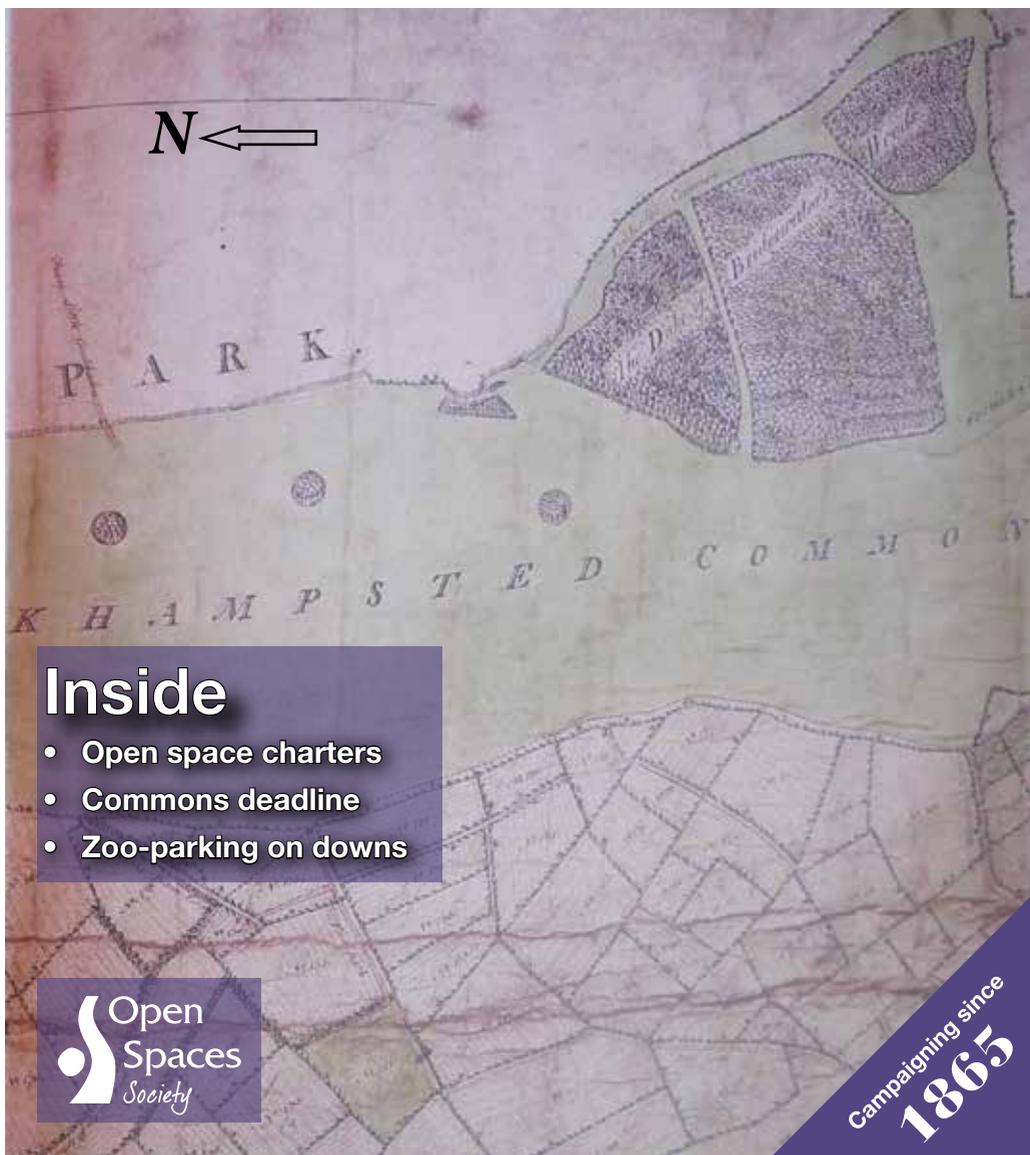


Open Space

Autumn 2020

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 Open
Spaces
Society

Campaigning since
1865

Open Space

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Cover story

We used this map (titled 'Honor of Berkhamsted in the County of Hertford', 1784, with north to the left) in our application to re-register part of Berkhamsted Common (decision pending). The closure of the archives during the pandemic has frustrated our ability to research such maps, manor court records and other manuscripts which are essential for making applications (see page 5). Reference BNLW/1/6/6/1/14, Lincolnshire Archives.



Misdeeds and no deeds

On 28 September the Prime Minister pledged to protect an additional 400,000 hectares (1,562 square miles) of England’s countryside to support ‘the recovery of nature’. A fine promise but what does it mean?

The recovery of nature is immensely important, so too is the recovery of people. The pandemic has shown the value of local green spaces to health and well-being, but they need stronger laws and duties to protect them.

