

***Collaborative governance or common property?
New forms for managing urban green space in the UK***

Simone Abram (Anthropology, Durham) and Sarah Blandy (Law, Sheffield)

****DRAFT – PLEASE DO NOT CITE WITHOUT AUTHORS' EXPRESS AGREEMENT****

This paper addresses a new form of urban commoning that displaces the state's role as the only reliable owner and steward of urban greenspace in public use. The state, at central and local levels in England, has now largely withdrawn from its enabling role for private actors managing collective resources such as urban green space; and the state's regulatory oversight is also weakening. In this paper we present a case study of a park in inner-city Sheffield (Yorkshire, in the north of England). This park was created from urban wasteland and is owned and managed by the Heeley Development Trust (HDT), of which both authors are trustees. The trust is now addressing the challenge of funding park maintenance by reinventing the Victorian model of a public subscription society.

Through this case study the paper engages with three interlinked issues that are key to the 'city as commons' theme: ownership (in both legal and popular understandings of that term); the complex collaboration between public, private and third sectors; and democratic forms of governance. The paper is structured as follows. The first section provides an overview discussion of the urban commons literature, and the meanings of public, private and common property. The second section sets the context for the case study: Sheffield and Heeley, and the original commoning of the land now owned by HDT. The third section analyses what is distinct about HDT, and the final section considers the current 're-commoning' of the park through a subscription society. The paper concludes with some thoughts and further questions on the issues of ownership, governance, democracy and trust.

The urban commons: public, private and common property

The idea of the 'urban commons' seems to encapsulate ideas of common ownership and participative citizenship (Bollier, 2014). Linebaugh (2009) uses the verb form '*commoning*' to capture the concept of the commons as an activity, a process which is continuous and requires participation, taking place in a particular local space. The urban commons concept is often linked, at least in academic discourse, to Lefebvre's right to the city. As Lefebvre explained, this right is neither natural nor contractual, but a necessary product of the qualities of urban space: convergence, ceremony, recreation, and commerce. In that sense, it encompasses rights not to be expelled from social life, to use the urban as a space of encounter and to participate in decision-making over urban space. For Lefebvre, the urban is 'more or less the *oeuvre* of its citizens' (Lefebvre, 1996: 117). However, as Attoh (2011: 676) points out, there are different understandings about whether the right to the city is best characterised as a demand for participation in democratic management of urban resources (see Harvey, 2008), or as a

confrontation with that 'democratic' management itself, for example homeless people occupying an urban park and demanding the right to stay there (Mitchell, 2003).

In either of its forms, the right to the city is clearly not a right in the legal sense. However, 'the commons' is also used to refer to a particular form of collective legal rights over property: distinct from both public and from private property. As Blomley (2004 : 636) points out, England and similar jurisdictions suffer from 'the dominance of certain notions of property in which the commons ... is imagined as inherently disordered and dangerous'. Private ownership is the paradigmatic form of property, so shared property which can never be pinned down into a static set of rights causes unease amongst lawyers and others. However, the relatively recent understanding that 'urban public life implies a modulation of interaction along a public/private continuum' (Brain, 1997: 243), has opened up space for analysis by property and common pool resource scholars (see Ostrom, 1990 and 2005; Rose, 2011). Hardin (1968) argued that common property, from which free riders cannot be excluded, becomes over-used and ultimately degraded; the only alternatives to a "tragedy of the commons" are either a regime of private property rights or the top-down exercise of power to regulate use. This analysis has been hugely influential amongst law and economics theorists, particularly in the US, but has been widely critiqued. The work of Elinor Ostrom and other common pool resource scholars shows that Hardin confused 'an ungoverned open-access regime' with 'the commons' (Fennell, 2011). His 'communal property paradigm – the open access unregulated common – simply does not exist' (Clarke, 1997: 135-6). The point is that property held or used in common is, in practice, always subject to some regulation or governance, and the rights to manage and/or exclude from that land may be exercised collectively.

