

Appendix

21

Note of meeting with Cllr Schofield 28th August 2009

Cllr Schofield stated that upon winning the last election the majority group had difficulties with the MD. He contrasted Derek Jones negatively with some of the people who had held the post before.

He said this was a difficult matter for members to deal with and they had to look outside for help including meetings and discussions between the Leader and Jeremy Coleman at the WAO, the WLGA and other councils.

He said there had been problems in the Council going back many years from 1996. There was a public interest report and he thought the council had been going wrong since then and is it not addressing the problems properly and that there should have been more member oversight of the problems. The way this was expressed to me gave me the clear impression that he saw the problems being on the officer's side of the organisation rather than the member side.

He complained about not getting a final report on something and that I should get a copy of the final Farmer report.

He also said Anglesey had been good eg setting up one of the 1st voluntary standards committees and comprehensives.

Cllr Schofield was then very critical of Cllr Chorlton in particular stating that Cllr Chorlton had bullied staff as PH for Social Services and told them what to do and said that this was less than acceptable standards of corporate governance - not what the original independents were doing.

He described it as 'inexcusable' that members had not seen a draft of the audit letter and he said the officers appeared to be in the sense of denial. He said the 'yellow file' which contains all of the officer rebuttal of the paragraph 85 letter was nothing other than fabrications. He was highly critical of both Lynn Ball and to a lesser extent David Elis-Williams for producing such a file and indicated quite clearly that he did not believe much of what was in the file.....

He was particularly critical of DEW in connection with travel costs for members relating to Derek Jones.

Cllr Schofield also indicated that the 'opposition had been told about it' and kept well briefed on the para 85 letter and the yellow file; they had been better briefed than the controlling group. When pushed he said that this was down to Lynn Ball.

Cllr Schofield was firm that this was not any form of 'clash' between officers and members which I took to mean in terms of personality etc. He homed in that this was particularly about the incompetence of senior officers and a 'series of unresolved issues'. He indicated that this was predominantly around the legal officer and to a lesser extent finance officer but that it was not always evident.

He stated that he was keen to draw a line but that he could not do so as far as the legal officer was concerned - she had even made a complaint to the police.



CYNGOR SIR
YNYS MÔN
ISLE OF ANGLESEY
COUNTY COUNCIL

Rheolwr Gyfarwyddwr Gweinredo
Acting Managing Director

CYNGOR SIR YNYS MÔN
ISLE OF ANGLESEY COUNTY COUNCIL
Swyddfa'r Sir
LLANGFNI
Ynys Môn - Anglesey
LL77 7TW

Members of the Executive Committee
(December 2008)

ffôn / tel: (01248)752100 ffacs / fax: (01248) 750839

Gofynnwch am - Please ask for: Richard Parry Jones

ffôn / tel (01248) 752102 ffacs / fax (01248) 750839

E-Bost - E-mail: jwxce@anglesey.gov.uk
Ein Cyf - Our Ref. CMT/JW
Eich Cyf - Your Ref.

10/06/2009

 Dear Councillor

This is a letter of response to the various allegations made in the letter of 18 December 2008 from the then Leader of the Council to Alan Morris of the Welsh Audit Office.

That letter was said by the Leader to be sent on behalf of all members of the Executive. Recognising that Councillor Fowlie no longer leads the Executive and is currently indisposed, we are sending this response to all who were members of the Executive at that time, on behalf of whom it was sent.

That letter made several allegations about members of the Corporate Management Team. This response has been agreed by the current members of the Management Team. We have not consulted Mr Derrick Jones and note that he may wish to present his own response.

We believe it is essential to place our response on record to protect our reputations, individually and collectively. The existence of the letter of 18 December has been made known to the public in the Relationship Manager's Annual Letter. Subsequent Freedom of Information Act requests have been considered by the authority with the result that the letter of 18 December is now available to anybody who requests it. As the accusations against us are accessible to the public, we need to set out our response.

We also observe that we ourselves were not aware of the existence of the letter until it was referred to in the Relationship Manager's Annual Letter, and were not supplied with a copy of the 18 December letter until 22 April 2009. Our response has been prepared since then.

We do not intend to respond to every single passage in the latter. We accept that parts are simply a statement of opinion and may be fair comment. However there are some parts of the letter to which we take exception because –

They are demonstrably false, where our response is to provide evidence in rebuttal;

They are allegations which are so unspecific or unsubstantiated that we cannot respond to them except by denial;

because you did not at the time have all the facts) where our response is by way of more explanation.

We have prepared a separate response to 'Graigwen' which appears at Appendix 1.

Detailed Response

Letter	Response
"since that date my Executive and I have not received any assistance or guidance to help us govern Anglesey from the Corporate Management Team"	EXPLANATION For our part we feel the Executive did not make its expectations of us known. The previous Executive had held regular informal meetings with us before formal Executive meetings and sometimes on other Mondays: these were stopped by the new Executive. Informal briefing sessions were held (Appendix 2) but these were mostly when there were specific issues that required briefing, rather than as regular scheduled meetings. Throughout this period, officers were also supporting individual portfolio holders in the discharge of their responsibilities: we have given specific examples below in response to specific allegations but the same would apply for other portfolios.
"There is a feeling that the Officers would welcome some if not all of the Executive to fail"	UNSUBSTANTIATED We deny this. The Executive's failure would be our failure.
"Since May 2008 a number of issues...were never raised by the Corporate Management Team with either myself, the relevant Portfolio Holder or any member of the ruling group. I refer to..."	The accusation is that no member of the Executive was briefed, and is dealt with under the specific items below .
... the Ombudsman's damning report on Housing Benefit...	REBUTTAL The Finance portfolio holder was briefed about the forthcoming report which officers had seen in draft. Appendix 3 is an extract from the minutes of the Finance Department Quarterly performance meeting on 3 June 2008 when this was discussed. This was also part of the background to identifying the benefits service as an 'emerging risk' in 2008. This was referred to at the Joint Risk Assessment meeting with regulators on 18 July 2008, when the Leader and Councillor Ieuan Williams were present (Appendix 4), and in the report on the Improvement Plan considered by the Executive on 1 August 2008.

received on 7 August 2008 the report was forwarded to the Finance portfolio holder the same day (Appendix 5)

A fuller chronology of these events was supplied by the Corporate Director of Finance as part of the response to Councillor McGregor's letter of 22 December 2008 (Appendix 6).

... the overspend in the Social Services Budget...

REBUTTAL

The Executive of 23 June 2008 received a report which referred to earlier briefings on this matter and promised further reports (Appendix 7). Those further reports were made to Executive meetings in each of the subsequent months as the situation developed, including a briefing for all Executive members on 24 July and the involvement of the Leader, at the Executive's request, in appointing external consultants.

The chronology in Appendix 6 also refers to this.

... and the draft Fleet Management Report"

REBUTTAL

The draft report had been received on 24 June. The Service reported the Audit Draft at the next Quarterly Meeting held on 9 September 2008 (Appendix 8) and the Head of Service (Highways) briefed the Portfolio Holder beforehand on 4 September.

"...the absence of an Asset Management Plan..."

REBUTTAL

This was another issue raised at the Joint Risk Assessment meeting on 16 July 2008 (Appendix 4) and included as a high risk in the Improvement Plan adopted by the Executive on 1 August 2008.

The notes of monthly meetings between the Property Portfolio Holder and the Head of Service (Property) record that:-

(i) The Asset Management Plan was discussed on 20 August 2008 and this included the need to have a separate meeting.

(ii) The Asset Management Plan was discussed again on 23 September 2008 when again the need for a meeting with the Asset Manager was discussed.

(iii) The Asset Management Plan meeting was held on 16 October 2008 and included

	<p>Asset Manager.</p> <p>(iv) The monthly meeting with the Property Portfolio Holder on 21 October 2008 noted that the meeting had taken place and that the Asset Management Plan meeting would thereafter be held regularly.</p> <p>The Quarterly Performance Meetings held on 9 September 2008 (Appendix 8) reported on the Service High Risks and included progress on the Asset Management Plan. The Property Portfolio Member would have been briefed before such meetings and attendance at the Quarterlies also included the Portfolio Holder for Economic, Environment, Planning and Highways.</p>
<p>"...subjected to considerable pressure from some of the ruling executive to do things their way"</p>	<p>UNSUBSTANTIATED</p> <p>We deny having responded inappropriately to political pressure.</p>
<p>"...there was very little integrity in some of the decisions made. Personal attacks by way of correspondence .. Some of these statement have by now been proved to be totally malicious..."</p>	<p>UNSUBSTANTIATED</p> <p>These would be very serious allegations if proven. We cannot respond without details of what they might refer to.</p>
<p>"Our Human Resources Department is failing..."</p>	<p>REBUTTAL</p> <p>The most recent reports from the Council's Regulators have identified areas for improvement certain of which are not in the control of the service itself. Equally they have recognised areas of good practice. Furthermore it is the work of this service which has led to the County Council gaining national awards and recognition.</p>
<p>"There is a serious issue with sickness absencethere has been no movement....."</p>	<p>REBUTTAL</p> <p>The Corporate Management Team and directorate teams have given particular attention to addressing this issue in recent years and the authority's records indicate a significant improvement in performance.</p> <p>The management of sickness absence is scrutinised on a quarterly basis within the performance review meetings when portfolio holders are present.</p> <p>A report to the forthcoming quarterly review will indicate that the latest initiative has secured a substantial reduction in sickness absence.</p>

<p>Professor Zoe Radnor ...enlightened as to the causes of the conflict by the body language of some of our Senior Officers”</p>	<p>...as a whole were not invited to the two day workshop except to join for the last hour to hear the outcome.</p>
<p>“We are concerned that the Managing Director and the Corporate Management Team have not shared the auditor’s assessment of corporate arrangements...</p>	<p>EXPLANATION We believe this refers to the draft audit report titled ‘Service Improvement Assessment’. That report was received by the authority in draft form in May 2008 but was not seen by the Management Team as a whole until July 2008.</p>
<p>(final report presented to Auditors in November 2008)”</p>	<p>REBUTTAL A draft action plan had been prepared by the interim manager in June 2008 on the basis of the draft report. The Management Team, when it did consider the report in July, refused to accept both the draft report and the draft action plan, on the grounds that this appeared a poor piece of work from the Welsh Audit Office which it wished to challenge (Appendix 9). The WAO were slow to arrange the meeting requested to challenge the draft report. The draft action plan forwarded in November is the one which the Management Team had declined to adopt (Appendix 10).</p>
<p>“...have previously mentioned the Social Services overspend... Ombudsman’s report on Housing Benefit ... draft Fleet Management Report was prepared in May 2008”</p>	<p>See rebuttals above.</p>
<p>...a lack of honesty, integrity and verges on being criminal misfeasance”</p>	<p>REBUTTAL We absolutely deny this serious allegation. The Graigwen issue is one where considerable explanation is required to provide members with all the relevant facts, and to correct misapprehensions. We refer you to the full account in Appendix 1.</p>

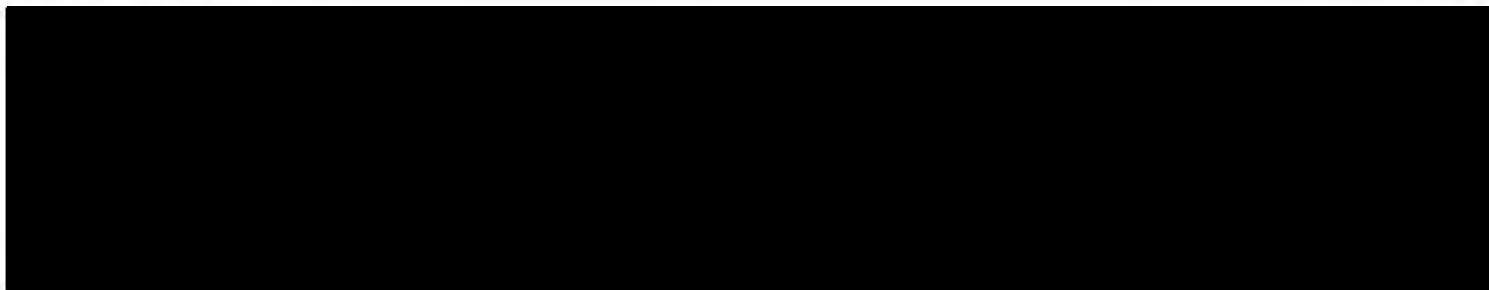
Conclusion

We would respectfully request each of you to consider our response above. Where we have given evidence of the falseness of your allegations, we would wish you to withdraw them without reservation. Where we have referred to unsubstantiated allegations, we would ask you to substantiate or withdraw. Where we have provided more explanation, we would ask you to reconsider your view.

We are copying this letter to Mr Alan Morris who received your original letter. We intend to arrange for this also be released to all who have received a copy of the 18 December letter in response to

make known. A copy of the letter dated 18 December, 2008 is enclosed – Appendix 11.

Yours sincerely



MEMBERS OF THE CORPORATE MANAGEMENT TEAM 

CMT'S REPLY TO THE "CRAIGWEN" ISSUES RAISED IN THE EXECUTIVE'S "PARAGRAPH 85 LETTER"

The points raised by the Executive fall into specific categories. We have attempted to deal with each in chronological order:-

1. Urgency

The Executive's decision was not taken until three days before the auction.

The Head of Service (Property) responded to PwC, on this issue, during the course of their investigation. A copy of his response is attached (A). Property Services deny any unreasonable delay.

There is also another issue. PwC have still to answer the question about how the Council might deal with similar circumstances in the future. That is to say, how it might best resolve the conflict between the obligation to publish / scrutinise and its statutory duty to secure best value. This was last addressed with PwC in the "Comments on draft Management letter". A copy is attached, with the relevant comments highlighted (B).

2. The Restrictive Covenant

Before the Council purchased "Craigwen"

This proposed purchase was treated like any other property transaction. Property Services sought advice direct from the Property Solicitor. This included a full review of the unregistered title deeds and the effect of the covenant.

The Property Solicitor responded to PwC on this point (C).

It was the opinion of the Property Solicitor that the covenant (precluding more than two dwellings / the operation of a business) would still permit the use of the site for access between the Council's adjacent land and the highway.

Property Services prepared the Report to the Executive (D). They made no reference to the covenant as they had formed the view that it was not an impediment to their intended purpose.

After the Council purchased "Craigwen"

After completion of the purchase, the Monitoring Officer was advised by the Council's (then) Valuer, that Property Services intended to submit a planning application to Committee, to develop the Council owned land adjacent to "Craigwen". Based on that information, the Monitoring Officer asked the Property Solicitor, subject to the agreement of Property Services, to apply to HMLR to remove the restrictive covenant from the charges register (i.e. that part of the registered title which identifies encumbrances recorded against the property). This was to ensure that the property would be as marketable as possible.

The removal of the covenant reflected the legal position. That is, as the covenant was expressed to be for the benefit of "Craigwen", and no other land, it could only have been enforceable as a personal covenant, by the original covenantee. The enforceability of the covenant ended with the death of the original covenantee in 1966. The application to HMLR did not change the status of the covenant but, rather, it removed the reference to a covenant which had long since expired.

So, whilst "Craigwen" was purchased to facilitate the development of the Council's adjacent land, the removal of the defunct covenant provided an opportunity for the "Craigwen" site itself to be developed. These facts would be easy enough for any prospective developer to establish, but only if they had first gone to the time and expense of securing legal advice. It was the view of the Monitoring Officer that a "clean" title would maximise interest in the land at the time of any future disposal.

As it may be relevant, it should also be mentioned that the Corporate Information Officer recently received an FOI request regarding the conveyancing costs involved in "Craigwen", to include advice on the covenant. A copy of his reply is attached (E). The legal costs involved in removing the reference to the covenant, from the charges register, was in the region of £60-£80.

3. **The decision to act on the flawed resolution of the Executive on the 16th July 2007**

Property Services took their Report to the Executive after consultation with the Corporate Director (Finance). His advice was that officers had the necessary delegated powers, provided they had a budget. The Executive decision was required to secure that budget. This is what paragraph 5.4 of the Report aimed to do. Whilst derived from paragraph 4.3.2.5 of the Constitution, the Executive's specific powers to transfer budget by virement, and the limitations thereon, are in the annual budget resolution adopted by the full Council. In relation to capital expenditure, the Executive has wide powers of virement provided consistency with the capital plan is maintained. The advice of the Corporate Director (Finance) to the Corporate Director (Environment and Technical Services) was largely about establishing whether the proposal was consistent with the capital plan (F and G). (It later transpired that not all the "technical issues", referred to in that exchange, were, ultimately, relevant).

We also dispute the claim that, because the matter had been referred to the Executive, officers thereby lost all delegated powers. This argument seems to rest on the content of previous standing orders. Those standing orders are irrelevant. In any event, the parallel in the current Constitution seems to be at paragraphs 3.5.1.5 and 3.5.1.6, where a Portfolio Holder may refer specific decisions up to the Executive, thereby removing the officer's delegated power. This was clearly not the case with the "Craigwen" decision, as it was referred up to the Executive by officers and the proposal had the full support of the Portfolio Holder; indeed of the whole Executive.

The fact that the Executive had been chaired by the Chairman of the Council came to the attention of the Monitoring Officer, on the afternoon of the 16th July 2007, when she asked for a meeting, to discuss her concerns, with the Managing Director and the Corporate Director (Environment and Technical Services). This took place late on the afternoon of the 16th July 2007. On the 17th and 19th of July 2007 the Monitoring Officer also discussed the matter with the Acting Section 151 Officer.

All the officers concluded that, on balance, the better course would be to give effect to the decision of the Executive, albeit in the knowledge that the decision was flawed.

The reasons for proceeding are reflected in the Monitoring Officer's e-mail to the Acting 151 Officer, of the 19th July 2007, and in the Report to the Executive of the 10th September 2007 (HI). The e-mail of the 19th of July 2007 was sent in response to a request from the Acting 151 Officer, who had not been present in the meeting of officers on the 16th July 2007, in order to enable her to release the necessary funds if the Council were successful at auction. The Executive Report was prepared by the Monitoring Officer, following consultation with the Corporate Director (Finance) and Head of Service (Property).

