

# Open Space

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 Open  
Spaces  
Society

Campaigning since  
**1865**

# Open Space

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## Cover story

David Maclean (Lord Blencathra), deputy chair of Natural England, cuts the ribbon to open the National Land Access Centre at the Aston Rowant National Nature Reserve in the Chilterns, on 14 September (see page 2). This is a demonstration site for the use, maintenance and installation of gaps, gates and stiles to meet the new British Standard for structures on public paths. Photo: Kate Ashbrook.



## Beef up the bill

**Last summer the Dartmoor Society (a voluntary body) hosted a visit to Gidleigh Common on north-east Dartmoor. Those present were shocked to see the land there smothered in purple moor-grass and gorse, where once there had been heather. Now the vegetation engulfs the rich collection of prehistoric remains: stone rows, field systems and cairns, and confines right-to-roam public access to narrow tracks.**

The cause of this degradation is the grazing regime imposed by Natural England: a reduction in livestock, a ban on winter grazing and a limit on the area of land to be swaled (ie burnt to rejuvenate the heather). Dartmoor needs a different prescription from England's northern uplands, each area is unique. But the agricultural grants and their stipulations have been applied in a blanket fashion.

### Solution

The Agriculture Bill, which is now in parliament, could provide a solution—so long as it requires ministers to act. So far its wording is vague, with good intention (public money for public goods) but no duty on anyone to do anything.

The bill gives the secretary of state powers to make payments for 'managing land in a way that maintains, restores or enhances cultural heritage or natural heritage'. That should mean that landowners and commoners will receive payments in return for managing their

stock so as to avoid the sort of blight afflicting Gidleigh Common, and to restore such land to its former health. But that will require flexibility which is not evident on the face of the bill.

It is excellent that 'supporting public access' comes in the list of public goods which will attract funding, but this is only discretionary. It must be made mandatory and must embrace improvement and creation of public access—as we have recommended to MPs (see page 4).

### Docked

The bill offers no guarantee that those receiving money will do what they are being paid to do—or that, if they break the law, their grants will be docked.

Currently, farmers receiving subsidies under the Common Agricultural Policy must adhere to cross compliance, which includes keeping public paths on their land in good order. But enforcement of this excellent principle is weak: breaches reported to the Rural Payments Agency are rarely followed up.

The new legislation should require farmers and land managers to obey the law on their land. The public must be able readily to check whether a farmer is receiving a grant, to report a breach such as a blocked path, and to know when it has been dealt with. Such a process will also help impoverished highway authorities to tackle path problems.

We shall urge amendments to make the bill work.

**KJA**



## Path structures: new rules

**Our chairman Chris Beney explains how the new British Standard for structures on public paths came about.**

Natural England, the Country Landowners' Association, National Farmers' Union, British Horse Society, Institute of Public Rights of Way and Access Management, the Disabled Ramblers, a former gate-designer and ourselves formed a working party and produced a revised British Standard for Gaps Gates and Stiles (BS5709:2018, ISBN 978 0 580 98210 1). There were some hiccups on the way but in the end all parties agreed to the revised version. It took effect last February.

The basic concept of the minimum practicable obstruction to the public using the paths is retained. More emphasis has been put on meeting the real needs of the landholder but specific regular checks of the structure are now required. Other significant changes include: some self-closing gates have to close in a controlled time and all latches

*A kissing-gate with special provision to open further for wheelchairs.*



must be coloured yellow for visibility. These last two requirements were identified during gate trials in York in 2015.

In recent years the standard has been widely used. It gives a relatively simple route for local authorities to comply with their Equality Act 2010 and Highways Act 1980 duties and powers; for example, in specifying path structures in diversion orders or when authorising new structures for control of farm animals.

## Choosing and checking

The standard demands that the least-restrictive type of structure consistent with the real needs of the landholder must be chosen. There are tables in the document to help make that choice.

For each type of structure there are certain minimum or maximum dimensions. Some opening and closing mechanisms, latch colour and the rounding of certain edges are all laid down. But so long as the specified functional, dimensional and installation requirements and checks are met, and continue to be met, no matter what material is used in construction or what size or shape some parts of it may be, the conformity with the standard will be satisfied. So regional variations can often be accommodated.

Gate manufactures have been known to sell certain gates etc as 'BS5709 compliant'. That cannot be guaranteed. They can only be BS compliant if:

- they are the least restrictive structure to meet the landholder's particular needs at a particular location, and

- they are installed with surfaces, slopes and manoeuvring space in line with the standard, and
- they are checked and a written report is made at installation and subsequently not less often than every two years.

