

# Open Space

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\* Hospital's blocked paths \* Green spaces  
in Cumbria \* Golf-course green lost?

# Open Space

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OPEN SPACES SOCIETY



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## COVER STORY

*The green at Nether Wasdale in Cumbria on the left of the picture is part of the Our Green Space project (see page 3). The aim is to protect the green from visitor pressure and to research the historical, cultural, landscape and community value of this and other green spaces in the Wasdale community. Photo: Our Green Space project.*

## The greens industry

**The registration of land as new town or village greens has been a great success story for the society. The number of cases on which we are advising applicants has doubled in the last year, owing to the clarification of the law by the Commons Act 2006 and the Trap Grounds case.**

Indeed, leading lawyers in the field are now talking about a town and village green ‘industry’.

We are careful always to advise on the facts and to discourage applications which lack good evidence. Since registration of land as a green protects it from building, we do not support applications which are submitted only to stop development. And of course we have to warn applicants that the process could be expensive.

### Unfolding

The law is unfolding all the time. The definition of ‘as of right’, ie use for recreation without force, secrecy or permission, has been the subject of much scrutiny. The most recent court case, for the application for Coatham Common green in Redcar (page 4), demonstrates that notices erected by the landowner, apparently to deter people, may not do so, and may not count as preventing ‘as of right’ use—it all depends on the wording of the notice.

That case has also shown that it is not yet finally decided what happens when those using the land for recreation appear to defer to the use by the landowner, in this case as a golf course. The High Court judge, Mr Justice Sullivan, has given a green light to an appeal on this point.

So each case will vary. While the worry is that applicants can end up in court, the benefit is that each case clarifies the law a bit more for the next.

New greens are our success story: we have consistently pressed their case for two decades—ever since it became possible to register land missed by the Commons Registration Act 1965; we lobbied for and backed amendments in subsequent legislation further to clarify the law in favour of applicants.

### Get out there

Our message now to communities is to get out there and find any land which fulfils the qualifications of a green, ie which has been enjoyed by local people for 20 years ‘as of right’. Gather the evidence and apply for the land to be registered *before* it is threatened. Once a planning application goes in, the stakes are raised significantly.

We also encourage landowners voluntarily to register land as a green, as Downley Parish Council has done recently (page 7).

In our present economic turmoil, green space close to home is more important than ever. So it’s right that claiming greens should be the new industry—an industry for the public’s benefit.

**KJA**

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# Subscriptions to rise

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**Our treasurer, Robert Peel, explains why we must increase our subscription rates (listed on the back cover).**

Subscriptions will rise from 1 January 2009 by amounts broadly in line with the general increase in prices since the last rise in 2003, subject to some rounding. We also have a new category of joint membership.

Any rise in subscriptions is a matter of regret. But the simple truth is that the society's annual expenditure is much greater than its subscription income. For many years the shortfall, averaging around £65,000 a year and increasing, has been made good by the rising value of our investments and by some significant legacies. But recent months have seen a dramatic fall in investment values, and we cannot count on legacies, which are unpredictable and are running at a low level in 2008.

## **Top priority**

So the top priority for the board of trustees is to find more money. We devoted a whole day in September to discussing ideas for fundraising. Higher subscriptions will be helpful but will still leave subscription income a long way below our expenditure.

Obviously increasing subscriptions carries a risk—people might decide to leave the society. It is a risk we have to take—we cannot carry on as we are. We hope that our members appreciate the society's unique role in protecting and promoting greens and commons and in tackling rights-of-way issues

from which others shy away.

Of course another way to make ends meet is to cut costs. We shall endeavour to be as economical as possible, but we already run a frugal enterprise and it would be unrealistic to aspire to a significant reduction in running costs, let alone the drastic reduction necessary to bring them down to the level of our current or even the increased subscription income. That would mean seriously curtailing the vital activities that make the society worth supporting in the first place.

## **Reserves**

Glancing quickly at the society's balance sheet showing net assets of £441,570 at 31 December 2007 (following an exceptional legacy from Edwin Walker, see page 12), one might conclude that we have a substantial buffer against adversity—but not so. We cannot allow reserves to fall below the cost of winding up the society and it would take only a couple of years at the present rate of deficit, assuming no legacies or investment growth, for reserves to reach that level.

So I hope that members will show their support for the society's good work and for the vast effort put in by staff, trustees and volunteers, and happily pay the higher subscriptions. We have introduced new categories of joint concessionary or joint ordinary membership, for two members at the same address with one set of literature. *So if your spouse, partner or cohabiter is not a member, you could switch to joint membership.*

We should appreciate anything else you can do to help us financially, including donations, recruitment of members and legacies. The society's survival is absolutely dependent on a significant increase in its income. □

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# Our Green Space project

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**Roe Baker, project officer of Our Green Space which is supported by the society, writes of community initiatives in Cumbria.**

Our Green Space is a fantastic opportunity to connect people and places. It is a Cumbria-wide project, funded by the Heritage Lottery over three years and managed by the Friends of the Lake District in partnership with Voluntary Action Cumbria.

