

ISLE OF ANGLESEY COUNTY COUNCIL	
REPORT TO	Planning Committee
DATE	6th July 2011
SUBJECT	Application for Registration of a Village Green Llyn Maelog
RELEVANT COMMISSIONER(S)	MICK GIANNASI
LEAD OFFICER(S)	Legal Services Manager
CONTACT OFFICER	Alan Carr, Solicitor (tel 01285 712181)

1. The Registration Authority (RA) received an application for registration of Llyn Maelog as a village green from the Llanfaelog Community Council on the 30th March 2009. The application was made pursuant to section 15 of the Commons Act 2006 and was accompanied by seven letters containing supporting evidence and a statutory declaration by the Clerk to the Llanfaelog Community Council. The RA considered the application as originally submitted to be defective in certain respects but upon receipt of further information from the applicant the application was accepted as validly made on the 8th January 2010. A plan showing the boundary of the application land edged red is appended to this report (Appendix 1)
2. Notice of the application as required by the relevant regulations was given with an expiry date of 15th November 2010 for objections to be submitted to the RA. Three representations were received in response to the notices; two being from adjoining land owners and one from the Countryside Council for Wales (CCW). The CCW were concerned in view of the designation of the lake as a SSSI. None of the representations submitted were stated to be formal objections to the application and only one (from the CCW) raised an issue considered to be relevant to the criteria for determination of a village green application. In large part the three representations were concerned with the potential impacts of the use of the site for activities related to the application rather than the evidence of historic use as of right by local inhabitants; the latter being the relevant criteria for determining the application. Copies of the three representations submitted are appended to this report (Appendix 2)
3. The CCW did express a view (on advice obtained by them) that an application for registration of a village green could not be validly made in respect of land entirely covered by water. This point was clearly relevant to the determination of the application and required to be considered and dealt with.
4. In summary the application put forward a case (supported by the evidence referred to in paragraph 1) that the application site had been used by a significant number

of the inhabitants of a locality or neighbourhood within a locality (being the villages of Llanfaelog and Rhosneigr) as of right for lawful sports and pastimes for a period of at least 20 years continuing up to the date of the application. Those sports and pastimes referred to in the application and evidence were largely water based activities including fishing, boating, swimming and wind surfing. It is now settled law that a "significant number of local inhabitants" does not mean that the majority of users of the land must be from the identified locality provided that there is a "significant" number from the relevant locality or neighbourhood. It has also now been established by the Courts that the term "neighbourhood" is more fluid than the traditional interpretation of the term "locality," the latter usually being identified with an administrative unit.

- 5 In accordance with normal practice the application and representations were submitted to Counsel for advice as to whether a prima facie case had been made in favour of the application and whether it would be prudent in this case to arrange for a non statutory public inquiry bearing in mind that no formal objections had been received. Counsel's advice was that a prima facie case for registration had been made and that there did not appear to be any reason why the application should be rejected. He gave particular consideration to the issues (and related evidence) referred to in paragraph 4 above and concluded that those criteria had been met. With regard to the issue referred to in paragraph 3 above Counsel commented that he could not identify any reason why an application for registration of a village green could not relate to land entirely covered by water. Counsel referred to section 61(1) of the 2006 Act which defines "land" as including "...land covered by water". Counsel's view is that the plain meaning of this provision must be that land which is entirely covered by water is included and that had Parliament intended anything different it could have said so without difficulty. He recommended however that the CCW be requested to provide a copy of its advice for consideration.
- 6 The CCW provided a copy of its advice (received from Eversheds solicitors) and this was submitted to Counsel. Having considered the CCW's advice, Counsel confirmed his earlier view on the point to the effect that there is no legal impediment to an application relating to land entirely covered by water.
- 7 In view of the facts and the advice referred to above it is considered, in conclusion, that there is no valid reason for rejecting this application and it is therefore recommended that :

7.1 Having considered all of the written statements received in response to the Statutory notification of the application and

7.2 Having considered Counsels advice in respect of the application and those responses.

The application be granted and the land be duly registered as a Village Green

B.J & E.M. Summerfield & Son

TY HEN

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Saturday, 25 September 2010

Robyn Wyn Jones
Legal Services Manager
Isle of Anglesey County Council
Council Offices
Llangefni
Ynys Mon
LL77 7TW

RE: Application for Registration as a Village Green: Llyn Maelog

Dear Sir,

In principle I have no objections to the application, but cannot see any advantage as it is already available to all water sports.

We have certain reservations, namely we object to fishermen using our property, without our permission, the reasons for this are:

1. Leave their rubbish on our bank
2. Defecate in the bushes & dogs roll in it (Disgusting)
3. Leave baited hooks laying around
4. We have had abusive and violent threats from fishermen in the past while on our banks

It is my understanding that as Llyn Maelog is classed as still or standing water all properties, with banks onto Llyn Maelog, own out to the centre of the lake in line with their properties. I would assume then that as such you would require permission from the owners to change it into a village green.

We have for the last sixty years kept our area (the Islands & Sluice at the north of the lake) as a wildlife sanctuary, also we would like to point out that in 1997 the lake was declared a SSSI area. (Copy of paperwork from last update in 2007 enclosed).

I would like a letter either from the County Council or the Community Council reassuring myself that our banks and the lake immediately adjacent to our banks (i.e. within 10 meters, approximately 11 yards, of our banks) will not be used for fishing and that the SSSI areas (i.e. the Islands & all 3 Sluices) will be maintained to a SSSI standard so as to protect the wildlife.

If I have not received this a letter by Monday the 1st of November 2011 I will send a formal objection to the registration of land as a town or village green.

