

COMMONS, OPEN SPACES AND FOOTPATHS PRESERVATION SOCIETY

FOUNDED 1865:

OBJECTS: To preserve for the public use and enjoyment Commons, Village Greens, Open Spaces, Rights of Way and Roadside Wastes.

HB/MNL

Chairman:
CECIL B. HARMSWORTH, Esq.
Hon. Treasurer:
Lt.-Col. E. N. BUXTON, M.C.
Secretary:
Sir LAWRENCE CHUBB.
Assistant Secretaries:
HUMPHREY BAKER, M.A. A. L. SIMPSON.
Barrister-at-Law.
Bankers:
BARCLAYS BANK, LIMITED.
23, Grosvenor Gardens, S.W.1.
Telegraphic Address:
"COMMONWEAL, CHURTON, LONDON."
Telephone: VICTORIA 9274-5
(2 lines)

President:
The MARQUESS OF CREWE, K.G.

Vice-Presidents:
The EARL OF CRAWFORD AND BALCARRES, K.T.
The EARL OF MIDDLETON, K.P.
The VISCOUNT BUCKMASTER OF CHEDDINGTON, G.C.V.O.
LORD FARRER.
The Rt. Hon. Sir FRANCIS D. ACLAND, Bart., M.P.
The Rt. Hon. STANLEY BALDWIN, M.P.
Sir ARTHUR CROSSFIELD, Bart., G.B.E.
The Rt. Hon. J. RAMSAY MacDONALD, M.P.
71, ECCLESTON SQUARE,
BELGRAVE ROAD,
WESTMINSTER, S.W.1.
(Kindly lent by the DUKE OF WESTMINSTER, G.C.V.O., D.S.O.)
All letters to be addressed to "The Secretary."

In replying, please quote the heading to this letter.

URGENT.

2nd October, 1934.

F.A. Shorey, Esq.,
Faringdon R.D.C.,
Council Offices,
Belmont,
Wantage, Berks.

Dear Sir,

Faringdon, Berkshire.
Cromwells Battery.

Thank you for your letter of the 1st inst. The law respecting "dedication" which applies to highways of all kinds (including public footpaths) does not apply to open spaces. To raise a presumption of dedication, the subject matter must be a definite point to point track, and the law does not recognize, under this head, such a thing as a "jus spatiandi", i.e. a right to wander at random over an unenclosed space. This principle has been followed in a number of cases; cf. Chapman v. Cripps (1862, 2 F. & F. 864); Schwinge v. Dowell (ibid. 849); Maddock v. Wallasey Local Board (1886, 55 L.J.Q.B. 267); Behrens v. Richards (1905, 2 Ch. 614); and in particular, Robinson v. Cowpen Local Board (1893, 2 L.J.Q.B. 619), Tyne Improvement

F.A. Shorey, Esq.

(2)

2nd October, 1934.

Commissioners.v. Imrie (1899, 81 L.T. 174), and Blundell v. Catterall (1821, 5 B. & Ald. p. 315, per Abbot, C.J.).

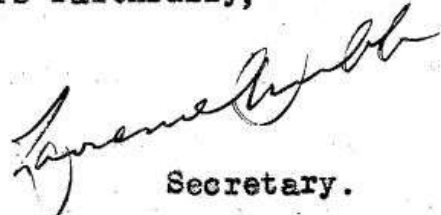
Provided that the proposed tower would not obstruct any defined tracks which are admitted to be public, the Society does not think that any legal objection could be sustained to its erection, on the ground that public rights would be interfered with.

I see that certain parts of Faringdon were affected by Inclosure Awards dated 9th June, 1864, 24th March, 1773, and 6th July, 1803. Was the Folly dealt with by any of these Awards, and if so, how? Copies of the Awards are in the custody of the Clerk of the Peace, and should be inspected.

How is the Folly shown on the Tithe Map?

In the case of inclosures of land subject to rights of common, special considerations apply, but the official returns indicate that there is no common land in the parish of Faringdon.

Yours faithfully,



Secretary.