

CPRE LONDON AGM, 23 May, 2019 NOTE OF PRESENTATIONS AND PANEL DISCUSSION

PROFESSOR ANTONIA LAYARD, UNIVERSITY OF BRISTOL, 'AN URBAN RIGHT TO ROAM?'

Antonia Layard set the scene for the session with a presentation outlining the case for an urban right to roam. She began by emphasising the general legal principle, that without permission to be on land, people may not be there. This is known as the licence/trespass binary: without a licence from the landowner, any person on land is a trespasser and can be required to leave. There are limited exceptions to this principle including implied licences for deliveries, distinctive rules for highways, human rights protections on publicly owned land and different rules, of course, for access land under the right to roam. Elsewhere, the basic distinction remains, without permission we may not legally enter another's land, whether this is a private home or a privately owned city piazza. The curtilage of City Hall in London and Paternoster Square near St Paul's have both been host to events illustrating how private ownership and management of what is perceived to be 'public space' limit activities that can legally take place there. And even if we enter with permission for one activity – e.g. shopping – we may not have permission for another – e.g. protest. Flashmobs, where people enter as assumed shoppers and then whip out their lightsabers for a coordinated fight, graphically demonstrate this tension.

Ownership is not always critical, as there are permissive private landowners, such as the National Trust, and restrictive public landowners such as local authorities responsible for public parks where caselaw supports the right of local authorities to use parks for commercial purposes, thereby restricting public use. The point is that these are choices the landowner can make and, beyond the exceptions, there is no automatic right of access. A statutory right of access for all in England is the distinctive change introduced by the statutory 'right to roam' in rural areas covering mountain, heath, moor and common, but with a wide range of exclusions including cultivated land and non-tidal waters. An urban equivalent would allow for outdoor recreation, rest and quiet enjoyment in an urban environment, and accommodate the needs of children and for legitimate protest. It would also provide a common basis in contrast to ad hoc 'public realm agreements' which have sometimes been a condition of planning permission. Antonia ended by emphasising that no matter how 'inclusive' the design of an urban area might be, it is likely that you have no right to be there, so both design and access need to be considered.

MARION SHOARD, campaigner and author of *This Land is Our Land, A Right to Roam and 'Edgelands'*, referred to her frustration while working for CPRE national office in central London in the mid-70s at her inability to access the many private garden squares which predominate in neighbourhoods like Belgravia. She was keen to promote ways in which the owners of such spaces might be persuaded to open up access at particular times of the year, so that more people, especially office-workers, could benefit from the relaxation they could provide. Specific reference was made to Buckingham Palace Gardens, over 40 acres of green space, where access is very restricted; and sites such as the New River, which you can walk along in Canonbury but not in Haringey, for instance. She urged an extension of the opening hours (not necessarily every day) at places like cemeteries, some of the royal parks and flagship birdwatching sites such as the London Wetland Centre in Barnes and Walthamstow Wetlands, which are wonderful for birdlife but which have only limited opening hours, so that you can't go there after work, during the evening or to hear the dawn chorus. She also drew attention to the lack of accessible land in edgeland areas (often on

health and safety grounds) and the lack of proactive planning for informal outdoor recreation there. This means that many people who work in the edgelands have nowhere to feel the grass under their feet during their lunch break.

Marion pointed out that improvements could come through special agreements or by urging particular owners to open their land at certain times, but that the step most likely to open up the most urban (and rural) land would be a change in the law for the whole of England and Wales introducing a general right of responsible access, similar to that provided by the Land Reform (Scotland) Act 2003, which provides a presumption of access everywhere, except for limited exceptions such as the curtilage of dwellings, school lands and land on which crops are growing. This would provide far more extensive access in urban areas than the bolt-on of an additional category of 'open urban or suburban land' to the categories listed in the Countryside and Rights of Way Act 2000; be more straightforward to implement (as it would not require the identification and mapping of every individual plot to which the new access right would apply, with the potential for many owner challenges); and would respect the dignity of the citizen to be present throughout their land where their presence would do no harm. Tools such as byelaws could facilitate management at particular sites.

PHIL MARSON, from the Inner London Ramblers talked about the importance of a right to explore on foot and the confidence of being able to do so. This was particularly important given that other means of transport, roads and trains, are often crowded and congested. It can also bring economic benefits to areas which are attractive to pedestrians. He described the many reasons why people feel discouraged from exploring due to concerns over safety, pollution, traffic congestion, noise and feeling unwelcome. Confusion over opening and closing times, inconsistent rules governing privately owned public spaces, and political decisions leading to park closures and public realm restrictions can all discourage people from making more use of public space. Solutions to these problems include making access and permeability central to all new development, and ensuring that by-laws are under local democratic control.

KATE ASHBROOK, access campaigner and Director of the Open Spaces Society, spoke of the enlightened campaigning of her predecessors at the OSS (founded in 1865 making it Britain's oldest conservation body) in resisting the enclosure and safeguarding the future of large expanses of common land, such as Hampstead Heath and Wimbledon Common, in London for public use. She advocated the use of legislation which enables the statutory registration of 'town greens' as an essential way to provide and protect public space in all new development. Once registered, a town green can be protected from development and encroachment under laws passed in the Nineteenth Century to protect common land. This has already happened at Talacre Gardens in Camden and Kings Stairs Gardens in Southwark. She also argued that public paths with statutory rights of access should be provided alongside new town greens as an integral part of new development.

