Open Space

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Open Spaces Society

Campaigning since 1865

Open Space

Cover story

Stringer's Common, north of Guildford in Surrey, is being proposed as Suitable Alternative Green Space, to protect the Thames Basin Heaths Special Protection Area from public pressure generated by new development nearby. Since Stringer's Common already has access rights and is of nature conservation value, we say that *new* green space should be provided instead (see page 11). Photo: Gaynor White.

Opinion "..."

Croeso i Gymru?

In spring 1986 I wrote an article in this magazine called 'When you go off Offa's ...'. I had been walking part of the Offa's Dyke national trail and then tried to return on a route using connecting paths in Powys and Shropshire. As soon as I left the trail I encountered dreadful problems.

Things have improved since then, but the Welsh Government's green paper on access and outdoor recreation threatens a return to those dark days (see page 15).

Despite positive statements in the paper about the importance of recreation, the government sees only burdens and costs in the public-path network—and in effect dismisses this great heritage. It proposes that local authorities review 'the opportunities available within their area for access and outdoor recreation and confirm a prioritised network of recreational routes and of access areas'.

Wales today ...

We know what this means. National trails and a few promoted routes get top treatment while many others go to the bottom of the heap.

We have explained the obvious to the Welsh Government: if paths are not maintained they will not be used and so they enter a downward spiral of neglect. In the end they may be extinguished on the grounds that they are not needed for public use.

Yet Wales depends heavily on tourism which contributes more than 13 per cent of its GDP—and outdoor activity is an important part of that. Who will visit an unwelcoming countryside?

The paper offers the carrot of Scottish-style access (ie the freedom to walk everywhere subject to a code), but this would be at the expense of public paths: definitive maps would no longer be a definitive record and highways would be put in a hierarchy and moved at whim.

This is a shoddy trade-off. Why can we not retain the path system *and* have greater access?

... England tomorrow

If this happens in Wales now, it will happen in England tomorrow where local authorities suffering from government cuts are desperate to save money.

For example, last summer Derbyshire County Council proposed substantially to lengthen the time it takes to deal with path problems, from less than 14 weeks to up to 26 weeks. For ploughing and cropping that means the farmers get away with law-breaking. For bridges, gates and stiles it could be downright dangerous. Derbyshire is a portent.

If governments and councils baulk at their legal duties, their accountants can surely see that paths and access give an excellent return on investment.

The £16-million Wales Coast Path generated £32 million in visitor spending in its first year—what other investment gives a 100 per cent return? **KJA**

The last fifty years: 1965- 2015

This year we celebrate our 150th anniversary. These are some of our activities in more recent times.

The Commons Registration Act 1965, for which the society had campaigned, allowed only three years for the registration of common land, its rights and owners. The society led the effort to register commons and village greens.

The 1965 act said that if land was not registered by the closing date it ceased to be common or green. There was little time for accuracy. Thus some land which was not common or green was registered, but far more was wrongly omitted.

Disputes were judicially determined by commons commissioners, but even after they had done their job, the registers were inaccurate, inadequate, inconsistent between registration authorities and sometimes incomplete. Landowners immediately exploited the loopholes in the 1965 act, for example if the landowner bought all the common rights on a piece of land, it could be deregistered and used for private purposes.

The society pressed ministers to enact the promised second-stage legislation envisaged by the Royal Commission on Common Land, ie for a right of public access coupled with management of all commons. Eventually the Countryside Commission formed the Common Land Forum to sort out the muddle in the laws and try to reach a consensus of all the interests. Ministers promised to legislate if the forum reached agreement.

Negotiation

After two and a half years of tough negotiation the forum (including the CLA) did reach agreement. It recommended, among other things, management schemes with a right of public access and management committees.

But the CLA reneged and the government broke its promise and refused to legislate.

The society prides itself on going where others fear to treat. The result has been some high-profile stories, with celebrities,

The path through Andrew Lloyd Webber's hamlet of Sydmonton, Hampshire, which the society helped to save from closure in 1996. Photo: Dave Ramm.