It focuses on the restoration and development of village greens (whether registered or not), an often-neglected though vital part of our culture and heritage, used for recreation, relaxation, picnics and fêtes.

Five diverse communities, with equally diverse green spaces, are on board. The project supports them in developing their spaces through ground works and historical research.

*Burgh by Sands*, on the Solway Marshes near Carlisle, has a large green space with plans for walks, a recreation area, a pond and wetland. The site has a wealth of history: a Roman vallum, a Victorian rail-track and links with Edward I ('Long Shanks') who died on the marshes. It hopes to register this

space as a village green.

*Newbiggin* near Penrith has two beautiful wells in need of restoration on natural limestone springs. It wants to make the green and springs a focal point for the village again.

*Nether Wasdale* is looking at the drainage and access on a site well-used by tourists. It holds an annual May festival with maypole dancing. *Barrow-in-Furness* has an urban community-garden on a disused industrial rail-site and is transforming the neighbourhood.

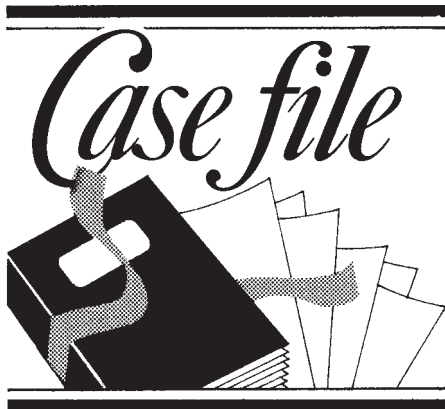
*Great Asby* near Appleby is looking at the history of well-dressing on the green and of the bridleway that runs from it to Asby Fell, and is researching the green's influence in the development of the settlement.

All the communities involve volunteers of all ages, with a focus on local schools. The project will provide information for other communities, on funding, planning and partnership organisations, and an education pack on green space for schools.

Further information can be obtained from the website [www.ourgreenspace.org.uk](http://www.ourgreenspace.org.uk), or contact Roe Baker on 01768 869522, [roe-baker@fld.org.uk](mailto:roe-baker@fld.org.uk). □

*A crowd turns out for the naming ceremony of Barrow's community garden: 'Green Heart Den' in July 2008. Photo: Our Green Space project.*





## Deference to other users

**Case officer Nicola Hodgson explains why an attempt to register Coatham Common in Redcar as a green may have failed.**

On 18 July 2008 Mr Justice Sullivan rejected an application from Kevin Lewis for permission to apply for judicial review against Redcar & Cleveland Borough Council's decision not to register Coatham Common as a green (*R (Lewis) v Redcar & Cleveland Borough Council* [2008] EWHC 1813 (admin)). The council decided on 19 October 2007 to reject an application from the Friends of Coatham Common to register the green, following a public inquiry at which the inspector was Mr Vivian Chapman QC. The land is owned by the council and was used until 2002 as a golf course. The council wishes to develop it.

## Refused

The application was refused by the council on two grounds in relation to whether the use was 'as of right', ie without secrecy, force or permission, and these were the reasons for the challenge in court.

The first ground was that the golf club had erected signs in 1998 by which it asserted that local users were trespassers. They said: 'Cleveland Golf Club. Warning. It is dangerous to trespass on the golf course.' The claimant argued that they did not prevent the user being 'as of right'.

Sullivan J concluded that there was no evidence before the inquiry inspector that

the wording 'had any practical effect whatsoever, much less that it had, even temporarily, "seen off" [those using the land for recreation]'. Given the ambiguity of the wording, no landowner in the position of the defendant could have concluded that the notices 'had made it sufficiently clear that it was not acquiescing in the continued use of the land for recreational purposes by local users'. The claimant succeeded on his first ground.

The second ground was that users of the land for informal recreation deferred to its extensive use as a golf course ('deference').

It was argued at the inquiry that the golf course did not cover the whole of the application land. There were substantial areas of rough ground used by non-golfers.

Sullivan J said 'I accept the principle that in practice low-level activities by the landowner may not be inconsistent with the use of his land for sports and pastimes for the purposes of section 15 of the 2006 Act, but I do not consider that...the activities of the golf club could sensibly be described as "low-level activities".'

## Deferred

He noted that Mr Chapman had concluded that 'the recreational use...by local people overwhelmingly deferred to golfing use'. Sullivan J commented: 'The extent of that deference by local users is confirmed by the lack of any evidence that, from the golf club's point of view, its use of the land was being interfered with or inhibited by local people using the land for recreation...It would not be reasonable to expect the club to resist the recreational use of the land by local users if their use of the land did not in practice interfere with its use by the club as part of a popular and well-used golf course. What matters to the landowner is the fact of deference to his use of the land, not the reasons for it.'

