

A photograph of a tree stump with a wooden eagle sculpture on it, set in a wooded area with a path leading into the distance. The eagle is perched on the stump with its wings spread wide. The path is paved and leads through a line of bare trees towards a bright, open area in the distance. The sky is clear and blue.

# Felton Common

by **Bridget Smith**

This pamphlet has been issued with the knowledge and approval of Winford Parish Council. However it is a private publication, and the author takes full personal responsibility for the information and opinions it contains. She hopes it will be of interest to local residents and may inspire some to become actively involved in the care of the common.

*February 2014*

# FELTON COMMON

Did you think that there was nothing more to Felton Common than a large stretch of grass? Then read on, and you will learn of a Swedish spy and Roman mines, of court cases, one of which went all the way to the Court of Criminal Appeal, of a long vanished golf course, pond, water tower and thatched windmill, rare archaeological monuments and creatures, and of acres and acres of potatoes.

## **General Background**

There are 2,300 square miles of common land in England and Wales, ranging from huge heather uplands and mountain crags, to suburban lungs such as Wimbledon Common. In the South there are large areas of lowland common land which have been used mainly for recreation or grazing. Contrary to popular belief, they do not belong to the Crown or the public, the term “common” referring to the rights attached to properties and held in common by the people who own these properties to use the soil for specified purposes. Nor, until the 2000 Countryside and Rights of Way Act (2000 CROW Act) came into force, was there an automatic right of foot access for the general public onto all common land, although many, including Felton Common, had designated rights of way, both footpaths and bridleways. Under the CROW Act the whole of Felton Common is now open access land for walkers.

All common land has an owner, as it is a remnant of the manorial system which from medieval times was the basis of the country's economy. Known as the "waste of the manor," it was used for grazing and fuel gathering, and was generally the poorer agricultural land. Although the lord of the manor owned all the land, the legal rights of others, which accrued over time, meant that he could not enclose any of it without the consent of the commoners or parliament. Despite clashes of interest the system persisted largely unchanged until the agrarian revolution of the mid 18th century. Then the need for more efficient food production to feed a rapidly increasing population put pressure on parliament to pass enclosure acts for individual commons, causing conflict between lord and commoners. By the 19th century the attraction of using common land as arable diminished in favour of the need for leisure space for a growing urban population. This gave way in the 20th century to a surge of public interest in preserving commons as national assets, but their piecemeal evolution and the variety of rules governing their use continued to lead to confusion.

In 1958 a Royal Commission issued a report which proposed a register of all common land, a general right of public access to all commons and effective schemes of management. The intention of the Commons Registration Act 1965 was to form a comprehensive register of all commons and the rights exercisable over them. In order to retain their rights all commoners were

required to re-register within three years and from 1971, despite numerous errors which were not disputed and therefore went through by default, no further alterations were to be allowed. A further act of 2006 was designed to improve on and clarify the previous legislation, but common land law is so complex that this was not completely achieved. The register is held by the local authority, which is required to keep it up to date, ultimately electronically. This is a challenge which is unlikely to be met in the near future.



*Conjoined Barrows*

## **Topography and Natural history**

Felton Hill, as it is officially called, is owned by Winford Parish Council (WPC). It covers an area of approximately 100 acres, predominantly of unimproved, and to a lesser extent semi-improved, mixed acidic and calcareous grassland. It can be seen as part of the group of Mendip commons which include Blackdown and Burrington. It is sited on the eastern

edge of Broadfield Down, an area of carboniferous limestone stretching two miles East to West and crowned on its summit by Bristol Airport. When the rock folded and contorted the Lulsgate fault was formed along a marked scarp, making the area excellent for quarrying; it has provided stone mainly for road building, and also for some of the older Bristol churches. The fault also exposed “gruffy” ground where lead was mined in the 17th and 18th centuries, and there is a record of a dispute between a miner and the lord of the manor and also mention of a spy from Sweden collecting specimens in 1760. In 2012, at the end of an exceptionally wet year, a hole opened up near the top of Long Lane, and the North Somerset Council (NSC) archaeologist advised the parish council that this could be the entrance to a “bell pit mine,” possibly to extract calamine. It was probably worked in this area until the 17th century but could go back as far as Roman times, and is therefore of historic interest. The hole has since been filled in for safety reasons.