Whomsever Lane in Bushey, Hertfordshire, claimed by OSS members for the definitive map in 1992. Many unrecorded routes could be lost in 2026. Photo: Chris Beney.

wealthy landowners and public schools being exposed for blocked paths or unpleasant path diversions. But most of the society's objections have involved unknown landowners and farmers.

Well into the 2000s the third element of the Royal Commission's recommendations, commons management, had still not been addressed. The driving force behind the Commons Act 2006 was the imperative to get sites of special scientific interest (SSSIs) in good order. Since more than half of land designated as SSSI in England is common, it made sense to sort out the management of commons and to enable them to benefit from European agri-environment money.

The 2006 act provides for new councils to manage groups of commons and receive agri-environment money. It also allows for the updating and correction of commons registers and an improved process for permitting works on commons.

Village greens

The 1965 act defined village greens as land on which local people have enjoyed informal recreation without challenge or permission for 20 years.

Although many greens were not registered and lost their status, in 1990 (20 years after the registers closed) land became eligible again and the society promoted registration with some success.

This continued for 23 years until the coalition government gave in to developers' pressure; the law was changed in England to ban applications to register land threatened with development.

In 2000, as a sop to landowners, the government introduced a bar on pre-1949 path claims for the definitive maps, to be effective on 1 January 2026. The society was appointed to a stakeholder group which devised measures for getting the maps up to date before the cut-off.

Champion

Through its history the society has adopted a mix of methods to champion its cause: direct action, drafting legislation, court action, lobbying and publicity and, nowadays, social media.

Common land, in a strictly legal sense, exists only in England and Wales but common resources are present all over the planet. We are now part of a growing campaign to defend commons and to help communities worldwide to protect and nurture their common resources. ❐

We have published two books for our anniversary: *Saving Open Spaces* and *Common Land* (£5 each or £8 for two). See *http://bit.do/3uKZ*.

Case File

Inclosure awards reinstated

The Queen (on the application of John David Andrews) v *Secretary of State for Environment, Food and Rural Affairs, court of appeal [2015] EWCA Civ 669.*

The Master of the Rolls, Lady Justice Gloster and Lord Justice Sales have upheld the appeal court application by John Andrews, OSS member and former Ramblers' Suffolk Area footpath secretary, in a case which is of immense significance for recording public paths.

The case relates to the Inclosure Consolidation Act 1801 (the 1801 act). Inclosure was the process which abolished communal farming in open fields and gave the land to single owners. This was done by inclosure awards drawn up by commissioners under the authority of an act of parliament.

Second wave

The judgment explains how, in the late eighteenth century, in order to encourage a second wave of inclosures, the process was made cheaper and more attractive to landowners. The result was the 1801 act which consolidated the provisions of inclosure into one act. After this, local acts authorising inclosure could simply incorporate the 1801 act's provisions by reference to it.

In 1996 John Andrews lost a path claim in Suffolk when Mr Justice Schiemann ruled in the high court (*Andrews no 1*) that section 10 of the 1801 act empowered the inclosure commissioners to create only private rights of way. John and the Ramblers, who backed his court action, had to wait 20 years for a suitable case in order to challenge this decision in the court of appeal.

Such a case occurred at Crudwell near Malmesbury in Wiltshire. Here John claimed two bridleways on the grounds that the routes were set out as a 15-foot-wide public 'bridle road' and a ten-foot-wide public 'bridle path' in the Crudwell Inclosure Award 1841 which was executed subject to the 1801 act.

Constrained

Wiltshire Council, constrained by *Andrews no 1*, refused the application. John Andrews appealed, first to the high court where Mr Justice Foskett rejected the appeal, and then to the court of appeal.

The judges meticulously examined the 1801 act, assisted by George Laurence QC and historical-map expert Dr Yolande Hodson for the appellant. The judges' conclusion was that the 1801 act, section 10, authorised a commissioner to set out and appoint *public* bridleways and footpaths in an award.

This means that rights-of-way researchers can in future rely on the local inclosure acts and awards which incorporate the 1801 act. It is impossible to say how many routes have become claimable as a result of this judgment but it is clearly important in the run-up to the definitive-map closure on 1 January 2026.

