

# Open Space

Summer 2021

Vol 33 No 1



## Inside

- Patricia's heroic hike
- Our lantern slides
- New green in Essex

 Open  
Spaces  
Society

Campaigning since  
**1865**

# Open Space

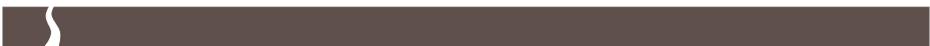
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- 01 Opinion
- 02 Lighting the lanterns
- 04 Patricia's heroic hike
- 05 Case file
- 07 Taking action
- 08 Far and wide
- 11 Path issues
- 13 Reviews
- 15 Obituaries

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## Cover story

Patricia Wittbom on her 21-kilometre hike along the Gritstone Trail in Cheshire on 2 May. Keen to highlight the importance of green spaces for everyone, she chose the Open Spaces Society as the recipient of her sponsorship money, which totalled over £1,500—a magnificent achievement (see page 4).



# Defra undermined

**The environment secretary George Eustice was on a high with his big announcements from Delamere Forest in Cheshire on 18 May.**

He grandly promised ‘to halt the decline of nature’ with a ‘legally-binding’ target for species abundance (to be defined) by 2030, restoration of 35,000 hectares of peatland by 2025, and woodlands expanded to cover 12 per cent of England by mid-century. Fine words, but there was precious little said about people.

There was the pledge of an England-wide plan for ‘improving access’ to woodland, including at least three new community forests totalling 6,000 hectares around towns and cities by 2025—a tiny fraction of the 1.6 million hectares needed to cover 12 per cent of the country.

## Urged

Back in 2015 the government’s independent advisers, the Natural Capital Committee, urged that woodland should be planted around towns and cities, but nothing has been done. Yet this is just what is needed because such woodland, as the committee said, generates high recreation benefits and delivers a massive net economic reward. On the other hand, woods planted on low-grade farmland (which can more easily be achieved, by paying farmers) are an economic loss.

It is of course likely that any new access to woods will be permissive rather than by right, and thus of limited value. We know how easily such access is lost. In 2010 environment ministers withdrew

financial support for permissive access in agri-environment schemes and 58,500 kilometres of paths disappeared—one and a half times around the globe.

That’s the problem with permissive access, it comes and goes. We need a legal right to roam through woodlands.

And we also need the latest agricultural funding schemes (in England and Wales) to provide permanent new and better access close to people’s homes, with strong enforcement against those farmers and landowners who flout the law on paths. This is still far from guaranteed.

## Crunch

The crunch question to George Eustice was how do we get a joined-up approach from government? Defra (the Department for Environment, Food and Rural Affairs) makes promises. On the ground we have HS2, the £27-billion road programme, and the wrecking of the planning system—all set to destroy Defra’s plans, along with ancient woodlands, green spaces and treasured landscapes.

Eustice’s reply, ‘we sometimes have to balance difficult judgments,’ was pathetic. Until government departments stop undermining Defra’s commitments, there is little hope of achieving them.

And government needs to listen to the voices of young people, such as Patricia Wittbom (page 4) who champions green open spaces. It is their hopes which will be dashed unless government stops the wreckage.

**KJA**

# Lighting the lanterns

Dr Katrina Navickas describes her research and activities using our archives at the Museum of English Rural Life.

**Katrina is the Open Spaces Society's Fellow at the Museum of English Rural Life (MERL), University of Reading, 2020-21.**

She is Reader in History at the University of Hertfordshire, and a historian of nineteenth-century Britain. She is interested in popular protest, place and landscape, and is writing her third book, on the history of contested public space in England, c1750-2000.

**She writes:** There are over 1,000 lantern slides in the OSS collection at MERL, alongside legal-case papers from some of the key early campaigns in the society's history (see <https://bit.ly/3ekKADP>). The slides date from between 1900 and 1939, when the society was known as the Commons, Open Spaces and Footpath Preservation Society (COSFPS). But there is little information about the slides other than brief titles.

## Important insight

The majority of the images are of the commons, forests, parks, and open spaces which the COSFPS campaigned to save in the late nineteenth and early twentieth centuries. Lantern slides were a useful way of illustrating talks and lectures, and no doubt were part of promoting the campaign. The slides provide an important insight into a key period of activity for the COSFPS in preserving many of the landscapes we enjoy today.

