

P-04-343: Atal dinistrïo amwynderau ar dir comin—Ynys Môn
P-04-343: Prevent the destruction of amenities on common land—Anglesey

[1] **William Powell:** I ask Mr Tom Pollock, lead petitioner on petition P-04-343, to step up in a moment, together with Lewis Davies and Dr Karen Pollock.

[2] Croeso cynnes iawn i bawb. A warm welcome to everyone.

[3] I ask you, when you have drawn breath, just to introduce yourselves for the record and to ensure that the levels are right. I ask Dr Karen Pollock to kick off.

[4] **Dr Pollock:** I am Karen Pollock. I am here because my father and I were two of the petitioners. My father, sadly, died last year. My father's house abutted Marian common. I am also here because I work in the heritage industry and I have an interest in how the beauty and archaeology of Wales are promoted, thus preserving the natural environment.

[5] **William Powell:** We are grateful to you. Mr Pollock?

[6] **Mr Pollock:** I am Tom Pollock. I am here to support the petition, and to lead the petition on behalf of everyone who has signed and supported it in the past. Of course, I am also here to support my wife, Karen.

[7] **William Powell:** Mr Davies?

[8] **Mr Davies:** Rwy'n gynghorydd sir dros ward Seiriol lle mae tir comin y Marian. Hefyd, rwyf wedi bod yn athro daearyddiaeth, ac wedi byw yn yr ardal ers blynnyddoedd. Rwy'n nabod yr ardal fel cefn fy llaw, a fi yw'r person sydd wedi cael y mwyaf o broblemau gyda difrodi'r tir comin hwn.
Mr Davies: I am a county councillor for the Seiriol ward where the Marian common land is located. I have also been a geography teacher, and have lived in the area for years. I know the area like the back of my hand, and I feel that I am the person who has had the most problems with the damage to this common land.

[9] **William Powell:** I will kick off just by asking you, as a group of petitioners, to give a little bit more clarity to the committee and colleagues about the level of legal protection that is currently afforded under the Commons Act 2006, and in what respects you would like to see that protection enhanced through the action of the Assembly.

[10] **Mr Pollock:** I have a prepared statement, if you would like me to read it.

[11] **William Powell:** I would be very happy for you to kick off in that way.

[12] **Mr Pollock:** Just bear with me a moment: I just need to put my other eyes on. [*Laughter.*]

[13] First, we would like to thank the Petitions Committee for this opportunity to put forward oral evidence in support of this petition. The online petition contained 156 signatures, and followed a paper petition with 320 signatures, which sought to prevent the destruction of a specific common, Marian common in Llangoed, Anglesey. This common land is under the stewardship of Llangoed and Penmon Community Council and is registered common land, with registered rights of common for grazing, estovers and the collection of stone. There is registered public right of way for open recreation under the Countryside and Rights of Way Act 2000. A length of the Anglesey coastal footpath crosses the common. To recap, in June 2011, during the nesting season, large swathes of vegetation were destroyed, and earthmovers

changed the topography of the land to create two 7m-wide dirt roads. Photographic evidence has been submitted to the committee.

[14] This is an area with a wealth of flora and fauna. Detailed lists compiled by environmental experts have been submitted to the committee. The local community, which enjoys this beautiful area for recreation, was shocked and saddened by this act, but felt powerless to protect the common against further destruction in the light of inadequate laws. While section 38 of the Commons Act 2006 should, in theory, prevent the resurfacing of the land, it does not prevent the destruction of vegetation and the modification of the landscape for vehicular use. Basically, anyone can cut and drive large dirt tracks across any common land with impunity. In the worst-case scenarios, little of the natural heritage would be left for the enjoyment of local communities.

[15] In the case of Marian common, under the Prescription Act 1832, if no greater protection is provided for common land, it is likely that rights of access will be applied for after 20 years, and then, of course, vehicular trespass will be legitimised. We feel that the law—section 38 of the Commons Act—is inadequate. It makes no provision for the protection of the natural environment or protected species. Any individual can plough up or denude the plant life and wildlife on common land without fear of prosecution. The example above, of Marian common in Llangoed, specifically shows that one way to alter the use of common land from common to private is to carry out an unannounced, pre-emptive, legally unrestricted change to the land, and then to sit back and wait for any civil legal action to restore the land to common determination. All agencies in our case have refused to help the Marian community as, being subject to civil law, no-one, including the local county council, has the funds to run a civil case against an experienced perpetrator.