We congratulate all involved in this victory. The environment secretary is not going to appeal. The judgment is at *http://bit.do/bgfJw* and a useful commentary at *http://bit.do/bgfJD.*

The turbulent forest

Our chairman Graham Bathe looks at the troubled commons and greens of the Forest of Dean in Gloucestershire.

Sandwiched between the rivers Severn and Wye, the Forest of Dean is a close-knit community where people are proud of their local identity, culture and dialect.

Here the long tradition of jealously guarding rights in the countryside remains undaunted. And so it needs to be. For the Dean is sadly unique, being the only place in England and Wales where commons and greens have no recognition or protection in law.

The history of the Forest is complex, but in many ways similar to other royal hunting forests like the New Forest. It comprises a mix of open woodland, fenced-off plantations, and grazed pastures and meadows. As a royal hunting forest, the king's interests of 'vert and venison' (vegetation and deer) were protected alongside ancient customary practices, including the rights to put out grazing animals, collect sticks for firewood and heath for bedding, or to feed pigs on acorns in autumn.

As the significance of hunting waned, the Crown gave increasing attention to timber production, especially in Tudor and Stuart times, and attempts were made to eradicate right-holders. The commoners however have continued to graze their animals until the present day. Eminent lawyers have argued for hundreds of years about the issue. In the 1950s there were an estimated 13,000 sheep, 300 cattle, 300 ponies, chickens, goats and geese, with pigs in the pannage (acorn) season. There are now just 2,000 sheep and virtually no other stock.

The Crown has maintained that there are no rights in the Forest of Dean. The two main acts of parliament concerning common land over the last 50 years (the 1965 Commons Registration Act and the 2006 Commons Act), which provide protection to commons and greens, both state that the acts 'shall not be taken to apply to the Forest of Dean'. Although the New Forest and Epping Forest are also excluded, they enjoy strong protection under their own legislation. In the Forest of Dean neither commons and greens nor rights are registered.

Left: sheep have been roaming the open lands of the Forest of Dean for centuries, despite opposition from the Crown. Right: road-edge green at Flaxley. Here greens cannot be registered and protected from development or encroachment.

Left: the widespread re-naturalisation of wild boar in the Forest has polarised opinion between those who want to protect, and those who wish to control or eradicate. Right: OSS chairman Graham Bathe (left) meets representatives of Dean Forest Voice and the Forest of Dean Commoners' Association.

Elsewhere in the country, if just 200 square metres of a common are to be removed, alternative land has to be provided. However, in the Dean the Crown can fence areas or sell land for development without permission. In recent years this has generated massive concern with the proposed sale of the Forest.

Strong and well-organised opposition has been mounted by an organisation called Hands Off Our Forest (HOOF). This employed brilliant street-artist Tom Cousins to publicise concerns about the government's intentions. The warning of Warren James, who organised Forest Riots against enclosures in 1831, remains pertinent: 'They'll suck out the egg if they once prick the shell.'

A further conflict has arisen with the establishment of wild boar in the Forest. There are signs of snuffling alongside every road, in woods and fields. This has generated another highly-charged debate, this time about extermination, culling or protection.

There seems almost no prospect of an early resolution of these conflicts. It would be fanciful to think that disputes that have rumbled on for centuries could be resolved soon. Indeed, the Crown is unlikely to pursue any legal case against commoners because of uncertainty about where it could end. For the moment, we must be thankful that there are still people eager to protect their ancient traditions, from which ultimately we all benefit. ❐

Miners' Arms, Whitecroft. Local campaigning body HOOF has been effective in using street art to convey its message. All photos: Graham Bathe.

‘As long as the sun shines’

Our general secretary went to an international commons conference in Edmonton, Alberta, Canada in May.

This was the biennial conference of the International Association for the Study of the Commons (IASC). I was generously funded by the Elinor Ostrom Award (of which we were a winner in 2013) to present one of the 2015 awards and to discuss the award’s future.