The OSS has digitised the images, which will soon be available on its website. Much of my research had to take place under lockdown restrictions, as MERL was closed to the public, so I am grateful that the digitised versions could be

accessed from home. I'm also seeking to link the images and archives at MERL with other holdings of the OSS and its forerunners, including those at the parliamentary archives and Surrey History Centre.

My first task was to locate all the places in the slides. This was not easy, as many titles of the slides are no more specific than 'stone bridge' or 'people by lake by woodland'. Thanks to help from some keen location-spotters on social media, and from contacts at the City of London Conservators at Burnham Beeches and at the Canal and River Trust, I have been able to identify most of them.

## Edge of suburbia

The majority of the slides are of landscapes in the south-east of England. This is unsurprising, given that preserving commons on the edge of London was at the heart of the early campaigns. The largest number of slides are of Surrey landscapes, especially Box Hill and the Surrey Hills, and the City of London commons on the edge of suburbia that were purchased or managed as part of the green belt from the 1930s.

There is a box of slides of Burnham Beeches (then in Berkshire) which is a common owned by the City of London, and a box following the long-distance route of the Pilgrims' Way across Kent, Surrey, and Hampshire.

Another focus is the River Thames, and in this case the work of the society is unfinished, as riparian access remains restricted in many places. Another box is of metropolitan parks and commons, some of which had just been preserved

against building and enclosure. For example, one image titled 'Cannon Hill Common 1928' was taken just after the common was sold to Merton and Morden Urban District Council in 1927.

The travel restrictions in winter 2020 and spring 2021 meant that I could only spot locations in my own neighbourhood. Luckily, I live in Croydon, and many of the images were of open spaces and City of London commons in the Surrey suburbia that I had been using for lockdown exercise. These included Riddlesdown Common, and Banstead

Woods and the route of the River Wandle, restored by the Wandle Trust.

I am planning an exhibition on the MERL website of some of the most striking lantern slides. I am also holding an online symposium on the afternoon of 8 September. This is open to everyone interested in exploring the images and sharing research on the history and future of open spaces. For details see <https://bit.ly/3h4TreK>.

*Katrina is speaking about her research, and the lantern-slide collection, after our online AGM on Thursday 8 July.*



*Left: Katrina on 'Jacob's Ladder steps', a public right of way in Whyteleafe, near Warlingham in Surrey. She is standing in almost the same spot as (right) the Edwardian gentleman in the lantern slide, merely entitled 'Steps Warlingham, Surrey' (MERL, SR OSS/PH5/B146).*

# Patricia's heroic hike

Schoolgirl Patricia Wittbom chose to raise money for the society by a challenge walk. She tells her story.

**My name is Patricia Wittbom, I'm 11 years old and I am in year 7 at Tytherington School, Macclesfield, Cheshire.**

During the last year of covid lockdown I was lucky to be able to go out each day into the countryside where we live in the Cheshire Peak District. We swung on rope swings, walked through woods and



*Patricia approaches her apogee, Lyme Cage.*

ran up into the hills where we heard curlew and saw bluebells and knew that nature was doing very well, even if things were really strange for us. I missed my family in Sweden and Portugal and my English grandparents very much, but being able to be out in nature kept us all going.

Now I know how lucky we are to live where we do, and that beautiful green spaces are really important for our mental and physical health. But it made me sad to know that not everyone had somewhere green and beautiful to go, close to their homes.

My school runs an award scheme called the Tythy Challenge. Part of the challenge is to demonstrate that we have

made big efforts to 'strive' to achieve something. So I planned a sponsored walk to raise awareness of the importance of green spaces for all.

My stepdad helped me to research charities that I could support and he told me about the Open Spaces Society. It seemed a good fit because it wasn't just all about looking after the countryside—green spaces and footpaths can be in towns, cities and everywhere else and I think they must all be very important to someone.

On 2 May, I walked between my home in Kerridge, near Macclesfield, to Lyme Cage, in the National Trust's Lyme Park estate and back again. In total I walked 21 km or 13 miles along the Gritstone Trail. It was a really lovely day with good weather and I'm very happy we raised more than £1500 for such a good cause. Thank you to everyone who encouraged me! □



*Patricia at a capped mineshaft on Bakestonedale Moor. The artwork depicts the local mining activity.*



## Give and take on greens

*TW Logistics Ltd (appellant) v Essex County Council and another (respondents)* [2021] UKSC4

This supreme court judgment, about the registration of land as a town or village green (TVG), raises important and concerning issues. The land is 200 square metres of concrete on the water's edge at Allen's Quay, part of the working port of Mistley in Essex. Mistley lies on the tidal estuary of the River Stour, upstream of Felixstowe. It is privately owned, largely by the appellant, TW Logistics Ltd (TWL), and not subject to any statutory regime governing its use as a port.

