Application Decision

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by Vicki Hirst BA(Hons) PG Dip TP MA MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 12/05/2026

Appeal reference: CAS-04614-C0V7Z0

Site address: Wolfscastle Village Green, Wolfscastle, Pembrokeshire

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- The application dated 20 February 2023 is made under Section 19(4)(b), and for the purposes of Section 19(2)(a) of the Commons Act 2006.
- The application relates to Wolfscastle Village Green (VG5), and the Commons Registration Authority is Pembrokeshire County Council.
- The application is made by the Open Spaces Society.
- The application seeks the correction of an alleged mistake made by the Commons Registration Authority in making or amending an entry in the Register of Town or Village Greens.
- A site visit was made on 10 December 2025.

Decision

1. The application is refused, and the land shall not be registered as part of the village green.

Procedural Matter

2. Regulation 15 of the Commons Act 2006 (Correction, Non-Registration or Mistaken Registration (Wales) Regulations 2017 (the Regulations) requires the relevant registration authority to refer any application made in accordance with these Regulations to the appointed person in certain circumstances. These are where the registration authority has an interest in the outcome of the application or proposal such that there is unlikely to be confidence in the authority's ability to determine it impartially, or where a person having a legal interest in the land has made representations amounting to an objection, and the application has been made to add land to a register under section 19(4) of the 2006 Act.

3. Pembrokeshire County Council (the Council) is the relevant registration authority (CRA). It is also the owner of the application land. As the Council has a legal interest in the land, in accordance with the Regulations, the application has been referred to me as the appointed person to determine the application on behalf of the Welsh Ministers.

Background and the Application

4. The application seeks to correct an alleged mistake made by the CRA when it determined an application made on 12 March 1968 by St Dogwells Parish Council to

register Wolfscastle Village Green (VG5) under Section 4 of the Commons Registration Act 1965 (the 1965 Act).

5. The plan submitted with the application in 1968 identified a red hatched area surrounding the school as the land to be included in the registration of the village green. The land extended to the north to the property marked at the time as P.O. (and shown on modern maps as Wolf's Castle Farm) and included a road/track extending east to west across the width of the land sought to be registered.

6. The CRA provisionally registered the land in its Register of Town or Village Greens (the Register) on 27 March 1968. The associated Register map shows the registered land in green. It excludes the road/track running from east to west and a strip of land to the immediate south and a further track that runs from that land to the west and south of the school to join the road that follows the eastern and southern perimeter of the registered green.

7. It is contended that the plan of the green included with the application was incorrectly transposed and part of the application land was excluded from the provisional registration of the village green. The application seeks to rectify the alleged mistake by registering most of the land that was excluded. However, it does not seek to register the stretch of track that passes to the immediate west and south-west of the school.

Main Issues

8. In determining this application under Section 19(2)(a) of the 2006 Act, I need to be satisfied that the evidence submitted is sufficient to show, on the balance of probabilities, that a mistake was made by the CRA when it determined an application by St Dogwells Parish Council in 1968 and recorded VG5 on the Register.

9. Notwithstanding, I may not correct a mistake in the register if I consider that, by reason of reliance reasonably placed on the register by any person or for any other reason, it would in all the circumstances be unfair to do so.

Reasons

10. Section 4 of the 1965 Act as originally enacted stated that a registration authority shall register any land as common land or a town or village green on application duly made to it and accompanied by such declaration and such other documents (if any) as may be prescribed for the purpose of verification or of proving compliance with any prescribed conditions. Section 22 of the 1965 Act defines a town or village green as land "which has been allotted by or under any Act for the exercise or recreation of the inhabitants of any locality or on which the inhabitants of any locality have a customary right to indulge in lawful sports or pastimes or on which the inhabitants of any locality have indulged in such sports and pastimes as of right for not less than twenty years".

11. The CRA has not provided any substantive reasons as to why it believes that the land was omitted from the Register. From the evidence I have before me, the area of land that was excluded from the provisional registration is indicated on the map accompanying the 1968 application as roads/tracks. A note attached to the registration states that the Council claims a right of vehicular access to the school by means of a metalled road connecting at two points to the County highway to the north of the school and a right of pedestrian access by steps from the old County highway on the eastern side. I noted on my site visit that the road to the north of the school is now a public highway and the connecting road accessing the school is in situ. This access to the school falls largely within the registered village green.

12. I wrote to the applicant and CRA seeking their views on what the status of the roads/tracks at the time of the application would have been in 1968 (ie whether they were public highways used for vehicular traffic and whether they were surfaced). I also sought views as to how the land was enjoyed prior to/at the time of the 1968 application with regard to the implications of the presence of tracks/roads on the definition of a village green and the right to indulge in lawful sports and pastimes. I have taken the responses I received into consideration in my decision.

