

From: [Hugh Craddock](#)
To: [Commons Registration](#)
Subject: Commons application 20-002CA
Date: 18 June 2021 10:49:43
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)

Hi Claire

Thank you for notice of application reference 20–002CA in relation to land at High Park, Bryngwyn and Newchurch commons, RLC26. The society has no legal interest in the application land.

We congratulate the applicant's agent, Stella Owen of the National Farmers' Union Cymru, for her thorough research. We agree that the application land was erroneously included in the application to register the common. We note that Mr F J Edwards applied on 28 February 1968 provisionally to register rights of common exercisable over the commons, and declared that the application land (OS field parcel 666) was part of the dominant tenement to which the right of common was attached. This ought to have triggered a conflict with the provisional registration of the land as common land, but it appears it did not. However, Ms Owen goes to far to suggest that the council should have carried out a legal search of the land ownership at the time: the commons registration authority was obliged to give effect to the application for provisional registration of the commons, regardless of merit (it did, however, have a power to object to a provisional registration, regardless of interest in the land). That the application land was in different ownership was immaterial.

However, mere proof of mistaken registration is not sufficient to the grant of an application under para.7 of Sch.2 to the 2006 Act.

First, the applicant must show (paras.(a)–(c) of para.7(2)) that the provisional registration of the land was not referred to the Commons Commissioner under s.5 of the Commons Registration Act 1965. As to that, we are unsure. We have a copy of a decision dated 21 July 1978 in which the Commissioner determines an objection to the provisional registration of certain rights of common (reference: 276/D/119 & 120). We have no knowledge of any decision in relation to the registration of the land, and it may be that there was no objection to the provisional registration of the land. Unfortunately, the land section of the register is missing from the evidence supplied, and this ought to provide proof of the matter. Please may we see a copy?

Secondly, the applicant must show that the tests in para.(d) are met, viz:

- immediately before its provisional registration the land was not any of the following—
- (i) land subject to rights of common;
- (ii) waste land of a manor;
- (iii) a town or village green within the meaning of the 1965 Act as originally enacted; or
- (iv) land of a description specified in section 11 of the Inclosure Act 1845

As to these, we conclude that, on the evidence supplied, sub-para.(i) is satisfied (the land clearly not being part of the common and not subject to rights of common); and sub-para.(ii) is satisfied, the land being enclosed out of the waste. In respect of sub-para.(iii), no directly relevant evidence has been supplied either way, but we are prepared to concede that the remote location and enclosed nature of the application land makes it unlikely to have been used as a green prior to provisional registration. Nevertheless, in applications of this kind, it is helpful to have, for example, a witness statement from someone who was familiar with the land prior to provisional registration, who can testify as to its use at the time. As to sub-para.(iv), we note from the historical evidence that the land for long has been considered to be part of the High Park holding, and not subject to any form of commonable right.

We would also be grateful for sight of the original application to register the commons, and the

map supplied with it, so that we can see how the original mistaken registration was effected.

Thus we consider that the application criteria are satisfied, subject to confirmation arising from sight of the requested documents.

regards

Hugh

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The Open Spaces Society has staff with exhaustive experience in handling matters related to our charitable purposes. While every endeavour has been made to give our considered opinion, the law in these matters is complex and subject to differing interpretations. Such opinion is offered to help members, but does not constitute formal legal advice.

From: Claire Lewis [mailto:claire.lewis@powys.gov.uk]

Sent: 14 May 2021 14:59

To: Commons Registration

Subject: Notice of an application to deregister any other land wrongly registered as common land 20-002CA

Dear Sir/Madam,

Powys County Council as Commons Registration Authority has received an application under Schedule 2, paragraph 7 of the Commons Act 2006, in accordance with the Correction, Non-Registration or Mistaken Registration (Wales) Regulations 2017 to deregister land known as 'High Park' at Church House, Bryngwyn, Kington HR5 3QN, wrongly registered as common land. Further details of the proposal appear on the attached notice and plan. A copy of the submitted application documents are available here: [Commons registration - Legal Notices - Powys County Council](#)

The deadline for representations is Friday 25th June 2021.

Cofion Cynnes/ Kind Regards

Claire Lewis

Swyddog Cynorthwyol Cofrestru Tir Comin a Mapiau Diffiniol

Assistant Commons Registration and Definitive Map Officer

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