[16] We would like to make the following points in support of this petition. Using the example of Marian common as a precedent, the petitioners feel that the committee has an opportunity to provide all common land in Wales with greater protected legal status. In terms of securing and protecting a better environment for the people of Wales, any change in legislation would be strongly supported by many. Greater legal protection for common land would strengthen the intention behind many areas of natural beauty. Greater legal power would devolve power to local communities. Local councils are currently helpless to enforce the overwhelming local consensus for the preservation of common land. The economy of north Wales is supported by tourism. The beauty of the local heritage draws visitors from across the globe. As well as local signatures, the paper petition to protect Marian common also contains signatures from visitors enjoying the coastal path. The relaxation of planning laws, which comes into effect this autumn in Wales and will allow local people to improve their homes, should run hand in hand with new laws that protect common land, and thus the local environment, for local communities.

[17] Finally, recently, local people have been extremely frightened by official letters sent by the Land Registry on behalf of a certain Lord Treffos in Cheshire, who is reinstating claims to exercise archaic, manorial rights to collect tithes and dues from local people. Tightening up the laws related to common land would give greater security to those who feel under threat from external forces hoping to acquire land for individual gain.

[18] **William Powell:** I believe that that point was raised by Rhun ap Iorweth with the First Minister last Tuesday in Plenary session.

[19] **Mr Pollock:** Indeed, yes.

[20] **William Powell:** It would be useful, possibly, for us to engage with him, as the new Member for Ynys Môn, on these matters.

[21] **Mr Davies:** Fel cynghorydd sir, rwyf wedi cael trafferthion mawr ynghylch hawliau tir—hawliau maenorol Treffos ar dir. Mae dros 4,500 o hawliau ac maent yn dal i ddod i mewn. Mae rhai o hen bobl fregus yn dychryn pan maent yn derbyn y llythyron, heb wybod yr hanes na dim byd arall am yr hawliau. Rwyf wedi bod yn helpu llawer ohonynt, a dweud y gwir.

Mr Davies: As a county councillor, I have had great difficulty around the land rights—Treffos manorial rights on land. There are over 4,500 rights, and they are still coming in. Some older, vulnerable people are scared when they receive these letters, without knowing the history or anything else about these rights. I have been helping a lot of these people, to be honest.

[22] **William Powell:** Potentially, this is coming at a favourable time, with the imminent emergence of the environment Bill. This is exactly the background to that, and two of the three Members that you have here today are actually involved directly with the Environment and Sustainability Committee. Russell George and I serve on that committee, and this is something that we could take some of the lead on within the committee, now that we have heard testimony at first hand. Russell, do you wish to add anything?

[23] **Russell George:** No, I am okay for the moment.

11:30

[24] **William Powell:** To be honest, your statement has been pretty comprehensive in addressing a number of the questions that I wanted to bring forward. Dr Pollock, do you have anything to add at this stage?

[25] **Dr Pollock:** I would like to see stronger regulations, but I would also like to see an independent arbitrator in places like Marian common, which would be somewhere for people to go and put forward their case. There would then be a balanced response, so that commons are not just taken out of the community's usage, really.

[26] **William Powell:** Could I ask you briefly what engagement there has been with the North Wales Police on any issues around criminal activity? I know that in the part of Wales that I come from, issues around off-road use have not seen a very active response from Dyfed-Powys Police, but that is often because of resource issues and other complexities. I do not know whether the council would like to add something in this regard.

[27] **Mr Davies:** Cefais fy ngalw i'r safle hon pan oedd y dinistrio yn digwydd, yng nghanol mis Mehefin, yn ystod amser nythu bywyd gwyllt. Gofynnais i fab y datblygwr a oedd wedi cael caniatâd, ac nid oedd wedi cael caniatâd. Bûm mewn cysylltiad â swyddog yr heddlu a oedd yn cydweithio gyda Chyngor Cefn Gwlad Cymru o ran byd natur, a dywedodd yntau fod y dystiolaeth i gyd wedi mynd, wedi'i dinistrio, ac oherwydd hynny, ni allai wneud dim byd. Ni allwn ddeall hynny. Roedd cynefin arbennig yno, gydag adar yn nythu a phopeth, ac yng nghanol mis Mehefin, canol y mis nythu, daeth y peiriannau mawr i mewn. Roedd ef yn dweud na allai wneud dim byd, am nad oedd unrhyw dystiolaeth. Nid oeddwn yn hoff iawn o'r ateb hwnnw, a dweud y gwir.

Mr Davies: I was called to this site when the destruction was taking place, during the middle of June, during the nesting time for wildlife. I asked the son of the developer whether he had had permission, and he had not. I was in contact with the police officer who was collaborating with the Countryside Council for Wales in relation to wildlife, and he said that the evidence had all been destroyed, and because of that, he could not do anything about it. I did not understand that. You had a special habitat there, with birds nesting and everything, and in the middle of June, in the middle of the nesting period, these big machines arrived, and he said that he could not do anything about it, because there was no evidence. I was not very happy with that response, if truth be told.

