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Penderfyniadau Cynllunio
ac Amgylchedd Cymru
Planning & Environment
Decisions Wales

Application to deregister and exchange common land or town or village greens

Commons Act 2006: Section 16



Return completed application to:

Planning and Environment
Decisions Wales
Crown Buildings
Cathays Park
Cardiff
CF10 3NQ

Phone: 0300 0604400

E-mail: PEDW.Infrastructure@gov.wales

Application to deregister and exchange common land

- Answer all the questions on this form in full and only use a separate sheet where there is insufficient space for your answer.
- Refer to the separate **“Notes for completing an application to deregister and exchange common land or town or village greens”** (the “Notes”) when applying.
- Consult informally and widely about your ideas before developing a formal proposal.
- References throughout this form to ‘Common Land’ apply equally to ‘town or village green’
- From 1st April 2013, the Countryside Council for Wales ceased to operate in Wales, and its functions were taken over by Natural Resources Wales.

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

(see Notes 1, 2, 3, 4 and 5)

SECTION A1 – The

Common:

1. Name of Common
2. Located in the:
- (a) Community/Town of
- (b) Borough/County Borough/City/County of
3. Commons Registration Authority

Section A2 – The owner:

Full Details of provided at Append A & H

4. Title (e.g. Mr/Mrs/Miss/Ms/Dr)
- (a) Forename (s)
- (b) Surname
- (c) Position/Organisation (if appropriate)
5. Full Postal Address

Postcode

Telephone number

Mobile No

Fax Number

E-mail address

I prefer to be contacted by Email Post

Please note that unless you tell us otherwise, we will send all correspondence to the person named above – not to the owner of the replacement land shown in Section B2.

Please direct all correspondence regarding this common land application to RES Ltd, Cedar House, Greenwood Close, Cardiff Gate Business Park, Cardiff, CF23 8RD or chris.jackson@res-group.com.

Please tick as appropriate:

Please send all correspondence to the owner above in question 4.....

Please copy all correspondence to the person named in question 15...

*Please note that all correspondence regarding the common land application should be directed to RES Ltd, Cedar House, Greenwood Close, Cardiff Gate Business Park, Cardiff, CF23 8RD or chris.jackson@res-group.com.

Section A3 – Area of common and common rights:

6. What is the total area of common as registered?

7. What common rights, if any, are registered (e.g. number and type)? If the land is a town or village green, to what recreational use is it put?

A full copy of the registers for CL 25, 26, 27 & 28 are included with this application at Appendix D. For ease of reference the rights are summarised in Appendix B.

The Common is used predominantly for the grazing of sheep, cattle and horses but other rights include the right to cut bracken, rushes and fern.

Recreational use of the common is not extensive and generally consists of ramblers, cyclists and horse-riders.

Consultation by RES has identified the active graziers and provided details of their usage of the common. The Mynydd Maen Commoners Association has been extremely helpful in providing information and is supportive of the application.

Of the rights holders shown on the Registers, 9 active graziers have been identified who exercise their rights and/or the rights of others via rental rights or through the acquisition of land that has the rights attached. There is however no requirement for common land graziers to update the commons register to reflect what is happening on the ground.

Consultation with active graziers has been extremely helpful and constructive. Details are included in the consultation section of the common land report (s16) (see Appendix E part 4). This, and regular site visits has provided us with good knowledge of the usage of the common. We can confirm that the common land graziers have used the land in accordance with a Glastir agreement which has now been replaced by the Habitats Wales Scheme until Sustainable Farm Scheme payments begin in 2025. Discussions with commoners have enabled RES to ensure that these arrangements will not be adversely affected by the development of the project.

The common land report (s16) prepared by Watts & Morgan included at Appendix E explains how the common is hefted and what impact the proposed development will have upon these hefts. RES have taken this into account in seeking to minimise and mitigate potential disturbance to the hefted flocks that may occur during the development. The developer's agent has liaised with the Mynydd Maen Commoners Association committee members since May 2022. The information they have provided has clarified how specific hefts are used by specific flocks from a specific holding. This information has allowed RES to assess who uses which parts of the common and which graziers will be most affected by the proposed development and to have constructive discussions with them regarding the proposal. These discussions have revealed that no specific mitigation is required. The common is understocked and is expected to remain so.

