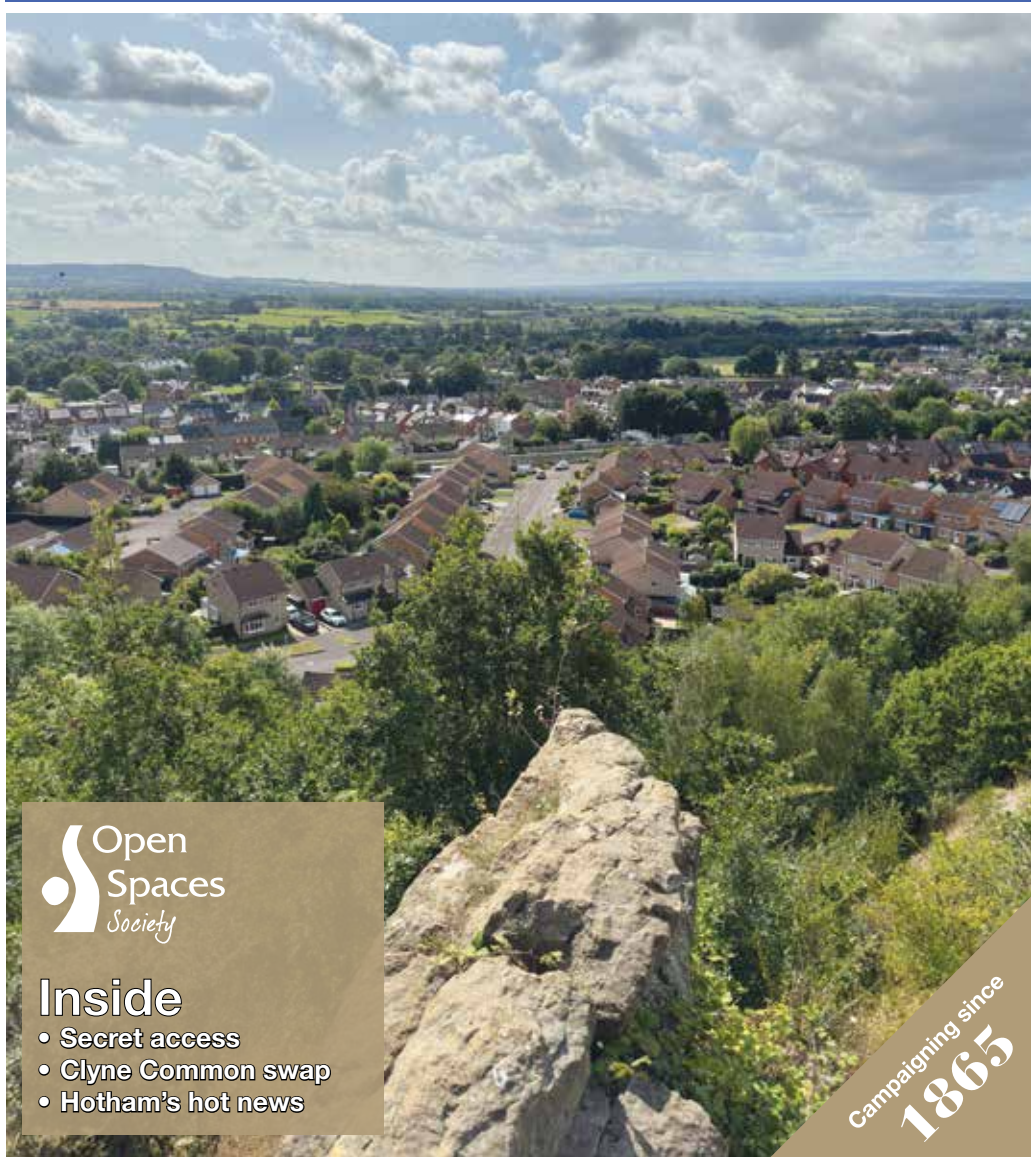


Open Space

Autumn 2024

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Spaces
Society

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1865

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Cover story

The view from Verney Fields on the west side of Doverow Hill above Stonehouse in Gloucestershire, looking towards the distant Severn. This much-loved open space is threatened by a new landowner. With the society's support local people are claiming a village green and public paths here (*see page 4*).



Guts—not cuts

The new Westminster government arrived sooner than expected. Does this mean new access sooner than expected?

The government has so far been silent on this subject as it no doubt considers the severe financial situation. But Labour's manifesto promised to 'improve responsible access to nature', and to create nine new national river walks in England. These are great soundbites, but they won't become real without guts.

It's no good politicians believing they can achieve these by agreement with landowners. The experience of the Labour government 25 years ago was that one cannot bank on voluntary access—that is why we have part I of the Countryside and Rights of Way Act 2000, since most landowners will offer nothing unless compelled to do so.

River walks

Hence the river walks will require the designation of new national trails, and the use of creation orders under the Highways Act 1980, and access orders under the National Parks and Access to the Countryside Act 1949, to guarantee rights beside and on the water.

