

Theme: Conceiving the Commons

Title: Realising an Old Vision for New Urban Commons in Britain

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WORKING DRAFT – PLEASE DO NOT CITE

Abstract

In urban Victorian Britain, a deadly crisis in public health stemming from a nutrient-poor diet and air pollution, led campaigners Octavia Hill and Sir Robert Hunter (founders of the UK's National Trust) to demand green space to give people 'rights to air and exercise.' Their vision was only partially successful. Some 150 years later, another deadly and expensive crisis in public health, caused by the diseases of inactivity, a nutrient-rich diet and different forms of air pollution, is costing the state tens of billions of pounds annually. Both the Commons Registration Act 1965 and The Commons Act 2006, established to protect existing commons, make creating new green spaces as *commons* possible. This paper examines the scope for completing the unfinished business of Hunter and Hill's vision by creating *new* urban green commons to help deliver public health, environmental and social agendas. The paper begins by briefly examining Hill and Hunter's original vision, the origins of their concern and the legacies of their success. Through an examination of contemporary characteristics of life in urban Britain, it provides evidence of why specifically new *commons* could be of benefit to people, places and nature, as well as supporting new national investment in natural capital. The paper explains what form the new commons might take and how they might be created within existing legislative parameters. Specifically, the paper addresses (i) where new commons might be best located to maximise public benefits; (ii) how new commons might be created - politically, legally, financially and physically; (iii) who the new stakeholders might be; (iv) how new technology might assist in the management of new commons. The paper concludes by identifying how the specific requirements of new urban commons will dictate appropriate governance structures. In doing so, it draws up essential and desirable features of institutional arrangements for new urban commons and identifies where further research is needed.

INTRODUCTION

“We all need space; unless we have it, we cannot reach that sense of quiet in which whispers of better things come to us gently” (Octavia Hill, 1883)

A deadly and expensive crisis in public health, caused by the diseases of inactivity, a nutrient-rich diet and different forms of air pollution, is costing the state tens of billions of pounds annually. Although many of the leading causes of ill health in today's society, such as coronary heart disease, cancer and type 2 diabetes, could be prevented by higher levels of physical activity, on average UK adults expend 500 fewer calories per day than 50 years ago; this is the equivalent of not running a marathon every week (Eurodiet, 2001). At the same time, at least one in four British adults will experience some kind of mental health problem in any one year (Mental Health Foundation, 2013) and prescriptions for antidepressants are at record levels in England, with 50 million dispensed in 2012 (HSCIC, 2013). These problems are neither confined to the UK nor new: in 2001 The World Health Organization predicted that depression, which was ranked fourth at the time, would be the second biggest cause of illness worldwide by 2020 (WHO, 2001). Physical inactivity is currently the fourth leading cause of global mortality (WHO, 2010). By 2026, the number of people in England who experience a mental health problem is projected to increase by 14 per cent, from 8.65 million in 2007 to 9.88 million (McCrone et al, 2008). All of these trends are concerning and create a considerable cost for our health and social care system: in 2006–07, poor diet-related ill health cost the NHS in the UK £5.8 billion; the cost of physical inactivity was £0.9 billion; smoking cost £3.3 billion; alcohol cost £3.3 billion; and overweight and obesity cost £5.1 billion (Scarborough et al, 2011).

Urban green space is an important tool in helping tackle Britain's burgeoning health demands by providing space for exercise: empirical evidence shows exposure to nature has substantial mental health benefits and that participating in physical activity is known to result in positive physical and mental health outcomes. The potential to save on the economic and human costs of our more sedentary and stressful lifestyles are substantial. The estimated annual value of health benefits generated by participation in sport are £1.7 billion in terms of savings to the National Health Service (NHS) because of the improved health (physical and mental) of individuals and £11.2 billion in terms of the total economic value of a healthier population (March et al, 2010). Of equal strength is the evidence of the role that natural environments play in supporting essential ecosystem services, from flood alleviation to pollination, carbon absorption and air filtration. High quality greens spaces also make towns and cities pleasant places to live and work and so attract investment and further economic development. Green spaces provide resources for education and social interaction, developing valuable skills in young people and providing meeting places for all. Accessible outdoor space is also important to the local and national economy from income through tourism, retail and employment.

Identification of the need for publicly accessible green space in Britain is nothing new. In urban Victorian Britain, a deadly crisis in public health stemming from a nutrient-*poor* diet and air pollution, led campaigners Octavia Hill and Sir Robert Hunter (founders of the England's National Trust for Places of Historic Interest or Natural Beautyⁱⁱⁱ) to demand green space to give people 'rights to air and exercise.' As a social reformer, Hill's main concern was the welfare of the inhabitants of cities, especially London^{iv}. Hill and Hunter

campaigned for the protection of urban greenspace and specifically for the preservation of old commons near London threatened by the Enclosure Acts during the late nineteenth century.

Common land has been in existence in England for centuries: the earliest written land use records in Britain (from the seventh century) indicate that Saxon England contained areas of common land. In medieval times, common land formed an important part of the manorial system, where the manor's 'waste land' was left uncultivated and its produce available for tenants and landless cottagers and, occasionally, the residents of an adjoining manor (Oswald, 1989:1). Large tracts of these ancient, historic commons still exist. For example, *The New Forest* in southern England comprises a large tract of common land already in existence during the Norman invasion, which was renamed by William I in 1079: the name stuck^v. Appropriators, still referred to as *commoners*, hold a legal right to practice some specified use of the common land and to extract some type of produce from it. Types of common right are listed in Table 1.