Explodes

Despite the PM’s airy promise of protection, the destruction of countryside continues apace—eg the £27 billion road-building plan, the HS2 railway, and indiscriminate housing. The government’s white paper explodes the planning system which has sensibly controlled development since 1947 (see page 7).

Meanwhile, ministers threaten to criminalise trespass, and we have yet to see how far this proposed denial of freedom will go.

True the England Coast Path and its adjoining access land are nearing completion (thanks to the hard work of Natural England and volunteers); and government has launched a ‘green recovery fund’. But Julian Glover’s review of protected landscapes in England, published over a year ago, is left to languish. On the anniversary, 13 organisations, including the society, urged the environment secretary to publish his response. Glover

recommended, among much else, that the national parks and areas of outstanding natural beauty should have greater protection, and should widen their attraction for all parts of society. This will need legislation, but none is forthcoming.

The prospects for post-Brexit agricultural funding are equally unsatisfactory. On this we have hung hopes of money for more and better access, but the government has given no indication that it will withdraw grants from those who abuse public paths or deny public access. Nor will it clarify how the funding will work on commons—which need it to maintain traditional grazing and management, for the benefit of all.

In line with these uncertainties is the government’s refusal to extend the year-end deadline for re-registering commons in seven pioneer areas. An extension is urgently needed to compensate for the closure of archives during the pandemic, a simple shift but the minister makes excuses (page 5).

Placemaking

It feels better in Wales. The Welsh government’s Placemaking Charter involves communities in local development and in securing safe streets and spaces. Extra money has been granted for rights-of-way improvement and for protected landscapes.

The Westminster government should learn from Wales. Promises are meaningless without actions.

KJA

Open space charters

This year people have enjoyed their local green spaces as never before. Now is the time to protect and expand them.

In early August we wrote to every planning authority in England and Wales (nearly 400 of them), Robert Jenrick, the Secretary of State for Housing, Communities and Local Government, and Julie James, the Welsh Minister for Housing and Local Government, arguing for a better deal for open spaces.

We called on the Westminster and Welsh governments to introduce a national plan and standards for open spaces, and the Welsh government to revise and update its technical advice note 16 on open space and recreation.

Secured

We advocated placing a duty on local authorities to ensure that everyone can enjoy good-quality, well-maintained and safe open space within 300 metres of their homes. We say that such spaces should be secured as part of development. In England, local green space needs more protection than now, with an improved process for designation.

The society urges planning authorities to adopt robust policies for the acquisition, management and protection of green spaces, to have a budget for them, and to dedicate their green spaces as town or village green to ensure their protection.

We recommend communities to get involved in their local planning processes before land is allocated for development, to identify spaces which need protection, and to form friends' groups to champion them.

We shall lobby the Westminster government to secure open spaces and

access to nature through the government's 25-year environment plan, and the Agriculture and Environment bills and their funding regimes. We shall continue to advise our members on how to protect their open spaces.

In particular we want to see greater use of the opportunity to register land as a town or village green as mitigation for development, and have asked each planning authority to consider voluntary registration of the land which it owns, and to encourage developers to do the same by making this a condition of planning permission. We have also asked the authorities to send examples of their policies and procedures for open spaces so that we can create a dossier and encourage good practice.

By the end of September, we had received 18 substantive responses from local authorities, but hope for many more. Julie James responded promptly, referring to the Welsh government's *Kingsmead Field at Canterbury in Kent, voluntarily registered as a green by Canterbury City Council in 2019.*



Placemaking Charter, promoting good-quality design and spaces, which the society has agreed to support. The signatories pledge to promote placemaking in their work, which includes the creation of public spaces. Robert Jenrick has yet to respond.

We quote studies by the New Economics Foundation and the think tank Centre for Cities to support our calls.

The charters are on our website at <https://bit.ly/32TUu9T> (England) and <https://bit.ly/3mFHj49> (Wales).

Calls for action

Our charters were well timed. Shortly after we published them two further calls for action were made, by Friends of the Earth (FOE) and the Ramblers.

FOE, in *England's green space gap*, exposed the disparity in access to green space across the nation, and especially the strong correlation between green space deprivation and ethnicity. People of black, Asian or minority ethnic (BAME) origin are more than twice as likely as a white person to live in areas of England that are most deprived of green space.

The report acknowledges the work of our society, over the last 155 years, in winning urban spaces, and it refers to our charters. Similarly, it calls for existing space to be protected in perpetuity, created where provision is lacking, and made a properly-funded statutory service available to all.

The Ramblers has published *The grass isn't greener for everyone: why access to green space matters*, which sets out the findings of a YouGov survey of how the pandemic has changed our attitude to nature, green space and walking. It too calls on the government to use the Environment Bill to prioritise people's access to nature and green space. Consistent with others, it found that people on a low income and of a BAME



Rally to save Longridge playing field in Knutsford, now designated as local green space. Photo: Knutsford Guardian.

background are less likely to have green space within a five-minute walk of their home.