If they fail any of these tests, they are non-compliant and therefore probably constitute an unlawful obstruction with the consequences which flow from that.

That said, it is helpful if manufacturers indicate which of their structures are able to be BS compliant when installed properly. For instance, some small kissing-gates can never comply.

Not many installers know the installation requirements. A good many authorities do not inspect the structures. The BS now requires that someone does. In principle our local correspondents, members and the general public can help here, especially for the biennial checks, but initial checks are best done by highway-authority people.

### An opportunity

Post Brexit there will be a chance to change the rules for agricultural subsidies to tie some of the money to enhanced public benefit (see page 4). Besides increased access to land, that is likely to include some requirements for more

*Lord Blencathra, deputy chair of Natural England, speaking before opening the demonstration field at Aston Rowant. Photo: Chris Beney.*



*Novel design of BS bridlegate.*

public-friendly structures and BS5709 is available to help that process.

### Looking ahead

In the light of all this, the first official National Land Access Centre and demonstration field (below) has been opened at Natural England's Aston Rowant National Nature Reserve in south Oxfordshire with help from volunteers, led by Tom Bindoff, a retired gate-designer and gate-maker, and with sample gates from Centrewire Ltd. People can shortly get involved with a mix of in-field and indoor training. Officers authorising new gates or drafting diversion orders; managers wanting a better grasp of best-value policies; landholders and user-group volunteers will find the training useful.

We look forward to the nationally improved access for all users that should flow from this work. □



# Step towards access

The Agriculture Bill, published in September, allows for payments for access. Now we must make it a reality.

**It is good news that the Agriculture Bill confers on the environment secretary the power to give financial support for 'public access to and enjoyment of the countryside, farmland or woodland and better understanding of the environment'.**

This follows lobbying by the society, Ramblers, British Horse Society and other outdoor organisations that public access should be recognised as a public good in the payment regime after Brexit.

Support can be given for 'managing land or water in a way that maintains, restores or enhances cultural heritage and natural heritage': the references to 'heritage' are particularly relevant for commons. Now we need to ensure that access is an integral part of all payment schemes, not an optional extra.

## Rewards

We want to see rewards for new, permanent and well-publicised access, such as paths to enable people to walk and ride off-road, avoid dangerous road-crossings or link with existing paths. There should be payments for additional entry points to access land.

Farmers and land managers with public paths on their land should be able to elect to make them better (summer OS page 6). The bill is silent on cross-compliance and we believe it to be essential that there is an effective policing mechanism, so that those receiving payments are required to fulfil their legal duties on public paths and access land. In these times of austerity this would relieve the burden on hard-pressed highway authorities.

We shall seek assurance that the bill allows payment mechanisms on common land. Here commoners, as well as the landowner and other interests, share responsibility for delivering public goods, and commoners should be eligible for payments.

The bill makes a good start but there is still a long way to go.

## Wales

Meanwhile the Welsh Government is consulting on *Brexit and our land: securing the future of Welsh farming*. We are pleased that it recognises that 'land managers have a key role to play in the ... provision and improvement of outdoor recreation opportunities'.

We anticipate that the Welsh Government will be open to introducing schemes which reward land managers for greater public access. We shall argue for better cross-compliance, given the poor record of the current agri-environment scheme *glastir* where money is paid and the paths are not necessarily in good order.

*Farmers could be rewarded for keeping paths uncultivated: Colwall footpath 28 in Herefordshire.*





## Pulling the trigger

*The Queen on the application of Cooper Estates Strategic Land Ltd v Wiltshire Council and (1) Richard Gosnell and (2) Royal Wootton Bassett Town Council [2018] EWHC 1704 (admin).*

This is the first court case to pronounce on the meaning of ‘trigger events’ (see below) and it has worrying implications.

In April 2016 Richard Gosnell applied to register as a green 380 square metres of triangular-shaped land at Vowley View on the south-east side of Royal Wootton Bassett (RWB) in Wiltshire. The land is an amenity space in an established area of housing. He submitted that the land had been used by local people for informal recreation for 20 years until that use was ended by a locked gate in May 2015.

## Checked

On receiving the application Wiltshire Council checked that the right to apply for registration of the land had not been suspended by a ‘trigger event’, as defined in section 15C of, and schedule 1A to, the Commons Act 2006. Such an event,

*Local people enjoy a barbeque on the Vowley View green in 2005. Photo: Richard Gosnell.*



which includes the grant of planning permission, prevents registration of land.