A TVG application was made in 2010 by Ian Tucker on behalf of the group Free the Quay, based on 20 years' use by local people up to September 2008. Essex County Council held a public inquiry; the inspector found that the tests for registration were met and recommended registration of the land as TVG. It was registered in July 2014.

TWL challenged, the registration on a number of grounds, in the high court (os summer 2017 page 4), the court

of appeal and finally the supreme court.

The three grounds for the appeal to the supreme court were:

1 land should not be registered as TVG if the effect would be to criminalise the landowner's continuing use of that land for the same commercial activities as took place throughout the 20-year qualifying period;

2 the court of appeal misinterpreted the Victorian statutes which prevent encroachment on a green: on their correct construction TWL's activities post-registration would be criminalised;

3 the quality of the evidence of use by local inhabitants was not such as to qualify the land for registration.

The supreme court's five judges unanimously dismissed the appeal. The judges considered ground 2 first since, if the appeal on this ground were to fail, it would not be necessary to consider ground 1. However, this was a high-risk strategy for TWL since, if it were to succeed on ground 2 and then to fail on ground 1, it would have argued for, and exposed, its own criminality to no avail.



*The new village green at Mistley. Photo: Simon Bullimore.*

The judges noted that the law gives the public the general right to use a green, subject to the give-and-take principle. The public must use its recreational rights in a reasonable manner, having regard to the interests of the landowner and whatever practical arrangements have developed for coexisting use during the 20-year qualifying period.

This meant that after registration the landowner had all the rights that derive from his legal title to the land, as limited by the statutory rights of the public. Moreover, the landowner also has the right to undertake new and different activities provided these do not interfere with the recreational rights of the public. However, the judges 'hoped and expected that the local inhabitants and the landowner will adjust their activities on the land in the same spirit of give and take and compromise as has been the pattern for decades'.

The judges then considered the effect of the Victorian statutes (Inclosure Act 1957 section 12 and Commons Act 1876 section 29) on the use of the land for purposes other than lawful sports and pastimes.

### Modern conditions

They opined that the correct approach was to interpret these statutes in the light of modern conditions rather than those that prevailed in Victorian times. The registration of land as a TVG *creates* the public's rights to use it, and consequently land is now being registered which was not previously contemplated as TVG.

At common law, the criminal offence which operates to protect the interests of the public in being able to enjoy the TVG is that of a public nuisance. The judges referred to the leading recent case on the crime of public nuisance, *R v Rimmington* [2005] UKHL 63; [2006] 1 AC 459. Here it was held that a person is guilty of a public nuisance if he performs

an act not warranted by law.

The judges concluded that TWL 'has the legal right in the period after registration of the land as TVG to carry on what it has been previously doing on the land, its activities are "warranted by law" and 'the public's statutory right is only to enjoy the land subject to the continuation of the owner's pre-existing rights, as exercised to that extent'.

Having dismissed ground 2, the court did not need to reach a conclusion on ground 1. It considered that ground 3 was not met since the landowner had acquiesced to the public use over a long period.

### Clarifies

We welcome the confirmation of the registration of Allen's Quay as TVG. However, we are concerned that this judgment makes it clear that the Victorian legislation does not outlaw landowners' activities which were carried out pre-registration, and that these could extend to new and different activities, provided they do not conflict with the use of the land for lawful sports and pastimes. Also, the recreational use by local inhabitants is restricted to relying on give and take with the landowner.

If local inhabitants believe a landowner's activities exceed his pre-existing rights and interfere with their rights, their only recourse is to challenge this in the courts, or to seek a declaration as to their rights.

The judgment further undermines the protection afforded to TVGs by the Victorian statutes. They are already difficult to use, and now any potential breach by the landowner, or his licensees, which might otherwise incur criminal liability, must be tested against the circumstances prevailing prior to registration. While those events are documented in relation to Mistley Quay, there will be many TVGs where recollection of such circumstances is beyond living memory. □

# Taking action



## Grant a Green

**On 26 April we launched our Grant a Green campaign, calling on local councils in England and Wales voluntarily to register their open spaces as town or village greens.**

Registration will give local people rights of recreation on the land and protect it from development.