With this wealth of information, the case for placing open spaces centre-stage in government policy and decision-making has never been stronger.

Knutsford scores 41

Knutsford in Cheshire East is already implementing our charter. In its neighbourhood plan it has designated 41 areas of local green space. The society helped its member, Knutsford Residents in Over Ward, to save one of these spaces, Longridge playing field (pictured above) on the south-east side of town. This was threatened with disposal under section 123 of the Local Government Act 1972 on the grounds that it was surplus to requirements.

We wrote to Cheshire East Council pointing out that it was not surplus; in fact it was much used by the public, and had been designated for protection as a local green space in the emerging neighbourhood plan. It forms the setting for the historic Booths Hall and parkland. We are delighted that the land has been saved and is now designated as local green space. □



Vowley View saved

Vowley View open space, on the south-east side of Royal Wootton Bassett (RWB) in Wiltshire, has been rescued by our member Richard Gosnell. He tells the story.

When the housing estate containing Vowley View was built in 1969, a 380-square metre plot was left as a grassy verge beside the street. My wife Judy and I moved there in 1975. The plot was mowed by North Wiltshire District Council and children played on it.

A few years on, I planted a conker there from my father's land in Hertfordshire.

In 2001 I asked the district council if I might buy the land but the council said that it was owned by the estate's builders. It agreed to contact the owner to transfer the land to the council for amenity space.

Instead, the developer (Cooper Estates Strategic Land Services Ltd) applied for a house there. This was the first of seven

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



such applications in the 18 years up to 2019. They were refused by the council and the refusals were upheld on appeal.

Meanwhile, in April 2016, I applied to register the land as a town green, with 22 evidence questionnaires showing 20 or more years of uncontested use. In 2017 the council registered the land but the community's elation was short lived.

Cooper appealed on the grounds that the land was subject to a 'trigger event' as defined in section 15C of the Commons Act 2006. Such an event, which includes the grant of planning permission, prevents registration of land as a green.

Presumption

The council had already checked that no trigger applied, but Cooper maintained that, because the land lay within the limits of RWB as defined in Wiltshire Council's core strategy 2015, there was a presumption in favour of development within the boundary, and the land was therefore subject to a 'trigger event'.

The high court ruled in Cooper's favour, Wiltshire appealed and the appeal court reaffirmed the decision so the green registration was annulled (OS autumn 2018 page 5 and summer 2019 page 1). This was bad news for this green and for many others in similar circumstances. The seventh planning application followed with indecent haste.

Shortly after this, I was surprised to hear that Cooper was selling the land by auction. I bid for it by phone and won. Thus, the green has come home to me 19 years after I offered to buy it. Sadly, Cooper felled the horse chestnut tree, but the community can still enjoy the land. □

Looming deadline

The pandemic has had a serious effect on our ability to meet the end-year deadline for re-registering commons

Our commons re-registration officer, Frances Kerner, writes of the difficulties she faces in researching lost commons given the restrictions resulting from the pandemic.

An application to re-register a common under part 1 of the Commons Act 2006 comprises evidence brought together from three elements of investigation: desk-based research, and visits to archive repositories and sites (which are usually in rural areas). While there has been no interruption to the first, the last two elements have been severely disrupted.

Lockdown

This is because during the nationwide lockdown it was not possible to visit sites (now that restrictions have eased this can be done with careful planning). But the most problematic consequence of the restrictions was that physical research in archive repositories, seeking out historical evidence, could not be carried out.

Repositories closed their doors in mid-March but only some reopened in the summer. Furthermore, even when a repository has reopened, access to the service provided is limited. All documents have to be ordered several days before the visit, there is no access to additional documents on the day, and browsing of hard copy catalogues and reference books is prohibited.

This means that leads cannot be followed up, time is limited on site and the researcher has to make another appointment to visit, perhaps weeks

ahead. The visiting restrictions brought in at repositories in response to the pandemic mean that everything concerned with research takes much longer to accomplish.

If we had ample time for this project the delays and restrictions outlined above would not have been too serious. They would perhaps have caused us to pause our work of re-registration or shift the direction of desk-based research.

Indeed, during the national lockdown, I did much prioritising and preparing for when repositories reopened. However, we are in the last months of re-registration in certain areas of England; all applications for re-registration of land in Blackburn with Darwen, Cornwall, Devon, Herefordshire, Hertfordshire, Kent and Lancashire must be made before the statutory deadline of 31 December 2020.

After this date it will not be possible to re-register land there, even if it meets the criteria for re-registration.