Table 1: Common Rights

Common Right	Description
<i>Pasture</i>	the right to turn stock out into the common to graze;
<i>Pannage</i>	the right to turn pigs out to eat acorns and beech mast;
<i>Estovers</i>	the right to take underwood and small branches, gorse or furze, for fuel or repairing fences and buildings, or the right to cut bracken and similar growths for animal litter.
<i>Turbary</i>	the right to dig turf or peat for fuel in the commoner's house;
<i>Piscary</i>	the right to fish in another person's lakes, ponds or streams;
<i>Marl</i>	the right to dig clay for liming;
<i>Common in Soil</i>	the right to take sand, gravel stone or minerals for use on the commoner's holding.

Rights of commons must be registered and there are Commons' registers maintained by the principal authority for the area which give details of the land, the rights of common over the land and who owns the land. People (commoners) are entitled to exercise their rights of common but owners of the common land may do other things with the land as long as those rights are not inhibited. The sorts of things the owner of a common may do include granting grazing rights or pasturing his or her own animals.

Other rights, often peculiar to a local area, appear in registers of common rights on over 850 common land units in England. For example, the right to take wild animals (*ferae naturae*) has been included on certain commons registers^{vi}. Certain coastal areas of Norfolk have wildfowling rights registered and rights to take seaweed, reeds (for thatching), shellfish, sea lavender, and samphire. Few of these rights may have an historic foundation, but were not challenged when registers were drawn up. In this respect, they reflect a tradition to exploit their respective commons for benefits viewed as valuable at the time. (Foundation for Common Land, 2016).

In England there are 373,570 ha of commons remaining ('registered common land'), comprising 7,052 separately registered units (Natural England, 2014) in addition to commons with their own local or private Acts of Parliament, including the New Forest and

Epping Forest: these make the total area of common land in England around 401,514ha.^{vii} These remaining commons, hereafter referred to as *traditional commons*, vary in size and nature across England. Over the centuries, the way that the nation has used common land has changed: the focus of their value varies from county to county. Some commons, generally the extensive, upland commons, make a major contribution to agricultural production and the rural economy, through their use as sheep pasture and grouse moors. Other long enduring traditional commons might comprise only fragments and struggle to support agricultural or indeed any productive use, but might be essential for amenity purposes: under the Countryside and Rights of Way Act 2000, there are general pedestrian rights of access on common land. This is especially true in the crowded southeast, where common land does not lie in large tracts, but provides numerous pockets of green space within a densely populated landscape. For example, although the southeast of England only has 6% of England's common land by area, it has 22% of the total number of commons - more than any other region (Aitchison et al, 2000; DEFRA, 2013). The way in which traditional common land has survived the enormous political, economic and social transitions of the past centuries contains important clues about what we intrinsically value about commons and shows how they could be reinvigorated and re-established for the benefit of current and future generations (Mackay, 2010).

Traditional commons in England today form part of larger network of accessible green spaces that include urban parks, local wildlife sites, rights of way across private land and country parks. These green spaces provide great opportunities for open air recreation and outdoor education and enable human connections to the natural environment and countryside. Green spaces are also important habitats for native biodiversity, ideally providing a range of habitats that form core areas and corridor links, to enable species to move geographically.

This paper examines the scope for creating *new* urban green commons to help deliver public health, environmental and social agendas for today's population. The paper begins by briefly examining Hunter and Hill's original work, the origins of their concern and the legacies of their success. Through an examination of contemporary characteristics of life in urban Britain, the second section provides evidence of why new commons could be of benefit to people, places and nature in England. The third section of the paper explains what form the new commons might take and how they might be created within existing legislative parameters. Specifically, the section addresses (i) where new commons might be best located to maximise public benefits; (ii) how new commons might be created - politically, legally, financially and physically; (iii) who the new stakeholders might be; and (iv) how new technology might help the management of new commons. The paper concludes by identifying how the specific requirements of new urban commons will dictate appropriate governance structures. In doing so, it draws up essential and desirable features of institutional arrangements for new urban commons and identifies where further research is needed.

1.1 Origins of the idea for new commons

In 1884, a period contemporary with the start of the Third Italian War of Independence, Robert Hunter delivered a speech at the Congress of the National Association for the Promotion of Social Science in Birmingham, modestly entitled *A Suggestion for the Better Preservation of Open Spaces*. Hunter started his speech by noting that:

“Less than forty years ago Parliament created a body for the express purpose of Inclosing Commons ...Between six and seven hundred thousand acres were reduced to private ownership and many square miles of country were deprived of every fragment of open land...” (Hunter, 1884:1)

Notwithstanding the rapid loss of over 250,000 hectares of rural commons, Hunter was very concerned by the impact that enclosure of urban commons would have on social issues: the rapidly expanding population of London; the lack of space for recreation; and the adverse effects on public health. He acquired evidence about the use of existing London commons and acted upon it through a Parliamentary Committee set up in 1865.

“Instead of harping upon the well-worn string of the importance of bringing every acre under cultivation to add to the nation’s food, the Committee boldly declared that it was of the highest importance to preserve all of London’s commons as open spaces for purposes of health and enjoyment.” (Hunter, 1884:2).

Hunter’s main thesis was that there needed to be a large enough, national body created to hold land in and around the edges of towns for the health and recreational benefit of the urban poor. He thought that urban commons, common rights and other lands should be acquired for this purpose.

His paper was greatly appreciated by social housing pioneer Octavia Hill, who had herself attempted to save some open, wildflower-filled fields at Swiss Cottage in the borough of Finchley, then on the edge of London. Despite public subscriptions being raised to buy the fields for public recreation, the land was sold for development. A year earlier, Hill had published a paper entitled *Homes of the London Poor*, in a chapter of which entitled *Space for the People* she argued the need to “supply in some measure the healing gift of space” to London’s crowded poor (Hill, 1883).