The IASC is a mainly academic body and I am encouraging it to embrace practitioners and campaigners for the commons (in the global sense of shared resources). I was on the organising committee for the conference and introduced some sessions which brought practitioners and academics together. I also held a fringe meeting of practitioners and now we have a growing group of them from all over the world.

The organisers were supported by First Nations people, particularly those from

The Alexis Nakota Sioux Nation Fancy Shawl Dance

Treaty 8 (which covers a large part of Alberta). Here the Crown and First Nations agreed in 1899 that the First Nations signatories ‘have the right to continue with our way of life for as long as the sun shines, the grass grows and the rivers flow without forced interference’. Unfortunately, this was an oral treaty and the written one contains no such guarantees. The First Nations naturally believe that the oral treaty is the one that should be followed.

Stolen

We heard much about how the British and Canadians stole the land from the people, put their children into residential schools and generally abused them. The First Nations performed dances, spoke at the conference and hosted a visit to one of their reserves.

Edmonton’s economy is built largely on oil, the extraction of which ravages the north of Alberta. Edmonton has the longest stretch of parkland in north America, extending for 30 miles beside the North Saskatchewan River which runs through the town.

On the final evening of the conference the 2015 Elinor Ostrom awards were presented. Lin Ostrom was a great commons scholar and Nobel prize-winner. I had helped judge the practitioners’ section and presented the award to the winner AMAN, the Indigenous People’s Alliance of the Archipelago (Indonesia). This plucky organisation is defending community rights and has taken the government to court to prove that the forests belong to the people not the state. ❐

Taking action

Highways under threat

In this, the second article of a series about preserving unrecorded rights of way from extinguishment on the cut-off day, 1 January 2026, our vice-chairman Phil Wadey explains how to start a systematic search for routes.

There are of course, many ways of starting a comprehensive trawl for unrecorded paths but, with so many possible approaches, those wanting to perform research often just need a single method to get going.

As ever when researching, it will be necessary to keep good notes of what is found and to take photographs or copies of any records examined. I use an old Ordnance Survey *Explorer* map for noting any routes I find. I number these routes, so that I can refer to them when taking notes about what is seen on the historical documents. If you take good notes at this stage, whether handwritten or on a laptop or tablet, it will save much time later when you are compiling applications to modify the definitive map.

A popular first step is to use the documents produced for the Finance (1909-10) Act 1910. The act required the Inland Revenue (IR) to value all land in the UK. The purpose was to charge a tax on any increase in value when the property was later sold or inherited. Each property, known as a hereditament, was numbered, had its boundary plotted on Ordnance Survey (OS) county series second-edition maps (known as valuation maps), usually at a scale of 1:2500, and had its details recorded in field books.

The IR valuation-map may reveal many useful features for rights-of-way researchers. Where land is left uncoloured, and so is separate from any hereditament and unvalued, this indicates that it was exempt from valuation. Section 35 of the 1910 act exempted rating-authority land from valuation. A highway authority was a rating authority. If a track is unvalued, it is likely to have carried vehicular rights unless some other exemption can be determined. All white roads should be checked against a modern map, and any that do not appear

Old road named Drift Way in Sandon, Hertfordshire, is a white road on the IR survey. Photo: Phil Wadey.

to be modern roads should be added to the research list as candidates for modification-order applications.

The IR valuation-plan information was drawn on a second edition OS county series map. If any of the white roads are named on the map, this should be noted. The OS Object Name Books, held at Kew, will record the name, have a short description of the feature (for example, 'public road') and be vouched for by someone in a position to know that the name and spelling were correct. While this may be the vicar or schoolmaster, sometimes it is the surveyor of highways, which is a bonus.

Discount

Section 25 of the act gave a discount on the valuation if there were footpaths or bridleways across the land. The map should be checked firstly to see if any tracks are marked 'FP' or 'BR' on the underlying OS base map, and secondly to see if the valuation office has noted any footpaths or bridleways—this will be shown in handwritten ink. Some valuation officers noted paths on the map in this way. Make a note for further research of all paths indicated by either method.