Labour promised a white paper on access. We hope to welcome this—and soon—as a sign that ministers mean business. It must be premised on more and better freedom to roam, with existing laws or new ones to be used fearlessly when needed.

And ministers must determine how to beef up our rights of way, the prime means by

which people can enjoy the countryside. Most will not go where a path is not obvious, meaning that many miles are unused because they have no signposts and waymarks, or are ploughed, cropped, overgrown, or otherwise abused.

An immediate money-saver would be the repeal of the 2031 cut-off for claims for historic paths; otherwise, officials must spend many hours determining how it will work. The Welsh government already has that repeal in hand.

Preoccupied

We still wait for Welsh ministers to implement the access reform proposals made in 2021. Our suggestion that government should test some of those ideas (such as shared use) on its own land has fallen flat. Disastrously, the recreation agency, Natural Resources Wales, is preoccupied with severe cuts, and is on the brink of closing three mid-Wales visitor centres, with other services for the chop.

Of course we know that there is no spare money, but both governments must realise that paths and access provide astonishing good value by reducing costs to the health service. A 2023 report by the Ramblers and New Economics Foundation showed that the path network provides at least £2 billion-worth of well-being—over £33 per person—in England and Wales.

Small sums spent on maintaining paths produce massive returns. Ministers only need the guts to slash a few expensive road schemes and the path network could be transformed.

KJA



Knowl Moor muddle

Knowl Moor common, six kilometres north-west of Rochdale in Greater Manchester, is crossed by Edenfield Road, an unfenced A-road.

In March 2021, a one-kilometre fence was erected along the north-east side of the road by a consortium of local stakeholders. This included Rochdale council and the Greater Manchester police. No consent was sought. The fence was to inhibit off-road motorcycle scrambling (not entirely successfully).

The common has rights for walkers and riders under section 193 of the Law of Property Act 1925, yet no provision was



Motorbikes navigating the horse stile, which is to be replaced by a different design. Photo: Sarah Harman.

made for their access through the fence. Subsequent negotiations were unproductive, not least because the consortium thought that the job was done, and there were no funds for further works.

Keen to secure access, the Norden, Bamford and Heywood Bridleways Association itself applied for consent, under section 38 of the Commons Act 2006, to retain the fencing with suitable

gates. The proposal was supported by the British Horse Society and opposed by the Rochdale and Bury Bridleways Association.

The society objected. We feared that the equine-accessible stiles would admit the passage of livestock, thus trapping animals on the south-western part of the moor and exposing them to the main road. Moreover, the fence had been erected unlawfully and the abdication of responsibility by the statutory authorities was staggering. The fence was not stockproof, did not make proper provision for public access, and nor did it prevent motorcycle access to the south-western part of the moor.

Inspector

Planning inspector Claire Tregembo held a hearing into the section 38 application. In her decision she stated that the common has access under the Wildlife and Countryside Act 1981 (wrong); she then stated that the public 'also' has access under section 193, but failed to recognise that this prevails over any other access.

The inspector agreed with us that the horse stiles would allow passage of livestock, exposing animals to risk, but she appeared to ignore the consequences.

She granted consent, subject to several modifications of the original design of horse stiles. There is also a requirement to improve drainage at one point of access. Bizarrely, it seems that the cost of these modifications will fall to the applicant group. Moreover, no deadline is imposed by which the modified points of access should be in place. In short, a muddle. (COM/3329122, 16 July 2024) □

Clyne swap must be declined

We are backing our member the Gower Society in its fight to save part of Clyne Common, Swansea, from deregistration.

We appeared in August as an objector at the public inquiry into an application by the Duke of Beaufort's estate to exchange part of Clyne Common under section 16 of the Commons Act 2006.

The estate has planning permission to build 56 'affordable' houses on the south-east part of the common, known locally as West Cross Common. To do this it needs consent to deregister that piece of common, and must provide suitable exchange land. The proposed replacement is a couple of fields, two kilometres away, on the west side of the common.

The two areas are completely different. West Cross Common abuts housing and is on people's doorsteps; the replacement land is remote from settlements and can only be reached from a road by walking across a damp stretch of the common.

The release land is open with fine views over Mumbles and Swansea Bay, with numerous access-points, and a range of habitats and wildlife, including bracken, fen, and wet heath. The replacement land consists of monotonous rushy, lumpy, fields with one entrance, shared with livestock. There is no comparison; the



The release land. Photo: Michael Crafer.

the replacement land is useless (as Swansea's rights-of-way officers agree).

On day one of the inquiry there were 70 people present, most of them West Cross residents. Many explained what the common means to them. No one spoke up for the replacement land.



The replacement land. Photo: oss.

The tests are, in short, the effect of the proposal on those with common rights; the neighbourhood (ie how the release land is used and the effect of deregistration on enjoyment of the common as a whole); the public interest (public access, nature conservation, landscape, archaeology, etc); and the wider public interest (especially the proposed housing development). The inspector made it clear that the inquiry could not discuss the detail of the development, which was considered when planning permission was granted.

