

ANDREW GEORGE MP



HOUSE OF COMMONS
LONDON SW1A 0AA

DEFRA
RECEIVED

19 NOV 2013

CCU
POST ROOM

Lord de Mauley
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs
Nobel House
17 Smith Square
London SW1P 3JR

15th November 2013

Our ref: 13/10.1/ag/ew

For Report,

RE: [REDACTED]

Please find enclosed a copy of a letter I have received from my constituent, [REDACTED] and which I believe is self-explanatory.

I would be most grateful if you would allow me to have your comments and advice on this matter.

I look forward to hearing from you.

With every good wish.

Yours sincerely,

[Handwritten signature]

*P.S. There are also concerns about the
is providing it - a piece which has
not given sufficient time for proper
consultation.*

Items with this correspondence may contain details relating to identifiable individuals and, where this is the case, they should be treated as confidential under Section 40 of the Freedom of Information Act

PLEASE REPLY TO: Andrew George MP, Trewella, 18 Mennaye Road, Penzance, TR18 4NG
Tel: 01736 360020 Fax: 01736 332866 www.andrewgeorge.org.uk

11 NOV 2013

Dear Andrew George,

I am greatly concerned that an effort is being made to create areas of Commons off the cliff of Zennor.

I feel this will change the character of the Parish.

Each cliff area carries the name of the farm to which it belongs as can be seen on all maps present and historic. Thus Treas cliff belongs to Treas farm
Treway cliff to Treway farm
Tremadde cliff to Tremadde farm
etc.

The structure of our family farms has been set for many hundreds of years.

I also note that these areas have SSSI designation and that the Government and Landowners are required to attain good or improved status on all SSSI's. This requires management and infrastructure in this area for livestock grazing where rough terrain and accessibility are issues. This could be severely hampered if Commons classification required the Secretary of State to give permission for every change to granite stiles or water troughs! Your assistance in this matter would be greatly appreciated.

Yours sincerely,



**Department
for Environment
Food & Rural Affairs**

Nobel House
17 Smith Square
London SW1P 3JR

T 08459 335577
helpline@defra.gsi.gov.uk
www.gov.uk/defra

Andrew George MP
Trewella
18 Mennaye Road
Penzance
TR18 4NG

Your ref: 13/10.1/ag/ew
Our ref: MC329133/SH

17 December 2013

From Lord de Mauley
Parliamentary Under Secretary of State for Natural Environment and Science

Dear Andrew,

Thank you for your letter of 15 November enclosing a copy of one from your constituent, [REDACTED] about an application to register coastal land in Zennor as common land.

Land can be registered as common land only if it meets certain criteria, prescribed in law. When land is registered as common land it becomes subject to certain laws that ensure its protection from unlawful works (e.g. permanent erections) and encroachment. Given this, it is difficult to see how the registration of any land in Zennor as common land could affect the character of the parish as Mrs Nankervis suggests.

Some 57% of sites of special scientific interest (SSSIs) are also commons and the two designations complement each other. Any works on land which are necessitated by SSSI requirements are taken into consideration when consent is sought for works on commons.

Regarding your point about the lack time given for consultation, the application process does not involve consultation. When registering land under the Commons Act 2006, an applicant must prove that the various registration criteria, as laid out in law, apply. An objector such as a landowner then has to prove that at least one of the criteria does not apply. There is a six week period for objections, which is a reasonable timeframe. By way of comparison, the period to raise objections for planning applications is between three and eight weeks.