Now is the time to secure our green spaces. Not only have the restrictions on movement meant that people have discovered that their local open spaces are essential for their health and sanity, but also that those spaces are under unprecedented threat.

## Firing line

The Westminster government is intent on destroying the planning system, and green spaces are in the firing line for development. In Wales such spaces are under threat from outdated and inadequate planning guidance. Land-owning local councils, and other public-spirited landowners can make a



*The new village green at Scorton in North Yorkshire, voluntarily registered by the parish council. Photo: Scorton Parish Council.*

lasting gift to their communities by registering land as greens.

Registration is straightforward, and the commons registration authority (county or unitary council) makes no charge for it. The applicant must complete form 44 (or CA9 for those in the English 'pioneer' areas of Blackburn with Darwen, Cornwall, Cumbria, Devon, Herefordshire, Hertfordshire, Kent, Lancashire, and North Yorkshire).

## Entitled

The form is sent to the commons registration authority which must merely be satisfied that the applicant is legally entitled to apply to register the land. The applicant must: obtain the written consent of any leaseholder or charge holder; include a map and description of the land; and identify the area where the local people who use, or will use, the land reside. This last is necessary because, once the land is registered as a green, those people will have a right to the land for recreation.

The applicant must also confirm (in a statutory declaration on form 44) land ownership, and the necessary consents. An application cannot, if properly made, be rejected but the authority can ask for further evidence of ownership.

Voluntary registrations by councils include those at Larkfield in Kent, Scorton in North Yorkshire, Henley-on-Thames in Oxfordshire, and Pendle in Lancashire (the last thanks to our vice-president, the late Tony Greaves, see page 15). We feel sure that there are more—please tell us if you have registered land or are planning to do so.



## Woodcock Hill exchange

From 1996 to 2008 the society helped local members to register the ten-hectare Woodcock Hill, at Borehamwood in Hertfordshire, as a village green.

Now, Hertsmere local plan is being prepared and Taylor Wimpey, the landowner, wants to build 110 houses on the green. It has made an application under section 16 of the Commons Act 2006 to deregister 3.3 hectares and has offered 3.6 hectares in exchange.

We objected because the replacement land would be remote for those who currently enjoy the green, with no convenient access to it.

In February we reminded the Planning Inspectorate (PINS) that the regulations require it to decide the procedure for determining the application 'as soon as practicable after the expiry of the deadline', in this case 10 December. Since there had been 128 representations, and strong grounds against the application, we expected a public inquiry to be called. In March PINS responded that the inspector would make a site visit after exchange of correspondence. We

objected, and within two days PINS had announced an inquiry would be held.

Our member, the Woodcock Hill Village Green Committee, is employing a barrister and we have offered £3,000 from our legal fund towards this.

Meanwhile, we are still in correspondence with PINS about its process for deciding how to determine an application, as this would appear to be random and at odds with the regulations.

## Rhos Gelli Gron victory

We have helped stop the fencing of Rhos Gelli Gron common, near Tregaron in Ceredigion (OS spring 2021 page 8). With the Cambrian Mountains Society, Strata Florida Community Council, the Ramblers, and others, we objected to an application by the Caron Estate, under section 38 of the Commons Act 2006, for a 1,500-metre fence. It would have divided the common, cut across a bridleway, marred the landscape, and restricted people's opportunity to enjoy it.

The planning inspector, Vicki Hirst, visited the site and rejected the application on a number of counts,



*Volunteers at work on Woodcock Hill village green.*

agreeing with us on the value of the common for its landscape, history, and amenity.

The fence would impede the movement of livestock, and inconvenience the graziers. The applicant argued that the fence was needed to prevent over-grazing, but the inspector found no evidence that there was over-grazing.

She concluded: 'The fencing would considerably alter the open characterisation of this upland moorland. It would be a wholly alien feature across the whole common, and completely at odds with the historical references to earlier habitation in the landscape with their associated historic boundaries.' The fence 'would be a dominating and visually discordant feature. It would be highly visible from much of the



*Cairn on Rhos Gelli Gron common. Photo: Peter Foulkes.*

surrounding common'. She concluded that 'the fencing would have a harmful impact on the landscape.' Welcome words.