The inspector is expected to report to Welsh ministers who will take the decision. It is evident that the replacement land is grossly inferior, but much will depend on the weight which the decision-maker places on the 'wider public interest' served by the development. We must hope for the best





Verney Fields

Chas Townley, our local correspondent for Stroud District in Gloucestershire, reports on how he is helping to save a valued open space at Stonehouse, two miles west of Stroud.

Not long after I was appointed as the local correspondent in September 2022, Stonehouse Town Council asked me for a meeting about a proposed town green application for Verney Fields (ten hectares or 25 acres). It was one of five areas the council had successfully designated in its neighbourhood plan as local green space. It had identified the land as being a special place for residents with high recreational value and strong nature and wildlife habitat.

Gazumped

The land had recently been sold, with the council's offer mysteriously gazumped, and it wanted to protect the public's rights. The fields are the undeveloped remnant of a former brickworks, much of which is now housing.

On a sunny November day, I walked round Verney Fields with one of the councillors. It became immediately apparent that there was extensive public



The view west from Verney Fields. Photos Chas Townley.

access far beyond the definitive paths. In various locations there were benches to enable visitors to enjoy the views. One, under a specimen oak, was fixed to a concrete foundation. There was a splendid viewpoint at the top of the brickworks quarry (*see front cover*).

Evidence

Very quickly the town council and local volunteers collected evidence statements and, on 27 February 2023, submitted a town green application, supported by 129 residents. An immediate difficulty for the authority was to identify the owners of the adjoining quarry, part of which, with the viewpoint, had been included in the application. To move things on I researched the history of the former brickworks redevelopment for residential use and I confirmed that Melbourne Investments, a subsidiary of Taylor Wimpey plc, still owned this area.

Seven definitive map modification order (DMMO) applications have also been submitted to retain long-used routes here. Five of them were from the town council supported by 242 evidence forms.

Immediately the new owners took control, a web of barbed-wire fencing was erected to prevent access except on the definitive routes (to the minimum possible widths), some of which were inaccessible. This was done with blinding insensitivity to residents, and the landowner has continued to behave in an arrogant manner. For example, the bench below the tree was fenced off and smashed to pieces.

Gloucestershire County Council's rights-of-way team has spent considerable time and money trying to resolve difficulties,



Oak tree and seat in November 2022, before the seat was smashed.

and has used the voluntary Cotswolds wardens to make the definitive paths more usable. This has not met with universal enthusiasm as many people would prefer resources to be spent on reopening the closed routes. But this is unlikely to happen until the modification applications have been determined.

Foresight

With great foresight the town council asked for the woodland and individual trees to be included in a tree preservation order (TPO), which the landowner fiercely resisted. Then the owner applied for a Forestry Commission felling licence — the TPO means the amenity value of the trees will be considered.

Most recently there has been national media coverage of the dispute which took a depressing turn with the owner parking ugly caravans along the boundary; they prevent access to much of the claimed town green.

Progress is being made with the DMMO applications which are set to be discussed by the county council in December. The six-week consultation on the green application has concluded and the town council has submitted its rebuttal of the landowner's objection. The next stage is for the county council to appoint a barrister for a public inquiry.

Much of my work as the society's local correspondent is simply providing support and being a link to the society's superb team of case officers for specialist advice. It is through this team effort that we can help residents of Stonehouse to defend this amazing space.

Secret access uncovered

Kieran Foster* applied to HM Revenue and Customs (HMRC) for copies of the heritage management plans (HMPS) for Bolton Abbey, North Yorkshire; Chatsworth, Derbyshire; Alnwick Castle, Northumberland; and the Firle Estate in East Sussex. The plans were believed to have been compiled by the estate owners, as a requirement of conditional exemption from inheritance taxes under the Heritage Relief Scheme. The plans were drawn up following negotiation with Natural England and Historic England.

Kieran's request was made under the Environmental Information Regulations 2004 and stated that: 'a common undertaking in conditionally exempt agreements is one of public access to the relevant heritage assets, there is, therefore, a clear public interest in identifying both the assets to which access has been granted and the nature of how they will be managed and made accessible'.

* Kieran Foster is the former national off-road adviser for Cycling UK; the application was in a personal capacity.



The moat at Alnwick castle, 2019, subject to an HMP. Photo: © Ian Capper, Creative Commons Licence.

The request was refused by HMRC under regulation 12(1)(d), where 'confidentiality is provided by law'. Section 18 of the Commissioners for Revenue and Customs Act 2005 prohibits disclosure of a taxpayer's affairs.

An appeal lies to the Information Commissioner, who agreed with HMRC. The regulation 12(1)(d) exemption is subject to a public-interest test, but the commissioner found 'a strong public interest in maintaining an exception, while disclosure 'could adversely affect HMRC's ability to carry out its statutory functions'.

Kieran applied to the general regulatory chamber of the first-tier tribunal. In a lengthy judgment, the tribunal ordered the department to release the plans, subject to redaction. Regulation 12(1)(d) was not engaged and it found no evidence that disclosure would materially harm confidentiality. At the hearing, HMRC appeared unable to show what specific harms would arise.