I hope that this helps to reassure [REDACTED]

Yours sincerely,
Rupert



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ANDREW GEORGE MP



HOUSE OF COMMONS
LONDON SW1A 0AA

RECEIVED

19 NOV 2013

DDLG


Nick Boles MP
Minister of State
Department for Communities and
Local Government
Eland House
Bressenden Place
London SW1E 5DU

15th November 2013

Our Ref: 13/8.1/ag/ew

Minister	NB
Subject	LAND REGISTRY + APPLICATIONS
Official	BIS:

RE: 

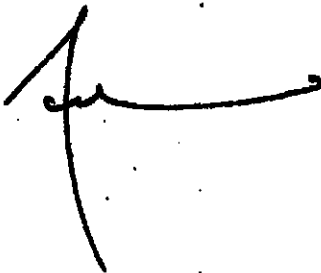
Please find enclosed a copy of an email I have received from my constituents,  and which I believe is self-explanatory.

I would be most grateful if you would look into their concerns and allow me to have your comments and advice.

I look forward to hearing from you.

With every good wish.

Yours sincerely,



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PLEASE REPLY TO: Andrew George MP, Trewella, 18 Meunays Road, Penzance, TR18 4NG
Tel: 01736 360020 Fax: 01736 332865 www.andrewgeorge.org.uk

From: [REDACTED]
Sent: 11 November 2013 18:12
To: GEORGE, Andrew
Subject: FW: The Commons Act 2006

From: [REDACTED]
To: [REDACTED]
Subject: The Commons Act 2006
Date: Mon, 11 Nov 2013 18:07:28 +0000

Dear Mr George,

We would like to raise the issue of new registrations and applications to register land as Common land under the Commons Act 2006.

These registrations have all proceeded despite the owners of the land objecting to this change. A loophole in a piece of legislation set up to protect village greens is being used for these registrations. The land is first identified by a group or individual, with absolutely no connection to that piece of land. They neither own it, rent it nor gain a living from it. They are however allowed unlimited time to prepare their case and are often supported by Cornwall Council. It is beginning to appear that the Council are unduly biased in favour of these applications, despite good sound arguments against them. The defending landowners, however, have been given only 6 weeks to submit an objection. Given the complexity of Common Land Law it is impossible to mount an informed objection in that time. Historically after the Norman Conquest land was managed under the Manorial System and it is under this banner of "waste land of the manor" that these people are submitting applications to register. When application is made it seems that any manor can be used and during one recent hearing 3 different manors were cited because there was uncertainty as to which was the correct one. How ridiculous is that? However the case still went against the farmers on the basis of "probability" - how can judgements with such consequences be made like this?

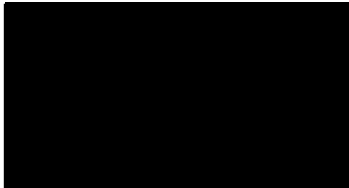
Following on from the Manorial System came the Enclosures Act. All the land under application has changed hands many times since then and has been managed and looked after for generations - however all this seems to count for nothing. If these vast areas of land become common land then it is very possible that their management under present agri-environment schemes may become compromised and funding and support withdrawn. We have been guided, restrained but also financed over many years now by firstly the SSSI status then the ESA agreements and latterly by the Stewardship programme - so our coastal strip of land is already well protected. Our cliffland has been farmed and grazed for generations through all seasons of the year and has provided valuable keep and shelter for our animals and we regard it as a very valuable asset to our farming enterprise. If this application is successful and the land is deemed common, the agri-agreements fail, then the moors and cliffland will all eventually revert back to their wild state due to lack of funding and land management to the detriment of all and will undo all the good work we, the farmers, have been striving to do now for many years. The subsequent loss of income will inevitably drive some farmers out of business.

It is obvious that making this land common land will benefit noone as the public will have no extra rights as they already have unrestricted access under the CROW act of 2000. We feel that Cornwall Council are

being very short sighted in allowing this rash of applications without due consideration to the harmful consequences of their actions and decisions.

We would respect any advice and opinion on this urgent matter as we feel these actions were never the intention of the 2006 Act.

Yours sincerely

A large black rectangular box redacting the signature of the sender.



