



Report

Site visit made on 10 December 2025

by Vicki Hirst BA(Hons) PG Dip TP MRTPI

an Inspector appointed by the Welsh Ministers

Date: 31/12/2025

COMMONS ACT 2006

APPLICATION TO DEREGISTER PART OF SUTTON MOUNTAIN COMMON (047), AND
PROVIDE REPLACEMENT LAND

REFERENCE: CAS-04319-T7H4Z2

Appeal Reference: CAS-04319-T7H4Z2

Site Address: Sutton Mountain Common, Portfield Gate, Pembrokeshire

- The application dated 21 May 2025 is made under Section 16 of the Commons Act 2006 to deregister and exchange land registered as common land.
- The application is made by Mr Kevin John Lindsell.
- The Release Land comprises 1030 m² of land located to the north-west of Plash Cottage, Portfield Gate, Pembrokeshire.
- The Replacement Land comprises 1738m² of land located to the north-west of the Release Land and adjoining Sutton Mountain to the south-west and north-east.
- The application is made to alter access for those with grazing and commons rights.

Summary of Recommendation: That the application be granted and a Deregistration and Exchange Order be made.

Procedural Matters

1. Section 16 of the Commons Act 2006 (the 2006 Act) provides, amongst other things, that the owner of any land registered as common land may apply for the land (the Release Land) to cease to be so registered. If the area of the Release Land is greater than 200 m² a proposal must be made to replace it with other land to be registered as common land (the Replacement Land). If granted an Order would be made under section 17 of the 2006 Act.
2. The application was advertised in the Western Telegraph on 13 August 2025. Notices were posted at the main points of entry to the lands and sent to various consultees. The relevant documentation was posted at Pembrokeshire County Hall. Letters were also sent to all known commoners and other relevant parties.
3. I undertook a site visit on 10 December 2025 to both the Release and Replacement Lands.

The Site and Surroundings

The Release Land

4. The Release Land comprises a rectangular parcel of land located immediately to the north-west of the residential property, Plash Cottage. The land contains an old quarry and at the time of my site inspection it was rough grazing land albeit with a large part of it overgrown with a mixture of gorse and scrub. It is approximately 1030m² in area.

The Replacement Land

5. The Replacement Land also comprises a rectangular parcel of land to the north-west of Plash Cottage, this parcel being located approximately 120 metres away. The land predominantly comprises open rough grazing land. It is approximately 1738m² in area.

The Proposals

6. The deregistration and exchange is proposed following changes in ownership and boundaries of land. The exchange is intended to facilitate easier access for those with rights to use the common from one part of the common whilst moving the access strip away from the residential property Plash Cottage.

Representations

7. Two representations were received as a result of the published notices of the application. Camrose Community Council raise no objection in principle to the exchange taking place although comment that they have no funds to facilitate it.
8. The Open Spaces Society (the OSS) comments that it has no strong objection to the proposal and recognises the exchange will improve accessibility between the blocks of common to the east and west. However, concerns are raised that the Replacement Land will be connected to the remainder of the common by gates. Its view is that the land should be left open and unenclosed at each end so that the public and grazing livestock can pass freely through the corridor. It states that the installation of gates will suggest that the land is private and will enable the owner of the land or third parties to interfere with the passage of livestock or lock the gates. It is therefore suggested that the application is modified to remove all or most of the vegetation at each end with no means of enclosure. It is noted that such clearance would need to comply with the Hedgerows Regulations 1997.

INSPECTOR'S APPRAISAL

The Statutory Requirements and Guidance

9. Based on the provisions of Section 16 (6) of the 2006 Act I consider the main considerations upon which this decision should be based are:
 - a) The effect of the proposal on the interests of persons having rights in relation to, or occupying, the Release Land;
 - b) The effect of the proposal on the interests of the neighbourhood;
 - c) The effect of the proposal on the public interest including nature conservation, the conservation of the landscape, the protection of public rights of access and the protection of archaeological remains and features of historic interest; and
 - d) Any other matter considered to be relevant.
10. The Welsh Government has published guidance for the Welsh Ministers, the Planning Inspectorate (Wales) (now PEDW), commons registration authorities and applicants (the Guidance). It provides advice in relation to the determination of casework in relation to common land in Wales and, amongst other things, seeks to ensure that the stock of common land is not diminished and that any deregistration of registered land is balanced by the registration of other land of at least equal benefit. I have taken it into account in making my recommendations.

The effect of the proposal on the interests of persons having rights in relation to the Release Land.

11. There are 13 rights holders with rights to grazing and estovers on the overall common. The applicant states that the Release Land is not subject to a right of access for the public under the Law of Property Act. Nonetheless, I have no reason to believe that the rights for public access on open access land afforded by the Countryside and Rights of Way Act

2000 (CROW Act) do not apply to the Release Land. I consider the effect on the public's rights further below.

