

# Open Space

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- Two common victories

 Open  
Spaces  
*Society*

Campaigning since  
**1865**

# Open Space

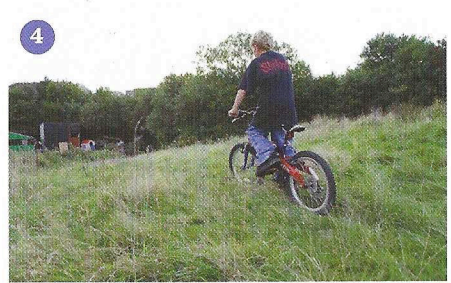
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## Cover story

Cefn yr Hendy Fields at Miskin, near Pontyclun in Rhondda Cynon Taf. Our member Sophie Seymour applied to register three fields as a green on the evidence of 20 years' use but, despite her hard work, her claim was rejected following a public inquiry. Now the land is likely to be developed: a tragic loss to the community (see page 2). Photo: Sophie Seymour.





# Creeping criminalisation

**The freedom to trespass without fear of reprisal is often taken for granted; but should be treasured.**

People often trespass without thinking about it, when they walk across a forecourt to cut a corner; sit on a low wall while waiting for a bus, or turn a vehicle by reversing it in a driveway. Not good manners perhaps—but commonplace.

When out on a walk or ride, we may trespass to avoid a difficult stile or a muddy patch on a path, or to take a short cut through woodland. This is all harmless stuff.

## Concerning

It was therefore deeply concerning to read the words in the Conservative manifesto of November 2019: ‘We will make intentional trespass a criminal offence’. And before this, we had a consultation from the Home Office: ‘Strengthening police powers to tackle unauthorised encampments’. This primarily is aimed at travelling communities and their vehicles in England and Wales.

At first glance one might think this would not concern the society. But it does.

Common land is our business, and the encampments generally comprise gypsy, roma or travelling communities who historically have pitched their tents and caravans on common land and highway verges. The Criminal Justice and Public Order Act 1994 already enables the police to deal with trespassers on land who

intend to reside there. The government provides no evidence that the police fail to take action under existing legislation through lack of the power to do so. More likely, the police are trammelled by complex and sensitive situations, and by the absence of alternative sites. Stronger powers will not resolve that.

Most obviously these proposals could threaten wild camping and peaceful-protest camps.

They could also in time extend to harmless trespass, and create a climate in which people become nervous of exercising their rights in case they do something wrong. Some landowners will see this as an open invitation to challenge innocent members of the public. Already we face intimidating signs, fortress-like gates and CCTV cameras on many properties close to public paths.

## Oppressive

The government’s priority should be to encourage outdoor exercise to address the climate crisis, and for health and well-being—not to introduce complicated and oppressive trespass laws.

Because of the potentially far-reaching implications of these proposals, we have, with 16 recreation, wildlife and countryside organisations, written to the Home Secretary to express our anxiety and seek assurances. We must fight any further diminution of our freedoms of access.

**KJA**



## Where is the neighbourhood?

**An application to register a village green in south Wales failed, despite the care taken by the applicant.**

Our member Sophie Seymour applied to Rhondda Cynon Taf County Borough Council to register land at Cefn yr Hendy Fields, Miskin, near Pontyclun, as a village green. The land consists of three grassy fields, with well-established hedgerows, totalling about 24 acres.

Sophie submitted the application in August 2017. The landowner, the Welsh government, objected. Meanwhile, in 2018, the Welsh government obtained planning permission for 460 houses here.

## Inquiry

Because the green application was opposed, the council held a four-day public inquiry in March 2019 with Michael Bedford QC as inspector.

The inspector concluded that there was not sufficient recreational use of the land, for the whole of the required 20-year period. He recommended, and the council agreed, that the application be rejected.



*Threatened land. Photo: Sophie Seymour.*

Thus the land is likely to be developed.

Sophie reports that the community is dismayed. These are green fields which have been used for sheep farming, and by local residents for leisure and enjoying nature, for generations.

However, it is worth noting that Sophie employed an unusual tactic in submitting her application. The Commons Act 2006 requires applicants to define the 'locality' or 'neighbourhood within a locality' from which 'a significant number of the inhabitants' come to indulge in recreation on the green. This can be difficult.

