

Pembrokeshire Commons: Successional Health Check

Report for Arwain Sir Benfro



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3rd Draft
August 2018



Cover: Looking over from Carn Llidi (CL81) over Carnedd Lleithyr (CL82) towards Tretio (CL52) and other smaller areas of lowland common

Brackenbury, S & Jones, G (2018) Pembrokeshire Commons - Successional Health Check

The authors wish to thank the many individuals and organisation which gave their help, expertise, data and support to the drawing up of this report, including PLANED, Pembrokeshire County Council, Pembrokeshire Coast National Park Authority, the National Trust, the Wildlife Trust of South and West Wales, Natural Resources Wales and the Welsh Government. Particular thanks go to the commoners of Pembrokeshire, without whom this work would have been next to impossible. Needless to say, we don't claim to speak for any of these organisations or individuals and all errors are our own.

This report is funded by Arwain Sir Benfro and financed by the Welsh Government and European Union through the Wales Rural Development Plan 2014-20. The views expressed do not necessarily reflect those of the funders.



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Summary

The purpose of this study is to investigate the current level of agricultural activity on the commons of Pembrokeshire and to predict the likely future levels of activity based on an assessment of the prospects of family and non-family succession by individuals likely to have an interest in grazing the commons.

The need for a 'Successional Health Check' arose from a Wales-wide study, published in 2016, which was undertaken to investigate the state of pastoral commoning in Wales. In order to understand better the reality behind the bald questionnaire data, further detailed research has been undertaken in Pembrokeshire.

There are a total of 2235 Common Land Units (CL) in Wales, of which 244 are in Pembrokeshire. These cover an area of 5,310ha, which is 3.34% of the land area of the county. The majority of these commons are very small, with 218 being below 3ha, which is the threshold for eligibility for the Glastir agri-environment scheme.

85% of the common land area is in the National Park and 72% is designated as a Site of Special Scientific Interest, with 61% also being a Special Area for Conservation under the EU Habitats Directive. They are the largest areas of both dry and wet heath in the county and provide the largest deposits of carbon in the form of peat in the county. They play a significant hydrological role, in terms of both water flows and water quality.

Using Basic Payment Scheme (BPS) claims as a surrogate for agricultural use, we estimate that around 30% of common land units are grazed, but with non-use being especially prevalent on the smaller commons, around 90% of all the common land area is used by livestock.

A similar pattern emerges for agri-environment. 4% of common land units are in Glastir Common Land Element, with another 5% participating in mainstream Glastir through individual farm contracts; 91% of common land units are not in the scheme. On the other hand, 54% of the common land area is in Glastir Common Land Element, with only an additional 1% entered through individual farm agreements; 45% of the common land area is not in Glastir.

Where there is no landowner registered, the local authority can act in lieu of the landowner under the provisions of Section 45 of the Commons Act 2006. There are 121 S.45 commons in the country – 48% of all registered common land units - with a total area of 770.9ha. 58% are below 1ha in area, while only 14% are over 10ha in size, with a total area of 608ha. On 69 S.45 commons, no grazing rights are registered. The report details some of the unusual apparently extra-legal uses of S.45 commons. A Council review of S.45 commons indicates that nearly half (59 of the 121 CL Units) of commons have full or partial adverse possession claims.

11 of the S.45 commons have a nature conservation designation. All but two of these need some form of intervention to bring them into 'Appropriate conservation management', that is, management which is capable of bringing the key features into 'unfavourable recovering' or 'favourable' condition. Only 4 of the designated commons have registered grazing rights.

A number of governance and/or management regimes are found within the county, ranging from grazing associations and Courts Leet to partnership arrangements which can include non-rightsholders and finally to sole grazier commons and S.45 commons.

Factors identified as key to the future of commoning in Pembrokeshire were:

1. Loss of critical mass of grazier activity
2. Isolation between graziers associations
3. Various aspects of agri-environment, which can be summarised as a seeming inability to formulate agreed visions for the future of commons which are empowering, socio-economically and environmentally sustainable and which deliver consistently for both objectives.
4. Lack of economic (and social) opportunities in common land grazing systems, especially but not only for new and young entrants. The mismatch between the Payment for Ecosystem Services rhetoric and current opportunities is highlighted.
5. Poor communication with the wider public, not least through social media
6. Uncertainty, not least over Brexit and possible associated policy changes, compounded by lack of relevant knowledge-transfer opportunities
7. Challenges concerning legislation and lack of willingness so far to experiment with possible innovations, using powers granted in the Environment (Wales) Act 2016
8. Bovine TB

Recommendations

1. Investigate with grazing associations the opportunity to develop a networked 'group' of commoners at county level
2. Review communication and the use of technical language in discussion expectations of graziers in delivering environmental benefits through agri-environment measures. Ensure NRW senior staff engage effectively with graziers, fully explaining the designated site's situation, special features and monitoring
3. Investigate what an outcome-based system could offer in empowering graziers to understand and deliver against an agreed set of mutually agreed outcomes.
4. Apply the ways of working and the principles of Sustainable Management of Natural Resources (see Annex 2) as the means to enable that engagement.
5. Ascertain the value of pastoral agriculture in delivering societal benefits.
6. Establish the cost of 'buying-in' ecosystem service delivery from graziers. What would it cost to sustain existing activity on a Paying for Ecosystem Services (PES) basis?
7. Develop a social media strategy for commons within Pembrokeshire
8. Establish a wider partnership group within Pembrokeshire representing key commons and grazing stakeholders
9. Identification of all law which is applied to commons and can either support or impact upon management and resilience of grazing activity
10. Ensure that, as in England, Wales sets up a derogation for de minimis works for the erection of temporary stock enclosures
11. Test new ways of working within and outwith existing legislation with a view to reform of legislation using the provisions within the Environment (Wales) Act 2016
12. In liaison with the Bovine TB group investigate the trial introduction of common land TB management plans within Wales

Crynodeb

Nôd yr astudiaeth hon oedd ymchwilio i lefelau pori ar diroedd comin Sir Benfro ar hyn o bryd ac i geisio rhagweld y sefyllfa yn y dyfodol trwy asesu dilyniant posib o unigolion â diddordeb mewn pori'r comin mewn teuluoedd ac fel arall.

Amlygwyd yr angen am astudiaeth o'r fath pan yn cynhyrchu adroddiad am sefyllfa pori tir comin ar lefel Cymru gyfan yn 2016. Aed i afael â'r gwaith presennol yn Sir Benfro er mwyn deall y realiti tu ôl i atebion moel holiadur 2016.

Mar 2235 Uned Tir Comin yng Nghymru; 244 ohonynt yn Sir Benfro, a'u harwynebedd yn 5,310ha, sy'n 3.34% o arwynebedd y sir. Mae'r mwyafrif yn fach, gyda 218 o dan 3ha, sef trothwy mynediad i gynllun amaeth-amgylcheddol Glastir.

Mae 85% o'u harwynebedd yn y Parc Cenedlaethol, a 72% wedi'i ddynodi yn Safle o Ddiddordeb Gwyddonol Arbennig; mae 61% hefyd yn Ardal Cadwraeth Arbennig o dan Gyfarwydddeb Cynefinoedd yr UE. Tir comin yw'r ardaloedd mwya o rostir a gweundir yn y sir a'r storffeydd mwya o garbon ar ffurf mawn. Mae iddynt swyddogaeth hydrolegol bwysig, yn nhermau rheoli llif ac ansawdd dŵr fel ei gilydd.

O ddefnyddio ceisiadau am y Taliad Sylfaenol (BPS) fel dangosydd amgen, amcangyfrifwn bod tua 30% o unedau tir comin yn cael eu pori ond, gyda bod diffyg pori yn fwy cyffredin ar gominau llai, bod pori yn digwydd ar tue 90% o arwynebedd tir comin y sir.

Gwelir patrwm tebyg yn achos cynlluniau amaeth-amgylcheddol. Mae tua 4% o unedau tir comin yn Elfen Tir Comin Glastir, a 5% ar ben hynny yn gynnwysedig yng nhgytundebau ffermydd unigol, gan adael 91% o unedau nad ydynt yn rhan o'r cynllun. Serch hynny, mae tua 54% o arwynebedd tir comin y sir yn Elfen Tir Comin Glastir, gyda dim ond 1% ychwanegol yn cyfranogi trwy gytundebau ffermydd unigol; 45% o'r arwynebedd sy tu faes i Glastir yn gyfangwbl.

Pan na chofrestrwyd perchennog uned o dir comin, gall yr awdurdod lleol weithredu fel perchen o dan Adran 45 (S.45) o Ddeddf Tiroedd Comin 2006. Mae 121 uned fel hyn yn y sir – 48% o'r holl unedau – ac mae iddynt arwynebedd o 770.9ha. Mae 58% o dan 1ha o ran arwynebedd, a dim ond 14% dros 10% o faint, 608ha at ei gilydd. Ni chofrestrwyd hawliau pori ar 69 comin S.45. Mae'r adroddiad yn rhestru peth o'r defnydd, thyfedd ar brydiau, sy'n cael ei wneud o diroedd comin S.45, llawer ohono yn mynd tu hwnt i derfynnau'r gyfraith. Yn ôl adolygiad o'r mater a wnaed gan y Cyngor, ymddengys bod bron i hanner o'r unedau S45 (59 o 121) yn destun honiadau o feddiannaeth wrthgefn, yn rhannol neu'n gyfangwbl.

Mae dynodiad cadwraethol ar 11 o'r unedau S.45. Mae angen ymyrraeth o ryw fath i'w dod o dan 'reolaeth gadwraethol addas' ar bob un ond dau, hynny yw, rheolaeth allai ddwyn y nodweddion allweddol i sefyllfa 'anffafriol ond yn gwella' neu 'ffafriol'. Dim ond ar 4 comin dynodedig mae hawliau pori wedi'u cofrestru.

Mae nifer o strwythurau llywodraethu a/neu reoli i'w gweld yn y sir, o gymdeithasau pori a Chwrt Lît i drefniadau partneriaeth, rhai'n cynnwys rhai heb hawliau pori, a thiroedd comin heb ond un â hawl pori a unedau S45

Canfyddwyd nifer o ffactorau sy'n allweddol i ddyfodol pori tiroedd comin Sir Benfro:

1. Colli mwy na'r lleiafswm angenrheidiol (critical mass) o bori a phorwyr
2. Diffyg cysylltu rhwng y cymdeithasau pori
3. Agweddau ar fesurau amaeth-amgylcheddol – yn fyr, methiant ymddangosol i gytuno ar weledigaethau o ddyfodol y gwahanol diroedd comin sy'n atgyfnerthu porwyr, yn gynladwy yn economaidd ac yn gymdeithasol ac sy'n gallu delifro'r ddau nod yn gyson.
4. Diffyg cyfleodd economaidd (a chymdeithasol) ar gyfer systemau pori tir comin, nid yn unig ond yn enwedig ar gyfer porwyr ifainc a newydd. Sylwir ar y bwch rhwng y rhethreg 'Talu am Wasanaethau Ecosystem' (PES) a'r cyfleodd sy ar gael ar hyn o bryd.
5. Diffygion mewn cyfathrebu â'r cyhoedd, trwy'r cyfryngau cymdeithasol o leia.
6. Ansicrwydd, gan gynnwys yng nghyd-destun Brexit a'r newidiadau polisi posib ynghlwm â hynny, a hynny fwyfwy o achos diffyg cyfleodd trosglwyddo gwybodaeth addas.
7. Heriau o du deddfwriaeth a'r diffyg parodrwydd mor belled i ddefnyddio pwerau Deddf yr Amgylchedd (Cymru) 2016 i arbrofi â ffyrdd gwahanol o wneud pethau a allai arwain at wella'r deddfau a rheolaethau hynny.
8. TB Buchol

Argymhellion

1. Edrych i mewn, ar y cŷd â chymdeithasau pori, i'r posibilrwydd o ddatblygu grŵp porwyr tir comin i gyd-weithio ar lefel y sir.
2. Ail-edrych ar sut mae disgwyliadau yng nhyd-destun delifro amaeth-amgylcheddol yn cael eu cyfathrebu i ffermwyr, gan gynnwys ieithwedd or-dechnegol. Sicrhau bod staff uwch CNC yn cyfathrebu'n effeithiol â phorwyr i esbonio'n drylwyr stâd safle ddynodedig, ei nodweddion arbennig a'i monitro
3. Edrych i mewn bosibiliadau talu am ganlyniadau fel ffordd i alluogi porwyr i ddeall ac arlwygo cyfres o allbynnau a gytunwyd arnynt.
4. Defnyddio modd gweithio ac egwyddorion Rheoli Adnoddau Naturiol yn Gynladwy (gweler Anecs 2) pan yn ymwneud â phorwyr.
5. Dadlennu gwerth hwsmonaeth trwy bori yng ngyd-destun diwallu anghenion/dyheadau cymdeithas.
6. Dirnad pris prynu gwasanaethau ecosystem oddi wrth borwyr. Sut y gellid talu am a chynnal y gweithgaredd sy'n digwydd ar hyn o bryd trwy system 'Talu am Wasanaethau Ecosystem' (PES)?
7. Datblygu strategaeth cyfryngau cymdeithasol ar gyfer tiroedd comin Sir Benfro.
8. Sefydlu partneriaeth tir comin ehangach yn Sir Benfro, gyda chynrychiolaeth o'r prif gyfranddalwyr oll.
9. Rhestru pob cyfraith sy'n effeithio ar dir comin ac a all atgyfnerthu neu lesteirio cynladwyedd rheoli'r tir comin hynny trwy bori.
10. Sicrhau bod system yng Nghymru, fel yn Lloegr, o randdirymu *de minimis* ar gyfer codi strwythurau rheoli stoc dros dro
11. Defnyddio'r pwerau a gyflwynwyd yn Neddf yr Amgylchedd (Cymru) 2016 i wneud gwaith arbrofol er mwyn asesu ffyrdd posib o addasu'r fframwaith gyfreithiol.
12. Ynghyd â'r grŵp TB Buchol, treialu cynlluniau rheoli TB ar dir comin yng Nghymru.