**Department
for Environment
Food & Rural Affairs**

Nobel House
17 Smith Square
London SW1P 3JR

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Andrew George MP
Trewella
18 Mennaye Road
Penzance
TR18 4NG

Your ref: 13/B.1/ag/ew
Our ref: MC329513/SH

6 January 2014

From Lord de Mauley
Parliamentary Under Secretary of State for Natural Environment and Science

Dear Andrew,

Thank you for your letter of 21 November to Nick Boles enclosing a copy of an email from your constituents, [REDACTED] about applications to register waste land of the manor as common land. I am replying as the Minister responsible for this policy area and I am sorry that the reply is late.

I was sorry to hear of the [REDACTED] concerns and I hope I can reassure them somewhat. Firstly, some 57% of sites of special scientific interest (SSSI) are found on commons and the two designations complement each other. A large proportion of such common land is currently under agri-environment agreement, particularly in the South and North West of the country. The [REDACTED] may wish to talk to their usual Natural England contact about the implications for their existing agri-environment agreement should the land be registered as common land. As there will be no new common land rights registered and the land is already open access land, I suspect any such impacts will be minimal. Moreover, any works on land which are necessitated by SSSI requirements are taken into consideration when consent is sought for works on commons.

As with much legislation, the Commons Act 2006 attempted to establish a balance. It is widely acknowledged that the Commons Registration Act of 1965 is flawed and the Commons Act 2006 sought to build upon and correct the flaws of the 1965 Act. Just as the 2006 Act enables land which was incorrectly registered to be removed from the register, so it also enables land which should have been registered to be added. All of the provisions of the Act were debated during its passage through both Houses. The resulting provisions represent Parliament's intention to enable the registration of waste land as common land. This therefore cannot really be characterised as a loophole.



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Section 22 and Schedule 2 of the Commons Act 2006 allows amendment of the commons registers in certain prescribed circumstances. Waste land of the manor can be registered as common land under paragraph 4 of Schedule 2 to the Commons Act 2006, but only where it meets certain prescribed criteria. In effect, these criteria amount to the fact that there was an application to register the land under the Commons Registration Act 1965 but due to a variety of misunderstandings the land was not finally registered. Applications to make amendments to the commons registers can be made by any person or individuals acting on behalf of a group of people.

The motives of the applicant and objectors are not taken into account in determining such applications, nor the effect of future management if land is registered as common land. What matters is whether the applicant can prove to the independent planning inspector, beyond reasonable doubt, that they have shown the land meets the regulatory requirements for registration as common land. An objector such as a landowner has to prove that at least one of the criteria does not apply. If it does not meet the requirements, then the land will not be registered as common land. The Planning Inspectorate, as well as finding for recent applications in Cornwall, has also found against certain parcels of land being registered as common land. There is a six week period for objections, which is a reasonable timeframe. By way of comparison, the period to raise objections for planning applications is between three and eight weeks.

Cornwall Council is one of seven commons registration authorities pioneering the implementation of Part 1 (Registration) of the Commons Act 2006, ahead of national implementation. I understand that the council was particularly keen that the people of Cornwall should make use of Schedule 2 at an early opportunity, both to de-register land wrongly registered as common land or village green and for the registration of 'waste land of the manor'.

Yours sincerely
Rupert



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ANDREW GEORGE MP



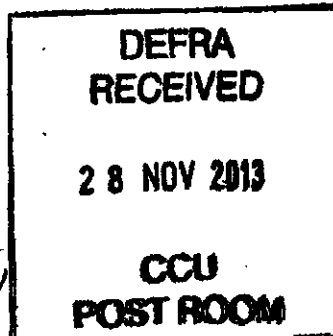
HOUSE OF COMMONS

LONDON SW1A 0AA

George Eustice MP
Parliamentary Under Secretary
Department for Environment,
Food and Rural Affairs
Nobel House
17 Smith Square
London SW1P 3JR

22nd November 2013

Please Quote Ref: 13/10.1.1/ag/ew



RE: WASTE LAND OF THE MANOR

A number of constituents have contacted me to express concern that a local group appears to be using an antiquated law, Waste Land of the Manor, to register land as Common Land.