## Neighbourhood

Sophie submitted a map of the green with her application, but not of the neighbourhood or the locality as these were difficult to determine. Miskin, like many other expanding villages, consists of an old part and newer estates, with the green on the edge of a 20-year-old estate. Sophie realised that no official boundary defined whence the users of the green came, but that there was a community of interest encompassing old Miskin and some of the newer estates in Pontyclun.

Ahead of the inquiry, the inspector asked Sophie to clarify whether she was claiming Miskin village was a locality or neighbourhood within a locality, and after careful research she responded that it was a neighbourhood within the locality of Pontyclun. The inspector and the objector accepted this.

We recommend that applicants normally define the locality and neighbourhood in their applications, but here it was sensible to delay a little and come up with a logical argument for both. □



# New green at Kingsmead

Canterbury City Council has dedicated three acres of Kingsmead Field in Kent as a village green.

**We exhort local authorities to dedicate their open spaces as town or village greens, to protect them from development and give local people rights of recreation there. Canterbury City Council has done so, setting an excellent example.**

The dedication was in return for part of the land being used for housing.

## Campaigned

Our member, the Friends of Kingsmead Field, campaigned for years to save this city-centre open space and was delighted when the council agreed voluntarily to dedicate 80 per cent of it as a green. Its application was granted by Kent County Council last December.

Says Sue Langdown of the Friends: 'This helps to guarantee the long-term protection of an important public open space which was threatened with development.'

'This change of heart reflects the hard work

and commitment of local campaigners and the council to achieve a compromise whereby most of the field could be saved and enhanced, while enabling a small residential development on the remaining land.'

Meanwhile, in Middlesbrough, a new green is to be voluntarily registered after 4.4 acres were saved from development. The site at Newfield Crescent in Trimdon was threatened with housing, and local people formed a group, Greenstuff, to fight the plans. Middlesbrough Council capitulated, removing the housing allocation and registering the land as a green.

## Encourage

We urge members to encourage their local authorities, including parish and community councils, to register their open spaces as greens. Please tell us of any voluntary registrations as we are keen to publicise good practice.



*Crocus planting on Kingsmead Field.*

# Access reform in Wales

The Welsh government has established three groups of experts to advise on access. We are members of all three.

**In April 2019 the Deputy Minister for Housing and Local Government, Hannah Blythyn, announced that the Welsh government intended to improve public access in Wales. This followed the government's consultation in 2017 to which there were more than 16,000 responses.**

The government has divided the reforms into those which it deems to be 'minor technical reforms that are widely supported and uncontroversial' and those which are more complex and needing expert input.

## Legislative vehicle

The former category, which includes the repeal of the 2026 deadline for closing the definitive map, will be 'progressed as soon as a suitable legislative vehicle can be identified'. For the second category the government has established three expert groups to give advice. Each group has equal representation from recreational users, landowners and managers, and the public sector (ie local and national park authorities).

Hugh Craddock, Kate Ashbrook and Beverley Penney from the society have been appointed to groups 1, 2 and 3 respectively, to represent users.

Group 1 will advise on how to increase the range of activities permitted on access land (including water) mapped under the Countryside and Rights of Way Act 2000, and to create new access land in coastal areas.

Group 2 will consider how to increase the range of activities that the public can undertake by right on public

footpaths, and to improve processes and reduce procedural burdens in managing temporary restrictions and stock control in relation to public rights of way.

Group 3 will cover the provision of comprehensive and easily-accessible mapping for public use, and integrated plans for public recreational access in local authority areas.

The three groups each met in February and further meetings are planned for March, July and November, with electronic communication in between. The aim is for a draft report with recommendations to be submitted to the minister by March 2021, with the final report published in July 2021—after the next Welsh government election.

We are asked to gather the views of 'stakeholders'. Whether you live in Wales, or visit there for informal recreation, we should be pleased to hear your views on the future of access in Wales.



*Penpedairheol village green in Caerphilly.  
Photo: Steve Morgan.*





## Devastating blow for greens

*R (on the application of Lancashire County Council) v Secretary of State for the Environment, Food and Rural Affairs; R (on the application of NHS Property Services Ltd) v Surrey County Council [2019] UKSC 58.*

In December 2019 the supreme court dealt a major blow to village greens. It heard two cases last July and in both found against those who were endeavouring to register the land as green.

