

From: [REDACTED]
To: [PEDW – Gwaith Achos / Casework](#)
Subject: Bridgend Energy Hub: s.16
Date: 25 June 2024 09:58:21
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)

Dear PEDW casework team

The society is responding to notice of application under s.16 Commons Act 2006 for an exchange of land at Hirgoed Common in Bridgend county borough.

The society objects to the application.

Firstly, no information is disclosed in the application as to why common land needs to be released for development. It is stated in the notice of application that:

The purpose of this application is to facilitate the proposed development of the Release Land into a purpose built facility adjacent to the M4, supplying businesses with a significant source of green energy from related renewable energy schemes which form part of a scheme called the Bridgend Energy Hub.

In the application form, q.30, it is stated:

The applicant proposes to incorporate the release land into a development of a purpose built facility adjacent to the M4, supplying businesses with a significant source of green energy from related renewable energy schemes which form part of a scheme called the Bridgend Energy Hub.

However, no further information about this development is given.

In the Welsh Government's [Common land consents: guidance](#), para.3.5 states that in applying the statutory criteria for an exchange in s.16(6):

the Welsh Ministers will look at the application not only as it is, but will consider whether the application proposes the best possible outcome. It may be that a more acceptable outcome could be achieved by adopting a different approach.

But the application tells us nothing about the likelihood of the development proceeding, nor why the development must take place not only on a greenfield site, but on common land. We submit that the Welsh Ministers should approach the application not simply on the basis of the adequacy of the exchange, but as to whether it is necessary for the common land to be taken in the first place. And as to that question, we say that there is no evidence available to enable them to reach any conclusion.

Secondly, we suggest that, while the release land is of no value to those with rights of common, it is of some value to local people for recreation, and it is of considerable value to biodiversity. The applicant's report states (para.3.10): 'The eastern area is a narrow strip of restored ancient woodland'. The release land is accessible via the public footpath, and via the stub of the Bryncoch Road. Moreover, the replacement land, although clearly of superior value to commoners, is remote and inaccessible to those who might benefit from the release land. Access to the replacement land is through a narrow neck, and there is no access to it by any other means. Therefore, the only mechanism by which the public might enjoy the replacement land is by deliberately going out of their way to enter onto that land through the narrow neck, and returning through it back to the main body of the common: this is inherently unlikely. We note that the applicant's report fails to address the biodiversity merits of either release or

replacement land other than in the most superficial terms, and provides no useful information on which the Welsh Ministers may make an assessment: this should be required. An application should not be waved through on the basis that 'the Welsh Ministers have no information that the exchange would be prejudicial to wildlife' — such information should be provided, and in its absence, the application should be refused. In summary, we suggest the replacement land is of next to no value for public recreation, remote from where people live close to the release land, and has very limited biodiversity value.

Thirdly, the release land is subject to the provisions of the Coity Wallia Commons Act 1976. We submit that the applicant cannot proceed under s.16 of the 2006 Act where instead it ought to proceed under s.10 of the 1976 Act (which would give the commoners and board of conservators a veto). This is on the legal principle that general law does not derogate from special law (sometimes cited in Latin, *generalia specialibus non derogant*). Where two provisions are capable of delivering a similar outcome, the applicant must proceed under the tailored local provision and not the national law provision.

Were the Welsh Minister minded to grant the application, we note that the applicant's report (para.4.6) states:

The fence and gateway between the respective areas of Replacement Land and the Common can be removed to allow livestock to pass freely between the areas.

However, the applicant should commit to removing both fence and gateway.

regards

Hugh

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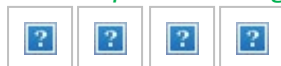
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SECTION 16 Commons Act 2006

Proposed De-registration of common land at Hirgoed Common

Hirgoed Common CL21

Community of Sarn Bridgend County Borough Council

Application by Dunraven Estates unlimited company dated 17th May 2024

OBJECTION BY COITY WALIA COMMONERS ASSOCIATION THROUGH THEIR
SECRETARY HUW GRIFFITHS OF Gwar Y Coed, Pant Y Pyllau, Coity, Bridgend CF35
6BP

Lodged by Edward Harris Solicitor, Tredegar Fawr Farm, Llangyfelach, Swansea SA5
7LS