Most common land in England is actually in private ownership; it is the rights to access and use the land which are held in common, and these can be protected by law under the Commons Registration Act 1965 and the Commons Act 2006. English law does not recognise 'public property'. Governments (mainly local authorities, as we will refer to them in this paper) are corporate bodies which own property in the same way as a private landowner. The difference is that any change to the public's right to access such space is subject to the local authority's duty to act in the public interest; decisions to restrict or terminate public access may be challenged under administrative law or at the ballot box. Particularly relevant to this paper, there are some types of property owned by a local authority which are specifically protected. For example, a highway is defined as 'a public place, on which all manner of reasonable activities may go on' (*Director of Public Prosecutions v Jones* 1999), which enables demonstrations and other means of exercising political expression to take place there. However, ultimately the local authority can exercise its powers as the owner of property and evict anyone obstructing the highway, as experienced by many Occupy camps in 2011-12.

Parks, the focus of this paper, have also been given a special status distinct from other land owned by local authorities, through case law and legislation. The Brockwell Park case (*Lambeth Overseers v. London County Council, [1897] A.C. 625*), established that the council as owners of the park were 'merely custodians or trustees to hold it and manage it for the use of the public'. The *Open Spaces Act 1906* provides that 'any open space' (not just parks) owned by a local authority must be held and administered 'in trust to allow, and with a view to, the enjoyment thereof by the public', and must be properly

regulated and maintained (Section 10). Open space is defined as 'any land, whether inclosed or not ... of which not more than one-twentieth is [built on ... whether] laid out as a garden or used for purposes of recreation, or lies waste and unoccupied' (section 20).

'Regulatory slippage' and public/private partnerships

The development of municipal government in the nineteenth century was a response to market failures 'by a range of different agencies as diverse as improvement commissioners, vestries, joint-stock companies and charitable boards' which were then delivering services and utilities to the public (Rugg, 2000: 210). At the same time, English local authorities were acquiring parks through a range of means including inclosure awards, gifts from local benefactors and by deliberate purchase. In contrast, the late twentieth century governance changes in the opposite direction – from public to private – have resulted from bureaucratic failures and dwindling local authority finances. Foster (2011: 58) considers that at times of 'regulatory slippage' – when local government runs out of resources to effectively manage the space which it owns, and different uses compete with each other over the same space – public parks become subject to the same rivalry and free-rider problems that Garrett Hardin wrote about'. While we would disagree with her analysis based on Hardin (see discussion above), Foster's work does highlight the growth of public/private partnerships which have filled the regulatory and financial gaps in park management. She gives a number of examples, including 'Friends of X park' groups and Park Conservancies (for example, in Central Park) which manage urban public space in different forms of partnership with the municipality.

There is no equivalent to the Parks Conservancies in England, but local authority parks face similar problems to those in the US. In a 2014 survey, 86% of local authority park departments said their revenue had been cut in previous three years, with Yorkshire being one of the most affected regions. Just under half of all councils are planning to dispose of some of their green spaces with 19% specifically considering the disposal of parks. The loss of state revenue has to some extent been balanced by grants from the Heritage Lottery Fund (over £600m) and from the Big Lottery Fund (£80m). Staff cuts have been to some extent compensated by local community groups (usually 'Friends of X Park') who volunteer almost a million days and raise about £30m each year (Heritage Lottery Fund, 2014). Foster's comments apply to similar groups on both sides of the Atlantic: that they 'cannot regulate access to the resources, control or impose restrictions on individual behavior, or otherwise usurp the local government's role in making various policy choices about use of the resource. [... they are] supplementing, not supplanting, the goods and services that local government traditionally provides' (2011: 108-109). They are dependent on and sustained by local government support, in a symbiotic rather than an oppositional relationship. Most importantly, 'none of these collectivities hold any alienable title or property interest in the resource' (Foster, 2011: 58). Foster nonetheless categorises the parks managed through public/private partnerships as 'collectively shared urban resources - what I call "urban commons"' (ibid). It is not the ownership that is held in common here, but the rights of use and access, and management of the space through negotiation with the municipality which owns it.

The 'essentially contested' concept of power (Lukes, 2005: 137) is absent from much of the literature on public/private partnerships. We have found the analytical framework for understanding 'spaces for engagement' proposed by Gaventa and Pettit (2011) to be useful. Their first category is *claimed* space, akin to the more radical forms of commoning, where rights are asserted against the owner; the second category is *invited* engagement, where the body or organization who owns or created that space allows others to participate and sets the terms for that participation; and the third category is *closed* spaces of engagement, where only the elite may make decisions. We suggest that the most usual form of contemporary parks as 'urban commons' is an invited space of engagement; the local authority remains in ownership and control, but welcomes and sustains the contribution of local communities.

