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| **Application Decision** |
| Site visit made on 30 July 2025 |
| **by Mark Yates BA(Hons) MIPROW** |
| **an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 16 October 2025** |

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| **Application Ref: COM/3354574**  **Lower Cow Pasture, located near Bow Farm, Twyning, Gloucestershire** |
| Register Unit: CL46 |
| Registration Authority: Gloucestershire County Council |
| * The application was submitted on 24 October 2024 and is made under Section 16 of the Commons Act 2006 (‘the 2006 Act’) to deregister and exchange land registered as common land. * The application was made on behalf of Moreton C. Cullimore (Gravels) Limited. * The release land comprises of 2,900² of land in the north eastern part of Lower Cow Pasture. * The replacement land comprises of 10,000² of land on the eastern side of the Mythe Brook.  |  | | --- | |  |   **Decision** |

1. The above application is granted.

**Procedural Matters**

1. The applicant has provided a replacement plan stated to be at a scale of 1:2500 showing the extent of the release and replacement lands and this is attached tothe Decision.
2. Although there is the potential for a more extensive consultation exercise to be undertaken, the applicant confirms that they consulted with all of the required parties when making the application. A number of representations have been made in response to the application and these mainly object to the proposed exchange.

**Main Issues**

1. I am required by Section 16(6) of the 2006 Act to have regard to the following in determining this application:-
2. the interests of persons having rights in relation to, or occupying, the release land (and in particular persons exercising rights of common over it);
3. the interests of the neighbourhood;
4. the public interest which includes the interest in nature conservation, the conservation of the landscape, the protection of public rights of access to any area of land and the protection of archaeological remains and features of historic interest; and
5. any other matter considered to be relevant.

**Reasons**

***The Application***

1. The purpose of the application is to enable a haul road to be constructed in connection with a sand and gravel extraction site for which planning permission was granted on appeal. This haul road would comprise of a crushed aggregate surface. It is intended that the site would be operative for a period of 9 years with the haul road subsequently removed and the land reinstated.
2. It is not my role to look at the merits of the planning permission granted for the site and various issues were considered when consent was granted for the development. There is also nothing to show that the suggestion by some of the objectors that material could be moved by river barges is a viable option in terms of this site. Further, in paragraph 74 of the planning appeal decision, the Inspector states **‘***I am satisfied that there would be no realistic possibility of the use of wharf and river transpor*t’.

***The interests of those occupying or having rights over the release land***

1. Both the release land and replacement land are stated to be owned by the applicant. It is not evident that any private rights of access would be adversely affected by the proposed exchange.
2. There are rights of common recorded in the Common Land Register for the grazing of livestock. It is acknowledged that these rights are still exercised over the wider common. However, the registered rights are stated to have not been exercised in connection with Lower Cow Pasture for many years. It is further stated that only the applicant makes use of the release land.
3. Reference is made by the applicant to the complex way that these rights are exercised over the common which is disputed to some extent by one of the objectors. However, in terms of the release land, nothing has been raised to suggest that anyone has exercised rights of common over this part of the common for some time. Further, if the exchange is granted, any rights exercisable over the release land would be transferred to the replacement land.
4. From the information provided, it is not evident that there is anyone having rights over the land who would be adversely affected by the proposed exchange of common land.

***The interests of the neighbourhood***

1. The impact of the application on members of the public generally is considered below. These matters will have particular relevance to local people. There is nothing to indicate that there are any other matters that would impact on residents of the neighbourhood alone.