Maenporth Beach in Cornwall which one of our consultants, Tomas Hill, has re-registered.



Land at Berkhamsted Common in Hertfordshire (0.17 hectares) which we have succeeded in re-registering.

In the 2014 regulations under the Commons Act 2006, six years were allocated for re-registration of common land. But at least six months have been lost in 2020 because the necessary research could not be undertaken.

Recognising this difficulty, the society wrote to John Gardiner, Under Secretary of State for Rural Affairs and Biosecurity, to request an extension to the closing date for re-registration. However, even after three requests, Lord Gardiner refused to extend the deadline, commenting that there had already been plenty of time for re-registration and that Parliament is occupied with legislation relating to the pandemic and Brexit (yet all that is needed is an amendment to the regulations, which does not require parliamentary time).

Disappointing

This response is extremely disappointing and does not acknowledge that six years means six years, nor that parliament is readily extending deadlines which affect the economy, for instance for planning permission, vehicle tests and filing accounts.

It is now generally recognised that the pandemic has highlighted the value of open spaces to everyone, everywhere. The protection of these spaces is not just important for us, especially

in these troubled times, but for all those who are to come after. Lord Gardiner's decision not to extend the deadline for re-registration commensurate

Increasing our resources

In order to maximise our ability to apply to re-register lost commons before the end of the year, the trustees have agreed to allocate additional funding from our Jack Candy legacy fund. As a result, the Landman consultancy with which we are working has employed two extra people to research commons particularly in Cornwall and Devon. We now have Richard Sanders, Tom Hannis (replacing Martin Skuse), Harrison Bush, and Henry Buckpitt working full-steam on the project.

We are also grateful to volunteers who are visiting potential sites, taking photographs and providing us with vital information.

with the time lost denies protection of land that is eligible for re-registration. We hope that he will change his mind—and meanwhile we shall work relentlessly to capture all those lost commons which are eligible. □



Extract from plan of the Honour of Berkhamsted by John Norden showing the site of Frithsden Beeches in the Manor of Berkhamsted, 1612. We used this map as evidence in one of our applications (the National Archives MR1/603).

Planning for the wrong future

The government proposes to simplify the English planning system at the expense of local democracy and open spaces.

The Ministry of Housing, Communities and Local Government published *Planning for the Future* on 6 August. The paper proposes drastic changes to the planning system in England. Our case officer, Nicola Hodgson, explains.

Local authorities will be required to split their land into three planning zones: 'growth' (suitable for substantial development), 'renewal' (suitable for development), and 'protected' (ie restricted development). The last category includes designated landscapes. Evidently, green spaces, which have been invaluable to communities during the covid-19 restrictions, will be even more vulnerable to development than now.

Lack of protection

We raised concern about the lack of statutory protection for open spaces in our response to changes to the National Planning Policy Framework 2019. While the local green space designation affords protection similar to that given to green belt land, it only kicks in when a local plan is reviewed or a neighbourhood plan prepared.

Planning for the Future barely mentions the government's 25-year environment plan, which is meant to leave the environment in a better state for future generations. The proposals, which could also weaken environmental impact assessments and implementation of biodiversity net gain, are at odds with the government's Environment Bill.

Community involvement will be restricted to the local-plan process so that people will lose their ability to comment

on individual planning proposals and applications, drastically reducing local democracy. It is hard for communities to become involved in the local-plan process which is complex and aloof. Site allocation policies are virtually finalised before they are made publicly available and are difficult to challenge even now.

Permitted development rights are to be extended, with automatic permission for development in 'growth' and 'renewal'



At risk: Clayton Fields, Kirklees.

zones. This will reduce the ability to set local policies.

The proposals offer little on public consultation and even remove the right to be heard at the examination process for a local plan. They fail to consider public access and the requirements of local communities for health and well-being. Indeed, they will lead to development above all else. And we fear for the impact on rights of way, whose fate will have been determined long before any public path order comes forward.

With 12 other bodies we have prepared a briefing for MPs to raise our many concerns. We shall respond to the proposals and we urge members to do likewise by 29 October—and to lobby their MPs.

Case File



Downs for people not cars

Our member Downs for People in Bristol is seeking judicial review of a secret, 20-year licence for parking for the zoo on Clifton and Durdham Downs. The group's founder, Susan Carter, explains.

The downs in Bristol are glorious. They stretch from the Clifton Suspension Bridge to a grassy plateau high above the Avon Gorge—400 acres of open land.

In 1861 parliament passed the Clifton and Durdham Downs Act to protect them. This noted that the downs had been open 'from time immemorial'. It decreed that they should 'for ever hereafter remain open and unenclosed, and as a place for the public resort and recreation of the citizens and inhabitants of Bristol'. The act provided for a downs committee to achieve this. The committee is made up of the Lord Mayor of Bristol and six other city councillors, the Master of the Society of Merchant Venturers (SMV) and six SMV members. SMV is the landowner of Durdham Downs.