Public policy and the entire landowning conservation movement followed from those times. In 2011, when the Natural Environment White Paper became the policy of the British Government, it recognised the prevailing dislocation between people and the natural environment. This dislocation could be much worse. Robert Hunter, Octavia Hill and other members of the Commons Preservation Society helped save Hampstead Heath, Wimbledon Common, Epping Forest, Clapham Common and many other green open spaces that were otherwise doomed to be developed. The Commons Preservation Society was founded in 1865 and remains the oldest land conservation body in England^{viii}. The Commons Preservation Society (CPS) operated tactically at four main levels: (i) acting within the Parliamentary system to enact new laws, or repeal those such as the Statute of Merton, that were being used to inclose commons; (ii) taking legal action on behalf of common right holders against the powerful Lords of the Manor who were seeking to sell or develop the common land; (iii) acquiring commons from landowners by purchase or gift; and (iv) taking direct action to abate fencing and other obstructions.

The principal tactic to save the commons of London from adverse development was to persuade Parliament to enact the Metropolitan Commons Act 1866: to save rural

commons, campaigners fought for the Commons Act 1899. Between these years, the CPS was involved in a steady number of decade long legal actions, such as the battle for Epping Forest and the fight for the Banstead Commons. There was also the purchase of Burnham Beeches near Slough by Sir Henry Peek, who passed the common to the Corporation of London as a permanent public open space. The CPS was also not averse to taking direct action, in which the matter of Berkhamsted Common was perhaps its most significant example. The Society became aware that agents of Lord Brownlow, the Lord of the Manor, had erected fencing around the common with the intention of creating a 434 acre private park. It was decided to attempt a direct abatement of the nuisance. Accordingly, on the night of 6 March 1866 a special train containing 120 strong men, hired by the CPS, left Euston station for Tring. After a three mile march in the moonlight, the men set about the removing the fencing with hammers and crowbars, which was achieved by dawn, much to the joy of the local inhabitants.

2.0 WHY ARE NEW COMMONS NEEDED?

The remaining traditional commons in England provide valuable resources to support the social and economic viability of areas. In this section we put forward an argument for extending their reach to new geographical locations, particularly those in and around towns and cities. We begin with a general discussion on the need for green space around towns and cities, moving to the more important argument of why provide green space specifically as common land.

2.1 *Trends in the Health of UK Society*

Just as Octavia Hill argued that open green space was important for the urban dwellers of Victorian England, current trends in the health of the nation suggest equal relevance today. Physical inactivity is recognised as a serious health issue in the United Kingdom, with increasing levels of obesity, particularly among young people. In England, the proportion of male adults that are obese has doubled in the last twenty years (13.2% in 1993 to 26.0% in 2013), with similar increases for women (from 16.4% to 23.8%). Currently, nearly two thirds of adults are overweight or obese. Obese children are more likely to become obese adults and to suffer premature ill health and mortality: by 2034, 70% of adults are expected to be overweight or obese in England (Public Health England, 2015). The World Health Organisation has estimated that between 7% and 41% of certain cancers are attributable to obesity and overweight, while in England estimates suggest that physical inactivity causes 10% of heart disease, 13% of type-2 diabetes, 18% of breast cancer and 17% of all mortality (NHS, 2014). Physical inactivity directly contributes to one in six deaths in the UK (Lee et al., 2012).

The UK Chief Medical Officer recommends that adults should be doing at least 2.5 hours moderate physical activity every week, such as walking, and that children should be active for at least an hour every day (DoH, 2011). However, as a nation, too many of us are not taking advantage of the benefits of getting outdoors. Some of the most disturbing childhood trends in ill-health have been directly linked to a lack of nature in the lives of the current generation of children, evidenced by a rise in obesity, attention disorders and depression (Will, 2015). It appears that we have inadvertently been raising children without meaningful contact with the natural world. The result of a generation with no

connection to nature, combined with our busy lifestyles, has created a significant proportion of the population with little or no interest in the natural environment.

2.2 Visits to green spaces

Natural England's *Monitor of Engagement with the Natural Environment* measures visits to the natural environment or green spaces, concern for environment, and pro-environmental behaviours in England. The survey shows an increase in the proportion of those actively enjoying the natural environment over the last five years: just under two fifths of the population now claim to visit the natural environment several times a week or more compared to a third when the monitor began in 2009 (Natural England, 2014) and 86% of the population agree that spending time outdoors is an important part of their life. In addition,

- 94% of the population agree that having open green space close to where they live is important.
- 64% of visits involve walking to the visit destination.
- 68% of visits are to places within 2 miles of the respondent's home.
- Parks in towns and cities are the most frequently visited destination type, accounting for 778 million visits or 27% of visits taken to the natural environment in England last year.

The importance of proximity to green space in order to make best use of it tends to relate to issues of time availability rather than transport. In the above survey, factors relating to a lack of time were among the most frequently cited barriers to visiting the natural environment with 28% of infrequent/non-participants citing being *busy at work* and 18% being *too busy at home* (Natural England, 2014). Choice of green space visited by specific segments of the population reflects the its ready accessibility. For example, parks in towns and cities were most likely to be included on visits taken by those in the Black, Asian and Minority Ethnic (BAME) population, those living in the 10% most deprived areas and members of the population aged 16-24. In addition, variations were evident by social grade, with the proportion of visits taken by those in the D and E social grades that included parks in towns and cities higher than amongst visits taken by those in the A and B social grades (Natural England, 2014).^{ix} This role of locations *within* towns and cities for outdoor recreational visits has increased over time. The annual estimate for visits taken to towns and cities was 1.36 billion in 2013/14, a significant increase on the estimate of 1.22 billion recorded in 2012/13 and an overall increase of 17% on the 2009/10 estimate of 1.16 billion visits (Natural England, 2014).

