



Customs in Common

Migration is perennial throughout nature, manifest in man it is called nomadism. It is a profoundly human activity which shaped the evolution of our species for over 2 million years. Since the first hunter-gatherers crossed the European land bridge nomadism has been an indigenous activity. As the climate of Britain stabilised after the last glaciation (7000bc) a series of marginal changes in existing ways of obtaining food could be explored following migrating herd animals, harvesting plants in the wild and gathering in larger groups on occasions when and where food was plentiful.

The long transition to agriculture can be best understood as a continuum without a distinct boundary between nomadism on one hand and agriculture on another, The expansion of monocultures into the commons environment has led to a violent assault on customary practice on a global scale destroying habitats to a diversity of life, including human. Climate change generates nomadic behaviour

If current global warming trends continue by 2080 more than 180m refugees will be on the move, at least, 750,000 UK residents will be exposed to greater than a 1 in 75 probability of flooding.

The crisis in accommodation confronting nomadic people will become generalised.

In march 2019 the United Nations announced a Decade of Ecosystem restoration,- 'the degradation of our ecosystems has had a devastating impact on both people and the environment' said Joyce Msuya head of the UN Environmental programme, 'Nature is our best bet to tackle climate change and secure the future' One third of greenhouse gas emissions needed by 2030 can be provided by the restoration of natural habitats, but such solutions have attracted on 2.5% of the funding for tackling emissions.

Climate breakdown confronts us with new development paradigm to restore the commons and eliminate the experience of poverty The emphasis on exclusion and eviction as a sanction of first resort to 'protect' the environment has led to the underdevelopment of integrated and socially inclusive systems of resource management and environmental law - this has been the tragedy of the commons

The traditionally used camping places which evolved alongside the highway network as it developed have witnessed nomadic dwelling for millennia. Post 1946 reclassification processes have enabled private property to expand into the minimum width requirements of rights of way. The British Horse Federation estimate 16,000 miles of green lanes have been 'lost' along with their species rich hedgerow and greensward.

The outcome of the massive loss of habitat has been the generation of overcrowded Traveller sites of longer duration in more exposed situations which offer a refuge to the homeless. The social and environmental stress that occurs as a consequence breaks down customary practices to that of an open access regime.

Transitory uses require a networks of sites rotationally occupied with vacancy to enable floral regeneration with a concentration of historically used sites evolved around the orbit of our market towns. Investment in green lane restoration with nomadic people through horticultural skills training offers an integrated solution delivering a public good, restoring habitats and building community resilience to climate change

Maps and Dreams

The traditionally used camping places which evolved alongside the highway network as it developed have witnessed nomadic dwelling for millennia. Green lanes are habitat for a diversity of life, including human, and provide the greatest reservoir of unfarmed countryside and contain the last vestiges of the commons environment within public ownership.¹ The only overall figures relating to areas for unmetalled roads for England are in the 1965 second land utilisation survey being at 23,800 hectares (58,810 acres)²

The nations country network of highways, which included those green lanes having a public right of way in vehicles were transferred from rural district councils to county councils under the Local Govt. Act of 1929. In the meantime the surfacing of public carriageways with tarmac, begun by RDC's, the County Councils continued not to tarmac the very minor (green) roads, which still retained public vehicular rights.

The 1949 National Parks and Access to the Countryside Act instructed the 'survey authority' to carry out a survey of all lands over which a public right of way was 'alleged' to exist. In ignorance of the 1929 local government survey maps already in existence

The 1949 Act enabled counties to reclassify most of these public roads used mainly as public paths on a 'definitive map'. It was a chance to offload, or at least diminish, the responsibility for maintenance. This was not really the intention of the 49 Act, but it gave counties the opportunity to give these roads an 'apparent' lower classification, when they should really have simply remained on the county surveyor's public carriageway records, however unsurfaced. Some were omitted altogether from the survey.

The 'apparent' lower classifications received credence by the 1968 Countryside Act which required evidence as to 'suitability' enabling classification to bridleway as footpath, or byway open to all traffic, where there was evidence of public carriageway rights. The 1981 Countryside Act removed the requirement of 'suitability'. Once a highway always a highway, remains a precept of English law whatever the suitability. Unfortunately many RUPPS were 'downgraded' under the 1968 Act. The 68 Act also offered counties the opportunity to take up a special definitive review' enabling RUPPs to be reclassified as footpaths without consultation. In Staffordshire 500 RUPP's were lost in this way.

In 1987 the Countryside Commission proposed the target that 'all rights of way should be legally defined, properly maintained and well publicised by the end of the century'. Authorities did not pro actively add existing rights of way to the 'definitive map' and relied on volunteers (without funding) to apply. The Countryside and Rights of Way Act 2000 proposes to stop the 'definitive map' process altogether in 2026. In most highway authorities there is a backlog of definitive map modifications that will take decades to clear.

A pro-active approach would re-instate 4 to 6 green lanes around every market town and have at least one green lane connecting each village to its neighbour using 1910 Finance Act Maps and 1929 Local Government survey maps as their base to deliver a green infrastructure to meet some of the diverse challenges which face us in an era of climate change



¹ The first two spade depths being owned by the highway authority, extending width way from hedge to hedge,

² At £10,000 an acre this can be valued at nearly £600 million of public resource in England alone