

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
Cathays Park
Cardiff
CF10 3NQ

Tel: 0300 0604400

E-mail: pedw.casework@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’

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	Llwyniolyn Sheepwalk	CL/VG No.	CL80
2. Located in the:			
(a) Community/Town of	Llanfor		
(b) Borough/County Borough/City/County of	Gwynedd		
3. Commons Registration Authority	Gwynedd Council		

Section A2 – The owner (see Note 1):

Further details to be provided on submission of the DNS application.

4. Title (e.g. Mr/Mrs/Miss/Ms/Dr)	N/A
(a) Forename (s)	Rhiwlas Estate
(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 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 copy all correspondence to Cathryn Tracey of Burges Salmon LLP at One Glass Wharf, Bristol, BS2 0ZX or Cathryn.Tracey@burges-salmon.com as the agent for the Developer, Foel Fach Wind Farm Limited.

Section A3 – Area of common and common rights:

6. What is the total area of common as registered?
(see Note 2)

34 hectares

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 Common Land Register (the “Register”) and map for CL80 (the “Common”) is included with the application.

Details of the rights are set out in the Register. These are given in terms of rights of pasture for sheep. There are no rights to take bracken or for litter. No cattle or horses have been found grazing on the Common.

The Register records a total of 200 sheep equivalent grazing on those parts of the Common to which this application relates. The rights are shown on one entry and is used by one active grazier. The rights comprise the right to graze 200 sheep.

Further details on the right allocated to the commoner together with details of how they are exercised are set out in Part 3 and Appendix 4 of the Common Land Report prepared by the Developer’s Common Land Surveyor, John Eirian Davies (the “Common Land Report”).

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 commoner on CL80 exercises their grazing rights on the common, as described at paragraphs 3.36 to 3.43 of the Common Land Report.

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**).

There is a leasehold interest for CYM331621 dated 11 December 1950 for a term of 999 years which has the title CYM279257. The Parties to the lease are (1) Kenrick Jack Price, (2) The Commissioners For Executing The Office Of Lord High Admiral Of The United Kingdom Of Great Britain and Ireland, and (3) The Minister Of Agriculture and Fisheries.

There is a register charge relating to rights of way and rights in respect of water, soil and electricity and other services.

Section A5 – Description of the release land:

11. Area of release land Approximately 7.82 (m² or hectares)

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

The total land area of the Common to which this application relates is 34 Ha. Bounding the Common to the north is the open land within Rhiwlas Estate known as Garnedd Fawr. The Common sits to the southeast of this elevated open countryside. The Common is gently sloping from south to north.

The release land is partly level and partly sloping and constitutes large grazable areas. The flora and fauna of the release land are primarily moorland and dry upland heathland grass species. There is some evidence of heather and cross-leaved heath within the common areas as a whole. The relatively low incidence of heather, cross-leaved heath and bilberry, which are the most desirable dry upland heath species, is because the Common has been extensively and regularly burnt and overgrazed by sheep, cattle, and horses in the past.

Changes to farming practices and the control of illegal burning has resulted in a large decrease in the volume of stock on the Common and brought an end to the detrimental impact of overgrazing. As a result, the volume and diversity of heathland grass species within the sward in this area is increasing slowly.

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

Three potential replacement land parcels ("RLP") are shown edged light green on the Common Land Section 16 Application Plan and are proposed in exchange for the Release Land.

RLP Area 2 (RLP2) is known as 'Mynydd Cwmhwylfod', RLP Area 3 (RLP3) is known as 'Ty Nant Ford', and RLP Area 4 (RLP4) is known as 'Ty Nant Sheepwalk'.

The replacement land is located in the:

(a) Community/Town of

Llanfor

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

Gwynedd Council

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

To be provided on submission of the DNS application.

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

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

Section B3 – Description of replacement land:

17. Area of land proposed as replacement land

RLP2 – Approximately 9.41
RLP3 – Approximately 1.62
RLP4 – Approximately 10.16

(m² or hectares)

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

It should be noted that the RLPs being included for consultation represent where the location of the final replacement land could be located. The final replacement land offered will comprise at least 1:1 replacement for the land being released but it is unlikely to be the whole of the RLPs being included here.