2.3 Benefits of Exercise and the Outdoors

There is a considerable amount of evidence that contact with natural environments produces independent health improving effects (Greenspace Scotland, 2007; Health Council of the Netherlands, 2004). The mental health benefits of being in a green environment include lower levels of stress, tension and depression and increased self-esteem and energy levels. Research has demonstrated that a supervised programme of exercise can be equally as effective as antidepressants in treating mild to moderate depression (Halliwell, 2005; Richardson et al., 2005). Meanwhile physical activity is known to reduce the risk of major illness, such as heart disease, stroke, diabetes, cancer, dementia and Alzheimer's disease. Research has highlighted the benefits of social and

therapeutic horticulture for patients suffering from dementia or Alzheimer's disease (Fabrigoule et al., 1995) and that the exercise provided by gardening activities may be significant in delaying the onset of both dementia and Alzheimer's disease (Rovio et al., 2005 and Larson et al., 2006).

Green spaces have been shown to independently promote physical activity (Kaczynski & Henderson, 2007; Humpel et al, 2002) and so called *green* exercise can improve psychological welling (Bowler et al, 2010; Thomson et al, 2011) and physical health (Bowler et al, 2010 ; Li et al, 2011). Over one in four women and one in five men do less than 30 minutes of physical activity a week, so are classified as 'inactive' (Health and Social Care Information Centre, 2013). Green exercise could help people to persevere with exercise. Nearly half of participants of indoor sports drop out within the first six months, whereas walking outside has a much higher success rate (Hillsdon and Thorogood, 1996). Indeed, research suggests that physical activity in such environments may have greater psychological and physiological benefits than physical activity in other settings (van de Berg et al, 2005; Focht, 2009). A study measuring the effects of 10 green exercise activities, including walking, cycling, horse riding, fishing, canal boating and conservation activities found that the 263 participants were significantly less angry, depressed, confused and tense after engaging in green exercise and that self-esteem levels also improved significantly (Pretty et al., 2006; Pretty et al., 2007). Moreover, recent research has shown that the exact type of green space is irrelevant: the additional affective benefits of *green* exercise may be universally obtainable across a range of habitats (Rogerson et al, 2015).

Enjoying the outdoors can also have the benefit of bringing people together in social activities, which can alleviate isolation and promote integration: "Connectivity is what makes individuals and communities influential, resilient and adaptable" (Gilchrist et al, 2010: 44). Research suggests that green space offers possibilities for increasing social activity, improving community cohesion, developing local attachment and lowering crime levels, particularly in deprived communities (Bell et al., 2008; Weldon et al., 2007). In particular, studies have shown that there is a positive association between neighbourhood features such as parks and the ability of residents to interact positively (Cohen et al., 2008) and that open spaces and natural features play an important role in the attachment of people to the area they live in and the local community, and have an effect on their interactions with other residents (Kim & Kaplan, 2004, cited in Tzoulas et al., 2007:170).

As people understand more about an area, they can also feel a sense of ownership and of responsibility for their environment, which may lead them to become involved in its day-to-day management. Harnessing this energy can help to achieve high quality commons. On Brill Common in Oxfordshire, a small herd of Dexter cattle is owned as a community herd by some 400 people through a legal mechanism known as a *provident society*, akin to a cooperative. Some members are local residents and others are people who simply hold a connection with the area through their membership. The herd, which is managed mostly by villagers, is allowed to graze in areas surrounded by electric fencing, affording public access to the common to continue through gates. The herd is moved at regular intervals to ensure that the grass is grazed to a conservation plan: some 35 volunteer *Lookers* take it in turns to ensure that the cows are checked on a daily basis, that the water troughs are full, and that the electric fence is operational. A further 50 or so volunteer *Movers* are available when it is time to take the herd to a new area, and dismantle and move the

fencing and replace posts. The project has been very successful in involving villagers in management of the common, whatever their age or availability (Edwards, 2015).

2.4 Access to and Extent of Use of Green Space

Assuming a higher proportion of society takes on the challenge of getting outdoors in the future, we can expect to see common land becoming an increasingly important resource as more people visit traditional commons. Large visitor sites will undoubtedly continue to be popular attractions and their role in educating people about the natural environment will remain significant. Meanwhile many smaller and lesser known areas of common land have the potential to diversify in what they offer, while continuing to provide opportunities for people to visit the countryside closer to home. The challenge is to develop, manage and promote green spaces in ways that can engage groups with low participation rates.

Research continues to explore how socio-economic inequalities in health persist and, indeed, increase in populations. This is coupled with a growing interest in how social and physical environments may interact to affect health. Although a comprehensive literature review by Greenspace Scotland found that better health was linked to green space regardless of socioeconomic status (Greenspace Scotland, 2007), an epidemiological study of the population of England researched the potential for access to green environments to influence socio-economic inequality in health at a population level. By comparing income-related health inequality among populations resident in areas of England characterised by relatively higher and lower levels of green space, Mitchell and Popham (2008) found that in low income areas, exposure to greenspace was associated with lower all-cause mortality and death from circulatory disease (Mitchell and Popham, 2008)^x. Research also shows an inverse relationship between proximity of open green spaces in urban areas and levels of stress (Grahn & Stigsdotter, 2003).