The second ground failed and the application for judicial review was dismissed. But Sullivan J gave leave to appeal saying that 'the ambit of the deference principle is something which is not determined, and therefore there is a real prospect of success' in a higher court.□

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# Hospital's and councils' cock-up

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**The notice pictured (below right) is bizarre, writes Chris Hall, the society's Oxfordshire correspondent.**

It has recently appeared in a strip of pleasant waste land (trees, scrub and a pond) of a few acres' extent lying between the Boundary Brook and the nearly completed £109m cancer centre, which the Oxford Radcliffe Hospitals Trust is constructing in east Oxford.

It is bizarre because the trust's notice requires the public to keep to the very paths which it has closed, by illegally building the cancer centre and associated development across them.

## Incompetence

The story is a mixture of incompetence and arrogance.

Originally the trust applied to Oxford City Council (the planning authority) to deal with the paths under the Town and Country Planning Act. But the society pointed out that the buildings were already substantially complete and that therefore the act could not be used. At this point the city council gave up in despair and asked Oxfordshire County Council (OCC), the highway authority, to pick up the pieces.

This OCC agreed to do, despite the fact that it has hundreds of path problems and definitive-map claims with which it is not dealing through lack of staff and funds. Officers persuaded the relevant committee to give the hospital paths priority because under EU rules the centre cannot become operational until all the

necessary consents, including planning conditions, are satisfied.

The committee agreed to fast-track the changes, but the society and two local organisations remain as objectors.

The paths are not long (a few hundred yards altogether) and some people might say that their intrinsic importance before the hospital blocked them was not great. But they have been illegally blocked by a massive bureaucracy aided and abetted by the incompetence of one local authority and the complaisance of another.

Needless to say the trust is whingeing to the press that the objectors may delay the opening of the cancer centre, but the delay has been entirely of the trust's making and if it really wants us to withdraw our objection it can make a deed granting public access to the wildlife corridor between the brook and the hospital. □

*Photo: Sietske Boeles.*



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# Far and wide

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## Wales can show the way

In our response to a consultation from the Welsh Assembly Government on setting local speed-limits in Wales, we have called for a universal speed-limit of 40 miles per hour where an unfenced road crosses a common.

We support the reintroduction of grazing, to benefit the commons, their vegetation and enjoyment by the public, but we recognise that commoners are deterred by speeding traffic. Rather than fence the common, which is expensive, an eyesore and an interference with public access, the traffic should be slowed.

The Gower Commons Initiative has argued for many years for 40 mph speed limits across Gower's commons. This has won public support but Swansea Council has yet to allocate resources to this important project.

We hope that Wales will lead in celebrating and protecting its unique commons by requiring us all to slow down as we cross them.

## Our AGM

Vice-president Roger de Freitas chaired our well-attended annual general meeting on 1 July. We elected Bernard Selwyn as a new vice-president: Bernard had been a member of our committee for 24 years and our parliamentary agent. He remains our representative for London.

The new constitution was adopted (see below) and we elected four new trustees, giving us the full complement.

We were sorry that Bob Milton was standing down after ten years and thanked him for his contribution.

After the formal business, we had a fascinating talk from Guy Thompson, Natural England's executive director for

external affairs, entitled 'inspiring people to enjoy the natural environment: a new vision for green spaces'.

This was followed by presentations from members: John Toplis on landfill on Basildon and other golf-courses; Peter Kidner on his campaign to reopen an illegally-obstructed highway in South Petherton, Somerset, and the latest village green application in Wales by Andrew Hill.

## Four new trustees

Our four new trustees add diversity to our board. Andrew Hill is an architect and planner from Cardiff, who has specialised in conservation, landscape design and tree preservation orders. Pete Turtill, our local correspondent for Ipswich in Suffolk, fights for paths and, now that he has to use a wheelchair, knows how important it is for routes to be easily usable. Jackie Warr from north Oxfordshire is a solicitor; she joined the society in 2000 for help in saving a local space. And John Willson from Downley in Buckinghamshire is a commons enthusiast and founder member of the Chiltern Society.

We welcome them all on board.

## New constitution

Members at the annual general meeting approved our new constitution.

The executive committee is now called the board of trustees. From the next AGM, the number of trustees will be reduced from a maximum of 17 to a maximum of 12, nine of whom will be elected by the AGM. Trustees will be elected for a three-year term, and must have at least a one-year break after continuous service of six years.

There are arrangements for staggering the length of service in the first instance to ensure that all trustees do not retire

at once.

The chairman, vice-chairman and treasurer will be elected by the trustees from among their number, to serve for three years.

## **First in Bucks**

Downley Parish Council near High Wycombe is the first landowner in Buckinghamshire to use the new provisions of the Commons Act 2006 voluntarily to register land as a village green. It has registered Gosling Grove Green, formerly part of a large field, which is enjoyed by local people. Now it is safe for ever.

## **New green at Hazel Grove**

Thanks to the efforts of Janet Cuff and the Campaign to Protect Rural England, Stockport Metropolitan Borough Council resolved that 1.56 acres at Chester Road, a valued open space in Hazel Grove, Stockport, should be registered as a town green, thereby saving it from development. The council had already refused an application for a retail store there.