Overlying the limestone is Felton stone, known elsewhere as the “Harpree Beds,” silicified strata of the Lower Lias period which contains sandstone and quartz making it lumpy and difficult to work. Nonetheless, in 1943 the County Agricultural Committee obtained permission from the commoners to plough most of the common for three years, and wheat, oats and potatoes were grown as part of the war effort. Although they were not ploughed, it is thought

that the round barrows may have been affected by some trenches dug by the Home Guard. There is a catchment boundary running through the south-west of the common, so that while most of Felton Hill drains towards the Bristol Avon, from the south-west corner water flows to the Somerset Levels. There was once a triangulation point in the south-east corner of the common.

The common was inhabited from Neolithic times as is evidenced by its rich share of mounds and barrows. The most prominent of these, and the only scheduled ancient monuments, are the oval barrow from the Bronze Age and the Neolithic conjoined barrows, one a bowl and the other a bell, which are all local rarities.



*The Suck Stone*

Near the conjoined barrows lies a very large flat stone known locally as the “suck” or “fairy” stone and thought to be ancient, possibly part of a burial circle. There are other smaller monuments on and near the common which probably formed part of a wider “family” of settlements, and these would merit further investigation. The path running from the top of The Street to Long Lane may be part of an ancient track linking Maes Knoll to Cadbury Camp, and the old coaching route between Bristol and Bridgwater also passed across the common. The southern edge of the common marks the boundary with the parish of Nempnett Thrubwell and the western edge marks the boundary with the parish of Wrington. This was recorded in Anglo Saxon times as crossing over the Long Barrow, and was known as “Thistledene.”

The common was registered by Avon County Council as a site of nature conservation, and more recently by NSC as a Local Nature Reserve in 2004. In 2008 the Bristol Naturalists led by a local expert found 267 species of plants; over the past few years local ornithologists have recorded more than 30 species of birds including the very rare dartford warbler, either visiting or breeding. Eighteen species of butterfly were found in 2000 and more recently oil beetles, a very rare insect of high conservation concern. Barn owls have been known to breed on the common, and a colony of the rare greater horseshoe bat from nearby are thought to forage along the hedges. Less welcome species are



noxious plants for which the landowner is required to have a management plan. These are ragwort, which has to be hand pulled as it is colonising increasingly from neighbouring fields, and Japanese knot weed, two clumps of which are gradually being eradicated by annual treatment.

A monitoring group keeps track of the number of birds and butterflies seen annually. In November 2012 the area of common land outside Felton Hall was cleared and planted by Winford School children and friends as a Jubilee Grove. This was part of a national scheme initiated by the Woodland Trust to commemorate the Diamond Jubilee of Queen Elizabeth.



*Barn Owl*

## **Structures and Buildings**

In the early years of the 19th century Mr Cripps, the then lord of the manor, laid out a private golf course at the southern end of the common, remains of which could still be seen in the 1920's. In the 1970's the parish council erected a changing room near a football pitch in the same area, but it fell prey to vandalism and was taken down in 2002. There was originally a pond at the top of The Street which was fenced in with iron posts, pillars and chains in 1859; it eventually fell into disuse and was filled in during the mid 20th century when no longer required for the grazing stock.

Two churches were built on the edge of the common. The Congregational Church at the top of The Street was built in 1840 and closed at the start of the 21st century. The construction of St Katharine's was initiated in 1866 by the Revd Joseph Hardman to replace the wooden church on Potters Hill (this had been built three years previously as the first church to serve the area.) The consent of the commoners was required to give up the land, and the boundary of the common was subsequently altered to leave the church outside it.