The proximity of green space is a key factor in determining its social and community value. Close proximity to urban green space is associated with higher levels of use (Giles-Corti *et al.*, 2005; Kaczynski and Henderson, 2007; Neuvonen *et al.*, 2007; Royal Commission on Environmental Pollution, 2007). As a result, Natural England has developed the *Accessible Natural Greenspace Standard* (ANGSt), which sets benchmarks for access to green space. The ANGSt standards require that no one should live more than 300 metres from their nearest green space of at least two hectares in size, that there should be at least one accessible 20-hectare site within two kilometres of their home, one accessible 100-hectare site within five kilometres and one accessible 500 hectare site within 10 kilometres. However, proximity to green space alone cannot explain levels of usage. Green spaces also need to be accessible by having good, affordable public transport links (Natural England, 2009).

The *type* of green space available to communities will also impact on its appeal and subsequent usage. According to Natural England's monitor of natural engagement, some of the many reasons for visiting local places close to home include: dog walking (61% of all visits); to relax and unwind (23%); to watch wildlife (11%); and playing with children (11%) (Natural England, 2014). Green spaces with a variety of attractive attributes such as landscaped features, ponds, trees and lakes can encourage higher levels of use (Giles-Corti *et al.*, 2005). In particular, diverse habitats, enabling diverse uses, appear to improve use

(Croucher *et al.*, 2007). Weldon *et al.* (2007) note that when local people take greater ownership of green spaces, it can help improve the state and use of that green space, especially amongst young people. An iterative socio-ecological relationship exists whereby if green spaces are made accessible and promote social interaction they will encourage public use, which in turn can encourage local stewardship of the green space, which in turn sustains both the community *and* its ecological base.

3. NEW COMMONS AND THE FORM THEY MIGHT TAKE

New commons could be a new tool for local communities to engage with local landscapes by permanently repurposing land close to where people live to achieve greater ecosystem service benefits. Improvements might be regeneration, green economic growth, improving health inequalities, improving social conditions, giving communities pride in their 'place', creating stakeholders and participants rather than 'sightseers', adapting cities to climate change and finding a new home for urban nature. This section examines the form that such new commons might take and explains why *commons* in particular are appropriate institutions for this exciting new initiative.

3.1 Location of new commons

In 1888 Octavia Hill followed up *Space for the People* with another paper, *More Air for London*, in which she pleaded (ultimately unsuccessfully) with West End owners of private squares to unlock them when they left to go to their country estates in the summer so that the poor might visit and see green things. In the autumn of 1887, Hill had divided Stamford's map of London into quadrants, using two radii of 4 and 6 miles from Charing Cross, and produced hard evidence of the disparity in extent of green space between the Western and Eastern halves of London. There was an eightfold difference: 1701 acres in the west and just 223 acres in the east. She then mapped the population disparity to create the even more significant evidence of need that 1 acre of green space in the west was available to 682 people but that 1 acre in the east had to be shared amongst 7481 people. It was the principal evidence for her 1888 paper, in which she stated that "they want places which they can reach by walking, or a very cheap fare.....within a short distance from their homes" (Hill, 1883).

The world has an expanding population and most of this expansion is focused on cities. The need for green spaces to provide better health for urban populations, recognised by Hunter and Hill in London in 1888, has not gone away. Visitor surveys clearly show that people typically do not travel long distances for outdoor recreational activities, often choosing their destinations among a limited set of options available around their homes. Choices on final destination are driven by factors such as available time, age, purpose of the trip, accessibility, weather and personal taste "but are nevertheless constrained by characteristics and state of ecosystems in the neighbourhood" (Paracchini *et al.*, 2014:381), prompting calls for "bespoke policy approaches designed for the landscapes where people live, work and play at highest densities" (Anderson *et al.*, 2009:894).

The draft plan for the recently announced Greater London National Park City proposal already incorporates the potential for new commons within its ambitions. Evidence in England is very clear: half the population of England do not visit the natural environment; within the half that *do* go outdoors, the majority (68%) barely go further than 2 miles from

their homes and only around 13% adventure beyond 5 miles from home (Natural England, 2014). The urban fringe presents opportunities to create new commons that might not be available within towns and cities where space is hard to find although re-purposing land to attain this is a challenge. England is one of the most highly urbanised countries in the world where around 90% of the population are urban (ONS, 2011)^{xi}. The national focus for new commons is therefore the rural-urban fringe and, where available, inner-urban spaces. Careful mapping of existing green space against population pressures, similar to Hill's original approach, might help to inform where needs are most acute. Financial pressures placed on local authorities in England from central government budgetary cuts could result in even more uneven provision of green space in the country. While all local authorities across England have had to reduce the amount of money they spend on parks and other green spaces, the cuts have been felt most deeply in the North East, where spend on green spaces being cut by almost 40% over the past three years, compared to just a 3.4% reduction in spending in the South East (Drayson & Newey, 2013).