The council wrote to its own planning services and to the Planning Inspectorate; both confirmed that there was no trigger event. The council accepted this and in due course informed the claimant, the landowner Cooper Estates Strategic Land Ltd, of the application. The claimant responded with an opinion from Gregory Jones QC that policies CP1 and CP2 in Wiltshire Council’s core strategy 2015 acted as a trigger event and therefore the application was invalid.

## No event

The council maintained that there was no trigger event and on 4 October 2017 its Northern Area Planning Committee resolved to register the land as VG65. The claimant sought judicial review in the high court, before David Elvin QC.

The principal ground was that the application was not validly made since policies CP1 and CP2 constitute a trigger event. The question was whether the plan identifies the land for potential development, and therefore invalidates the claim of a green. The relevant trigger was paragraph 4 of schedule 1A to the Commons Act 2006: ‘A development plan document which identifies the land for potential development is adopted ...’.

For the claimant, Gregory Jones QC argued policy CP2 specifically creates ‘a presumption in favour of sustainable development’ within the boundaries of a number of types of settlements including market towns, of which RWB is one. Since the green lies within the defined limits of RWB shown on the plan’s

relevant inset map, it is identified for development.

The judge agreed that the land does not have to be identified specifically by a line on a plan, and that if it falls within a larger area of potential development which is identified that is sufficient. His view was reinforced by the purpose of the trigger, namely to prevent a green application from hindering potential development. He therefore confirmed that the application was not validly made.

Wiltshire Council has sought leave to appeal against this worrying decision. The sole purpose of CP2 was to encourage development to take place in several designated towns, and not in the countryside. It did not identify any part of RWB as particularly suitable for development (although other policies do), and indeed, various parts of RWB are highly unsuitable—such as the conservation area designated across much of the town centre. If a general designation of this kind is sufficient to trigger the exclusion of the right to apply to register a green, much of England—and soon Wales—will have been placed out of bounds to applications.

### War at Warcop

The battle to prevent the Ministry of Defence (MoD) from deregistering Hilton, Murton, and Warcop commons in Cumbria has reached a new stage (see OS summer 2017 page 7). Cumbria County Council, the commons registration authority, called a public inquiry which opened on 13 September.

The society was represented by barristers George Laurence QC and Ross Crail, who kindly agreed to act on near *pro bono* terms. This case is of the utmost importance, effectively privatising 17 square miles, one per cent of England's common land.

Cumbrian commoners and residents were also up in arms and at the inquiry we

argued our case alongside the Federation of Cumbria Commoners, Foundation for Common Land, Friends of the Lake District, Hilton Commoners' Association, and Murton Parish Council among others.

The MoD applied for deregistration under paragraph 2 of schedule 3 to the Commons Act 2006, which allows the registration authority to amend the register to reflect historical events in certain circumstances, until 14 December 2018. The MoD acquired the rights exercisable over the commons by compulsory purchase in 2003, and now says that the compulsory purchase empowers it to deregister the commons. We say that the deregistration would be unlawful and flies in the face of undertakings made by the MoD at a public inquiry in 2001 to keep the commons registered in perpetuity.

### Waste land of the manor

We and other objectors have argued that, even if the MoD can apply to deregister, it must show that the commons have ceased to be waste land of the manor. In order to allow the objectors time to respond to the new arguments, the inspector, Alan Evans (a barrister), has adjourned the inquiry until 30 October.

We cannot understand why MoD is pursuing this, at considerable cost, when it says that it does not intend to develop the commons. It claims that registration of the land as common is incompatible with training use, but parliament has expressly allowed for the Warcop training estate to be exempted from any requirement for consent for works on the commons, by an order under section 43(5) of the Commons Act 2006.

MoD has also argued, absurdly, that the commons are at risk from the creation of a commons council—yet there are no commoners whom a council could regulate! The best solution would be for MoD gracefully to withdraw now. □

# Our treasured landscapes

The government has launched a review of England's designated landscapes in time for their seventieth anniversary next year.

**On 27 May the environment secretary Michael Gove launched a review of the national parks and areas of outstanding natural beauty (AONBs), to be led by author and journalist Julian Glover.**

The terms of the review are encouraging. The minister has emphasised that it is not intended to weaken or undermine existing protections or geographic scope, but the aim is to focus 'on how designated areas can boost wildlife, support the recovery of natural habitats and connect more people with nature'.