The Round House, at the highest point of the common, was originally known as Broadfield Windmill, and had a thatched roof. Of 19th century origin, it probably ceased working as a mill around 1880 when it was converted into a private house. Remarkably it was

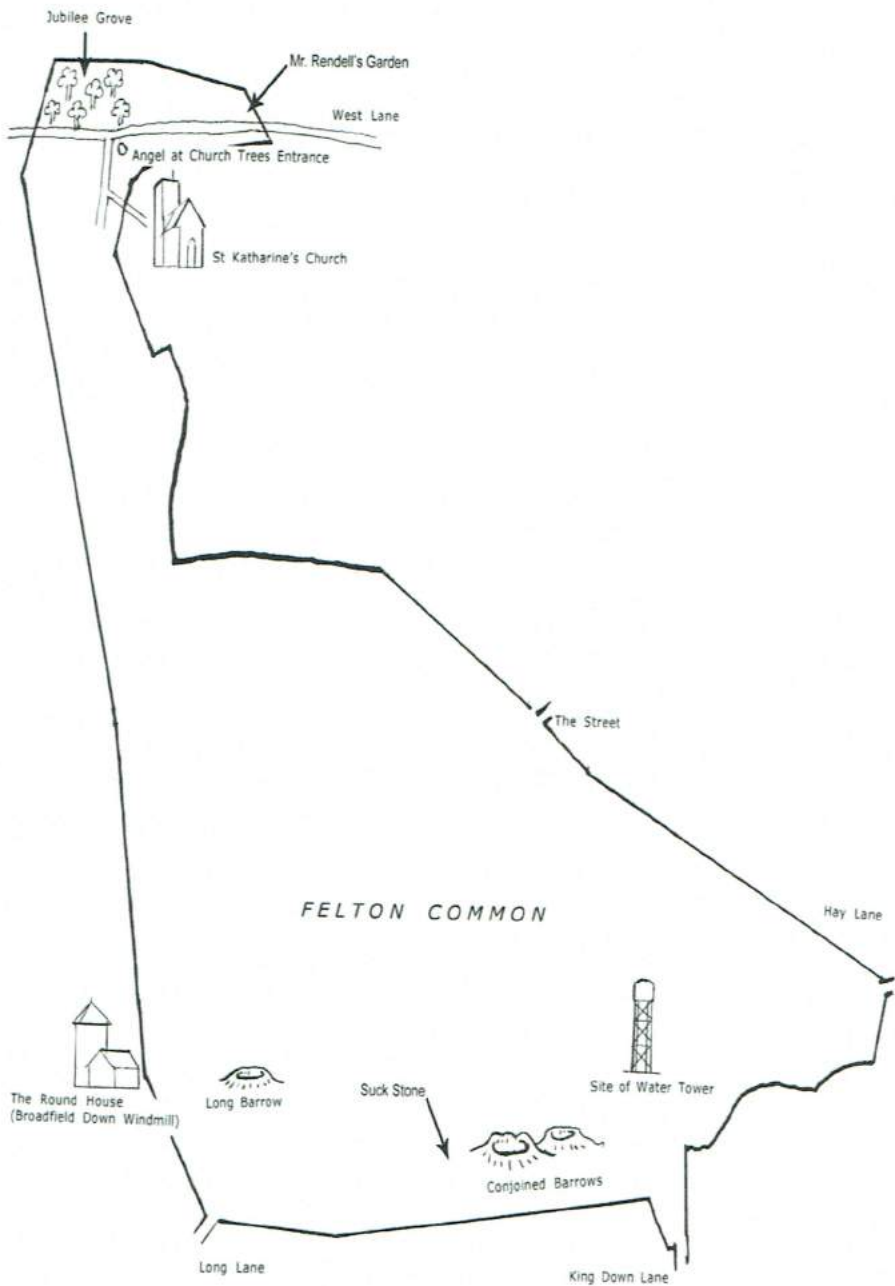
inhabited by generations of the same family, the Redmans (anything to do with Winford Red, the iron ore mined off Redding Pit Lane and used as a dye?) right up until 1993. The mysteriously named "Mr Rendell's garden" (he lived on Potters Hill) is a small plot of land on the north side of West Lane opposite Big Bullocks which now has a shed on it.