1. Background

The purpose of this study is to investigate the current level of agricultural activity on the commons of Pembrokeshire and to predict the likely future levels of activity based on an assessment of the prospects of family and non-family succession by individuals likely to have an interest in grazing the commons.

The need for a 'Successional Health Check' arose from a Wales-wide study, published in 2016, which was undertaken to investigate the state of pastoral commoning in Wales (Brackenbury and Jones 2016). As part of the study, questionnaires were sent to 230 grazing associations, 80 of which responded (35%); regional meetings were also held to discuss the issues face-to-face with graziers.

Given the widespread feeling, based on anecdotal evidence, that there was a distinct lack of succession on commons, one of the aims of this work was to cast light on the factors which are affecting graziers in the short, medium and long-term from day-to-day issues to the impact of policy, its political interpretation and implementation.

One of the limitations of the questionnaire methodology is that once the questions are set, seeking further clarification is difficult. So when the questionnaire data suggests that only in a minority of cases would a grazing right be abandoned (Figure 1), the degree of realism reflected in the hoped-for succession by family members or other new graziers was far from clear; the regional meetings suggested that the concerns we had heard originally were still widely felt.

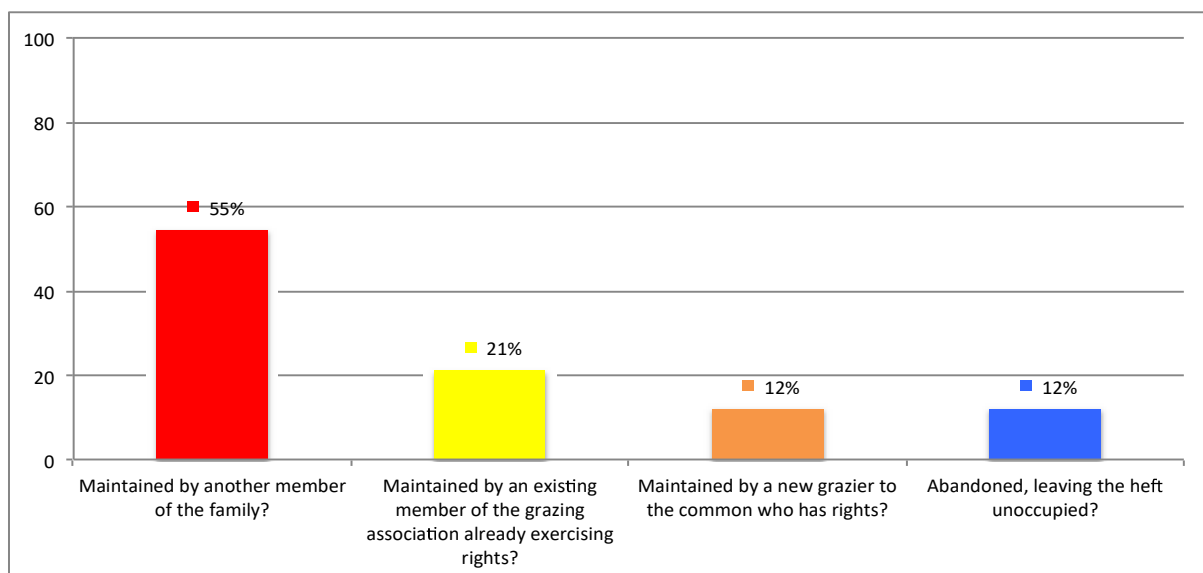


Figure 1. What will happen to the grazings right on the retirement of the current grazier? (Brackenbury & Jones, 2016)

It is in order to understand better the reality behind the bald questionnaire data that we have undertaken further detailed research in Pembrokeshire and, with Heritage Lottery Fund support through the City and Council of Swansea, on Gower (Brackenbury and Jones 2018). And while the location of this additional work has largely determined by the availability of funding, the two areas between them cover a broad swathe of Welsh commoning, from the lowland to the upland, from the smallest to the very large, and

covering cattle, pony and sheep systems. While they will not necessarily provide definitive answers, we can be confident that issues which are significant on some or all of those commons are likely to be important elsewhere.

The concern over succession is but one issue of many which face the common land grazier (Brackenbury and Jones 2016); these worries are further heightened by the extreme uncertainty created by Brexit and its possible implications for agricultural support, not least given the current high degree of reliance on Common Agricultural Policy (CAP) payments.

The Welsh Government is clear that new solutions will be needed (Welsh Government 2018), with better mechanisms to deliver the Welsh Government's aspirations for Wales and its approach to the Welsh environment as set out within the Well Being of Future Generations (Wales) Act 2015¹ and the Environment (Wales) Act 2016². Brexit provides an opportunity to review land management policy and use in Wales and how the wide and varying demands placed upon that land can be better accommodated and public policy objectives better delivered.

2. Common land in Wales

Common land is widely distributed within Wales, from coastal sand dune to upland heaths, estuarine salt marshes to extensive peat bogs. Commons vary in altitude from sea level to over 700 metres and are found across a wide range of geological formations, including coal measures in the South Wales Valleys, the shales of south west Wales, limestone on the Gower coast in the hills of Flintshire and igneous rocks of the north Wales uplands. The unique interaction between climate, geography, altitude, location and management has developed some of Wales' most iconic and important landscape for people, biodiversity and the provision of ecosystem goods and services.

Common land registered under the provisions of the Commons Registration Act (1965) amounts to approximately 8.4% of the landmass of Wales, or around 180,418ha (Welsh Government data). Figure 2 shows legally registered common land. It excludes sites which are commons-like in that they are managed collectively for grazing, but are not registered common land – examples include the Epynt ranges (the largest participant in the Common Land Element of Glastir) and the Castlemartin Range (2390ha) in Pembrokeshire.

There are a total of 2235 Common Land Units (CL) in Wales, of which 244 are in Pembrokeshire. As might be expected, as the size of the common increases, the number of commons within the size category decreases. In fact, a majority of the CL in Wales are <3ha in size (52% of the Wales total), even though they amount in total to only 710ha or 0.4% of the total area of commons in Wales. This figure is very significant when considering that the minimum size for a common to be eligible to apply to enter the Glastir agri-environment scheme is 3ha – in other words, 52% of all common land units in Wales are ineligible for any support under Pillar 2 of the Rural Development Plan.

¹ <http://www.legislation.gov.uk/anaw/2015/2/contents>

² <http://www.legislation.gov.uk/anaw/2016/3/contents>



Figure 2. Registered common land in Wales

Despite the name, all common land has an owner or *de facto* owner, which can be, for example, a single individual, many individuals, private companies, a local authority or the Crown. In each case, the landowner is the 'owner of the soil'; the vegetation is available to the legally registered commoners for the exercise of right of pasture (grazing by livestock).

On some commons there are other historic rights which might include the right to collect firewood (estovers) or cut peat (turbarry), though on many commons these former rights were extinguished as part of the 1965 registration process.

The landowner may use the common to exercise any rights which are unused (the 'excess'). For example, if there are 100 registered sheep rights on the register and only 50 of those rights are being exercised the landowner can exercise the balance. Overall, there are very few examples of this taking place within Wales, where the landowner is often absent.

Where there is no landowner registered, the local authority can act in lieu of the landowner under the provisions of Section 45 of the Commons Act 2006, (previously section 9 of the Commons Registration Act 1965) – see Annex 1.

3. Common land in Pembrokeshire

Pembrokeshire, a county of 1,590km², has 244 registered CL covering an area of 5,310ha, which is 3.34% of the land area of the county. The majority of these commons are very small (Figure 4), with 218 being below 3ha in size - the threshold for Glastir eligibility. Of those 101 are less than 1ha in size and so unlikely to have grazing rights exercised on them.



Figure 3. Typical Pembrokeshire commons - looking from 140.9ha Carn Llidi (CL81) towards 1.9ha Waun Llaethdy (CL144) and the two parcels of the 5.7ha Tylwyn commons (CL143). Image: Deborah Tilley, Creative Commons Licence

Designation	Hectares of designated common	Percentage of all registered common land
Special Areas of Conservation (SAC)	3207	61
Special Protection Area (SPA)	252	5
Sites of Special Scientific Interest (SSSI)	3831	72
National Park	4508	85

Table 1. Conservation and landscape designations and commons

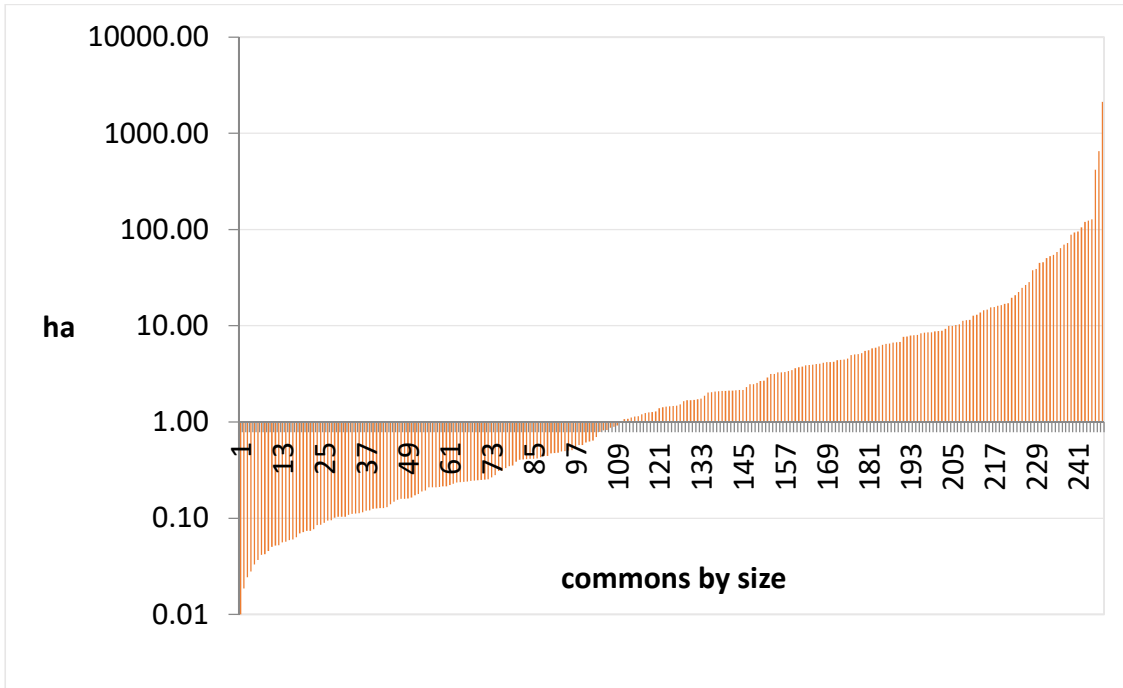


Figure 4. Size distribution of common land units in Pembrokeshire (log scale)

These commons have an importance out of all proportion to their area. They make up 81% of all open access land in the county and account for the bulk of its semi-natural pastures and unenclosed uplands as well as a substantial proportion of the coastal landscape. Carn Ingli and the Preseli mountains are by far the largest terrestrial Sites of Special Scientific Interest in Pembrokeshire, with the latter's international significance being recognised through its designation as a Special Area of Conservation (Figure 6). A 30-year old breakdown of the semi-natural vegetation communities on Pembrokeshire commons is given in Figure 5.

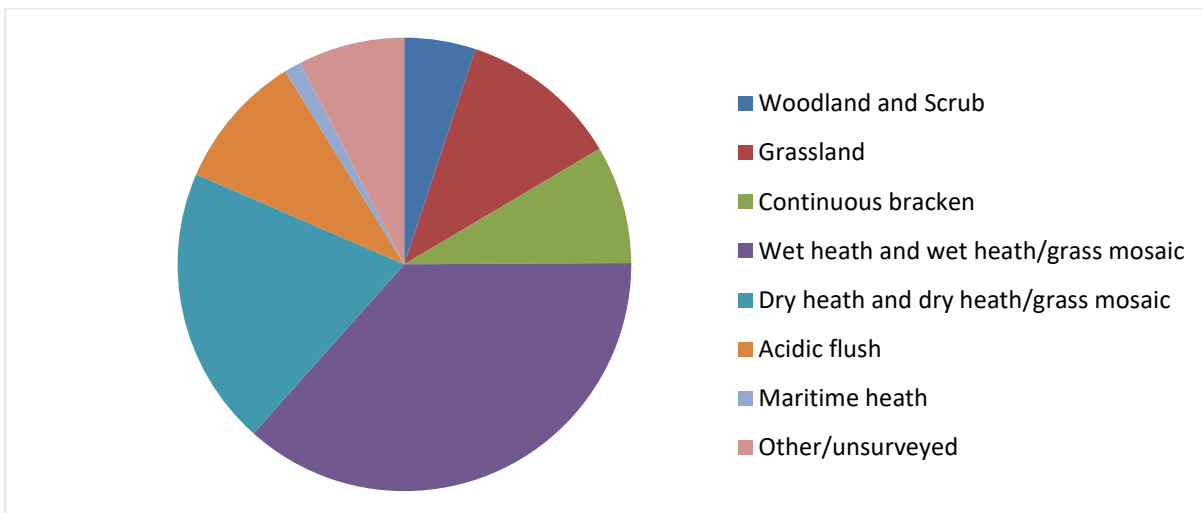


Figure 5. Semi-natural vegetation of Pembrokeshire commons (Francis et al., 1990)