Tribunal

The tribunal also decided that 'the Public Interest balance ... overwhelmingly ... favours disclosure'. The tribunal found there was 'significant public interest in disclosure so that the public can be well informed of the details of the requirements and obligations they are entitled to expect arising from material and significant concessions granted as a result of the [HMP].'

Comment: Until part IV of the Finance Act 1998, the mere existence of heritage tax exemption agreements was a state secret. Estate owners could take the credit for providing limited permissive access, having secured substantial deferral of inheritance tax as a reward for doing so. On some estates, access obligations were no more than to permit access along public rights of way.

The 1998 act enabled HMRC to publicise

the existence of agreements, but not the content of HMPs. Information is published online about the extent of any access to the heritage asset. The disclosure of HMPs will enable the public to see what assessment has been made of the need for conservation of, and access to, heritage assets. In some cases, this may increase pressure on HMRC to improve the deal for the taxpayer on the provision of public access.

We understand that the tribunal has refused permission to appeal, but the upper tribunal (which has the same status as the high court) may yet grant leave.

Stoke Lodge battle continues

Stoke Lodge playing field on the north side of Bristol was registered as a town green in August 2023 following a long campaign (OS autumn 2023 page 6). At nine hectares it is one of the largest greens in the south west. However, the leaseholder, Cotham School, has brought an action under section 14 of the Commons Registration Act 1965 to deregister the land. This will be heard in the high court on 27 January 2025.

We are backing local people, led by our member Helen Powell, with financial support from our legal-action fund in this important case. ◻



Protest at the fencing which the school erected around the green in 2019. Photo: We Love Stoke Lodge.

New government: new action

At our AGM on election day (4th July) our chairman, Phil Wadey, set out our priorities for the new government.

'We stand ready with proposals for the new government, to improve access to, and enjoyment of, green spaces and paths in town and country', said Phil.

'We should like an early consultation on how to increase public access for all. We want to know that previous ministerial promises to provide green and blue spaces within 15 minutes' walk of where people live will actually happen.

Mandate

'As part of any review of the planning system, the new government should mandate the registration of town and village greens in every development over a certain size or density; that would help to ensure that open space is protected for all to enjoy.

'We want it made possible to register lost commons throughout England, and not just in the pioneer areas of Cumbria and North Yorkshire.

'We need a new bill to extend responsible freedom of access under the Countryside and Rights of Way Act 2000 to woodlands, watersides, and water, bringing access close to home. Government should fund permanent new access rights, upgrading access for unpowered and disabled users, and improving access along existing rights of way, where it is needed, under the Environmental Land Management Schemes, and by other means.

'The new law should include a duty on county and unitary councils to enforce against unlawful encroachments on commons. Local authorities should be required to fund the management of open

spaces. Their future must be secured and not driven by commercial exploitation.

'We propose that the complicated system of getting paths reopened should be simplified. The new bill should allow public paths and minor roads to be made fit for use by a simple procedure whereby a member of the public serves notice on the highway authority to require the way to be maintained and kept clear, regardless of who has the responsibility for this.

'We call on the new government to undo the damage inflicted by the last but one Secretary of State for the Environment,



New town green at Wennington, one of five voluntary registrations by the London Borough of Havering in May. Photo: Havering Council.

Food and Rural Affairs when she commenced the Path Extinguishment Day provisions on 1 January 2031, without enabling the promised exemptions which would have protected many routes from the guillotine.

'A clause repealing section 53 of the Countryside and Rights of Way Act 2000 would prevent her action from removing public rights from the hundreds of miles of unrecorded and under-recorded rights of way,' Phil concluded. □



Two lost commons restored

We welcome two decisions by the Planning Inspectorate (PINS) granting applications to register common land in Cornwall. These are some three hectares at Burngullow Common (6.4 kilometres north-west of St Austell), and some five hectares at West Looe Downs at West Looe.

The application for Burngullow Common was made by Tomas Hill on our behalf, while that for West Looe Downs was made by Tomas with our support.

Both commons were subject to an application for registration in 1968. St Mewan Parish Council applied to register Burngullow Common, and Looe Urban District Council applied for West Looe Downs. Following objections, the applications were withdrawn, and the registrations cancelled.

Part 1 of the Commons Act 2006 reopened the opportunity to rescue commons which were excluded from registration in these circumstances. The applications for registration showed that

the land is manorial in origin and that it meets the criteria for registration.

While we recognise that West Looe Downs are in the care of the West Looe Town Trust, we are pleased that they and Burngullow Common now have the protection of the Commons Act 2006.

Driveway at Bromyard

The National Trust sought consent under section 38 of the Commons Act 2006 for a short driveway on Bromyard Downs, to enable the occupiers of an adjoining house (owned by the trust) to drive over the common and park within their premises. The common is owned and regulated by Herefordshire Council. We did not object, but asked that a condition be imposed to prevent parking on the driveway. In its decision letter PINS granted consent, but ignored our request.