Context: Sheffield and Heeley

We now turn to setting the context for discussion of Heeley Development Trust in Sheffield, which is a post-industrial city with half a million inhabitants in the north of England. Sheffield, well-endowed with eighty parks and 650 other green and open spaces,¹ is 'the greenest city in England, with an estimated 2 million trees and is the only core city to include part of a national park, the Peak District, within its boundaries' (Sport Industry Research Centre, 2014:4). Sheffield is a divided city – there are large differences between the more deprived areas in the north and east of the city, and the very affluent south-west suburbs.

Heeley is an inner city community of about 4,500 residents situated a mile to the south of the centre of Sheffield. Heeley has a particular character due to its mixture of dense, Victorian terrace housing, some large detached houses, ageing council housing stock, redundant industrial buildings. It has a diverse, multi-racial population which for a long time has included some 'alternative' middle class households. Deprivation levels in Heeley are similar to the Sheffield average, except for significantly higher levels of crime and significantly lower secondary school attendance rate. The population aged between 25-44 years is much higher in Heeley (37.0%) than in Sheffield as a whole (27.9%).² There are signs now of the kind of shops and cafes attractive to 'young urban creatives' appearing along Chesterfield Road at the bottom of the River Sheaf valley.

Following wartime bomb damage and then slum clearance in the 1960s, a large swathe of land in Heeley on the hillside above and to the east of the River Sheaf was left as waste ground. In the 1970s Sheffield City Council, the local authority which owned the land, published its plans to route the Sheffield South Relief road across it. This route would have torn the community in two, and was fiercely opposed by well-organised local residents. As a result of this opposition the road was never constructed, and in 1981 the local authority leased 2 hectares of the derelict land to Heeley City Farm, still today a thriving and popular local resource. The other 3.5 hectares remained as waste ground, accurately described as a 'bramble covered taxi rank which had begun

¹ <https://www.sheffield.gov.uk/out--about/parks-woodlands--countryside/parks.html>

² *Sheffield Health and Well-being Profiles 2012, for Heeley Neighbourhood*. Available at: <http://www.sheffield.gov.uk/profile>

collapsing in on itself, with pockets of wildly overgrown, debris-filled wasteland crumbling inside the remains of post-war terraced cellars'.³

The establishment in 1993 of the Millennium Commission, which offered National Lottery funding to community projects designed to celebrate the turn of the Millennium, provided the catalyst for local people in Heeley to try again to develop this remaining wasteland as a park. The bid was unsuccessful, but momentum had grown through communal endeavour, organisation and community consultation. A formal corporate entity, the Heeley Development Trust, was formed in 1996. Its aims were 'to create and manage Heeley Millennium Park'; to 'promote education, training and learning, particularly in skills relevant to securing employment'; and 'to promote other charitable purposes for public benefit'. In 1997 HDT took a 125 year lease of the land from the local authority.

This was not a public-private partnership, but the assumption of ownership and management of open space by a community organisation. It originated not as a request to share democratic management, but in a challenge to democratically-based decision making back in the late 1970s when the Sheffield South Relief road was proposed by the local authority. This initial act of commoning was followed by two years of fund-raising, when over half a million pounds was raised to make the land safe for public use. Now known as Heeley Millennium Park, the area was landscaped and planted; traditional play equipment and the first open access climbing boulder in the city were installed. In 2010 HDT was awarded one of nine national Big Lottery Community Spaces Flagship grants: £450,000 of funding to further improve the facility and its landscaping and to explore new ways of the park generating income for its longer term maintenance. This enabled HDT to create a BMX track, mountain bike and nature trails, a community orchard, multi-use-games-area and an amphitheatre. The original play equipment was improved, and a second climbing boulder was installed. A large wooden sculpture, the Crow's Nest, was commissioned which offers a view beyond the buildings and smoke of the city to the hills of the Peak District beyond.