I enclose a copy of a letter I have received from one constituent, [REDACTED] as an example and which I hope you will find self-explanatory.

I would be most grateful if you would look into this matter and allow me to have your comments and advice.

I look forward to hearing from you.

With every good wish.

Yours sincerely,

*A.S. I mentioned
that when we
met in Committee
Room 7 on Wednesday
this week.*

cc: Nick Boles MP, Department for Communities and Local Government

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PLEASE REPLY TO: Andrew George MP, Trewella, 18 Mennaye Road, Penzance, TR18 4NG
Tel: 01736 360020 Fax: 01736 332866 www.andrewgeorge.org.uk

13 NOV 2013



NOVEMBER 11, 2013

WASTE LAND OF THE MANOR

Dear

Andrew George,

I am writing to you today in response to the legal loophole found by the action group, Save Penwith Moors, where they appear to be able to register land as Common land under the antiquated law of Waste Land Of The Manor.

This allows them at least 5 months to prepare their case. In a recent example, the owner of the land was only allowed 6 weeks to build a defencetoo little time, according to solicitors and barristers.

This was essentially a battle between the National Trust and Save Penwith Moors. But the latter have decided to start spreading their control over vast tracts of land owned by many independent farmers and landowners.

This action group is made up essentially of 4 people.

They neither own the land nor rent it nor gain a living from it.. Their actions are specifically to have their say in the management of the land.

This is an area of AONB, under various agri-environment schemes, CROWACT designated, and potential SSSI. Why have more restrictions, especially from an unelected body?

This has a direct influence on the smooth running of land management issues by Natural England.

This has potentially a direct influence on the outcome of Single Farm Payments.

This has a direct effect on the management of the Western Heathland that is so rare and precious.

I cannot understand the definition of occupation.

Occupation, as far as the Waste Land of The Manor is concerned, is proven by tillage of the land or by quarrying. Grazing of animals is no proof of ownership.

Tillage and moorland do not go hand in hand, and evidence of quarrying is very few and far between. If DEFRA can see themselves to alter proof of occupation by including grazing of animals, that might be a step in the right direction.

This is a very serious state of affairs. The waters are further muddled in that Cornwall Council appear to have a duty under its pioneer status to implement this legislation before other areas in the UK.

I look forward to your reply with great interest.

Yours sincerely,

A large black rectangular redaction box covers the signature and any text that might have followed it.



**Department
for Environment
Food & Rural Affairs**

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Andrew George MP
Trewella
18 Mennaye Road
Penzance
TR18 4NG

Your ref: 13/10.1.1/ag/ew
Our ref: MC330010/SH

9 January 2014

**From Lord de Mauley
Parliamentary Under Secretary of State for Natural Environment and Science**

Dear Andrew

Thank you for your letter of 22 November to George Eustice enclosing a copy of one from your constituent, [REDACTED] about applications to register waste land of the manor as common land. I am replying as the Minister responsible for this policy area and I am sorry the reply is late.

[REDACTED] sent a copy of this letter direct to George Eustice and officials replied on 3 December. I enclose a copy for your information.

*Yours faithfully
Russett*

Enc.



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Department
for Environment
Food & Rural Affairs

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www.gov.uk/defra

Our ref: DWO329126/SH

03 December 2013

Dear [REDACTED]

Waste land of the manor

Thank you for your letter of 11 November to George Eustice about applications to register waste land of the manor as common land. I have been asked to reply.

Waste land of the manor can be registered as common land under paragraph 4 of Schedule 2 to the Commons Act 2006, but only where it meets certain prescribed criteria. In effect, those criteria amount to the fact that there was an application to register the land under the Commons Registration Act 1965 but due to a variety of misunderstandings the land was not finally registered. This is why the 2006 Act allows for such land to be registered.