[28] **William Powell:** It sounds to me clearly like an environmental crime that should have been taken more seriously.

[29] **Mr Pollock:** I also wrote, along with several other people, to North Wales Police complaining that nothing had been done, especially at the time a four-wheel drive was driven up Snowdon, and the gentleman was prosecuted. I thought that would have been a fair case to answer on the Marian, because of the lorries and tractors being driven across it. However, a so-called investigation was carried out and it was said that there were no grounds for any prosecution at all.

[30] **Dr Pollock:** I do not think that any of us want to stop farmers from carrying out the things that they have to do. If you have an off-road vehicle it can go on common land, but I think our point was that the whole habitat was destroyed. The whole topography was changed. The earth was moved to make these tracks.

[31] **Mr Pollock:** Yes, they actually constructed a road where there had not been a road.

[32] **William Powell:** Have you yet engaged with the police and crime commissioner, Mr Winston Roddick, on this matter, or is that something that you would welcome us taking forward as a committee, potentially?

[33] **Dr Pollock:** I do not know what Lewis would think as a county councillor. Would that be—

[34] **Mr Davies:** Rwy'n meddwl ei fod yn syniad da. Mae'n debygol, fel mae pethau'n mynd, y bydd hyn yn digwydd ar dir comin mewn lleoedd eraill yng ngogledd Cymru neu drwy Gymru hefyd. Dyna beth roeddem ni yn dymuno heddiw yn y fan hon oedd sicrhau deddfwriaeth gryfach i wneud yn siŵr bod tir comin yn cael ei edrych ar ei ôl i'r dyfodol. Mae hynny'n bwysig iawn.

Mr Davies I think that that is a good idea. It is likely, the way that things are going, that this is going to happen on common land in other places in north Wales or throughout Wales as well. What we wanted to do here today was to ensure stronger legislation to make sure that common land is looked after for the future. That is very important.

[35] **William Powell:** I call on Russell George and then the last word will go to Bethan.

[36] **Russell George:** What conversations have you had with the farming unions, the National Farmers Union or the Farmers Union of Wales?

[37] **Mr Pollock:** We did not have any conversations at all with farming unions, or I did not, anyway, because it was deemed that common land was what we were looking at and the protection of it. We contacted all the bodies such as, at the time, the Countryside Council for Wales, which is now Natural Resources Wales, and the community council that, supposedly, was the custodian of the land. Wherever we turned, it was all directed back at us with nobody being willing to take a lead on it. In terms of the farming unions, I must admit that it had not occurred to me—

[38] **Russell George:** Perhaps we can write as a committee to seek the views of the farming unions on this matter.

[39] **William Powell:** Yes, we can write to the farming unions on the island, initially.

[40] **Russell George:** Yes, if they have not yet been engaged with on this, they will have views on this.

[41] **William Powell:** We will write to both of them and to Winston Roddick, as that was previously welcomed by Councillor Davies.

[42] **Mr Pollock:** I think that the Winston Roddick idea is quite good; it is just that no-one seemed to have any teeth. There are laws in place, but it is like saying that burglary is against the law, but if nobody is prosecuted for burglary—

[43] **William Powell:** Absolutely. There is no credibility, is there?

[44] **Mr Pollock:** Yes. The law is in disrepute.

[45] **Dr Pollock:** I think that it is a case of looking forward, rather than looking back at what happened, because we cannot really change that now. The shrubs are growing back—

[46] **William Powell:** It is about trying to learn from the episode.

[47] **Dr Pollock:** Yes, that is right. We do not want this to happen to us or to other people in the future. I think that that is the point. We are not trying to persecute anyone; we would just like the law to be that this cannot happen to the natural habitat.

[48] **William Powell:** Daw'r cwestiwn olaf wrth Bethan Jenkins.

William Powell: The final question comes from Bethan Jenkins.