The review will consider, among other things, the existing statutory purposes of national parks and AONBs, the alignment of these purposes with the government's 25-year environment plan, the case for extension or creation of new designated areas, finance, and how to improve governance, the environment and biodiversity.

## Advisory panel

There is an advisory panel consisting of Nicola Blackwood (former Conservative MP for Oxford West and Abingdon), Ewen Cameron (chair of the former Countryside Agency), Jim Dixon (former chief executive of the Peak District National Park authority), Jake Fiennes (manager of Holkham estate, Norfolk), Sarah Mukherjee (former BBC and rural affairs correspondent), and Fiona Reynolds (former director-general of the National Trust).

There will be no formal sessions with the panel, but there will be a call for evidence later this year.

Of course we want to see our designated areas offering exemplary public access. Also, commons feature massively in these landscapes: 79 per cent of England's commons by area, and 33 per cent by number, are in the national parks and AONBs.

## Public benefit

We shall argue for agricultural payments that encourage landowners and commoners to manage the commons for public benefit. And we shall take the opportunity to argue for a national speed limit of no higher than 40 mph on unfenced roads across commons, at least in the designated areas, to support grazing and discourage fencing.

Our evidence will include a call for a toughening of the vague duty on public bodies to 'have regard to' national park and AONB purposes, which is too often neglected.

The review is an opportunity to make the designated areas even more worthy of their status.

*Little Asby Common in the Yorkshire Dales National Park. Photo: Friends of the Lake District.*





## Local correspondents gather

For two days in mid-August, 29 local correspondents, trustees and members of staff met at the Hillscourt conference centre, Rednall, on the edge of the Lickey Hills country park south-west of Birmingham. It was an opportunity to swap experiences and ideas and to learn more about what we are all doing.

Topics covered the breadth of our work on commons, greens, open spaces and public paths, as well as forthcoming issues such as public access after Brexit. Correspondents had an opportunity to talk about their 'hot topics' and we had a useful discussion about our developing strategic plan 2019-2024.

We took a pleasant walk on the Lickey Hills, led by Paul Brown, local correspondent for Mid Sussex District, enjoying parts of the Squirrel and Bluebell Walks, with wide views over south Birmingham and beyond.

We greatly appreciate the work of our local correspondents and we know that

they value the opportunity to get together. We hope to organise another event in a couple of years.

## Planning charter's failure ...

We are dismayed that the revised National Planning Policy Framework (NPPF), which was published on 24 July, gives no additional protection to open spaces in England.

We hoped that the government would take the opportunity to set out how the designation of land as local green space (LGS) could be a part of the planning process and protect land which is special to the community. Unfortunately, there is nothing to stop a planning application being made and determined even when local people have applied for land to be designated as LGS.

We believe that LGS should provide opportunities for public enjoyment and well-being, but despite our arguments the designation does not confer any rights of public access, thus severely limiting such opportunities.

*Local correspondents pause on their walk in the Lickey Hills country park.*



Furthermore, the revised NPPF fails to give adequate protection to registered commons or greens because such land is not regarded as a 'material consideration' for planning purposes. We consider that the regime for regulating works on common land should not be regarded as a substitute for protective planning policies.

We believe that there should be a requirement for developers to designate land as LGS or voluntarily to register it as a town or village green; this would protect open space for use by local people. But the NPPF is silent on this.

### ... and success

However, it is a relief that the revised NPPF retains the wording of the 2012 version which recognises that national parks and areas of outstanding natural beauty should 'have the highest status of protection'. These words were missing from the revised draft.

As we approach the seventieth anniversary of the National Parks and Access to the Countryside Act 1949 which established these designations, it is more important than ever that the land is protected and enhanced.

### Our AGM

We held our AGM in London on 5 July with 38 members of the society present.

The AGM chairman, our vice-president Paul Clayden, opened the meeting by pointing out that not only was today the seventieth anniversary of the National Health Service, but we had two days ago celebrated the fiftieth anniversary of the Countryside Act 1968.

This empowered local authorities to create country parks so that people could enjoy informal recreation close to home. Now, in these times of austerity, our parks were under unprecedented threat of sale, neglect and commercial abuse. The act also improved the law on public paths but was still not being fully upheld. The



*Our general secretary, Kate Ashbrook (right), speaks at the opening of Margaret's Bridge over The Cut, a tributary of the Thames at Maidenhead. This was built in memory of Margaret Bowdery; she vigorously led the East Berkshire Ramblers and was a member of OSS. Looking on are Theresa May (as MP for Maidenhead) and Paul Lion, mayor of the borough. A fitting tribute to a great campaigner. Photo: Royal Borough of Windsor & Maidenhead.*

society would continue the campaign to achieve all the aims of the 1968 act.