We complained, and after a delay of seven months, the substance of the complaint has been rejected. It is said that because parking on the driveway remains in the gift of the council which owns and regulates that part of the common, the



Left: Burngullow Common, looking north-east. Right: West Looe Downs looking east. Photos: Tomas Hill.



Driveway (left). Photo: Google Street View.

council can decide whether to permit it. This is correct, but a condition would remove parking from the gift of the council, and make it plainly prohibited, in the interests of the common and its users. PINS missed the point.

Two aspects to the reply were of interest. Firstly, PINS claims to have consulted Defra, the department responsible for commons policy, and for retaining PINS to deal with commons consents on its behalf. We cannot recall previous engagement with Defra officials. However, Defra appeared to adopt the same misunderstanding as PINS.

Secondly, PINS acknowledges that our request should have been addressed in the decision: 'In future we will endeavour to refer to all suggested conditions, whether or not they are imposed.' That is a worthwhile concession, though it should not be needed. (*COM3302826, 15 December 2023*)

Our AGM

We held our AGM on 4 July at Friends House, Euston Road, London, with 39 members attending, in person or online (despite it being election day, something for which we had not planned!).

Chairman Phil Wadey stated that 100 votes had been cast and all motions were carried. In his address he implored the new government to prioritise access to good-quality green spaces, and to improve laws protecting

commons, greens, and paths (*see page 7*).

Our general secretary, Kate Ashbrook, outlined several successes achieved by the society in the previous 12 months. The treasurer, Stuart Bain, spoke to the 2023 accounts which showed a satisfactory result.

We re-elected our vice-presidents, and three trustees who had reached the end of their three-year terms: Stuart Bain, Chris Beney, and John Hall. We thanked Simon Hunt and said goodbye to him; he had not sought re-election as a trustee.

Members enjoyed a video, made by our digital manager, Abbie Cavendish, to celebrate the general secretary's 40 years in her role (<https://rb.gy/wh4k>). After the formal AGM business members gave brief talks about their campaigns.

AGM 2025

Next year's AGM will be held on Thursday 3 July at Friends House, Euston Road, London, with an online option. Note the date now.

Brent River Park

We have objected to an application from Ealing Council to erect a massive leisure-centre with residential development and other infrastructure in Brent River Park.

We are concerned that the development would take a bite out of the park, destroying metropolitan open land and



The inauguration of Brent River Park in 1975. Photo: Colin Miell.

public open space. The proposal contravenes national, London-wide, and local policies to protect green spaces.

Dartmoor backpack-camping

We have been permitted to make a written intervention to the supreme court, in support of the Dartmoor National Park Authority against the Darwalls' (the landowners) claim that there is no right to backpack camping on Dartmoor's commons. It will be heard on 8 October.

Bonanza

We were delighted to receive an anonymous donation of £20,000 towards our costs for the Dartmoor case and other legal work. This is a great boost for us, and we are enormously grateful.

Golden anniversary

We congratulate the Ringwood and Fordingbridge Footpath Society (RFFS) in Hampshire on its fiftieth anniversary. Our general secretary Kate Ashbrook, spoke at its celebration lunch.

The RFFS has long been a member of the society, and we have valued the symbiotic relationship, with the RFFS providing intelligence and local knowledge about paths and access, and the society giving national insight and support.

Kate paid tribute to RFFS founder and president Rowan Brockhurst, who served as our local correspondent for New Forest district from 1986 to 2003 and



Lord Eversley's seat. Photo: OSS.

remains active. Among much else, Rowan rescued the seat placed in memory of our founder, Lord Eversley, on Hightown Common in Hampshire.

When Eversley died in 1928 we bought the common in his memory, to save it from development, and gave it to the National Trust with a memorial seat designed by architect Elisabeth Scott. After the A31 was widened in the 1960s the seat, which was close to the road, fell into disrepair and in the 1990s Rowan led the campaign to move it away from the road and renovate it, and in 2010 he again arranged for its refurbishment.

Picket Mead

The one-hectare Picket Mead, in the Newton suburb of Swansea, is registered common land, subject to rights of common, and of access under section 193 of the Law of Property Act 1925. In

Goodbyes

We are sad to lose three, long-serving, local correspondents.

Peter Kidner (south Somerset) has retired after 17 years during which he won the landmark case for public paths, *Herrick v Kidner*. Graham Wanstall (Canterbury City, Dover District, and Folkestone District in Kent) has stepped down after 36 years. Gerry Stewart (Cotswold District) resigned after 26 years and, tragically, died soon after (*see inside-back cover*). We thank them for their service.

August 2022 Carrington Moore Estates Ltd applied to Welsh ministers for consent, under section 38 of the Commons Act 2006, to lay underground services and Grasscrete (plastic mesh through which grass can grow). The Grasscrete was proposed across the whole length and much of the width of the green, to service adjoining new development.

We objected: as the new road would take



Picket Mead pre-Grasscrete. Photo: oss.

a significant part of the unenclosed green, the developer should provide replacement land under section 16 of the Commons Act 2006.