In 1934, with the agreement of the commoners, Long Ashton Rural District Council built a water tower on the high flat ground towards the south-east corner. Water was pumped from a bore hole near Stanshalls Close. After the parish was connected with mains water it was no longer needed and was taken down in 1972 as it was thought to pose a danger to low flying aircraft.

In 1952 a famous court case arose when WPC allowed a building company to erect a large notice on the edge of the common by the cattle grid. Seven commoners were convicted of malicious damage after pulling the board down and damaging its supporting poles. They were subsequently cleared at the Court of Criminal Appeal. Their defence that they were entitled to stop a trespass was upheld, and the judge ruled that the parish council was wrong to have allowed the erection of a notice which had nothing to do with the common and was clearly an advertisement rather than a direction sign. Costs were awarded against the parish council. In the same year telegraph poles were erected across the common.

## History

From medieval times Broadfield Down had provided common grazing for all the surrounding villages, and it is not clear why, when so much of it succumbed to enclosure during the 18th century, Felton Common survived as an open space. It was owned by the lord of the manor, and during the tenure of Percy Cripps from 1893 to 1903 there were several confrontations between him and the commoners, who had a vaguely defined right to object to certain proposals. As Mr Cripps was also the first chair of the recently formed parish council, this must have resulted in some conflicts of interest. It had become accepted by the commoners that only the 25 slat holders, whose areas were delineated by mounds and ditches, could use the common. But a court case decided that they could not prevent other people from doing so, and in 1893 George Dyer successfully claimed that, because the common was not enclosed, he had a right to run a horse on it without fear of impoundment. However, that did not stop Percy Cripps from going to court the following year to argue successfully that despite commoners' rights, he was able to determine who could use the common.





*Long Barrow in front of The Round House*

After the sudden death of Percy Cripps in 1903 there was a succession of short lived lords of the manor, and the illegal occupation of the common by gypsies became a recurring problem. Partly in order to deal with this, in 1925 the ownership of the common was passed to WPC under the Commons Regulation Act of 1899. The responsibility for the management of the common was vested in the local authority, at that time Long Ashton Rural District Council, which issued a Scheme of Management including bylaws, dated Dec 2nd 1924. These have remained unaltered up to the present time, although there have of course been several changes of local authority, culminating in NSC. The exact division of responsibility for enforcing the bylaws between NSC, WPC and the police has remained obscure ever since. This confusion, together with the complexity of the law governing common land, is the main reason why it is so difficult to protect the common through enforcement of the bylaws.

## The 21st Century

After evicting the gypsies, WPC successfully prosecuted a commoner in the mid 20th century for removing vegetation in order to increase the area of grazing land available to him. In the main, WPC appears to have adopted a somewhat *laissez-faire* approach to the common, reacting to problems as they arose, rather than pursuing a management strategy. Gypsies now rarely visit, and on the last occasion, in 2010, they agreed to leave amicably after a five day stay, during which the sight of twelve tethered sturdy horses and smoke curling up from the fire grilling bacon was a nostalgic reminder of times past.

The common has an ambivalent relationship with its nearest neighbour, Bristol Airport (BA), established here in 1957 and a comparative newcomer on the scene. On the one hand over the years the common has benefited from many financial donations from BA, most notably the entire cost of resurfacing the church track in 2006, a large contribution towards the cost of land management prior to the Stewardship grant coming on stream and a substantial gift towards the cost of the tree sculpture. BA has also consulted WPC on the management of the long neglected hedge on the west boundary, which is the responsibility of the airport. On the other hand, the abuse of the common by the unauthorised parking of airport taxis and others is an ongoing and growing irritant. Over all hangs the

threat of a sometime extension of the runway onto the common, a concern which comes and goes. As at 2013 there are no plans to extend the runway: the 1980 plans have been dropped and the present runway is suitable for all aircraft likely to use the airport.