RLP2 measures approximately 9.41 ha and is located next to RLP3 which will form a link between RLP2 and the Common. The land has a medium loam soil with areas of water retentive peat based soil with rough grassland and rushy grass habitat. There is also occasional bracken and mountain ash. There are no physical features within the land.

RLP3 is approximately 1.62 ha and directly abuts the Common. The land is open to the Common with no fence in situ and is open for grazing livestock and amenity users.

RLP4 measures approximately 10.16 ha. It is a sloping area of dry upland heath grazing with extensive mature heather and directly abuts the Common.

These RLPs are described in more detail in the Common Land Report.

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:

RLP4 is open access land.

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

TBC depending on the final RLP areas selected. However, the Developer is not aware of any interests which would remain if an area is selected as an RLP.

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 benefits from public access under section 193 of the Law of Property Act 1925.

(b) The replacement land

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

(a) The release land

During construction of the Proposed Development, access will be restricted over parts of the Release Land when required for health and safety, and animal welfare, through the use of temporary construction fencing. After the exchange, public access will be permitted over the Release Land that is not occupied by physical infrastructure.

(b) The replacement land

The rights for access over the Release Land under section 193 of the Law of Property Act 1925 will transfer pursuant to the Order. In the event that this is not provided for in the Order, access will automatically be maintained over the Replacement Lands pursuant to the Countryside and Rights of Way Act 2000, as all common land is subject to a right of access for recreation on foot.

Section C2 – Current condition of the lands:

24. Describe the current condition and use of the:

(a) release land

The Release Land is actively grazed by the registered commoner. The Release Land is partly level and partly sloping and constitutes large grazable areas. The flora and fauna of the release land are primarily moorland and dry upland heathland grass species.

(b) replacement land

RLP2 – is a gently sloping riparian stream corridor. The land has a medium loam soil with areas of water retentive peat-based soil with rough grassland and rushy grass habitat. There is also occasional bracken and mountain ash.

RLP3 – is a level area of riparian stream corridor upland heath grazing directly abutting the Common. It has a water retentive peat-based soil with wet heath habitat.

RLP4 – is sloping area of dry upland heath grazing with extensive mature heather directly abutting the Common.

Each RLP will provide suitable replacement grazing land should it be taken forward.

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

(a) release land

There is a stockproof fence between the Common and RLP2 and RLP4. There are no other physical structures within the Common.

(b) replacement land

RLP2 and RLP4 have a stockproof fence boundary between them and the Common. There are no other physical structures within the Replacement Land parcels.

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

There is an existing stockproof fence on the boundary between the Common and RLP2 and RLP4.

(b) replacement land

There is an existing stockproof fence on the boundary between the Common and RLP2 and RLP4. RLP4 has fencing along its boundary.

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

(a) release land

The fence between the respective areas of Replacement Land and the Common will remain in situ to allow ongoing grazing management of the respective parcels as compartments of the respective Commons. Gates and stiles will be erected between the Common and the Replacement Land parcels. Temporary fencing during construction will be erected then removed once construction is complete.

(b) replacement land

The fencing between the Replacement Land and the Common will remain in situ to allow ongoing grazing management of the respective parcels as compartments of the respective Commons. Gates and stiles will be erected between the Common and the Replacement Land parcels.

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 additional works are proposed on the Release Land.

(b) replacement land

The installation of stiles and gates as noted in response to Question 27(b) above will be erected.

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:

The Common, RLP3 and RLP4, are subject to the following:

- A sporting right made between (1) Robin John Price and (2) Dawn Elizabeth Atkinson.
- An easement between (1) Diana Mary Price and others and (2) Richard William Kenrick Price.

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 Release Land is required for the Proposed Development, which is a Development of National Significance (“DNS”) for which planning permission is being sought pursuant to the DNS regime. This application is made as a secondary consent to that application and the DNS application documents are also relevant to this application.

The Release Land is required for the construction and operation of wind turbines, associated infrastructure and access tracks to connect the wind turbines to be erected on the Release Land and parts of the Proposed Development off the Common.

In designing the Proposed Development, consideration has been given to the fact that part of the site is located on common land in addition to other constraints for example, ecology, cultural heritage and amenity. Details of the design of the Proposed Development can be found within Chapter 2 (Proposed Development Description).