### **Offensive fence**

Unfortunately, we have been less successful in our dealings with Bryn Wg common, near Machynlleth in Powys. Here our member Peter Foulkes discovered that a new fence had been erected. He learned that the tenant farmer had done this and the landowner, the Wynnstay Estate, did not object to it. Peter met the farmer on site; the latter



*The new fence. Photo: Peter Foulkes.*

argued that the fence replaced a former dilapidated one. Peter disagreed: the new fence is on a different line. We believe it needs consent under section 38 of the Commons Act 2006 to make it lawful. Powys County Council says it hasn't the resources to take enforcement action.

This underlines the need for a change in the law, to place a duty on local authorities to act against unauthorised works on common land.

### **Invisible boundaries**

Many of our concerns about fencing will be resolved as invisible fencing becomes more widespread on grazing commons. The boundary is set with an app using GPS, and the animals are fitted with collars which emit a signal when they approach the 'fence'. The animals need to be trained to the technology.

We are delighted that Hart District Council (an OSS member) and the RSPB are planning to deploy invisible fencing on Hazeley Heath common in Hampshire, to enable the land to be grazed.

### **Just like magic**

A few weeks ago, the town and village green (TVG) layer on the Magic map website (<https://magic.defra.gov.uk/>), mysteriously disappeared. In response to a complaint, Natural England (NE) said

that it did not manage the database which 'was no longer up to date' and that NE was unable to update it. So it took the decision to remove the TVG layer.

We considered this unacceptable and wrote to NE pointing out that the dataset is derived from the survey undertaken by

### Thank you

We have so far raised £7,554 for our Grant a Green appeal. Thank you for your generosity. A big thank you also to Patricia Wittbom who has raised £1,515 for us from her sponsored hike (see page 4).

the University of Wales at Aberystwyth in the 1990s. It is the only database which lists registered TVGs in England. It has never been up to date; it is a snapshot of greens in the 1990s, ie those registered under section 4 of the Commons Registration Act 1965. Nothing has changed to make the layer inappropriate.

We urged that it should be reinstated, with a note that it is a snapshot and that new greens will not be added. We were pleased that NE promptly relented. The data will be reinstated, with a suitable note, in July.

### Criminalising trespass

We were dismayed that the government has published the Police, Crime, Sentencing and Courts Bill, apparently ignoring the numerous responses to its

consultation which expressed massive opposition to the proposed new authoritarian powers.

The bill creates many new criminal offences which could affect our rights to peaceful protest and our ability to camp on land. Much of the wording is ill-defined and thus would result in uncertain outcomes.

We fear that, even if it does not endanger innocent walkers, riders and cyclists (as government claims it will not), the bill could create a climate of hostility in the countryside with people nervous of exercising their rights for fear of doing the wrong thing, and landowners having a new confidence to challenge them.

We are working not only with access and civil rights bodies but also with organisations representing, gypsy, Roma, and traveller communities, and homeless people, to call for removal of part 4 of the bill which deals with 'unauthorised encampments', and we shall join with others in promoting amendments to protect the public interest.

### New activist in Kirklees

Welcome to Stephen Hill who is our new local correspondent for Kirklees in west Yorkshire. Stephen has recently retired from a long career in civil engineering during which he developed a keen interest in conservation and the environment. □

## Our AGM, Thursday 8 July 2021 at 1pm

In view of the pandemic, the trustees have decided that it is in the charity's best interests for the AGM to be held by videoconference. All voting will be by proxy in advance, but members can join the event, raise matters, and ask questions. The arrangements are explained on our website at <https://www.oss.org.uk/agm-2021/>. An explanatory letter with details (and the papers for those for whom we have no email address) is enclosed with this edition of *Open Space*.

After the AGM Katrina Navickas will give a talk on open spaces preservation in the first half of the twentieth century, and the lantern-slide collection at the Museum of English Rural Life (see page 2).



## Trusting the trust?

**Barry Thomas, our local correspondent for South Derbyshire and North West Leicestershire Districts, has been keeping a close watch on the National Trust's Calke Abbey estate in Derbyshire. He writes:**

Since the summer of 2020 the National Trust has closed several permissive footpaths through its Calke Abbey estate, ostensibly because of the covid-19 pandemic. The most popular permissive path, however, was a long way from the house and gardens, and the closures have affected several named recreational paths.

To control numbers within the park the trust requires booking online, even for walkers who are then charged £8.00 per head to enter it. As locals have been used to walking anywhere in the park, free of charge, this caused anger.