One concerns Moorside Fields, adjacent to Moorside primary school in Lancaster, about which we wrote most recently in *Open Space* summer 2018 (page 7). We gave money from our legal fund to Moorside Fields Community Group, the applicant for the green.

Janine Bebbington from the group applied to register 32 acres as a green in 2010, on the grounds that local people had enjoyed the land for informal recreation *Leach Grove Wood*. Photo: Tim Jones.

for at least 20 years, without challenge or permission.

The land belongs to Lancashire County Council (LCC) in its role as education authority, and the council is also the commons and greens registration authority. Following a public inquiry, the inspector, Alison Lea, recommended that most of the land should be registered. LCC appealed to the high court and lost.

## Leach Grove

The second appeal relates to seven acres at Leach Grove Wood in Leatherhead, Surrey, which adjoins Leatherhead Hospital and belongs to NHS Property Services Ltd.

An application to register the land was made by local people in 2013, and a public inquiry was held. The inspector, William Webster, recommended refusal of the registration on the grounds that the land was held for health purposes and use by the public for informal recreation





*Moorside Fields. Photo: Janine Bebbington.*

was incompatible with this. The county council rejected the recommendation and registered the land in October 2015. The NHS then appealed to the high court which quashed the registration. The applicants challenged this.

The appeals for the two cases were heard together in the court of appeal which held that both areas should be registered, there being no incompatibility with the use for education (Lancashire) and health (Surrey). LCC and the NHS appealed to the supreme court.

### **Reviewed**

There judges reviewed previous cases on village greens, in particular the Newhaven case (OS summer 2015 page 9) which dealt with the matter of statutory incompatibility.

In that case the supreme court held that it was not possible to obtain recreation rights by prescription over the beach against a public authority which had acquired and used land for specific statutory purposes; the exercise of those rights would be incompatible with the statutory purposes (ie a working harbour). In the current cases the court took the matter further.

The court clarified that the test 'is not whether the land has been allocated by statute itself for particular statutory

purposes, but whether it has been acquired for such purposes (compulsorily or by agreement) and is for the time- being so held'.

Moorside Fields were held by the education authority but were not being used for education purposes.

Nevertheless, the court held that this was sufficient to prevent the land from being registered: 'It is not necessary for LCC to show that they are currently being used for such purposes, only that they are held for such statutory purposes. The 2006 Act was not intended to foreclose future use of the land for education purposes to which it is already dedicated as a matter of law.'

### **Dissented**

The judgment was not unanimous. Lords Carnwath and Sales and Lady Black found for the appellants, ie against the greens, Lord Wilson dissented, and Lady Arden partly dissented.

The devastating effect of this judgment is that if land is held for purposes which are incompatible with recreational use, even if it is not being used for those incompatible purposes, the land cannot be registered as a green. Thus, the opportunities to register greens have been further reduced. □



# Two common victories

By objecting to applications for works on common land, we have helped to save two commons in the north of England.

**The Planning Inspectorate (PINS) has refused consent for the enclosure and quarrying of 1.25 hectares of Brow Common near Haworth in the Bradford district of West Yorkshire.**

The Mineral Planning Group applied under section 38 of the Commons Act 2006, Bradford Metropolitan District Council having already granted planning permission in April 2019.

## Interfere

Natural England, a commoner and the society objected. We argued that the works would interfere with the public's rights to walk and ride over this popular common, and would be an eyesore. The quarrying would generate noise, dust, and vehicle movements.

The PINS case officer agreed, saying that 'the works will cause unacceptable visual harm to the landscape of the common' and that the proposed screening bund would itself be visually intrusive.'

Consent has also been refused for nearly six kilometres of fencing on Bowes Moor common in County Durham.

*Worth Way on Brow. Photo © David Spencer, Creative Commons Licence.*

The landowner, the Field Reeves of Bowes Regulated Pasture, claimed that the fencing was needed for grazing the common, as part of a stewardship agreement with Natural England.

We said that this would be an intrusion, restricting public access to the common. Furthermore, as the fencing is in the North Pennines Area of Outstanding Natural Beauty and is more than two kilometres in length, it requires screening under the environmental impact regulations. The applicant gave no evidence of having gone through this process. Natural England was also concerned about this and about the adverse effect on public access.