The meeting approved an amendment to our articles of association so that in future the voting for trustees will always be by ballot instead of this being optional.

### Welsh access on hold

Last year we responded to a consultation from the Welsh Government, *Taking forward Wales's sustainable management of natural resources*.

We welcomed the proposal for extended access to coast and cliff, riverbanks and lakesides, an all-Wales digital map of access, and the repeal of the 2026 closure of definitive maps to claims based on historical evidence. We expressed concern about other aspects of the paper such as a blanket law to allow cycling and horse-riding on footpaths, considering that such a plan should be based on the merits or demerits of each case.

We hoped that Wales might pioneer some access initiatives and were disappointed when Hannah Blythyn, the environment minister, announced in June that 'There were strong but differing views on how best to reform access legislation. We therefore believe that now is not the right time for substantive reform.' However, the government is 'committed to exploring selected aspects of change where there was greater consensus'.

There *was* greater consensus for the proposal to repeal the 2026 closure of definitive maps to path claims based on historical evidence: the majority of those commenting on the proposal supported it. We have reminded the minister of this and urged her to give it priority since there is now little time before the cut-off will take effect.

Consequently, she has invited us to meet her to discuss this—a timely opportunity.

### Retiring trustees

Four of our trustees retired at the AGM: Diane Andrewes, Graham Bathe (chairman), Mary Traynor and Phil Wadey (vice-chairman). Diane, Graham and Phil had completed two terms of three years after which they were required to stand down for at least a year. Mary retired due to personal circumstances.

Diane, Graham and Phil were present at the meeting. On behalf of the society the *Left to right: Diane, Phil and Graham receive hand-made wooden paper-weights in token of the society's appreciation.*



general secretary thanked them for their significant contributions, wise advice and dedication to the cause.

### New trustees

At the AGM Chris Beney, John Hall and Chris Meewezen were elected as trustees. At their subsequent meeting the trustees elected Chris Beney as chairman and Jean Macdonald as vice-chairman.

**Chris Beney** served as a trustee from 1997 to 2017 and has been our local correspondent in Hertfordshire since 1993. He is an expert on path structures and has worked on access-related issues with local authorities for 25 years.

**John Hall** is our local correspondent for his native Coventry. He was a founder member of the Ramblers' Coventry group in 1983, has been a professional rights-of-way officer with four local authorities, and has served on the staff of both the Ramblers and the British Horse Society.

**Chris Meewezen** is our local correspondent for Cheshire East where, in addition to the normal workload, he has inherited the task of co-ordinating local user groups' efforts to apply for lost ways before the cut-off date.

### Common-land swaps

We have helped to defeat a proposed exchange of common land at Therfield Heath, near Royston in Hertfordshire.

The Conservators of Therfield Heath and Greens wanted to swap 1.65 acres of common land at Sun Hill, where it wished to build eight houses, for the same area of woodland over a mile away. The objectors included Natural England and Hertfordshire County Council, and a public inquiry was held.

The inspector, Mark Yates, rejected the application, concluding that, since the land to be lost at Sun Hill has been used for recreation, the exchange would have an adverse impact on those living close by. Also, there was evidence that the



*Common land at Sun Hill, saved from deregistration. Photo: Don Shewan.*

replacement land was already being used by the public and therefore there would be an overall loss.

Conversely, a common-land swap at Gorseinon near Swansea has been approved despite our objection.

Persimmon Homes has been allowed to deregister 0.71 hectares of attractive

**AGM 2019**  
Our AGM next year will be on Thursday 11 July at Friends House, 173 Euston Road, London NW1 2BJ. Note it now!

common to build a roundabout giving access to Garden Village, a new development. It has offered in exchange 0.81 hectares of land which the objectors (including the society) considered inferior, being merely a field lacking interesting features.

The planning inspector, Vicki Hirst, considered that the interest of local people and the public would not be adversely affected.

### **Commercial abuse of spaces**

We were dismayed to learn in June that the supreme court had refused the Friends of Finsbury Park leave to appeal against the court of appeal judgment on the commercial use of Finsbury Park for the Wireless Festival.

We had planned to intervene in this action so as to test our contention that local authorities, within and outside London, do not have unrestricted powers to exclude the public from parks and pleasure grounds in order to hold large-scale events. We have asked the supreme court for the reasons why it refused leave to appeal and await a response.