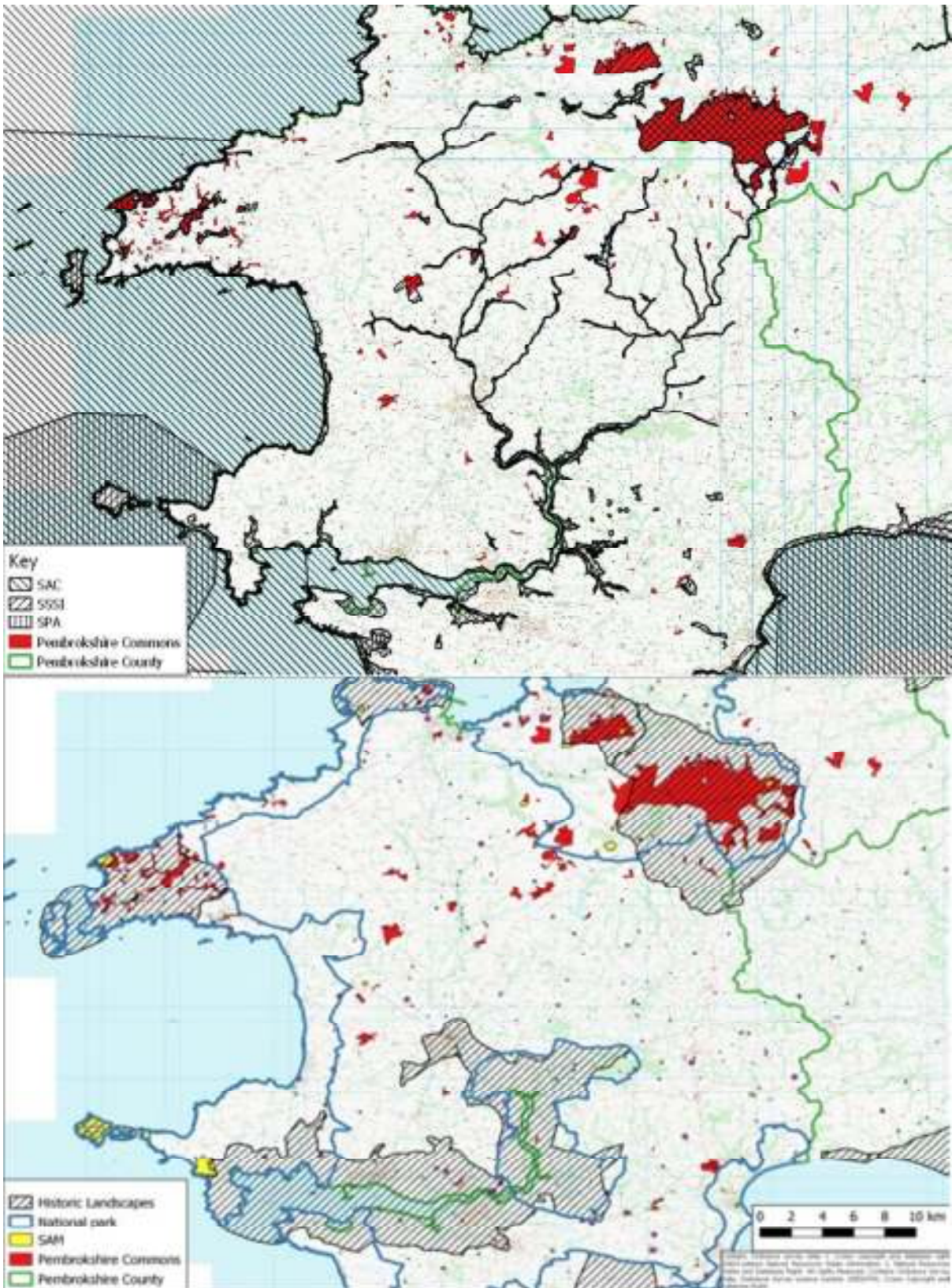


Figure 6. Conservation and landscape designations and commons

In addition, there are 53 Scheduled Ancient Monuments located on commons within Pembrokeshire.



Figure 7. Dowrog (CL33), part of the North-west Pembrokeshire commons SAC. Image: Stefan Czapski, Creative Commons Licence

The protection from development or intensification which legislation has given commons has meant very little disturbance to their soils over the centuries. Few commons have ever been ploughed to any extent, anecdotally the only exception being during the Second World War when some areas of common were ploughed for potatoes. Lowland bogs and many upland commons have deep, peaty, carbon rich soils making them of considerable value for the storage of soil carbon.

The commons lands of Pembrokeshire are widely distributed within the county with resulting variations in the underlying geology and the consequential soil type. The significance of the commons for soils becomes evident when maps for soil carbon, soil depth and soil moisture are combined (Figure 8). Areas of mire and wet heath, such as on the northern flanks of the Preseli in the Rhos y Bryn area, where they are an SAC feature, have the most significant amounts of soil carbon sequestered in their peaty soil.

It can also be assumed that the deeper soils of some of Pembrokeshire's commons are important features within the landscape for flood attenuation. The surface water flood maps (Figure 9) give an indication of the broad areas likely to be at risk from flooding from water which is on the ground. The maps show channels, rivers and low areas within the flood plain. It is likely that there is a relationship between surface flooding and commons where water flow is slowed by distributing water over large areas of land within a catchment and interception by the wetter mire communities and those which are continuously waterlogged. In addition, surface interception and percolation through soils will slow the transmission time of water to channels reducing the rate at which the water

move down the catchment. In ecosystem service terms, these areas are slow actors, accruing carbon over centennial to millennial time periods within the accumulation of wet, water retentive soils. Risks to peat are largely historic, where areas of turnover peat might expose previously anaerobic (gleyed) clays which are impenetrable peak water flows. Deep penetrative peat fires and erosion along foot paths could perhaps have a similar effect.

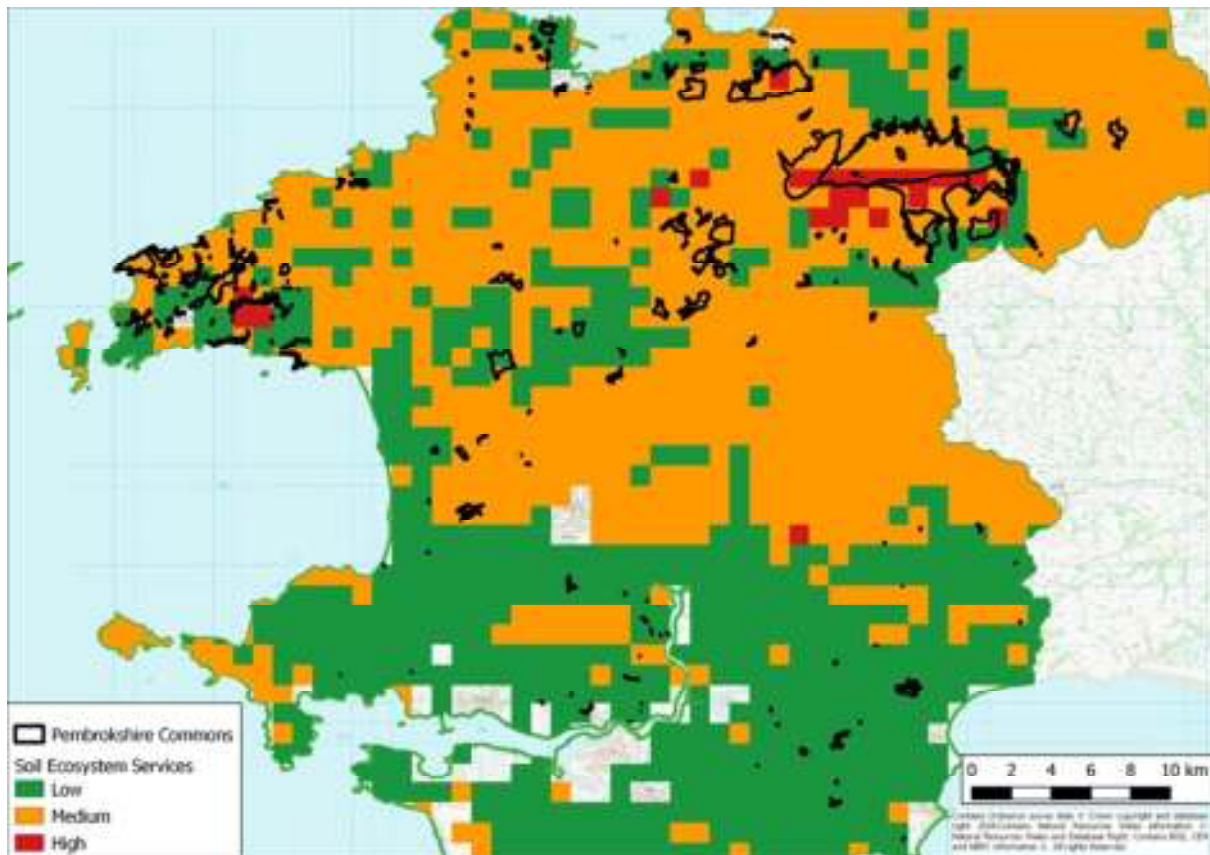


Figure 8. A combined indication of three soil ecosystem services in Pembrokeshire – soil carbon, soil moisture and soil depth

The lower map in (Figure 9) shows common land and the presence of flood attenuation features. These are aspects of the catchment morphology which enable the landscape to temporarily store water during rainfall events, thereby reducing peak flows. In general, anything which slows the flow of water to the main channel will tend to attenuate flooding. Such features are often more present in the upper parts of catchments, as the map illustrates.

The most significant areas for this is the northern flank of the Preseli, Rhos-y-Bryn also on King’s Moor common, Castleblythe, Wallis Moor, Trefei and land near Nant-y-Felin. The map indicates that many of the commons are located within the upper catchment at or near to headwaters.

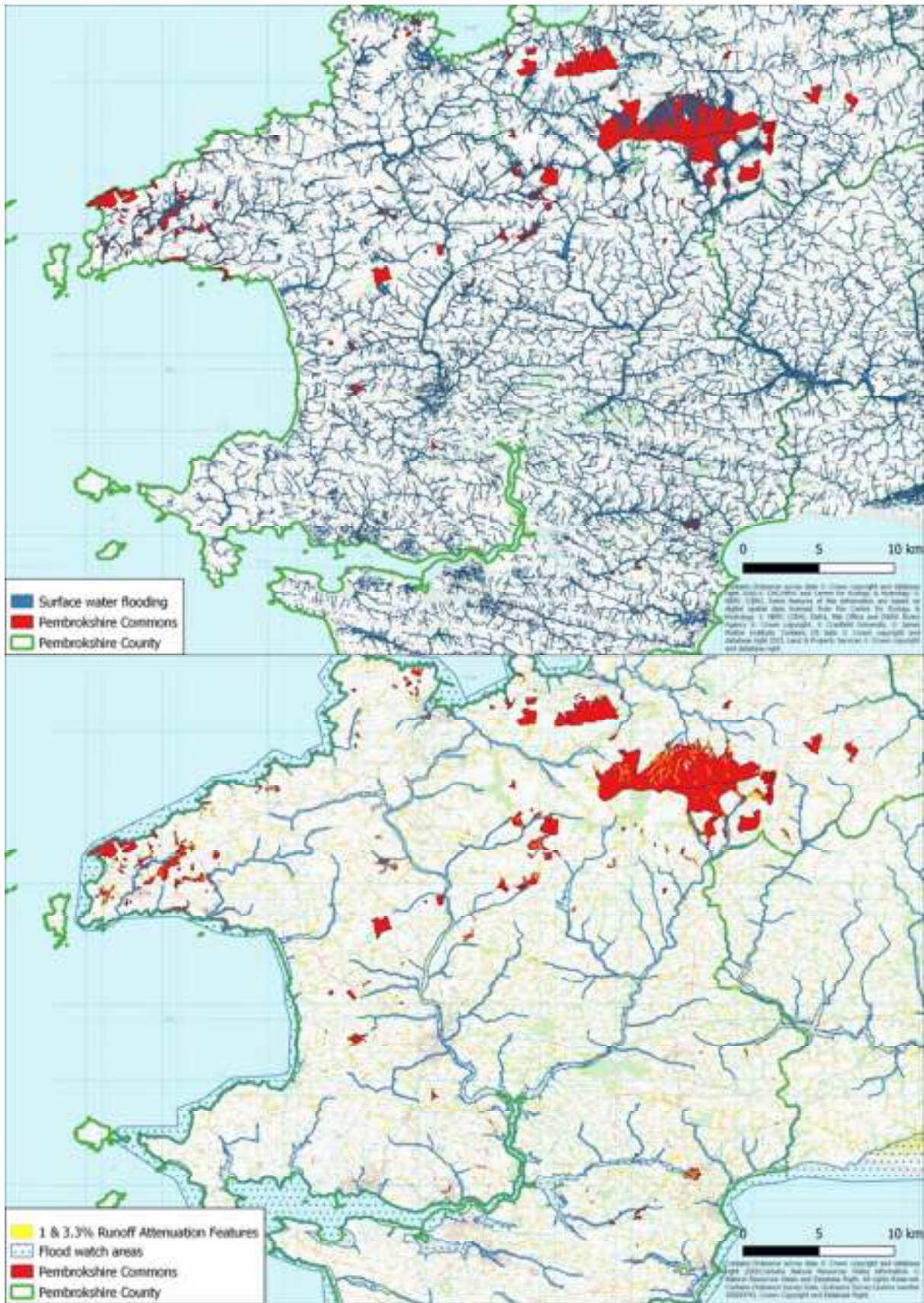


Figure 9. Flood risk and management in relation to Pembrokeshire commons

There is a relationship between common land and flood attenuation across much of the county, the map provides an indication of the most important areas for attenuation and where attenuation could be improved. Examples could be by reducing channelized surface flows, and high volume ‘flashy-features’ attenuation features to reduce flow energy and to divert water onto wider areas slowing it down slope. The Building Resilience in Catchment Scheme (BRICS)³ which is working to control flows into the Milford Haven waterway which includes upper catchment common land units.