8. If common rights are registered, are they ever exercised?.

Yes No

9. If **Yes**, to what extent (e.g. which commoners are active, which rights are exercised, and how frequently)?

The active commoners and the rights they are exercising over the common are identified in the schedule at Appendix B. Further details of their usage is set out in the common land report accompanying the s16 application.

Please note that the updates provided in the final two columns of the tables in Appendix B are included to present the current position as the registers have not been updated for some time. This information has been provided by the Commoners Association and through consultation. It has not been independently verified by the Applicant.

Please refer to the Common Land Report (s16) (Appendix E) for further details.

Section A4 – Other rights over the common:

10. Give details of any relevant leaseholders, other occupiers, or those holding any relevant charges over the release land (see Note 4) and enclose copies of their written consent to this application (see Note 3).

The charges over the release land are set out in column G of Appendix A. These are not considered to affect or be affected by the application.

Section A5 – Description of the release land:

11. Area of release land (m² or hectares)

12. Description (including location) of release land (see Note 5)

The release land is situated centrally within CL25 and extends partially into CL 26 as shown shaded red on Plan 04412-RES-LAY-DR-LE-017 Rev 5. The release land denotes the area to be removed from the common in order to enable the construction and operation of the following infrastructure:

- (a) 13 wind turbine towers having a diameter at the base of approximately 4.38m which amounts to a total area of 56.94m² (or 0.005694h.a.) in total;
- (b) On-site access tracks together with new and improved internal wind farm tracks within the common;
- (c) Crane pads at each turbine location;
- (d) Turbine foundations;
- (e) Electrical cabling;
- (f) Grid connection infrastructure including the on-site substation and control building.

The area of release land (11.80 ha) is the area which will be occupied by the wind farm infrastructure and the working areas during construction and operation. A wider area around this will also be required temporarily during the construction period but this is subject of a separate application under s38 Commons Act 2006. This covers the temporary laydown areas, tracks, drainage ditches, fencing, assembly areas, borrow pits, spoil storage and construction areas.

The release land comprises predominantly poor unimproved grassland which is covered for the most part in fern, heather and rush with areas of self-sown trees which have grown as a result of reduced grazing. Further details are provided at paragraph 3.4. of the Common Land Report for the s16 Application (at Appendix E).

There are public rights of way over the release land but no highways. No public right of way will be obstructed as a result of this development unless the affected route has first been formally diverted.

Section B – The land to be given in exchange – the ‘replacement land’ (see Notes 6,7,8 and 9)

13. Are you proposing to provide replacement land in exchange for the release land?

Yes No

If **Yes**, go to question 14. If **No**, please explain here why you are not providing replacement land (see note 6) and then go to Question 22

Section B1 – Location of the replacement land:

14. Name, if any of the replacement land

Coed Cae Watkin Dafydd, Gelli Gravog & Cwm Lickey

The replacement land is located in the:

(a) Community/Town of

Newbridge & Cwmbran

(b) Borough/County Borough/City/County of

Torfaen & Caerphilly

Section B2 – The owner of the replacement land (see Note 1)

Full Details Provided at Appendix C

15. Title (e.g. Mr/Mrs/Miss/Ms/Dr)

(a) Forename (s)

(b) Surname

(c) Position/Organisation
(if appropriate)

16. Full Postal Address

Postcode

Telephone

 number

Mobile No

Fax Number

E-mail address

I prefer to be contacted by E-mail Post ***See Below**

Please note that unless you tell us otherwise, we will send all correspondence to the person shown in Section A2.

*Please note that all correspondence regarding the common land application should be directed to RES Ltd, Cedar House, Greenwood Close, Cardiff Gate Business Park, Cardiff, CF23 8RD or chris.jackson@res-group.com.

Section B3 – Description of replacement land:

17. Area of land proposed as replacement land (m² or hectares)

18. Description (including location) of land proposed as replacement land **(see Note 5)**

The replacement land is composed of three separate areas shown hatched in light green on Drawing No. 04412-RES-LAY-DR-LE-017 Rev 5 which from the west to east consists of land at Coed Cae Watkin Dafydd, Cwm Lickey and Gelli Gravog. This is the land offered in exchange for and to replace land which is requested to be taken out of the common. It replaces the release land which will be removed from the common for the operation of the wind farm both in terms of grazing and public access.