Meanwhile, we shall have to find another suitable test case to pursue to the supreme court in order to overturn the court of appeal ruling.

### **Winterville mess**

Our local correspondent for Lambeth, Jeremy Clyne, has pressed the council not to allow another six-week-long Winterville festival on Clapham Common in south London, from November 2018 to January 2019.

The common has still not recovered from the damage caused by last year’s festival. The so-called ‘events area’ there, on which Lambeth Council has allowed this and other major commercial events to take place, was closed to the public for five months from January while attempts were made to restore the ground. By August the ground was still mainly bare, compacted earth.

The council has been flooded with objections to the planning application for a repeat of the festival. And it refuses to reveal how much it receives for allowing

*The ‘events area’ of Clapham Common has not recovered from Winterville 2017.*





*Crockham Hill Common on the greensand.*

the event, citing commercial confidentiality. We believe this should be public knowledge and Jeremy is pursuing the matter.

### **Fylingdales fence**

We have objected to three miles of fencing on Fylingdales Moor common in the North York Moors National Park.

The application under section 38 of the Commons Act 2006 comes from the Manor of Fyling Court Leet which wants to graze livestock there. We have said that the proposed fencing would be on open moorland of great natural beauty in a national park, and would impair the landscape and people's enjoyment of its wide vistas.

It was annoying that the court leet discourteously failed to consult us before putting in the application.

### **Green light for greensand**

We are delighted that Sevenoaks District Council, Kent Wildlife Trust and other partners have won a National Lottery grant of £483,600 for the Sevenoaks Greensand Commons heritage project.

We have supported this project from its early days. It aims to restore the commons on the greensand ridge as important open spaces, with their fascinating history, abundance of wildlife and opportunities for public recreation and learning.

The commons are all in the Kent Downs

Area of Outstanding Natural Beauty and are sites of special scientific interest and/or local nature reserves.

They are glorious but little understood. Through the project, local communities will discover so much more about the environment and opportunities on their doorstep, and schoolchildren will learn what the commons have to offer.

Andy Willmore, who has been developing the project for the last two years, is now the project manager, so it is full steam ahead. We look forward to further involvement as the project unfolds.

### **Waverley's commons**

Our case officer Hugh Craddock has persuaded planners at Waverley Borough Council in Surrey to adopt a standard paragraph for use when granting consent for development which might affect common land. The paragraph will remind the applicants that the development may also require ministerial consent for works on common land under section 38 of the Commons Act 2006.

This is particularly important in Waverley which has 120 common-land register units comprising around 13 square miles. Moreover, much of the land is regulated by a scheme made under the Commons Act 1899 by Waverley's predecessor, the former Hambledon Rural District Council, which vests the management of the land in the council. □



## Bentley Lane blocked

**We are pressing Gloucestershire County Council to reopen the ancient Bentley Lane, which runs to the east of Southam village onto Cleeve Common. The lane has been blocked by gates since 2010.**

The old track is laid out in the Bishops Cleeve inclosure award of 1836 with a width of 30 feet. It leads directly to the former Cheltenham Racecourse. It was shown on the definitive map as Public Bridle Road ASM25 and was used freely by the public until 2009 when it was peremptorily redirected into the adjacent field on the grounds that there was an error on the definitive map. Shortly after this, gates were erected across the lane.

In 2016 the society and the Ramblers questioned the legality of the closure and the gates, and the county council acknowledged the public's claim to Bentley Lane. However, instead of seeking the immediate removal of the gates and reopening the lane to the public, the council embarked on a slow process of rectifying the definitive map error. It did so by making a diversion order under the Highways Act 1980 to

which we objected, pointing out that this was the wrong procedure for correcting the definitive map.

The planning inspector, Rory Cridland, agreed it was the wrong procedure and rejected the proposal on 11 May 2017. Now the council has commenced a further legal process to establish that the definitive map is wrong and that the lane is indeed public—nine years after it was blocked by ornate, stone gateposts and electronically-operated gates.

## Somerset levels

One of many past users of the lane was Doctor John Garrett, then medical officer of health for Cheltenham Borough and a keen exponent of walking for health. He relates using the lane in his book *From a Cotswold Height*, published in 1919.

More than 70 years later his son, John V Garrett, also writes of Bentley Lane. He says: 'Of all the old trackways in the area it is the most evocative where you can imagine early travellers toiling up the hill and horses and carts laden with stone from the quarries coming down'.