The PINS case officer noted that there were only two access points, one at each end of the fence. He concluded that any benefit to nature conservation from an improved grazing regime 'is outweighed by the serious and unacceptable harm that over five kilometres of fencing with only two gates would cause to public rights of access'. He therefore rejected the application. □





## Freeman's Wood victory

We are delighted that Freeman's Wood has been registered as a town green. The 22-acre site is an open field surrounded by woodland, next to the Lune industrial estate a mile west of Lancaster. Originally a waste tip for a linoleum factory it was from the 1960s used for recreation by the community, and still is.

The green application was made in 2012 by Jon Barry of the Friends of Freeman's Wood (a member of OSS), after the landowner had partially fenced off the land.

It took Lancashire County Council six years to pronounce the application 'duly made'. Satnam Investments Ltd, acting for the owner, launched a judicial review against the council because of the delay, but withdrew this on the understanding that the application would be fast-tracked. Meanwhile, Satnam applied for outline planning permission for 250 houses there.

The green application went to a public

*Protest at Freeman's Wood. Photo: Jon Barry.*

inquiry in August 2019. We gave the Friends of Freeman's Wood a donation from our legal fund. This was to help it to defend its application, at short notice, at the inquiry and to employ barrister Cain Ormondroyd.

The inspector, barrister Alan Evans, recommended in October that the land be registered, and Lancashire County Council approved the registration in February 2020.

This is a great victory. The green is in a deprived area and provides local people with an important opportunity to enjoy recreation and nature.

## Bovingdon verge saved

We have helped to save part of a wide roadside verge in the village of Bovingdon, four miles south-west of Hemel Hempstead in Hertfordshire. The verge is registered common land.

Dacorum Borough Council wanted to use 140 square metres of the common for six, surfaced, car-parking bays and sought







*Helipad on Allendale Common. Photo: Mike Quinn.*

consent under section 38 of the Commons Act 2006.

We objected, with Natural England and a number of local people. We said that the use of the common for car-parking was inconsistent with its enjoyment by the public as the bays would reduce the area available for public recreation, and they would have an urbanising effect.

The case officer, Richard Holland, rejected the application, saying that 'the proposals will unacceptably harm the interests of the neighbourhood and rights of public access over the land'.

He also considered that the provision of parking bays was not consistent with government policy that works should take place only where they maintain or improve the condition of the common. Any wider benefit from the provision of parking bays was 'outweighed by the harm the works will cause to the appearance of the common and how it is used'.

Accordingly, he refused the application.

## **Helipad from hell**

Northumberland County Council has granted planning consent to the East Allenheads Estate for a concrete helicopter-landing on Allendale Common (pictured above).

The applicant claimed that this was a

retrospective application, to resurface an existing helipad, but we and other objectors argued that it should be for a new helipad since there had never been permission for works here.

We said that the helipad was an eyesore in the North Pennines Area of Outstanding Natural Beauty, it should not be sited on common land, and it was next to a public footpath. The works needed consent under section 38 of the Commons Act 2006.

Outrageously, the planning officer's report does not even mention common land. Consent was granted, even though the helipad may be unlawful, and so far the applicant has not sought permission for works on common land.

## **Dorset heathlands**

Bournemouth, Christchurch and Poole Council and Dorset Council have consulted about the planning framework for the Dorset heathlands, a sensitive habitat in south-east Dorset which is under threat from new development on its fringes. The councils require developers to provide suitable alternative natural greenspace (SANGS) to relieve the heaths of the recreation pressures arising from development on their doorstep.

We say that any SANGS must provide

genuine new open space, rather than upgrades of existing ones, and that the councils should also require developers to register new village greens in compensation for development.

## Agriculture Bill is back

The Agriculture Bill has returned to parliament. This will determine future funding for farmers, and follows the principle of public money for public goods. Access is one of those goods.

Clause 1(1)(b) says that the secretary of state 'may give financial assistance for or in connection with ... supporting public access to and enjoyment of the countryside, farmland or woodland and better understanding of the environment'.

### Our legal fund

We have raised an astonishing £18,382 from our appeal to replenish our legal fund. This will enable us to continue to give our members financial help with their campaigns to save paths and green spaces. Thank you for your generosity.

We need to ensure that it goes beyond farm open days and educational access.