Record the name as printed of any railways or canals crossing the valuation map. If any candidate routes cross a railway, there may be useful evidence to be found later from the railway plans and books of reference deposited as part of the process of obtaining a private act of parliament authorising the construction. Such records can be found at the Parliamentary Archives and often also at County Record Offices.

I have examined more than 90 per cent of the 528 individual IR valuation–maps in Hertfordshire, for white roads, named routes and railways and canals. The results are astonishing in that they reveal so many footpaths, bridleways and byways which need recording.

The old road leading to the sea in Bacton, Norfolk. Not currently recorded but found by comparing IR maps with modern highway maps. Photo: Ian Witham.

Following the Natural Environment and Rural Communities Act 2006 (which prevented the claim of many vehicular routes), I have found that more than two thirds of the unrecorded white roads on the IR maps appear to have lost their motor-vehicle rights and so will be restricted byways when recorded.

Candidate paths

As a result of this research, I identified some 250 candidate paths. I have submitted more than 100 of these, with other evidence, to the county council as modification-order applications.

Other counties also have many paths to record. In Norfolk, OSS local correspondent Ian Witham has been following this method of researching IR valuation-maps. His examination of 50 valuation plans has revealed 108 paths for investigation. He has made three applications after adding other evidence.

This method can uncover plenty of routes for recording—thus reducing the potential loss on the cut-off day.

For more information about applying to add routes to the definitive map see *http://www.restoringtherecord.org.uk*. ❐

Far & Wide

Clapham Common mudbath

Our local correspondent for the London Borough of Lambeth, Jeremy Clyne, has protested strongly to Lambeth Council for allowing a vast swath of Clapham Common to be devastated by a festival (see photo). The council owns and manages the common. The event was held over the August bank holiday weekend but, a week later, a large section of the common was still off-limits to the public.

Mudbath!

The society has objected on previous occasions to the abuse of the common and is now fortified by a counsel's opinion, obtained by our member Frederick Uhde. This confirms that the minister's consent must be obtained under the Greater London Parks and Open Spaces Act 1967 for any building or structure on the common, whether permanent or temporary. Lambeth Council has repeatedly failed to do this.

We intend to gather information on the abuse of urban spaces by commercial activities with a view to finding a remedy. *If you can provide any examples, with photos, please contact the office.*

Thirlmere fence withdrawal

We are delighted that United Utilities (UU) has decided to withdraw its controversial application for six miles of fencing on common land above Thirlmere, in the heart of the Lake District National Park (*OS* spring 2015 page 9). A public inquiry was due to open in November attended by the many objectors, including the society.

UU has said it would like to carry out further consultation about its plans in the hope of identifying viable alternatives to a fence. It claimed the fence was needed to reduce the grazing and prevent erosion which was contaminating the water supply. While of course we appreciate the company's need to guarantee high-quality water from Thirlmere, we believe this can be achieved without fencing the common and damaging the priceless landscape.

We were one of the organisations which pioneered *A Common Purpose*, a consultation process for the management of commons, and we are pleased that UU now, belatedly, intends to follow this guidance. We look forward to further discussions.

Our next 150 years

Don't forget to read our growing list of 'tweets of the day', a daily bulletin of our many achievements over the last 150 years. The list is on our website at *http://bit.do/bmJ6Q*. As we come to the end of our celebratory year we are preparing for the many campaigns which lie ahead. Please spread the word about what we do and send us a donation to support our work. Thank you!

Victory for Welsh greens

With our members' support we have helped to stop the Welsh Government from making devastating changes to village-greens law. The Planning (Wales) Act, which was finalised on 19 May, was amended, thanks to our campaign.

Assembly Members reversed several draconian measures which would have severely restricted the public's opportunity to apply for land to be registered as town or village green, and made countless green spaces vulnerable.

When it was first introduced in October 2014 the Planning Bill copied England's Growth and Infrastructure Act 2013, which outlawed applications to register land affected by development. We met the Welsh Minister for Natural Resources, Carl Sargeant, and gave oral evidence to the all-party Environment and Sustainability Committee which advised the Welsh Government on the bill. The committee backed us and recommended amendments to make land ineligible for registration only when planning permission has been granted, not when it has been sought, and to give people two years instead of one in which to apply to register land after use is challenged.