Legislation represents Parliament's intention to achieve an aim or an objective, so the registration of waste land as common land is clearly intended and is by no means a loophole.

The definition of occupation is complex and has been developed over the years through case law, so Defra has no intention to amend the definition. If you want a fuller understanding of the definition I recommend reading what *Gadsden on Commons and Greens* has to say on the subject. Gadsden is the recognised authority on the law of commons and town and village greens.

Yours sincerely,

[REDACTED]
Defra - Customer Contact Unit



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ANDREW GEORGE MP



HOUSE OF COMMONS
LONDON SW1A 0AA

RECEIVED

02 DEC 2013

DCLG

Nick Boles MP
Minister of State
Department for Communities and
Local Government
Eland House
Bressenden Place
London SW1E 5DU

27th November 2013

Our Ref: 13/10.1.1/ag/jr

Minister	NB
Subject	COMMON LAND
Official	[REDACTED]

RE: WASTE LAND OF THE MANOR

Further to my letter to you dated 22nd November 2013, please find enclosed copies of two emails from my constituent [REDACTED]

[REDACTED] regarding a recent meeting at Zennor, and which I believe are self-explanatory.

I would be most grateful if you would look into the further points of concern raised about this matter and allow me to have your comments and advice.

I look forward to hearing from you.

With every good wish.

Yours sincerely,

With every good wish.

Yours sincerely,

cc: George Eustice MP, DEFRA

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PLEASE REPLY TO: Andrew George MP, Trewella, 18 Menzies Road, Penzance, TR18 4NG
Tel: 01736 360020 Fax: 01736 332866 www.andrewgeorge.org.uk

On 20 Nov 2013, at 09:16,

[REDACTED] wrote:

Dear Mr Eustice MP and Mr Andrew George MP

I was asked to chair a meeting of 35-40 farmers in Zennor village Hall extremely concerned about their land being put forward for Common land. Given the level of attendance there is clearly concern, particularly the underhand way it is being done and the stance taken by Cornwall Council on the matter. Everyone of these cases is being objected to (at a cost to the tax payer) and I understand the National Trust is finally considering taking a legal stand against the imposition of common land on their land at Lady Downs, Newmill, Penzance. We are also seeing the Wildlife trusts, and RSPB beginning to see the light on this issue and withdrawing their support for Common land status. I have explained in my letter that Common land will not increase access, it is more likely to reduce access as fencing requests go to planning and Save Penwith Moors object. It is essential fencing goes in to comply with the Animal Movement legislation Acts that apply. This will then delay or put off grazing of these moors by cattle and without grazing the hard work being done to push back the bracken, gorse and brambles will lead to less access and less biodiversity.

I have been informed by the NFU these applications will close in 2014 in any case but also informed the end date may well be 2020 for applications for Common Land so it is unclear how much land will be blighted by this loop hole. This is not a good piece of legislation and seriously needs to be looked at again as the loop hole discovered by the open Spaces Society and Save Penwith Moors will put back the progress made in revitalising the moors using HLS agreements and seriously effect farm incomes.

Kind regards

[REDACTED]

[REDACTED]

On 19 Nov 2013, at 19:22, [REDACTED]

wrote:

Dear Mr. George, Mr. Eustice and Mr. Wright.

After attending a meeting called at very short notice, but was attended by about 40 local farmers I must make you aware of the strenght of feeling felt AGAINST the use of Commons Application "laws" or "rules" (ie interpretation of "Waste of the Manor") now being used by the "Save Penwith Moors" pressure group to promote their anti farmer / anti grazing campaign.

Having failed in Europe to get judgement in their favour against the very vital agri-environment schemes needed in West Cornwall and being dismissed by the Public Ombudsman on three occasions in their unreasonable demands ; they have now found a huge loop hole in the law and are using it to further their cause .

I urge you to put all Commons Applications that are now in the pipe line on hold until after you have had a meeting with our local Penwith farmers who feel that they are powerless in this issue.