Farmers and land managers should be rewarded for improving access for everyone, by providing new definitive rights of way and access land where they



*Farmers could be rewarded for keeping paths uncultivated: Colwall footpath 28 in Herefordshire.*

are needed, and by making paths better than the legal requirements—by providing additional width for instance.

The money will be distributed through environmental land management schemes (ELMS). User organisations are to meet the officials at the Department for Environment, Food and Rural Affairs who are working on ELMS to discuss how access payments will bring public benefit. We shall be there.

## Tough target needed

In addition, of course, farmers and landowners should have their grants docked if they ignore the law on public paths, and plough, crop or block them illegally. The Environment Bill, which is a few weeks behind the Agriculture Bill in the parliamentary process, requires the government to set legally-binding targets in four priority areas: air, water, waste and biodiversity—but not for public access. It merely enables the government to set targets for 'enjoyment of the natural environment', an option which might not include access in any case.

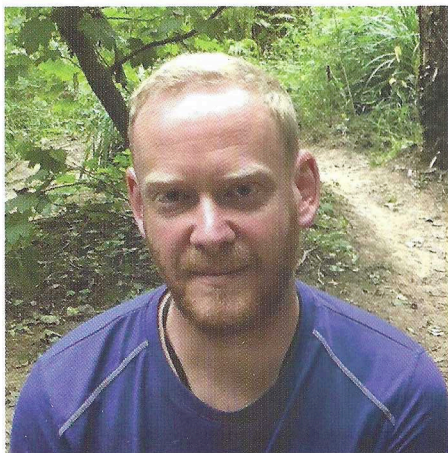
We are working with other user groups to toughen the legislation. Not only would it be shocking to pay farmers public money when they are illegally blocking paths, but also the docking of payments for law-breaking would be a fillip to hard-pressed highway authorities which have insufficient resources for enforcement.

## New trustees

The board of trustees co-opted two members at its December meeting:

**Stuart Bain** works in banking, specialising in risk, compliance and governance. Based in South Wales, Stuart enjoys the outdoors, walking, and conservation. He is the honorary treasurer and a trustee of the South and West Wales Wildlife Trust. He is also the risk, data protection and environment executive officer for the Long-Distance Walkers' Association. Stuart has experience of charity governance and a good knowledge of issues facing Wales.





*Stuart Bain.*

**Simon Hunt** is an undergraduate at Lady Margaret Hall, Oxford. He was chair of the Friends of Finsbury Park (2017 to 2019) when, with the society's support, the friends took (unsuccessful) legal action to stop the park being abused by the Wireless Festival.

At Oxford Simon has been editor of the student newspaper, *Cherwell*, and president of the university philosophy society. He enjoys cycling, hiking and photography. He is particularly keen to help protect and preserve urban parks and open spaces.



*Simon Hunt.*

## Missed opportunity in Wales

We responded to the Welsh government's consultation on its National Development Framework. This sets out where it believes that nationally-important growth and infrastructure are needed and provides direction for strategic and local development plans.

We expressed our concern at the missed opportunity for planning authorities to require developers to dedicate land for permanent public benefit, for instance by registering it as a town or village green, dedicating it for public access or creating public paths. It would be a powerful means of making development more people-friendly.

The society also called for a new statutory designation to protect open spaces so that local people can nominate areas that are important to them. In England that is

## Happy birthday to the trust!

As the founder of the National Trust we should like to wish our offspring a very happy 125th birthday and to say thank you for caring for so many commons and open spaces. We shall of course continue to keep a parental eye on you!

possible to protect open space as a 'local green space' under paragraph 100 of the National Planning Framework 2019. While that protection is not strong, it is better than nothing—and Wales has the opportunity to make it work better.

## Criminalisation fears

The Conservative Party manifesto last year said 'We will make intentional trespass a criminal offence.' This followed a Home Office consultation, 'Strengthening police powers to tackle unauthorised encampments'.

The consultation is ostensibly aimed at travelling communities and their



vehicles, and it is potentially the thin end of a nasty wedge. It would threaten wild camping and peaceful-protest camps. We fear that it could, in time, result in the criminalisation of innocent trespass. For instance, we are entitled to deviate in order to avoid an obstruction on a public path, but will landowners get the idea that they can stop us?

These proposals could create a climate in which people are afraid to exercise their rights for fear of doing something wrong—at the same time as government is encouraging us to get outdoors for our health and well-being.