Bristolians enjoy the downs in a variety of ways. On fine summer weekends and

at bank holidays they are packed with people. That is when (as well as in peak school-holiday weeks) Bristol Zoo uses one of the best parts of the plateau on Durdham Downs as a car park for 700 cars. This use started in the mid-1960s for six days a year and grew. In 1996 the zoo sought a licence for 102 days.

Protest

From 1996 the Open Spaces Society has joined Bristol amenity groups to protest about the zoo's abuse of the downs. Visually intrusive, the car park affects recreation over a wide area, blocking popular walking routes and creating traffic problems.

Bristol City Council took enforcement action against the downs committee and the zoo in 1997 to require them to seek planning permission. Parking is contrary to policies to protect the downs so that a permanent permission was never a possibility. Councillors have instead granted seven temporary permissions. These have steadily reduced the number of days parking allowed, to 28 in 2019 when the last permission expired.

Clifton and Durham Downs, an open space (left) or a car park (right)?



As for licences from the downs committee, that committee agreed in open session to grant five-year licences in 2009 and 2013. The 2013 licence expired at the end of 2017.

Downs for People was formed in 2013 to co-ordinate action against zoo parking. We focused on the zoo's planning applications until 2017. Then we turned our attention to the downs committee. We have made statements to every committee meeting since the beginning of 2018. We pointed out that zoo parking was contrary to its statutory remit and had continued in the apparent absence of a licence. We asked to meet it. We were ignored.

Revealed

To our surprise—given the grant of licences in 2009 and 2013—the response to a Freedom of Information request revealed in 2019 that there was a 2003 licence that had not expired. After a councillor interceded on our behalf, the downs committee agreed in January that we could seek clarification from the council. To our astonishment we learnt at the end of May that a 20-year licence had been granted, from 2020 to 2039.

The surprises have continued. We have discovered that councillors on the downs committee knew nothing about the grant of the licence. Decisions were taken in closed sessions and may not even have been recorded. Moreover, the licence was not granted by the downs committee. The SMV granted a licence to Bristol City Council which gave a sub-licence to the zoo. The downs committee agreed to this.

Last year Downs for People sought advice from the Open Spaces Society on what would be involved in a judicial review: it seemed daunting. We have no quarrel with Bristol Zoo and indeed, when covid-19 forced it to close, we wrote to say that we would not campaign against parking on the downs this year when it reopened. But we could not

ignore a 20-year licence and a three-month deadline to challenge it. We have applied for permission to seek judicial review and a decision is awaited.

We are enormously grateful for the help from the society's case officer Hugh Craddock. He has explained the legal procedures, investigated the legislation, and helped prepare documents. The society has given us a generous financial contribution from its legal fund towards our initial costs.

Our barrister is Philip Petchey, who is highly knowledgeable and has offered to act for us on the most favourable terms. Philip's colleague, Jeremy Phillips QC, has kindly offered his support as well. Our solicitors are the experienced team at Richard Buxton. We feel well supported in our defence of the downs.

Legal update

The society is involved in two cases which are going to the court of appeal.

We are intervening in support of the defendant, Hampshire County Council, at Blackbushe aerodrome on Yateley Common in Hampshire (OS summer 2020 page 2). The high court, with the society intervening in support, quashed an inspector's decision to remove land from the commons register but the landowner, Blackbushe Airport Ltd, has been granted leave to appeal. The case centres on the definition of 'curtilage' and has wide-ranging implications for other commons.

Rollright

The high court ruled against the society's challenge to an inspector's decision to confirm the diversion of Rollright footpath 7 in Oxfordshire (OS summer 2020 page 13). The society has been granted leave to appeal, to argue that public enjoyment of a route should not be weighed against private interests in the diversion process in section 119 of the Highways Act 1980. □



Restored at Beeston Regis

Land has been restored to Back Common and Beeston Regis Common near Sheringham in north Norfolk, thanks to the initiative of Sheringham Town Council.

The council noticed that two small but useful areas, which had been shown on the original plan submitted with the application to register the common in May 1967, were not subsequently shown as common land on Norfolk County Council's register. Under section 19 of the Commons Act 2006 common land can be registered if it was omitted because of a mistake made by the commons registration authority—in this case the county council—at the time of the original registration under the Commons Registration Act 1965.

The county council has agreed to add the land to the register. It is on the northern edge of Back Common, and the northern side of the old route of the Cromer Road A149 on Beeston Regis Common.

We urge other parish and town councils

Looking south over Beeston Regis Common to the priory. Photo: Kate Ashbrook.

to follow this splendid example and to check whether the common-land register for their areas conforms to applications made in the 1960s. If any has been omitted they should apply to register it.