3.2 Creating new commons

The democratic evolution of commons took centuries in England. When William I created the New Forest in 1079, Forest Law and several tiers of governance were introduced to ensure that the venison, and the vegetation on which the game depended, were maintained for *royal* hunting only. Commoners with grazing rights for domesticated livestock could not feed their families venison: any commoners found guilty of killing the King's deer could be sentenced to death and firing at or disturbing deer could lead to mutilation by blinding or having a hand cut off. Indeed, commoners' dogs that were large enough to chase deer were required by law to be 'expedited', which meant that owners were required to amputate the pad and several toes of their dog's feet (Edwards, 1995). An instrument known as the 'Rufus Stirrup' still hangs in the Verderer's Court at Lyndhurst, a copy of the instrument traditionally used to measure dogs: any dogs too large to pass through it, and hence considered a threat to the deer, were maimed^{xii}. Thankfully, England is now a very different place and expediting is no longer practiced. Policy-making in the UK is increasingly emphasising public participation in resource governance (and in Scotland, land reform proposals that extend such community participation to potential freehold ownership) and a commitment to involve the most marginalised sections of society through various forms of community engagement. By involving the community from the onset in the creation and design of new commons, we can provide opportunities for " 'learning' how to do democracy through practices of creating, governing and defending collective resources, to regenerating that sense of place that forms communities" (Gidwani & Baviskar, 2011:43).

Control and use of the common land in England has always required the coordination and cooperation of a whole host of actors: the freehold owner, those holding rights over the common (the commoners), other users deriving benefits from the common, and often some third party enforcement agency. Contrary to Hardin's (1968) dismal view of the inevitability of a tragedy on the common, English commons have endured because of their complex institutional arrangement of governance: "a sophisticated armoury of local bylaws, enforced by the law-makers – in this case the commoners themselves – existed to keep the common pasture in good heart, to protect the grazing animals against disease and accident, and to keep the common open to all occupiers" (Shoard, 1989:45).

Legislation designed to protect historic commons in England and Wales, the Commons

Registration Act 1965 and the Commons Act 2006, have made creating *new* green spaces as commons possible. A new common is any land (in England or Wales) that is made register-able as a common under section 13 of the Commons Registration Act 1965 (where it still applies) or section 6 of the Commons Act 2006 by the freehold owner of the land expressly granting a *right of common* over the land. Critically, it requires citizens to become new commoners and more importantly willing, benevolent and public-spirited landowners to gift quantifiable rights to any other body of people over any defined area of land. The landowner will still own the land and share the use, but others are given the freedom to use it too.

New commons are already being created in England. The first new common in England was created in 1994, in the county of Norfolk, by a public-spirited landowner, Daphne Buxton, who wanted to create a gift of land for the people of her village of Rushall to enjoy forever. She did so by first granting a *right of common in gross for estovers* (to gather wood for fuel) to a local resident, thereby making the land over which it applied register-able as a new common (Wright, 1995)^{xiii}. Buxton specifically chose the vehicle of a common to pass on her legacy to the community because of the associated reduced risk of the land being developed or sold after her death. She retained the freehold ownership of the land after the creation of the common, but intends to gift the land to the parish council, together with an endowment to cover the cost of its maintenance. In doing so, she needed some guarantee that the council would not be tempted to dispose of the land in the future. The creation of the common rights prevents such disposal by enabling the land to be registered as a common, which also creates a public right of access. To remove the land from the register, three different legal actions would be required: (i) legal action against the commoner(s); (ii) legal action against the landowner; and (iii) a repudiation of the public. The possibility of all three forms of action being successful without excessive legal costs and negative publicity, in effect, protects the land from any such disposal.

3.3 Defining new commoners

The new commons demand clarity of rights in terms of who has access to both the resource and to the governance of the common. However they can easily mimic traditional English commons in their ability to embrace multiplicity of both use and right. Referring to the diverse use of public space as a “carnival of the commons”, Margaret Kohn recognizes the value of such multiplicity: “these places are not consumed or diminished when others enjoy them. In fact, in many places, their value actually increases when a critical mass of strangers congregates (Kohn, 2004:194, cited by McShane, 2010:104).

In terms of specific appropriation and *use* rights, it is envisaged that the new commons will have broad spectrum of rights, with some commoners holding more traditional rights, such as grazing, estovers (the collection of fuel), pannage (the right to turn out pigs) and others holding lesser right of foraging for wild foods, such as fungi and berries. Apparently, the campaign organisation *Common Ground* has considered rights of ‘pommage’, which might be introduced to protect their community orchards. (Wright, 1995). The extent to which all of these rights are formalised must be considered carefully: “an appropriate balance between proprietorial, communal and public orientations – between *res communes* and *res publicae* – can be difficult to strike, especially in the functionally oriented world of urban management” (McShane, 2010:109). In particular, an issue that will need to be addressed is succession of the commoners’ rights. According to

statute, rights of common may be held *in gross* (vested in a person) or *in appurtenance* (attached to particular properties). If rights are granted *in appurtenance*, then those establishing each common will need to decide to which properties the rights will be attached. In addition, the need for wider access to the new commons will need to be balanced with existing local entitlements (perceived or actual) over the space that precedes their 'creation', to ensure that social connectedness is preserved and the environmental sustainability of the space is furthered rather than challenged (Goodhall et al, 2005).

3.4 The role of new technology

New technology will have several implications on the creation of new commons, from technology that might shape the use of the commons through to technology that will affect communication strategies of the commoning community. In the last few years 'virtual fencing' has been on several traditional commons in England where there is a potential conflict between car traffic and livestock grazing on commons that straddle public roads. Grazing livestock are stopped from straying when a collar on their neck emits an audible warning (or, if they get too close, a small electric shock) as they approach the boundary of the common, where radio signals are transmitted along buried cables. Vehicular access can proceed unimpeded by gates or grids and there are no fences to contravene anti-enclosure laws or spoil the landscape (Edwards, 2015). Development of traditional technology in new guises can also help in the financial viability of management of commons. For example, mobile charcoal retorts, which can be shared among several commons, can make the production of charcoal from coppice woodlands far more viable than relying on their less efficient, stationary predecessors (Edwards, 2015). Social media and the internet already play an important role in facilitating use of commons across England, by reducing the transaction costs associated with information sharing and communication.