Each area of replacement land is directly adjacent to and adjoining the common with easy access onto the common. The land is similar in quality and appearance to the adjoining common and will be incorporated very easily into the common land. Please see paragraph 3.5 of the Common Land Report (s16) (at Appendix E) for further details.

19. Please confirm that the proposed replacement land is not already registered as common land or town or village green **(See Note 7)**

20. Is the proposed replacement land subject to any other formal designation (for example, as public open space)?
(See Note 8)

Yes No

If **Yes**, give full details:

21. Give details of any relevant leaseholders, or other occupiers, or those holding any relevant charges over the replacement land: **(see Note 9)**.

The charges on the title included in this Application are set out at Appendix C column D but these will not affect the use of the replacement land by commoners or the public.

SECTION C – Access arrangements and current features of the lands (see Notes 10, 11 and 12)

For questions 22 to 28 complete both parts of each question if replacement land is being provided. If no replacement land is being provided, complete part (a) of each question.

Section C1 – Access to the lands:

22. To what extent is there public access over the lands to be exchanged?

(a) The release land

The release land is currently common land. It is therefore available to the public for access. Public access is unhindered in this area but the overall public usage of the release land is low.

(b) The replacement land

The replacement land is currently private and not open to the common. It is separated by walls and fences as set out in the Common Land Report (s16) 3.5.2.1 (Coed Cae Watkin Dafydd), 3.5.2.2 (Cwm Lickey) and 3.5.2.3 (Gelli Gravog).

23. What will the access arrangements be after the exchange?

(a) The release land

The release land will be used to host the wind turbines, access tracks and substation. When construction is completed and subject to operational requirements the access tracks will be made available for use by public and commoners. The area covering the turbine bases and substation will be occupied for the lifetime of the wind farm but removed upon decommissioning and made suitable for unhindered public use.

(b) The replacement land

The replacement land will be made accessible as follows:

Coed Cae Watkin Dafydd – existing gates can be opened to enable access for the public and livestock.

Cwm Lickey - the stockproof fence will be removed or pushed back to ensure the replacement land is incorporated into the common.

Gelli Gravog – gates will be installed to enable access for the public and livestock.

Section C2 – Current condition of the lands:

24. Describe the current condition and use of the:

(a) release land

The release land comprises predominantly poor unimproved grassland which is covered for the most part in fern, heather and rush with areas of self-sown trees which have grown as a result of reduced grazing. It is predominantly used for grazing with open public access.

(b) replacement land

(a) Coed Cae Watkin Dafydd

The land at Coed Cae Watkin Dafydd comprising 7.47 hectares, is an area of mostly level and northerly facing gently sloping pastureland directly adjoining the common and currently accessed from the common via a field gateway. Adjacent areas of common land are for the most part very similar in quality and topography. This area is currently used for grazing sheep.

(b) Cwm Lickey

The land at Cwm Lickey comprises approximately 1.58 hectares. It is an area of sloping easterly facing land which adjoins the common along its western boundary. The land is narrow in shape and is situated between the common to the west and enclosed agricultural fields to the east. It is covered for the most part in very heavy overgrown fern with some tree growth including large beech trees. The land is very similar in quality, vegetation cover and topography to the common which adjoins it having not been actively managed or used and is easily opened to the common for access by livestock and the public by removing the existing fence boundary.

(c) Land at Gelli Gravog

The land at Gelli Gravog comprising 5.45 hectares is situated on the eastern boundary of the common and comprises steep easterly facing land covered mostly in fern. The land comprises partly clean pasture which is used for the grazing of horses and sheep and a steeper ferny bank suitable for rough grazing only. The land is bordered to the west by the common which similarly comprises a steep easterly facing ferny bank. The land is fenced to the north against woodland with a good stockproof fence. There does not appear to be any fencing to the east or the south. It will be necessary therefore to install gates between the land and the common to allow access both by livestock and the public.

25. What structures, (e.g. buildings, bridleways, footpaths, walls, fences or other constructions currently exist on the:

(a) release land?