## **Unfair exchange**

Crowborough Beacon Golf Club applied to the Secretary of State for Environment, Food and Rural Affairs for consent to deregister nearly four acres of Crowborough Common in East Sussex and to provide exchange land.

The golf club proposes to build a care home and construct a new club car-park on

the land to be deregistered.

We objected because of the loss of heathland where people have the right to walk and ride. The plan is to replace this part of the common, which is close to the town, by less accessible land further away.

This common, which is within the designated High Weald Area of Outstanding Natural Beauty, should remain unspoilt for people to enjoy. There is to be a public inquiry in October.

## **Fly-tipping no excuse**

Retrospective consent for fencing on common land at Standon, five miles west of Bishop's Stortford in Hertfordshire, has been refused by the Secretary of State for Environment, Food and Rural Affairs.

The new owner of the common had taken over an application from his predecessor, for consent to retain the fencing, allegedly to prevent fly-tipping on this former gravel-pit. We objected, along with Hertfordshire County Council's rights-of-way unit.

Refusing consent, Gina Warman, on behalf of the Secretary of State for Environment, said that 'the fencing and gates, and the physical barrier they created, would have a damaging effect on the use and perception of the common which would deter the public from using the land for lawful activities and which would not benefit the neighbourhood' and that 'the works would not be consistent with the government's wider objective to retain

*The view from the part of Crowborough Common which is threatened with deregistration.  
Photo: Anne Hart.*



common land as open and unenclosed areas’.

She concluded that there was insufficient justification for the works and that they would have a negative influence on the accessibility of the common which was not outweighed by any benefits gained.

We have written to the landowner and to Hertfordshire County Council asking them to free the common from this unlawful encroachment. If they need to prevent fly-tipping, they should use other measures, not rely on an unlawful fence.

## Our campaign bears fruit

Good for Denbighshire County Council which has complied with our request to councils, during our Green Alert! campaign, and notified us of a planning application which affects common land.

Denbighshire consulted us about an application for the retention of a footway and lighting columns on part of St Asaph Common. While we did not object to the (retrospective) application, we did ask the council to tell the applicant to obtain the Welsh Assembly Government’s consent for works on common land.

We hope more councils will follow Denbighshire’s example.

## No bungalow here!

Sadly, Anglesey County Council has not followed Denbighshire, and we were dismayed that it should even contemplate

*Common land in Llangoed threatened by development.*



*Ealing’s new pocket-common. Photo: Mark Harrington.*

giving planning permission for a bungalow and garage on common land at Llangoed.

We explained to the council that it should not grant planning consent on the common when the Welsh Assembly Government was unlikely to give permission to build there, under section 194 of the Law of Property Act 1925 which governs works on commons. The assembly would not sanction purely private development on common land, so this is a non-starter.

## Pocket-sized common

A new area of common (pictured above) has been designated east of Hanger Lane (A406) in Ealing.

The land was given in exchange for an area of common to the west of the road, which will be taken for the building of replacement bridges and the consequent realignment of Hanger Lane.

Transport for London (TfL) was required to provide exchange common-land which was ‘no less in area and equally advantageous to the public’.

Thanks to the persistence of the Ealing Common Society and other groups, TfL has provided in exchange a useful piece of land in the immediate vicinity of the lost common.

Although trees were felled during the bridge building, TfL has planted a range of species on and around the land. It is a tiny area, only 880 square metres, but it will be used and enjoyed.



## Registers reopened

In England, implementation of the registration provisions in Part 1 of the Commons Act 2006 began on 1 October 2008 with a pilot scheme. The commons registration authorities participating in the pilot are Cornwall, Devon, Hertfordshire, Kent and Lancashire county councils, Blackburn with Darwen borough and the County of Herefordshire district.

### Participating

The commencement order is The Commons Act (Commencement No 4 and Savings) (England) Order 2008. New regulations will apply to the participating authorities only. They can be viewed at [www.defra.gov.uk/wildlife-countryside/issues/common/registration/index.htm](http://www.defra.gov.uk/wildlife-countryside/issues/common/registration/index.htm)

In the pilot areas applications can be submitted for the registration of events which have not been recorded since the late 1960s, and of new events affecting the registers. So land that was missed during the first wave of registrations under the Commons Registration Act 1965 (non-registration) may now be registered, and land that was wrongly registered may be deregistered. Guidance for applicants is available on the Department for Environment (Defra)

website (see above).

The pilot will be reviewed in 2009 and extended in stages from October 2010.

There is a new power for registration authorities to refer certain applications to amend the register to the Planning Inspectorate for determination where the registration authority has an interest in the outcome such that 'there is unlikely to be confidence in the authority's ability impartially to determine it'.

If a public inquiry is held into non-registration or mistaken registration, the inspector has a power to make an order for costs.

### Unauthorised

The commencement order brings section 46 of the 2006 act into force for the whole of England. This confers powers on the Secretary of State for Environment to stop unauthorised agricultural activities on land registered as common land or as a town or village green.

We are pleased that our member Steve Byrne in Lancashire has won a grant from the Joseph Rowntree Trust to research unregistered commons in the pilot areas, and we shall be advising members on how to retrieve lost commons in their areas.