Date by which Objections have to be lodged 28th June 2024

1. Objection is made as a primary point that the Application has not been validly made and advertised or has been wrongly advertised and misinformation has been given to persons so consulted so as to fundamentally make the Application not valid.
 - 1.1 The "release land" is said to be two areas of common land referred to in Schedule 1 of the Notice. From that description it is quite impossible to find out where the two areas of land might be.
 - 1.2 It would be accepted that a Notice being Page 1 and Page 2 of the Statutory Notice has been attached to a metal gate situated to the south of the eastern area of the proposed release.
 - 1.3 NO plan was attached to the said Notice or affixed in the same place as the Notice and therefore it was quite impossible for any consultee or member of the public to ascertain where the said proposed release land was.
 - 1.4 NO Notice of any sort let alone plan was affixed on the second area of land the subject of the proposed release i.e. the western area.
 - 1.5 Please see photographs: -
 - 1) showing public footpath with gate to the southwest with notice affixed but no plans

- 2) Close up of gate – notice but no plan
- 3) Notice no plan.
- 4) Reverse of gate which is locked with chain.
- 5) Detail of chain and lock

2. Notices were served by the Applicant on commoners who are entitled and have registered common rights over CL21. At an Extraordinary General Meeting of the Commoners Association called by the Association to discuss the Exchange Application it turned out that Notice had been sent by the Applicant to the address of the individual dominant holdings which is accepted as probably more convenient than trying to identify all the individual commoners – it is more than probable that in most cases that the common rights are attached to the dominant holding and the commoner will live at the dominant holding.

It is accepted that there may be exceptions to this rule but we do not take this on board at the moment because the Notice should be served on the dominant holding. It turns out that many of the occupiers of those dominant holdings did not receive any Notice addressed to them at the dominant holding

Others received letters from HCR Law with Notices being Page 1 and Page 2 of the Notice but with no Plans; and others received Notices with letter from HCR Law dated 17th May 2024 for example we enclose that sent to "Gwar y Coed", Pant Y Pyllau, Coity CF35 6BP (the dominant holding of Mr Huw Griffiths above), copies enclosed.

6 & 7

Copy letter from HCR Law of 17th May 2024 – the letter clearly sets out in the second paragraph that they are enclosing a copy of the attached Notice to comply with the requirement of Section 16 – the Schedules in the Notice refer to the Release land shown in a plan referred to in 1st Schedule and the 2nd Schedule refers to the Replacement Land described on a plan referred to in the 2nd Schedule.

8 & 9

A copy of Notice and Schedule.

- 10 Plan of what appears to be the 'Release Land' attached to the said letter of 17th May 2024 sent to the Occupier of the Dominant Holding.

- 11 Plan of what appears to be the 'Replacement Land' and being referred to as 'Replacement land Glantawe' revised 9/10 2023 being an area of 3.142 acres (1.271 hectares) shown edged red and situated to the east and north of a house referred to as "Glyntawel House – this does not appear to be the correct land the subject of the said Notice or Application and does not fit in with the description in Schedule 2.
3. The Release land described in Schedule 2 would appear to be some quarter of a mile to the north east of the land shown in the Plan attached to the Notice as sent to "Gwar y Coed"
4. It appears that Notices have been placed on a gateway leading from the playground at Railway Terrace onto the common – Photograph but no plan.
5. Notices have also been placed on the Gateway leading into a field as apparently intended to be released but no plans attached.
6. Whilst the Plan attached to the Application lodged with Pencoed Library may be correct other plans circulated clearly are not correct and therefore it is maintained that the Application is invalid.
7. It is also noted that the Application is proposed under Section 16 of the Commons Act 2006. Coity Walia common has its own specific Act of Parliament i.e. the Coity Walia Commons Act 1976 which provides for exchange of lands to be undertaken under Section 10 of the 1976 Act relating to Coity Walia Common– it will be argued that the correct Statutory provision is for applications to be made is therefore under Section 10 of the 1976 Act not Section 16 of the 2006 Act – the Application is therefore invalid as the wrong statutory provisions have been used.

Dated this 28th day of June 2024

Signed and lodged by

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Edward Harris Solicitor

On behalf of the Objectors

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