Figure 10 shows the areas affecting bathing waters, this emphasises the important role Mynydd Preseli and Can Ingli play in water retention and the management of water quality down catchment.

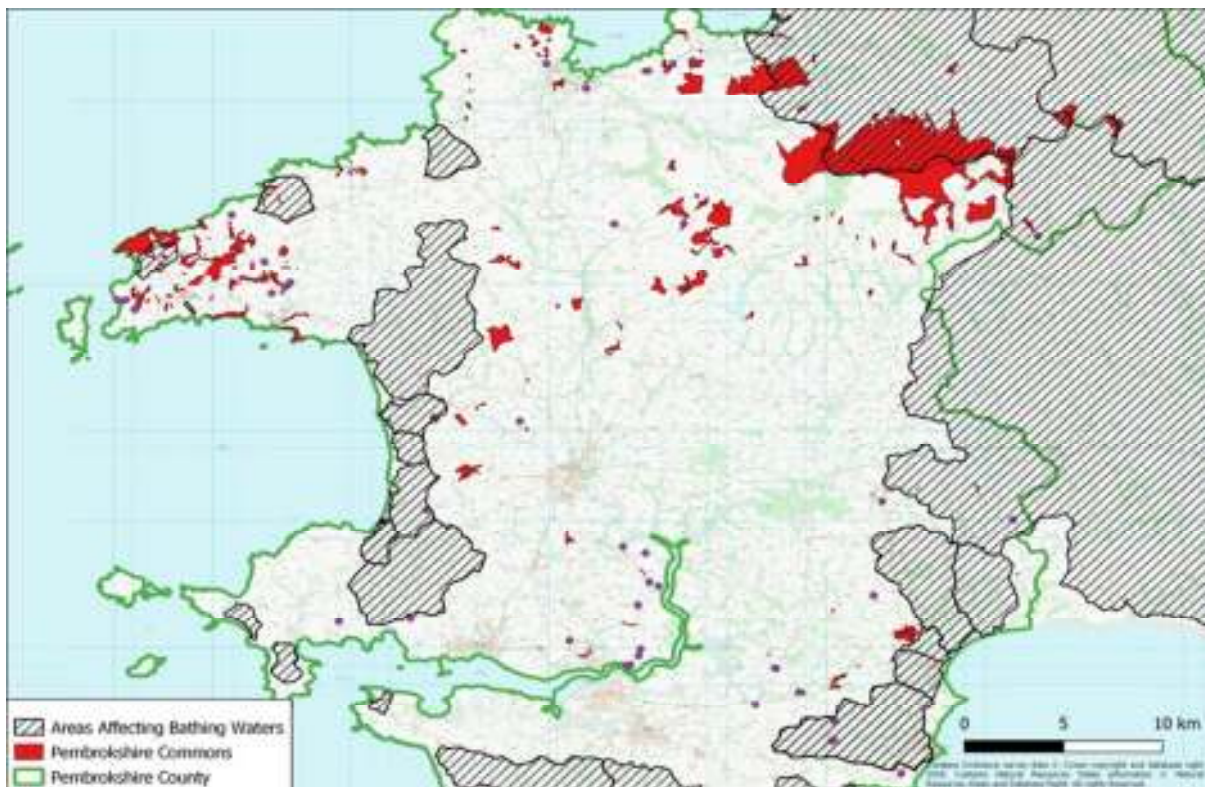


Figure 10. Catchments impacting on bathing waters and their relationship to commons

4. Common Agricultural Policy support on/for commons

The two main Common Agricultural Policy (CAP) payments supporting land management on common land in Pembrokeshire are the Basic Payment Scheme (BPS) and the Glastir agri-environment and climate scheme.

4.1. Basic Payment Scheme BPS

BPS is available to any so-called ‘active farmer’ who possesses BPS entitlements and, in the case of commons, registered rights of common. It is an area payment, with the total area of the common being allocated annually to each claimant in proportion to the rights they hold. Grazing activity on the common is not a condition of claiming (unlike in Scotland and to a

³ <https://www.planed.org.uk/brics/>

lesser degree in England). For the area claimed to be eligible, it must however be in a condition such that it could be brought into use for grazing in the following year without using more than basic farming equipment. It is highly unlikely that commons will be grazed without being subject to at least one BPS claim; BPS claims are therefore a good indicator of at least recent activity.

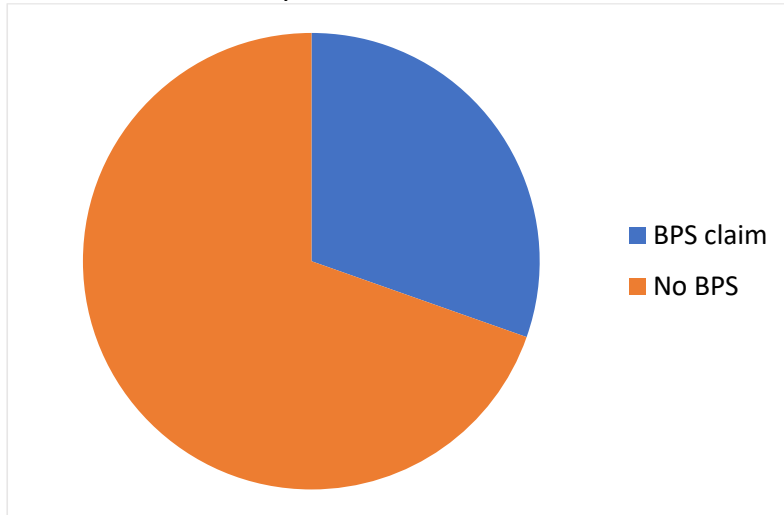


Figure 11. Proportion of CL units with BPS claims (Welsh Government data)

BPS claims are being made on around 30% of Pembrokeshire’s CL units - 76 in total (Figure 11). There are no claims on 174, suggesting no recent agricultural interest. In terms of area, the usual pattern emerges (Figure 12) – the bulk of the common land area is subject to a claim.

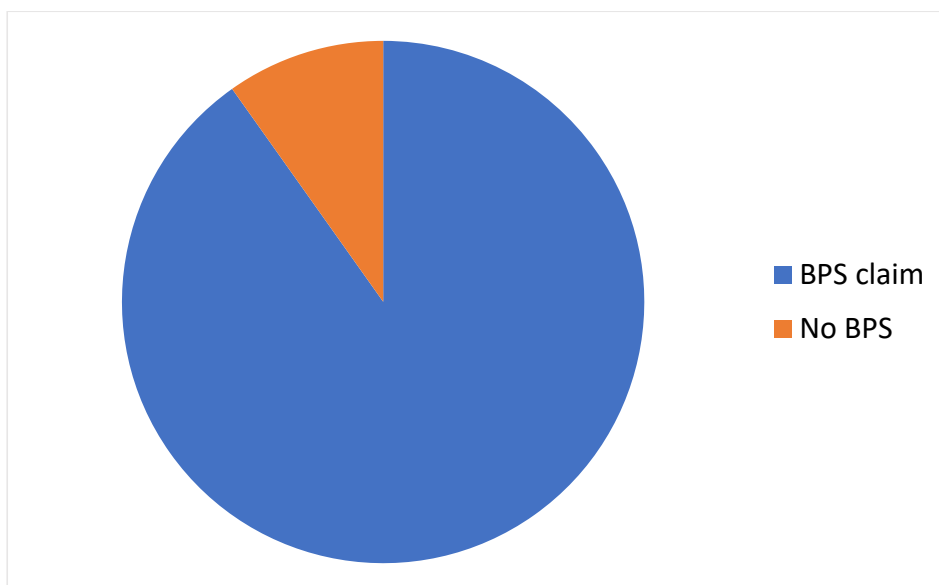


Figure 12. Proportion of common land area with BPS claim (Welsh Government data)

Strictly speaking, claimants do not even have to be active farmers in the everyday sense of the word, but the vast majority of claimants are likely to be carrying out some real agricultural activity somewhere. The number of BPS claims is therefore a relatively reliable indication of the total number of farm businesses potentially able to graze a common; it is

most definitely not an indication of how many are in fact depasturing livestock in the claim year.

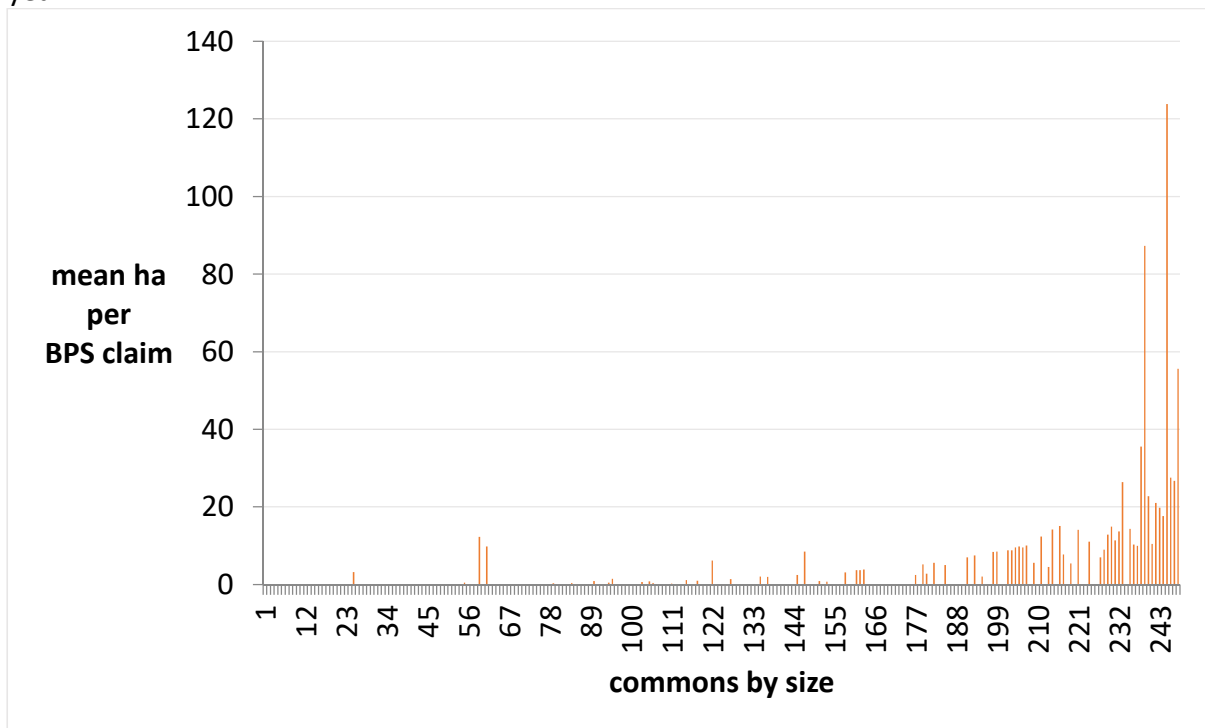


Figure 13. Average area per BPS claimant



Figure 14. Walkers and dairy cattle on Mynydd Castleblythe (CL85); the first is a common sight, the second extremely unusual. Image: Alan Richards, Creative Commons Licence

4.2. Glastir

Of the total number of registered common land units within Pembrokeshire, 4% are in the Common Land Element (CLE) of the Glastir scheme (Figure 15). A further 5% of commons are within Glastir by virtue of the farm's own scheme – these can include the common

where there is only one grazier registered, that farmer therefore exerting complete management control. 91% of commons are not participants in the main land management support scheme.

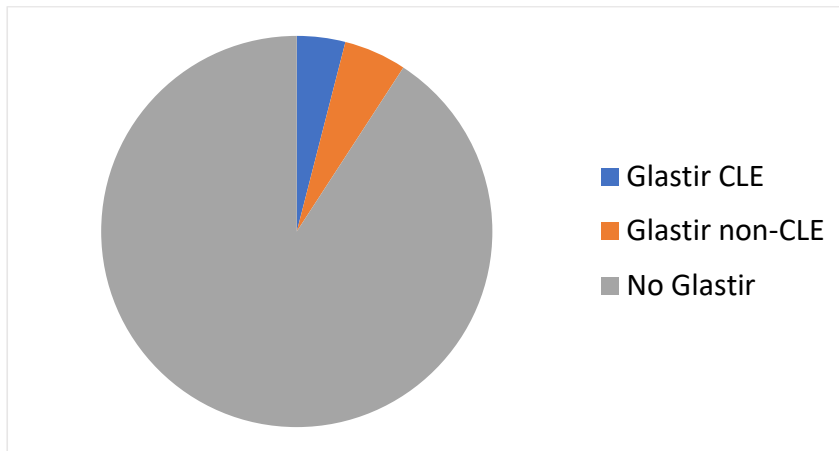


Figure 15. Proportion of CL units participating in Glastir

When it comes to the proportion of common land *area* under Glastir, the relative importance of the few large commons is very apparent (Figure 16). Over half of the commons area is within the CLE (54%), with only a further 1% in the Glastir home farm agreements. The remaining area (45%) is not under any scheme. What is apparent is that Glastir has been taken up by the few commoners groups with the largest areas of land. These are not only eligible (>3ha), but most likely to have a good number of active graziers and a commoners association with legal personality which is therefore able to apply for the scheme. The returns from the scheme on a large commons make the effort of constituting a group, going through the application process and then properly administering an approved contract worthwhile.