Inspector Vicki Hirst granted consent. In her decision letter, following a site visit, she noted that 'a large proportion of [the Grasscrete] is to replace the surface on the existing access', and that the extended area was 'relatively small' and 'would remain available for recreation, albeit on a surfaced track.' There would be an overall 'minor impact'. (CAS-02157-Y7M8PO, 13 December 2023).

Letter to First Minister

We have signed a letter from the umbrella body, Wales Environment Link, to Eluned (Baroness) Morgan, the new First Minister of Wales.

Link spells out its five priorities to avert the nature crisis, one of which is to 'let nature invest in people and well-being', by improving access to existing green spaces and creating new ones. We keenly await the First Minister's response.

Silver jubilee

We congratulate Nicola Hodgson, our case officer for town and village greens, and open spaces, on completing 25 years with the society. In that time she has helped hundreds of members to save their spaces and has spearheaded our campaigns for new greens. Thank you Nicola!

Green space neglected

In responding to the government's revised National Planning Policy Framework (NPPF) we have expressed concern for the future of open spaces. The NPPF does nothing new to support the creation and protection of open space.

Says our case officer Nicola Hodgson: 'The existing Local Green Space (LGS) designation will be undermined because it only has the same protection as green belt, which will now be at risk. The government fails to improve the process for creating and managing LGS. This can only be designated when a local plan is being reviewed or a neighbourhood plan progressed, severely restricting the opportunity to protect much-loved open space.'

'Developers should be required to register land voluntarily within developments as town or village green, thereby protecting it for ever and giving local people rights of recreation there.'



Rally to save Longridge playing field in Knutsford, Cheshire East, which was later (in 2020) designated as local green space. Photo: Knutsford Guardian.

'Everyone should be able to enjoy good-quality, well-maintained, and safe open space within 300 metres of their homes.'

'We are dismayed that these issues are not adequately addressed in the draft NPPF, and shall continue to campaign for them, for the health and well-being of the public,' Nicola concludes. □

Short but vital

Quality Court is a short, 20-metre, paved alleyway in Margate leading from the High Street to Market Street car park (pictured below). It is not recorded on Kent County Council's list of publicly-maintainable streets, nor on the definitive map and statement.

It was stopped up by a neighbouring proprietor, who closed the alleyway for many years while undertaking extensive works, including a basement extension under the alleyway.

Kent County Council failed to act, owing to the absence of convincing paper records of public status, notwithstanding long public use. Instead, Thanet District



The alleyway. Photo: Google Street View.

Council prosecuted the proprietor for obstruction of the highway under section 137 of the Highways Act 1980. During the several-times-adjourned prosecution an agreement was reached for the alleyway to be reopened. In March 2022 the court found the defendant not guilty. It ruled that the alleyway was public, but that the proprietor had a lawful excuse to obstruct it.

The county council is now deciding whether to make a definitive map

modification order (DMMO). The court's finding that the way is public should count strongly in favour of the order.

Comment

We have only a newspaper report of the magistrates' court verdict, but on the face of it, the finding of a lawful excuse was mistaken. There seems to be a common-law right for a neighbouring owner to obstruct so much of the highway as is necessary to carry out legitimate and necessary works to adjoining premises, but much of that right has been eroded or regulated by statutory controls. It seems unlikely that the common-law right extends to entire closure for seven years. However, the council does not appear to have appealed to the crown or high court on a point of law.

Hotham's hot news

On 11 March 2024 planning inspector Graham Keane confirmed a DMMO at Hotham, four miles south of Market Weighton in the East Riding of Yorkshire (ROW/3310432). The order followed an application in 2010 by our former member Michael Jackson.

The order was to add a byway open to all traffic (BOAT) number 8 on a route known as Denton Lane, for 865 metres, running north of Hotham. However, the inspector modified the order to record a bridleway and then confirmed it.

Paragraph 8(1) of schedule 15 to the Wildlife and Countryside Act 1981 provides that the secretary of state shall not confirm an order with modifications so as: '...(c) to show as a highway of one description a way which is shown in the order as a highway of another



Hotham BOAT 8 looking south. Photo: Google Street View.

description, except after complying with the requirements of sub-paragraph (2)'. This requires the secretary of state to give notice of the proposal to modify the order and provide an opportunity for representations. This did not happen here.

We could not let this injustice stand and, with the Trail Riders' Fellowship, we sent a pre-action protocol letter to the government legal department, calling for the decision to be quashed. The government consented to judgment and in due course the high court issued a consent order, quashing the path order.

This is a good outcome, as such sloppiness by the Planning Inspectorate must not be allowed to prevail, but unfortunately it does mean that the order must be remade, and we have no idea when this will be done. Eventually, when schedule 7, part 3, paragraph 7 of the

Infrastructure Act 2015 comes into force, the high court will be able to quash the decision of the secretary of state 'confirming the order or any part of it...', rather than quashing the whole order.

Byway-blockage epidemic

The society has been pressing Wiltshire Council to secure the removal of obstructions on byways. The council has finally acted—but in one case only. It ordered a farmer to remove a set of illegal gates across a byway in the Wylve Valley, following a notice from us under section 130A of the Highways Act 1980.