At the turn of the century, a change in approach was initiated by a parishioner who lived on the common and was a passionate supporter of it, especially its wildlife. He was concerned that, whereas the main value of the common, apart from agricultural, had always been as open semi natural grassland, a decrease in grazing was leading to an increase in vegetation, especially bramble, scrub, small trees and bracken. The increase in recreational use, particularly dog walking, was also having a significant impact. Accordingly in 2000 the parish council set up a working party made up of a few parish councillors and interested local residents, and advised by NSC staff from the environmental and ranger departments. The group was to advise WPC on how the common could best be managed for changing times.

It immediately became apparent that this was a complicated task requiring professional guidance, and in March 2002 a detailed management plan was commissioned from Rob Frith and Associates, funded jointly by NSC and WPC. In October 2003 WPC entered into the first Stewardship agreement with DEFRA, which has, for the past ten years, been the



main source of funding for carrying out the aims of the management plan. Additional financial help has come from generous local businesses, Bristol Airport, and biodiversity grants.



*Bluebells*

The main objective was to control, by mechanical means, the bracken, gorse and scrub which had been encroaching onto the common due to the gradual dieing out of grazing. In so doing, the aim was to establish a variety of habitats to encourage biodiversity; in order to assess the effects of this a monitoring group was set up to report on its success or otherwise. Another important goal was to improve the condition of the valuable ancient monuments; overgrown vegetation and extraneous boulders were

removed from the conjoined barrows on the advice of English Heritage, and then informative and friendly signs were erected to guide visitors away from harming them further. Of some concern is the increasing presence of the Spanish bluebell in the area, and the establishment of any plant not occurring naturally, such as daffodils, is discouraged.

Other improvements have been the removal of the large unsightly notices at each entrance to the common and their replacement with boulders carrying a more friendly message on the front (including a parish logo designed by a local child) and the bylaws, as required by law, on the back. The parish council now organises an annual litter pick which members of the public are encouraged to join, and has recently installed dog waste bins at the main entrances. In 2006, on the advice of a tree consultant, it was decided to prevent parking under the fine avenue of beech trees leading up to St Katharine's church, and to place a mulch around them as a further protection. In 2010 one of the trees had to be felled after it died, and the stump was transformed into an angelic sculpture which has been universally admired. In 2010 NSC agreed to place the entire avenue under a tree preservation order.

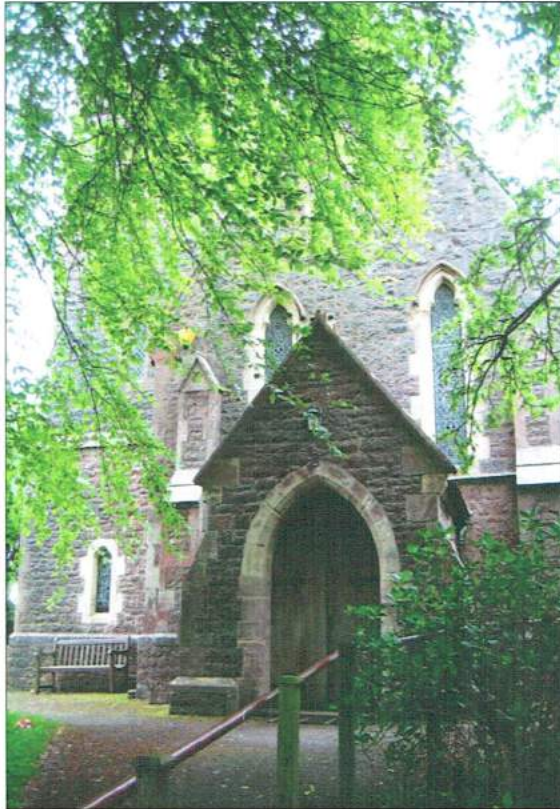
Originally the long term aim was to restore grazing to the common, this being the traditional and most satisfactory means of management. The hope was that local graziers could be encouraged to bring their animals back if WPC was able to install cattle grids at

each of the five entrances. Years of research, consultation and frustrating correspondence with DEFRA, culminating in a seminar in Cheltenham on the new Commons Act in 2006, finally convinced members of the working party who attended, that for complex legal and bureaucratic reasons this would not be possible.