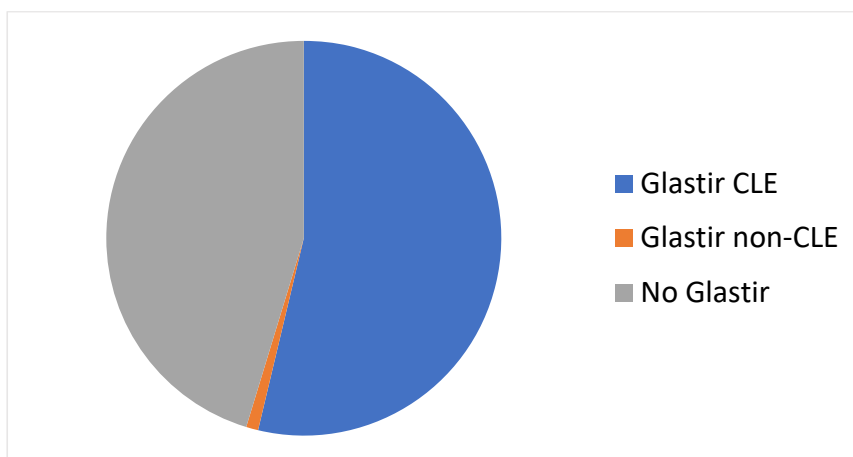


Figure 16. Proportion of common land area covered by Glastir

This detailed picture confirms these suspicions. While commons covered by home farm agreements are scattered throughout the size range, they are mainly found on smaller commons, since larger commons are more likely to have multiple rightsholders registered. (Note how the size threshold applies to the whole holding – commons <3ha are able to be managed as part of the larger home farm area; some of the areas seem anomalous at first

glance.) On the other hand, all of the CLE participants are large commons, all above 10ha in size.

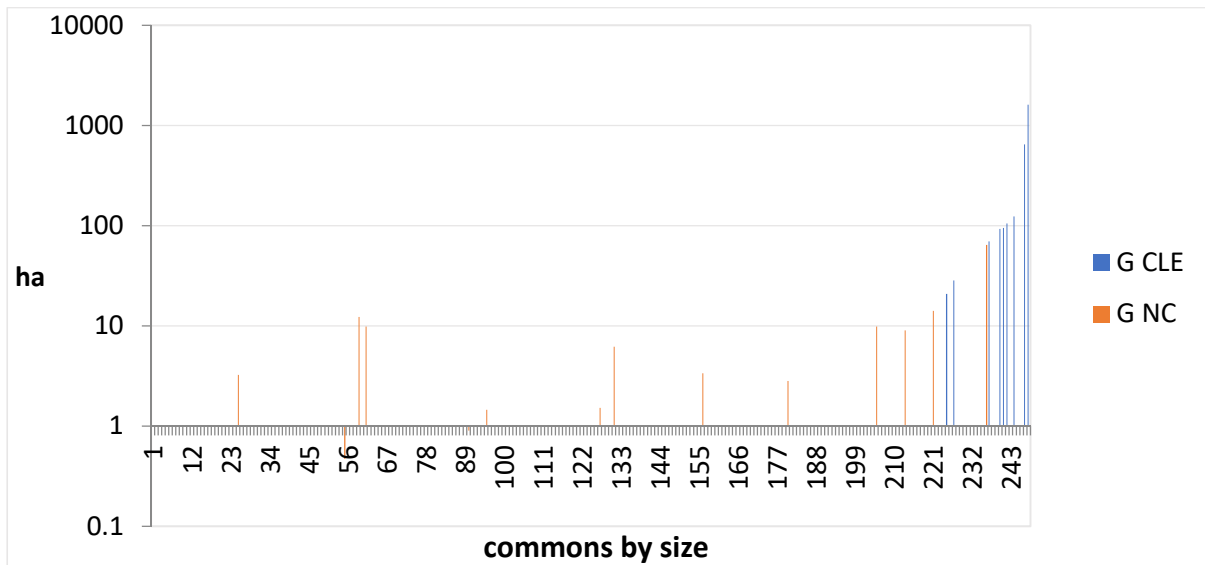


Figure 17. Commons by size showing Glastir participation

A total of 2853ha is in Glastir CLE and a further 54ha is included in home farm Glastir contracts, leaving 2403ha which is not participating in the scheme.

5. Section 45 Commons

One question of interest for this investigation is how to deliver policy goals on commons which have no known landowner and no active graziers. Commons without a known landowner fall within the provisions of Section 45 (S.45) of the Commons Act 2006, which gives the local authority certain powers over such land.

Data provided by Pembrokeshire County Council (PCC) has identified that there are 121 S.45 commons within the county - this is 48% of all of the CL units within the county (Figure 18).

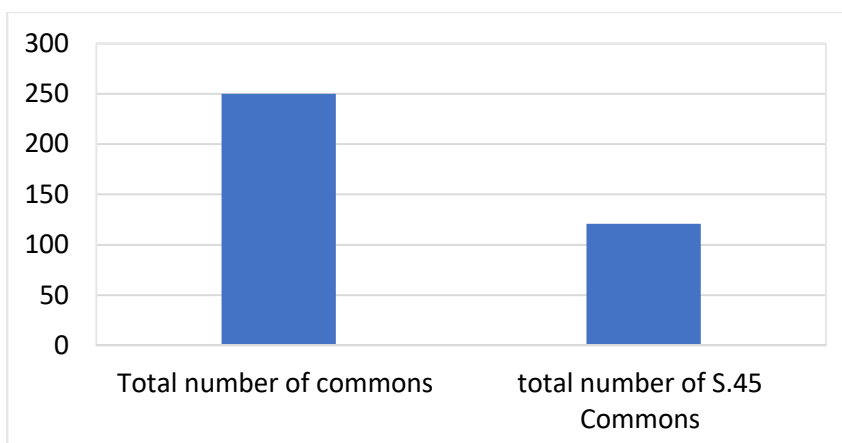


Figure 18. Section 45 commons in Pembrokeshire

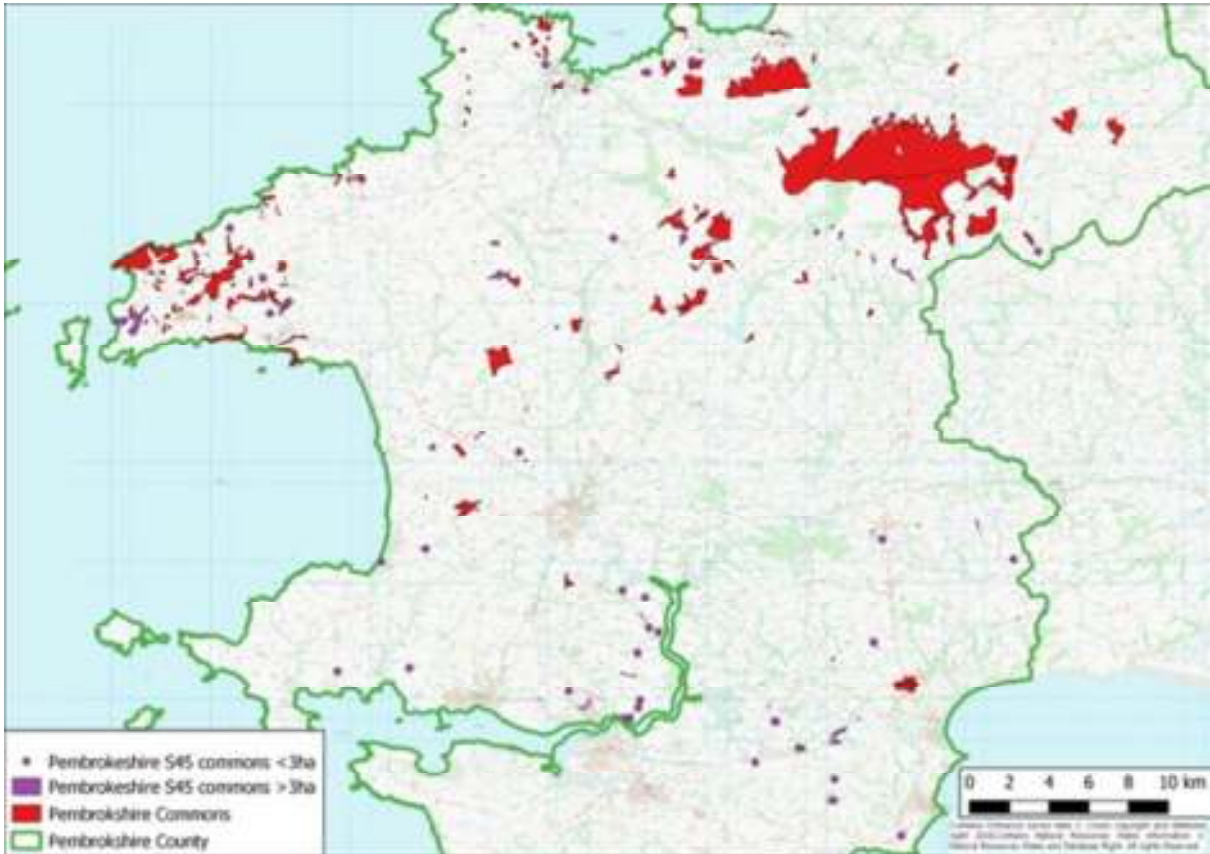


Figure 19. Section 45 commons in Pembrokeshire

The size distribution of S.45 commons (Figure 20) is similar to that of CL units in the county as a whole, with 58% of the S.45 commons being <1ha which collectively only amount to 18.49ha of land area, 28% are between 1ha and 10ha with 144.41 ha and 14% greater than 10ha with a total area of 608ha.

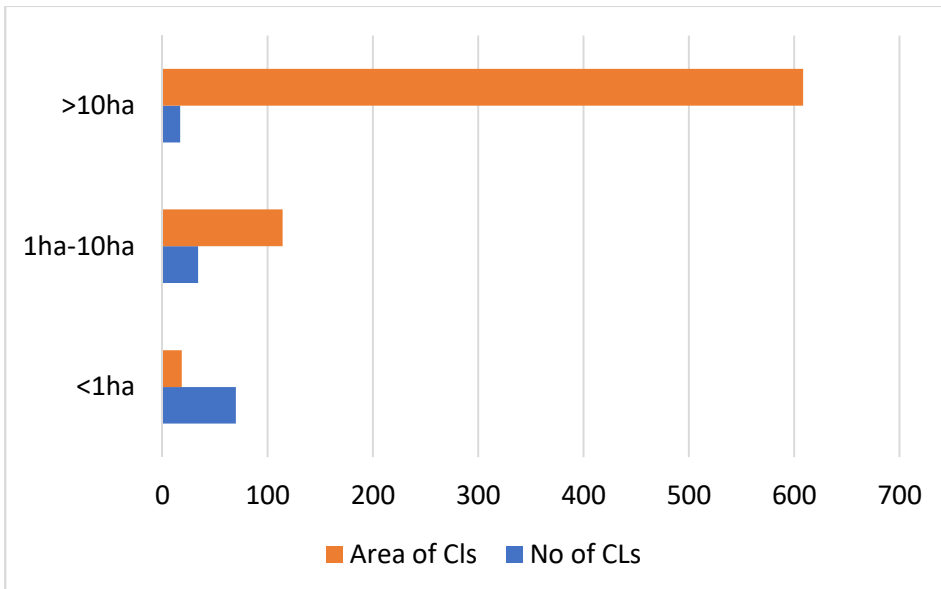


Figure 20. Size and area distribution of S.45 commons

There are 69 S.45 commons where no grazing rights are registered, a total area of 52ha. There are also 16 commons where there is only a single registered right, these would be considered as sole grazer commons and therefore not eligible for support under Glastir Commons, but might be allowed into a Glastir contract for the home farm.

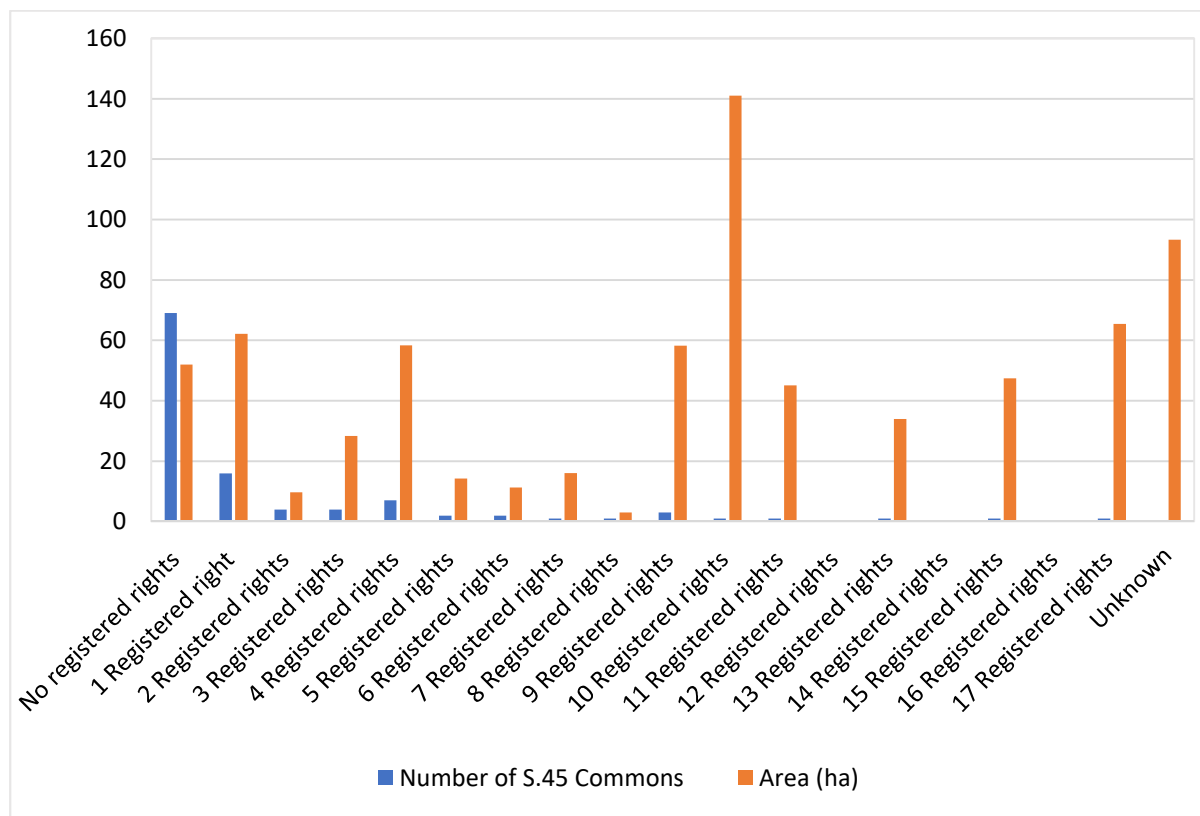


Figure 21. Rights registered on S.45 commons

There are 7 commons within the S.45 list where the land is partially owned by PCC (Table 2). It is unclear how the land has been apportioned at this time – further investigation would be required to clarify the matter.