Welsh Government’s *Common Land Consents Guidance* at paragraph 4.12 provides that some works on common land, which do not benefit the common, have a potential underlying public benefit drawing on “works for the generation of sustainable energy (wind farms)” as an example.

Paragraph 4.13 of the Guidance sets out the Welsh Government’s considerations for sustainable energy generation schemes and advises applicants that “applications for such infrastructure projects on common land are more likely to be successful under section 16 of the [Commons] Act, so that an exchange of land is proposed and can be taken into account.” It was therefore considered appropriate to deregister the Release Land required for the Proposed Development and to offer Replacement Land in exchange to avoid a loss to the overall size of and quality of the Common.

The site selection process for the Proposed Development is set out in Chapter 3 (Environmental Context and Reasonable Alternatives) that accompanies the DNS application. The ES considers the effects of the Proposed Development on amenity, archaeological and cultural interests, and nature in Chapter 5 (Terrestrial Ecology), Chapter 6 (Ornithology), Chapter 8 (Cultural Heritage), and Chapter 9 (Landscape and Visual).

Foel Fach Wind Farm Limited (the “Developer”) has sought to minimise the land to be deregistered from the Common as part of the application and is seeking views on the Replacement Land offering as part of the DNS pre-application process. Following receipt of consultees’ comments, the Developer will consider the proposed Replacement Land areas being offered and will include at least a 1:1 exchange for the Release Land in the final section 16 application to be submitted with the DNS application.

The three parcels of Replacement Land being considered by the Developer are located adjacent to and adjoining the Common. They are generally similar groundcover to the Release Land. Each area of Replacement Land being considered is detailed at Appendix 5 of the Common Land Report.

Once the Proposed Development has been constructed, including the turbines and access tracks proposed on the Release Land, only those parts of the Release Land that are occupied by infrastructure, such as turbine bases, will remain unavailable to the registered commoner and the public for access during the operation of the Proposed Development. Consequently, the registered commoner and the public will be able to access the overwhelming majority of the Release Land as well as the Replacement Land, which will become part of the Common on the making of the Deregistration Order and provide an overall net benefit to the land available.

The Common Land Report accompanying this application, sets out the Proposed Development’s impacts on the Common, commoner and public. The Report concludes at Part 5 that there are no users of the Common that will be disadvantaged because of the deregistration and replacement of common land and that the Replacement Land offers a suitable replacement to the land to be deregistered from the Common for the registered Commoners and public users.

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.

The Developer’s surveyor has undertaken informal consultation with the landowner and sole grazier regarding this application, which is set in the Common Land Report. The application will also be consulted upon prior to submission as part of the DNS regime’s statutory pre-application consultation procedure, and the statutory consultees for a common land application will be consulted as part of this process. Details of their responses will then be presented in the Pre-Application Consultation Report to be submitted with the 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).

The Proposed Development, including the Release and Replacement Lands, does not lie within a designated site. However, the following sites are close to the Proposed Development:

- River Dee and Bala Lake / Afon Dyfrdwy a Llyn Tegid (Wales) SAC is 10 m to the south-west.
- Migneint-Arenig-Dduallt SAC and SPA is 805 m to the west.
- Llyn Tegid RAMSAR is 3.9 km to the south.
- Berwyn a Mynyddoedd De Clwyd / Berwyn and South Clwyd Mountains SAC is 7.3 km to the south east.
- Bryniau Clwyd A Dyffryn Dyfrdwy/Clwydian Range And Dee Valley AONB is 15.5 km to the east.

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

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):

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

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

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
- 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?

Not applicable – addressed as part of the DNS application.

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.

Not applicable – considered as part of the DNS application as a secondary consent.

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

SECTION L - Declaration

I/We hereby declare that:

(a) I/We am/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

Or

I/We enclose the written consent of every person who is a relevant leaseholder, or holds a relevant charge, over any of the lands 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:

To be provided on submission of the DNS application.

Release Land:

Signature of owner

Signature of co-owner (if applicable)

Name
(in BLOCK letters)

Name of co-owner
(if applicable)

Date

Date

Replacement Land:

Signature of owner

Signature of co-owner (if applicable)

Name
(in BLOCK letters)

Name of co-owner (if applicable)

Date

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.