HDT did acquire property assets other than the land from which the park was created. In 2001 Heeley Parish Church provided HDT with a nil cost 25 year lease of the Heeley Institute (a former Methodist chapel converted into a small community venue). The Institute hosts or delivers community services and facilities such as adult education workshops and evening classes, public meetings, training (such as Asian Women's Sewing), recreational activities (such as Tai Chi, yoga, martial arts etc), creche and small performances/events. Demand for the facility far exceeds capacity and HDT regularly has to turn down bookings or refer hirers to other locations. The HDT bought Ash Tree Yard, where its HQ and Recycle Bikes are housed, and outdoor performances can be staged. Next, the former Anns Grove primary school was leased by HDT from the local authority. This is a large Victorian school premises which the HDT has converted into managed workspaces called SUM Studios. The conversion of the first of the three buildings on the Anns Grove site attracted 8 prizes at the 2015 Yorkshire awards for the Royal Institute of British Architects, including the sustainability award⁴. The studios were 100% let within 2 years of completion, and receive frequent enquiries, this in a city with an abundant supply of studio and office space.

³ <http://heeleepark.org/history/>

⁴ <https://www.architecture.com/StirlingPrize/Awards2015/Yorkshire/SumStudios.aspx>

HDT's activities now extend to city-wide learning programmes. The Trust manages Heeley's IT Learning Suite and UK Online Centre and also coordinates a local UK Online Consortium, delivering learning and digital inclusion across Heeley and the Sheaf Valley. HDT's specialist cycling expertise and knowledge combines both income-generating opportunities with valuable social benefits to support key disadvantaged young people and stimulate activities and promoting healthy activity. ReCycle Bikes – a social enterprise fully owned and managed by HDT (but not separately legally constituted) works with excluded and disadvantaged 14-16 year olds from across Heeley, delivering work experience, training and re-engagement in education. The Trust organises community events including the annual Heeley Festival and summer music events in the park which are very popular. It provides support and advice to other Heeley-based community organisations. HDT publishes *Heeley Voice* – a community magazine written by and for the local Heeley community; this and its Facebook page are the main ways that the Trust communicates its plans and activities.

HDT's main USP is its long-established role as a catalyst and coordinator of community-led regeneration that is highly valued both by the local community and by key partners/stakeholders including the local authority. Its core focus remains the park, formerly known as Heeley Millennium Park and now re-named as Heeley People's Park.

What is distinctive about HDT?

The creation of the park, and indeed Heeley City Farm before it, are testament to the power of organized local collective action. These were *claimed* rather than *invited* spaces of engagement (to use Gaventa and Pettit's (2011) terminology). Foster's (2011) account of how community gardeners in New York took over abandoned land and asserted their rights against the city government who wanted to auction off the land to private developers, has parallels with the starting point of transforming the derelict land in Heeley, Sheffield. However, in New York hundreds of the gardens (but sadly not all) were saved at the last minute by a land conservation organisation which purchased the land from the city. A collection of individuals cannot purchase or hold the title to land. Therefore the community in Heeley organised itself into a legal entity, the HDT, and persuaded the local authority to grant it a 125 year lease of the land that became the park. The concept of social capital has been used to explain how urban 'neighbourhoods and communities ... come to manage themselves via networks of interested individuals who build and strengthen working relationships over time through trust and voluntary cooperation' (Foster, 2006: 530-531). The key phrase we want to concentrate on here is 'over time'; how can commoning and collective governance be sustained in the long term?

Ostrom (e.g. 1990; 2005) has distilled from painstaking empirical research some of the essential ingredients for success in the longterm management of common pool resources. It's important to exercise caution in directly applying Ostrom's principles because most parks are not a resource to be exploited and enjoyed only by a closed membership; usually there is no need or wish to exclude people from a park (subject to them complying with rules of conduct acceptable to that locality). However, with that caveat, Ostrom's principles do strongly suggest how best to sustain the activity of

commoning. Scale and size are important: the most successful self-managing groups are relatively small, members engage in face-to-face communication, and thus trust and reciprocity are developed and sustained. Two of Ostrom's most important principles are that the governance structure should be a good 'fit' with the resource, and that decisions about its maintenance and future should be made collectively in a way that allows those participating in the resource to contribute to the decisions. Consideration of these themes runs through the second half of this paper.