CL Number	Common Name	Size	Ownership
CL116	Llanteg Common	00.35ha	Owned by Llanteg Community Council
CL273	Simpson Common	00.08ha	Partially registered with private landowner
CL208	Lower Kingeriot	00.10ha	Partially registered with private landowner
CL181	Glanafon Moor	00.16ha	Partially registered with private landowner
CL189	Trefeiddan Moor	20.82ha	Partially registered with private landowner
CL117	Frenni Fawr	69.00ha	Partially under care PCC
CL171	Keeston Common	02.81ha	Title registered with Camrose CC

Table 2. S.45 commons partially owned by Pembrokeshire County Council

11 of the S.45 commons have a nature conservation designation, according to NRW data (Table 3). The first four on the table are designated in their own right, whereas the others are part of a larger designated area, for example, the Western Cleddau SSSI.

All but two of the S.45 commons need some form of intervention to bring it into ‘Appropriate conservation management’, that is management which is capable of bringing the key features into ‘unfavourable recovering’ or ‘favourable’ condition (pers. comm., J. Hudson).

CL number	Commons name	Designation	Conservation status
CL091	Ysgeifiog Moor	Ysgeifiog Moor SSSI	Needs action
CL100	Trerhos Moor	Comins Tre-Rhos SSSI	Appropriate conservation management
CL278	Trefeiddan Moor	Trefeiddan Moor SSSI	Needs action
CL050	Wallis Moor	Wallis Moor SSSI	Appropriate conservation management
CL139	Ynys Dinas	St Davids Peninsula Coast SSSI	Needs action
CL165	Castell Male Graig	Western Cleddau River SSSI	Needs action
CL203	Waun Treflodan	St Davids Airfield Heaths	Needs action
CL112	Land between Trinity house and the Jolly Sailor	Milford Haven Waterway	Needs action
CL169	Allt Gam	Western Cleddau River	Needs action
CL284	Land forming part of Duallt Common	St Davids Peninsula Coast	Needs action
CL320	Waun Mawn	Mynydd Preseli	Needs action
CL027	The Point Little Haven	Arfordir Niwgwyl - Aber Bach - Newgale Little	Needs action

Table 3. Designated S.45 commons and their conservation status

Only four of the designated S.45 commons have registered grazing rights (though some have cross-registrations (Francis et al. 1990)), with one rights holder each registered on CL139 Ynys Dinas, CL165 Castell Mael Graig, CL203 Waun Treflodan and CL278 Trefeiddan Moor. It appears that none are used to claim BPS, but as shows, Trefeiddan Moor (CL189 section) is currently grazed, with the use of the kind of temporary electric fencing used by the Wildlife Trusts.

5.1. Uses of S.45 commons

The situation in Pembrokeshire is interesting as many commons are too small to be grazed economically (59 of the S.45 CL units are <1ha). These are either isolated areas of land of little agricultural benefit include areas of road verge, land locked pockets of ground, while some area are of a size worthy of pastoral management. In some cases, these commons have not been grazed within memory, in others they have been grazed sporadically whilst some are grazed on a regular basis.



Figure 22. Trefeiddan (CL189). Ungrazed in 1990, not claimed for BPS, but clearly used for grazing in 2018 (note the temporary electric fencing). Image: Alan Hughes, Creative Commons Licence

On some sites, other activities have taken place in the absence of farming activity and of the influence of a landowner. In some cases, these are within the provisions of standing legislation and therefore lawful, and in other cases in breach of that legislation. The ways in which these unused commons are being utilised are in some ways indicative of the demands of society for land.

Some of the activities identified on S45 commons within Pembrokeshire include:

- Community recreation area
- Playing field
- Village green/community space
- Incorporation into a farm
- Boundary extension and encroachments from housing
- Management with the specific intention to improve the biodiversity condition
- Creation of a car park
- Creation of a children's play area
- Overspill parking for houses
- Storage of fodder, silage bales, agricultural materials etc
- Tree planting
- Fly-tipping

There are also examples where commons vested under the provisions of S.45 have had successful adverse possession claims made against them at the land registry. A review of S.45 commons indicates that nearly half (59 of the 121 CL Units) of commons have full or partial adverse possession claims (Jim Dunkley, pers. comm.).



Figure 23. The 'Rec' playing field, Rosebush - part of CL162, a S.45 common. Image: ceridwen, Creative Commons Licence



Figure 24. An area of common land at Herbrandston used as a village green

6. Commons management arrangements in Pembrokeshire

The following section considers the range of governance and management systems in place on commons in Pembrokeshire. There are six governance categories which include, constituted groups, groups constituted for the purposes of Glastir Commons entry, Court Leet, partnership arrangements, non-associated groups and sole graziers. Also included within this list for the sake of completeness are the S.45 commons which were dealt with more fully in the previous section.

6.1. Constituted commoners' groups.

There are two categories of constituted commons groups. The first are those where commoners took the decision to form a grazing association to manage aspects of grazing on the common. Such groups usually have a legal personality, a constituted set of rules and a structure with a treasurer, chairperson and secretary. A fee is levied for membership to the group.

In a questionnaire of grazing associations who had either entered or expressed interest in entering Glastir, 72% of graziers said they were already meeting prior to scheme entry (Brackenbury, Short, and Lewis 2012). The data from this survey does not indicate whether or not they had a formal constitution.

The second more specific form of commoners group is one constituted specifically for the purpose of entering into the Glastir Commons scheme. Prior to entry they were either unconstituted but meeting informally, e.g. Dowrog Common, or had a constitution which was not considered legally robust for the purposes of Glastir entry, since having a standard Glastir constitution remains a requirement of scheme entry, irrespective of whether there is an existing constitution in place. At the end of the Glastir contract the Glastir constitution can either be retained or discarded. Grazing Associations were assisted into the scheme by a network of Commons Development Officers (CDO), which in Pembrokeshire were employed by the Local Action Group PLANED under a Welsh Government contract.

The Glastir scheme itself is considered further in section 4.2.

6.2. Court Leet

Courts Leet were local courts through which feudal law was administered by the Lord of the Manor over serfs and feudal tenants. Many 'legacy' governance systems were gradually superseded by various bits of 20th century legislation. But although the Administration of Justice Act 1977 finally abolished the legal jurisdiction of most Courts Leet, it emphasised that any such Court may continue to sit and transact such other business, if any, as was customary for it. Schedule 4 to the Act specified the business which was to be considered customary, which included the taking of presentments relating to matters of local concern and - in some cases - the management of common land. The Act specifically exempted from abolition the Courts Leet of the Manor of Cemaes and of the Manor of Mynachlog-ddu⁴.

⁴ https://en.wikipedia.org/wiki/Court_leet

There are many differences between the operation of a constituted Commons Association and a Court Leet, the most fundamental being the involvement of the landowner (strictly, the Lord of the Manor). Though there are exceptions, such as charities like the National Trust or on grouse shooting estates, this feature of the Courts Leet contrasts with the usual situation in Wales, where the landowner is largely absentee and/or has little involvement in the management of the common.

The Court Leet and Baron of Barony of Cemaes may transact the following business⁵:

- The taking of presentments with respect to matters of local concern.
- The Management of the common lands on the Preseli Hills in the County of Dyfed.

In the same way, the Court Leet and Baron of the Manor of Mynachlogddu may transact business relating to:

- The management of the common lands in the Parish of Mynachlogddu

Decisions made within the Pembrokeshire Courts Leet require a unanimous decision of the jurors sworn in at each court.



Figure 25. Pen Cisty on the north side of Preseli (CL19), looking towards Carn Ingli (CL22), both part of the Barony of Cemaes. Image: Bill Boaden, Creative Commons Licence

⁵ <https://sites.google.com/site/aryllawr/Home/ancient-courts-abolished-in-the-courts-act-1971>

Other Courts Leets are in operation outwith the county, having been re-established or continued without statutory authority (not having been preserved by the 1977 Act). For example, in Laugharne, Carmarthenshire, the Court oversees:

- The Common Walk, the perambulation of the boundaries of the lordship
- The corporation property includes some 350 acres of land which is divided into 76 allotments, or shares

<https://docsbay.net/title-of-court-court-leet-and-court-baron-of-laugharne>



Figure 26. Standing stones on Gors Fawr (CL40), one of the commons subject to the Court Leet of Mynachlog-ddu. Image: Richard Law, Creative Commons Licence

Locally, the Courts Leet are clearly an important institution and tradition, although one contributor to the research suggested that the Court Leet was until relatively recently not very active, with low attendance and sometimes too few people present to form a jury. The migration of people into the area reinvigorated the Court Leet, but their interest also encouraged more rights holders to attend to ensure ‘their rights’ were represented.

Although the main business of the year is conducted by the Court, it has the power to establish ‘sub-groups’ of individuals to act in the interests of the common between meetings of the court or to look at particular issues affecting the court. The Court cannot make decisions contrary to the provisions of the Commons Act 2006.

6.3. Partnership arrangements

An example of this is the 101ha Dowrog common, which is owned by the National Trust and leased to the Wildlife Trust of South and West Wales (WTSWW). In this case the WTSWW are providing a warden-like service to support activity on the site

This common was at risk of abandonment, with only 1 grazier exercising rights prior to Glastir, so the Wildlife Trust is supporting a sustainable grazing level on the common which delivers against the NGOs’ conservation objectives, the Glastir Commons scheme objectives and, above all, its SSSI/SAC management plan. The stated objective for the site is to maintain the heathland mosaic and prevent succession to scrub through an appropriate grazing regime and to protect the heathland from damaging fires by maintaining a network of fire breaks.



Figure 27. Waun Fawr (CL34) - a National Trust owned common grazed both by rightsholders and a NT/Wildlife Trust herd of ponies. Image: Roger W Haworth, Creative Commons Licence

The support for the graziers comes in the form of the provision of capital infrastructure, the employment of contractors to clear areas of rank purple moor grass and establishment of temporary electric fencing for grazing enclosures. Other activities carried out in pursuit of the overall site objectives include the management of pools by the periodic clearance of reedmace. As a complement to the graziers' livestock, a herd of ponies is shared between the Wildlife Trust and the National Trust, and this grazes in rotation between Waun Fawr and Dowrog.



Figure 28. Part of a series of commons adjoining the former St. David's airfield (CL77, 141 etc.) and now subject to grazing organised by NGOs. Image: ceridwen, Creative Commons Licence

6.4. Non-associated 'ad-hoc' groups

Such 'groups' are based on informal arrangements where more than two graziers meet to discuss management as required on a needs-be basis. This is an informal arrangement, with no association in place, let alone a body which has a separate legal personality.

6.5. Sole grazier commons

Many areas were registered as common land where only a single person has rights. To all intents and purposes such areas are an extension to the home farm land, and are treated as such by the Welsh Government in most circumstances.

6.6. Section 45 commons

For a fuller discussion see section 5 above. The section 45 commons are being included for completeness. In some cases adverse possession has been achieved through the Land Registry by the Community Council, which then assumes the responsibility for governance in the absence of registered rights (where grazing rights are registered, these are not affected by the adverse possession claim).

7. Commons and the utilisation of commons rights

The principal use of commons is for the pasturing of animals based on a dominant tenancy with associated grazing rights. The common land registers set out the extent of the land, the landowner(s) and the number of rights allocated to the dominant tenancy. These rights were registered formally under the provisions of the Commons Registration Act (1965). Certain formulae were widely used during the registration process. As an example, for every 1.5 acres of pasture on a farm, there might be corresponding rights to graze 5 sheep, 1 horse or 1 pony or a pro rata combination; this particular approach is known as the Ellis formula, but there are many other approaches in evidence, ranging from 5 to over 30 sheep to the 1.5 acres. Whichever method (or none) was used, the final number of rights would have been confirmed by the Commons Commissioners, whose role it was to pass judgement on disputes with regard to the rights registered. If there had been no objection to a register entry, it would normally have been confirmed, even if, as in some cases, the number of rights registered is in excess of the grazable land area.

The Landowner of the common can take up the 'excess' - if a common is not being grazed to the maximum, he or she can pasture his own livestock on the common up to the maximum recorded number of rights within the register that are not being exercised. This is known as the maximum stint. It is this right which explains how even sole grazier commons can be thought of as 'common' pastures.



Figure 29. Pony grazing on Carn Ingli (CL22). Image: Shaun Butler, Creative Commons Licence

Alongside these common rights, there were separate rights for the general public to have public space, air and exercise on metropolitan commons and those in pre-1974 urban districts and boroughs provided for in S.193 of the Law of Property Act 1925, later to be superseded by the Countryside and Rights of Way Act 2000 (CRoW Act). There are 10 S.193 commons in Pembrokeshire, according to (Francis et al. 1990), extending to 53.7ha and found mostly in the former Fishguard and Goodwick Urban District. However data currently available (Jim Dunkley, pers. comm.) suggests that there are only 7 such commons in that former Urban District and a further one in the former Neyland Urban District Council.