More recently the working party has been preoccupied with two major problems. The first is the increasing abuse of the common by vehicles in a car dependent society. The law is clear: under the Road Traffic Act of 1988 it is an offence to drive on common land or to park on it more than 15 metres from the highway. In addition under bylaw no 7 "no person shall without lawful authority draw upon the common any... vehicle." Six properties have obtained easements by arrangement with WPC which allow their owners to drive across the common by a designated route, but not to park outside their property boundaries. In addition, a prescriptive right of passage can be claimed by anyone who can prove they have been using a specified route for at least 20 years. In theory all other driving and parking on the common is illegal, and can therefore be a police matter leading ultimately to prosecution. Clearly this is very difficult to enforce in a rapidly changing society.

The second equally intractable issue is the enforcement of the bylaws in general. Some parishioners have

indicated that WPC has not done enough to prevent a handful of householders claiming rights over the part of the common adjacent to their properties by delineating it with boulders and parking or in some cases placing other objects on it. However opinions vary widely as to how serious a development this is.



*St Katharine's Church*

It had always been clear that if any change towards a more proactive style of management of the common was to succeed, it was essential that the people affected must be consulted and involved. This proved very

difficult to achieve, partly because it was impossible to obtain an accurate up to date list of the owners of properties with commoners' rights, and partly because many people living on or near the common seemed uninterested in any change. In order to try and galvanise some momentum, the working party organised a celebratory day "Common Explore It" in Felton village hall in July 2010. More than 50 people came to this very successful event, which included a photographic competition, a memories scrap book, a family detective trail and guided walks led by a knowledgeable expert. The latter were particularly popular, and sparked many reminiscences, and even poetry. As a result of the interest generated, it was hoped to form a "Friends of the Common" group, but the subsequent response was insufficient to make this viable.

The year 2012 seemed to be a turning point. A record breaking annual rain fall and the increasing popularity of large four wheel drive vehicles resulted in unprecedented destruction of the ground near all the main entrances. In addition the last phase of the Stewardship grant was due to run out the following year, leaving future funding arrangements for the management of the vegetation uncertain. Seizing the moment, WPC decided to engage a firm of solicitors specialising in common land law, to advise on how best to proceed. The main message coming from a very informative meeting with a partner from Hedleys

Ltd was the vital importance of WPC developing a clear stratagem and firmly and openly carrying it out. Consequently WPC asked the working party to prepare a Five Year Plan for the management of the common which was presented to the Annual Meeting for all parishioners in April 2013.

The main issues to be addressed were:

- \* How to enforce the bylaws in a fair and acceptable way appropriate for modern society.
- \* How to control illegal driving and parking on the common, both by local people who live on and near it and by visitors who come for recreation. The law around entitlement and easements is complex and not widely understood, and prosecutions depend on witnesses who are not easily obtained.
- \* How to secure future funding for the best environmental management of the common if there is no longer money available from Natural England.