The officers' reasons for proceeding were:-

- The best option would have been to call a further formal meeting to ensure that the decision was taken again by a properly constituted Executive. However, given that there were only two clear days before the auction, it would not have been possible to do this without breaching other statutory requirements under the Access to Information Regulations. There was no mechanism available to cure the defect.
- This was a failing of procedure, not substance. The statutory provision, which had been breached, exists to preserve the neutrality of the Chairman of the Council, and to separate the civic from the political. It is clear from the tape recording of the meeting, that the Chairman of the Council did not influence, nor seek to influence, the outcome of the debate. PwC also considered the tape during their investigation.
- In their Report, and their presentation to the Executive, Property Services unequivocally recommended the purchase (subject to price) as being in the Council's best interests for the purpose of accessing the Council's adjacent land and facilitating its development. The Executive unanimously supported the officers' recommendation.

Whilst it was recognised that the defect could not be cured retrospectively, it was decided to ask the Executive to affirm its decision, at its next meeting, which was on the 10th of September 2007. The Report, which highlighted the defect, was exempt but was published to all members.

- Any challenge would be unlikely to succeed (JK) (The redactions relate to a separate and unconnected discussion).

Officers decided, on the relevant facts, that the procedural flaw was not so fundamental as to vitiate the decision to such a degree that it could not be relied upon as authorisation for the proposed expenditure.

By way of clarification, it may be useful to mention that PwC's Solicitors also appear to be placing reliance on Section 120 of the Local Government Act 1972 (L). This is the Council's overarching statutory power to buy land. This did not form part of officers' deliberations at the time, though.

4. **Delay**

PwC conducted their investigation between September 2007 and January 2009. During that time they did not interview any of the officers involved. Nonetheless, they submitted a "draft for checking of factual accuracy", to the Managing Director, on the 26th of October 2007. This was circulated to the relevant officers, who met to discuss on the 30th October 2007. A full response was sent to PwC on the 15th November 2007.

No substantive reply was ever received but PwC wrote to the Monitoring Officer on the 17th July 2008, in relation to a new issue which had just been raised with them, concerning the restrictive covenant. A full reply was sent on the 29th July 2008.

In the meantime, on the 24th July 2008, after an unexplained delay of more than 8 months, PwC wrote to the Managing Director stating: "We are seeking to finalise our findings on this matter at the earliest opportunity. We will be grateful for any further comments on our findings...". Following consultation with relevant officers, further observations were given to PwC on the 17th September 2008.

However, also on the 17th September 2008, PwC advised that, in light of comments made to them that morning by the Executive, they would be unable to complete their Report without first obtaining their own legal opinion.

The periods of three months and eleven months referred to at paragraph 1.18 of the letter of 18 December 2008 do not correspond to times allowed to officers to respond, nor to the times in which officers did respond. The delays must have been caused elsewhere in the audit process.

5. **The role of the Monitoring Officer**

The Monitoring Officer maintains that there was nothing inappropriate or unprofessional in her dealings with PwC and is happy for the Acting Managing Director to review her papers.

In response to PwC, the Monitoring Officer set out the rationale for proceeding with the Executive's flawed decision and explained why a Section 5A Report was not appropriate in this case. If necessary, she wrote, that she would obtain a second opinion from an independent solicitor. The Monitoring Officer never threatened PwC with litigation/proceedings/ "an eminent barrister".

In any event, PwC never replied on the point, and so an independent legal opinion was never sought. When PwC wrote again it was only in relation to new allegations they had received concerning the restrictive covenant.

Then, as already stated, on the 17th of September 2008 PwC advised that they must obtain their own legal opinion before finalising their findings. It is understood that they did so, although the opinion has never been disclosed.

Matter arising

For the past eighteen months, the officers involved in the purchase of "Craigwen" have been subject to claims of incompetence, professional negligence, dishonesty and even serious criminality. Some of this has been played out in the public domain/media, to the detriment of the professional reputations of those involved. These allegations are denied and clear guidance is now requested from members on how they expect senior officers to exercise their professional judgement in the future.

While the facts of "Craigwen" are unlikely to be repeated, the Council may face similar situations, where a technically flawed decision has been taken, which is incapable of being remedied, and where a failure to act may have prejudicial consequences. Indeed, there has been a recent "near miss". On the 19th of January 2009 part of an Executive meeting was chaired by another member, even though the Leader was present. On that occasion it was possible to remedy the defect by taking the decisions again as none of the matters involved urgency/prejudice.

When we face similar situations, as inevitably we shall, we must know whether we are to exercise our professional judgement in a reasonable and reasoned way, in good faith and in the best interests of the Council (as we did with "Craigwen") or are we to operate a zero tolerance approach whereby any flawed decision shall never be acted upon regardless of its unique facts, or potentially adverse outcome?

The Corporate Management Team
10 June 2009

Land Adjacent to Maes Mona, Amlwch – Craigwen, Bull Bay Road, Amlwch

Chronology of events leading up to the purchase of the property by the Council

Information taken from Property Services file ref: 11 UL 10 000

The current file commences in 2000 and documents for the period to July 2007 are related solely to various requests from local residents for the sale or lease of small parcels of land e.g. for garden plots etc.

The first document relating to the proposed purchase of Craigwen is a map of the area dated simply May 2007 and showing land owned by the Council together with the Craigwen land.

Subsequent events as related to the documents on the file are as follows:

- Undated hand written file note with details of the proposed auction and agents.
- Copy of Williams and Goodwin (the agents for the sale) literature relating to the sale
- Various copies of maps, again dated May 2007
- Copies of various comparable property details are on the file including a fax copy of earlier sales details for Craigwen prepared by Morgan Evans and dated 12 June 2006, information from websites and a property in Holyhead
- Website information printed off 30/05/07
- Outline sketch plan made by Highways of a possible entrance through the site dated 30/05/07
- Calculation of comparable prices and effect of loss of land by creation of new access to lands at the rear (undated)
- Letter to Williams and Goodwin 31/05/07 advising of adjacent Council land and conditions required by the Council regarding maintenance of boundaries in any potential sale
- Memo from Property Technician to Corporate Director (Environment and technical Services) (CD E&TS) 08/06/07 advising on the lack of ransom value and the potential for unlocking Council owned land at the rear of the property, and advising that the Housing and Planning Services should be consulted with regard to a possible purchase.
- Memo from Principal Valuer to CD E&TS 29/06/07 referring to meeting on 28 June 2007 and advising on existing value of land owned by the Council and potential uplift value in the event that access and planning consent were available, based on assumed densities of housing and with allowances for affordable housing.
- Email from Alan Carr, Solicitor, 11/07/07 advising on title information, etc
- Further emails to and from Alan Carr on same subject 12/07/07 to clarify various issues
- Memo from the Principal Valuer (in the name of Head of Service Property) to CD E&TS advising of purchase of the property at auction on 19 July 2007. The memo refers to the decision of the Executive of 16 July 2007.

- Letter 20 July 2007 from TR Evans Hughes & Co to Legal Services re various documents and proposed sale contract
- A file note shows details of events immediately prior to the auction. This shows:
 - 9 July 2007 – meeting to discuss the proposed purchase attended by CD E&TS, Corporate Director (Finance) and Principal Valuer
 - 16 July 2007 – Executive meeting held to consider purchase of the property
 - 19 July 2007 – purchase at the auction and details of attendees and final sale price
- Documents on the file after 20 July 2007 relate to the completion of the sale and various issues concerned with maintenance and management of the property

It is apparent from the file records that, until the end of June 2007 there was no specific advice regarding potential uplift value. The three week period between 8th June and 28th June may well have been utilised for consultation with relevant services (Highways, Planning, Housing and Finance) and consideration of options, but it is noted that there is no evidence to support this assumption on the file. It is clear, however, that a meeting with the Finance service was arranged within 10 days of the advice regarding uplift value being available on 29 June and that after that meeting events would have been driven by the process for obtaining legal advice and by the need for a formal decision prior to the auction on 19 July 2007.

Comments on draft Management letter

GENERAL

There is no reference in the letter to the following issues and the relationship manager may wish to make specific reference;

- i) Ombudsman's section 16 report in relation to the revocation of the planning permission in Pentre Berw. PWC have been provided with some documentation already.
- ii) School's reorganisation
- iii) Waste Management
- iv) Audit of Gwynedd and Môn Youth Justice Board

SPECIFIC

Page 4 4th paragraph. Reference to Joint Review, the drafting fails to acknowledge the positive outcome of the Joint Review and leads to negative reading.

Page 8 6th paragraph. First bullet point, second line – suggest delete 'many' and replace with 'some' to better reflect second bullet point.

~~Page 12 Paragraph 22. Second bullet point. The Auditor identifies this as a procedural flaw. However, if he is recommending that the decision of the 16 July, 2007 ought not to have been treated as confidential and urgent then it means that he is recommending that we should have, and ought in the future, to publish any intention by the Council to acquire property by auction. The Director of Legal Services cannot see how this would ever be in the Council's best financial interests. Making such information known, even to Council members only, in advance of an auction would be problematic. In this case, the only other bidder at the auction was a non-executive member of the Council.~~

~~The Director of Legal Services cannot accept that this was a flaw, but rather a safeguard, albeit that there was no deliberate decision to delay consideration of the item by the Executive.~~

~~The Auditors need to consider further the implications of this finding.~~

Page 12 Paragraph 22. Third bullet point, the Director of Legal Services remains of the view as expressed in her letter to PWC dated the 29 July, 2008. If the Auditors remain of the view that the Covenant ought to have been brought

to the attention of the Executive, then the only basis upon which they can reasonably reach that conclusion is that the Covenant was relevant to the decision of the Executive. That conclusion must be based on the independent legal advice which PWC has received and which contradicts the legal opinion of the Council's Property Solicitor. If PWC wish to rely upon their legal advice then it has the status of expert evidence. It is not protected by legal professional privilege and it must be disclosed in order to provide an opportunity for rebuttal.

Unless and until that opportunity is provided the Council's legal opinion remains as stated in the letter of the 29 July, 2008.

Page 13 First bullet point, this finding is rejected. Information was provided to PWC as enclosure 14 to a letter dated 15 July, 2007. In fact officers went further than the Auditor recommended by reporting to the Executive, thereby bringing the matter to the attention of all members.

Page 14 Paragraph 31. Reference to exhibit 3... delete 'significant' and replace with 'some'. This better reflects the commentary in exhibit 3.

Page 19 Paragraph 50. Improvement Plan summary has been published.

Page 20 Paragraph 59. Second line, delete 'investigation' and insert 'review' to mirror comments on top of page 21.

Para 66 - we are of the view that we acknowledged the inadequacies of the supporting documentation but needed the external audit to review these too. The only way for you to do that was to audit a certified claim - the certification itself was qualified by us in that respect.

Para 69 can you add something along these lines

"The council points to the anomalous position where it is regarded by WAG as the accountable body for Communities First grants yet is unable to exercise control over the independent partnerships who incur the expenditure."

Para 29, Para 103-107 and heading to this section and reference in summary. We believe this negative comment wholly misinterprets the progress that has been made. One of the weaknesses of the previous documentation was that it did not adequately address the overall resources issues, and previous decisions were responses to issues on single sites. We would interpret the decisions in August 2008 as a major strategic move by the new administration in acknowledging the resource constraint facing the authority and making a change of direction, as new administrations are entitled to do. This negative gloss in the report will undermine the progress that has been made. The development of a

Leisure strategy has received focus by the relevant scrutiny and overview committee in the last quarter. A special meeting of the Executive is planned before the Christmas recess to discuss the strategy

Page 31 Paragraph 114. This section should acknowledge that capacity to support procurement has been strengthened through the appointment of a Procurement Officer.

Para.	Where	Comment
15	Heading above para.	Needs updating for things that happened in November
24		typo - PwC advised
35		Factual error relating to foreign banks – PwC advised
37		Error – aftercare costs of Penhesgyn are a Provision – PwC advised
54		System issues which continue to hinder – PwC asked to check the tense of this statement
60/63		PwC advised that they have confused two years here. Note that "The Council has asked..." here is because PwC had made a unilateral decision to commence the audit on a particular date which was seriously inconvenient - we agreed a date a couple of weeks later. Not sure it deserves mention?
64/69		[CF]
77/78		[ICT]
86		PwC asked to give credit for work already done Potentially misleading comment on unsupported borrowing referred to PwC
99	Heading above para	This isn't true. We prepared a draft action plan in April in response to the benefits JRA not in response to the Ombudsman's report
99/102		WAO aware that the Ombudsman's comments refer to past difficulties in late 2006 and 2007. Even by February 2008 regulators had acknowledged that there had been significant improvements in processing times to the point that they agreed that Benefits was not a "High Risk" Service in the corporate JRA in July?. WAO are aware that processing times have continued to improve.
99		"repeated failures to abide by statutory targets" – WAO are aware that the Ombudsman has misinterpreted the whole issue of targets.
100		This suggests that we hadn't taken some urgent action recommended by regulators and restated by the Ombudsman. We had made significant progress to February and more before the report was issued. By not making reference to the progress already made, WAO's comments are potentially misleading.
101		As above, the action plan was in response to the JRA
102		The review of the complaints system was not related to this investigation. This para. suggests that it was.

		[The investigation was in March 2008.]
106		There never was a clear and affordable way forward. This could be read as a criticism of the present administration which would be unfair.

Price Waterhouse Coopers LLP
One Kingsway
Cardiff
CF10 3PW

12th December 2007

Fao Mr Iain Howse

Dear Mr Howse

Re Craigwen Amlwch

I have been asked to write to you to confirm my comments to you last week concerning the above matter.

I still retain the original conveyance which contains the covenant we discussed. The conveyance is dated 7th May 1952 and is made between (1) Elizabeth Jane (Lady) Jones and (2) The Associated Ethyl Company Limited. The land conveyed is coloured pink on the plan on the conveyance. No other land is referred to in the Conveyance save that the property conveyed is referred to as forming part of the property known as Caeau Ceinion. Caeau Ceinion is not defined in the conveyance or marked in any way on the plan.

Clause 2 of the conveyance purports to impose two covenants on the land conveyed. These are found at sub clauses (a) and (b). The preamble to the covenants in clause 2 begins by stating that the intent of the parties is to "... bind the land conveyed into whosoever hands the same may come". It then goes on to provide that the purpose of the covenants is to "...benefit and protect the said land and every part thereof." In my view this can only be a reference to the land already referred to in the preamble i.e. the land conveyed. This factor is significant for the reasons explained below.

I will however first deal with the interpretation of the covenant at sub clause (b) itself. The material part of the covenant in question would appear to be the words "...or use the same for **any purpose** other than for erecting one or two and no more private dwelling houses". The question arises therefore whether the inclusion of the words **for any purpose other than** has the effect of sterilising all uses excepting the use referred to in the words which follow. I consider that such an interpretation would be highly questionable for two reasons. Firstly such a literal interpretation would produce a nonsensical result. Those words only permit the land to be used for the **erecting** of the dwelling houses concerned and do not authorise their use as dwellings once erected. Such a literal meaning could not therefore have been intended.

Secondly if those words were intended to be so prohibitive there would have been no need whatsoever to include the words which precede them. The first part of the covenant specifically prohibits the carrying on of trade manufacture or business uses all of which would (at the risk of repeating myself) have been prohibited by the words "any purpose other than" had that been their true intention and effect. I believe that the true purpose of the second part of the covenant is to place a maximum limit on the number of dwellings which might be constructed on the land.

Even if that were not the case in my view the wording of the preamble in clause 2 demonstrates that the covenants were not expressed to benefit any retained land of the Vendor but rather to benefit the land actually conveyed. That land has now been acquired by the Council hence both the benefit and the burden of the covenants have come into the same hands (in fact that was always the case) an event which would effectively extinguish the covenant. The only exception to that principle would be the possibility that the original Vendor may have been in a position to enforce the covenant against the original purchaser as a personal covenant. However the burden of covenants do not pass with the land burdened unless the covenant was made for the protection of land belonging to (i.e. retained by) the Vendor. As pointed out above the covenant in this case was expressly stated to be for the benefit of the land conveyed.

I understand that you would also like to be advised whether the Property Section were aware of the position regarding extinguishment of the covenant prior to the auction and therefore appreciated what that might mean in terms of enhancing the value of the land. I think the short answer to that question is no. When investigating the title I drew the attention of the section to the terms of the covenant. This was not regarded as an obstacle to purchase as I did not consider that the purpose of the Council (to effect access to other land) breached the terms of the covenant for the reasons stated above. I was not instructed that any other potential uses or development of the land were contemplated. Consequently, whilst I was aware of the case for extinguishment it did not feature significantly in my advice at the time. It has only arisen now because the interpretation of the covenant itself has been called into question.

I should add as a final comment that this matter is one which involves the law relating to private covenants imposed on land. There is no question of covenants of this nature being enforceable by any person (e.g a member of the public) by virtue of the fact that the land happens to be in the ownership of a public authority.

I trust that the above fully explains the situation as I interpret it to be.

Yours sincerely

Alan Carr
Solicitor

PAPUR/ENCLOSURE 'A'

Tynnir sylw'r holl aelodau sy'n derbyn y rhaglen yma i'r eitem ganlynol ac i Baragraffau 10.2 a 10.3 o'r Rheolau Gweithdrefn Mynediad at Wybodaeth sydd wedi eu cynnwys yng Nghyfansoddiad y Cyngor sy'n cadarnhau fod yr adroddiad amgaeedig yn gyfrinachol, ac nad oes hawl cyhoeddi'r adroddiad heb ganiatâd yr Awdurdod, ac at gymal 5 y Côd Ymddygiad i Aelodau sy'n rhwystro Aelodau rhag datgelu gwybodaeth gyfrinachol heb ganiatâd penodol person sydd a'r awdurdod i roddi caniatâd o'r fath, neu oni bai fod rheidrwydd cyfreithiol arno/arni i wneud hynny.

The attention of every member who receives this agenda is drawn to the following item and Paragraphs 10.2 and 10.3 of the Access to Information Rules contained within the Constitution of the Council which confirms that the annexed report is given in confidence and cannot be made public without the consent of the Authority, and to Clause 5 of the Members' Code of Conduct which prevents Members from disclosing information given in confidence without the express consent of a person authorised to give consent, or unless required by law to do so.