CL Unit	Name
CL067	Waun Fynnon-clun
CL093	Comins Cwmbrandy
CL094	Slade Bank
CL261	The Old Pound
CL098	Land near Penfedir
CL097	Part of Penlan Moor
CL175	Common Hill

Figure 30. S.193 commons known to Pembrokeshire County Council

In addition, commons may be mapped as open access under the Countryside and Rights of Way Act 2000 (CRoW) – 81% of open access land in Pembrokeshire is in fact registered common land.

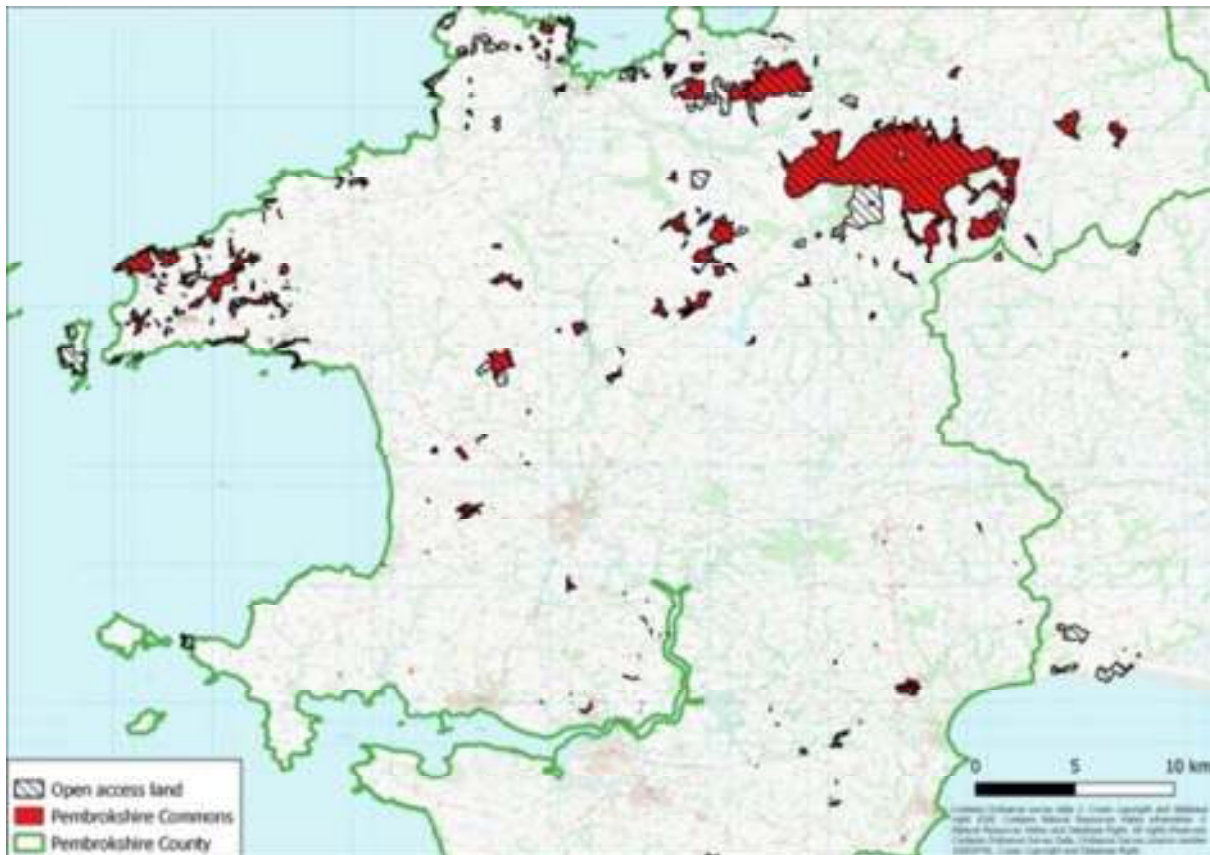


Figure 31. Commons and other Open Access land under the CRoW Act 2000

8. Factors affecting commoning within Pembrokeshire

To assess commons within Pembrokeshire it is important to consider the drivers of change within the county. Based upon meeting with Graziers Associations and individual graziers, the following key points were identified during the discussions:

1. Loss of critical mass
2. Isolation between graziers association
3. Agri-environment
4. Opportunities
5. The wider public, communication and social media
6. Uncertainty
7. Legislation
8. Bovine TB

8.1. Loss of critical mass

There was agreement across the grazing associations who contributed to the report that more graziers were turning out in the past, but with fairly modest numbers of sheep. It seems that the number of active graziers started to fall in the 1960s, but although headage payments saw a rise in sheep number into the 70s and 80s, there was no corresponding increase in active graziers, and today it is largely the same graziers who turn livestock out, but in higher numbers per grazier. Nevertheless, the problem today on the larger commons is one of ewe numbers which are too low to maintain the hefts boundaries. This is turn

places an increased management burden on each active holding as the sheep range ever more widely.

It was suggested that there had been an intensification of sheep production on the farm level driven by quality demands of the marketplace to produce heavier and twin lambs. This is aligned with an increase in sheep production in the lowlands, lambing earlier with twins thereby achieving access to the first markets. This contributes to the overall trend towards fewer sheep on the hills, with only dry ewes being outwintered, and these tend to stay on the lower flanks for the shelter in the period from around November through until March.

It was felt that commoning still requires cooperation between farms to work effectively. It is also important in sustaining relationships between neighbours. That being said, the practical impact varies from task to task, and sometimes technology eases the impact of the loss of active farmers. One common suggested that in 1960 it would take 18 people to gather the hill on horseback, while the same hill is now cleared by six people on quad bikes. On the other hand, below six, it would become difficult. Contrast that with the case of controlled burning, where one person is needed for every 10 meters of fire front.

With regard to the current prospects for succession, the picture is mixed. Some of the Preseli commons seem to have a good number of younger graziers (less than 40 years of age); on one common there are eight active farms and on seven of those there are good prospects for succession.

8.2. Isolation

Isolation in this case relates to the lack of opportunities for graziers to collaborate. From discussion with graziers and associations, it is clear that associations in particular tend to largely operate in isolation from one another. It was suggested that some networking does take place via the Welsh Commons Forum, although this only applies to those commons which are not only members but that are represented at the meetings. There is no cross-county or cross-commons (upland/lowland) opportunities, though some informal networking does of course take place on an ad-hoc basis between individuals.

Collaboration provides an important platform from which to address issues which affect many of the commons, influencing policy by responding with a single strong voice. It can also be a vital element of accessing funding; there has not been a project which works across several commons in Pembrokeshire since the Tomorrow's Heathland Heritage, Pembrokeshire Living Heathlands programme, which finished in 1998.

Communication between grazing associations may occur where there is more than one grazing association on a single area of common which has several CL numbers, such as the Preseli. But smaller Commoners Associations do not have an opportunity to discuss wider issues of commoning across the different commons within the setting of a formal meeting.

The group which is closest to offering a network within Pembrokeshire is the Pembrokeshire Sustainable Agricultural Network (PSAN) which is well regarded by participants, although this covers a range of groups, organisations individuals and interests. Perhaps the group most aligned to commons is the Pembrokeshire Wildfire Group, since commons make up

the bulk of unenclosed land in the county. In such a multi-stakeholder, multi-agency partnership, the commoners are of course in the minority and so this can only be a forum for taking forward a subset of commoner issues. Nevertheless, one opportunity may be to support this Group via PSAN.

Recommendation 1: Investigate with grazing associations the opportunity to develop a networked 'group' at county level

8.3. Agri-environment

Conservation designations were viewed with some scepticism by the graziers we interviewed, but one positive aspect is that they have assisted in getting support for capital works payments from NRW and PCNPA, and have eased entry into Glastir. There are 10 Glastir Common Land Element (CLE) agreements within Pembrokeshire. Where agreements are in place, and they work for the association, they have proven a welcome source of financial support for activity on the common and are broadly welcomed by graziers. We heard of examples where Glastir Advanced had funded capital works on the common such as bracken control and managed burning.

Income from the scheme was welcome although the purpose of the scheme remains somewhat nebulous to the outside observer. The default requirement to reduce overall stocking levels is counter-intuitive, when the feeling is that the number should be set at least at levels which are not only sufficient to manage the pasture from an agricultural perspective, but also to minimise risk for the habitats by reducing fire load. It was often difficult to get the feeling that the scheme was making sustainable commoning more viable and less uncertain.

One thing that is of concern is the mechanism by which success is measured and monitored. The graziers generally did not understand the significance of a SAC or SSSI, although they were familiar with some of the critical species associated with those designations, such as the Southern damselfly and Marsh Fritillary Butterfly. In every case, no grazier or graziers group could, when asked, identify what their Glastir CLE contract was attempting to achieve beyond limiting livestock numbers or grazing periods. At no time had what 'good condition' been explained to them at the contract stage or subsequently by a Glastir Officer.

In fact, the condition on the commons was assumed to be worsening, in part due to warmer winters and the suggestion of increasing bracken and scrub, with fewer fires over insufficient areas, according to the graziers. Ticks were felt to be more of a problem now than they were 20-years ago, providing a disincentive to graze.

Interestingly, even where a Grazing Association that has been in compliance with their contract and were receiving substantial payments, they were strongly of the view that they wanted to be able to see that their efforts had resulted in some tangible benefit (even, by implication, if it was for society rather than their own farms). The failure to provide such a feeling is a real weakness of Glastir on many commons.

When asked the majority of respondents suggested that they would be willing to utilise their knowledge of the common and livestock to achieve conservation payments through an

enhanced Glastir scheme where there are agreed outcomes instead of a prescriptive, input-based approach. The feeling was that the current scheme devalued their knowledge by not providing them with the flexibility to enable local decisions to be made on stocking levels for example.

In line with many other areas in Wales, many of the internal agreements which have been established in Pembrokeshire include 'compensation' for inactive rights holders (examples were £2.85 per sheep right per year). While necessary to get the scheme approved, such mechanisms add to the work of getting agreement and shift money away from those who bear the real costs of management.

One success of Glastir also perhaps illustrates its limitations. On the Dowrog, which is part of a Special Area of Conservation (SAC), grazing pressure was if anything too low and Glastir money has been utilised in combination with a lot of effort by NGOs to secure the common and undertake capital work to provide grazing opportunities. The common is used by two graziers, one with registered rights who has cattle and another who is using the rights of another inactive grazier with ponies. A certain amount of money is set aside to pay inactive graziers, but in this case this has some positive rationales in that it makes grazing cattle less risky for the existing grazier with rights. Some of the graziers agreed not to take a share to enable the funds to be invested in the common, to employ contractors, undertake controlled burning to overall improve condition; it is highly likely that the presence and guiding influence of NGOs has influenced such decisions. Interestingly, the site is managed on a rotational basis by the use of temporary fencing which works well where there are only one or two graziers. Much of this would be difficult or impossible on a 'normal' larger common with no proactive outside assistance and a multiplicity of active and inactive rightsholders.

The loss of the Commons Development Officers (CDO) was keenly felt. It appears that the CDO role was much broader than just advising on Glastir; they also provided wider advice and were available at the end of the phone to provide guidance and to discuss issues of concern. Given the lack of control visits, the farmers saw the importance of someone telling them that the work they are undertaking is correct and is compliant within the scope of the contract. In contrast, the relationship with the Regional Service Centre has been more challenging – the suggestion was made that the call handlers often do not understand how commons work and therefore how to best advise the Glastir client.

Recommendation 2: Review communication and the use of technical language in discussion expectations of graziers in delivering environmental benefits through agri-environment measures. Ensure NRW senior staff engage effectively with graziers, fully explaining the designated site's situation, special features and monitoring

Recommendation 3: Investigate what an outcome-based system could offer in empowering graziers to understand and deliver against an agreed set of mutually agreed outcomes.

Recommendation 4: Apply the ways of working and the principles of Sustainable Management of Natural Resources (see Annex 2) as the means to enable that engagement.



Figure 32. Looking over the flagstone of Garn Wnda on CL65, drowning in bracken, to scrubby Pontiago common (CL64) in the central distance. Image: ceridwen, Creative Commons Licence

8.4. Opportunities

What opportunities are there for a farm to retain younger people within the farm business. The picture within Pembrokeshire is similar to that across Wales. Where farms are generating sufficient income to sustain an additional salary, the younger people are more likely to stay in farming (Brackenbury and Jones 2016). In some cases, younger graziers (30-40s) said that they had returned to farming after a period in further education or employment.

Where there is insufficient income, grazing the common will be part time. It is often the case that sons/daughters may return to the farm later in life, perhaps on the retirement of the principal rights holder (father/mother). But although this pattern has been seen in the past, it cannot be assumed that this pattern will continue in the future, as aspirations and expectations change.

When discussing with younger graziers, it was felt that economies of scale were necessary on the common, to be viable and to make the best use of the grazing available sheep numbers needed to be high enough to warrant the effort. It was felt that small farms or those which have changed hands are very unlikely ever to exercise rights. An option discussed was a system requiring the minimum of labour which would allow for part-time employment elsewhere. Such a system requires livestock to be contained at a minimum on the common within adequate fencing and cattle grids and ideally within the common. An

actively grazed and used common is less likely to have unwanted, abandoned ponies which are a direct cost to the grazier's association. The more active a common, the easier it is to safeguard the interests on the common.

Part of the answer, though only part, lies in improving the understanding of and value ascribed to the contribution pastoral agriculture makes when it comes to delivering the multiple ecosystem service outcomes provided by common land. Could those benefits or services be achieved in the absence of grazing by farmers? If so, what would it cost society and would those cost be acceptable?

Recommendation 5: ascertain the value of pastoral agriculture in delivering societal benefits.