It is already a criminal offence to trespass on land designated 'in the interests of national security' under the Serious Organised Crime and Police Act 2005, and on land subject to a public spaces protection order under the Anti-social Behaviour, Crime and Policing Act 2014 (both of which we fought at the time). There is no reason to extend the criminalisation of trespass any further.

### **'Clear Access, Clear Waters'**

We are backing British Canoeing's Clear Access, Clear Waters campaign to increase the public's opportunities to gain access to, on and alongside water for informal



*On the Cromford Canal in Derbyshire.*

recreation. British Canoeing is lobbying for fair, shared, sustainable open access. This campaign is in line with our charitable objective of promoting public enjoyment of rivers, canals and lakes.

We encourage our supporters to sign British Canoeing's petition calling on the government to review the policy for access to water: [clearaccessclearwaters.org.uk](http://clearaccessclearwaters.org.uk).

### **Mike Clarke for Bedford**

We are delighted to welcome our vice-president Mike Clarke as our local correspondent for Bedford Borough.

A seasoned rights-of-way campaigner, he will keep the council up to the mark.

## **Come to our AGM on Thursday 9 July 2020 at 11 am Friends House, 173 Euston Road, London NW1 2BJ**

If you would like to submit a motion to the AGM, it must reach us, bearing your signature, by midnight on Wednesday 27 May.

If you wish to stand for election as a trustee, we need your nomination, proposed and seconded in writing by members of the society and bearing your written consent, by midnight on Wednesday 27 May. Candidates must have been individual members of the society since 27 May 2019. The trustees meet in London four times a year.

If you cannot attend the meeting you can vote by proxy. Details will be included with the next *Open Space*.

For more information, please contact the OSS office.



## **'Temporary' path-closures**

**The law allowing temporary closures, under section 14 of the Road Traffic Regulation Act 1984, is unclear and unhelpful to the public.**

Consequently, traffic authorities close paths under this provision with no opportunity for public representation, and the secretary of state renews the order after six months without investigating whether the order is justified. We have two recent examples of this, which we describe below.

### **Shambles at Farndon Fields**

We are supporting our member Peter Pollak in his efforts to reopen the blocked public bridleway A105, at Farndon Fields near Market Harborough in Leicestershire.

Harborough District Council gave planning permission to Avant Homes to build here. The county council then agreed to a temporary closure order for the bridleway which runs alongside the site, without providing an alternative route. This was to enable the developer to carry out the building work safely.

The developer told the council it would 'be impracticable to try and provide a



*Blocked bridleway. Photo: Peter Pollak,*

temporary alternative route during this phase of the development'. Consequently walkers, riders and cyclists have lost an important path linking the town with the surrounding countryside, and they are left confused as to where they can go.

Yet Avant Homes boasts on its website that 'As a responsible business, we have a duty to be a good neighbour ... mindful of environmental and community issues.'

Subsequently, the county council told Peter that an alternative route would be provided, but when it was eventually opened, we discovered that it was not wide enough for horse-riders.

The society has once again urged the council to require the developer to reopen the official route without delay, and to ensure that it can be used by the public safely.

### **Fawley footbridge**

The footbridge at Fawley in Buckinghamshire, close to the river between Henley-on-Thames and Marlow, collapsed in the autumn of 2018. Buckinghamshire County Council was not able to replace it immediately and so slapped a temporary closure order on this popular path. The alternative route is along the busy, dangerous A4155 road.

Walkers became increasingly frustrated, particularly as it was unclear why the council was not replacing the bridge. It appeared that the landowner, the Fawley Court estate, was hostile to the council having access to its land. Eventually, on 16 November 2019, Henley residents staged a 150-strong protest in Fawley Meadows, with a walk to the point at which the path was closed.



*Left: where the footbridge was missing. Right: the protest.*

The following week the estate installed a bridge, claiming that it was the council which had caused the delay—but we believe otherwise. The new bridge would appear to be a PR exercise by the estate and it does not meet the county council's required standards. Furthermore, the council has a purpose-built bridge ready to install. We hope it will insist that this better bridge is put in place.

### **Berrington path saved**

We have helped to save 100 metres of footpath 16 from diversion at Berrington in Shropshire.

The path runs south-west across a field, and then south across further fields to Easton Mascott. The landowner and council wanted to move it to the other side of the first field, much closer to an existing route which heads in the same direction. We objected and the order was referred to the Planning Inspectorate.