You are probably also aware that the National Trust , Cornwall Wildlife Trust, the R.S.P.B., Zennor Parish Council and Natural England are in support of the stance taken by our farmers in this.

On behalf of the true custodians who live and work in rural Penwith and our very fragile local rural economy I ask you to give this issue urgent consideration.

Kind regards [REDACTED]



**Department
for Environment
Food & Rural Affairs**

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helpline@defra.gsi.gov.uk
www.gov.uk/defra

Andrew George MP
Trewalla
18 Mennaye Road
Penzance
TR18 4NG

Your ref: 13/10.1.1/ag/jr
Our ref: MC330896/SH

9 January 2014

From Lord de Mauley
Parliamentary Under Secretary of State for Natural Environment and Science

Dear Andrew,

Thank you for your letter of 27 November to Nick Boles enclosing a copy of emails from your constituents, [REDACTED] about applications to register waste land of the manor as common land. Your letter was passed to Defra and I am replying as the Minister responsible for this policy area. I am sorry the reply is late.

[REDACTED] and [REDACTED] sent copies of these emails direct to George Eustice and officials replied on 10 December and 11 December respectively. I enclose copies for your information.

Yours truly,
Lord de Mauley

Enc.



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**Department
for Environment
Food & Rural Affairs**

CCU 7th Floor
Nobel House
Smith Square
London SW1P 3JR

T 08459 335577
helpline@defra.gsi.gov.uk
www.gov.uk/defra

Our ref: DWO329723/SH

11 December 2013

Dear [REDACTED]

Common land application in Zennor

Thank you for your email of 20 November to George Eustice and Andrew George about a common land application in Zennor. I have been asked to reply.

It is widely acknowledged that the Commons Registration Act of 1965 is flawed. Therefore, the Commons Act 2006 sought to build upon and correct the flaws of the 1965 Act.

Cornwall Council is one of seven commons registration authorities pioneering the implementation of Part 1 (Registration) of the Commons Act 2006, ahead of national implementation. The council was particularly keen that the people of Cornwall should make use of Schedule 2 at an early opportunity, both for the registration of 'waste land of the manor' and to de-register land wrongly registered as common land or village green. This is shown by the number of applications and determinations published on its website:

<http://www.cornwall.gov.uk/default.aspx?page=2621>

Section 22 and Schedule 2 of the Commons Act 2006 allows amendment of the commons registers in certain prescribed circumstances. Waste land of the manor can be registered as common land under paragraph 4 of Schedule 2 to the Commons Act 2006, but only where it meets certain prescribed criteria. In effect, those criteria amount to the fact that there was an application to register the land under the Commons Registration Act 1965 but due to a variety of misunderstandings the land was not finally registered. This is why the 2006 Act allows for such land to be registered. Applications to make amendments to the commons registers can be made by any person or individuals acting on behalf of a group of people.

The motives of the applicant and objectors are not taken into account in determining such applications, nor the effect of future management if land is registered as common land. What matters is whether the applicant can prove to the independent planning inspector, beyond reasonable doubt, that they have shown the land meets the regulatory requirements for registration as common land. If it does not meet the requirements, then the land will not be registered as common land. The Planning Inspectorate, as well as finding for recent applications in Cornwall, has also found against certain parcels of land being registered as common land.



**INVESTORS
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Legislation represents Parliament's intention to achieve an aim or an objective, so the registration of waste land as common land is clearly intended and is by no means a loophole.

Common land can continue be managed, but with due regard to legislation concerning common land. Further guidance is available on the websites of Defra and the Planning Inspectorate:

<https://www.gov.uk/browse/housing/safety-environment/land-use-and-management>

<http://www.planningportal.gov.uk/planning/countryside/commonland/guidance>

I hope this has helped to explain Defra's position.