## Reclusive

The trust says that the public rights of way are still available, but they are few. This is because the previous aristocratic owners, the Harpur Crewes, were reclusive and fought to keep people out.

The 1952 survey sheets for the National Parks and Access to the Countryside Act 1949 recognised eight public rights of way in the parish but, due to Harpur Crewe objections, only three made it to the definitive map.

One public path, conveniently, passes through the centre of the estate but I found practically no waymarking along it, and within 20 yards of its northern end it was blocked by a massive fallen tree. I asked for new waymarks to be installed and provided a map with suggested

locations. I also reported the obstructing tree (which the trust quickly removed). The trust has installed some waymarks along the path but not at the northern end where it enters the park. Waymarking in the middle section is also poor.

So, some positive action from the trust—but it could do better. It is evident that the public cannot rely on permissive paths which can be closed at the whim of the landowner as has happened here.



*Fallen tree which obstructed Calke footpath 3. Photo: Barry Thomas.*

## In a rocky boat

We are concerned about the misuse of the Health Protection (Coronavirus, Restrictions) (England) (No 3) Regulations 2020 to prevent people from using public paths during events. For instance, on 4 April the Oxford-Cambridge boat race was held on the Great Ouse north of Ely.

Cambridgeshire County Council's chief executive, Gillian Beasley, signed a direction under regulation 6 listing ten footpaths and 12 roads to be closed, and saying that this was 'necessary for the purpose of preventing, protecting against, controlling or providing a public health response' against the threat of covid-19.

The paths included footpaths on both banks of the river, as well as connecting paths and a road.

Says Hugh Craddock, our case officer: 'The question is whether public attendance at the boat race does give rise to this threat, and whether the exclusions are a proportionate response. We think not, and we question whether the regulations can be used to exclude the public when people are only there because of an event which need not happen, and is only happening because the local authority has encouraged it.'

Fearing that this abuse of the regulations could be repeated for other events over the summer, we are writing to the minister to ask if this is how the regulation was intended to be used.

### Celebrity controversy

The ruined Gwrych Castle, near Abergele on the north coast of Conwy, is known as the location of the 2020 television series, *I'm a celebrity*.

For generations, people have walked the main drive and the paths around the castle and north to the beach. During the pandemic, the landowner, the Gwrych Castle Preservation Trust (which receives funds from the National Lottery), banned access and blocked the paths with six-foot fencing, preventing all access.



*Blocked stile and gate with 'Closed, no trespassing' notice. Photos: Andrew Wood.*



*The view of Gwrych Castle from one of the claimed routes.*

The trustees claimed that the paths were a coronavirus risk, even though they were over two metres wide.

Consequently, local people formed the Friends of Cefn yr Ogof and have applied for three paths across the estate, with a link to the beach, to be added to the definitive map. They have substantial evidence of use and support from the local county councillor Andrew Wood. This clearly will be controversial and we stand by to help.

### Missed opportunities

We are frustrated that the Welsh Government has failed, in its white paper on the future agricultural-funding regime, to take the opportunities to improve public access. With the Ramblers, British Horse Society and others, we have argued that the money should be directed to providing more and better public access, with strong sanctions for those farmers and landowners who receive payments but who flout the law on public paths and access land.

We have of course argued this in response to English consultations too and are frustrated at the continuing lack of progress from the Department for Environment, Food and Rural Affairs in demonstrating how the payments will be used for public access. □



**Heathland**, by Clive Chatters (Bloomsbury, 2021, hardback and Kindle, both £35, but with good deals available).

This is the latest edition in the British Wildlife Collection. In accordance with the exacting standards of this series, it is beautifully designed, uncluttered and attractively laid out, and with many hundreds of colourful images interspersed throughout.

Despite the detail of its 400 pages (and extraordinary weight) it is eminently readable. Clive writes impeccably in a bright and engaging way, making the subject matter compelling and comprehensible, with occasional intriguing turns of phrase.

## **Cultural landscape**

Having given an outline of the prehistoric origins of heathland, the book focuses on the plant and animal life associated with it in different parts of mainland Britain. Clive presents heathland as a cultural landscape, intimately associated with those pastoral communities who occupied what he calls a 'landscape of leftover', after the landowning élite had divvied up the best lands. Clive also embraces the artistic interests of heathlands, exploring them in prose (such as in the works of Thomas Hardy and Shakespeare), poetry (John Clare), and paintings (Constable).