Our remote AGM

Due to the pandemic we were not able to hold a physical annual general meeting this year. Instead we invited members to vote online or on forms, and to ask questions if they wished. An impressive 142 members cast votes, and all the formalities were completed satisfactorily. The draft minutes are on our website.

We elected Tara-Jane Sutcliffe as a trustee. Tara-Jane joined our board in March 2019 but resigned five months later to take a job as the director of the St Helena National Trust. After six months she returned to the UK and we are delighted to welcome her back.

At the trustees' meeting after the AGM formalities the trustees elected Phil Wadey to replace Chris Beney as chairman. Chris has done that job diligently and cheerfully for the last two



years and we are pleased that he remains on the board. Graham Bathe replaces Phil as vice-chairman. The trustees also co-opted Stuart Bain and Simon Hunt for a further year.

About turn

Having celebrated the withdrawal of the controversial commons land-swap on part of Clyne Common, Swansea (summer 08 page 11) we are angry that the landowner, the Duke of Beaufort's Somerset Trust, has reapplied for consent. The latest plan is similar, to build affordable housing on 2.6 hectares of the common and to replace it with land which is two kilometres away. We are fighting it.

Post-Brexit commons

The Agriculture Bill has reached the House of Lords. In July, our vice-president Lord (Tony) Greaves moved an amendment on behalf of the society and the Foundation for Common Land. This was to give the Secretary of State for



Langdale Pikes, common land in the Lake District. Photo: Graham Bathe.

Environment, Food and Rural Affairs the power to apply agricultural funds to common land despite the complexity of shared interests. The bill is unclear on this point.

Tony made the case eloquently, and other peers spoke in support. Baroness Bloomfield, responding for the government, said that commons would be included in a three-year pilot for environmental land management schemes

under the bill, but gave no undertaking to amend the bill to account for all the interests in commons. Tony will return to this at a later stage.

Ugly fence at Ugthorpe

We are dismayed that the Planning Inspectorate has approved a ten-year application for nearly a mile of new fencing on Ugthorpe Common near Whitby in the North York Moors



Ugthorpe Common.

National Park. It has also given retrospective consent to replace more than two miles of unlawful fencing there.

The Mulgrave Estate applied for consent, under section 38 of the Commons Act 2006, to control the grazing for nature conservation. We objected because the fence was an ugly intrusion which would subdivide this sweep of moorland, restricting public access.

The inspector, Barney Grimshaw, noted that the fencing would inevitably affect the character of the landscape, but believed that the existing fencing did not have a significant adverse effect. Our argument, that the application should first be screened under the environmental impact assessment rules, was ignored.

Goodbye Ellen

Our office manager, Ellen Froggatt, has retired after more than ten years with us. During that time, Ellen has made a significant impact. Not only has she been the hub of our busy office and had command of our IT, but she was responsible for the 'new look' which we



Ellen walking in Suffolk.

adopted in 2013, with an updated logo and design for *Open Space*; the development of our digital communications and presence in social media; and the revamp of our website.

On top of this, she has become a casework expert, responding to many queries from our members and the public. We shall miss her enormously and wish her a long and happy retirement.

Hello Sarah

We have appointed Sarah Hacking as our new office manager. Sarah has had an extensive and varied career in administrative, operational and managerial roles, in both the commercial and charity sectors.

She was born and bred in Nidd, near Harrogate in North Yorkshire, and now lives in Marlow, Buckinghamshire. She enjoys keeping fit and being outdoors, at home and abroad.

In her spare time Sarah was volunteer



Sarah Hacking.

manager for a local hockey-club and spends many weekends pitchside watching her two grown-up daughters play.

AGM 2021

Our AGM next year will be on Thursday 8 July. We shall decide the format of the meeting nearer the time. While we fervently hope we shall be able to gather in person we appreciate that this may not be possible.

Threat to Brent River Park

We have objected to an application to erect a massive leisure-centre with residential development and other buildings on the edge of Brent River Park in Ealing.

The site is the existing Gurnell Leisure Centre and the application is from Be:Here Ealing Ltd.

We are concerned that the development will tower over and blight the beautiful, tranquil Brent River Park. This was created in 1974 as a safe, green haven for



The inauguration of Brent River Park in 1974. Photo: Colin Miell.

local people. It is also a nature conservation site, through which runs the Capital Ring long-distance path around London. We are pleased that the London mayor, Sadiq Khan, has told Ealing Council that the application does not comply with the London plan, and that he may direct it to refuse the application.

Path Issues

The role of local councils

We have published a new information sheet about the role of the parish or community council (or meeting) in preparing the draft definitive map and statement under Part IV of the National Parks and Access to the Countryside Act 1949.