12. Whilst the applicant states that the grazing rights have not been exercised for 20 years those rights remain in place and could be reinstated at any time. At present if grazing takes place, access between the east and west sides of the common is facilitated by the use of the strip of land immediately to the north-west of the applicant's property and on the southern boundary of the overall common.
13. The proposal would relocate the access strip to a more central position within the overall common and away from the boundary of the residential property. It would be contiguous with and connect the two sides of the common and would be slightly larger in area than the Release Land. It would also be located away from the old quarry area.
14. No objections have been raised by those who hold rights. In my assessment the relocation of the access strip to a more central location would be beneficial to the movement and management of stock on the common should the grazing rights be exercised. The land is part of the same parcel as the Release Land and is of the same quality and type of grazing with less encroachment of gorse and scrub.
15. I note the concerns raised by the OSS. Whilst I acknowledge that common land should be left open and unenclosed wherever possible, in this case the strip of land will be required to be fenced on either side to contain the private land and control stock on either side. I noted on my site visit that the Release Land had been fenced in this way in the past as the remnants of a fence were still evident.
16. Furthermore, I am satisfied that the provision of gates at either end would enable stock to be contained if necessary. This could be within the fenced strip for clearance of the area as the applicant suggests and which would assist in controlling encroaching vegetation (and which would be preferable to the use of machinery). Alternatively, it could be on either side of the Replacement Land as part of managed grazing. The applicant is also agreeable to providing signage on the gates to indicate that the land is open to the public.
17. Therefore, on balance, I am satisfied that the proposal, including gates, would not unacceptably interfere with the interests of those having rights over the land.

The effect of the proposal on the interests of the neighbourhood

18. There is no definition of neighbourhood in the 2006 Act. The common is located in relatively close proximity to Sutton, Portfield Gate and Haverfordwest and is likely to be used for recreation and exercise by residents from those areas under the rights afforded by the CROW Act.
19. However, the proposal would not materially affect the use of the common for recreation and enjoyment and would continue to provide access between its east and west sides. Whilst it is intended to provide gates at each end of the Replacement Land, there is no intention for these to prohibit public access and signage will be provided in this regard.
20. I noted on my site visit that the Release Land is currently unable to be fully used for access due to the encroachment of scrub at its western end. I also note that the applicant states the local residents' association would like to extend the footpaths from the east to the west side of the common and the location of the Replacement Land would make this task easier.
21. As such I conclude the proposal would not impact on the interests of the neighbourhood.

The Public Interest

Nature Conservation

22. Nature conservation is defined in the 2006 Act as “the conservation of flora and fauna and geological and physiographical features”. Neither the Release nor Replacement Land are located in or near an area subject to any statutory nature conservation designations.
23. No ecological assessment has been provided of either the Release or Replacement Land with the application. However, both areas of land are within the same parcel of land and from my observations on site comprise of unimproved grassland, scrub and bracken. No changes are proposed to the land in this application, and I have no reason to believe that proposal would be harmful to the nature conservation interests.
24. As such I conclude there would not be an impact on the public interest in nature conservation terms.

Conservation of the Landscape

25. Neither area of land lies within a specially designated landscape. They are within the same part of the landscape and whilst fencing is proposed on the Replacement Land, I noted there were other areas of fencing in the vicinity. Therefore, I do not find the proposed fencing would cause any adverse effects on the character of the landscape.
26. I conclude there would not be harm to the public interest in landscape terms.

Archaeological Remains/Historical features

27. Cadw has not raised any concerns with the application. On the evidence before me and from my own observations on site, I am satisfied that there are no archaeological remains or features of historic interest that would be affected by the proposals.

Public Access

28. As set out in my considerations of the neighbourhood above, I am satisfied the proposal would not materially affect public access across the common and would continue to provide a link between the east and west sides of the common.
29. The proposal would therefore not be harmful to public access.

Conclusions on the Public Interest

30. Overall, I conclude that in relation to matters of public interest, there would not be harm arising from the proposals.

Other Relevant Considerations

31. No other relevant matters have been put forward that should be taken into account.

Conclusions

32. I conclude that the proposal would not unacceptably interfere with the interests of those exercising their rights or using the common for recreation and exercise. It would not be harmful to the interests of the neighbourhood or the public interests arising from nature conservation, landscape, archaeological remains or features of historic interest. The proposal would be in conformity with the Welsh Government’s policy objectives and Guidance to only allow the deregistration of common land where that is balanced by the registration of other land of at least equal benefit.

33. I have had regard to all other matters raised but find none that would lead me to a different conclusion. I conclude that the application should be approved and that a Deregistration and Exchange Order be made.

34. In making my recommendation I have taken into account the requirements of sections 3 and 5 of the WBFGA. I consider that my recommendation is in accordance with the Act's sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives as required by Section 8 of the WBFG Act.

RECOMMENDATION

35. I recommend that the application to deregister and exchange land at Sutton Mountain Common, Portfield Gate, Pembrokeshire is approved and that an Order pursuant to Section 17 of the 2006 Act be made.

VK Hirst

INSPECTOR