CYNGOR SIR YNYS MÔN
ISLE OF ANGLESEY COUNTY COUNCIL

<u>PWYLLGOR/COMMITTEE</u>	PWYLLGOR GWAITH ARBENNIG/ SPECIAL EXECUTIVE COMMITTEE
<u>DYDDIAD/DATE</u>	16 GORFFENNAF 2007/16 JULY 2007
<u>TEITL YR ADRODDIAD/ TITLE OF REPORT</u>	TIR CYFAGOD I STRYD MONA, AMLWCH/LAND ADJACENT TO MONA STREET, AMLWCH
<u>PWRPAS/PURPOSE</u>	TO GIVE CONSIDERATION TO THE PURCHASE OF PROPERTY A IN AMLWCH
<u>ADRODDIAD GAN/ REPORT BY</u>	CYFARWYDDWR CORFFORAETHOL (GWASANAETHAU AMGYLCHEDD A THECHNEGOL) /CORPORATE DIRECTOR (ENVIRONMENT & TECHNICAL SERVICES)
<u>GWEITHREDU/ACTION</u>	TO AGREE THE PURCHASE OF THE PROPERTY AND BUDGET ALLOCATION

1. Background

1.1 The Council own land adjacent to Maes Mona that is suitable for housing development and this is shown edged in red on the attached plan. The land is just under 4 acres and as such is capable of accommodating about 50 houses. The only access to the land is through the existing Maes Mona estate, however the roadway network is not suitable to serve any future proposal and the land is not capable of being

developed without securing a suitable access.

1.2 The land was originally purchased by the Isle of Anglesey Borough Council from a Dilys M Jones on the 12 March, 1980. The land is considered to be within the Council's General Portfolio of land and not under any Housing Services restriction.

1.3 A property (Property A) edged in green on the attached plan has recently come on the market and will be sold at auction on the 19 July, 2007 and this is considered an opportunity which the Council should explore further.

2. Development Potential

2.1 The views of both the Planning and Highways Services have been obtained to test the development potential of both the existing land owned by the Council and the property available for sale.

2.2 Planning Services have confirmed that the 4 acres is in a suitable area for development being located within the Amlwch Development Boundary. The foul drainage problems are likely to be resolved with the building of the new sewage work by Dwr Cymru, however, suitable access to the land is a problem. The Highway Service have confirmed that the existing access and highway network is not suitable to serve any new development.

2.3 The Highway Service has looked at the alternative means of access which the purchase of Property A would give. The Highway Service has considered two alternatives which were a new access having demolished the house on Property A or a new access leaving the house intact and available. The Highway view is that a suitable access could be formed to serve a housing

CYFRINACHOL = DDIM I'W GYHOEDDI
CONFIDENTIAL - NOT FOR PUBLICATION

development on the 4 acres without the need to demolish the existing house but would require clearance of some outbuildings.

3. Housing Services' Views

3.1 Housing Services have acknowledged that there is a need for housing in the Amlwch area beyond that of the private/open market sector. They consider that the development of the land and the usual 30% Affordable Housing element would help alleviate the existing housing need in the Amlwch area.

3.2 Housing Services consider that the existing house which forms part of Property A could have a useful role in helping to tackle need in the area and they would welcome an opportunity to consider this further if the house were to be purchased.

4. Options Available to the Council

4.1 Do nothing. This would result in the council's land remaining without a suitable access and is considered by officers to be a lost opportunity.

4.2 The Council pursue the purchase of Property A for the purpose of securing a suitable access to allow the development of the land to the rear to take place.

4.3 The Council, if successful in the purchase of Property A, could thereafter consider the future of the existing house with alternative actions including -

- (i) immediate sale,
- (ii) discussion with Housing Services to establish need

5. Financial Issues

5.1 Property A is to be sold at auction on the 19th July 2007 and has a guide price of £280,000 to £300,000.

5.2 The value of 3.72 acres and housing land in the Amlwch area with some 30% Affordable element is estimated to be £1,260,000. The "land locked" value is some £93,000.

5.3 The increase in the value of the existing land owned by the Council is some £1,167,000.

The detail of the Council's Principal Valuer is attached.

5.4. The Corporate Director - Finance advises that the purchase can be financed within the Capital Plan in either of two ways depending on the ultimate use -

(a) if the land should be resold in the near future, there is sufficient flexibility for unsupported borrowing within the capital plan to buy the land, nominally funded by borrowing, then to repay this from the capital receipt when sold.

(b) if all or part of the land should be retained by the council in order to assist with the provision of affordable housing, then it could be funded from the relevant uncommitted sum within the Capital Plan.

The ultimate means of financing in this case does not need to be determined until after these transactions have been completed.

6. Recommendation

6.1 That the Council pursue the purchase of Property A and that the

Executive agree the upper limit of the budget.

6.2 That, if the purchase is successful, the Council should, at the appropriate time, submit a planning application for the housing development of the land and thereafter sell the site on the open market.

6.3 That, if the purchase is successful, to give further consideration to the use of the existing house.

Corporate Director (Environment and Technical)

5th July, 2007

By Auction (unless sold or withdrawn prior)

L012



Accommodation

OPEN VERANDA :

GROUND FLOOR

ENTRANCE HALL

LIVING ROOM 17'9 (5.4m) (into fireplace) x 14'8 (5.09m) (into bay)

DINING ROOM 15'7 (4.74m) x 13'5

(4.09m) utility area of 2.99m x 1.72

KITCHEN 13'11 (4.24m) x 12'2

(3.71m)

Understairs cloakroom

KITCHEN 12'3 (3.73m) x 11'10 (3.6m)

kitchen area 2.33m x 2.84

FIRST FLOOR

Down staircase that leads down to the rear hall.

BEDROOM 1 7'8 (2.33m) x 9'8 (2.94m)

HOME OFFICE/STUDY 10'6 (3.21m) x 11'10 (3.91m)

SECOND FLOOR

BEDROOM 1 17'9 (5.41m) x 15'10 (4.82m)

BEDROOM 2 (FRONT) 16'7 (5.06m) x 13'7 (4.13m)

BEDROOM 3 (CENTRE) 12'0 (3.65m) x 11'0 (4.27m)

BEDROOM 4 (REAR) 12'11 (3.93m) x 12'5 (3.79m)

BATHROOM

BOXROOM

OUTSIDE Adjacent to the rear door is an L shaped wash house (3.24m x 3.70m) with tiled floor, sash style window to side, water pump which is a feature of the room but is no longer connected. Fireplace.

Guide Price

£280,000-£300,000

Location

Craig Wen, Bull Bay Road, Amlwch Anglesey, LL68 9EA

Description

First time on the market in 11 years! This imposing detached residence, has been in the same ownership since built circa, 1896. Standing in imposing grounds with tree lined sweeping gravelled driveway, a range of outbuildings and a large paddock to the rear, that extends to around 1/2 an acre or so. The property offers many of its original charm and traditional sliding sash style windows, stained leaded glass windows, verandas, lawns, and a walled garden to the rear. It requires some upgrade and refurbishment works, but we would recommend that this is done sympathetically to further enhance the charm and style of this property. This would be an opportunity for investors or developers to look at the site.

Directions

Travelling from the centre of Amlwch in the Bull Bay/Cemaes Bay direction the property is set back from the road on the left hand side just before the unusually shaped Catholic church on the right.

Llangefni
3 Church Street 01248 75 1000
langefni@tppuk.com

Llangor
39 High Street 01248 355 333
langor@tppuk.com

Llangyhead

Llandudno
20 Madoc Street 01492 877 418
llandudno@tppuk.com

Colwyn Bay
15 Conway Road 01492 533324
colwynbay@tppuk.com

Auction Team

Legal Contacts

Mr Cwyfan Hughes
TR Evans Hughes,
Victoria Chambers,
Holyhead LL65 1UR
Telephone: 01407 762204

FROM: GWILYM WILLIAMS
(PRINCIPAL VALUER)

AF:
TO : CORPORATE DIRECTOR
ENVIRONMENT AND TECHNICAL
SERVICES

DYDDIAD :
DATE : 29 JUNE 2007

DYDDIEDIG :

CYF :

DATED :

REF: GW/CAJ 11JUL10000 Pen 61621

EICH CYF :

YOUR REF:

RE: LAND ADJACENT TO MAES MONA, AMLWCH AND CRAIGWEN, BULL BAY ROAD, AMLWCH

Further to our meeting on the 28th June, 2007 when the above properties were discussed.

Having looked at the deed plan for our land and the most recent O.S. plan, our land ownership probably extends to approximately 3.72 acres.

The land is valued in our Asset Valuation Register at £10,000 as grazing land with no access for development. The basis of the valuations is 'market value'.

I am of the opinion if the land was placed on the open market, it would realise a significantly higher figure. Any investor/speculator would be more than happy to pay a figure in the region of £20,000 to £25,000 per acre (£74,400 - £93,000).

The value of the land with adequate access and planning permission for residential development would be dependant on the density allowed per acre and the percentage requirement for affordable units. Assuming a density of 15 per acre ($3.72 \times 15 = 55.8$ @ 56 plots) and lets assume the affordable element is 30% then one would have 17 affordable and 39 market value units.

On comparison of a price per acre of residential development land the value of the land with planning permission would lie in the region of £305,000 per acre ($3.72 \times £305,000 = £1,134,600$).

On the basis of a comparable price per plot it would lie in the region of £22,500 per plot ($56 \times £22,500 = £1,260,000$).

Based on the above, the increase in value of the land in buying Craigwen is estimated at £1,167,000 (i.e. $£1,260,000 - £93,000 = £1,167,000$).

The above figures are provided as a guide only and on the limited information to hand.

GWILYM WILLIAMS
PRINCIPAL VALUER



CYNGOR SIR
YNYYS MÔN
ISLE OF ANGLESEY
COUNTY COUNCIL

CYNGOR-SIR YNYYS MÔN
ISLE OF ANGLESEY COUNTY COUNCIL
Swyddfa'r Sir
LLANGENI
Yrws Mawr • Anglesey
LL77 7TW

Land adjacent to Maes Mona, Amlwch

11 UL 10 000

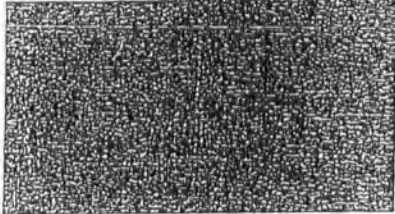
1 : 2500

Elddo / Property

© Hawfrifft h y Goron. Cedwir pob hawl
LAI00023412, 2006.
© Crown Copyright. All rights reserved
LAI00023412, 2006.




Councillor 



01248/751806

Ein Cyf/Our Ref: HPP/CAH/FOIA-012753-HPP
Elch Cyf/Your ref:

E-Bost / E-mail : hppcs@anglesey.gov.uk

 28 April, 2009

Dear 

RE: CRAIGWEN, AMLWCH

I refer to your email dated 26th February 2009, in which you request additional information, under the Freedom of Information Act 2000 (FOIA), concerning the removal of the covenants relating to Craigwen, Amlwch by the County Council.

The additional information you require is contained in a separate conveyancing file. A schedule of the file's contents was distributed to all County Councillors before Easter. The distributed schedule demonstrates that a significant portion of the file consists of copies of the relevant deeds and related, routine correspondence. However, of the information contained on the file, I consider that the documents listed in the attached schedule are of immediate relevance to your enquiry, in that they relate to the conveyancing and the removal of the covenants.

Please note that Alan Carr's letter to PricewaterhouseCoopers LLP of 12 December 2007 (schedule item 4) has been previously provided to you in redacted form in response to your previous access to information request. Parts of this letter were, when you submitted your previous request, considered to be exempt information under Section 42 of the Freedom of Information Act 2000 (FOIA) as it was covered by legal professional privilege. The exempt information was also covered by Section 44 of the FOIA as disclosure would contravene Section 54(ii) of the Public Audit (Wales) Act 2004.

The balance of the public interest, at the time of your previous request, lay in withholding this information. The Council has a duty not to compromise the activities of its Auditors and takes this obligation into account when considering what information may be disclosed.

However, I recognise that the balance of the public interest may be modified with the progress of time or events. PWC have now concluded their investigation into the purchase of Craigwen and the Wales Audit Letter has also been published. Therefore, I consider that the balance of the public interest has shifted towards disclosure. The document is, therefore, disclosed to you without redactions.

The document shown as item 18 on the attached schedule is disclosed with one redaction of personal information relating to Cllr Schofield. This personal information is exempt information under S.40 (2) of FOIA as its disclosure would constitute unfair processing and contravene the first data protection principle, as none of the conditions set out in schedule 2 of the Data Protection Act 1998 are met. This means that the information is exempt from disclosure under section 40(2) by virtue of section 40(3)(a)(1) of the FOIA.

I note that you have requested information relating to the cost of removing the covenants. This information is not held on the file, however I have sought this information from Alan Carr of Legal Services. I am advised that the total cost of the conveyancing of Craigwen was £650. This sum includes the cost of advice given by Alan Carr concerning the covenants before the auction, which is considered to be in the region of £100.

Please do not hesitate to contact me if I can be of further assistance to you in this matter. However, if you are unhappy with the decision made to withhold information in relation to your request you may ask for an internal review. Please address your correspondence to the Complaints Officer, Managing Director's Department, Council Offices, Llangefni, Ynys Môn LL77 7TW.

If you are not content with the outcome of any internal review you have the right to apply directly to the Information Commissioner, Wycliffe House, Water Lane, Wilmslow SK9 5AF. Please note that the Information Commissioner is likely to expect internal complaints procedures to have been exhausted before beginning his investigation.

Yours sincerely

Huw Pierce Pritchard
Corporate Information Officer

SCHEDULE OF DOCUMENTS

1. Letter from the Land Registry, Wales Office to Isle of Anglesey County Council, attaching official copy of the register.
2. Email, dated 2 November 2007, from Alan Carr to Gwilym Williams and Iona Jones relating to Craigwen, Amlwch.
3. Email, dated 12 December 2007, from Alan Carr to Robyn Jones and Lynn Ball subject Craigwen.
4. Letter, dated 12 December 2007, from Alan Carr to PricewaterhouseCoopers LLP subject Craigwen Amlwch.
5. Letter, dated 17 April 2008, from Alan Carr to the Land Registry subject Craigwen, Bull Bay Road, Amlwch CYM369364.
6. Letter from Land Registry to Isle of Anglesey County Council relating to Craigwen, Bull Bay Road, Amlwch.
7. Email, dated 28 April 2008, from Alan Carr to Lynn Ball, Gareth Jones and copied to Iona Jones relating to Craigwen.
8. Letter, dated 22 May 2008, from Alan Carr to Land Registry subject Craigwen, Bull Bay Road, Amlwch.
9. Letter, dated 20 June 2008, from Land Registry to Alan Carr Isle of Anglesey County Council subject Craigwen, Bull Bay Road, Amlwch.
10. Letter, dated 26 June 2008, from Alan Carr Isle of Anglesey County Council to the Land Registry subject Craigwen, Bull Bay Road, Amlwch.
11. Letter, dated 30 June 2008, from Land Registry to Alan Carr Isle of Anglesey County Council.
12. Letter, dated 3 July 2008, from Land Registry to Alan Carr Isle of Anglesey County Council subject Craigwen, Bull Bay Road, Amlwch.
13. Email, dated 4 July 2008, from Iona Jones to Mike Barton and Alan Carr relating to Craigwen, Amlwch.
14. Letter, dated 17 July 2008, from PricewaterhouseCoopers LLP to Lynn Ball Isle of Anglesey County Council subject Craigwen, Bull Bay Road, Anglesey.
15. Letter, dated 15 July 2008, from Lynn Ball, Isle of Anglesey County Council to PricewaterhouseCoopers LLP subject Craigwen, Bull Bay Road, Amlwch, Anglesey.
16. Letter, dated 29 July 2008, from Lynn Ball to PricewaterhouseCoopers LLP subject Craigwen, Bull Bay Road, Amlwch, Anglesey.

17. Letter, dated 21 February 2008, from Ymchwiliadau Môn Investigations to Alan Carr, Isle of Anglesey County Council relating to Lady Elizabeth Jane Jones.
18. Attendance note prepared by Alan Carr further to a meeting with Cllr Fowlie, Cllr Schofield, Mr Mike Barton, convened on 8 July 2008 at the request of Cllr Schofield to discuss Craigwen.



000001

DX

CYNGOR SIR YNYS MON
ISLE OF ANGLESEY C C
DX701771
LLANGFNI

24 OCT 2007

Completion of registration

Title number	CYM369364
Property	Craigwen, Bull Bay Road, Amlwch (LL68 9EA)
Registered proprietor	Cyngor Sir Ynys Mon/ Isle Of Anglesey County Council


Your application lodged on 22 October 2007 has been completed. An official copy of the register is enclosed together with an official copy of the title plan.


The documents marked with a tick on the accompanying list are enclosed. Those marked with an asterisk have been kept by this office.

If we need to write to, or send a formal notice to, an owner, chargee or other party who has an interest noted on the register, we will write to them at their registered address. It is important that this address is correct and up to date. Please let us know at once of any change of address, quoting the title number.

You do not need to reply unless you think a mistake has been made. If there is a problem or you require this correspondence in an alternative format, please let us know.

The Title information document is enclosed for you to keep or issue to your client as appropriate.

 Date/Dyddiad
22 October 2007

 Your ref/Eich cyf
PR 11072- AC

Our ref/Ein cyf
RCS/CYM369364

Land Registry
Wales Office
Tŷ Cwm Tawe
Phoenix Way, Llansamlet
Swansea SA7 9FQ
DX 82800 Swansea (2)
Tel 01792 355000
Fax 01792 355055
wales.office@
landregistry.gsi.gov.uk
www.landregistry.gov.uk

 Cofrestrfa Tir
Swyddfa Cymru
Tŷ Cwm Tawe
Ffordd y Ffenics, Llansamlet
Abertawe SA7 9FQ
DX 82800 Swansea (2)
Ffôn 01792 355000
Ffacs 01792 355055
wales.office@
landregistry.gsi.gov.uk
www.cofrestrfatir.gov.uk

*Land Registry welcomes
correspondence in Welsh or
English / Mae'r Gofrestrfa Tir yn
croesawu gohebiaeth yn Gymraeg
neu Saesneg*





Title information document

This document has been issued following a change to the register. It has been supplied for information only. It should not be sent to Land Registry in connection with any subsequent application.

Attached is an official copy of the register and of the title plan showing the entries subsisting following the recent completion of the application to change the register.

Please note: The attached official copy shows the state of the individual register of title as at the date and time stated on it.

If in future you wish to apply for an official copy of the register or the title plan showing the then position, please apply using form OC1 (available from us, our website and from law stationers). A fee is payable for each copy issued.

If we need to write to, or send a formal notice to, an owner or other party who has an interest noted on the register, we will write to them at the address shown on the register. It is important that this address is correct and up to date. If you have such an address but wish to change it, please let us know as soon as possible, quoting the title number.

If you have any queries, or you require this correspondence in an alternative format, please contact us at the address shown, quoting the title number shown on the top of the official copy.