So it is now easier to save your green spaces in Wales than in England. (But see page 15 for the threat to Welsh paths.)

Our AGM 2016

Next year's AGM is on Thursday 7 July at Friends House, Euston Road, London. Note it now!

Not sanguine about SANGs

When development take places on land close to a Special Protection Area (SPA), the highest form of protection offered by European legislation, the developers are required to provide Suitable Alternative Natural Greenspace (SANG) to accommodate the new recreation pressure which would otherwise impair the SPA.

Backside Common, already well used. Photo: Gaynor White.

We were alarmed to learn of Guildford Borough Council's proposal to allow development close to the Thames Basin Heaths SPA and to offer three commons as SANGs: Broad Street, Backside and Stringer's Commons, all near Guildford. The public already has rights to walk and ride on these commons, and they are designated Sites of Nature Conservation Importance. We argue that they neither conform with Natural England's guidelines nor qualify as SANGs.

We have complained to Guildford Borough Council which has replied that it has not yet assessed the impact of making the commons SANGS and that this is merely a consultation. We shall continue to keep a close watch to ensure that *new* green space is provided.

East Pit

Neath Port Talbot County Borough Council in south Wales has approved plans from The Lakes at Rhosaman Ltd to extend the existing opencast site at East Pit, Gwaun-Cae-Gurwen, on common land, closer to communities. The planning permission will allow extraction to take place until 30 September 2018 and restoration work, which involves turning the pit into a massive lake, will continue until 31 March 2020. The proposed development also includes an outline application to erect a 120-bedroom hotel, holiday lodges, diving centre, shops,

Taeppas Tump Morris perform at the Big Picnic on Wycombe Rye on 9 August. The event was organised by the High Wycombe Society and the OSS to celebrate the fiftieth anniversary of saving the Rye from an inner relief road. Hundreds came from far and wide to enjoy the entertainment and to picnic on the Rye.

roads and other works. Much of this is on registered common.

Despite having planning permission, the development cannot go ahead without Welsh ministers' consent for deregistration and exchange of common land under the Commons Act 2006. We have asked the Welsh Government to call in the application to ensure that the common is safeguarded.

Our AGM

Although there was a tube strike, 30 members joined us at our AGM in London. After the formal business Rachel Sanderson, then commons project officer for the Chilterns Conservation Board, spoke on Championing Chiltern Commons (see *OS* summer 2015 page 4). Then four members gave brief presentations on their campaigns (see our website).

Derek Smith

A former activist in south Wales and a good friend of the society, Derek Smith, has died aged 88. Derek and his late wife Nina (our local correspondents for the Vale of Glamorgan from 1999 to 2002) were an indomitable pair of path and amenity defenders over many years.

Derek (below) spent his last years in Dorchester. He worked tirelessly for our cause and had a great sense of fun.

Bodmin Commons council

The Secretary of State for Environment, Food and Rural Affairs has set up a commons council for Bodmin Moor in Cornwall (*OS* summer 2015 page 13) after the consultation last spring showed overwhelming support (195 out of 202 respondents said yes).

This is only the second commons council to be created under the Commons Act 2006. The first was for the Brendon Hills in Devon in April 2014.

The Bodmin council will start work on 1 March 2016. Because it can take majority decisions on agricultural matters it will enable the commons to benefit from environmental stewardship payments. This will be good for the welfare of the moor and its livestock.

Our Warwickshire meadow

On 1 September, with Warwick District Council and the Warwickshire Wildlife Trust (WWT), we unveiled a new interpretation-board on Parliament Piece at Kenilworth.

This 15-acre meadow was given to the society in 1986 by the late Helen Martin who lived nearby. In 1999 we passed it to Warwick District Council on a 99-year lease, to manage the land with WWT for nature and public access.