Yours sincerely,


Defra - Customer Contact Unit



INVESTORS
IN PEOPLE

Dear [REDACTED]

Thank you for your email of 19 November to George Eustice about commons applications. I have been asked to reply.

It is widely acknowledged that the Commons Registration Act of 1965 is flawed. Therefore, the Commons Act 2006 sought to build upon and correct the flaws of the 1965 Act.

Cornwall Council is one of seven commons registration authorities pioneering the implementation of Part 1 (Registration) of the Commons Act 2006, ahead of national implementation. The council was particularly keen that the people of Cornwall should make use of Schedule 2 at an early opportunity, both for the registration of 'waste land of the manor' and to de-register land wrongly registered as common land or village green. This is shown by the number of applications and determinations published on its website: <http://www.cornwall.gov.uk/default.aspx?page=2621>

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Legislation represents Parliament's intention to achieve an aim or an objective, so the registration of waste land as common land is clearly intended and is by no means a loophole.

Common land can continue be managed, but with due regard to legislation concerning common land. Further guidance is available from both the websites of Defra and the Planning Inspectorate:

<https://www.gov.uk/browse/housing/safety-environment/land-use-and-management>

<http://www.planningportal.gov.uk/planning/countryside/commonland/guidance>

I hope this has helped to explain Defra's position.

Yours sincerely

[REDACTED]
Defra – Customer Contact Unit

ANDREW GEORGE MP



HOUSE OF COMMONS
LONDON SW1A 0AA

Lord de Mauley
Parliamentary Under Secretary of State for Natural
Environment and Science
Department for Environment, Food & Rural Affairs
Nobel House
17 Smith Square
London SW1P 3JR

17th September 2014

Our ref: 14/10.1.1/ag/umc

Dear Rupert,

SAVE PENWITH MOORS

Please find attached a copy of a letter I have received from [REDACTED] on behalf of Save Penwith Moors which I believe is self-explanatory.

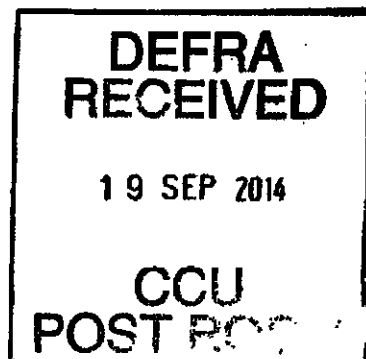
I hope that the meeting, for which I apologise I was unable to attend, went well and I have been asked by [REDACTED] on behalf of those who have been undertaking the Commons Registrations around Penwith to ensure that their concerns are communicated as well which I am doing by forwarding his comments to you.

I look forward to hearing from you.

With all good wishes.

Yours sincerely,

Dictated by Andrew George MP
and signed in his absence



PLEASE REPLY TO:

Andrew George MP, Trewella, 18 Mennaye Road, Penzance, TR18 4NG
Tel: 01736 360020 Fax: 01736 332866 www.andrewgeorge.org.uk

Dear Andrew,

I'm writing about two related issues:

Firstly, I note from the Cornishman that, at an unspecified date and location, you will be meeting Lord de Mauley with [REDACTED] and [REDACTED] the issue apparently being connected with the re-registration of common land.

Save Penwith Moors is currently engaged in a programme of applications to re-register common land, may I ask why Save Penwith Moors has apparently been excluded from this meeting, which appears to be represent only the farming lobby? I am aware that farmers, tenants and landowners have been alarmed by a whispering lobby of misinformation. The presence of SPM, which represents over 750 public stakeholders, at this meeting would surely have been informative.

I must here remind you that Lord de Mauley himself stated that Cornwall Council is one of seven pioneer authorities for commons re-registration, and that the Council was keen that the people of Cornwall should make use of this at an early opportunity. That is precisely what the people of Cornwall, in the shape of Save Penwith Moors, is doing. We have been roundly, and unfairly, condemned for this by the farming lobby largely due to the misinformation that has been mischievously spread, and repeated letters from SPM to the "Cornishman", putting the facts straight, are not being published. In short, there seems to be an intended, and unacceptable, marginalization of our group.


