio
i godi 12 byngos ar y tir. Dechreuodd
y gwaith yt haf y llynydd felly nid
oed yt hawl cynllunio yn gyffwrthlon
hyd fod y materion uchod wedi eu
cwtahanu. Nid oedd eich Adran Llywodraeth
yn derbyn hwn felly apeliaf atoch
i geisio addysgu yt Adran hwn o
broblemau sydd yn deillio ynglyn â thir comin

Mae rheolau ynglyn a thri comin yn mynd yn ôl am gansifedd felly apelias atoch i ystyried paham y dechreuwyd godi'r tai yme er fod eich cofrestr o dit comin yn dangos y dam tri fel than o gomin lwsaun bae lwsaen nes eich bod wedi cwblhau y broses uchod.

Isobeithiaf y byddwch yn derbyn y sylwadau uchod ac edrychaf ymlaen i gael gweld y copi o'r gofrestr a'r map gofrestredig yn dangos y newidiadau.

Yr eiddoch yn gywir
 Brian Humphreys,

English Translation

Dear Mr Michael

COMMON LAND, AMMAN ROAD, BRYNAMMAN
REGISTERING NEW COMMON LAND AND DE-REGISTERING PART OF COMMON LAND
AT GWAUN CAE GURWEN CL25A

Thank you for your letter of 11 April 2014 and also for the copies of the maps and the notice in the press.

Having considered the notice, I feel that the date given that the land on map 'B' is incorrect i.e. 20 October 2009 – 'Land ceased to be common land'.

When an application is made to the National Assembly, the Minister gives consent for a change to be made to the land, that is consent to remove (map B) and give consent for the new land to be registered (map A).

This is the kind of consent that is ensured by the Minister, that is, the first step in the process under section 147 of the Common Land Act 1845.

You have now received an application to remove the land from registration CL25A and to then register the land that is given for registration that is seen on map A. After considering the application, you have placed a notice in the press and you are open to comments.

After the closing date, you will need to re-consider the application and take the matter to the proposed committee and then in front of the Council in order to come to a decision. Following the decision, if agreed, you will, as the Commons Registration Authority, move forward to amend the register map and then amend on the register of the sections of land.

This is when the process of the register comes to an end. You will need to provide details of the amendment to the Countryside Council for Wales or in fact, the new organisation in Bangor so that it can amend its maps of common land where there is access to common land.

I've dealt with your Planning Section for some years on the planning application to erect 12 bungalows on the land. The works started last summer therefore the planning consent was illegal until the matters detailed above were completed. Your Planning Section didn't accept this and so I appeal to you to try to educate this Section of the problems that stem from common land.

The rules on common land go back centuries therefore I appeal to you to consider why the building of these dwellings commenced even though your register of common land shows part of the land as part of the Gwaun Cae Gurwen common, until the above process has been completed.

I hope that you accept my comments and I look forward to seeing a copy of the register and the register map showing the amendments.

Yours sincerely

J. Brian Humphreys