4. CONCLUSION

Many narratives of commons portray them as archaic relics of medieval times. However, common rights in England have served as an excellent barrier to change, protecting places like the New Forest from enclosure and development and allowing them to thrive as collectively used and managed natural resource systems. Traditional commons in England offer useful templates for the creation of new commons, which could enable local communities to engage with local landscapes by permanently repurposing land close to where people live to achieve greater ecosystem service benefits. Commons provide a model for flexible partnerships of public, private and voluntary interests working for everyone's good. Such a framework allows a variety of approaches to ownership and management, from local trusts to traditional local authority management, but on a foundation of clear principles of stewardship that apply to owners, managers and users. Improvements might be regeneration, green economic growth, improving health inequalities, improving social conditions, giving communities pride in their 'place', creating stakeholders and participants rather than 'sightseers', adapting cities to climate change and finding a new home for urban nature.

There are some who would be nervous of the implications for green space of creating new commons. Raising the profile of commons might be seen as dangerous: "In a sense commons thrive and survive by dancing in and out of the State's gaze, by escaping its

notice, because notice invariably brings with it the desire to transform commons into state property or capitalist commodity” (Gidwani & Baviskar, 2011:42). However, in England, common rights have proved an excellent resource protection tool over the centuries “Being unwritten and almost impossible to unravel, they have long ‘encouraged obstinacy’, and produced ‘a creative stalemate’ of the sort that has protected places like the New Forest from enclosure and development” (Wright, 1995).

English commons now comprise complex *natural* systems, capable of producing a wide range of ecosystem goods and services, that support complex *social* systems, where a broad spectrum of users depend on the common for different tangible and intangible benefits, governed by complex *institutional* systems, which combine multiple legal entitlements, which lie within a nest of complex *political* systems, with multiple layers of authority. As such, a study of the evolution of traditional English commons reveals the importance of a polycentric^{xiv} approach to analysis of past and potential governance (see, for example, Edwards and Steins, 1998), which addresses multiple layers of action and recognizes that “the patterns of interaction and outcomes depend on the relationships among governance actors at different levels and the problems they are addressing” (Anderson & Ostrom, 2008:73).

The impacts of social media and increased communication via information technology, economic globalisation and social mobility are likely to produce communities for the new commons that are more diverse and more dynamic than could possibly be imagined by their more traditional counterparts, where communities are more fixed and tied to geographical areas and the common is both a shared source of work and income and the focus of social activity.^{xv} New commons might play a profound role in social cohesion in communities in Britain, perhaps even more so than their traditional counterparts. Allport’s contact theory suggests that where individuals are in contact with people from ‘other’ communities, their attitudes and behaviour becomes more accepting and the likelihood of further interaction and co-operation increases (Allport, 1954)^{xvi}. Shared visions, purpose, and physical work can bring people together and reach across group differences. Research has shown that the use of public space for joint events and involvement in cross-community civic activities can cut across community divisions (Connolly & Bryan, 2009) and that new collective identities can emerge from joint activities and co-operation. Gilchrist et al (2010) reports of two communities in the county of Leicestershire, where Christian and Muslim faith leaders have joined every year since 2006 in a cricket match ‘to promote ties between the two faiths and challenge the stereotypes rampant in the present climate’ (Gilchrist et al, 2010:41). The two teams are made up of serving imams and clergy from churches and mosques across the city and county and hosted by Leicestershire County Council. Imams and clergy also meet on football pitch for events that have received media coverage across Europe.

Several options will emerge for the exact nature of future governance of individual commons. What is crucial, however, is the need to involve communities as early as possible: there needs to be co-evolution of the new commons with the institutions that will govern them. As well as assisting in community cohesion and social capital building, the governance of the new commons could provide opportunities for community participants to learn and build valuable transferable skills, such as oratory, decision-making, and negotiation. People already involved in governing traditional commons in England talk about the need for patience, cooperation and negotiation, and in ‘having to

play the long game’ and that ‘it is never possible to please everyone’ (Edwards, 2015). For youth, those needing to secure employment or those looking for avenues back into mainstream society, such would be especially valuable.

This paper is a starting point only in the discourse on new commons in England. It is essential as this initiative rolls forward that there is clear communication between all parties involved. In particular, there needs to be absolute clarity over what is being proposed by *new commons*: the resource itself, the specific stakeholders and their roles and the intuitional arrangements that will govern them. As McShane (2010: 111) reminds us “distinctions between the commons (a resource), community (a social category) and the third sector (an institutional locus) are increasingly fuzzy.”

In informing the debate over institutional design of new commons, there are opportunities for further research, including (in no particular order of importance): (i) empirical studies on the behaviour of people living under two miles from a typical selection of existing traditional common land used mostly for amenity purposes (such as those in Chilterns area of the south east of England) to ascertain patterns of recreational use and attitudes towards the land; (ii) a study of the provision of visitor information relating to access to common land, to identify what resources might best help people vary their behaviour; (iii) a behavioural study of peoples’ engagement with their local common or other local green spaces, to analyse what activities (such as fund raising, volunteering, etc.) engender a sense of ownership and to what extent that might enhance attitudes towards stewardship; (iv) a detailed assessment of the potential for re-purposing land in the rural-urban fringe as new common; and (v) a study to establish the potentiality for new urban commons within the proposed boundaries of the new Greater London National Park City.