My second point is with regard to plans to replace Natural England's current Higher Level Stewardship with another scheme currently entitled "New Environmental Management Scheme" (NELMS). SPM initially wrote to Andrew Sells, Chairman of NE, who, in keeping with their usual practice, handed our letter down for [REDACTED] to answer. His response is alarming in that it clearly states that: "in some cases this may involve engagement/discussion with the local community but, like Environmental Stewardship, we do not expect holding public consultations of all applications".

We do not believe that it is Natural England's place to determine when public consultation should or should not be held on environmental matters that involve designated Areas of Open Access in which the public are major stakeholders. Rather that NE is legally bound to do so under the Aarhus Convention, which we intend to see being strictly adhered to.

[REDACTED] also stated that "Defra undertook an extensive public consultation in the autumn of 2013 as part of a wider Common Agricultural Policy programme development." This alleged consultation was so extensive that not a single one of SPM's 750-strong membership has even been made aware of it.

I should be grateful if you would bring these matters to the attention of Lord de Mauley, for his personal action, and for your prompt assurance that Save Penwith Moors is not being purposely omitted from participation.

Yours sincerely,


on behalf of:
Save Penwith Moors.



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1 November 2014

From Lord de Mauley
Parliamentary Under Secretary of State for Natural Environment and Science

Dees Andrew

Thank you for your letter of 17 September on behalf of [REDACTED] of Save Penwith Moors about commons registration and the new environmental land management scheme.

Defra has had no involvement in any alleged marginalisation but [REDACTED] concerns have been noted.

I understand that [REDACTED] is concerned about works which restrict access to open access land where that land enters an agreement with Natural England under Environmental Stewardship or the proposed new environmental land management scheme. Where there may be a need for fencing on open access land, fences should not restrict access altogether and some means of access, for example via a gate, should be provided. A direction from Natural England or the relevant national park authority (if the land is within a national park) will be required under the Countryside and Rights of Way Act 2000 if the intention is to restrict or exclude access to that land. There are consultation requirements within the Act where there are proposals for access to be restricted or excluded for periods over six months. For common land, the Secretary of State's consent is required under the Commons Act 2006 for any "restricted works" which may prevent or impede access to such land and this includes the erection of fencing. There is an opportunity for public comments to be made on any applications made for consent under the 2006 Act.

I note [REDACTED] concerns about lack of consultation with Save Penwith Moors on the new environmental land management scheme which is due to replace Environmental Stewardship from 2016. The extensive public consultation on the new scheme, as part of wider Common Agricultural Policy programme development, was given wide publicity when it was launched by Defra on 31 October 2013. The consultation ran to 28 November 2013 and feedback was received from nearly 5,000 organisations and individuals, including the

Cornwall and Isles of Scilly Local Nature Partnership, Cornwall AONB Partnership, Cornwall Council, Cornwall and Isles of Scilly Local Enterprise Partnership, Cornwall Countryside Access Forum, Cornwall Ramblers, Cornwall Rural Community Council and the Cornwall Wildlife Trust. During the consultation period ten regional workshops (including two in Truro and Bridgewater) took place, attended by around 720 individuals. [REDACTED] organisation should therefore have had plenty of opportunity to feed in its views during the consultation.

We took account of the wide range of feedback received from the consultation in developing the new scheme, which is currently with the European Commission for approval. As you know, the new scheme will be voluntary and competitive and more targeted than previous schemes, with those applications which address agreed local environmental priorities being most likely to receive funding. Bearing in mind [REDACTED] concern about the need for applicants to secure the necessary statutory permissions and approvals for planned works, this will be part of the application process, as it is now. As explained Save Penwith Moor's email correspondence with Natural England, in some cases this may involve engagement or consultation with the local community depending on the nature of the application.

Save Penwith