## Our training plan

Our new training scheme will help local councils protect their open spaces. Such councils have a vital role in securing green places, whether through direct maintenance and management, helping establish a 'care-and-share' attitude among users (and resolving any disputes) or protecting them from outside threats. A local councillor may find him or herself in the front line of open space issues.

We are working with Jo Chaffer, a development trainer with community open space experience, to produce a training programme on the protection, conservation and enhancement of open spaces and to help councillors gain the knowledge and confidence to manage and protect them.

We have teamed up with the National Association of Local Councils (NALC) and

some county associations of local councils to run a series of two half-day workshops this autumn across the country. They will dovetail with the new NALC continuous professional development plan and will offer a mix of information, case studies and practical tasks.

## Commons worldwide

Our general secretary attended part of the biennial conference of the International Association for the Study of the Commons (IASC) which this year was held in Cheltenham. She gave a presentation on the history of the society and took part in a workshop on political advocacy for commons.

Many countries have land which they recognise as common, the common denominator being shared use, and much of

this land is threatened. So our issues were familiar to delegates.

The society has become a member of IASC and looks forward to swapping information with our counterparts overseas.

## John Workman

We are sad to report that John Workman, a long-standing member of the society and of the management committee for our land Hambutts Field, at Painswick in Gloucestershire (1983-2000), has died aged 84. He was devoted to broadleaved forestry, and was the National Trust's forestry adviser. He gave his Ebworth Estate in Gloucestershire to the National Trust in 1989. He also represented the trust on the Common Land Forum, 1983-6.

John gave us valuable advice when issues arose on Cotswold commons. In 2004 he generously handed to the society the £1,000 which we would otherwise have received as a bequest in his will, enabling us to claim gift aid and simplifying the task of his executors—a thoughtful action so typical of John.

## Fair wind for coastal access

The government's draft Marine Bill has been scrutinised by the Environment, Food and Rural Affairs Committee (which looked only at the access proposals) and by a joint committee of both houses.

As explained in the last *Open Space*, the proposed access consists of a trail around the English coast, with spreading room on the seaward side, and on the landward side where feasible. The alignment will be set by Natural England, and approved by the Secretary of State for Environment, after consultation with the various interests.

We are pleased that, in responding to the somewhat critical reports from the two committees, the government has held firm.

Both committees advocated an appeal mechanism for landowners who were unhappy about the route of the trail. We opposed this not least because it would be expensive and time-consuming. The government has said there will be ample consultation and opportunity for landowners to influence the route, as well

as safeguards for their interests, without anything additional being introduced.

The government has also resisted the EFRA committee's argument that landowners should be compensated for loss of income due to the new access.

Now we must ensure that these popular provisions reach the statute book.

## Time's up for fence

The Welsh Assembly Government has refused consent to the Brecon Beacons National Park Authority to retain a four-mile fence across common land in the heart of the national park. It runs from just south of Beacons Reservoir at the junction of the A470 and A4059 roads, south west to the northern end of the Hepste valley.

The application was opposed by the Ramblers' Association, Trail Riders' Fellowship and some individuals. The fence was erected as an emergency measure against the foot-and-mouth outbreak in 2001, and we were sympathetic then, but it should subsequently have been removed. However, the Brecon Beacons National Park Authority hoped to legitimise it by getting the minister's consent. It is an eyesore in this spectacular, open landscape, and restricts public access.

On behalf of the minister, Mr Stephen Jones from the assembly's planning division wrote: 'I am satisfied that the fencing is a barrier to members of the public and other commoners gaining access to the land either side of it'.

We have asked the national park authority to remove the unlawful fence as soon as possible. □

*Photo: Chris Playford.*





### **'A poor basis'**

**Inspector Peter Norman, who presided over a public inquiry into the diversion of Bolney footpath 14 in West Sussex to which the society objected, gave us a useful quote.**

The proposed diversion took the footpath out of the garden of Rowlands, 'a substantial house set well apart from any other development'. Walkers on the definitive route passed no closer than 15 metres to the house, but the rear of the building and back garden were visible from the path. The owner claimed the usual threat to privacy and security. The proposed diversion is to the north of the property, across a field.

### **Embarrassed**

West Sussex County Council claimed that some people would be embarrassed to use the existing route through what appeared to be a private garden. The inspector retorted:

...the whole concept of public access to the British countryside via public rights of way is founded on the right of people to pass unchallenged across land which appears to be, and is, otherwise entirely private. The fact, if it is a fact, that some people are embarrassed to exercise a right seems to me a poor basis on which to decide to take away or modify that right.

This is useful stuff.

However, despite this, he confirmed the

order because the diversion was 'less convenient', but it was not *substantially* less convenient; the new termination point was 'somewhat less convenient', but it was *substantially as convenient* to the public, and the diversion would not have an adverse effect on public enjoyment of the path as a whole. If section 119 of the Highways Act 1980 was not so biased towards landowners we could have saved that path. (FPS/P3800/4/46, 16 Jun 2008)

### **No path-map in Ipswich**

Pete Turtill, our local correspondent for Ipswich in Suffolk, is campaigning to persuade Suffolk County Council to prepare a definitive map of public paths—27 years after the law requiring such a map was passed.