HDT is not a 'Friends of X park' group. It created the park, rather than contributing to the management of an already existing local authority park. HDT holds long leasehold title to the park, and as the owner could regulate access to the park should it choose to do so; it organizes events and enters into agreements about those events, takes health and safety responsibilities for park users, etc. In broad terms, HDT takes policy decisions about the park. It provides the park and its services to the locality, acting independently rather than as a subcontractor of the local authority. Without HDT, there would be no park. But is this 'privatisation' of once public land, or creation of a common resource? Is the park in common ownership? The answers to these questions lie partly in the way that HDT is legally constituted.

HDT exemplifies the difficulty of finding an appropriate legal structure for common or public property, under English law. HDT is both a company limited by guarantee (in other words, not for profit) and a charitable trust. The company directors are also trustees of the charity. In all the company documents dating from HDT's incorporation in December 1996, the Trust is referred to as 'the charity', although it was not in fact registered as a charity until January 1998. Its charitable purposes echo exactly the company's objects, set out earlier. The original subscribers to the company's Memorandum of Association were the headteachers of the two local primary schools, a youth worker and a development officer from the local authority, the owner of a local business, and other local residents. The list of those who witnessed the signatures of the subscribers includes representatives of the local Youth Centre, Heeley City Farm, and the local Residents and Tenants Association. In the almost twenty years since then, some new trustees/directors have been appointed although some remain. The trend has been towards a more 'professional' board, albeit all directors have strong connections with Heeley even if not resident there.

A final point on HDT is the choice of its name. Community development trusts flourished in the 1990s-2000s, with access to devolved funding from central government to regenerate deprived areas. Their core identity was asset-based area regeneration and development. The Development Trust Association was founded in 1993, with the aim of setting up and supporting community ownership of assets such as land and buildings⁵. It merged in 2010 with the British Association of Settlements and Social Action Centres, a movement that began in the 1880s in response to poor urban conditions created by industrial society. Under the banner of 'Locality', the new joint organisation includes nearly 500 members; numbers are reducing as funds dwindle for community organizations, forcing some to close. HDT is a very unusual development trust because its sole initial property was the 3.5 hectares of waste ground destined to

⁵ see <http://locality.org.uk/about/history/#sthash.CjwkwL3y.dpuf>

become Heeley Millennium Park. The opposite of an asset, this was land intended to be accessible and enjoyed by the public which would first need developing and then longterm maintenance as a park.

'Re-commoning' through Subscription Societies, then and now

Since the Big Lottery funding ended, HDT has successfully continued to run its range of activities and maintain the park. However, an annual staffing and maintenance cost of around £45,000 must be found, which does not attract any local authority funding. Piecing together short-term funds from a patchwork of sources has become unsustainable in terms of the time and effort involved.

The Trust's strategy of building an asset base to cover the costs of maintaining the park started well with the construction of Sum Studios, but a 2012 bid to the Heritage Lottery Fund to cover the conversion of the remaining two buildings into workspace, artists' studios, community facilities (crèche, café) and Trust HQ was not funded; no awards from this scheme were made in Sheffield at all. As the asset-strategy has been significantly delayed, the Trust needed to pursue other options to maintain the park. The Manager proposed a scheme that would also help to increase local engagement in the park and its future. The idea was to solicit membership of the park among local householders; as around 4.500 households fall within the geographical remit of the Trust, the cost of park maintenance approximates to £10 per household annually. Concurrent aims were to generate wider local recognition of the Trust's role in maintaining the park, and to be able to demonstrate to funders a degree of local 'buy-in' to the park (and hence to the Trust itself), thus increasing the success rate of future funding bids.

This innovative approach has attracted interest and funding from the *Rethinking Parks* programme run by Nesta.⁶ The idea of a Subscription Society to support the park is not new. A historical parallel is seen in Sheffield's Botanical Gardens, which are situated in a considerably wealthier part of the city than Heeley. The story of the Gardens began as a private Subscription Society launched by the Master Cutler in the 1830s. The impetus came from local residents concerned about the lack of public open space in Sheffield. Rather like Heeley Development Trust one hundred and fifty years later, the intention was to promote both healthy recreation and self-education; 'by 1834 the Society had raised £7,500 through shares, and, having taken practical advice from Joseph Paxton of Chatsworth and Joseph Harrison of Wortley Hall, they purchased 18 acres of south facing farmland from the Wilson family, the snuff makers.'⁷ Unlike the park in Heeley, the Botanical Gardens were fenced, so admission could be restricted to subscribers; they 'were only open to the general public on about 4 Gala days per year'.⁸ The Gardens have a grand entrance, wonderful Victorian glass houses, and are laid out in a formal style.