Land Registry
Wales Office
Tŷ Cwm Tawe
Phoenix Way, Llansamlet
Swansea SA7 9FQ
DX 82800 Swansea (2)
Tel 01792 355000
Fax 01792 355055
wales.office@
landregistry.gsi.gov.uk
www.landregistry.gov.uk

Gofrestrfa Tir
Swyddfa Cymru
Tŷ Cwm Tawe
Ffordd y Ffenics, Llansamlet
Abertawe SA7 9FQ
DX 82800 Swansea (2)
Ffôn 01792 355000
Ffacs 01792 355055
wales.office@
landregistry.gsi.gov.uk
www.cofrestrfatir.gov.uk

*Land Registry welcomes
correspondence in Welsh or
English / Mae'r Gofrestrfa Tir yn
croesawu gohebiaeth yn Gymraeg
neu Saesneg*



Official copy
of register of
title
Copi
swyddogol o
gofrestr teitl

File number / Rhif teitl
CYM369364

Edition date / Dyddiad yr
argraffiad 22 10 2007

- This official copy shows the entries in the register of title on 22 October 2007 at 10:53:56.
- This date must be quoted as the "search from date" in any official search application based on this copy.
- The date at the beginning of an entry is the date on which the entry was made in the register.
- Issued on 22 October 2007.
- Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
- For information about the register of title see Land Registry website www.landregistry.gov.uk or Land Registry Public Guide 1 - *A guide to the information we keep and how you can obtain it*.
- This title is dealt with by Land Registry Wales Office.
- Mae'r copi swyddogol hwn yn dangos y cofnodion yn y gofrestr teitl ar 22 Hydref 2007 am 10:53:56.
- Rhaid dyfynnu'r dyddiad hwn fel y "dyddiad y chwilir ohono" mewn unrhyw gais am chwiliad swyddogol sy'n seiliedig ar y copi hwn.
- Y dyddiad ar ddechrau cofnod yw'r dyddiad y gwnaethpwyd y cofnod yn y gofrestr.
- Cyhoeddwyd ar 22 Hydref 2007.
- Dan adran 67 Deddf Cofrestru Tir 2002, mae'r copi hwn yn dderbyniol fel tystiolaeth i'r un graddau â'r gwreiddiol.
- I gael gwybodaeth am y gofrestr teitl gweler gwefan y Gofrestrfa Tir www.cofrestrfatir.gov.uk neu Gyfarwyddyd Cyhoeddus 1 - *Cyfarwyddyd i'r wybodaeth rydym yn ei chadw a sut y gallwch ei chael*.
- Gweinyddir y teitl hwn gan Gofrestrfa Tir Swyddfa Cymru.

A: Property register / Cofrestr eiddo

This register describes the land and estate comprised in the title.
Mae'r gofrestr hon yn disgrifio'r tir a'r ystad a gynhwysir yn y teitl.

ISLE OF ANGLESEY/SIR YNYS MON

- 1 (22.10.2007) The Freehold land shown edged with red on the plan of the above title filed at the Registry and being Craigwen, Bull Bay Road, Amlwch (LL68 9EA).

C: Charges register continued / Parhad o'r gofrestr arwystlon

render the Purchasers personally liable in damages for any breach of covenant committed after they shall have parted with all interest in the said land HEREBY COVENANTS with the Vendor:

(a) forthwith to erect and forever hereafter maintain to the satisfaction of the Vendor stone walls or stock proof fences where not already existing along the southern and western boundaries of the property hereby conveyed and

(b) not at any hereafter to carry on or allow or suffer to be carried on any trade manufacture or business upon the property hereby conveyed or any part thereof or in or upon any building erected thereon or use the same for any purpose other than for erecting one or two and no more private dwellinghouses thereon"

End of register / Diwedd y gofrestr

Land Registry Official copy of title plan

Title number **CYM309364**
Ordnance Survey map reference **SH4393SE**
Scale **1:1250** enlarged from 1:2500
Administrative area **Isle of Anglesey / Ynys Môn**



© Crown Copyright. Produced by Land Registry. Reproduction in whole or in part is prohibited without the prior written permission of Ordnance Survey. Licence Number 100026316.



This official copy issued on 22 October 2007 shows the state of this title plan on 22 October 2007 at 10:53:56. It is admissible in evidence to the same extent as the original (s.67 Land Registration Act 2002). This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground. See Land Registry Public Guide 19 - Title Plans and Boundaries.

**Application to cancel a notice
(other than a unilateral
notice)**

Land Registry

CN1

*Form UN4 must be used for cancellation of a unilateral notice.
If you need more room than is provided for in a panel, use continuation sheet CS and attach to this form.*

1. Administrative area and postcode if known Isle of Anglesey							
2. Title number(s) CYM369364							
3. If you have already made this application by outline application, insert reference number: 							
<p>4. Application and fee <i>A fee is not always payable for this type of application. A fee calculator for all types of applications can be found on Land Registry's website at www.landregistry.gov.uk/fees</i></p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; text-align: right;">Value £</td> <td style="width: 50%; text-align: right;">Fee paid £</td> </tr> <tr> <td colspan="2" style="text-align: center; padding-top: 10px;">Cancellation of a notice</td> </tr> <tr> <td colspan="2" style="text-align: center; padding-top: 10px;">TOTAL £</td> </tr> </table> <p>Fee payment method: Place "X" in the appropriate box. I wish to pay the appropriate fee payable under the current Land Registration Fee Order:</p> <p><input type="checkbox"/> by cheque or postal order, amount £ _____ made payable to "Land Registry".</p> <p><input checked="" type="checkbox"/> by Direct Debit under an authorised agreement with Land Registry.</p>	Value £	Fee paid £	Cancellation of a notice		TOTAL £		<p style="text-align: center;">FOR OFFICIAL USE ONLY</p> <p>Record of fee paid</p> <hr/> <p>Particulars of under/over payment</p> <hr/> <p>Fees debited £</p> <hr/> <p>Reference number</p>
Value £	Fee paid £						
Cancellation of a notice							
TOTAL £							
5. Documents lodged with this application <i>If this application is accompanied by either Form AP1 or FR1 please only complete the corresponding panel on Form AP1 or DL. Number the documents in sequence; copies should also be numbered and listed as separate documents, alternatively you may prefer to use Form DL. If you supply the original document and a certified copy, we shall assume that you request the return of the original; if a certified copy is not supplied, we may retain the original document and it may be destroyed.</i>							
6. The applicant is: <i>Please provide the full name(s) of the person(s) applying for cancellation of the notice.</i> Isle of Anglesey County Council							
The application has been lodged by: Land Registry Key No. (if appropriate) 2133903 Name (if different from the applicant) Address/DX No. 701771 LLANGEFNI							
Reference PR11072	<p>FOR OFFICIAL USE ONLY</p> <p>Codes Dealing</p> <p>Status</p>						
E-mail alancarr01@btinternet.com							
Telephone No. 01285 710358							
Fax No. 01248 752132							

7. **Where you would like us to deal with someone else** *We shall deal only with the applicant, or the person lodging the application if different, unless you place "X" against one or more of the statements below and give the necessary details.*

- Send title information document to the person shown below
- Raise any requisitions or queries with the person shown below
- Return original documents lodged with this form (see note in panel 5) to the person shown below
If this applies only to certain documents, please specify.

Name
Address/DX No.

Reference

E-mail

Telephone No.

Fax No.

8. **Application in respect of notice protecting a rentcharge**

Rentcharge of £ _____ created by a deed dated _____ and issuing out of the land registered under the title number(s) referred to in panel 2.

The above rentcharge determined by *Place "X" in the appropriate box.*

- merger or release and panel 10 below has been completed.
- redemption and the certificate of redemption accompanies this application.

The applicant applies for the necessary entries and cancellations to be made on the register to give effect to the determination of the rentcharge

9. Application in respect of notice protecting a lease

Details of lease:

Property affected

Date

Term

The above lease determined by Place "X" in the appropriate box and lodge any supporting evidence.

- merger and panel 10 below has been completed.
- surrender and panel 10 below has been completed.
- disclaimer and panel 10 below has been completed.
- forfeiture and a statutory declaration or other supporting evidence accompanies this application.
- effluxion of time and the provisions of the Landlord and Tenant Act 1954 do not apply.
- notice under the Landlord and Tenant Act 1954 and the provisions of that Act have been complied with.
- other *Please provide details.*

The applicant applies for the necessary entries and cancellations to be made in the register to give effect to the determination of the lease

10. The unregistered title to the determined lease or rentcharge is based on the title documents listed on Form DL. The applicant does not hold or control any other documents. Place "X" in the appropriate box. If applicable complete the second statement; include any interests disclosed only by searches. Any interests disclosed by searches which do not affect the unregistered lease(s) or rentcharge should be so certified.

- All rights, interests and claims affecting the property known to the applicant are disclosed in the title documents. There is no-one in adverse possession of the property or any part of it.
- In addition to the rights, interests and claims affecting the property disclosed in the title documents, the applicant only knows of the following:

11. Cancellation of notice in other cases *Please give details of the notice you are applying to cancel.*

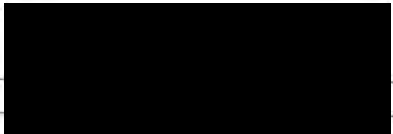
Entry No 1 in the Charges Register to tile number CYM369364 (in it's entirety)

12. Please state how the interest protected by the notice has come to an end

This has been explained and agreed in correspondence (copies attached)

You should provide with this application evidence which demonstrates that the interest protected by the notice has come to an end.

**13. Signature of applicant
or their conveyancer** _____



Date 7th July 2008

000002

Alan Carr

From: Alan Carr [alancarr01@btinternet.com]
Sent: 02 November 2007 09:54
To: 'GWLYM WILLIAMS'; 'IONA JONES'
Subject: Craigwen Bull Bay Road Amlwch

Gwilym/Iona

I am just dropping you a line to confirm that the registration of the Councils title to the above property has been successfully completed. I will bring the title information document and deeds when I next come to Llangefni. The title number is CYM369364.

Alan

000003

Alan Carr

From: Alan Carr [alancarr01@btinternet.com]
Sent: 12 December 2007 15:22
To: 'ROBYN JONES'; 'LYNN BALL'
Subject: Craigwen

For your information I attach a copy of my letter to Price Waterhouse.

Alan

Price Waterhouse Coopers LLP
One Kingsway
Cardiff
CF10 3PW

12th December 2007

Fao Mr Iain Howse

Dear Mr Howse

Re Craigwen Amlwch

I have been asked to write to you to confirm my comments to you last week concerning the above matter.

I still retain the original conveyance which contains the covenant we discussed. The conveyance is dated 7th May 1952 and is made between (1) Elizabeth Jane (Lady) Jones and (2) The Associated Ethyl Company Limited. The land conveyed is coloured pink on the plan on the conveyance. No other land is referred to in the Conveyance save that the property conveyed is referred to as forming part of the property known as Caeau Ceinion. Caeau Ceinion is not defined in the conveyance or marked in any way on the plan.

Clause 2 of the conveyance purports to impose two covenants on the land conveyed. These are found at sub clauses (a) and (b). The preamble to the covenants in clause 2 begins by stating that the intent of the parties is to "..... bind the land conveyed into whosoever hands the same may come". It then goes on to provide that the purpose of the covenants is to "....benefit and protect the said land and every part thereof." In my view this can only be a reference to the land already referred to in the preamble i.e the land conveyed. This factor is significant for the reasons explained below.

I will however first deal with the interpretation of the covenant at sub clause (b) itself. The material part of the covenant in question would appear to be the words "...or use the same for **any purpose** other than for erecting one or two and no more private dwelling houses". The question arises therefore whether the inclusion of the words **for any purpose other than** has the effect of sterilising all uses excepting the use referred to in the words which follow. I consider that such an interpretation would be highly questionable for two reasons. Firstly such a literal interpretation would produce a nonsensical result. Those words only permit the land to be used for the erecting of the dwelling houses concerned and do not authorise their use as dwellings once erected. Such a literal meaning could not therefore have been intended.

Secondly if those words were intended to be so prohibitive there would have been no need whatsoever to include the words which precede them. The first part of the covenant specifically prohibits the carrying on of trade manufacture or business uses all of which would (at the risk of repeating myself) have been prohibited by the words "any purpose other than" had that been their true intention and effect. I believe that the true purpose of the second part of the covenant is to place a maximum limit on the number of dwellings which might be constructed on the land.

Even if that were not the case in my view the wording of the preamble in clause 2 demonstrates that the covenants were not expressed to benefit any retained land of the Vendor but rather to benefit the land actually conveyed. That land has now been acquired by the Council hence both the benefit and the burden of the covenants have come into the same hands (in fact that was always the case) an event which would effectively extinguish the covenant. The only exception to that principle would be the possibility that the original Vendor may have been in a position to enforce the covenant against the original purchaser as a personal covenant. However the burden of covenants do not pass with the land burdened unless the covenant was made for the protection of land belonging to (i.e. retained by) the Vendor. As pointed out above the covenant in this case was expressly stated to be for the benefit of the land conveyed.

I understand that you would also like to be advised whether the Property Section were aware of the position regarding extinguishment of the covenant prior to the auction and therefore appreciated what that might mean in terms of enhancing the value of the land. I think the short answer to that question is no. When investigating the title I drew the attention of the section to the terms of the covenant. This was not regarded as an obstacle to purchase as I did not consider that the purpose of the Council (to effect access to other land) breached the terms of the covenant for the reasons stated above. I was not instructed that any other potential uses or development of the land were contemplated. Consequently, whilst I was aware of the case for extinguishment it did not feature significantly in my advice at the time. It has only arisen now because the interpretation of the covenant itself has been called into question.

I should add as a final comment that this matter is one which involves the law relating to private covenants imposed on land. There is no question of covenants of this nature being enforceable by any person (e.g a member of the public) by virtue of the fact that the land happens to be in the ownership of a public authority.

I trust that the above fully explains the situation as I interpret it to be.

Yours sincerely

Alan Carr
Solicitor

Land Registry
Wales Office
Ty Cwm Tawe
Phoenix Way
Llansamlet
Swansea
SA7 9FQ

17th April 2008

Your ref RCS/11072-AC

Dear Sirs

Re Craigwen Bull Bay Road Amlwch CYM369364

The County Council recently acquired the above property and applied for first registration of title. Completion of registration was confirmed by your letter dated the 22nd October 2007.

I am now writing with regard to the entries in the Charges Register to the above title. These relate to covenants contained in a conveyance dated 7th May 1952 and made between (1) Elizabeth Jane (Lady) Jones and (2) The Associated Ethyl Company Ltd.

Clause 1 of that conveyance describes the land conveyed as “.....ALL THAT plot piece or parcel of land in the parish of Amlwch in the County of Anglesey forming part of the property known as Caeau Ceinion.....” etc. Clause 2 (which imposes the covenants contained in the charges register) begins with the words “The Purchasers so as to bind **the land** hereby conveyed...” and goes on “...and to benefit and protect **the said land**.....”etc.

In my view it is clear from the document that the reference to **the said land** in clause 2 can only be a reference to the land conveyed by the instrument as that is the only land specifically described. There is no reference in clause 2 to other land or that the covenants are to benefit any land retained by the Vendor. There is of course a reference in clause 1 to the land forming part of property known as Caeau Ceinion but in my submission that reference is merely for the purpose of identifying and describing the land to be conveyed. There are no words which identify the remainder of Caeau Ceinion as land intended to benefit from the covenants. Had the parties intended this it would have been a simple matter to make reference to it as Vendors retained land in clause 2 and also to identify that retained land by reference to a plan.

In my view the covenants when given by the purchaser in 1952 could therefore have been enforced only as personal covenants by the Vendor Lady Jones. The Council has now obtained evidence of the death of Lady Jones in 1966 (please see the enclosed death certificate).

As the Council is now the registered freehold owner of the land conveyed by the 1952 conveyance and Lady Jones is now deceased the benefit and the burden of the covenants contained in clause 2 of the conveyance have now effectively merged in the Council and no other person is entitled to the benefit of them. The Council wishes therefore to apply to HM Land Registry for the removal of the entries in the Charges Register to the above title.

I have attempted to obtain the appropriate form from the website but on this occasion I have been unable to access forms other than agricultural forms. Are you able to accept this letter as a formal application for removal? If not could you please send me the appropriate form.

I am enclosing a copy of the 1952 conveyance to assist you.

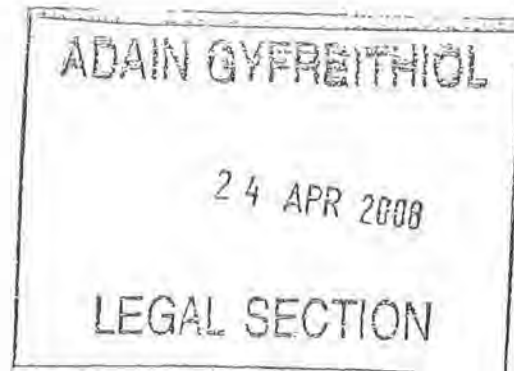
Yours faithfully

Alan Carr
Solicitor




000006


Cyngor Sir Ynys Mon Isle of Anglesey
DX 701771
Llangefni



DX

 Date/Dyddiad
21 April 2008

Proprietor/Applicant Cyngor Sir Ynys Mon Isle Of Anglesey

 Your ref/Eich cyf
RCS/11072-AC

Property Craigwen, Bull Bay Road, Amlwch

Our ref/Ein cyf
CYM3693645/ letter enq/A&D/SE

Dear Sirs

Land Registry
Wales Office
Tŷ Cwm Tawe
Phoenix Way, Llansamlet
Swansea SA7 9FQ
DX 82800 Swansea (2)
Tel 01792 355000
Fax 01792 355055
wales.office@landregistry.gsi.gov.uk
www.landregistry.gov.uk

Thank you for your letter dated 17 April 2008, the contents of which are noted.

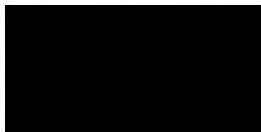
I regret that the entry you refer to cannot be removed from the Register on the basis of the information provided.

I have taken into account the points you have made, but under S.35 of the L.R. Rules the Registrar is obliged enter notice of any interest which appears to affect. The entry notes the existence of the covenant but does not guarantee its enforceability.

There is insufficient evidence within your letter to confirm that the covenant has no effect on the land in question and therefore the entry must remain on the Register.

If you would like to discuss this correspondence or require it in an alternative format please contact me, quoting our reference.