Nearly all the pictures are excellent, and many are truly spectacular. Very occasionally an image is computer-enhanced beyond the credible, and just a few have dateable cars or other features in the background.

A minor criticism is that it would have

been good to have seen each photograph labelled with its county, for those of us who struggle to recall where Wingletang or Porth Melgan is located, and with a few helpful maps. The text rarely refers to the pictures which lie alongside it, although they are always relevant and the two complement each other well.

While there is an exploration of how inclosure enabled heaths to be converted to intensive agriculture, more emphasis could have been given to how heathland was, and remains, heavily dependent on commoning for its very survival.

## **Accessible**

Overall, this volume is a substantial yet accessible body of work, meticulously investigated and understood, and attractively presented to the highest of editorial specifications. More than anything Clive shows that he is at the leading edge in a long tradition of British naturalists, who enthuse about, reflect on, and celebrate the importance of these iconic landscapes. **Graham Bathe**

**Gadsden and Cousins on Commons and Greens**, third edition (Sweet & Maxwell, 2020, £175).

The authors, Edward Cousins, Richard Honey, and our own Hugh Craddock, have produced a welcome update on the registration of common land and rights of common, and the management of and access to common land. The book, which is part of the publisher's Property and Conveyancing Library, is essential reading for practitioners in this complex area of law.

Gadsden was researched and written in

the anticipated run-up to new legislation following the report of the Common Land Forum 1986. It took another 20 years for the Commons Act 2006 (CA 2006) to reach the statute book, and its slow roll-out meant that there is continuing over-complication in the exercise and interpretation of legal principles and the law of commons registration.

The Commons Registration Act 1965 (CRA 1965) still remains on the statute book for the majority of commons registration authorities but, in the nine pioneer areas and in Wales, part 1 of CA 2006 is in force to a large extent. This causes difficulties as the provisions thus vary across England and Wales.



*Northam Burrows common, Devon. Photo: Graham Bathe.*

Three new, excellent chapters, on registration under CRA 1965, registration under part 1 of CA 2006, and evolution and registration of rights of common, deal clearly with the divergence of statutory requirements.

The chapters on town and village green registration and management provide essential information and analysis, encompassing supreme court cases.

The chapter on Wales refers to all the relevant acts, reflecting the increasing divergence of laws following devolution. However, the chapter is disappointingly sparse and contains the statement that 'parts of this book that concern CA 2006 state the law in England, and may not be

applicable in Wales', leaving the reader no wiser. **Nicola Hodgson**

**A Practical Guide to Planning Law and Rights of Way in National Parks, the Broads and AONBS**, by James Maurici QC, James Neill *et al* (Law Brief Publishing, 2020, £50).

Even during some of the most radical reforms to the planning system in the post-war period, national parks and areas of outstanding natural beauty (AONBS) remain largely insulated, and this book guides the reader through what makes planning policy distinctive in these protected areas. There is a careful analysis of national planning-policy guidance for both England and Wales, with reviews of the key legal cases.

### Further chapters

The authors must have felt that the volume was too slim, and so there are further chapters on water, public rights of way, and 'other access rights in the National Parks'. While these chapters are brief, they are accurate enough, as one would expect from a book produced by barristers from Landmark Chambers. But it is hard to see how they belong, because there is nothing distinguishable in the chapter themes within and without the protected areas.

Indeed, the solitary power available especially to national park authorities to institute traffic regulation orders on public rights of way is not mentioned, nor is the practice of many highway authorities to delegate rights-of-way functions to the park authority. There is also a want of thorough editing—eg references to 'the 1949 Act', 'NPAC', 'NPAC 1949', or spelt out in full.

That said, if you are looking better to understand how planning policy is applied in national parks and AONBS, look no further. But don't buy it just for the additional chapters. **Hugh Craddock**

## Tony Greaves, 1942-2021

**Our vice-president Tony Greaves (Baron Greaves of Pendle) died suddenly at his home at Trawden in Lancashire in March. He was 78.**

Tony was a Liberal Democrat peer and Pendle Borough Councillor who spoke out strongly on behalf of the environment and people's rights. He was made a life peer in May 2000, just in time to influence the Countryside and Rights of Way Bill which moved into the Lords that autumn.

