



# The Planning Inspectorate Yr Arolygiaeth Gynllunio

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Mr Steven Radford  
Hendy Windfarm Ltd.

Your Ref/ *Eich Cyf*

By email  
[sradford@njord-energy.co.uk](mailto:sradford@njord-energy.co.uk)

Our Ref/ *Ein Cyf* 515980

Date/ *Dyddiad* 18 July 2014

Dear Mr Radford,

**COMMONS ACT 2006 – SECTION 16  
APPLICATION: DEREGISTRATION AND EXCHANGE OF COMMON LAND  
(LLANDEGLEY RHOS COMMON)**

Thank you for submitting the above application which was received on 30<sup>th</sup> June and your subsequent letter and enclosures of 9<sup>th</sup> July.

Following examination of the submitted documents there are a number of issues with the application which require amending or clarification. In view of these the application has been deemed invalid and these issues identified are outlined below. The requirements for this application are set out in the Deregistration and Exchange of Common Land and Greens (Procedure) (Wales) Regulations 2012.

**The Application Form**

The following issues must be completed or amended on the application form:

- 1) In section A you have listed the Common Number as "RCL 35", however from the accompanying documentation it appears that the affected Common is in fact RCL 34. Please can you clarify this discrepancy and amend the application accordingly. Please also double check the total area of the common as registered (question (6)) as it should accurately reflect the Commons Register.
- 2) In section A3 you have indicated that there are registered Grazing rights over the Common and stated that "a list of possible parties exercising rights is enclosed". However and only list found within the documentation is of registered proprietors. On the application form you must give a definitive list of these parties who exercise their rights and state how frequently.

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- 3) In section A5 you must provide a more detailed explanation of the release land, including measurements and the location.
- 4) In section B3 you must provide a more detailed explanation of the replacement land, including measurements and the location.
- 5) I note that some informal consultation has taken place with the Community Council and at a public meeting. From the documents submitted these appear to address the planning application rather than the common land. Although I can appreciate the common land application is connected to the wind farm development it is extremely important that you realise this application is a separate process and individuals/organisations must be made aware of the deregistration and exchange of common land. As the application is invalid you may wish to consider carrying out extensive consultations before proceeding any further.
- 6) Although you have provided copies of the land registry entries, please submit a copy of the land registry title plan for WA822260, which I believe should show the area of replacement land.

### **Application Map**

The map accompanying the application must be clear enough for readers to know where the release and replacement land are located without the aid of any other information, so that they know whether they wish to object to, or support the application. It is our opinion that the map does not clearly show the extent of the release and replacement land, especially as the release land is not shown. The regulations suggest highlighting the boundary of the release land in red and the replacement land marked in light green.

By also highlighting the core study area in red and the access track in brown it is unclear what sections of the track are affected. Therefore, please submit an amended plan that clearly shows the release and replacement land. If you wish to show other features on the map, please think carefully about the colours used so that there is no confusion. You may also wish to provide additional smaller scale plans to show the land subject to release and replacement in greater detail.

### **The Commons Register**

As mentioned above the extract from the Commons Register does not match the common land number given on the application form. I note that only one page of rights for CL 34 has been submitted. A Commons Register will normally have a Rights, Land and Ownership sections. Please can you make sure a completed copy of the Commons Register is submitted.

### **Notice and Consultation**

The regulations require the notice to give a location of the release and replacement land in the first and second schedule. These details must be detailed enough for readers to know whether they wish to object to, or support the application. We consider that the location of the works is insufficient. You may wish to consider using the River Edw and the A44 to help describe the location of the release and replacement land. The notice also refers to CL 35

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which as mentioned above appears to be incorrect.

Please also note that as the owner of the release land does not own the replacement land, both owners are considered as joint applicants. Therefore the notice should reflect this.

Thank you for your letter dated 4 July confirming the advertisement requirements have been met. I note that you have attached a list of all those persons consulted, which appear to be landowners and/or commoners. However, please note that section I of the application form lists all those who should be consulted, which includes, Commoners, the local authority, Community Council, NRW, Open Spaces, Cadw. You should also consult any other bodies you consider to have an interest in the land. The Planning Inspectorate has already received a number of queries from relevant persons who should have been consulted, but weren't. As these parties and organisations have not been consulted you have not complied with our advertisement requirements.

In view of the above the application is invalid. Therefore, you are required to amend the documentation and re-advertise the application following our guidance and the regulations. Until the required actions have been completed we will not process your application any further. Our guidance on common land applications can be found on the planning portal: <http://www.planningportal.gov.uk/planning/countryside/commonland/commonland?language=wa>

The Inspectorate would strongly recommend that before the application is re-advertised you submit draft documentation to us so that we can offer advice on the wording of the application and notice and the suitability of the map. Any advice we provide is on procedural issues only and not on the merits of the application.

I hope this information is of help to you. Should you require any further information or if you wish to submit draft documentation then please feel free to contact me.