Yours faithfully



Steven Evans
Direct line 01792 355133

 Cofrestrfa Tir
Swyddfa Cymru
Tŷ Cwm Tawe
Ffordd y Ffenics, Llansamlet
Abertawe SA7 9FQ
DX 82800 Swansea (2)
Ffôn 01792 355000
Ffacs 01792 355055
wales.office@landregistry.gsi.gov.uk
www.cofrestrfatir.gov.uk

Land Registry welcomes
correspondence in Welsh or
English / Mae'r Gofrestrfa Tir yn
croesawu gohebiaeth yn Gymraeg
neu Saesneg

Deirdre Bennett.

01792 355183

Alan Carr

From: Alan Carr [alancarr01@btinternet.com]
Sent: 28 April 2008 14:47
To: 'LYNN BALL'; 'GARETH (PROPERTY) JONES'
Cc: 'IONA JONES'
Subject: Craigwen

000007

For information I attach a copy of my letter to HMLR re the above. I am awaiting a reply and will let you know as soon as I have the same.

Alan

Land Registry
Wales Office
Ty Cwm Tawe
Phoenix Way
Llansamlet
Swansea
SA7 9FQ

22nd May 2008

Your ref CYM369645

Dear Sirs

Re Craigwen Bull Bay Road Amlwch

I refer to your letter of the 21st April re the above matter. I note what you say with regard to evidence that the covenant has no effect on the land in question but, with respect, it is difficult to imagine what further evidence can be produced or required.

The central point in my letter of the 17th April is that both the benefit and burden of the covenant attaches to the same area land all of which is now vested in the Council and the Council wishes effectively to release itself from the effect of that covenant. Presumably this can be effected by the Council submitting a formal application for the entry to be removed and as beneficiary of the covenant consenting to that application.

Can you please consider the matter again in the light of the above and advise.

Yours faithfully

Alan Carr
Solicitor

Wales Office

Swyddfa Cymru



000009

ISLE OF ANGLESEY COUNTY COUNCIL
COUNCIL OFFICES
LLANGEFNI
ANGLESEY
LL77 7TW



Date/Dyddiad
20 June 2008

Your ref/Eich cyf
MR CARR

Our ref/Ein cyf
CYM369364/A/040/DB/A & D

Proprietor/Applicant Cyngor Sir Ynys Môn/ Isle Of Anglesey
County Council

Title number CYM369364

Property Craigwen, Bull Bay Road, Amlwch (LL68
9EA)

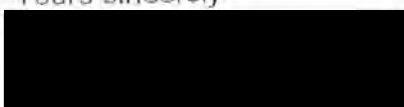
Land Registry
Wales Office
Tŷ Cwm Tawe
Phoenix Way, Llansamlet
Swansea SA7 9FQ
DX 82800 Swansea (2)
Tel 01792 355000
Fax 01792 355055
wales.office@landregistry.gsi.gov.uk
www.landregistry.gov.uk

Dear Mr Carr,

Further to my letter dated 6 June 2008, I write to inform you that I have now filed away the papers in relation to this matter, as I have not received any further comments from you.

If you would like to discuss this correspondence or require it in an alternative format please contact me, quoting our reference.

Yours sincerely



Deidre Bennett
Senior Casework Executive
Direct line 01792 355183

NGOR SIR YNYS MÔN
ANGLESEY COUNTY COUNCIL

23 JUN 2008

ADRAN CYLLID / FINANCE DEPT

REF/TO.....

Cofrestrfa Tir
Swyddfa Cymru
Tŷ Cwm Tawe
Ffordd y Ffenics, Llansamlet
Abertawe SA7 9FQ
DX 82800 Swansea (2)
Ffôn 01792 355000
Ffacs 01792 355055
wales.office@landregistry.gsi.gov.uk
www.cofrestrfatir.gov.uk

Land Registry welcomes
correspondence in Welsh or English
/ Mae'r Gofrestrfa Tir yn croesawu
gohebiaeth yn Gymraeg neu
Saesneg

Land Registry
Wales Office
Ty Cwm Tawe
Phoenix Way
Llansamlet
Swansea
SA7 9FQ

26th June 2008

Dear Ms Bennett

Re Craigwen Bull Bay Road Amlwch CYM 368364

I refer to your letter of the 20th June in which you refer to an earlier letter of the 6th June. Unfortunately it would appear that your 6th June letter was not received by the Council. In an earlier telephone conversation you outlined the content of that letter to me. I am therefore responding initially to your comments on the telephone but would appreciate it if you could send me a copy of the 6th June letter.

As I understand it the Land Registry take the view (referring to my letter of the 17th April) that the covenant contained in clause 2 of the 1952 Conveyance was intended to benefit the property referred to in the document as Caeau Ceinion on the basis that there is such a reference in the document and that Caeau Ceinion could be identified from extrinsic evidence.

With respect I disagree with this view for a number of reasons. I appreciate that the Marquess of Zetland case is authority for the proposition that section 78 of the LPA 1925 effects annexation whenever **the land intended to be benefited** is described in the conveyance in terms that enables it to be identified. In this case there is nothing in the conveyance which identifies any land to be benefited other than the land being sold. The reference to Caeau Ceinion only appears in clause 1 and it is quite clear that the purpose of the reference is singularly to assist in describing/identifying the land to be sold. It has in my submission no more significance than say a reference to the property being "to the west of Bull Bay Road" would have. There is nothing in the conveyance which identifies it as land retained by the vendor. Indeed as pointed out below it is clear that at the time the Vendor did not own all of the property identified as Caeau Ceinion.

The wording of clause 2 is plain and can be readily understood. It begins by identifying the land upon which the covenant is to be imposed as "the land hereby conveyed" and then immediately goes on to identify the land to be benefited as "the said land". The same terminology (the said land) is used again later in the same clause when referring to the Purchasers personal liability in respect of covenant breach being discharged once having parted with **the said land**. This must indisputably be a reference to the land conveyed by the instrument. In my view the consistency of expression in this clause cannot be overlooked. It would have been a very simple matter for the draughtsman to have referred to "the Vendors retained land" or "Caeau Ceinion" or to "such of the property known as Caeau Ceinion now owned by the vendor" had it been the intention of the parties to annexe the benefit of the covenant to such land. If such land was not identified in the instrument then extrinsic evidence might have been called on the assist; but the fact is that there are no appropriate words to indicate the intention to annexe the covenant to any such land.

There is no reason necessarily to question the intention of the vendor to impose the covenants for the protection of the land conveyed. There may well have been personal reasons why the vendor did not wish to see the land developed in particular ways which had no bearing on any land retained or owned by her.

Returning to the identification of Caeau Ceinion itself I enclose for your information a 1952 abstract of the vendors title. You will note from the abstract of the Assent dated 19th March 1952 that at the time Lady Jones did not have vested in her the entirety of the property known as Caeau Ceinion. In my view this is further evidence that the covenant was only intended to benefit the land conveyed in May 1952. The reference in the description of the land in the 1952 conveyance is to land forming part of Caeau Ceinion. Thus the description is referring to a property which is not entirely in the ownership of the vendor. This lends weight to the point that the reference to Caeau Ceinion in clause 1 of the conveyance is for no other purpose than as a convenient description of the land being conveyed.

I would be grateful if you would return the abstract in due course.

I trust that you will give the points made above serious consideration and will confirm your agreement with my interpretation of the matter.

Yours sincerely

Alan Carr
Solicitor



Mr Alan Carr
Isle of Anglesey County Council
DX701771
Llangefni

000011

Date/Dyddiad: 30/06/2008

Dear Sirs

Your Reference/Eich Cyf

Re:- Craigwen, Bull Bay Road, Amlwch

Our Reference/Ein Cyf
CYM369364KKD/CORRES

Thank you for your letter of 26 June 2008 the contents of which have been noted.

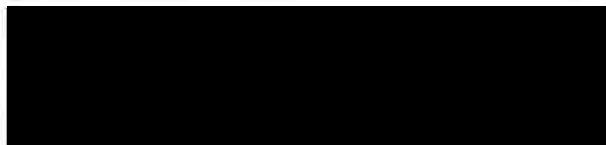
Land Registry
Wales Office
Tŷ Cwm Tawe
Phoenix Way
Llansamlet
Swansea SA7 9FQ

After an initial investigation of the above title, I am now re-ordering all the relevant files in order that full consideration be given to the contents of your letter. On receipt of these files I will revert to you shortly.

Tel 01792 355000
Fax 01792 355055
DX No 82800 Swansea (2)
www.landregistry.gov.uk

I hope this situation is satisfactory to you. If you have any questions regarding the above, please do not hesitate to contact me..

Yours faithfully



Gofrestrfa Tir
Swyddfa Cymru
Tŷ Cwm Tawe
Ffordd y Ffenics
Llansamlet
Abertawe SA7 9FQ

Kevin Davies
Direct line: 01792 355242

Anglesey/Denbigh team

Ffôn 01792 355000
Ffacs 01792 355055
Rhif DX 82800 Swansea (2)
www.cofrestrfatir.gov.uk

ADAIN GYFREITHIOL
30 JUN 2008
LEGAL SECTION


Land Registry welcomes
correspondence in both English
and Welsh / Mae'r Gofrestrfa Tir
yn croesawu gohebiaeth yn
Gymraeg neu Saesneg






Alan Carr
Isle of Anglesey County Council
Legal Services
Council Offices
Llangefni
ANGLESEY



 te/Dyddiad
July 2008

 r ref/Eich cyf
NONE

Our ref/Ein cyf
CYM369364/A/063/KD/A & D

Proprietor/Applicant	Cyngor Sir Ynys Mon/ Isle Of Anglesey County Council
Title number	CYM369364
Property	Craigwen, Bull Bay Road, Amlwch (LL68 9EA)

Land Registry
Wales Office
Ty Cwm Tawe
Phoenix Way, Llansamlet
Swansea SA7 9FQ
DX 82800 Swansea (2)
Tel 01792 355000
Fax 01792 355055
wales.office@landregistry.gsi.gov.uk
www.landregistry.gov.uk

Dear Mr Carr,

Thank you for your letter dated 26 June 2008, the contents of which have been carefully considered.

The additional evidence in relation to the 1952 Abstract of Title is supportive of your submissions, and we are grateful to you for this. Accordingly, if you would please lodge a Form CN1 duly completed and signed in relation to the cancellation of entry number 1 of the Charges Register, we will arrange for the entry to be removed. I look forward to hearing from you.

If you would like to discuss this correspondence or require it in an alternative format please contact me, quoting our reference.

Yours sincerely

Deidre Bennett
Senior Casework Executive
Direct Line 01792 355183

 ofrestrfa Tir
 yddfa Cymru
Ty Cwm Tawe
Ffordd y Ffenics, Llansamlet
Abertawe SA7 9FQ
DX 82800 Swansea (2)
Ffôn 01792 355000
Ffacs 01792 355055
wales.office@landregistry.gsi.gov.uk
www.cofrestrfatir.gov.uk

*Land Registry welcomes
correspondence in Welsh or English
/ Mae'r Gofrestrfa Tir yn croesawu
gohebiaeth yn Gymraeg neu
Saesneg*

From: IONA JONES [IONAJONES@anglesey.gov.uk]
Sent: 04 July 2008 11:47
To: MIKE BARTON; alancarr01@btinternet.com
Subject: Craigwen, Amlwch

000013

Alan / Mike

As you will now know the Land Registry have agreed to remove the covenant on the above property provided we lodge a CN1 form, which Alan will do next week.

Lynn has asked me to inform you, in view of your meeting with Cllr Schofield next week, that the Leader has made a request for a copy of all our correspondence with the Land Registry regarding this covenant and Alan has been requested to bring his file of papers with him next week, in order that the relevant copies can be supplied.

Iona

PricewaterhouseCoopers LLP
One Kingsway
Cardiff CF10 3PW
Telephone +44 (0) 29 2023 7000
Facsimile +44 (0) 29 2080 2400
pwc.com/uk

Lynn Ball
Director of Legal Services/Monitoring Officer
Isle of Anglesey County Council
Council Offices
Llangefni
Anglesey
LL77 7TW

ADAIN GYFREITHIOL
18 JUL 2008
LEGAL SECTION

17 July 2008

Our ref: C08530
Your ref: LB/SO/CC-011132-LB

Dear Mrs Ball

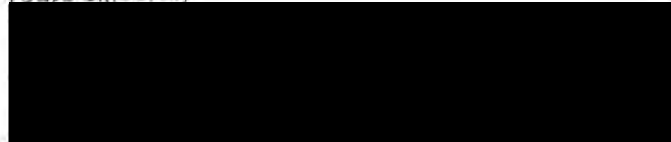
Craigwen, Bull Bay Road, Anglesey

Thank you for your letter of 15 July 2008 addressed to Mr Ian Howse. As you will appreciate the issue as to whether the covenant is relevant to our investigation is something for us to determine and in order to do so we would be grateful for the following further information.

The completion of registration document dated 8 July 2008 does not have the usual page with "End of register / Diwedd y gofrestr". Therefore we are unable to conclude whether the complete register entry has been sent to us. Please could you confirm that the register entries do not extend beyond the page one and the plan which have been sent to us.

We would also be grateful if you could advise whether the covenant was brought to the attention of members before the decision was made to purchase and if so please could you send us copies of the documentation evidencing that this was done.

Yours sincerely



PricewaterhouseCoopers LLP

Price Waterhouse Coopers
1 Kingsway
Cardiff
CF10 3PW

FAO Mr Ian Howse

01248/752586

Ein Cyf/Our Ref: LB/SO/CC-011132-LB
Eich Cyf/Your ref:

E-Bost / E-mail : LBXCS@anglesey.gov.uk

15 July, 2008

Dear Mr Howse

RE: Craigwen, Bull Bay Road, Amlwch, Anglesey

Please find attached copies of the registration documents in relation to this property, together with the correspondence which has passed between the Council and the Land Registry, ending with a letter of the 3rd July 2008 agreeing to cancellation of the covenant. That process has since been completed.

Duplicates of the attached documents have been sent to Councillor Elwyn Schofield, at his request, and are now copied to you on the instructions of the Council's Managing Director.

You will be aware that, in the opinion of the Council's Legal Officers, the (now) extinguished covenant never prohibited the development of the access to the Council's adjacent land; being the purpose for which Craigwen was purchased. So, while the removal of the covenant maximises the potential development value of Craigwen itself, it is still something of a "red herring" in relation to the issues which you are investigating.

If you wish to discuss the matter further then please contact the Council's Property Solicitor, Mr Alan Carr, who is available on telephone No 01285 710358 and by e-mail acxcs@anglesey.gov.uk.

Yours sincerely

Lynn Ball
Cyfarwyddwr Gwasanaethau Cyfreithiol a Phwyllgorau/Swyddog Monitro
Director of Legal and Committee Services/Monitoring Officer

000016

Price Waterhouse Coopers
1 Kingsway
Cardiff
CF10 3PW

01248/752586

Ein Cyf/Our Ref. LB/SO/CC-011132-LB
Eich Cyf/Your ref: C08530

E-Bost / E-mail : LBXCS@anglesey.gov.uk

29 July, 2008

Dear Sirs

RE: Craigwen, Bull Bay Road, Amlwch, Anglesey

Thank you for your letter of the 17th July 2008.

Please find enclosed office copy entries showing the register of title on the 4th July 2008, together with office copy entries showing the register of title on the 21st July 2008. The first document consists of three narrative pages and a plan. The second document consists of two narrative pages and a plan.

Obviously, if you continue to have concerns regarding the integrity of the copy documents provided then you should obtain your own copies direct from HMLR.

With regard to the final paragraph of your letter of the 17th July 2008, please find attached copy e-mail from Mr Alan Carr (Legal Consultant, Property and Highways), to his Client, dated the 12th July 2007. The relevant extract reads:-

"... the second covenant in the 1952 conveyance is restrictive and provides that the land shall not be used for the purpose of any trade business etc but only for the purpose of constructing not more than two dwellings. From what you have told me it seems unlikely that the Council's proposals will cause any breach of this covenant."

When this advice was given, and when the decision was taken to bid for the property at auction, the "proposal" involved establishing vehicular and pedestrian access to land owned by the Council, at the rear of the property.

Mr Carr's reasoning was that the covenant, when looked at as a whole, was unlikely to prevent the proposed use. In his expert opinion the words "for any other purpose", contained within the covenant, could not be considered in isolation from the remainder of the words. Had those words been given a literal meaning (out of context with the covenant as a whole) then the covenant would only have permitted construction of the dwellings and would have prevented their being occupied; obviously a nonsensical outcome. Additionally, there would have been no purpose in including the words relating to the restriction of commercial use. In Mr Carr's view the intention of the covenant was twofold: (i) to prevent a trade or business use of the property and (ii) to prevent construction of more than two dwellings.

Given the clear and unequivocal legal advice, that the covenant would not restrict the Council's proposed use of the land for access, the Officers in Property Services were entitled to accept and rely upon that advice when they made their recommendations to the Executive.

If you conclude that the covenant ought to have been explicitly addressed in the Report to the Executive, then you must first rebut the opinion of the Council's Legal Consultant and establish that the covenant was likely to constitute an impediment to the proposed land use. Certainly, you cannot reasonably impose an obligation upon Officers to highlight a matter which had already been disposed of, and was no longer relevant or material.

If you intend to explore this issue further, then, we shall require sight of your legal advisor's opinion.

Finally, you should also be aware that, following the Council's acquisition of the property, Mr Carr expressed the view that the covenant was also now un-enforceable for the purpose of restricting the development of additional dwellings on the site. However, it was at my request that he initiated a dialogue, with HMLR, with a view to formally extinguishing the covenant. This was intended to afford the Council maximum flexibility with regard to the remainder of the site (the land not earmarked for access) and to maximise its potential value on the open market.

Yours faithfully

Lynn Ball
Cyfarwyddwr Gwasanaethau Cyfreithiol a Phwyllgorau/Swyddog Monitro
Director of Legal and Committee Services/Monitoring Officer

M
C
H
W
I
I
I
A
A
A
M
O
N
I
N
V
E
S
T
I
G
A
T
I
O
N
S



01248 72270
01248 72449



07802 496294/07774 98048

enquiries@moninvestigations.co.uk

21 February 2008

Our Ref: DW/IOACC/Carr
Your Ref: Alan Carr

ADAIN GYFREITHIOL

21 FEB 2008

LEGAL SECTION

Legal Services Department
Isle of Anglesey County Council
Council Offices
Llangefni
Anglesey
LL77 7TW

Dear Sir

Re: Elizabeth Jane (Lady) Jones

We refer to your letter of instruction dated 17 January 2008.