Until now there has been nothing on the site to explain its significance, both as a nature reserve and for its history: it is believed to be the site of the second-oldest parliament, held by Henry III in 1266. We have plans to celebrate the 750th anniversary of that event next year.

Volunteers from WWT work tirelessly to care for the site. They remove scrub to allow the land to flourish as a hay meadow for butterflies, and manage the 400-year-old hedgerows so that they continue to provide a magnificent habitat. ❐

A bulldozer is destroying common land at Llangoed, Anglesey. The owner, Mrs Dilys Lowe, has planning permission for a bungalow and has been told by Anglesey County Council that she needs ministers' consent but she is ignoring this advice. The council refuses to act, demonstrating a fundamental weakness in commons law which fails to place a duty on local authorities to act in such circumstances.

Members of Warwick District Council, Kenilworth Town Council, Kenilworth Lions, the OSS and Warwickshire Wildlife Trust gather to launch the new interpretation board on Parliament Piece at Kenilworth. Photo: Warwickshire Wildlife Trust.

Path Issues

Flawed at Fawley

Our experience last summer with the 'special events' provisions of the Road Traffic Regulation Act 1984 has emphasised the need for best-practice guidance to traffic authorities.

During the Henley Regatta, members of the society took a stroll along the Buckinghamshire side of the River Thames on Fawley footpath 12. They were dismayed to be accused of trespass by security men from Dynamic Protection Ltd who claimed they had permission to close the path and to send people around the edge of a field instead of parallel to the river. The definitive route was roped off with a sign 'Private property no trespassers' but there was no official notice.

Obstructed

The footpath was obstructed by parked cars and garden clobber, and there was a stage between the path and the river. Bucks County Council rights-of way-staff knew nothing of this. However the following day they discovered that the highways and traffic department had dealt with the closure application from the Fawley estate without telling them, and an order had been made under section 16A of the Road Traffic Regulation Act 1984 which enables paths to be closed for special events.

Because the closure was for more than three days it had been authorised by the Secretary of State for Transport.

Deplorably, there are no regulations or guidance for such closures. However the traffic authority and the transport secretary must be satisfied that the trigger is a 'relevant event' ie any sporting or social event or entertainment which is held on a road (the term includes footpaths). This event was not held 'on a road' but next to it. Then the authorities must be satisfied that the traffic should be restricted or prohibited to facilitate the holding of a relevant event, to enable members of the public to watch it, or to reduce the disruption to traffic likely to be caused by it. The event was private, and there was no need to interfere with the footpath.

Regatta

The closure was claimed to be in connection with Henley Regatta which runs from 1 to 5 July: the closure was from 27 June to 10 July, far longer than was necessary. The notices were not posted properly. Evidently no one bothered to visit the site before authorising this closure.

Bucks County Council is normally a good authority for rights of way but much of its highways work has been transferred to a private infrastructure-company, Ringway Jacobs, with scope for communication breakdown. However, as a result of our complaints, Bucks County Council has established a procedure for dealing with future applications, which will involve the rights-of-way staff and user organisations. We have told the Department for Transport that it should have carried out its own investigations, not accepted the word of the traffic authority.

We know that section 16A of the 1984 act causes widespread problems. As a short-term measure we have suggested some guidance for members of the

Fawley footpath 12 runs to the right of the structure and was obstructed, but the event did not require the path to be closed.

Institute of Public Rights of Way and Access Management to promote with the traffic departments. And we shall continue to press government to prepare official regulations and guidance governing these provisions.

Finding our way

The Planning Portal for England no longer has a live website. The rights-of-way cases and decisions, advice notes and guidelines up to 1 August 2015 are now on the National Archives, website at *http://bit.do/baWu7*. Decisions since 1 August are on the gov.uk website at *http://bit.do/baWvp*.

Access to justice

We have condemned proposals from the Ministry of Justice to increase by ten per cent the cost of applying to the magistrates' courts in civil cases.

This will penalise those who ask the magistrates to make a laggard council remove an illegal obstruction. Also, the Deregulation Act 2015 transfers some functions from the Secretary of State for Environment, Food and Rural Affairs to the magistrates' courts, such as an appeal against a surveying authority's failure to process an application to add a path to the definitive map.