Recommendation 6: Establish the cost of 'buying-in' ecosystem service delivery from graziers. What would it cost to sustain existing activity on a Paying for Ecosystem Services (PES) basis?

8.5. The wider public, communication and social media

As with many commons within Wales, the visiting public and non-farming local residents present opportunities and challenges. Opportunities to engage with, influence, explain and market goods and services to. There are examples of commons-based business who have to use the common as part of the marketing and story of the product, e.g. Gower Salt Marsh Lamb, Pasture Fed Beef, etc. Also, farmhouse B&B, farm cottages, camping, and caravanning are all opportunities to drive on-farm seasonal income.

Some of the challenges with the public concern access to the commons and in particular dog attacks on livestock, or just chasing livestock away from the heft. The graziers welcomed the support from PCNPA who had been particularly helpful in this regard. One farm suggested that the risks of farming the common were too high to turn cattle out, with concerns about public liability but also possible injury to the cattle.

As in many other spheres of life, the effects of the boom in the use of social media on commoning are significant and growing. Social media are very much a double-edged sword for active graziers, enabling them to feel more connected to each other and the rest of society, but also enabling campaigns against commoning practice by people with little understanding of the system to grow effortlessly.

One graziers association cited social media, when combined with the changing demographics in their local community, as becoming a barrier to achieving active management of the commons and to maintaining that activity. The graziers wished to undertake activities to control bracken using a herbicide; a campaign was launched on social media in opposition, which ultimately resulted in the work being prohibited. As a result, bracken management can only be undertaken on a piece-meal basis, leading to a reduction in the area available for grazing and for claiming BPS, animal welfare issues related to a higher tick burden, an increase in biomass and fire load and could lead to a loss of condition within the SSSI.

On the other hand, social media has a huge potential to influence people's views in a pro-commoning direction. Where graziers have established a website it has made a difference to the way in which people engage with and understand what commoning is offering. Some examples include www.gowercommons.org.uk, www.newforestcommoners.com, www.dartmoorcommonerscouncil.org.uk. The reach of messages from Commoners Associations has been significantly extended by working with other groups e.g. National Parks. Within the New Forest all commoners tweets are retweeted to by the New Forest National park to increase their impact.

Graziers within Wales rarely have a social media presence or strategy to explain to others what they do, why and the benefits to society more broadly. It is essential to make the links between farming, the landscape and the ecosystem services provided in the stewardship of the commons by graziers, particularly as these become the core focus of Government policy.

Recommendation 7: Develop a social media strategy for commons within Pembrokeshire



Figure 33. Mynydd Castleblythe (CL85) - at 142.7 ha, a medium-sized Pembrokeshire common. Image: Alan Richards, Creative Commons Licence

8.6. Uncertainty

Uncertainty is a theme running throughout discussions with the grazing associations. General business risk is inherent to any farm businesses, given the vulnerability to climate and market fluctuations, but there is no doubt that this has been exacerbated by the uncertainties of Brexit. On surveyed Welsh hill farms, while BPS made up an average of only 20% of the money coming in (output), it was equivalent to 112% of profit before rent and finance costs, 164% of profit after those costs are included and 313% of profit if currently unpaid family labour is factored in. This is despite sales of livestock being 66% of farm output (IBERS 2018).

On common land, the success of the Commons Development Officers in overcoming the extra difficulties of common land governance and getting associations into an agri-environment scheme resulted in 194 Glastir CLE agreements. These agreements are now an

important part of farm economy, but graziers still unable to access this funding still have the safety net of BPS.

The Welsh Government has however made it clear (Welsh Government 2018) that in future the principle will be ‘public money for public goods and services’ and that support will be delivered through just two schemes – one for capital items and one for public goods. The difficulties of designing schemes appropriate for common land were demonstrated in the early days of Glastir, but now all the eggs will be in one basket, creating severe uncertainty for graziers. Even if the proposed measure is available to the commons association in principle, what mechanisms will be put in place to ease entry and to focus the money on those who bear the real costs – the active graziers?

Given such unanswered questions, alongside those relating to market access, currency fluctuations and so on, it is little wonder that farmers find it difficult to plan for the future and to risk investment in livestock and machinery. In one conversation concerning Brexit, the view taken was that in a worst-case scenario where BPS and agri-environment income ceases the capital within the farm would be viewed as the retirement fund. It was suggested that the value of that capital may be lessened if the withdrawal of BPS leads to a reduction in land prices.

In the current circumstances, commoners associations should be drawing together groups who can support them at the local, regional and national level. This will be achieved by developing partnerships. The benefits of partnership are multiple and can operate at the level of the common, the ward or the county. Some benefits could include, influencing policy development, securing funding for capital works, undertaking a review of activities and gathering evidence, joint work on projects with multiple benefits e.g. bracken control to reduce fire load, tick transfer to sheep, access and biodiversity.

There are a number of standard vehicles for delivering such information and advice available to farms through the Farming Connect service funded by the Welsh Government. One example which has been used in the past for commoning is Agrisgôp, but a wider range of the available instruments need to be focussed on extensive systems and particularly on commoning. The perception which came across in some of the interviews with graziers that commoning with sheep in particular seems all too often to be the poor relation of the dairy and beef sectors in Wales. This is systemic – it was pointed out that there is a general lack of opportunities to learn about the practice within agricultural colleges, for example.

Recommendation 8: Establish a partnership group within Pembrokeshire representing key commons and grazing interests

8.7. Legislation affecting the commoners

Given the wide-ranging impacts of legislative controls, the Welsh Government has a pivotal role in the future of Pembrokeshire commoning. It needs to ensure that its regulations are proportionate (specially to risk) and reasonable, that commons are considered from the start during the process of legislating and regulating, that the impact of regulation is continually monitored with reference to both narrow and wider policy goals and that both policy failures and any unintended consequences are immediately addressed.

The legislative framework has been critical to-date in protecting commons from development and loss of commons area to piecemeal encroachment. It is however essential to review that legislation to ensure that it is still fit for purpose in the context of the broad aspirations and challenges set out in the Environment (Wales) Act 2016 and Well Being of Future Generations (Wales) Act 2015. Also, there is a need to consider the guidance which stems from legislation and whether that is currently appropriate and able to deliver the aspirations of these acts against the backdrop of change accompanying Brexit and in terms of the apparent lack of easy access to appropriate Rural Development Plan support (see next section).

Burning was traditionally used to refresh the vegetation thereby holding livestock within a particular location and to control ticks. It clearly has a role in controlling wildfire and therefore arguably in minimising risk for habitat condition. Burning is thought by graziers to be more difficult now due to the restriction on the time of year in which burning could be carried out and the number of people required to assist in the management of the burn. The creation of the Pembrokeshire Wildfire Group was welcomed and had assisted the graziers in raising the profile and justification behind the practice.

Legislation	Section
Commons Act 2006	In particular Part 2, Management, Part 3 Works and Part 4 Miscellaneous
Animal Welfare (Electronic Collars) (Wales) Regulations 2010	In particular, what animals are included within the scope of the regulation
2008 No. 1081(W.115) Agriculture Wales, Hill Lands Heather and Grass etc. Burning (Wales) Regulations 2008	These are the standing rules within Wales which govern controlled burning of vegetation.
The Animal Health Act 1981 plus subordinate legislation (2008, 2010 & 2011) Bovine TB eradication programme	This relates to the rules which govern cattle movements to and from the common and action in the event of a breakdown
The conservation of Habitats and Species Regulations 2017	S.20 Management agreements – in particular the way in which management agreements are described and achieved

Table 4. Some key legislation affecting commons

It was also suggested that the graziers should have the freedom to erect temporary fencing enclosures on the common with electric fencing, so that the intervals between burns can be lengthened. Within Wales, there is no derogation for *de minimis* works as there is within England for the erection of temporary stock enclosure infrastructures, but interestingly (and again where NGOs are actively testing the limits of the legislation) such fencing is very much in evident on the smaller commons in the north-west of the county.

It is clear that many of the existing pieces of legislation require review to provide sufficient flexibility and an enabling policy framework which is fit for the future. A review of the legislation is needed to ensure coherence between all the various items and between the law and the Government’s wider policy aims when it comes to commons.

Recommendation 9: Identification of all law which is applied to commons and can either support or impact upon management and resilience of grazing activity

Recommendation 10: Ensure that, as in England, Wales sets up a derogation for *de minimis* works for the erection of temporary stock enclosures

Recommendation 11: Test new ways of working within and outwith existing legislation with a view to reform of legislation using the provisions within the Environment (Wales) Act 2016

8.8. Bovine TB rules

The most significant regulatory impediment to grazing the commons are those associated with bovine tuberculosis (TB) biosecurity rules. Although the common is likely to be a place of low biosecurity risk and thus somewhere where grazing should be encouraged, the effect of the current Welsh rules is to make grazing that common practically difficult (few commons have the cattle handling facilities necessary for TB testing animals before they leave) and high risk (TB breakdowns on any of the farms using the common can lead to problems for all, irrespective of whether animals came into contact in reality).

When it comes to commons, the current rules seem to have been designed for administrative simplicity, whether or not that makes risk management or epidemiological sense, while the impact on other policy objectives for which grazing the commons is important have not been taken into consideration. We heard an example of a farm which had previously turned cattle to the hill had given up in response to a TB outbreak.

A rather different approach is being taken in parts of England, where commons TB plans, in which off-common holding areas are considered part of the commons for TB purposes, are providing a way in which grazing can continue, albeit under the difficult circumstances of an ongoing severe TB problem.

Recommendation 12: In liaison with the Bovine TB group investigate the trial introduction of common land TB management plans within Wales

References

- Brackenbury, Siôn, and Gwyn Jones. 2016. "State of Commoning in Wales, Version 2." <http://www.efncp.org/download/FCLcommonsreport2016.pdf>.
- . 2018. "Gower Commons Successional Health Check - Report to the Gower Landscape Partnership."
- Brackenbury, Siôn, Chris Short, and Nick Lewis. 2012. "Doing Things Differently: Glastir Common Land Element and the Local Action Groups. An Evaluation of the Commons Development Office Role Using the LEADER Methodology."
- Francis, I S, M Finch, N Penford, E J Hughes, and J W Aitchison. 1990. "Biological Survey of Common Land, No. 15: Pembrokeshire." Aberystwyth.

- IBERS. 2018. "Welsh Farm Income Booklet, 2016/17 Results. Farm Business Survey in Wales." Aberystwyth University.
https://www.aber.ac.uk/en/media/departmental/ibers/farmbusinesssurvey/FBS_Booklet_2017_En.pdf.
- Welsh Government. 2018. "Brexit and Our Land - Securing the Future of Welsh Farming."
https://beta.gov.wales/sites/default/files/consultations/2018-07/brexit-and-our-land-consultation-document_1.pdf.

Annex 1 – Provisions of Section 45 of the Commons Act 2006

Section 45 states that the local authority has powers over unclaimed land, where:

- a) land is registered as common land or a town or village green;
- b) no person is registered in the [common land] register of title as the owner of the land;
- c) it appears to a local authority in whose area the land or any part of it is situated that the owner cannot be identified.

The local authority may—

- a) take any steps to protect the land against unlawful interference that could be taken by an owner in possession of the land; and
- b) institute proceedings against any person for any offence committed in respect of the land (but without prejudice to any power exercisable apart from this section).

A local authority can intervene on behalf of an absentee landowner to protect the land where

- a) a person is carrying out, or causing to be carried out by virtue of any arrangements, an agricultural activity on land which—
 - i. is registered as common land; or
 - ii. is registered as a town or village green and is subject to rights of common;
- b) the activity is unauthorised; and
- c) the activity is detrimental to—
 - i. the interests of persons having rights in relation to, or occupying, the land; or
 - ii. the public interest.
- d) For the purposes of this section, activity is unauthorised if the person carrying it out or causing it to be carried out—
 - i. has no right or entitlement by virtue of his ownership or occupation of the land, or pursuant to any right of common, to do so; or
 - ii. is not doing so with the authority of the person or persons entitled to give such authority.
- d) The reference [.....] to the public interest includes the public interest in—
 - i. nature conservation;
 - ii. the conservation of the landscape;
 - iii. the protection of public rights of access to any area of land; and
 - iv. the protection of archaeological remains and features of historic interest.

Annex 2 – Principles of the sustainable management of natural resources

Adaptable – we need to plan, monitor, review and change our work as we gain a better understanding through our improved evidence and experiences.

Scale – decisions and actions will need to be taken at the right level, be it national, regional or local. We will all need to work together to identify the most appropriate scale for delivering the environmental and wider, cultural, social and economic priorities and opportunities that our evidence highlights.

Working together – everyone has a stake in our natural resources and to ensure that these resources are sustainably managed everybody has a role to play, through engaging in projects, providing evidence, or cooperating and collaborating at the local, regional and national level.

Engaging with the public – ensure that everyone has an opportunity to have their say on how our natural resources should be managed at all stages of decision-making.

Evidence – a wider and improved evidence base is needed in order to increase our understanding of our natural resources, how they function and of the benefits that they provide. Improved evidence will help us all to better understand the steps that we can take to manage our natural resources more sustainably. A full range of evidence will be needed, not only environmental, but also, cultural, social and economic evidence will be needed from experts, stakeholders and local communities.

Understanding all of the benefits we receive from our natural resources – we all need to increase our understanding of the value of our natural resources and the ways in which they support each other so that we and future generations can continue to have economic, social, cultural and environmental benefits whilst reducing the impact we have on the environment around us.

Long term – the impacts of our decisions and actions need to be considered not only for their effect in the short term but also over the long-term.

Prevention – to take steps to prevent significant damage of our ecosystems.

Resilience – to be able to deal with increased demands and pressures our ecosystems need to be healthy. This includes ensuring that our decisions consider the resilience of our ecosystems and their ability to provide their benefits in the long term. This will also help to ensure they are capable of adapting to the impacts they face from climate change and future demands.