From enquiries and visits made we have established that Lady Jones died on 25 March 1966.

A certified copy of the death certificate is enclosed for your attention.

Thank you for your instructions in this matter.

Yours faithfully



Ymchwiliadau Môn Investigations

CRAIGWEN

These notes contain my recollection of a meeting held on the 8th July 2008. In the office of the Head of Property Services concerning the acquisition of the above property. They have been prepared at the request of Council's Monitoring Officer and have been checked by the Head of Property Services.

The meeting was attended by:

Councillor Phil Fowlie (PF)
 Councillor Elwyn Schofield (ES)
 Mr Mike Barton (MB)
 and Myself (AC)

As I understand it the meeting was convened at the request of ES as Portfolio Holder for Property Services. Prior to any discussion of "Craigwen" certain issues concerning Gallows Point, Beaumaris were discussed with Dafydd Jones of Anglesey Boat Company present.

At the conclusion of the considerations of Gallows Point, Dafydd Jones left the meeting and the Craigwen issue was discussed. The following were the main subjects of discussion.

1. ES [REDACTED] He commented that he had been accused of bidding against the Council in the hope of acquiring the property in order to "hold the Council to ransom" over access to Council land at the rear in the hope of making a significant personal gain. He wanted to make it clear that this had not been the case and that he had not been aware that the Council was bidding at the auction.
2. ES suggested that there had been a rush by the Council to acquire the property and he could not understand why the "rush" had been necessary. AC and MB pointed out that the only "rush" from their point of view related to being ready to proceed in time for the auction date.
3. ES asked AC if he had been aware of and asked to advise on certain covenants relating to the property prior to the auction. AC confirmed that he had. ES appeared somewhat surprised at this as he considered that the covenants prevented the Council from utilising the property for the intended purpose. ES had a transcript of the particular covenant concerned which I recalled was contained in a copy letter from the Council's External Auditors. AC respectfully disagreed and commented that he had advised that the covenant would probably not prevent the use of the property for the purpose of providing access to other Council land. AC then explained his reasons for that advice in some detail. ES did not accept AC's reasoning.
4. AC further explained that in any event he was also of the view that the covenant was no longer enforceable and explained his reasons for that view. Indeed AC informed ES that HMLR had confirmed acceptance of the case for removal of the covenant from the title register. ES expressed concern over the removal of the

covenant which he considered to be enforceable by the original covenantee's successor / descendants. AC explained the general principles of law in relation to enforceability of covenants by successors in title and how those principles applied (or otherwise) in this case. Es suggested that he felt the Council had a "moral" obligation not to contravene the covenant. AC explained that his role was to advise on the Council's "legal position" and not its moral responsibilities. The land was now covenant free but clearly the Council was in a position to decide whether to proceed with its proposals or not.

The meeting concluded with a request by ES that he be provided with copies of all correspondence with HMLR leading to the removal of the covenant from the title register. MB and AC agreed to provide copies.

From: LYNN BALL
To: ELIS-WILLIAMS, DAVID
CC: JONES, DERRICK; OWEN, ARTHUR
Date: 06/07/2007 12:37
Subject: Re: Fwd: Land adjacent to Maes Mona, Amlwch

I like Arthur's reinterpretation of St Matthew - when 2 or 3 are gathered together in my name there shall be an Executive - nice try.

An Exec has to be called with three clear days notice. The Chair of the Council will have to agree that the urgency of the implementation precludes call in. It's also advisable to inform the Chair of the relevant scrutiny committee as soon as possible.

I wanted to speak to you about the threat of new proceedings on Glan Aber and the position concerning the recovery of our costs. As they are now planning to petition the House of Lords, it can probably wait 'til next week.

Lynn

>>> DAVID ELIS-WILLIAMS 05/07/2007 17:28:08 >>>

I understand you wanted to speak to me but got the message this will be Monday now.

In relation this issue (below) I have now seen the valuer's advice and it looks the proposal is essentially sound. However there is an urgency issue - AWO seemed to think today he could get a special Exec without notice on Monday while the members were around! I imagine it will require a special Exec with notice later in the week + an agreement from the Council Chair to treat it as urgent and not requiring call-in.

>>> DAVID ELIS-WILLIAMS 02/07/2007 17:34:11 >>>

Thanks for the hard copy draft report.

It mentions an auction on 19 July. Presumably you intend to have a special Executive meeting to discuss this, and would recommend that they seek consent to use the procedure for an urgent decision. This would be required if the action you recommend can be authorised in time.

I confirm that arrangements under the prudential code would in principle allow such a 'invest-to-save' transaction if it can be shown that the value added to the land makes a net surplus on the deal and with minimal risk. However, in order to be able to support this I would need to see a firm opinion from the Valuer supporting the land values and also addressing the issue of risk. This is lacking so far - can it be supplied?

The arrangements under the prudential code are equally available to the HRA as to the Council Fund. If this land is in the HRA then the HRA can 'borrow' the additional budget and the HRA would reap the windfall gain. So it is wrong to imply that the HRA has no budget to purchase the land (3.1) but later (6.1) that a budget can be found elsewhere.

A windfall gain to the HRA be beneficial in supporting the business plan to achieve WHQS. Because it is intended anyway to transfer supported borrowing from the Council Fund to the HRA, the benefit could ultimately be to the Council Fund if the amount of the transfer was to be correspondingly reduced in future years.

Also, the deal would be at its simplest if we then re-sell the land whose value has increased to pay back the original investment. Para 6.2 in the report suggests that we would not re-sell. If this were the case we would need to make internal appropriations which might (potentially) be scored against housing's budget for affordable housing. This is where it gets technical and we would need to look in to the appropriate accounting treatment before offering final advice on whether this is within the capital plan

Ultimately if it can be proven that there is an economic case to do this, it can be done. The technical accounting issues will need to be resolved here. But I don't think the report as drafted is sufficient - it may be easier to arrange a meeting (with valuer, and housing) to redraft.

PAPUR/ENCLOSURE 'NG'

Tynnir sylw'r holl aelodau sy'n derbyn y rhaglen yma i'r eitem ganlynol ac i Baragraffau 10.2 a 10.3 o'r Rheolau Gweithdrefn Mynediad at Wybodaeth sydd wedi eu cynnwys yng Nghyfansoddiad y Cyngor sy'n cadarnhau fod yr adroddiad amgaeedig yn gyfrinachol, ac nad oes hawl cyhoeddi'r adroddiad heb ganiatâd yr Awdurdod, ac at gymal 5 y Côd Ymddygiad i Aelodau sy'n rhwystro Aelodau rhag datgelu gwybodaeth gyfrinachol heb ganiatâd penodol person sydd a'r awdurdod i roddi caniatâd o'r fath, neu oni bai fod rheidrwydd cyfreithiol arno/arni i wneud hynny.

The attention of every member who receives this agenda is drawn to the following item and Paragraphs 10.2 and 10.3 of the Access to Information Rules contained within the Constitution of the Council which confirms that the annexed report is given in confidence and cannot be made public without the consent of the Authority, and to Clause 5 of the Members' Code of Conduct which prevents Members from disclosing information given in confidence without the express consent of a person authorised to give consent, or unless required by law to do so.

ISLE OF ANGLESEY COUNTY COUNCIL

COMMITTEE

COUNTY COUNCIL

DATE

18TH SEPTEMBER 2007

TITLE OF REPORT

PROPERTY ACQUISITION AT AUCTION ON 19TH JULY 2007

PURPOSE

TO REPORT WITH REGARD TO AN URGENT DECISION IN ACCORDANCE WITH CLAUSE 4.5.16.10 OF THE CONSTITUTION

REPORT BY

HEAD OF SERVICE (PROPERTY)

ACTION

TO APPROVE THE REPORT

1.0 BACKGROUND

- 1.1 Following consideration in relation to a prospective purchase at auction of land which would be of strategic value to the authority, the need for a formal decision and budget for the purpose was identified.
- 1.2 Following a meeting of relevant officers on 9th July 2007 the need for an urgent decision of the Executive was identified to ensure that officers had authority to proceed at the auction on 19th July 2007.
- 1.3 A report was submitted by the Corporate Director Environment and Technical Service to a meeting of the Executive held on 16th July 2007.
- 1.4 The Council's Monitoring Officer raised concern regarding the manner in which the meeting was conducted and subsequently the issue is scheduled to be reported to the Executive on 10th September 2007. A copy of that report is appended and the Executive's decision is to be reported to the County Council meeting.

MIKE BARTON

HEAD OF SERVICE PROPERTY/PENNAETH GWASANAETH EIDDO

Report prepared by Mike Barton, Head of Service Property
020.40/021.33/MB/EL

ISLE OF ANGLESEY COUNTY COUNCIL	
COMMITTEE	EXECUTIVE
DATE	10 TH SEPTEMBER 2007
TITLE OF REPORT	PROPERTY ACQUISITION AT AUCTION ON THE 19 TH OF JULY 2007
PURPOSE OF REPORT	TO RATIFY A DECISION OF THE 16 TH JULY 2007
REPORT BY	THE MONITORING OFFICER

1. BACKGROUND

- A meeting of the Executive took place on the 16th of July 2007 in connection with the Council's proposed acquisition of a property at auction, to take place on the 19th of July 2007.
- The Executive unanimously supported the recommendation of Officers as set out in the Report of the Corporate Director (Environment and Technical Services).
- I was not present at the meeting but later discovered that the Leader, having declared an interest in the item, relinquished the Chair while the item was under consideration. In his absence the Executive ought to have been chaired by the Deputy Leader.
- However, that procedure was not followed and the item was dealt with while the Executive was chaired by the Chairperson of the Council; albeit that the Deputy Leader was present.

2. ADVICE

- The procedure which was followed not only failed to satisfy the requirements of the Council's Constitution but was also contrary to statute (Section 11(7) of the Local Government Act 2000). - The decision arising from this unlawful procedure may therefore be challenged.

The defective procedure could not have been remedied by another meeting of the Executive as such a meeting would, by then, have fallen foul of the Access to Information Regulations; of itself raising the prospect of challenge.

Accordingly, I met with the Managing Director and the Corporate Director (Environment and Technical Services) to express my concerns. I advised that the safest course of action would be not to participate in the auction. However, given that the Executive was unanimous, the substantive decision was defensible, with a significant potential benefit to the Council and the public, it was agreed by the three Officers present that the course of action authorised by the Executive would continue despite the falling in the process and the potential for challenge.

- The auction went ahead on the 19th of July 2007 and the Council acquired the property. Regardless of any shortcomings in the way in which the Executive processed its decision, the Council became contractually obliged to the vendor

and, at this point, I would advise that a properly constituted Executive ratify its earlier decision of the 16th of July 2007. For the avoidance of doubt, this will not remedy the flawed decision but is the best that can be done in the circumstances to mitigate that decision and to reflect the fact that the decision was rational, based on compelling reasoned arguments, and had the support of all the Executive Members present.

- However, I remain concerned about the following factors:
 - that Section 11(7) of the Local Government Act 2000 was breached when this provision was specifically highlighted at the Annual Meeting of the Council on the 2nd of May 2007, in connection with the appointment of the Vice Chairperson of the Council;
 - that Officers were put in the position of either having to prejudice the interests of the Council, and the public, or else to implement a decision they knew to be procedurally flawed. This is a particular concern given that no explanation has been forthcoming as to the reasons why these circumstances arose.
 - the Executive may have to explain its position in the event that this decision is challenged.

3. RECOMMENDATION

- That a properly constituted Executive ratify its decision of the 16th July 2007.

CONFIDENTIAL - NOT FOR PUBLICATION

ATTENDANCE NOTE

For Legal Services Manager

Matter reference: CC-011132-LB
Matter name: 1. Property Acquisition at Auction 19.7.2007
- Craigwen, Amlwch

2. Complaint of Maladministration [REDACTED]

Attended by: Lynn Ball
Attendance with: Ian Howse (PWC)
Attendance on: 25 October 2007
Recorded on: 25 October 2007
Subject: Attendance note/PWC Report and [REDACTED]

Ian Howse telephoned LB. He is in the process of completing his Report on Craigwen. However, a new allegation has been raised, that I should have used my powers under Section 5 of the 1989 Act to issue a Report to stop the unlawful action by the Council in bidding at the auction.

Advised that I did not consider a Section 5 Report appropriate in these circumstances because there was no prejudice, the decision was unanimous and was fully supported by officers, the decision would have been the same if the breach had not occurred and would not have resulted in a successful judicial review.

Ian asked why I did not think judicial review would succeed. I explained that judicial review is not automatic and that the initial application had to be made for permission to issue judicial review proceedings. One of the most significant factors the Court would look at is the prospect of the outcome being different if a correct procedure had been followed. If the Executive had been chaired by the Deputy Leader, there would have been no procedural "unlawfulness", and the substantive decision would have been exactly the same. Demonstrating that point was the reason for recommending that the decision be ratified after the event.

Ian said that my reasoning was exactly what they (PWC) thought as well.

Advised Ian that I was intending to contact him anyway regarding [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]


[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

LB

the estate of the officer, and any person to whom such a power is made, and not the authority, shall be liable to account for the sum  under this subsection.

(2) The authority may, if they think fit, pay out of the said sum the funeral expenses of the officer or so much thereof as they consider reasonable ...

(3) Subsection (1) above shall be included among the provisions with respect to which the Treasury may make an order under section 6(1) of the Administration of Estates (Small Payments) Act 1965, substituting for references to £500 references to such higher amount as may be specified in the order.

(4) Where provision has been made by regulations under section 7(1)(b) of the said Act of 1972 with respect to the pensions, allowances or gratuities which in certain circumstances are to be, or may be, paid to or in respect of any persons or classes of persons, the Secretary of State may by regulations provide for the application of the foregoing provisions of this section to such of those persons or classes of persons as may be specified in the regulations.

NOTES

Amendments

Sub-s (1): sum in square brackets substituted by virtue of the Administration of Estates (Small Payments) (Increase of Limit) Order 1984, SI 1984/539 (made by virtue of sub-s (3) above), in relation to deaths occurring after 11 May 1984.

Sub-s (2): words omitted repealed by the Social Security Act 1986, s 86, Sch 11.

Sub-s (3): The Treasury See the note to s 65 ante.

Sub-s (4): Secretary of State See the note to s 20 ante.

Insurance This section is applied by s 140C(4) post.

Application to joint authorities, joint waste authorities, the London Fire and Emergency Planning Authority and police authorities; application to the Broads Authority See the notes to s 11 ante.

Application to National Park authorities See the note to s 112 ante.

Additional information See the Introductory Note(s) to this Act.

Administration of Estates (Small Payments) Act 1965 See Vol 18, title Executors and Administrators.

Superannuation Act 1972 See Vol 33(1), title Pensions and Superannuation.

Regulations under this section

At the time of going to press no regulations had been made under this section.

As to regulations under this Act generally, see s 266(1) post.

Definitions

"local authority": s 270(1)

Land transactions—principal councils

120 Acquisition of land by agreement by principal councils [118]


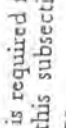
(1) For the purposes of—

(a) any of their functions under this or any other enactment, or

(b) the benefit, improvement or development of their area,

a principal council may acquire by agreement any land, whether situated inside or outside their area.

(2) A principal council may acquire by agreement any land for any purpose for which they are authorised by this or any other enactment to acquire land, notwithstanding that the land is not immediately required for that purpose; and,

until it is required for  for which it was acquired, any land acquired under this subsection  for the purpose of any of the council's functions.

(3) Where under this section a council are authorised to acquire land by agreement, the provisions of Part I of the Compulsory Purchase Act 1965 (so far as applicable) other than section 31 shall apply, and in the said Part I as so applied the word "land" shall have the meaning assigned to it by this Act.

(4) Where two or more councils acting together would have power to acquire any land by agreement by virtue of this section, nothing in any enactment shall prevent one of those councils from so acquiring the land on behalf of both or all of them in accordance with arrangements made between them, including arrangements as to the subsequent occupation and use of the land.

(5) References in the foregoing provisions of this section to acquisition by agreement are references to acquisition for money or money's worth, as purchaser or lessee.

NOTES

Sub-s (1): Benefit, improvement or development of their area By virtue of s 121(2) post, a council is not authorised under s 121(1) post (acquisition of land compulsorily by principal councils) to purchase land compulsorily for the purpose specified in sub-s (1)(b) above.

Local education authorities Making land available for the purposes of a school or institution which is, or is to be, maintained by a local education authority, or which they have power to assist, is a function of the authority within the meaning of this section, notwithstanding that the land will not be held by the authority; see the Education Act 1996, s 531(4), Vol 15, title Education. For a restriction on the acquisition of land for the purpose of a foundation, voluntary or foundation special school, see s 531(2) of the 1996 Act, in the same title.

Acquisition of land for the health service By the National Health Service Act 2006, s 211(6), Vol 30, title National Health Service, sub-s (3) above applies to the acquisition of land by the Secretary of State under s 211 of that Act as it applies to acquisition by a council under this section.

By the National Health Service (Wales) Act 2006, s 159(6), Vol 30, title National Health Service, sub-s (3) above applies to the acquisition of land by the Welsh Ministers under s 159 of that Act as it applies to acquisition by a council under this section.

Smallholdings Where under this section a smallholdings authority propose to acquire for the purposes of smallholdings any land outside their area, they must consult the council of the county or county borough in whose area the land is situated; see the Agriculture Act 1970, s 48(1), Vol 1, title Agriculture, Fisheries and Food, as construed in accordance with s 272(2) post.

Power to accept gifts A local authority is given power to accept gifts of real or personal property by s 139 post.

Application to joint authorities, joint waste authorities, the London Fire and Emergency Planning Authority and police authorities For the application of this section and s 121-123 post in relation to a joint authority, a joint waste authority (as defined by s 270(1) post), the London Fire and Emergency Planning Authority, a police authority established under the Police Act 1996, s 3, Vol 33(2), title Police, and the Metropolitan Police Authority, see s 146A(1)(b), (1A)(b) post.

Application to the Broads Authority For the application of this section and s 121-123, 128-131 post in relation to the Broads Authority, see s 265A(1)(e), (3) post.

Application to National Park authorities For the application of this section and s 122, 128-131 post in relation to a National Park authority, see the Environment Act 1995, s 65(7), Sch 8, para 1(1), (2), Vol 32, title Open Spaces and National Heritage.

Exclusion This section is excluded by the National Parks and Access to the Countryside Act 1949, s 103(5), Vol 32, title Open Spaces and National Heritage, as construed in accordance with s 272(2) post.