We have also repeatedly urged Wiltshire Council to stop the same farmer unlawfully ploughing and cropping that byway and another nearby, with years of pictorial evidence of these obstructions, but it has taken no action.

Timetable

Wiltshire has an epidemic of byway blockages. This year we have reported over 30 obstructions on byways in seven parishes. We have proposed a timetable for their removal, which we felt was more helpful than serving many statutory notices at once. The council has even considered authorising new structures on a byway to meet the security needs of a landowner, contrary to the law and its own policy that 'no new structures are allowed on ... byways'.



Left: locked gates, now removed from Brixon Deverill byway 17, but (right) the byway remained illegally obstructed by crops in August 2024.

No way at Loddiswell?

In 2020, our north Cornwall local correspondent Lucy Wilson was alerted to the proposed stopping up of a cul-de-sac road at Stanton, two kilometres north-west of Loddiswell, in south Devon.

Although the problem lay outside her area, Lucy responded to Devon County Council that there was evidence that the road continued as a footpath to join another footpath, number 16, leading to the hamlet of Wizaller. Following further research at local and national archives, Lucy applied for a DMMO to record the footpath. In June 2022, the council declined to make the order, and with our support, Lucy appealed to the environment secretary for a direction.

Tithe map

In April 2024, inspector John Dowsett considered the appeal (*ROW/3305346*). Stanton used to be considerably larger. The tithe map showed a road continuing along part of the line of the appeal way, with no rent charge, but the inspector said tithe evidence does not distinguish public roads. The inspector dismissed as unclear a reference in highway accounts to repairing the road to ‘Staunton (*sic*) Brook’.

Loddiswell Parish Council helped pay for repairs to the footbridge in 1895 and 1896, but it was said that the council did not consider the way to be public, notwithstanding that it had no power to contribute to a private path (the granite footbridge and a stone stile, *pictured above*, can still be seen on the line of the route). The inspector repeatedly questioned whether there had been public use of the path in the last 120 years, and concluded that there had not—but accepted that the Ordnance Survey continued to show it up until the 1950s. He said the parish council was ‘diligent in its survey work’ in 1950, and did not record the footpath.

The inspector found that there was ‘no



Granite bridge leading to stone steps and stile on the claimed path. Photo: oss.

substantiated evidence of any historic use, or recent attempted use’ of the footpath, but none had been alleged nor would it be relevant to a claim based on historical evidence. He rejected the appeal, notwithstanding that the test is of a reasonable allegation of the existence of the footpath, and there was no evidence to negate the claimed way.

Vulnerable

The decision letter might have been vulnerable to judicial review, but judges are loathe to overturn the decisions of allegedly experienced inspectors where the challenge is to the inspector’s interpretation of the facts. In similar cases it would be possible to make a future application to record the way, incorporating any new evidence that had been discovered. But here, the council is already consulting on a fresh proposal to stop up the road, and if that is carried through, the footpath will cease to have any lawful continuation at its southern end.

Sadly, it seems that this footpath, which still can be traced through Stanton Copse and across Stanton Brook, with its path furniture in place, will never be recorded on the definitive map and statement. □



Ethel by Helen Mort (Vertebrate Publishing, £14.95 pbk); **100 Years that Shaped the Countryside** by Bill Bevan ed and contributors Judith Calvert, Charles MacDonald-Jones, Marianne Morgan, and Andy Tickle (CPRE Peak District and South Yorkshire, £10.00 pbk—or £17.46 for the two).

Both these books are part of the CPRE's celebrations of the centenary of its Peak District branch. Bevan's is a workmanlike account of the branch's history derived from minutes, campaign documents, annual reports, etc. For conservers of the countryside this is valuable reading, because it gets into the nitty-gritty of campaigns for decent architecture, the Sheffield green belt, the creation of the Peak National Park, and those *against* urban sprawl, quarries, roads, power lines, and wind farms—among much else. In it we see the branch developing from its initial woolly aestheticism into a relatively hard-nosed pressure group.

It was Ethel Haythornthwaite (then Mrs



Eldon Hill quarry, near Castleton in the Derbyshire Peak District, 2013. © Neil Theasby, Creative Commons Licence.

Gallimore) (1894-1986) who called the meeting of Sheffield notables at which the organisation was born, and was its secretary, the driving force behind the campaigns described by Bevan. She richly deserves a biography, but this is not it. Mort, says the book's blurb, is 'a multi-award-winning poet and author' who admits on page 3 'I'm no biographer' and the rest of the book proves her right.

Silver-spooned

Ethel was born silver-spooned, the daughter of a father who started in scrap metal and made a fortune, and a mother who was a Basset (liquorice allsorts inter alia). Widowed by the World War, she took to seances to contact her late husband, and in 1937 married a man 20 years her junior whom she had appointed as technical assistant in the CPRE branch, the architect Gerald Haythornthwaite. He was her opposite—dandyfied and a pompous chairman of committees whereas she was frugal and self-effacing. They worked together for nearly half a century and he took over as secretary when she retired in 1980, and was taken by dementia.