13. I agree with the applicant that it is necessary to show that the omitted land was, at the time of the application in 1968, eligible for registration. In this regard, the note attached to the registration refers to a county highway to the north of the school. I have no reason to disagree with the CRA that given there is a requirement to provide a "metalled" connecting road from the school to this highway it is likely that the county highway was also surfaced at this time. I am also satisfied that the description of the road as a County highway suggests that this road was a public highway in 1968.

14. Whilst the 1965 Act as originally enacted did not prohibit the registration of highways in themselves as part of village greens, it is nonetheless necessary to consider whether the roads/tracks fell within the definition of a village green in the 1965 Act as set out above.

15. There is no evidence before me to suggest that the omitted land was allotted by or under any Act for the exercise or recreation of the inhabitants of any locality. Neither have I any evidence that it has been established that the inhabitants of any locality have indulged in such sports and pastimes as of right for not less than twenty years on the land the subject of this application.

16. In respect of the customary right to use the land for sports or pastimes as claimed by the applicant, the CRA has advised that it has no evidence to indicate the recreational use of the land at the time of the 1968 application and I have no other evidence as to the nature of the sports or pastimes alleged to be a customary right on the green.

17. In my view, the presence of roads/tracks would have had the potential to interfere with the right of inhabitants to indulge in sports or pastimes and thus potentially render the land to fall outside the definition in the 1965 Act. In the absence of information as to what those activities were, I am unable to assess how these might or might not have been compatible with the use of the roads/tracks.

18. I acknowledge that roads/tracks in the past would have been of a very different character and used differently to those in modern times. Nonetheless, the OS map of 1887 provided by the applicant shows a pecked double line indicating some form of track to the north of the school. It also contains other similar annotations suggesting other tracks within the area now registered as village green, although not depicting the length of path to the immediate east of the school, and subject of the application before me. However, although the applicant suggests there were footpaths to the north and west, these annotations do not indicate any status of the paths and thus the type of use they would have been put to.

19. I have no other evidence before me to indicate how the indicated roads/tracks across the village green were used prior to 1968. Whilst they will have undoubtedly been made up into surfaced and publicly maintainable highways in more recent years, I have no evidence before me as to how, and to what extent, they were used in the past, and whether any use by either horse and cart, people and latterly vehicles might have interfered with or been incompatible with the use of those parts of the green for lawful sports and pastimes. In the absence of any information on the nature of the roads/tracks or the sports and pastimes that took place on the green, it is not possible to reach a view as to whether they could have co-existed or if any lawful sports and pastimes were

merely undertaken through the right of passage over a public highway rather than as a customary right.

20. I have taken into account the fact that the CRA clearly accepted that the area now registered as village green fell within the definition within the 1965 Act when it determined the 1968 application and did include a part of the green that contains a similar pecked marking to that referred to above on the 1887 map. I also acknowledge that the application in 1968 was accompanied by the statutory declaration of the clerk of St Dogwells Parish Council stating that they believed the land described in the application was a town or village green and by a letter stating that the land had been conveyed to the Haverfordwest RDC in 1920 for it to hold in fee simple upon trust to preserve the land for the recreation of the public. However, no other evidence has been provided to show that such recreation use took place across the roads/tracks that were subsequently omitted from registration.

21. I also note the CRA's comment that the highways authority commented or objected to village green applications that were seen as conflicting with the highway network and that they specified a width and a verge. However, this does not assist as it is not clear if such a comment was made. No comment has been received from them in respect of the application before me. Notwithstanding, even if they had raised the matter of a conflict, this would not indicate whether historical customary rights had been established over those areas that were omitted and were evidently used as some form of track or road.

22. Taking account of the above and despite the applicant's contentions, I have no substantive evidence that at the time of the 1887 survey (or indeed at any time up to the application in 1968) that any customary rights were exercisable over the roads/tracks that lay across the village green and within the omitted area.

23. As such, it is not possible to reach a view as to whether the CRA made a mistake by omitting the land or deliberately left it out as it did not fall under the definition of a village green in the 1965 Act or for any other reason besides. In the absence of being able to reach that view, I am unable to conclude on the balance of probabilities that the land excluded from the registration was a mistake made by the CRA.

Conclusion and Formal Decision

24. I have taken into consideration all other matters raised. No matters alter my findings that I am unable to conclude, on the balance of probabilities, that a mistake occurred in relation to the registration of VG5 through the omission of part of the land applied for. The application is therefore refused, and the entry in the Register shall not be amended to include the land as part of the registered green VG5.

Vicki Hirst

INSPECTOR