Additional information See the Introductory Note(s) to this Act.

Compulsory Purchase Act 1965 See Vol 9, title Compulsory Acquisition.

Cases relating to this section

R. v Somerset County Council, ex p Fewings [1995] 1 All ER 613.

Informal briefing meetings of the Executive

14.05.08	<p>Letter from the Leader to the Exec, noting the following arrangements for 19 May:</p> <p>10.30 am – briefing meeting with Officers. 1.30 pm – Executive Committee.</p>
04.06.08	<p>Letter from the Leader to the Exec re. presentation by Judith Smith to the Exec Cttee – in the Leader's Room at 2.30 pm on Wednesday, 11 June.</p>
26.06.08	<p>Letter from the Committee Services Manager to the Leader and Exec noting at a briefing meeting will take place at 9.00 am on Monday, 7 July 2008, followed by a special meeting of the Exec at 10.00 am</p>
21.07.08	<p>Letter from the Leader to the Exec, (with copies to DMJ, DEW, RPJ, BW, GAR) asking them to attend a meeting on Thursday, 24 July to discuss:</p> <p>1.00pm – 3.00 pm – Social Services Budget. 3.00pm – 5.00 pm – Leisure Centres.</p>
15.08.08	<p>Letter from the Leader to the Exec re. Primary School Rationalisation Seminar – 2 September 2008, noting that "further to consultation with the Portfolio Holder – Education and Leisure and also the Corporate Director for Education, it has been decided to postpone the seminar on the matter which had been arranged for 2 September until a later date.</p>
08.08.08	<p>Letter from the Leader to the Exec, noting the following arrangements for Wednesday, 24 September 2008:</p> <p>10.30 am – 12.30 pm – Review of Political Management Arrangements – interview with Wales Audit Office.</p> <p>1.00 – 3.00 pm – meeting with Executive to discuss Regeneration Issues. –</p>
07.10.08	<p>Letter from the Leader to the Exec noting the following arrangements:</p>

	<p>Wednesday, 15 October 2008 12.30 pm – meeting for members only 3.00 pm – Extraordinary meeting of the Executive.</p> <p>Thursday, 23 October 2008 10.00 am – meeting to discuss draft Federation of Maintained School (Wales) Regulations 2009.</p>
18.11.08	<p>Letter from the Leader to the Exec – heading – Council Fleet Management Arrangements “A meeting will be held to consider use of vehicles for Council business (issues of relevance concerning Corporate Manslaughter Act) and also to brief staff and members on Council fleet management arrangements.</p> <p>The meeting will take place at 1.00 pm on Thursday, 4 December 2008...”</p>
04.12.08	<p>Letter from the Leader to the Exec, noting:</p> <p>“A meeting between members of the Executive Committee and EDEN to discuss school meals will take place at 10.00 am, next Tuesday, 9 December 2008....(Bryn Cefni)</p> <p>There will also be a briefing meeting for members of the Executive at 4.00 pm on Wednesday, 10 December 2008 in the Leader’s office.”</p>
11.12.08	<p>Letter from the Leader to the Exec, noting:</p> <p>16 December (1.30 pm) – meeting of members to discuss school organisation proposal (deputy Leader to chair the meeting) – Leader’s office.</p> <p>18 December (2.00 pm) – briefing meeting to discuss the budget – Committee Room 2.</p> <p>5 January (2.00 pm) – briefing meeting to discuss rationalisation of primary schools and leisure strategy – Committee Room 2.</p>
14.01.09	<p>e-mail from MWJ to the Exec, noting that a briefing meeting would take place on Monday, 19 January at 10.00 am in the Leader’s office.</p>
16.01.09	<p>Letter from the Leader to the Exec, noting that:</p>

	<p>"A briefing meeting for members of the Executive Committee will take place at 10.00 am on Monday, 2 February 2009, to consider:</p> <p>Housing Revenue Account – DLO Activities."</p>
23.01.09	<p>E-mail from MWJ to the Exec, noting that:</p> <p>A briefing meeting would be held on Tuesday, 27 January 2009 at 3.00 pm to discuss the Annual Audit Letter.</p> <p>A buffet lunch to 'meet the press' would be held on Wednesday, 28 January at 12.00 pm.</p>
03.02.09	<p>Letter from the Leader to the Exec, noting that:</p> <p>"a briefing meeting for members of the Executive Committee will take place next Monday, 9 February 2009 at 9.30 am in the Leader's Office"...</p> <p>And</p> <p>"Also a briefing meeting for members of the Executive will take place at 10.00 am on Tuesday, 3 March 2009 to receive a presentation on the GeoMôn Project"</p>
18.02.09	<p>Groupwise appointment sent to Exec members for 4.30 – 5.30 pm for briefing meeting in the Leader's room.</p>
16.03.09	<p>Groupwise appointment sent to the Executive for 12.30 – 4.00 pm "starting with lunch and followed by a site visit – Coleg Menai Llangefni.</p>
17.03.09	<p>E-mail from MWJ to Exec members confirming that a briefing meeting will take place on Friday, 20 March at 3.30 pm to discuss the agenda of the 23 March meeting.</p>

Adran /Department:	Finance
Dyddiad/ Date:	03/6/08
Amser/Time:	10.00am
Lleoliad/ Location:	Room 1003

2007/08 Year End /Fourth Quarter (Jan- March 2008)

Minutes

Present: Judith Smith (Chair), David Elis-Williams, Einir Wyn Thomas, David Gardner, John Fidoe, Geraint Jones, Neville Evans, Beryl Jones

Portfolio Holder: Councillor Goronwy Parry, MBE (part of meeting)

1. **Apologies:** Derrick Jones

- Benefits – meeting with the regulators held in February further meeting planned for early June. Action plan in place to improve robustness of data and data has now been cleansed for Q4. More reliable data should be available for the next meeting. Performance is now monitored on a weekly basis. PIs are improving and Q4 close to target.
- The draft Ombudsman's report (referred to at the last meeting) has been received and is currently being considered – depending on whether or not the suggested amendments are accepted, consideration will be given to the need for a press release when final report is received. **Medium risk at present.**

NSI's – Benefit PI's affected by recovery from system implementation in Q 4 2006/07.

Presented: DEW, JHJ, NE, DMJ, IW, PF.
AM, JR, QJ, IH.

Apologies:

* EDUCATION: - Leader: external factors also important.

* Perf Mgt: - Sustainability of PM Framework/Process.
Regulators view.

* Loss of Resources: -

* Reputation Mgt: - Shift agreed by IH.

NODYN i DERRICK RE ASSET MGT PLAN
DILYN HYN, FYNW EFO WAO.

~~WAO~~



Draft.

go to
ygt Team.

MATTERS in SIA - done week
degraded.

ELON DEV RISK ?

Regulator comment -

ON THE LIST
FOR FOLLOW UP
BY WAO.

Risk Register
Team

being followed up.

- + SCRUTINY
- + CIVIC CONSCIENCE
- + BENEFITS

TRAVELLERS ?

difficult for Regulators
to assess that.

ASSET MGT should be in

the full list. as a **HIGH RISK**

John Roberts' view

- ① Documents / matrix :-
to Margaret Coffey

by Wednesday.

- ② Carys Bullock - Margaret to phone on
Tuesday about what is feasible.

Risk Description / Impact	Information reported to the Quarterly Meetings / RAT (June 2008)	2008/09 Suggested Risk Level	Comments / Additions	2008 / 2009 Internally Agreed Risk Level
<p>addressing the Council's main objectives and risks and the adverse publicity reflects badly on the Council</p>	<p>Phased development programme commenced in March 2007 and ongoing. Corporate governance – March 2007. Risk Management – September 2007. Reputation Management – October 2007. Corporate development/ major risk issues in this area being progressed via 5 group leaders and MD (bi-monthly meetings) Work ongoing</p>	<p>Conduct a (RAT) suggested reduction of risk level to MEDIUM Reputation Management highlighted in last year's Improvement Plan as a priority area Do we need to highlight Reputation Management as a priority area again this year?</p>	<p>officer time has been wasted in this respect over recent months, it is too early to reduce the level of risk. Acknowledge that "Reputation Management" would better reflect the risk to the Council's image</p>	<p>2008 / 2009 Internally Agreed Risk Level</p>
<p>NEW / EMERGING RISKS</p>				
<p>Risk identified - Corporate</p>	<p>Reasons for identifying as a risk level</p>			
<p>Lack of an Asset Management Plan</p>	<p>see Project Management above</p>			
<p>Lack of a Corporate Plan</p>	<p>No clear vision / direction</p>			

Risk Description/Impact	Information reported to the Quarterly Meetings / RAT (June 2008)	2008/09 Suggested Risk Level	Comments / Additions	2008/2009 Internally Agreed Risk Level
Risks Identified – Service Benefits Service			Reason for identifying as a risk	
Business Continuity			Possible failure to recover performance – awaiting assessment by BFI. Slow progress on recovery of performance 2007. Processing times & quality of data has improved significantly during past 6 months. draft action plan in place. Working with WAO/DWP. What is the view of regulators on this risk.	
Homelessness			Civil Contingencies Review by WAO – lack of a Business Continuity Management Plan a risk.	
Potential issue of providing suitable facilities for Travellers			Important to note that this may well become High Risk in view of current economic climate	
Scrutiny			This more of a Corporate Risk – need to have policies and procedures in place to deal with this issue. Possible implications when the results of the case at Rhondda Cynon Taf is known.	??

From: DAVID ELIS-WILLIAMS
To: gopau
Date: 07/08/2008 16:43
Subject: Ombudsman Report (confidential)
Attachments: 200700225 - Section 16 Report_1.pdf

I mentioned this this morning. I enclose a copy of the report. It does not make good reading.

Clearly two individual claimants have been let down and I don't wish to dispute that. There has been some surprise here at the amount of compensation recommended but again don't think we should quibble about that.

It is the wider remarks about the revenues and benefits service which hurt. This service had been through a bad patch but the new system was meant to improve things, and has done. Publication of this report now and the bad publicity it will bring will harm staff morale and our continuing recovery.

We feel the Investigator has misunderstood or failed to grasp a number of things within the service. We did respond, at length, to a draft report but have failed to change things or to influence the tone of the report.

The report is confidential at this point (although will have been released to the complainants). Within a week it will be released under embargo to the press and within two weeks the embargo is lifted. We have this time alone to prepare our press response. The full Council has to meet within a month to agree a formal response to the report. It is only at the Council stage that we can agree to pay the recommended compensation - which means in the month of August that we have to get the press response out without being able to say that we have agreed to pay compensation.

Note for Managing Director

You asked for observations on Councillor Clive McGregor's letter to you of December 22, 2008.

The thrust of Councillor McGregor's remarks is that officers did not brief Executive members fully enough on the matters he mentions. As a general observation, I would say that we brief Executive members formally via Committee reports but also in informal meetings when these are arranged and via the portfolio holders. Informal meetings have been less frequent with the present administration (which is a matter of discretion) which means that outside of formal committee meetings, our relationship with the Executive has been via our finance portfolio holder.

I would wholly refute the allegation that we have not briefed the Executive members on the two matters listed which concern this department. I deal with each in turn.

Social Services Overspending

This was the chronology of briefing involving members of the new Executive:

12 May 2008 Following the appointment of Councillor GO Parry as finance portfolio holder, we had an initial briefing meeting. I told him one of the most pressing issues was the social services overspending, and that there was a decision of political priority for the new Executive as to whether to cut spending to match the budget or award extra budget.

13 May 2008 Travelling to London with the Leader on another matter, I took the opportunity to brief Councillor Fowlie on the social services position and say I would be seeking a meeting with him and relevant portfolio holders soon.

5 June 2008 A meeting was arranged with the Leader and portfolio holders for finance and social services, together with the Corporate Director Housing and Social Services and Head of Service. I explained at the meeting that I had little confidence in the ability of the service to live within the current budget, and that this was an ongoing problem expected to affect the current year and the future. I said that I would be prepared to support a write-off of part of past deficits, but only if there was agreement to some external intervention to look into the current position. Feedback after that meeting was that this had been agreed, and requesting the officers to draw up a brief for the external work.

23 June 2008 Executive meeting. The report on closure of accounts for 2007-08 refers to the social services overspending as a major issue, and that the overspending is likely to continue unless urgent steps are taken. It refers to the meeting on 5 June and summarises what was agreed there. A further report on the social services position in 2007-08 and later years is promised.

14 July 2008 Briefing meeting with Leader, finance and social services portfolio holders about the report to be presented to the Executive on 21 July.

21 July 2008 Executive meeting. A report is presented from both Corporate Directors referring to the overspending issues in 2007-08 and 2008-09 and requesting release of a sum to fund the external consultants work. The Executive defers consideration until after a seminar can be arranged, but delegates to the Leader the power to release funding for the study.

24 July 2008 At the request of the Executive, a briefing was held for all Executive members to discuss the issues raised by the overspending and request for write-off of part of the accumulated deficit.

25 July 2008 Leader makes decision to release funding for consultants.

1 August 2008 Executive meeting considers the report deferred at earlier meeting. a number of actions agreed, but no write-off of deficit.

7 August 2008 Set-up meeting with appointed consultants. This was both a meeting to interview them and confirm their appointment, and to discuss the brief and work plan. The Leader and two portfolio holders were present.

11 September 2008 Executive meeting. Monitoring report on revenue budget again refers to projected overspending on social services budget in current year. A report requesting a decision on write-off the deficit on learning disabilities is deferred owing to the death of the Corporate Director of Housing and Social Services

6 October 2008 The report deferred on 11 September is considered, when the Executive decides to write-off the whole of the accumulated deficit of the social services budget.

23 October 2008 I held a briefing meeting with Executive members on the prospects for the budget generally. The treatment of the social services budget going forward to 2009-10 was one of the major issues highlighted.

24 October 2008 Feedback and workshop with consultants. This included finance and social services portfolio holders.

27 October 2008 Executive meeting. Report on future budget outlook refers to the social services budget and the work currently in hand from external consultants. Executive decision records that that current review may have a significant effect on budget preparations.

17 November 2008 Executive meeting. Conclusions of consultants reported to Executive.

In conclusion, I do feel that I have briefed the Executive throughout this process, mostly via the relevant portfolio holders but also in reports to all Executive members. There is understandably some frustration that matters are still not resolved, but I had made it clear through these discussions that the overspending will take time to turn round, and that what was an overspending in 2007-08 was expected to continue in 2008-09 and require addressing in 2009-10 budget; for my part there has been some frustration at the lack of decisiveness from the Executive.

Benefits Ombudsman Report

In briefing Councillor GO Parry as the incoming portfolio holder, I and the Head of Service briefed him on a number of issues concerning the benefits service, one of the major ones being the anticipated Ombudsman's report. At the time of the new portfolio holder's appointment, the investigation had been concluded, we had seen and were preparing comments on a draft report. We did not know when exactly the report would be published nor to what extent the Ombudsman would take account of our comments.

On **23 May 2008**, following an initial briefing from the Head of Service, the Portfolio Holder wrote to the Head of Service referring to the forthcoming report and asking for a more detailed brief on Benefits. A meeting was held on the 29th with both the Head of Service and Revenues & Benefits Manager and at that meeting it was agreed that the Portfolio Holder could benefit from a visit to the section to meet all staff involved in the Benefits service. This took place on 3 July.

On **3 June 2008** was held the quarterly performance meeting for the Finance Department, including the portfolio holder. The minutes record that we had discussed the draft Ombudsman report and that consideration would be given to issuing a press release once we had seen the final version. It was noted as a medium risk at that stage.

The Ombudsman's report did not arrive here until **7 August 2008**. I happened to be seeing Councillor GO Parry on another matter that day and told him about the Ombudsman report having been received, and how bad it was. I forwarded a copy of the report by email to him later the same day, with a covering brief outlining our proposed course of action.

In the short time available between then and having to publish the report (which was on **19 August**, the timing dictated by the Ombudsman), we consulted Councillor Parry and others on the public response. In that period Councillor Parry offered some comments on the proposed response. However I had advised him that the public face of the response ought to come from officers, not members - this because the section 16 report had to go to the full council but we had to publish it before that, so we didn't want to seem to be prejudging councillors' view of the outcome, nor disqualifying them from taking part in the debate because of predetermination. Councillor Parry accepted that advice.

On **20 August** Councillor Parry told me he was meeting with the Leader and other Executive members to brief them on the report. He wrote a note for the Leader for that meeting, with some input from officers.

Before responding, you may also wish to review the minutes of the Executive on 8 September 2008 (item 5), when similar allegations were made and answered. Given the assertions made in the above meeting, I want to remind you that I raised the matter of the increasing profile of Benefits at the officer workshop on 14 July preceding the JRA held on 18 July. My view at the time was that performance was improving well so the Ombudsman's report was to some extent a past event but

deserved mention. That is why Benefits was mentioned in the background papers for the Improvement Plan as something that deserved consideration but which wasn't considered a High Risk. I believe the same reports formed part of the documentation for the JRA at which members were present.

In conclusion, I would gain state that we had briefed the portfolio holder appropriately throughout the process. We genuinely did not think that the final report would be as negative as it was after we had provided our response to the draft; the current criticism has the benefit of hindsight.

Davio Elis-Williams
Corporate Director - Finance
19 January 2009

There was only one major issue requiring the attention of the Executive, namely the level of overspending on the Social Services budget. Action to tackle the position had been discussed with the Leader, service and finance portfolio holders, and a further report would be made to the next meeting of the Executive. Only then could consideration be given to whether part of this balance can be written off - fortunately, the financial standing of the authority as a whole would allow some flexibility in this respect.

Other services generally showed a pattern of underspending which, if continued, could be embarrassing. Many of the savings seen in 2007-08 had, as a result of being identified during the year, already been taken out of budgets as part of the 2008-09 budget package.

The Corporate Director (Finance) stated that there would be an opportunity in the near future to brief Portfolio Holders individually on the background to their own Services and that it was also customary to have discussions between closing down the old year and preparing for the new budget for the following financial year. Discussions would also take place as regards reserves and on the reason for accumulating such reserves.

Councillor E. Schofield referred to para 4.3 of the report which stated *"that in any discussions regarding the level of reserves, consideration should be given to commitments or to risks against such a sum."*

Whilst the Council appeared to be financially sound, he remained concerned as to the level of slippages. At the end of every year there was a high level of reserves and in his opinion he thought that there was a need to improve management and the way that the Council were dealing with projects and service to the public. It would appear that every year the Council were identifying and giving priority to schemes where there was no hope of them being implemented during the year, which then became slippages in the budget. The Executive needed to highlight schemes which it could produce during the financial year and at the same time introduce plans that could be started at the beginning of the 2nd financial year.

