

Report of the Head of Legal and Democratic Services

Planning Committee – 8 December 2015

**COMMONS REGISTRATION
APPLICATION FOR THE REGISTRATION OF LAND CLAIMED TO HAVE
BECOME COMMON LAND AFTER 2ND JANUARY 1970
REGISTER UNIT 54, STAFFORD COMMON
COMMUNITY OF LLWCHWR, SWANSEA**

APPLICATION NO. 2734(S)

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| Purpose: | To amend the Register of Common Land by the inclusion on the Register of Common Land land forming part of the dismantled railway line, south of Swansea, Road, Kingsbridge, Llchwyr, Swansea in substitution for land forming part of Stafford Common, East of Victoria Road, Kingsbridge, Llchwyr, Swansea which is claimed to have ceased to be common land. |
| Policy Framework: | None. |
| Statutory Tests: | Commons Registration Act 1965, Section 13. Commons Registration (New Land) Regulations 1969. Acquisition of Land Act 1981. Commons Registration (General) Regulations 1966. |
| Reason for the Decision: | The exchange of land is required to implement the provisions of the County of West Glamorgan (A484/A483 Llanelli Link Road Phase 2 Victoria Road to Cwmdru) Compulsory Purchase Order 1988 which was confirmed on 22 nd May 1990. |
| Consultation: | Llchwyr Community Council, West Glamorgan Commoners Association, Natural Resources Wales, The Open Spaces Society, Local Members. |
| Recommendation | It is recommended that: <ol style="list-style-type: none">1) the application for the above amendment to the Register of Common Land be GRANTED;2) the land identified in the report as the 'substituted land' be added to the Register of Common Land under Section 13 of the Commons Registration Act 1965; |

- 3) the land identified in the report as the 'taken land' be removed from the Register of Common Land under Section 13 of the Commons Registration Act 1965.

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| Legal Officer: | Sandie Richards |
| Access to Services Officer: | Phil Couch |

1.0 Introduction

- 1.1 The Council acting in its capacity as Commons Registration Authority has received a CR Form 29 "Application for the Registration of Land which became Common Land after the 2nd January 1970" from the Council of the City and County of Swansea acting in its capacity of landowner. The application is in respect of land forming part of the dismantled railway line, south of Swansea Road, Kingsbridge, Llŵchwr, Swansea.
- 1.2 Section 13 of the Commons Registration Act 1965 makes provision for the registration of new common land if it became subject to rights of common after 2nd January 1970.
- 1.3 The significance of this date is that it marked the end of the registration period set by the 1965 Act. It was not possible to submit applications to register land as common land after 2nd January 1970.

2.0 Background

- 2.1 One of the events by which land can become common is by substitution or in exchange for other land, which has ceased to be common land by virtue of an Act of Parliament.
- 2.2 The land became common land pursuant to the powers vested in the Welsh Office (which was still in existence at that time) by virtue of the provisions of the County of West Glamorgan (A484/A483 Llanelli Link Road Phase 2 Victoria Road to Cwmdru) Compulsory Purchase Order 1988 (the Compulsory Purchase Order).
- 2.3 A Certificate of Exchange was issued by the Welsh Office under Section 19(1)(a) and paragraph 6(1)(a) and (b) to Schedule 3 of the Acquisition of Land Act 1981 on 22nd May 1990.

2.4 The land ceased to be common land on the date of the confirmation of the Order, this being 22nd May 1990.

2.5 The registered proprietor of the 'taken land' is the Council of the City and County of Swansea.

2.6 The registered proprietor of the 'substitute' land is the Somerset Trust.

3.0 The Land

3.1 The 'taken land' acquired by the compulsory exchange for the construction of the Link Road is shown marked with diagonal hatching on the Plan attached at Annex 1.

3.2 The 'substituted land' provided in exchange for the taken land is shown marked with cross hatching on the Plan attached at Annex 1.

4.0 Procedure

4.1 As required by the Commons Registration (New Land) Regulations 1969, the Notice of the application was advertised in the Swansea Leader on 5th January 2015. Copies of the Notice were also posted on site and issued to all interested parties.

5.0 Grounds for Amending the Register

5.1 The 'taken land' forms part of the Link Road and was acquired by the Council of the County of West Glamorgan under compulsory acquisition powers contained in Sections 239, 240 and 250 of the Highways Act 1980.

5.2 The 'substitute land' was provided in exchange as required by the Certificate of Exchange.

5.3 The Register of Common Land needs to be amended to reflect the provisions of the Compulsory Purchase Order.

6.0 Objection

6.1 One objection has been received. The basis of this objection was that the substituted land has been identified and proposed as a route for a shared use path linking Gowerton with Kingsbridge. The objector felt that the inclusion of the substitution land on the Register of Common Land would be a retrograde step in that it would need to be de-registered at a later date in order to implement the shared use path.

6.2 The objector's views have been taken into account. Enquiries have been made by officers to investigate the possibility that the provisions of the Compulsory Purchase Order 1988 could be modified or revoked in order to avoid the need to register the substituted land and then deregister it at a later date in order to implement the shared use path.

6.3 Confirmation has been received from the Transport Planning and Governance Division of the Welsh Government that as the Compulsory Purchase Order was confirmed in 1990 the Welsh Ministers are now unable to revoke or modify it.

6.4 The history to the application to amend the register has been explained to the Objector and he has now withdrawn his application.

7.0 Equality and Engagement Implications

There are no equality or engagement implications for this Authority in respect of this application.

8.0 Financial Implications

8.1 There are no financial implications for this Authority in respect of this application.

9.0 Legal Implications

9.1 There are no legal implications over and above those referred to in the main body of the report.

10.0 Conclusion

10.1 It is necessary for the Council acting in its capacity of landowner to make their application to the Commons Registration Authority to implement the provisions of the Compulsory Purchase Order.

10.2 Should a decision be made at a later date to implement the proposed shared use path to link Gowerton and Kingsbridge a further application to the Welsh Government will need to be made by the Council in its capacity of landowner to de-register the land. However, this is a separate issue and such a step cannot be taken until such time as the provisions of the Compulsory Purchase Order have been implemented.

11.0 Recommendation

11.1 It is recommended that:

- 1) the application for the above amendment to the Register of Common Land be GRANTED;
- 2) the land identified in the report as the 'substituted land' be added to the Register of Common Land under Section 13 of the Commons Registration Act 1965.

- 3) the land identified in the report as the 'taken land' be removed from the Register of Common Land under Section 13 of the Commons Registration Act 1965.

Background papers: Application file.

Appendices: Appendix 1: Map identifying the 'taken land' and the 'substituted land'.