None

(b) replacement land

See boundary features below

26. What boundary features e.g. fences, hedges, walls (and access points such as stiles and gates) currently exist on (or on land immediately adjoining) the:

(a) release land

None

(b) replacement land

Coed Cae Watkin Dafydd : is bounded by some broken walls with stock proof fencing to the west, south and east

Cwm Lickey: is separated from the common by a stockproof fence and there is a stile in the northern corner of the land

Gelli Gravog: is fenced outside of an old wall boundary that is in a state of disrepair. There is a stile in the northernmost part of the land

27. What, if any, boundary features are proposed to be removed or erected as part of the exchange?

(a) release land

None

(b) replacement land

Coed Cae Watkin Dafydd: the two field gates can be opened allowing free access to the area.

Cwm Lickey - the stockproof fence will be removed or pushed back to ensure the replacement land is incorporated into the common.

Gelli Gravog – gates will be installed to allow access to the area.

28. Are any works or other things to be done by any party as part of the exchange?

.....

Yes

No

If Yes, give details

(a) release land

No

(b) replacement land

Please see the required works set at 27 (b)

29. Are any of the lands subject to any other rights or easements not already mentioned on this form?.....

Yes

No

If Yes, give full details:

Not so far as the applicant is aware

SECTION D – Details of the exchange or deregistration, and any informal consultations (see Notes 13, 14 and 15)

30. What are the reasons for the exchange or deregistration and the circumstances surrounding it?

The benefits of the Mynydd Maen Wind Farm scheme are set out at paragraph 15 of the application for consent under s38 Commons Act 2006 and the DNS application contains a consideration of alternatives and how the decision was reached to locate the project on common land. The exchange and deregistration are required in order to permit the construction of Mynydd Maen Wind Farm. The de-registration is to allow the construction operation, maintenance and decommissioning of the proposed development. The replacement land is offered in exchange for the land to be de-registered to ensure that the overall stock of common land is not reduced. The location of the turbines on the site has been subject to several assessments: ecology, wind speed, geology, mining, landscape and visual impact, hydrology and several other criteria. Taking all of these elements into account reduces the area where the turbines can be located. In this case it has been necessary to site the turbines on the common. There were no viable alternatives in this area that used a smaller area of common land or avoided common land. In addition to this, the minimum areas are being taken out of the common. It is also relevant that the permission is temporary and will expire after 35 years.

As a result of discussions with the Open Spaces Society it has been agreed that following decommissioning of the wind farm an application will be made to register the release land as common land.

31. It is strongly recommended that you consult informally on your proposals at an early stage in their development see 'Common Land Guidance – General Overview' note. What **informal** consultation (e.g. with local inhabitants) have you carried out? Give details below and provide written evidence.

RES has engaged with the Commoners, local residents and other stakeholders including the Open Spaces Society. The Common Land Report (s16) paragraph 4.1 (Appendix E) contains details of the consultation that has taken place to date and this is supplemented by the Pre-application consultation report prepared for the DNS application (this can be found at <https://www.mynyddmaen-windfarm.co.uk/dns-application/>).

SECTION E – Designations (see Notes 16 and 17)

32. Are any of the lands subject to this application in or near a site of Special Scientific Interest (SSSI), a Special Area of conservation (SAC), a Special Protection Area (SPA), or Wetland listed in accordance with the Ramsar Convention? Yes No

If **Yes**, please give details, identify on the map (see section J), and provide evidence of any consultation you have carried out with Natural Resources Wales (see Note 16).

33. Do any of the lands contain a Scheduled Ancient Monument? Yes No

If **Yes**, give details, identify on the map (see section J), and provide evidence of any consultation you have carried out with Cadw (see Note 17)

34. Are any of the lands subject to this application in a National Park or Area of Outstanding Natural Beauty? Yes No

If **Yes**, give details any consultation you have carried out with the National Park Authority or Natural Resources Wales.

SECTION F – Adjacent Common Land (see Note 18)

35. Does any area of common land or village green, of a different registration number, adjoin the common land or green subject to this application?
..... Yes No

If **Yes**, give details and identify them on the map (see Section J):

As the whole of the common is known as Mynydd Maen this application therefore refers to all of the commons within the boundaries shown on the Common Land Plan, namely CL 25, 26, 27 and 28.

SECTION G – Public Access (see Notes 19, 20, and 21)

36. Do the public have a right of access to the release land for air and exercise under section 193 of the Law of Property Yes No

37. Is the release land subject to an Order of Limitation made under section 193?
..... Yes No

A copy of the Order of Limitations is enclosed at Appendix F dated 16 February 1981. It is noted that the restrictions are imposed unless lawful authority has been given to carry out the act. The applicant is making this application and the DNS application to provide lawful authority for g(i) to erect any post, rail, fence, pole, tent, booth, stand, building or other structure.