For years the people of Ipswich have been denied their right to walk the many paths in the town and its surrounding countryside because the council has failed to record them on the official map, and no one knows they exist. Many routes have been engulfed by development and can never be retrieved. We want the remainder to be properly recorded before it's too late.

### **Highways before planning**

We have been involved in two cases where proposed development will result in unacceptable vehicular use of public bridleways. It is proving difficult to make the argument stick that the public's use of the bridleways should take precedence over private vehicular use.

In both cases the planning authority is also the highway authority. We have said that the council's planning *power* is subordinate to its *duty* to assert and protect the rights of the public to use and enjoy the highways.

Reading Borough Council and West Berkshire Council each refused planning permission for the developments, in Caversham and Tilehurst respectively.

At Caversham, the applicant for two dwellings adjacent to Gravel Hill Cottages on Blagrave Lane has appealed and the outcome is awaited. The development involves the upgrading of a quiet bridleway

## Edwin Walker

*Gerard Dent, from Nantgaredig in Carmarthenshire, writes of a generous benefactor to the society.*

Last year, Edwin Walker (1919-2008) left £100,000 to the society. Behind this bald statement lies the fascinating story of an ex-soldier who spent the last 50 years of his life living modestly in a small village in the Towy Valley of Carmarthenshire. He was known locally as the Colonel due to his bristling moustache rather than any achieved rank.

### Mule train

However it was said that in the last war somewhere in the Middle East he controlled a mule train and he himself maintained that he was the last soldier in the British army to wear puttees—presumably in self defence.

Back in Wales he had many interests. He traded in fallen stock; he was an expert on the famous white cattle of Dinefwr Park near Llandeilo; and he was involved in local affairs.

He was on the committee for the annual Cothi Bridge show, serving as president for a year. He was also a vigorous campaigner on local issues especially those affecting the environment. Indeed, at the time of his death he was fighting the local community council which was rerouting a favourite

footpath of his where he exercised his faithful dog, Rex, who survived him.

Every Monday morning he would walk to a neighbour to pick up Saturday's *Financial Times* (he never bought his own until the neighbour died).

So fruitful were his studies of that paper that, to the amazement of his friends and acquaintances, he had amassed a fortune of £750,000. The society is one of the lucky beneficiaries.

He was one of nature's gentlemen. When my wife was president of the Cothi Bridge show he was her sponsor. He insisted that he collect her himself and conduct her into and out of the assembled all-male committee meetings.

*Edwin in festive mood. Photo: Cawdor Studios, Llandeilo.*



to enable vehicles to gain access to the houses.

In Tilehurst, Westbuild obtained planning permission on appeal for three houses on land off Lovatt Close, and has built an access road crossing the bridleway known as Spring Lane.

An attractive, quiet lane, this is used as a safe route to school. The council assures us that the public's rights will be protected but we remain sceptical.

### Norfolk summit

Not Beacon Hill, West Runton, height 103 metres, but a meeting between the top people at Norfolk County Council and at the society.

Last March Norfolk County Council's cabinet member for waste and the environment, Councillor Ian Monson, wrote to our chairman expressing concern about the considerable volume of correspondence, photographs and legal notices (including over 1,000 reports of the condition of public rights of way) submitted by our local correspondent in Norfolk, Ian Witham. Councillor Monson (a landowner) felt that this distracted the council from achieving its objectives.

Clearly, the best way to respond to such a claim was by a meeting. So Ian, accompanied by our vice-chairman Phil Wadey and general secretary Kate Ashbrook, met Ian Monson and senior

rights-of-way staff at County Hall in June.

The meeting was productive. The council conceded that our correspondent performs a valuable role, and agreed to arrange quarterly meetings with him to discuss his problem reports. There were other agreed actions, and we were all pleased to have furthered the cause of getting Norfolk's paths in good order.

## **Sinuous not convenient**

Meanwhile, Ian Witham and the Ramblers' Association have had a useful success at Tharston, eight miles south-east of Norwich. The county council wanted to divert bridleway 10 from a direct route across the fields to a winding route following the River Tas, in order to avoid Horsenford Farm to the south.

The inspector, who determined the case by written representations, agreed with Ian that the proposed route involved many changes of direction, concluding that it 'is substantially less convenient due to its sinuous and indirect nature'. Consequently, he refused to confirm the order. (*FPS/2600/4/7, 8 Sep 2008*)

## **Poole path reopened**

We have helped to secure the reopening of the illegally-blocked Poole footpath 82, which runs alongside the Royal Motor Yacht Club from Panorama Road northwards to Poole Harbour.

Over a year ago, the owner of the boatyard which adjoins the footpath sold the yard to property developers. There were numerous planning applications and the footpath was frequently barricaded.