In 1910, Edward North Buxton and Robert Hunter wrote that “the simple idea which led to the battle over London Commons – that large towns required Open Spaces – has developed in many and varied direction” (Eversely, 1910). The need for a promulgation of this *simple idea* of providing healthy open spaces for public enjoyment, which started to discover its voice in 1865’s polluted London, has not gone away. The population of London, and of other comparable cities, has increased massively. Sadly, the amount of available accessible open space has not increased to the same degree, despite several iterations of redevelopment. However, transport opportunities have increased mobility and, if suitable land for new commons is unavailable in the inner cities, then the future might lie in repurposing land in the peri-urban fringe and Green Belts. Old problems deserve new approaches. Hill was aware of this: at the unveiling of her own portrait by painter John Singer Sargent^{xvii} in 1898, she said,

“When I am gone, I hope my friends will not try to carry out any special system, or to follow blindly in the track which I have trodden. New circumstances require various efforts”(cited in Bell, 1942:242-3).

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ⁱⁱⁱ The National Trust was formally constituted on January 12th 1895, and later given statutory powers, starting with the National Trust Act 1907. Its three pioneers were Octavia Hill, a housing reformer, Sir Robert Hunter, solicitor of the Commons Preservation Society, and Canon Hardwicke Rawnsley, a Lake District clergyman. The National Trust now operates in England, Wales and Northern Ireland. The Trust was originally to be named The Commons and Gardens Trust, with the eventual name being scribbled by Hunter “? National Trust” across a letter sent to him from Octavia Hill about the proposed Trust. There is a separate National Trust for Scotland. See more at: <http://www.nationaltrust.org.uk>

^{iv} Urban Victorian Britain was grim and Octavia Hill had first-hand experience of its realities, unlike most of her social class. She invented the Kyrle Society to ‘place objects of beauty within reach of the poor’ and created the poetic campaigning term ‘rights of air and exercise’ which was later established in the Law of Property Act 1925. Hill saw a strong Christian ideal in showing the poor the ‘glories of God’s work’ embraced as simply as a blackbird singing, or sunlight on a chimney pot in a blackened courtyard, but most preferably, in the freedom of open spaces.

^v The New Forest was named Nova Foresta by William I in 1079 when the term ‘foresta’ referred to an extensive tract of land, including both woodland and pasture, reserved for the Crown’s privilege as a hunting ground: the royal forests.

^{vi} Strictly, such rights were traditionally confined to the ability to take edible items for personal use, rather than for recreational or sporting purposes

^{vii} In addition to registered common land, there are also commons with their own local or private Acts of Parliament, including the New Forest and Epping Forest. These make the total area of common land in England around 401,514ha (<https://www.gov.uk/owning-common-land>).

^{viii} Although it had incorporated the words ‘Open Spaces and Footpaths’ into its full legal title during the twentieth century and is now referred to as the ‘Open Spaces Society’. John George Shaw-Lefevre, later Lord Eversley, was its first Chairman and Robert Hunter, later Sir Robert Hunter, was its Honorary Solicitor (from 1868-1882). Together they formed a powerful bond with other concerned Victorians such as the social housing pioneer Octavia Hill, John Stuart Mill (Committee member from 1865-1873), James Bryce (Chairman 1880-1884), Henry Fawcett MP (Vice-President 1865-1883), Philip Lawrence (Hon Solicitor 1865-68) and Sir Charles Dilke (Chairman 1870-1874).

^{ix} Social grade D comprises 16% of the UK population, including: all semi-skilled & unskilled manual workers, apprentices and trainees to skilled workers; retired people, previously grade D, with a pension from their job; widows/widowers, if receiving pensions from their late spouse’s job. Social Grade E comprises 12% of the UK population, including: all those entirely dependent on the state long term, through sickness, unemployment, old age or other reasons; those unemployed for a period exceeding 6 months (otherwise classified on previous occupation); casual workers and those without a regular income; only households without a chief wage earner are coded in this group.

^x The research included studies of all-cause mortality and circulatory diseases (partly because they have marked socio-economic inequalities, but primarily because some important associated risk factors, such as sedentary lifestyle and psychosocial stress, may be particularly ameliorated by green environments) and contrasted that with two other causes of death which also have marked socio-economic inequalities but different risk factors and aetiology: lung cancer (largely driven by smoking and relatively weakly related to physical activity) and deaths from intentional self harm (which also have an aetiology which differs greatly from circulatory disease and lung cancer).

^{xi} 81.5% of the population lived in urban towns and cities and another 9.1% lived in rural towns (ONS, 2011).

^{xii} Evolution towards democracy was slow: some one hundred and fifty years later, Under the Forest Charter of 1217^{xii}, this maiming requirement was revised so that ‘*the manner, moreover, of expediting by the assize shall generally be that three claws of the forefoot are to be cut off, but not the ball.*’

^{xiii} Daphne Buxton’s commoner was Maurice Philpot, a Clerk to the Dickleburgh and Rushall Parish Council, to whom Buxton granted the right of estovers – to gather gorse, fern, tree-lopings and undergrowth, which he may use as firewood or to repair his house (Wright, 1995).

^{xiv} *Polycentricity* is defined as “the relationships among multiple authorities with overlapping jurisdictions” (Anderson & Ostrom, 2008:73, citing V. Ostrom et al, 1961).

^{xv} Edwards (2011) however, shows how identities of the communing community are being challenged on even the most traditional commons.

^{xvi} Contact theory suggests that the positive effects of intergroup contact occur in situations characterised by four key conditions: equal status, intergroup cooperation, common goals, and contact supported by social and institutional authorities (Allport, 1954).

^{xvii} The portrait now hangs in the National Portrait Gallery in London.