[49] **Bethan Jenkins:** Roeddwn yn trio deall peth o'r cefndir, ac rydych chi wedi dweud, Lewis, eich bod wedi cwyno wrth y bobl oedd yn gwneud hyn, ac iddynt hwy ddweud nad oeddent wedi cael caniatâd. O dan adran 41 o'r Ddeddf, mae'n dweud os nad yw'r Gweinidogion wedi rhoi hawl iddynt fynd ar y tir neu i wneud y gwaith penodedig hwnnw, mae'r Gweinidogion yn gallu gweithredu yn eu herbyn. A oedd yr adran honno wedi cael ei defnyddio mewn unrhyw ffordd? Rwy'n trio deall beth sydd yn anghywir neu ddim yn digwydd nawr i ni fel pwyllgor allu cynnig sut mae gwella'r ddeddfwriaeth. A ydym ni'n gallu edrych ar dargedu elfennau eraill? I mi, sut mae gwneud i hyn weithio yw'r peth pwysicaf. Os nad yw'r ddeddfwriaeth yn gweithio, sut ydym ni'n gallu sicrhau ei fod yn gweithio?

Bethan Jenkins: I was trying to understand some of the background, and you have said, Lewis, that you had complained to the people who did this, and that they had said that they had not received permission. Under section 41 of the Act, it says that if the Ministers have not given them the right to go on the land or to do that appointed work, the Ministers can take action against them. Was that section used in any way? I am trying to understand what is wrong or what is not happening now so that we as a committee can put forward ways of improving the legislation. Can we look that targeting other elements? To me, making this work is the most important thing. If the legislation does not work, how can we ensure that it does?

[50] **Mr Davies:** Diolch am yr wybodaeth honno. Rwyf wedi bod yn aelod o Gyngor Cymuned Llangoed a Phenmon ac mae tir comin y Marian yn yr ardal hon; rwyf hefyd yn gynghorydd sir ers ychydig o flynyddoedd. Ar ôl i mi gael fy ngalw yno yn ystod y difrodi, cysylltais â phob adran yn y cyngor sir roeddwn i'n teimlo y byddai'n medru bod o gymorth. Nid oedd un ohonynt yn medru rhoi cymorth i mi. Nid oedd y cyngor cymuned oedd â hawliau'r tir comin

Mr Davies: Thank you for that information. I have been a member of Llangoed and Penmon Community Council, and Marian common is in this area; I have also been a county councillor for a few years. After I was called there when the destruction happened, I got into contact with every single department in the county council that I thought could be of assistance. Not one of them could give me any assistance. The community council, which had the rights for the common land,

yn medru gwneud dim byd yn erbyn hyn. Byddai wedi bod yn braf pe byddwn wedi medru codi'r ffôn, ffonio'r cyngor sir a gofyn i'r adran orfodaeth yn yr adran gynllunio i fynd yno'n syth i hel tystiolaeth ac i wneud rhywbeth yn ei gylch. Roeddwn yn bwrw wal bob tro roeddwn yn trio gofyn am gymorth gan y cyngor sir—dim ond esgusodion a gefais, neu roeddent yn dweud wrthyf nad oedd ganddynt hawl i wneud hynny. Felly, byddwn yn hoffi cryfhau'r rheolau rhwng y Cynulliad, y cyngor sir a hefyd y cymunedau—bydd rhywbeth fel hyn yn digwydd eto i gyngor cymunedau, ac nid oes ganddynt y pwerau. Yn y cynghorau sir, mae adrannau cyfreithiol a ddylai fedru bod yn gymorth i gyngor cymunedol pan fydd pethau fel hyn yn digwydd, ond ni ddigwyddodd hynny yn yr achos hwn.

could not do anything against this. It would have been good if I could have picked up the phone, phoned the county council and asked the enforcement department in the planning department to go there straight away to collect evidence and to do something about it. I was hitting a brick wall every time that I asked for assistance from the county council—there were just excuses or they would say that they did not have the right to do that. So, I would like to strengthen the regulations between the Assembly, the county council and community councils—something like this will happen again to community councils, and they do not have the powers. In county councils, there are legal departments that should be able to provide assistance to community councils when things like this happen, but it did not happen in this instance.

[51] **Bethan Jenkins:** Felly, fe fyddech yn anghytuno â'r hyn y mae'r Gweinidog yn ei ddweud yn ei lythyr bod y pwerau yn ddigon cryf fel y maent?

Bethan Jenkins: So, you would disagree with what the Minister says in his letter that the powers are sufficiently strong at present?

[52] **Mr Davies:** Nid ydynt yn hanner digon cryf

Mr Davies: They are not half as strong as they should be.

[53] **William Powell:** Diolch o galon am ddod y bore yma.

William Powell: Thank you very much for coming along today.

[54] It has been really helpful for us to gain an understanding at first hand from your testimony of what the specific concerns are, and how, in a number of different ways, we can take this forward. Given the time constraints this morning and the programme that we need to fit into, we need to defer consideration of your evidence, but we have a number of actions coming out of this morning anyway. We will be considering the evidence in the round at our meeting on 26 November. Thank you very much indeed for what you have contributed today to our consideration of this petition.