Our local correspondents, Harry and Aimée Alexander, opposed the obstructions and lobbied the Borough of Poole Council to act. At last footpath 82 has been reopened along its whole length and is in a much better condition than it has been for years, with a bollard to protect the route from encroachment by vehicles.

## **Green chain**

We have backed our member, the Bittay and Sanders Residents' Association (BASRA), in its bid to save the lovely

Sanders Lane in Mill Hill from destruction.

The society has submitted an objection to Barnet Council's Mill Hill East Area Action Plan Development Plan Document, which threatens to turn Sanders Lane into a road carrying two-way traffic.

We have supported BASRA's proposal to create a Sanders Lane Green Chain, extending a green corridor into the new housing development site nearby, with traffic-calming to protect walkers.

## **Countryside Act: 40 years on**

Last summer was the fortieth anniversary of the passage of the Countryside Act 1968. This required all highway authorities to signpost public paths at junctions with metalled roads, and to place waymarks along the route where necessary. It gave cyclists rights on bridleways, provided they give way to walkers and horse-riders.

The act also marked the end of a long and selfish campaign by the Country Landowners' Association and the National Farmers' Union to 'rationalise' country paths, for example by moving crossfield paths to field edges.

This project was seen off by the Gosling Committee, appointed by the responsible minister Arthur Skeffington (the Footpaths Committee, reporting to the Ministry of Housing and Local Government and the Welsh Office). The committee said: 'We approach suggestions of a "system" and a "carefully planned network" with great caution because much of the value and charm of footpaths lies in their waywardness'.

These words remain relevant. Despite PR-driven user-friendliness, the CLA and NFU have not given up their old ambitions.





*Trailblazer Gordon: on 14 September our general secretary joined members of the Bishop's Stortford and District Footpaths Association on a walk from Henham in Essex to celebrate the life of our former member Gordon Hands, who died aged 90 last year (OS spring 2008 p4). They walked along the infant River Cam, close to its source (right), where for 20 years Gordon campaigned to get the path reopened. Gordon was an indefatigable defender of paths and was, literally, a trailblazer, leading working parties to clear routes (left).*

## See you later alleygator

The society has signed up to the Unlocking Neighbourhood Paths campaign, which aims to change the law on gating orders, introduced in the Clean Neighbourhoods and Environment Act 2005. When a member of the public objects to an order, we believe the decision should be passed to an independent arbiter instead of being taken by the council which wants to gate the path. This would bring the gating-order legislation in line with that for public-path orders. Others in the campaign are the Brecon Beacons Park Society, Byways and Bridleways Trust, Chiltern Society, Disabled Ramblers, Living Streets, Peak and Northern Footpaths Society and Ramblers' Association. Visit [www.unlockingpaths.org.uk](http://www.unlockingpaths.org.uk) for information.

## Cotgrave gating order

We have opposed Nottinghamshire County Council's plan to erect a locked gate across a public highway in Cotgrave, a village south-east of Nottingham, under the gating-order provisions described above.

The council has not produced the necessary evidence that premises adjoining the highway are affected by crime and anti-social behaviour and that the existence of the highway is assisting the commission of

these offences. Furthermore, it admits that any alleged crime occurs in the evening, so there is no justification to close the route for 24 hours a day.

The proposed gating order is contrary to the spirit of the legislation. When the law was passing through parliament, ministers gave assurances it would only be applied in urban areas. Its use in Cotgrave could set a dangerous precedent.

We are concerned that the council has invested £20,000 in the introduction of gating orders, when the money should be spent on protecting paths for public use.

## Tackling structures

At our 2007 annual general meeting we resolved to work with highway authorities and government to have unlawful structures on public paths removed without delay and unnecessary ones phased out. We produced an information sheet to help highlight the issues and possibilities.

Subsequently, we sent a questionnaire to all highway authorities and other councils in England to ascertain their policies and practices relating to the authorisation of structures on public highways, and the removal of unlawful or unnecessary ones.

Our trustee Chris Beney is analysing the results and will produce a report. This will

be available on our website and summarised in the next issue of *Open Space*. Chris is representing the society on a working party established by the Rights of Way Review Committee to consider the legality of structures on paths and to try to agree national guidance.

## Right to apply delayed

We are pleased about the delay to the introduction of provisions giving owners and occupiers the right to apply for an order to extinguish or divert a public path. We strongly opposed these measures, both when the Countryside and Rights of Way Act, which included them, went through parliament and when we were consulted on the regulations. Now the Department for Environment, Food and Rural Affairs (Defra) has discovered problems with the proposals which can only be overcome by primary legislation.

## Finding our ways

We reported in the last issue of *Open Space* that Natural England had ditched the Discovering Lost Ways project and was setting up a group to consider changes in legislation.

The group has now been established. It is chaired by Ray Anderson, retired civil

### AGM 2009

This will be held on Tuesday 30 June at Friends' House, 173 Euston Road, London NW1 2BJ. *Note it now.*

servant from Defra, who chaired the stakeholder group on the agricultural management of common land (2001-2) of which we were a member.