The information sheet was originally prepared by our case officer, Hugh Craddock, for the British Horse Society (for which he acts in a voluntary role). It responds to a series of decisions by inspectors who have refused to confirm definitive map modification orders (DMMOs) in relation to Devon paths.

The inspectors were heavily influenced by findings that the parish councils had decided to omit the paths from the definitive map during the 1949 act survey, and that these decisions were evidence tending to show that no right of way exists. The information sheet demonstrates, with examples, that such



The hillfort on Dumpdon Hill, Devon, from footpath 60, one of the claimed paths in Luppitt. Photo © Derek Harper, Creative Commons Licence.

decisions frequently were not attributable to the legal test set out in the 1949 act, but founded in matters which ought to have been set aside as irrelevant—such as whether the path was perceived to be useful.

Two successive decisions, in relation to orders for several paths in the parish of Luppitt, have now been quashed on the application of the Ramblers, supported by the Open Spaces Society, and the orders now await determination for a third time. You can read more about the Luppitt orders in Hugh's blog at <https://bit.ly/2S7X7yy>.

Quashed

The inspectors responsible for the quashed decisions had before them the minutes of Luppitt Parish Council which recorded meetings at which it was stated that 'many of the paths were considered to be now not used and were crossed off', and that 'further footpaths were discussed, many were found to be of no public use and omitted'. Such proceedings were commonplace at this time.

The information sheet is now published jointly by the society and the British Horse Society so that it reaches more people.

Objectors to DMMO applications may now argue that the omission of the claimed way (or its recording at a lesser status) under the 1949 act process is evidence that the route is not a highway. In such cases, the applicant should submit our information sheet to counter that argument.

Hugh would welcome any further

documented examples which can be added to the information sheet. It is on our website at <https://bit.ly/3cJOELx>.

Get real, Defra

'Weak and ineffective' is our description of the government's proposals for monitoring and enforcing compliance with agricultural grants.

In its consultation, Financial Assistance Statutory Instrument, the government proposes to monitor the use of public funds for delivering public goods as part of the new agricultural grant programme post Brexit. However, it only intends to take action against a breach of the grant 'when there is serious misuse of taxpayer's money or fraud', relying

Claiming paths

We have updated the popular information sheet on our website which explains how you can apply for the addition of a path to the definitive map after 20 years' use. You can download it at <https://bit.ly/36v5jRO>.

instead on occasional site visits and giving grant recipients opportunities to rectify mistakes.

The proposed inspections, infrequent and announced in advance, will encourage some land managers not to deliver the benefits for which they have been paid.

Defra should get real. The public deserves assurance that its taxes will be used wisely and properly. That demands regular, unannounced inspections and penalties for intentional breaches.

Mumbles mistake

The Welsh Government proposes to stop up a public highway, on the foreshore side of Oyster Wharf at Mumbles, Swansea, under section 247 of the Town and Country Planning Act 1990.

The grounds for such an order must be to enable development to be carried out. The development, for which planning

permission has been granted by the City and County of Swansea Council, is to construct a new access road onto Mumbles Road and to lay out car-parking spaces to facilitate the use of the land in question as pedestrian and 'public realm' space.

In objecting we said that it is not necessary to stop up the highway to



The threatened highway.

enable the development to be carried out, and in fact the stopping up would prevent the use of the land as a public space. If the highway is stopped up, control of the land will revert to the owner of the subsoil, and the public will cease to have any right to be there—public use will be entirely at the discretion of the landowner.

We have told the Welsh government that the ministers do not have the power to make the order as drafted. We have no objection to an order which reserves the rights of walkers, horse-riders, cyclists and unmotorised vehicles over the entire area, eg making it a public bridleway or restricted byway. □

New local correspondents

We welcome Peter Berrecloth as our correspondent for the London Borough of Barnet, and Jack Jennings for North Warwickshire Borough and Sutton Coldfield.



Trespass enjoyed

The Book of Trespass: crossing the lines that divide us by Nick Hayes (Bloomsbury, £20, hardback).

'A country path is democracy manifested in mud' writes Nick Hayes, in his fascinating account of his trespasses throughout England, many of them on large country estates. He climbs walls, crosses ditches and squeezes under bridges to gain access to forbidden land—92 per cent of the country.

When trespassing he follows the Scottish Outdoor Access Code, demonstrating that Scottish-style access would work in England.

Nick has researched the history of land, its ownership and abuse, and writes about protests during the inclosures and more recently, such as at Greenham and Heathrow, and to save Sheffield's trees.

He argues for rights to water: 'kayaking turns a river from a boundary into a highway through boundaries and, in so doing, it undermines the total dominion of modern riparian rights'. He writes



The private Temple Island, on the River Thames at Henley, one of many illustrations by Nick Hayes. He camped there when he kayaked along the Thames.

about commons, in the widest sense of shared space. He believes that the Countryside and Rights of Way Act should be extended to all crown land since we already own it (in fact, the Crown Estate granted rights of access to all its Welsh commons in 1932).