Yours sincerely

*J Nicholas*

Julian Nicholas  
Rights of Way Case Officer



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Mr Steven Radford  
Hendy Windfarm Ltd.

Your Ref/ *Eich Cyf*

By email  
[sradford@njord-energy.co.uk](mailto:sradford@njord-energy.co.uk)

Our Ref/ *Ein Cyf* 515979

Date/ *Dyddiad* 18 July 2014

Dear Mr Radford,

## **COMMONS ACT 2006 – SECTION 38 APPLICATION: PROPOSED WORKS ON LLANDEGLEY RHOS COMMON**

Thank you for submitting the above application which was received on 30<sup>th</sup> June and your subsequent letter and enclosures of 9<sup>th</sup> July.

Following examination of the submitted documents there are a number of issues with the application which require amending or clarification. In view of these the application has been deemed invalid and these issues identified are outlined below. The requirements for this application are set out in the Works on Common Land, etc. (Procedure) (Wales) Regulations 2012.

### **The Application Form**

The following issues must be completed or amended on the application form:

- 1) On page two of the application form, you must indicate which section the application has been made under (presumably this is Section 38 of the Commons Act 2006).
- 2) In section A you have listed the Common Number as "RCL 35", however from the accompanying documentation it appears that the affected Common is in fact RCL 34. Please can you clarify this discrepancy and amend the application accordingly. Please also double check the total area of the common as registered (question (9a)) as it should accurately reflect the Commons Register.
- 3) In section C you have indicated that there are registered Grazing rights over the Common and stated that "a list of possible parties exercising rights is enclosed". However and only list found within the documentation is of registered proprietors. On the application form you must give a definitive list of these parties who exercise their rights and state how frequently.

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- 4) In section D you have stated that the works are time-limited for "9" but have not indicated exactly how long in weeks, months or years. Please highlight the appropriate period.
- 5) Also in section D you should try and provide a more detailed description of all of the proposed works, including measurements, types of materials to be used and location of the proposed works.
- 6) I note that some informal consultation has taken place with the Community Council and wider stakeholders. From the documents submitted these appear to address the planning application rather than the common land. Although I can appreciate the common land application is connected to the wind farm development it is extremely important that you realise this application is a separate process and individuals/organisations must be made aware of the works on the common. As the application is invalid you may wish to consider carrying out extensive consultations before proceeding any further.
- 7) In section E it refers to other consents and you have confirmed a planning application has been submitted to the local authority for these works. It would be useful for our records if you could submit a copy of said planning application.
- 8) In section J, you have indicated that the owner of the land supports your application, but the written evidence you referred to is not attached. Please submit a copy of the landowners written permission.

### **Application Map**

The map accompanying the application must be clear enough for readers to know where the proposed works are located without the aid of any other information, so that they know whether they wish to object to, or support the application. It is our opinion that the map does not clearly show the extent of the proposed works. By highlighting the core study area in red and the access track in brown it is unclear what sections of the track are affected. Therefore, please submit an amended plan that clearly shows the boundary of common land marked in green and the proposed works in red. If you wish to show other features on the map, please think carefully about the colours used so that there is no confusion. You may also wish to provide additional smaller scale plans to show the land subject to the proposed works in greater detail.

### **The Commons Register**

As mentioned above the extract from the Commons Register does not match the common land number given on the application form. I note that only one page of rights for CL 34 has been submitted. A Commons Register will normally have a Rights, Land and Ownership sections. Please can you make sure a completed copy of the Commons Register is submitted.

### **Notice and Consultation**

The regulations require the notice to give a description of the proposed works and their

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location. These details must be detailed enough for readers to know whether they wish to object to, or support the application. We consider that the location of the works is insufficient and the proposed works could be more detailed. You may wish to consider using the River Edw and the A44 to help describe the location of the common and the proposed works. The notice also refers to CL 35 which as mentioned above appears to be incorrect.

Thank you for your letter dated 4 July confirming the advertisement requirements have been met. I note that you have attached a list of all those persons consulted, which appear to be landowners and/or commoners. However, please note that section J of the application form lists all those who should be consulted, which includes, Commoners, the local authority, Community Council, NRW, Open Spaces, Cadw. You should also consult any other bodies you consider to have an interest in the land. The Planning Inspectorate has already received a number of queries from relevant persons who should have been consulted, but weren't. As these parties and organisations have not been consulted you have not complied with our advertisement requirements.

In view of the above the application is invalid. Therefore, you are required to amend the documentation and re-advertise the application following our guidance and the regulations. Until the required actions have been completed we will not process your application any further. Our guidance on common land applications can be found on the planning portal: <http://www.planningportal.gov.uk/planning/countryside/commonland/commonland?language=wa>

The Inspectorate would strongly recommend that before the application is re-advertised you submit draft documentation to us so that we can offer advice on the wording of the application and notice and the suitability of the map. Any advice we provide is on procedural issues only and not on the merits of the application.

I hope this information is of help to you. Should you require any further information or if you wish to submit draft documentation then please feel free to contact me.

Yours sincerely

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