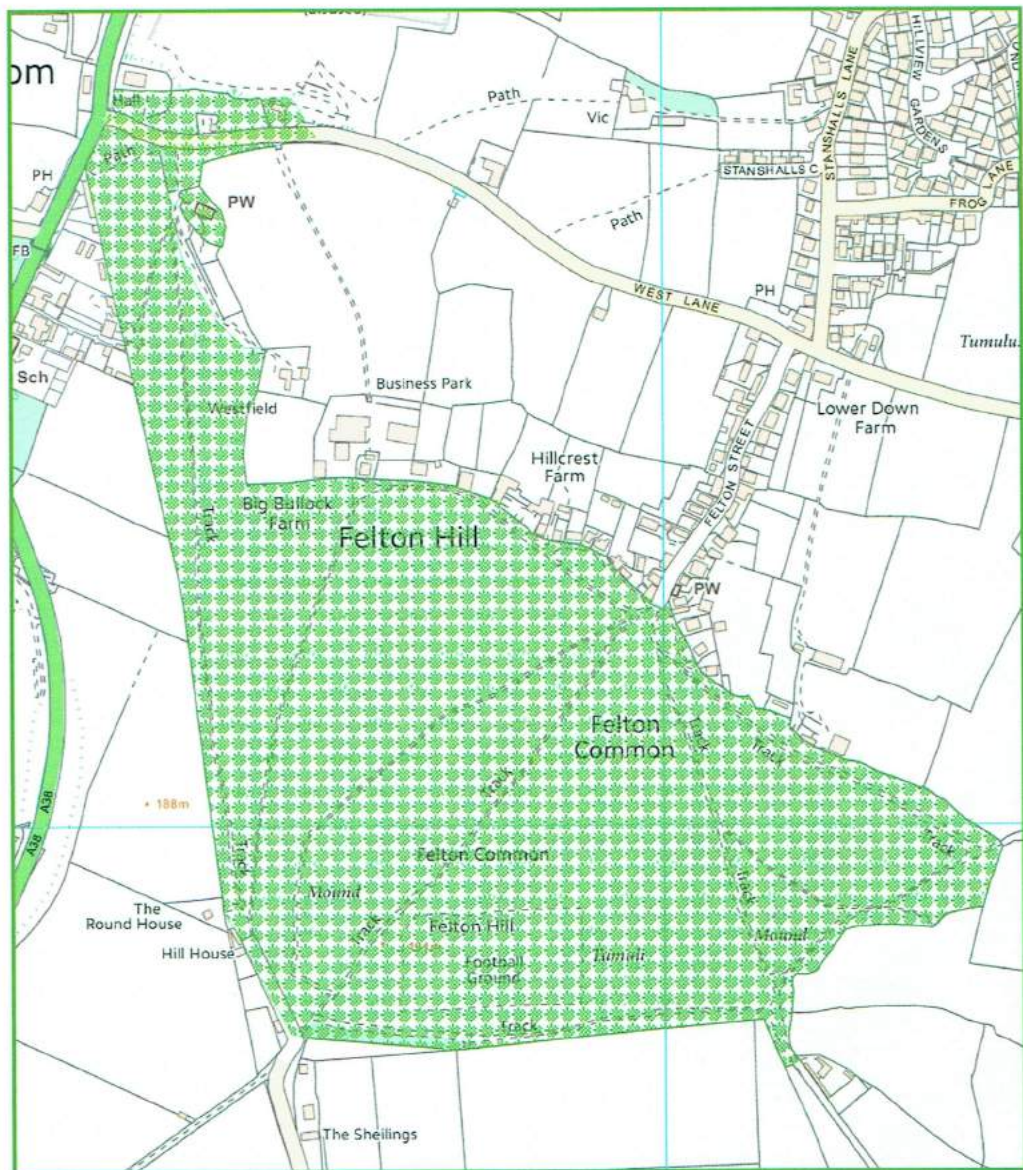
Underlying all these questions was the most important and difficult of all - how to generate interest and enthusiasm among parishioners, especially those who live on the common or visit regularly. Without their involvement it will be impossible to bring about real and lasting improvement for this wonderful resource we all have on our doorstep.

Bridget Smith

## Bibliography

Apart from documents in the Somerset Heritage Archives and the two local histories written by The Revd Hobbes and Mrs Beryl Moore, all sources can be found in the WPC Felton Common library.

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## Felton Common

The original Commons Registration plans were hand drawn on paper maps at a small scale. North Somerset Council has interpreted these historic, paper maps and drawn the boundaries onto modern Ordnance Survey base mapping. Although the boundaries indicate the location of Common land they should not be relied upon to determine precise boundaries. © Crown copyright and database rights 2013 Ordnance Survey 100052626. You are not permitted to copy, sub-license, distribute or sell any of this data to third parties in any form.