DANIEL RAVEN-ELLISON, guerrilla geographer and founder of the National Park City campaign, referred to the impressive new London National Park City map produced by Urban Good which shows on one sheet how open and green the vast majority of London appears to be. This has been reinforced by his many walks across and throughout the capital where he has been able to explore many areas without interference except in one case when he was moved on by BBC security! He has been particularly struck at how cars and parking seem to have become the dominant use of road

space, and what a change it would be if even a fraction of London's road space could be made into children's playspace. He argued that the key was not who owns land but the quality of access whether it is public or private land. The proximity and volume of golf courses to communities deprived of access to land was a particular problem. A new map being created by Urban Good seeks to show the large areas of London which could be subject to a new urban right to roam.

ANNA MINTON, reader at the University of East London and author of Ground Control and Big Capital, talked of her research of the privatisation of public space in London over the past ten years and more, and how we have imported a US-style approach to urban regeneration based on the creation of large private estates, beginning with Canary Wharf and continuing through to the Olympic Park and associated regeneration at Stratford. She described how the description of parts of these areas as 'privately-owned public space' or POPS made the process seem quite harmless, despite their significant political implications. She was concerned that some local authorities seem enthusiastic about giving private companies responsibility for managing space, taking us back to before the nineteenth century before local government was created and began to 'adopt' public space and take responsibility for its care and provision. She argued that we needed a simple urban right to roam so that every highway and public space could enjoy the same level of public access as you expect in places like Cowcross St or a public park.

CRISPIN TRUMAN, National Chief Executive of the Campaign to Protect Rural England, proposed the need for an 'urban right to the countryside' alongside an urban right to roam. He said it should be everyone's right wherever they live to be able to access and enjoy the countryside. He described the many benefits of access to a thriving countryside, abundant wildlife, clean air and water, beautiful landscapes, and wide, open skies, and noted how much of these benefits was provided by London's Green Belt, which is the countryside next door for so many people. The fact that so many communities in London are not able easily to access this countryside due to poverty or lack of transport makes this an issue of social equity. He stated that CPRE is committed to work to enhance the positive value of the Green Belt and the huge potential it has for improving the wellbeing of Londoners from all backgrounds and praised the arguments used by Dieter Helm to defend its importance. Finally, he promoted the idea of taking down fences and greening development on the edge of London so that the benefits of the Green Belt can be brought closer to existing communities, following the example of the 'parks without borders' initiative from the US.

KEY POINTS FROM THE DISCUSSION

The following key points were made during the discussion:

- There are many private garden squares in Boroughs like Kensington and Chelsea that should be opened up for public access. Would it help if these were subject to mass trespass as happened at Kinder Scout decades before?
- The fundamental issue of landownership needs to be tackled. We need to reintroduce the idea of the 'commons' so that all land meets public needs.
- There is much to learn from community control of land in Scotland and recent reforms.
- There is the potential to promote a linear forest garden from Shoreditch to Newham along old and exiting railway lines.
- Attention should be given to how will look after land given over to public use.

- Promoting Community Land Trusts is one way forward but CLTs struggle to compete over access to land in context of land price inflation.
- Ownership could be seen as a 'red herring' as the bigger need is to change the terms under which people own land, ie. the 'social contract', and what responsibilities ownership entails.
- Measures are needed to ensure effective 'land value capture' to benefit communities.
- While new commons would be welcome, all commons are ultimately owned by someone and can sometimes entail land use conflicts.
- There is inadequate public information and lack of clarity over who owns land in England.
- Public safety in using land is often key and a lot can be done to improve safety through policy such as low traffic neighbourhoods promoted by Transport for London and pedestrianisation of places like Oxford St.
- Food growing, foraging and gleaning are all important kinds of community land use.
- Local democratic control over use of green spaces, especially parks, is vital and many local authorities have failed in their duties in this respect.
- We need to do more to encourage communities to use green spaces for a wider range of activities.
- We should be promoting the free use of public green space in the face of growing commercialisation, for running, football and other sports.
- As in the nineteenth century with action to prevent enclosure of the commons, London seems to be back at the forefront of debates over public access.
- The Public London Charter being prepared by the Mayor of London will primarily address rights and responsibilities over the use of new open space.
- As development in London becomes more dense there will be a loss of private open space which needs to be addressed through greater public open space provision.

The panellists concluded by stating their single most important measure to improve public access as follows: we need to start with enhancing the Green Belt; carry out collaborative mapping of all land within the Thames watershed to focus action; keep up the political pressure to improve public access; all new development should be required provide public rights of way; there should be a campaign for genuinely public space; we need to open up private squares and respect the rights of all parts of the community, including older people; and, finally, we should recognise that access to land is essentially a political issue and must always keep the land question in mind.

Summarising, the chair reflected that there is a lot of space in London and the capital is far from being 'full'; there needs to be clarity about whether this is a debate about rights versus permissions; the quality of public realm and how it is managed is critical; we need to agree collectively about how to press these issues and enable London to be a pioneer over access to land once again.

CPRE London

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