He championed our interests and proposed invaluable amendments, on freedom to roam, public paths, and town and village greens. He subsequently argued our case on numerous pieces of legislation, including the Commons Act 2006, the Growth and Infrastructure Act 2013, and the Agriculture Act 2020. We regularly asked him to table amendments and he would quickly become familiar with complicated topics and would press ministers for answers, repeatedly, with a mischievous glint in his eye. He did not give up.

He was the Lib Dem spokesman for environment, food and rural affairs 2001-2 and 2005-10.

### Teacher

Tony was born in Bradford and educated in Wakefield, before obtaining a BA degree in geography at Hertford College, Oxford. He then became a teacher. He was a member of Lancashire County Council for 24 years (1973-97) and of Pendle Borough council until his death. He was responsible for Pendle's voluntary registration of a new town green at Barnoldswick, giving local people rights of recreation there and safeguarding it for ever (see page 7).

He loved the outdoors and was an energetic hill-climber and cyclist. Indeed, everything he did was energetic: he threw his heart into his work in the lords and on

the council. He was a patron of the British Mountaineering Council, and proudly declared his connection with the BMC and with us whenever he spoke on our topics in the lords.

We shall miss Tony's wisdom and strong advocacy, his quizzical sense of humour, love for our cause, and determination to get the best for the environment and for people. His legacy is the legislation which is the better for his intervention—and the green at Barnoldswick. He leaves his wife Heather, daughters Vicky and Helen, and grandson Robin. **KA**



*Tony on Trawden recreation ground with Pendle Hill, Lancashire, behind.*

## Ronald Smith, 1923-2021

**Ronald Smith, another of our vice-presidents, has died aged 97. He was our treasurer from 1989 to 1995. We elected him as a vice-president in 2010 in place of his wife Margaret who died that year. He was our representative on the Hampstead Heath Management and Consultative Committees.**

Ronald was born in Hendon in 1923 to Gordon and Nellie Smith. He had three elder sisters. He was educated at Hendon Grammar School and, according to his school reports, did exceptionally well.

In 1947 he took an open civil service entrance exam and was offered a post at the Inland Revenue in Bristol, with responsibility for auditing the newly-introduced pay-as-you-earn system. It

was here that he met Margaret; they were married in January 1948 and set up home in Bristol.

Ronald was an ambitious career civil servant. In the early 1950s he was promoted to a post in the Home Office and moved to London. His first personal assistant there, Catherine Cooper, recalled that he made her job much more interesting by taking her to meetings and on visits to prisons and remand centres.

He was offered short-term secondment to the Treasury with responsibility for auditing overseas territories. He was also posted to both Kenya and Zanzibar.

### **Retired**

In the 1980s he headed the Prisons Finance Division. He retired in 1987 after 40 years

By this time Ronald and Margaret were living in Potters Bar in Hertfordshire, and Ronald became involved with the newly-formed Potters Bar Society. He held various offices, and was its chairman and then life president. He was a founder member of the London Green Belt Council and its chairman from 1980 for 25 years and then vice-president. He responded to countless consultations affecting the green belt, and wrote



*Ronald on his ninetieth birthday, 14 March 2013.*

invaluable notes to accompany every meeting agenda.

Ronald was fascinated by the history of commons, and he acquired the title of lord of the manor of Plardiwick at Gnosall in Staffordshire which gave him much pleasure.

### **Holidays**

With Margaret he went on holidays to 55 locations, which he would research some time ahead. On their return they converted the holiday into a talk with slides, which they would present to a range of audiences, raising money for the Open Spaces Society and other organisations. Between them they gave over 1,000 talks.

It was our good fortune that Ronald selected the society for his attention soon after his retirement.

### **Tussles**

After Margaret's death Ronald remained at their home in Billy Lows Lane, Potters Bar, for some years, and wrote amusingly about his tussles with technology. He was delighted to acquire a mobility scooter which enabled him 'to whizz round easily'. However, he was defeated by his television when the screen suddenly admonished him: 'You should not view this programme without your parents' consent', and by a new electric typewriter which kept producing alien symbols rather than letters.

I joined him at both his ninetieth and ninety-second birthday parties at the Duke of York pub in Barnet, where he was in splendid form and generously provided a three-course meal for all his guests. He spent his last few years in a home where, until covid-19 struck, he was regularly visited by his nephews and his many friends.

We remember Ronald with great affection, for his tireless work and unstinting support for our cause. **KA**

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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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