



Penderfyniad ar yr apêl

Ymweliad â safle a wnaed ar 9/11/04

Appeal Decision

Site visit made on 9/11/04

gan/by David Sheers BA DipTP MRTPI

Arolygydd penodwyd gan Cynulliad
Cenedlaethol Cymru

an Inspector appointed by the National
Assembly for Wales

Dyddiad/Date : 29/11/04

Appeal Ref: APP/CROW/04/Map/1203

Site address: Denny Island, Severn Estuary.

- The appeal is made under Section 6(1) of the Countryside and Rights of Way Act 2000 (the 2000 Act) against the showing of the above land on a provisional map issued by the Countryside Council for Wales (CCW) as open country.
- The appeal is made by Trelleck Estates Ltd and dated 30 May 2004.
- The appeal relates to the provisional map for Vale of Glamorgan, Cardiff, Newport and Monmouthshire.
- The ground of appeal is that the land is not registered common land (RCL).

Summary of Decision: The appeal is dismissed.

Background Matters

1. CCW chose to waive their right to attend the site visit. The land in question consists of a small, rocky island with scrub vegetation and extending to some 0.24ha.

Main Issue

2. From the representations made I consider the main issue to be whether the land is RCL as defined in the 2000 Act.

Reasons and Conclusions

3. The 2000 Act defines registered common land as that which is registered as such under the Commons Registration Act 1965. Under section 1(3)(b), even where land has been removed from the register following an application for that purpose after the date the 2000 Act was passed (30 November 2000), the land will continue to be treated as registered common land for the purposes of the 2000 Act.
 4. The CCW provides extracts from the Register of Common Land and accompanying map for a tract of land called Denny Island; unit number CL 11, of which the appeal site forms the whole. The application to register this unit was made on 31 December 1969 by Magor Parish Council.
 5. It is submitted that this registration was not finally registered under the 1965 Act as the entry is marked as "registration provisional". However I note that there is a second entry in the register dated 21 April 1976 which states that it is subject to protection under section 9 of the Commons Registration Act 1965. This date is the same as that which the Commons Registration Officer confirms is when the registration became final. In addition the
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provisional entry refers to a tract of land of about 4 acres in size (some 1.62ha). However the map accompanying the register shows that a hatched area of land was cancelled and consequently the land currently registered is significantly smaller, at 0.24ha, than that referred to in the provisional entry and coincides with the appeal site. Thus at some time after the registration was provisionally made, the area of land in question was reduced to that shown on the register map.

6. Bearing these points in mind I am satisfied that the second entry in the register refers to the date of the final registration of the land on 21 April 1976. I cannot comment on the particular circumstances leading to the inclusion of the appeal land on the Commons Register but I note that it is stated that the land is not waste but is demesne land. This may well be the case but would not affect the status of the land as RCL.
7. The situation is that the land is currently on the register and, as far as I am aware, no application to de-register it has been made. In any case any such application would have to have been made before 30 November 2000 for the appeal to succeed. I have taken into account all the other matters raised but find that none are of sufficient importance to affect these conclusions.

Formal decision

8. For the above reasons, I hereby dismiss the appeal and, in so far as it relates to the appeal site, approve the provisional map without modification.



Inspector