The council was required to show that the diversion was 'expedient in the interests of the landowner', in whose interests the order was made. The applicant said that he wanted to move the path to assist him in building a house close to it and he wanted the footpath to enter the field at the same point as his agricultural machinery, that point being on the proposed diversion. Also, he intended to reinstate a dried-up pond close to the path and it would be better in his view if ramblers did not walk

through this area. Trees in a nearby copse were maturing and the roots underfoot made the footpath difficult for the less mobile, he said.

Our local correspondent Harry Scott argued that the path was well away from the site of the proposed house; the diverted path would duplicate the existing nearby route and would be less convenient to walkers wishing to travel east to Berrington church; and there were no problems with the condition of the trees. The society did not consider that the diversion was in the interests of the landowner, and believed that it was against the interests of the public.

### **Tree roots**

The inspector, Alan Beckett, visited the site. He noted that the footpath was approximately 15 metres from the projected house and ten metres from the pond, and that there was no evidence of hazards from tree roots. He concluded that it was not in the interests of the landowner to divert the path.

He then considered whether the new termination point of the path was as convenient as the existing one. He noted that there was a clear line on the ground showing that the existing route 'forms a popular link leading towards Berrington church, which would not be provided by the proposed diversion' with its new terminal point. The existing route was



more convenient for walkers wishing to travel east when they reached the road, and the diversion route would almost duplicate the existing footpath.

He therefore refused to confirm the order. (Ref ROW/3219089, 7 Nov 2019)

## **Camber Dock farce**

*Our members Kenneth Bailey and Anna Koor of the Camber Action Group are campaigning to persuade Portsmouth City Council (PCC) to record a public path around Camber Dock at the mouth of Portsmouth Harbour. They write:*

We applied in July 2016 for a restricted byway around the Camber quays in Old Portsmouth to be added to the definitive map (OS summer 2018 page 14). A year later PCC refused to make a definitive map modification order (DMMO), claiming the highway would interfere with the use of the dock as a port. We appealed and the environment secretary directed the council to make the order.

Then things began to go astray. PCC decided it would make the order but it would object to it. When it came to draft the order it discovered that the Portsmouth definitive map and statement were missing, presumed lost. Apparently they had not been seen since the records

were digitised in 2011. All dealings since, including the highway authority's resolution of planning applications, had been conducted using the online records.

The council reluctantly made the DMMO and advertised it in February 2019, 12 months after the secretary of state's decision and only after badgering by local residents and intervention by our MP PCC raised its objection within the period for representations which closed in early April 2019.

## **Further delay**

But now further delay has arisen: PCC claims that no submission for confirmation in accordance with schedule 15 of the Wildlife and Countryside Act 1981 can be made because the missing definitive map and statement have to be reconstituted. The logic underpinning this is questionable. The definitive map and statement are not essential for DMMO confirmation proceedings as their content is not compromised nor in dispute, and once one has allowed for a public inquiry, the council will have had ample time to rebuild the definitive map.

There are many reasons why public authorities do not undertake rights-of-way business with alacrity, but surely this excuse is a new one.

*The claimed route runs around the quay in the centre. Photo: Anne Martin.*





# Paul Clayden, 1941-2020

**Our vice-president Paul Clayden died suddenly on new year's day, aged 78. He was our general secretary from 1976 to 1984, the author of many of our books and information sheets, and a kind and helpful adviser to those with open-space problems.**

Born in Seaton, Devon, Paul was the second son of Richard and Mary Clayden. His father died of illness during the war, leaving his mother to raise two small children. She took a teaching post at Henley-on-Thames grammar school and, with her parents, bought a family home in Henley.

## Excelled

Paul was educated at Llanarth School in Northamptonshire, then Ampleforth College in North Yorkshire. He excelled in history and developed a love of classical music. He went on to Jesus College, Oxford. It was here that he met his future wife Lyn who was studying at the Ruskin School of Art. They were married in 1964 after Paul had taken a teaching course, and they had three sons, Philip, Thomas and Robert.

Paul accepted a job at Northampton Record Office where he first became acquainted with inclosure, manorial and other records relating to commons and highways. Then the Claydens moved to Shiplake near Henley while Paul studied law in London, qualifying as a solicitor.