Those who take these actions do so in the public interest, and should not be clobbered with huge costs.

Welsh green paper

In July the Welsh Government published its consultation on access and recreation.

We are dismayed by sweeping statements in the document which dismiss the immense historic value of public paths, with familiar euphemisms such as 'increased flexibility' and 'modernisation'. We shall have none of this, the public-path network is part of the history and culture of Wales and we do not want it made easier to muck around with this heritage.

We have proposed changes to ease removal of obstructions, such as on-the-spot fines, and to increase the funding by transfer from other government sources.

The paper postulates a right of responsible recreation everywhere subject to an access code, similar to the position in Scotland. In return, it suggests that there would be 'the opportunity thoroughly to review existing routes of public rights of way'. While we welcome the proposed Scottish model for access, it must not be at the expense of the paths. ❐

Spring walk in Wales. From OSS glass lantern-slide collection, Museum of Rural English Life, University of Reading.

Reviews

Octavia Hill's Letters to Fellow-Workers, 1872-1911, ed with introduction by Robert Whelan, Civitas (Institute for the Study of Civil Society) lxiv prelims and 784 pp, £55 but half-price to OSS members (contact books@civitas.org.uk or 020 7799 6677).

Annually Octavia Hill circulated a printed letter to her fellow-workers, the last of the 39 in the series being dated December 1910; she died in the following August. The letters covered, as Robert Whelan notes, 'the full panoramic scope of Octavia's concerns—from rehabilitating slums to buying the Cheddar Gorge—and show how all these things are linked'. And it is the linked matters, commons, open spaces and footpaths (the last inexplicably absent from the index) that will interest readers of this journal.

Restricted

But Hill was primarily a 'reformer' of housing for the poor. The quotation marks indicate that hers was a very restricted and prejudiced type of reform. In a period when it was dawning on policy-makers that progress in tackling slums required the direct engagement of central and local government, Hill remained rigidly opposed to official enterprise. Housing in her view was a field for investment, in which she sought to encourage 'good companies' and conscientious landlords. She attacked the newly-created London County Council (formed 1888), when it began to build working-class homes; this, she alleged without evidence, would spoil the housing market for private enterprise. It is therefore not surprising that her own management of the properties over which she gained control was Draconian. Of course she wanted the tenants to have good and healthy lives (the letters are full of this), but if they got a couple of weeks behind with the rent she started legal proceedings to evict them. In parallel with such policies she opposed the nascent welfare state: free school-dinners for poor kids were instituted by government in 1906 but she said they would 'weaken the parents' sense of responsibility'. And of course she voted with the feeble majority on the poor-law Royal Commission to which Balfour's dying Tory government had appointed her in 1905.

Yet this anti-state do-gooder recognised that public or quasi-public enterprise was essential to save open spaces. Out of concern for the cramped lives of the poorly-housed came her determination to preserve commons, greens and paths for the enjoyment of all. She worked hard with this society's predecessors, work which culminated in the foundation (with Robert Hunter and Hardwicke Rawnsley) of the National Trust—a body, one supposes, sufficiently removed from the taint of government to admit of her support. An early mention (1878) of the OSS in the letters is by way of a discussion of our funding; she bemoaned her relative failure to persuade middling folk to come forward with a 'guinea or five shillings' and save the commons before it is too late. She adds '…I should often be sad if I did not know that God cared for England and its people and its commons'.

Thanks for the thought, Octavia, but 137 years later divine aid has not yet come through. **Chris Hall**

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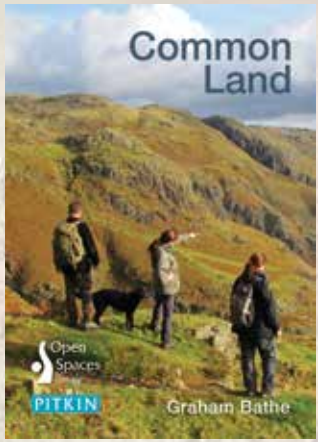

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