Please note that I have also sent a copy of this letter and the enclosed paperwork to the Llanfaelog Community Council

Yours sincerely

[Redacted signature]

John "JJ" Summerfield
Partner Ty Hen Holiday Park,
www.tyhen.com

ADAIN GYFREITHIOL
28 SEP 2010
LEGAL SECTION



LL635TB

4/11/10

Dear Mr Carr

Thank you for your letter concerning the registration of the Maelog
Lake as a Village Green.

I am quite happy that this should proceed, my only concern being that
the rights of owners of land with a boundary directly on to the lake
should have their rights protected.

Yours sincerely



ADAIN GYFREITHIOL
8 NOV 2010
LEGAL SECTION



Cyngor Cefn Gwlad Cymru Countryside Council for Wales

CADEIRYDD/CHAIRMAN: MORGAN PARRY PRIF WEITHREDWR/CHIEF EXECUTIVE: ROGER THOMAS

Anfonwch eich ateb at/Please reply to:

Sally Ellis

Ffon/Tel.: 01248 672500 Ffacs/Fax: 01248 679259

Ebost/Email: s.ellis@ccw.gov.uk

Swyddfa Rhanbarthol Gogledd

North West Regional Office

Llys y Bont

Parc Menai

BANGOR

Gwynedd

LL57 4BH

Director of Legal and Committee Services
Isle of Anglesey County Council
Council Offices
Llangefni
Anglesey
LL77 7TW

Our ref: SH37.10/JR/SMP
Your ref: AGC/SR/MD-013033-RWJ

15 November 2010

Dear Sir

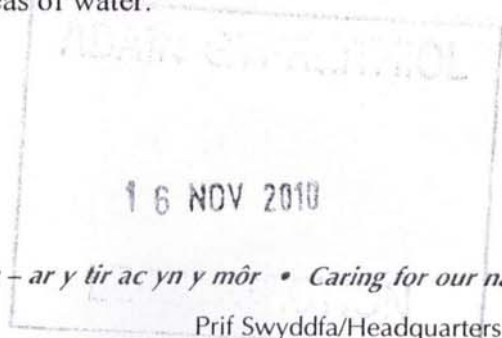
LLYN MAELOG SITE OF SPECIAL SITE OF SCIENTIFIC INTEREST: APPLICATION FOR REGISTRATION AS A VILLAGE GREEN

Thank you for your consultation regarding the proposal to register Llyn Maelog as a Village Green under The Commons (Registration of Town or Village Greens)(Interim arrangements)(Wales) Regulations 2007.

CCW has sought legal advice regarding this proposal and has been advised that an expanse of water such as Llyn Maelog without any accompanying dry land may not fulfil the criteria required for registration as a Village Green.

Should registration go ahead, the site will continue to be a Site of Special Scientific Interest and any activities which cause damage to the lake may be unlawful. Recreational activities permitted under Village Green legislation must be lawful: any intensification of activity may be damaging to the SSSI and may therefore not be lawful.

Llyn Maelog is designated a Site of Special Scientific Interest as an example of a shallow lowland lake with aquatic plants typical of naturally nutrient rich lakes and for its marginal swamp, dominated by common reed. The lake is also of interest for its wintering bird communities. The aquatic plants are very vulnerable to disturbance and may be damaged by both physical contact with boats or people or by the disturbance of fine grained sediments, which prevent light penetrating to the lake bed as they hang suspended in the water. In addition the disturbance of sediments can lead to the increased availability of nutrients in the water, which in turn may lead to increased growth of undesirable plant species including algae. The disturbance itself may be relatively local and small scale, but the impacts can spread over wide areas of water.



Gofalu am natur Cymru – ar y tir ac yn y môr • Caring for our natural heritage – on land and in the sea

Prif Swyddfa/Headquarters

MAES-Y-FFYNNON, PENRHOSGARNEDD, BANGOR, GWYNEDD LL57 2DW FFÔN/TEL: 01248 385500 FFACS/FAX: 01248 355782

We understand that current usage of the lake is for sailing, windsurfing, fishing and occasionally for power boating or jet skiing. The latter are particularly damaging, due to the speed of travel of the boats and the turbulence which they cause in the water column. The average depth of the lake is just 2m and the rapid passage of a boat engine can easily disturb soft sediments in shallow waters.

We advise that registration of this lake as a Village Green is conditional upon the production of a Management Plan acceptable to CCW and the establishment of a regulatory framework, possibly including bye-laws, to control recreational use of the lake to that which is not damaging to the special interest.

The following recommendations should be incorporated in the management plan

- The lake should be used only for quiet enjoyment
- No use of jet skis / personal water-craft
- No powerboats other than electric motors, with a maximum speed of 5 mph
- Use of lake for sailing and windsurfing should be for an agreed maximum number of craft
- No use of the lake for commercial/intensive purposes e.g. sailing/windsurfing lessons
- There should be provision for closure of the lake to recreational activities in the event of severe i.e. cold weather, in order to protect wintering birds.
- No boats should be permitted within 50 m of the islands from 1 March to 31 August in order to protect breeding birds.
- Access to the lake for boat launching should be restricted to no more than 3 agreed locations to prevent widespread physical disturbance of aquatic plants growing on the lake bed.
- No racing of any craft.
- No introduction of any live fish
- No live-bait to be brought to the site by anglers
- Any equipment introduced to the lake e.g. boats, fishing tackle etc must be clean and free of weed or mud to prevent introduction of alien or invasive species to the lake.

Please contact us if you require further advice.

Yours faithfully



S A Ellis (Mrs)
Senior Conservation Officer
North West Wales Sites Team