His first law job was in Nailsworth, Gloucestershire, but he did not enjoy private practice and in due course joined the Open Spaces Society as general secretary. Our offices were at the top of the very urban 166 Shaftesbury Avenue, and Paul soon moved us to Henley.

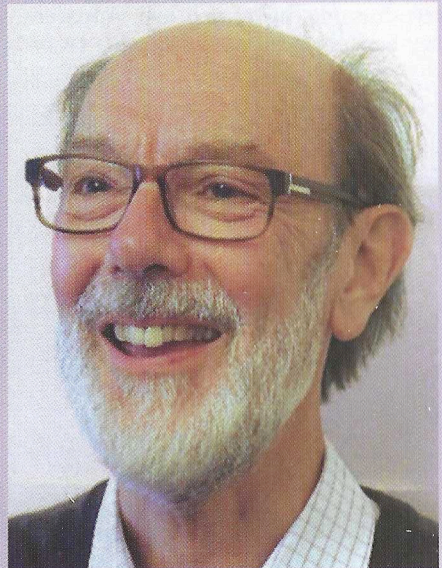
He led the society with distinction, his legal skills and knowledge proving a great asset, and his kind and painstaking responses to members and others were much appreciated. He could make the most boring legal matter readable,

interesting and relevant.

After leaving the society in 1984 he went to the National Association for Local Councils, which he represented on the Common Land Forum from 1983 to 1986, a cause close to his heart. He was elected a vice-president of the OSS in 2003 and frequently chaired our annual general meetings. To the end of his life he worked closely with local councils, writing for their journals and speaking at training events.

He was co-author, with John Trevelyan, of the first edition of *Rights of Way, a guide to law and practice* ('the blue bible') which the society published jointly with the Ramblers, and author of five editions of the society's book *Our Common Land*. He finished the seventh edition shortly before he died and it was delivered to us posthumously—a terrific legacy.

Kind and generous, Paul was a modest man, much respected and with great ability. His funeral collection raised more than £1,300 for the society. **KA**



Paul Clayden.



# SPIRIT OF KINDER DAY 2020

## Something to CROW about

Saturday 25 April, from 2-4pm

in The People's History Museum, Spinningfields, Manchester M3 3ER.

This year's Spirit of Kinder Day celebrates the 20th anniversary of the Countryside and Rights of Way Act 2000—the legislation which gave us the right to roam on mapped open country: mountain, moor, heath, down and common land. We are also celebrating ethnic diversity, and the young people who come out to enjoy and care for the Peak District.

The Mass Trespass of 1932 was the inspiration for the event, which will celebrate the past and consider current and future challenges to the environment and national parks—as well as the provision of access to the countryside.

Stuart Maconie, broadcaster, author and president of the Ramblers, will chair the event. The speakers include:

- Kate Ashbrook, general secretary of the Open Spaces Society and chair of the Ramblers
  - Yvonne Witter, founder of Peak Mosaic and member of the Peak District National Park Authority
  - Maxwell Ayamba, founder of the Sheffield Black Men's Walking Group
- Plus:
- Presentations by the Edale Junior Rangers
  - A speaker from the Woodcraft Folk
  - Music by the Manchester Community Choir
  - Junior Rangers associated with the Moors for the Future project will be demonstrating conservation activity and why it matters, and what people can do to care for the environment.
  - Free, guided walks open to the public starting at a variety of locations, led by National Trust and Peak District National Park volunteers. To find out more, see their event websites.

Admission to the Spirit of Kinder Day is **free and open to all**. We advise people to use public transport as parking in the centre of Manchester is limited, and to arrive early.

*Picture: Junior rangers on a walk with the 'Trespass Elders' (© David Bocking).*

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.

## Officers and Trustees

**Chairman:** Chris Beney

**Vice-chairman:** Phil Wadey

**Treasurer:** Steve Warr

**Trustees:** Stuart Bain, Graham Bathe, John Hall,  
Simon Hunt, Chris Meewezen

**General secretary  
and editor:**

Kate Ashbrook

**Case officers:** Hugh Craddock, Nicola Hodgson

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## Subscription rates

Individuals: ordinary £33 or £3 per month / joint ordinary £50 / life £660.

Local organisations; parish, community and town councils: £45.

National organisations; district and borough councils: £165.

County councils and unitary authorities: £385.

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