If **Yes**, give its date and other details, and send us a copy:

SECTION H – Scheme of management and local Acts (see Note 22)

38. Is there a Scheme of Management for the release land, made under the Metropolitan Commons Act 1866 or the Commons Act 1899?

..... Yes No

39. Is the release land subject to any other regulatory Scheme or Act (e.g. a Provisional Order Confirmation Act made under the Commons Act 1876) ?

..... Yes No

***We raised this with the Local Authority/ Commons Registration Authority. Torfaen were unaware of any such schemes and Caerphilly did not respond.**

If **Yes**, to either question, give its date and other details below, and send us a copy of the Scheme or Act. Do you wish to seek any special arrangements to be made in relation to any of these provisions?

SECTION I – Advertisement and Consultation (see Notes 23, 24 and 25)

You must advertise your proposal in one main local newspaper and at the main points of entry to the lands **within 7 days** of making your application. Use the draft notice at **Annex B** of the **Notes**.

You must also send a copy of the notice (using the letter at **Annex D** of the **Notes**) to the following:

- the commoners council or association (if there is one)
- all known commoners
- others with an interest in the lands e.g. tenants, those with easements or other rights over the lands
- any relevant community/town, borough/county borough, city or county council
- Natural Resources Wales
- Cadw (if applicable)
- National Park Authority (if the lands are in a National Park)
- Open Spaces Society (**see Note 25**)

40. Which newspaper will the advertisement appear in, and on what date?

This will appear in the South Wales Argus on or before 10 July 2024.

SECTION J – Maps (see Note 26)

You **must** include with your application **two copies** of a map which fully meets the requirements set out in **Note 26**.

41. Two copies of the map that meets the requirements set out in **Note 26** are enclosed
.....



SECTION K – Public inquiry or hearing (see Note 27)

42. Give the name and address of a suitable place in the locality for holding a public local inquiry or hearing, should this be needed.

Any inquiry will be part of the DNS process and advised as part of that.

Contact name/Telephone number: Chris Jackson / +44 2920 021074

Checklist (tick to confirm)

I have read the **Notes** in full

I have:

- answered all the questions on this form in full
- enclosed two copies of the map that meets the requirements of Section J
- enclosed a copy of the commons register in respect of this common (i.e. details of the land, rights, and ownership, and the register map)
- enclosed a copy of any document mentioned in answering the questions on this form (e.g. scheme of management, written permission of any relevant leaseholders, letters from informal committees etc)
- understood that any of the application papers may be copied to interested parties on request, and have informed people as necessary

I will, within 7 days:

- advertise the proposal in one local newspaper
- post a copy of the notice at the main entry points to the lands
- send a copy of the notice to all those listed in Section 1
- place a copy of the notice, map and application at the inspection point.

I will write to you as soon as possible, using the letter at **Annex D** of the **Notes**, to confirm that the advertising requirements have been met.

SECTION L - Declaration

¶We hereby declare that:

- (a) We are the owner/s of the land/s to be deregistered/exchanged as detailed in this application.
- (b) No person is a relevant leaseholder, or holds a relevant charge, over any of the land/s to be deregistered/exchanged
- (c) The contents of this application are true and complete to the best of my/our knowledge and belief.

Signatures of the parties to the deregistration/exchange:

Release Land:

Signature of owner

[Handwritten signature]

Name
(in BLOCK letters)

John Hanbury - Tenant

Date

3 July 2024

Signature of co-owner
(if applicable)

Martin Lennon

Name of co-owner
(if applicable)

MARTIN LENNON

Date

3 July 2024.

There are footpaths on the application site and the consent of the Highway Authorities to the making of this application is provided at Appendix H.

Replacement Land:

Signature of owner

[Handwritten signature]

Name
(in BLOCK letters)

John Hanbury - Tenant

Date

3 July 2024

Signature of co-owner (if applicable)

Name of co-owner (if applicable)

Date

You must keep a copy of your completed form

Data Protection Act

To process your application, we may need to disclose information we receive from you to others, including other Central Government Departments, public bodies, local authorities, other organisations and members of the public.