Says Gerry Stewart, our local correspondent: 'The council has wasted

*Unlawful gates on Bentley Lane. Photo: Gerry Stewart.*



nine years but we are pleased that it is now acting to ensure this lovely old way is reopened for public enjoyment. We shall press the council to remove the gates without further unnecessary delay.'

### Rope Yarn Lane

The track known as Rope Yarn Lane at St Mary Bourne, four miles north-east of Andover in Hampshire, has been recorded on the definitive map as a restricted byway.

In 2012 local resident Pauline Wood made an application to Hampshire County Council to add the 520-metre route to the definitive map as a restricted byway. Her application was based purely on historical rather than user evidence. When the route was obstructed in April 2015 the council moved the application up the list and, after investigation, made an order for a restricted byway in 2016. There was an objection from Dan Sheerman who owned much of the adjoining land.

A hearing was held in August 2017 before inspector Helen Slade. She concluded that there was strong evidence that the route was a public highway, but she was not satisfied that it carried public vehicular rights. She therefore issued an interim decision that the route be added to the map as a bridleway.

There were four objectors to this

#### *Obstruction on Rope Yarn Lane.*



proposed modification, and we advised one of them, Peter Scrase, in his opposition.

Peter examined the Whitchurch highway board schedule of highways 1863 and found evidence that Rope Yarn Lane is part of the road described there as 'Newbury Road by Doiley Wood'. The inspector, who considered the objections to the modification by written representations, was extremely impressed with this detailed work. She concluded that Rope Yarn Lane was 'part of the principal road network in the parish, and had been since long before 1863'.

She therefore determined that the order should be confirmed with the lane shown as a restricted byway. (Refs ROW/3167600, 15 September 2017 and ROW/3167600M1 7 August 2018)

### Tizz over Tisbury path

Wardour School governors want to move Tisbury footpath 83 which runs across a field adjacent to the school and to fence the path with steel post-and-wire mesh.

The school tried to move the route under the Highways Act 1980; there was much opposition and Wiltshire Council decided not to make a diversion order. Then the school tried to move the path by means of a planning application—although it would still need a formal order under the Highways Act 1980 or Town and Country Planning Act 1990 to achieve its aim.

We have opposed the planning application. Although it is unclear what the application is for, we fear the outcome would be that the path is both moved and enclosed. The proposed fencing is ugly and restrictive, and walkers would lose a lovely open walk with fine views of the Cranborne Chase Area of Outstanding Natural Beauty.

The popular footpath is a pleasant alternative to the nearby Wessex Ridgeway long-distance path which here



*Buxton footpath 4, before (left) and after (right). Photos: Roy Wheeler.*

runs along vehicular routes.

If the school feels under threat (and we have seen no evidence of this) it should introduce its own security arrangements.

### **Buxton footpath loses stiles**

We are pleased that Norfolk County Council has belatedly replaced unlawful stiles with gates (pictured above) on Buxton with Lamas footpath 4, three miles south-east of Aylsham. The stiles

### **Our strategic plan**

We have produced a draft of our next strategic plan which you can read on our website at <https://bit.ly/2OsZ8Ff>. If you wish to comment, please do so to [office1@oss.org.uk](mailto:office1@oss.org.uk) by Monday 19 November 2018.

were in appalling condition, difficult to negotiate, and not authorised under section 147 of the Highways Act 1980.

The path, which follows the River Bure to the east of Buxton, is about two and a half miles long.

In 2015, our member Roy Wheeler reported to the county council that there were seven unlawful stiles on this route.

Two stiles were replaced by gates within three months. The council took no action, despite repeated requests, on the other five until June this year, when the landowner replaced four stiles with gates. One stile was removed totally as there was no need for any structure.

### **Secret paths of Powys**

Our Powys local correspondent, Peter Newman, asked a question at the county council's full meeting in July about its failure to signpost public paths where they leave metalled roads, in accordance with the duty in section 27 of the Countryside Act 1968. Peter pointed out that only 69 signposts were erected in the last financial year, and he asked how many signposts were needed to fulfil the act's requirements and how long would it take.

The council gave a written reply, estimating that 6,280 signposts would be needed—which we reckon will take 91 years at the current rate.

We shall keep up the pressure. □

*Footpath sign at Dolau, near Penybont in Powys, setting the right example.*





## In praise of Cicerone

**A cicerone is 'a guide who gives information about antiquities, places of interest, etc to sightseers' (the *Concise Oxford Dictionary*). Cicerone publishers have for the last 49 years provided such information for walkers, mountaineers and cyclists throughout Great Britain and the rest of Europe.**

There are countless walking guides on the market but Cicerone can be relied upon for interesting, pocket-sized books with a good range of well-mapped walks. When you are visiting somewhere unfamiliar, a Cicerone guide is the perfect companion.