The many themes are linked by the thread of human rights, and rights to land in particular. As we await with concern the government's next move on making trespass a criminal offence, the book's insights are especially useful.

Abuse

Strangely, Nick does not mention the abuse of inheritance tax exemption in return for non-existent access to land. There are some sloppinesses too, such as the claim that Octavia Hill set up the Commons Preservation Society (she was an early activist not a founder). I am pleased that there will soon be a paperback, which will enable the spelling of my name to be corrected.

The Compleat Trespasser, journeys into forbidden Britain by John Bainbridge (Fellside Books, £6.99).

John Bainbridge also enjoys a harmless trespass and in this new edition of his slim paperback he provides many tips while emphasising that he is not inciting anyone to trespass.

He writes of past trespassers: Ramsay MacDonald, Winston Churchill, AJP Taylor, Edward Thomas, Robert Frost, and Michael Tippett. The philosopher CEM Joad and activist GHB Ward were heroes of the access movement while William Wordsworth was an early campaigner for public paths. **KA**

Remembering two friends

We have received generous legacies from two members who we belatedly heard had died. We remember them here with gratitude.

Olive Entwistle, 1925-2017

The champion of Chorleywood Common in Hertfordshire, our life member Olive Entwistle, died in June 2017 aged 92.

Olive was born in London in 1925 and moved to The Retreat in Chorleywood, her grandfather's home, at the outbreak of war in 1939. She lived there for the rest of her life.



Olive Entwistle.

Olive's family bought The Retreat in 1861. Olive was proud of its history and her family ties to the community. Her grandfather was the village blacksmith and signwriter.

Enthusiastic

The Retreat came with commoners' rights, and Olive was an enthusiastic defender of the common. She led the annual beating of the bounds, promoted by the society, on Rogation Sunday. She established the Friends of Chorleywood Common and became its president. She was also a member of our executive committee from 1995 to 2000.

A talented and committed teacher, Olive enabled city children to experience nature. She was the first secretary of the Chorleywood and Rickmansworth Workers' Education Association which was founded in 1952.

She was a strong, independent and knowledgeable person with a deep interest in wildlife and nature, who knew and loved Chorleywood Common intimately.

Richard Wyld, 1926-2016

A committed fighter for public paths in Somerset, Richard Wyld, died in 2016 just before his ninetieth birthday.

Richard was born in Wraysbury, then Buckinghamshire, in 1926, the son of an architect.

After the war Richard emigrated to Canada where he trained as a chartered accountant, later returning to England to continue his accountancy career.

He took early retirement in 1983 and in 1985 moved to Wedmore in Somerset. In 2014, with arthritis and the associated lack of mobility, he moved into a retirement home in Cheddar in 2014 until his death in July 2016.

Richard played chess and bridge; he was involved in canal restoration, and was a keen walker. He was active in the Somerset branch of the Campaign to Protect Rural England and the Ramblers, and fought anti-public path diversions. I first met him marching purposefully along an obstructed path through a field of head-high crop.

He was a man of strong opinions and firm convictions. **KA**



Richard Wyld.

Legacies matter to us

Our struggle to protect common land, town and village greens, open spaces and public paths is one which requires persistence and long-term commitment—and never more than now when the pandemic has shown the importance of paths and open spaces for relaxation and refreshment.

To fight our battles we are heavily dependent on the generosity of our members and other donors, and on legacies which have been transformational for us.

For instance, the estate of Jack Candy, a long-time friend and campaigner for commons and greens in Southampton and beyond, has enabled us to finance our vital project to register lost commons, and to employ Frances Kerner, our commons re-registration officer, and Landman consultants to assist with the research (see page 5). In seven pioneer areas we have only until the end of December to rescue those commons which were wrongly omitted from the registers, and we are working at top pace to ensure we capture them. Without Jack's legacy this would have been impossible.

Legal cases

Legacies have given us the resources to embark on legal cases to protect commons and paths. We are currently pursuing two cases in the appeal court, at Yateley Common in Hampshire and on Rollright footpath 7 in Oxfordshire (see page 9).

Other members have made significant gifts during their lifetimes and have seen the fruits of their generosity. For instance, Colin Bennett from Brighton has funded the transfer of our archives to the Museum of English Rural Life in Reading, where they are being catalogued and promoted on the website so that everyone can read our fascinating history.

If you are making or reviewing your will, please consider the Open Spaces Society. Your gift will help to save our commons, greens, open spaces and paths for all to enjoy. Please see the leaflet enclosed with this edition of *Open Space*.

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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