There are five members each from three sectors: farming, land management and business; local authorities, and rights-of-way users. In the last category are Kate Ashbrook (Open Spaces Society), Janet Davis (Ramblers' Association), Robert Halstead (independent), Alan Kind (Byways and Bridleways Trust) and Mark Weston (The British Horse Society).

We hope to give the terms of reference and other details in the next issue. □

## Harry Sculthorpe

*Our local correspondent for Calderdale from 1998 to 2003, Harry Sculthorpe, has died at the age of 84. Kate Ashbrook remembers him.*

Harry lived with his wife Gwendoline in Hebden Bridge and was a trenchant defender of paths and open spaces. For instance, thanks to Harry a much-loved green space at New Bond Street, in central Halifax, was not made into a car-park (*os* summer 2005 p7).

In 1993, the Freedom Press published his wonderful book *Freedom to Roam* (reviewed in *os* spring 1994). It was refreshingly outspoken and full of pithy comment. Harry and Gwen joined numerous rallies for the right to roam, and I was fortunate to be with them when the news came through that the government was to introduce a law to give us that right. We celebrated together.

Harry was buried at the deconsecrated Waingate Chapel, in the hills above Hebden Bridge. This humanist celebration of his fascinating life was one of the most interesting I have attended. Harry was a biologist, a lecturer and an anarchist—in the true sense of that abused word, namely a man who believed that human beings do better without government than with. He was much more too, and the celebration featured readings, memories and music from the many parts of his life. I regretted not having known him better. But I do know that he did a wonderful job for the *oss* and for all that we believe in.



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# Reviews



## Secret places

**A Freedom to Roam Guide to the Brighton Downs** by Dave Bangs (£15 from [dave@brightondowns.co.uk](mailto:dave@brightondowns.co.uk), tel 01273 620815) describes all the interesting sites on the Brighton Downs. Many of them now have rights of public access which are a well-kept secret or are surrounded by non-access land, making them islands. This book highlights their plight and helps us to campaign for them to be made fully accessible as well as properly protected.

Part one of the book explores the landscape, history, geology and archaeology of the Brighton Downs and is fascinating reading. It tells of the campaigns for the right to roam, and for the South Downs National Park. Part two is a site-by-site guide. Dave divides the downs into 22 landscape areas, and within each he describes numerous locations, some with, some without, public access—but all worth visiting.

**Wainwright—the man who loved the Lakes** by Martin Wainwright (BBC Books, £16.99) is published for last year's centenary of the birth of Alfred Wainwright, author and illustrator of the famous *Pictorial Guides* to the Lake District and surrounding areas.

Martin Wainwright (no relation) recalls Arthur's sad life, in which he found fulfilment from tramping the fells alone, and describes in detail the development of

the guides, with descriptions of ten of his walks. With lovely photographs this is an attractive book.

**On this Mountain—essays on ten Welsh mountains** with photos by Ray Wood (Gomer Press, £19.99) are personal thoughts on ten wonderful places (some of which are threatened by wind turbines). **Bardsey** by Christine Evans with photos by Wolf Marloch (Gomer Press, £16.99) is all about the island off the Lleyn in North Wales.

**Lakeland Fellranger: the near eastern fells and the central fells**, by Mark Richards (Cicerone, £12.95 each) devotes a chapter to each fell, with descriptions of many routes enabling you to mix and match. Helpful drawings show what you can see from the top, to save having to spread your map in a high wind.

## Thank-you

We are most grateful to everyone who gave so generously to our Green Alert! appeal. This has raised over £7,500. We wrote to every planning authority in England and Wales, urging them to pay special attention where a planning application might affect a registered common or green, and to consult the society in such cases.

**The spirit of Hadrian's Wall** by Mark Richards, photos by Roger Clegg (Cicerone £20) is a coffee-table book with fine photos which do justice to the huge landscapes along the wall.

**Navigating with a GPS** by Pete Hawkins (Cicerone, £7.99) is a small, portable book, in plain English, setting out clearly what you need to know. **KA**

## What skills can you offer?

As explained by our treasurer on page 2, the society is concerned about its lack of income. We are keen to learn if any of our members have professional fund-raising or marketing expertise they can offer us *pro bono*. If you can help, please contact the general secretary.

John Collins & Partners LLP Solicitors has a dedicated team specialising in all aspects of the law relating to Access to the Countryside.

We regularly advise on the following areas:

- + Common land
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- + Planning, including TPOs and listed buildings
- + Private rights of way
- + Village greens and open spaces

For a full range of private and commercial services, please contact Rory Hutchings on 01792 525402 or Neil Jacobi on 01792 525401

We offer a 30 minute FREE legal advice scheme to members of the Open Spaces Society. Where you require specialist advice (over and above that offered by OSS) please contact Kate Ashbrook who will refer matters to us.



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**The Open Spaces Society, formally the Commons, Open Spaces and Footpaths Preservation 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, and we manage and preserve open spaces which we acquire by gift or purchase. As a registered charity (214753) we rely on voluntary support from subscriptions, donations and legacies.**

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