

IN THE MATTER OF AN APPLICATION TO REGISTER LAND KNOWN AS ERW GOCH FIELD ADJOINING HAFAN Y WAUN, WAUNFAWR, ABERYSTWYTH SY23 3AY AS A TOWN OR VILLAGE GREEN UNDER SECTION 15(2) COMMONS ACT 2006

**INSPECTOR'S NOTE REGARDING THE PROCEDURE
FOR CONSIDERATION OF THE ABOVE APPLICATION**

INTRODUCTION

1. I have been appointed by Ceredigion County Council, in its capacity as commons registration authority under the Commons Registration Act 1965 and the Commons Act 2006 (“the Registration Authority”), to act as an independent assessor (“the Inspector”) in respect of an application (“the Application”) to register land known as Erw Goch Field adjoining Hafan Y Waun, Waunfawr, Aberystwyth SY23 3AY (“the Land”) as a Town or Village Green (“TVG”) under section 15(2) of the Commons Act 2006. The Registration Authority remains the decision-maker, and my role is to consider the detail of the Application and provide a recommendation to the Registration Authority to assist with its determination of the Application in due course.

2. On 20 October 2022 the Registration Authority (via Full Council) made a resolution (“the Resolution”) as follows:

“(a) To authorise the independent barrister assessor to consider as a preliminary issue, and by way of written representations (unless the barrister subsequently considers that a hearing or inquiry would be more appropriate), whether the doctrine of statutory incompatibility prevents registration of the Land as a Town or Village Green;

(b) To authorise the independent barrister assessor to write a report setting out her recommendation as to whether the Landowner’s statutory incompatibility defence succeeds. The report is to be shared with the parties, and made publicly available;

(c) That if the independent barrister assessor’s report referred to at (b) advises that the statutory incompatibility defence succeeds, such that recommendation made to the Registration Authority is that it should not register the Land as a Town or Village

Green, that the Application shall at that stage be considered by the Registration Authority for decision;

(d) That if the independent barrister assessor's report referred to at (b) advises that the statutory incompatibility defence fails, she shall go on to hold a public inquiry to examine the remaining issues.

(e) That following the public inquiry, the independent barrister assessor shall provide the Registration Authority with a report which sets out her analysis of the evidence and recommendation as to whether the Land should be registered as a Town or Village Green. The Application shall then be considered by the Registration Authority for decision."

3. Accordingly, the first stage of the process is for me run a written representations procedure to enable me to make an informed recommendation to the Registration Authority as to whether the doctrine of statutory incompatibility prevents registration of the Land as a Town or Village Green. To facilitate this, I have set out below a timetable for the submission of representations.
4. While I will read all representations submitted in advance of the relevant deadlines (as per Appendix 1), I will not take account of any representations at this stage which relate to matters other than the issue of statutory incompatibility. I will consider any late representations at my discretion. All representations and communications to me as the Inspector should be clearly marked "TVG Erw Goch Field Inquiry" (or similar) and be sent by email to clic@ceredigion.gov.uk or by post to Canolfan Rheidol, Rhodfa Padarn, Llanbadarn Fawr, Aberystwyth, SY23 3UE.
5. For the avoidance of doubt, I have been provided by the Registration Authority with copies of all the representations it has received to date in relation to the Application. I will take these into account as part of this first stage of the process in so far as they relate to the question of statutory incompatibility.
6. The doctrine of statutory incompatibility (see *R (Lancashire County Council) v Secretary of State for the Environment, Food and Rural Affairs* [2021] AC 194) relates to a highly technical and specialist area of law. Therefore, while I do not want to delay unduly the determination by the Registration Authority of the Application, I have

deliberately given relatively long periods for the submission of representations so as to allow those with an interest in the Application to take professional legal advice should they wish.

7. In accordance with the Resolution, if my view, having considered the written representations received, is that the statutory incompatibility defence should succeed, then I will provide a report that sets out my reasoning in that regard and which recommends to the Registration Authority that it refuses the application. The matter would then return to the Registration Authority for decision. In contrast, if I consider that the statutory incompatibility defence should fail, then I will set out my reasoning in a report before going on to hold a public inquiry (in all likelihood preceded by a case management conference) to examine the remaining issues. Following the public inquiry, I will provide a report to the Registration Authority with my findings on all the relevant issues and my recommendation as to whether the Application should be granted. It would then be for the Registration Authority to determine the Application.
8. All documentation relating to the Application and my consideration of it, including any future written representations, will be made available to the public on the following website: <http://www.ceredigion.gov.uk/resident/coast-countryside/common-land-and-town-village-greens/>. If anyone would like to view the documentation, but does not have access to a computer, they are invited to attend one of libraries run by Ceredigion County Council where computer and internet access is free of charge. Any other difficulties viewing the documentation should be referred by email to cllc@ceredigion.gov.uk, by telephone (01545 570 881) or by post to Canolfan Rheidol, Rhodfa Padarn, Llanbadarn Fawr, Aberystwyth, SY23 3UE.

KATHERINE BARNES

13 December 2022

39 Essex Chambers

APPENDIX 1:

Timetable for written representations on the issue of whether the doctrine of statutory incompatibility prevents the registration of the Land as a Town or Village Green (“the Statutory Incompatibility Issue”)

1. By 4pm on Friday 24 February 2023, the applicant, the objecting landowner and any third parties shall file any additional written representations and/or supporting evidence on the Statutory Incompatibility Issue.
2. By 4pm on Friday 10 March 2023, any written representations and/or supporting evidence received under paragraph 1 above will be uploaded by the Registration Authority to the relevant page of its website (<http://www.ceredigion.gov.uk/resident/coast-countryside/common-land-and-town-village-greens/>).
3. By 4pm on Friday 31 March 2023, the applicant, the objecting landowner and any third parties shall file any comments on the written representations of other parties should they wish to do so. Where possible, these comments should not exceed 300 words (and 1000 words in the case of the applicant and the landowner).