### Timely

I was therefore delighted to receive Cicerone's latest edition of *Walking in the Chilterns* by Steve Davison (£12.95) with 35 walks of varying lengths in the area of outstanding natural beauty: particularly timely given that Henley-on-Thames has recently qualified as a Walkers Are Welcome town.

Other recent books are *Walking in Northumberland* by Vivienne Crow, *Walking Hampshire's Test Way* by Malcolm Leatherdale, and new editions of *Walking the Dales Way* by Terry Marsh and *Scrambles in the Dark Peak* by Tom Corker and Terry Sleaford, each £12.95 and all of a high standard.

## Hidden north London

**The Pymmes Brook Trail** by Colin Saunders (Footline Press in association with the Enfield Society, £8.99 but reduced to £7+£2 p&p for OSS members from [www.colinsaunders.org.uk](http://www.colinsaunders.org.uk)).

The 12.3-mile Pymmes Brook trail runs

from the source of the brook, on a plateau in north London near Hadley Green, south-eastwards to join the River Lea at Tottenham Locks. The trail was created in the 1990s by the London Boroughs of Barnet and Enfield. It links woodland,



*Fountain Pond on Hadley Green. Photo: Colin Saunders.*

parks and open spaces in an attractive and, perhaps unexpectedly, interesting walk.

The route is divided into four sections with clear instructions and maps interspersed with points of interest and amusing observations, making the guide both useful and readable. **KA**

## Sorting our archives

We shall give our more recent records to the Museum of English Rural Life (MERL) in Reading, which already has some of our archives, and we are making a financial donation to enable MERL to store, catalogue and publicise them so that they can be used for research.

This is funded by a generous gift from our member Colin Bennett who decided to leave us his legacy in his lifetime. We are most grateful to him.

# John Underhill-Day, 1943-2018

**We are sad to report the untimely death of John Underhill-Day at the age of 74. He was an excellent all-round naturalist with expertise in common land, and a good friend to the society.**

John was born in St Albans, Hertfordshire, and educated at Lancing College in West Sussex, which he hated. He left at 16 and trained to be a surveyor, but after five years of office routine he escaped to become warden of Coombes Valley, a Royal Society for the Protection of Birds (RSPB) reserve in Suffolk.

From 1971 to 1988 John worked at The Lodge (RSPB's head office) as deputy chief reserves officer and head land agent. He had a major role in the huge expansion of RSPB reserves, and he negotiated the purchase of Minsmere in Suffolk and Leighton Moss in Lancashire, among many others.

## Holistic

John pioneered a holistic approach to the RSPB's reserve management—for nature in general not just birds.

He much preferred to work in the field and in 1988 he became warden of Haweswater reserve in Cumbria, the only site where golden eagles were breeding south of the border. While there he completed his PhD on the breeding status of marsh and Montagu's harriers in Britain. In 1996 he became the senior site manager at the Arne reserve in Dorset.

The RSPB found that it was facing threats of development on lowland heaths, in which John was expert, and it called upon him to serve as witness at public inquiries; the lawyers were much impressed by his 'magisterial' authority.

Those inquiries included the Thames Basin heaths; Talbot Heath in Dorset and Lydd airport in Kent. In 2010 he received

a 40-year service award from RSPB.

In 2005 he founded Footprint Ecology with his RSPB colleague Durwyn Liley. This consultancy, based at Wareham in Dorset, specialised in conservation management and common land—and that is how our paths crossed.

John was generous in involving the society in his work; he frequently advised landowners and managers on the best outcomes for their commons and always urged them to consult the society about access.

## Options

Many are the heathland commons I visited with John to consider options for management—and I would ask him to look out for birds for me. I heard my first nightingale in John's company on Ebernoe Common in West Sussex in May 2010, a memorable moment.

Together we ran training days for commons managers in various parts of the country; John was always pleased to find a role for the society. We miss his expertise and his friendship. **KA**

*John by the River Piddle near Wareham.  
Photo: Andrew Dodd.*



The Open Spaces Society was founded in 1865 and is Britain's oldest national conservation body. We campaign to protect common land, village greens, open spaces and public paths, and your right to enjoy them. We advise local authorities and the public. As a registered charity we rely on voluntary support from subscriptions, donations and legacies.

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