Ethel used her money to preserve threatened land, unprotected in the 1920s and '30s, and her diplomacy to win the support of local politicians, eg 'Alderman Marshall' who was crucial to her green-belt campaign. But Mort omits to tell us his first name, let alone that he was a lord mayor of Sheffield, chairman of the National Union of General and Municipal Workers, a Labour MP, and a junior minister in Attlee's government. We are however told a great deal about Mort who intersperses the chapters

with 'letters' addressed to Ethel. These cloying and sentimental effusions have little to do with the subject of the book which is as much an ego-trip by the author as a biography of the remarkable Ethel.

What a shame.

Chris Hall

The Lost Paths: A History of How We Walk from Here to There by Jack Cornish (Penguin Books, £20.00 hb).

This is a well-researched book about the history and evolution of our path network, a celebration of the work already done to protect these ancient ways and a call to arms to identify and preserve those that may be lost.

Jack Cornish is head of paths at the Ramblers and has spent years helping to record routes in England and Wales, encouraging and motivating volunteers to do the same through the Don't Lose Your Way project.



Quarrymen's path at Dinorwic quarry, Llanberis, Gwynedd. Photo: Jack Cornish.

Cornish's enthusiasm for the subject flows from the pages, making them a joy to read. It will appeal to researchers of lost paths (he adds colour and context to historical documents), those interested in the history of our landscape and path network, and fellow travellers on these old ways. Cornish has walked many of these routes himself and his personal journeys, with observations on nature and landmarks, are woven through the historical text.

At times he has found it hard to confine himself to lost paths, overflowing into footnotes with tangential yet fascinating facts—possibly another book or two in the making. A comprehensive list of further reading is included.

This is an insightful and enjoyable read which makes a great addition to the bookshelf.

Helen Clayton

The Fight for the South Downs by Robin Crane (Brown Dog Books, £14.99 pbk).

This is the tale of the campaign for the South Downs National Park, from the establishment of the Society of Sussex Downsmen (now the Friends of the South Downs) in 1923 and the Hobhouse Committee's unfinished business in 1957, to the park's confirmation by a jubilant Hilary Benn, then environment secretary, at Ditchling on 12 November 2009.

Despite my familiarity with the story, having been involved in much of it, I found the book compelling. It is vital that such battles are fully documented, and Crane has done a great service in chronicling the twists and turns, the ups and downs—including the fear after the first inquiry that we would get a mean, chalk-only park, and the final, successful, campaign to embrace the glorious Western Weald and Hampshire hangers within the park.

Kate Ashbrook



Brian Blessed, president of the Campaign for National Parks, addresses (in stentorian tones) a rally on Harting Down, West Sussex, on 8 July 2007. Photo: South Downs Campaign.

Gerry Stewart, 1933-2024

Our local correspondent for Cotswold District in Gloucestershire, Gerry Stewart, has died aged 90.

Gerry was born in Winchcombe and spent his childhood at Alderton, six miles east of Tewkesbury. He attended the village school in Alderton, and later Cheltenham Grammar.

In 1952 he was called up for National Service and assigned to the military police in Germany, and Egypt's Suez Canal Zone. He later joined the Gloucestershire Constabulary operating around the county for 30 years.

Policing

He then turned to policing paths, working for Gloucestershire County Council rights-of-way department as a paths inspector for 11 years. He retired in 1998.

In his youth he was a keen cyclist, and later an enthusiastic walker, climber, and mountaineer.



Gerry relaxing on a walking holiday.

Gerry wrote to us on his retirement to offer his services as a local correspondent. He was an ideal candidate, principled, unshakeable, and prepared to take a firm line against path changes.

There are many paths which Gerry has saved, often as a lone voice. He rescued bridleway BDR9 past Pinsbury Park, a magnificent mansion at Duntisbourne Rouse, from diversion in 2005, and

footpath HOD9 at Oddington from closure, which would have forced walkers onto the busy A436 road, in 2016. By objecting, alone, to the diversion of footpath HBW26 at Bourton on the Water Gerry secured an extra width and maintenance agreement to ensure the path will be cared for.



Oddington footpath HOD9 still crosses this patio, thanks to Gerry.

His quarterly reports to our trustees were full of activity. For instance, in February 2008 he wrote: 'I have erected approx 70 sign arms and waymarked 130 miles of the Gloucestershire and Wysis Ways (my personal interest).'

Shortly before his retirement he had started work on the creation of a series of long-distance themed walks in Gloucestershire, Herefordshire, and Worcestershire, and their associated guidebooks. In 1996 the first of these, *The Gloucestershire Way*, was published, followed by *The Wysis Way* (1997), *The Three Choirs Way* (1999), *The Cotswolds Canals Walk* (2000), and *St Kenelm's Way* (2005).

Argued

Gerry argued continually about the shocking state of stiles and the need for their removal, and he gave the county council a hard time, but all for the public good. When, after 26 years, he gave up as our local correspondent in April, we realised we had a gap which could never be filled. Sadly, he died shortly after.

We shall miss his dogged determination.

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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