Councillor R. J. Hughes was of the opinion, that net underspend was far worse. At least in the case of the Social Services overspend they had provided those services to the public. With underspends, the tax payer had not been provided with those services at all.

The Corporate Director (Finance) in reply stated that as regards underspend, he would not like to think that the Council were charging rates for public services and not spending. Most of the underspend was not because of failure to do something, but because officers had succeeded in doing it cheaper. An example being the Waste Management Contract. This was therefore a saving and not because the Council failed to provide a service. Most of these issues reflected good management and control.

RESOLVED

- To confirm budget virements (para 2.3 and Appendix 4 of report refers) and write-offs (para 2.5 and Appendix 5 of report refers).
- To note that a further report will be made on the Social Services budget position in 2007-08 and subsequent years.
- That the Corporate Director (Finance) be requested to report back as soon as possible to the Executive on the reasons for underspend and for over budgeting by Departments during the 2007/08 financial year.

6.2 CAPITAL

Reported by the Head of Service (Finance) - That the report monitored quarterly progress against the capital budget and any financial consequences. This report gives the provisional situation for the year just ended and drew attention to any problems identified. A small number of internal transfers and minor corrections were required but the programme shown in the appendix gave a fair impression of the likely situation. The Head of Service would report on actual out-turn on the capital budget, as necessary, in the first quarter report for the current year. The relevant departments would report on any individual projects according to normal reporting arrangements.

Adran /Department:	Environment and Technical Services
Dyddiad/ Date:	09/09/08
Amser/Time:	1.00pm
Lleoliad/ Location:	Ystafell Llynnon, Bryn Cefni

**First Quarter 2008/09 (April - June 2008)
Minutes**

Present: Derrick Jones (Chair), Arthur Owen, Mike Barton, Sasha Wynn Davies, Terry Jones, Dewi Williams, Jim Woodcock, Neville Evans, Rhian Hughes.

Portfolio Holders: Councillors Robert LJ Jones (Planning), Clive McGregor (Highways, Transportation and Maritime), Bryan Owen (Economic Development), Elwyn Schofield (Property).

1. Apologies - Councillor R G Parry OBE (Environment).

Asset Management Plan – Asset Manager appointed in August 2008 and Assistant's post being advertised. MB noted the intention to concentrate on the buildings side of the work in the first instance but that one cross-cutting document would be needed at some stage to bring together all the information held by the Council. Cllr Schofield raised the issue of accountability and AWO confirmed that in general responsibility for assets remains within services.

Cllr McGregor asked whether milestones had been set for this project. AWO responded that a detailed project plan had been prepared for the Property side and issued to the MD.

Action : MB to forward a copy of the AMP (Property) project plan to Cllr Clive McGregor for information.

10. Audit/Inspection Reports – Report by PwC for WAO on the Use of Vehicles in the Council – summary of main points included in DRW's paper.

MANAGEMENT TEAM

Minutes of the meeting held on Monday 28 July 2008.

Present: Derrick M. Jones
 Richard Parry Jones
 David Elis-Williams
 Arthur Owen
 Byron Williams
 Lynn Ball
 Huw Jones
 Ross Morgan
 Mike Barton (Item 6)

1. Minutes

The minutes of the meeting held on 7 July 2008 were accepted as correct

Arising:

i) Leisure Centres

The current situation was noted together with the intention to discuss this matter at the Executive on 1 August 2008.

ii) Language Skills Survey

All were reminded of the need to return their questionnaires by the end of the month.

Action: All

2. Committee Agendas

Nothing to discuss.

3. Improvement Assessment (Wales Audit Office)

Consideration was given to the draft response prepared by the Interim Manager in relation to the above. It was noted that comments needed to be made on the draft report before approval could be given to the Action Plan. It was agreed to request the Wales Audit Office to present the report to Management Team so that there would be an opportunity to ask for evidence as to the background for some of the comments in the report.

Action: Head of Service - Policy

Mr. Alan Morris
Wales Audit Office;
24 Cathedral Road
CARDIFF;
CF11 9LJ

18th December 2008

Dear Mr. Morris

Re: Annual Audit Letter

As promised please find herewith the combined responses of my Executive to your draft Annual Audit Letter. We came into power following the May 2008 Elections, since that date my Executive and I have not received any assistance or guidance to help us govern Anglesey from the Corporate Management Team. We were aware of member conflict during the last administration and naively thought that our united group would provide strong and positive Political leadership to the Authority. Events have demonstrated that this is not so. In fact there is a feeling that the Officers would welcome some if not all of the Executive to fail. We have observed during the last seven months that the Corporate Management Team do not like Political challenges and questions and perceive strong questions to further scrutiny as being member/officer conflict.

Since May 2008 a number of issues which have been raised in your draft letter were never raised by the Corporate Management Team with either myself, the relevant Portfolio Holder or any member of the ruling group. I refer to the Ombudsman's damning report on Housing Benefit, the overspend in the Social Services Budget and the draft Fleet Management Report. We had raised the matter of an absence of an Asset Management Plan at a very early stage in our Executive Meetings. We have also raised the question of poor Corporate Governance but are seen to be challenging the Officers who then respond with references to the Constitution and to delegated Powers.

We did reconsider the School Rationalisation programme and postponed the recommendations which had been arrived at in respect of a segment of the Local Authority area. We believed that the Rationalisation programme should apply to the whole of the Local Authority area and this is now progressing. My Executive have no problem in taking unpleasant and unpopular decisions for the greater

good of the Authority. We do not expect to be praised for our efforts but a little assistance would be appreciated in delivering our programme to the Electors of Anglesey. In May 2008 they purged the previous administration at the Polls and if we fail to deliver value for money and a decent Council service then in 2012 the same fate could befall us.

The Corporate Management Team had since 2004 been subjected to considerable pressure from some of the ruling executive to do things their way. Events during 2007 clearly demonstrate that there was very little integrity in some of the decisions made. Personal attacks by way of correspondence was evident. Some of those statements have by now been proved to be totally malicious and not what one would expect from Senior Officers of the Authority

Our Human Resources Department is failing, there is a serious issue with sickness within the Authority, yet despite several of the Executive bringing this to the Managing Director's attention there has been no movement to resolve these serious issues of Personnel Management. We have noted with interest your annual letter to Denbighshire in which you state that the Authority's Corporate Governance arrangements are insufficient to deliver the scale of improvement needed to achieve its priorities. This despite leadership at the Political level being stronger and more strategically focused than in the past, senior officers are not consistently providing the level of direction and corporate discipline needed to deliver the Council's improvement ambitions. One cannot help but feel that we are experiencing the same inertia. The draft annual letter for Anglesey however implies the opposite. We did turn down the opportunity of partaking in a workshop which Wales Audit Office had arranged (but spent the time explaining our problems and difficulties to Non Jenkins and Rod Alcott). I would hope that our reasons for doing so are now clearer to you.

Every member of the Executive attended a two day workshop facilitated by Professor Zoe Radnor of Warwick Business School in October 2008. There was a full and frank discussion about our hopes and aspirations, culminating in a vision for 2011. Poor working relationships between the Executive and the Corporate Management Team was given a thorough airing and Professor Radnor left the workshop enlightened as to the causes of the conflict by the body language of some of our Senior Officers.

As part of our efforts to improve Corporate Governance we have arranged to undertake an Appraisal for the Managing Director and we have asked him to prepare a draft report on reorganising the corporate structure to resolve the lack of corporate management that is referred to by the auditors in paragraph 94 to 96. We are concerned that the Managing Director and the corporate management team have not shared the auditor's assessment of corporate arrangements and their response (final report presented to Auditors in November 2008) to it with us. We are also concerned about our IT strategy and the lack of Project Management across the Authority.

I have previously mentioned the Social Services overspend which was not raised with this Executive until some time into the new financial year when it was very obvious that the current Financial year for this department was also likely to show a substantial overspend on its budget. This is slightly in contradiction to the comments in paragraph 4 that there was no material weakness in internal financial control. Much the same happened in respect of the Ombudsman's report on Housing Benefit. No mention had been made that there were difficulties within the section until the publication of the damning report. A draft Fleet Management Report was prepared in May 2008, this was not discussed with the Executive at all and we had no input into any responses you may have received before publishing your final report in the last few days.

You may feel that this Executive has laboured the "Graigwen" Amlwch issue, I would contend however that the manner in which this property was purchased and the role played in the saga by members of the Corporate Management Team displays a lack of honesty, integrity and verges on being criminal malfeasance in public office. This may explain why my Executive are so concerned about the issue. I am including herewith the response to this particular issue.

Dealing with paragraphs 16 to 22 of the Draft Annual Letter, we raise the following concerns and queries:

Para 19

- 1.1 You note the unanimity of the Executive's decision on 16/07/07 and 10/09/07, suggesting that it is a strong indication of the decision they intended to make. However, you appear to ignore completely the obvious material impact that knowledge of the existence of a restrictive covenant would have had
- 1.2 This factor would naturally have raised doubt and concern and would have been extremely likely to trigger further queries and deeper scrutiny from Members.
- 1.3 There can be no certainty at all as to the decision the Executive would have made had Officers provided this crucial and easily accessible information and had the Executive not been unnecessarily forced by Officers to make a decision under the emergency process.
- 1.4 We therefore contend that your conclusion in relation to what decision the Executive would have made is flawed and is actually no more than a guess. The facts merely support a conclusion to the effect that when forced to make an emergency decision by Officers and whilst not informed of significant relevant facts by Officers, the Executive (unsurprisingly) agreed with the proposal that was put to them by Officers. We would have expected your conclusion to strike a very different balance and to also comment upon whether the democratic process functioned as it should in this case.

- 1.5 An objective layman would also expect significant concern to be expressed that Officers had not actually carried out a basic level of due-diligence that Members should reasonably be able to expect and assume from the professionals advising them
- 1.6 A separate concern relates to the unnecessary misuse of the emergency process and the detrimental effect on proper democratic scrutiny. As Members, we rely on advice from Officers on a daily basis and it is of fundamental importance that all such advice is objective and transparent if Members are to be effective in their elected role. Transparency and objectivity are also foundation stones in the bond of trust that must exist between elected representatives and Officers if we are jointly to serve the public effectively and appropriately. You will doubtless appreciate that this case has brought to light practices and issues which are harmful to the confidence Members naturally place in Officers. The position of trusted expert advisors to elected representatives is a privileged one with considerable influence, so it is essential that the External Auditor is able to explicitly re-assure Members and their Electors. We look to you to make recommendations that will safeguard that objectivity and transparency in the way Officers work and where issues arise, to tackle them robustly in the interests of the Electors.
- 1.7 We would ask that you modify this paragraph to reflect that the evidence merely reflects the decision the Executive made with the partial information they were given by Officers and the very limited time they were given by Officers to consider before "deciding". We would also ask that you state clearly the fact that it cannot be said with any certainty how they might have determined, had they had the relevant facts and the proper time to apply appropriate scrutiny and questioning.

Para 20

- 1.8 Reference is made in this paragraph, that the Council has substantive legal powers to undertake the purchase of property by auction but you have then left this general and superficial point entirely without the necessary context.
- 1.9 The Council's Constitution at para 3.5.2.5 states that "The Officer with delegated powers or in a case of doubt the Managing Director **can take any action** in consultation with the appropriate member of the Executive or Regulatory Committee Chairperson and/or Vice Chairperson between meetings which she/he considers urgent; **which does not involve expenditure for which there is no budget provision**; and which conforms to the Council's policies subject to the details of such action being reported for information to the next appropriate meeting of the Executive or Regulatory Committee"
- 1.10 In this case there is no doubt that no specific budget provision had been made for the purchase of Graig Wen- it appears in no budget book nor financial committee paper prior to the date of the Auction and the above

- paragraph only allows any action not involving expenditure where no budget provision has been made.
- 1.11 Further the previous Standing Orders are also consistent with this position and I think add further light – stipulating very sensibly to avoid conflict that even in cases where Officers may have delegated powers, where they refer a matter to a Committee/Sub-Committee for a decision, then they lose any delegated power and sovereignty rests with the Committee/Sub Committee and Officers cannot then wrest back the decision making power on that item.
 - 1.12 I also make the observation that the Monitoring Officer has admitted as much in her initial recommendation not to attend the Auction.
 - 1.13 Lastly and most obviously, if the Officers did have delegated power as you suggest then why did the Officers ask the Executive for a determination in the first place?(and an emergency one at that)
 - 1.14 With the utmost respect, the audit work carried out in regard to this particular issue appears to be surprisingly superficial even to a layman such as myself and fails to establish definitively whether the Officers had power to make the purchase in these particular circumstances or not.
 - 1.15 This is very surprising indeed and is clearly far less than the level of diligence the public should be able to naturally expect from a Company with PWC's professional reputation and expertise. This point is of fundamental importance to the whole matter at hand and whether Officers had power to make the purchase having failed to obtain a lawful decision from the Executive is an issue around which much else turns in this case. One cannot help but feel that someone has been "got at" here.
 - 1.16 We would ask that you modify this paragraph to reflect that the constitution specifically does not allow expenditure on items for which there is no budget provision; and that therefore it is very clear indeed that Officers did not have the powers to undertake the purchase without a lawful and constitutional decision from the Executive (or another appropriate Committee)
 - 1.17 If you do not believe that my interpretation is correct, I would ask that you definitively state with clear reasons, whether or not the Officers had delegated power with regard to all of the facts and circumstances exactly as they stood in this case. We do not believe that it can be left as it stands as this creates an incorrect assumption that the fundamental point is in doubt.

General

- 1.18 We are also concerned to note the extreme delay and then the apparent abandoning of the two draft reports that were commenced into this matter following my written complaint to PWC. I understand that drafts were provided to Officers in November 2007 and July 2008. On 9th October 2008 Mr Jeremy Coleman the Auditor General wrote to me in response to concerns that I had raised saying that these reports were still with the Officers for "fact checking". We are astonished that such a vast period of

time was allowed for "fact checking", fully eleven months in the case of the first report and three months in the case of the second report. Whilst Mr Coleman stated in his response that it was normal (and of course proper) to check facts with the parties to the report, it would be astonishing and of considerable media interest if the lengthy time frames seen here were also considered "normal"

- 1.19 Of particular concern to us is the abandoning of the two reports by the auditor. The issue of Graigwen which has excited considerable public concern, has at its core, issues relating to the accountability of Senior Officers and whether they appropriately informed and appropriately sought a decision from the illegally constituted Executive or whether in fact Executive members were bamboozled into a position where they had to make an emergency decision armed with information that was insufficient for them to act in the best interests of the public who elected them.
- 1.20 Some basic and inviolable principles of democracy would appear to have been subordinated by Officers throughout this particular case which is why I am at great pains to get at the facts and to ensure that this cannot happen again here in Anglesey
- 1.21 You will therefore understand that it is with the very utmost level of concern that I now turn to the perceived influence of the Monitoring Officer in this case. Mr Howse from PWC stated clearly when he met with a group of concerned Executive members that the Monitoring Officer had "effectively parked a Sherman tank on our lawn", the clear message was a description of an astonishingly legal manoeuvre threatening PWC with litigation via an eminent barrister if she were to be criticised in any way in a PWC report. We were told that she had also sent a copy of the Barrister's CV to PWC. The clear impression left with members present at the meeting with PWC that day was of a carefully calculated legal intimidation of PWC
- 1.22 The Executive are concerned as to the appropriateness of the actions of the Monitoring Officer when faced with proper independent scrutiny, but of even greater concern is the perception that would be created to the layman that PWC have actually been inappropriately intimidated by the Monitoring Officer. Given the considerable public and media interest in this case and as Leader of the Council, I have to be able to steadfastly assure the electors of Anglesey that this is not so.
- 1.23 In the light of the known evidence and facts of this case, the astonishingly long periods allowed to Officers to "fact checking", the statements made by Mr Howse implicitly indicating PWC clearly felt intimidated by the Monitoring Officer's actions, the abandoning of not one but both draft reports by PWC and finally the inclusion of only a brief (and unfortunately I presently believe) materially factually inaccurate (short) reference in the Annual Management letter, I do not feel that I can presently provide this assurance to the electors of Anglesey.
- 1.24 In paragraph 20 to 22 you state that you have decided not to exercise your discretion to seek a declaration under S32 (1). I am of the view that the

...to be served in this case as the electors are not safeguarded from financial losses. The losses will have already occurred firstly through legal action to remove the restrictive covenant that existed in respect of Graig Wen and secondly through a fall in house prices. I do not believe that it is for the Electors of Anglesey to carry this loss when their elected representatives did not make a lawful nor a properly informed decision to proceed.

- 1.25 Your suggested reasons for not declaring the transaction illegal and unlawful as not being in the public interest is somewhat difficult to comprehend. To say that the transaction had been completed and would be complex to unravel is not good enough. The principle of your argument here is to entirely condone unlawful action merely because it will require further action to reverse it. Adopting this principle would mean that no wrongs would ever be righted. To have the accounts declared unlawful would not of its own trigger the unravelling of the original transaction nor would it be a mandatory step, nor the only course of action open to redress. I would ask that you review this aspect before publishing the Annual Letter. My arguments for doing so are clearly laid out in paragraphs 1.8 to 1.17 above.
- 1.26 I finally wish to make an observation regarding the non inclusion of a highly significant e-mail obtained under Freedom of Information Act disclosure. The e-mail originated from the Monitoring Officer to Ms Einir Thomas the Acting 151 Officer on 19th July 2008. I append a copy of it to this letter for the avoidance of doubt. This clearly recognises a flawed procedure leading up to the Auction but despite it being illegal and unlawful a decision is taken to proceed and commit the County Council to expenditure of £300000 for the purchase plus subsequent legal fees for removing the restrictive covenant.
- 1.27 When all these matters are taken into consideration there is little doubt why the Executive have no faith in the Corporate Management Team. We are more than willing to take whatever action is necessary to resolve these issues.

On a personal note I would ask that both myself and Councillor R.G.Parry who wrote to you in January 2008 regarding the circumstances of the purchase of Graigwen receive a response to our correspondence. The public of Anglesey whom we represent and who have the power to cancel our mandate at the next election would not wish that the District Auditor be intimidated into a "whitewash" Your report must be fair but it must also be complete and robust. That would give us the confidence for the future to deal with issues fairly, objectively and without fear or favour to any person.

Yours Sincerely;

Cllr. Phil Fowlie; Leader, Anglesey County Council