***The public interest***

1. There is nothing in the responses of Historic England and the Gloucestershire Archaeological Team to indicate that the exchange would impact on any archaeological remains or features of historic interest.
2. The release and replacement lands are not located within a designated site. Although temporal in nature, there would invariably be a change in the nature of the land in the locality as a consequent of the grant of planning permission. However, the impact of the development on the immediate environment was considered as part of the planning appeal. I need to consider the impact of the proposed exchange of common land.
3. The applicant points to the potential benefits for nature conservation through the management of the replacement land. It is stated that the separation of the replacement land from the adjoining arable land by means of fencing and resultant control of cultivation and grazing management wouldaid the promotion of a target habitat in this area of the Common. The applicant considers that this would result in increased biodiversity and ecological benefit to the Common as a whole. I note that Natural England accepts that there is potential for the nature conservation value of the replacement land to be enhanced by the exchange.
4. The main concerns of the objectors focus on the impact that the exchange would have on public access. If approved, the exchange would legally sever direct access between the areas of common lying to the north and south of the release land. In order to address the concerns of the objectors, the applicant has entered into a unilateral undertaking with Gloucestershire County Council for the provision of access over the release land. In practical terms this land would only be fenced where it meets the public bridleway to the east. The applicant considers boundary markers such as boulders to be suitable alternatives to warn the public of the presence of the haul road.  The fencing near to the bridleway would be removed when the development is decommissioned and the site restored.
5. Clause 4.1 of the unilateral undertaking provides for continued public access over the release land in perpetuity, and this should provide some comfort for users of the common. However, Clauses 4.3 and 4.4 specify that the landowner may suspend, limit or revoke the permission in certain circumstances. The objectors are understandably concerned that access could be withdrawn. I also note that the applicant is unwilling to dedicate any public right of way between the two areas of land in the future.
6. The applicant has highlighted the limited circumstances when access may be denied and these centre on health and safety concerns. This could require the erection of additional fencing during the 9 year operational period of the development. However, Clause 4.5 of the undertaking requires the installation of a crossing point at any point where the release land is fenced in order to maintain access for livestock and the public.
7. In terms of the replacement land, Clause 4.2of the undertaking makes provision for public access until such date that the maps of open access land are updated.
8. The public bridleway serves as a link between Puckrup Lane and the replacement land, but it does not directly connect the two areas of common severed by the exchange. The bridleway sits outside of the release land and the impact of the development on the bridleway is not a matter that is relevant to this application. The same is applicable to the present route used by the public on site. I also understand that there is presently no proposal to re-align the bridleway. The applicant says that the release land would be fenced where it is close to the bridleway in response to concerns raised by the British Horse Society.
9. Clause 4.6 of the undertaking makes provision for the upgrading of an existing bridge over the Mythe Brook to the north of the replacement land which facilitates access between areas of common on either side of the brook. Although not directly related to the exchange, this should serve to provide a more convenient means of access over the brook.
10. I consider that there is a reasonable expectation that Gloucestershire County Council as both the commons registration authority and local planning authority would take appropriate action should the applicant or their successors in title fail to adhere to any of the provisions in the undertaking.
11. I appreciate the concerns of the objectors, and I have explored further the issue of access between the areas of common either side of the release land. The responses of the applicant point to additional fencing only being erected in the event that it is considered necessary for health and safety reasons. If no such issues arise then unrestricted access would continue to exist. In the event that fencing is erected, the undertaking makes provision for access to continue to be made available at designated points. It is likely that following the end of the operational period of the development, any health and safety concernswould dissipate. The bridleway also provides access between the areas of common via the replacement land.
12. Overall, I am satisfied from the details provided that access would be maintained between the different parts of the common if the exchange were granted. The exchange would also lead to an increase in the size of the common and offers potential benefits in terms of nature conservation.

**Conclusion**

1. Having regard to these and all other relevant matters raised in relation to the application I conclude on balance that the application should be granted.

Mark Yates

**Inspector**

**Order**

On behalf of the Secretary of State for Environment, Food and Rural Affairs and pursuant to Section 17 (1) and (2) of the Commons Act 2006, **I HEREBY ORDER** Gloucestershire County Council, as Commons Registration Authority for the area in which the release land and the replacement land are situated:

(a) to remove the release land from its register of common land, by amending register unit CL 46 to exclude the release land;

(b) to register the replacement land as common land, by amending the register unit CL 46 to include the replacement land;

(c) to register as exercisable over the replacement land (in addition to remaining exercisable over the remainder of the land comprised in register unit CL46) any rights of common which, immediately before the date on which the release land is removed from the register, are registered as exercisable over the release land and the remainder of the land comprised in register unit CL46.

**First Schedule** **–** the release land

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| **Colour on Plan** | **Description** | **Extent** |
| Edged red | Land located in the north eastern part of Lower Cow Pasture. | 2,900m² |

**Second Schedule** **–** the replacement land

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| **Colour on Plan** | **Description** | **Extent** |
| Edged light green | Land located on the eastern side of the Mythe Brook. | 10,000m² |