⁶ Nesta was established in 1998 as the 'National Endowment for Science, Technology and the Arts' by an Act of Parliament. It was converted in 2010 from an executive non-departmental public body to an independent charity funding innovative ideas and practices.

⁷ <http://www.sbg.org.uk/history-1/> (Accessed 18.10.15)

⁸ <http://sbg.org.uk/history.asp> (accessed 24.10.15)

The saga of the various public/private partnerships involved in the Botanical Gardens over time illustrates the financial difficulties in providing and maintaining urban open space. The first Subscription Society failed financially after ten years, but was replaced by another one. This second Society also solicited shareholders and raised enough money to develop the Gardens, which became internationally renowned. However, by the end of the century money had run out again. The Gardens also faced competition from the new free parks now provided by the local authority. The Society asset-stripped the Gardens, selling off prized plant collections to raise funds, and considered selling the land. A large local charity, the Sheffield Town Trust, paid off the Society's shareholders and ran the Gardens from 1897. From now on the Gardens were finally opened to the public, but could hardly be considered 'commons'. The Gardens were the private property of the Town Trust and according to Gaventa's categorisation were a closed space of engagement, with an elite making decisions about governance and future directions.

This regime lasted for fifty years, until in 1951 the Town Trust leased the rundown Botanical Gardens to the local authority for a peppercorn rent. The Gardens, now in 'public' ownership, were renovated with the help of special post-war restoration funds, but ongoing maintenance proved impossible to fund. The Friends of the Botanical Gardens group was formed in 1984, but their efforts could not reverse the neglect of the Gardens, which were closed in the late 1980's. The substantial investment required for their repair, restoration and regeneration was far beyond the means of the local authority. The Heritage Lottery Fund came to the rescue. A successful bid was submitted in 1996 by the newly formed Sheffield Botanical Gardens Trust, in partnership with the Sheffield Town Trust, the local authority, and the Landscape Department at Sheffield University. The Botanical Gardens' major restoration programme was completed in 2007. Still owned by the local authority, the Gardens are now run in a typical public/private partnership.

The varied fortunes of the Botanical Gardens since 1830 indicate that a Subscription Society may have some drawbacks in a city of uneven fortunes. There are recent parallels with HDT: both Trusts were formed in 1996, and both have received Lottery funding to restore urban green space for public enjoyment. The Botanical Gardens originated in a nineteenth century Subscription Society, and the HDT has now revived the idea of a Subscription Society to support a park owned in trust for local residents in the twenty-first century. This now seems a revolutionary idea and Heeley appears to be the only such project in the UK. The Subscription Society, arguably an exclusive, privatised model for citizenship, is nevertheless intended to engage a more participative and inclusive form of local governance, a new form of collaborative democracy for Heeley's park.

Issues of 'ownership', democracy, identity and trust

Funding from Nesta enabled HDT to commission a PR campaign from a tenant in SUM Studios, 'one of Sheffield's cooler design and branding companies'⁹ to support the plan for a Subscription Society. Their advice was to 'step away from the past and rebrand'.

⁹ <http://www.nesta.org.uk/blog/peoples-progress>

Heeley Millennium Park was re-named as Heeley People's Park. The PR campaign describes the park and encourages people to sign up to the Subscription Society using the following text:

This land is ours

Heeley People's Park belongs to the community – paid for and owned by the people and businesses that love it. The more we give, the more we all get – new play equipment, new space, more trees, more events, more to love and play with and relax in. Whatever that park means to you, your help will mean everything to us, and makes the difference between us keeping it, improving it and losing it forever.¹⁰

This wording begs some questions:

- who really owns the park?
- in what way can it be described as 'ours'?
- what does it mean to say that we have paid for it?

There was a disappointing response to the launch of the Heeley People's Park subscription society at Heeley Festival in June 2015. Festival-goers there and at two further festivals during the summer of 2015 were happy to make one-off donations by text message and in cash, but very few people have subscribed online. It seems that most people are not particularly interested in who owns the park, or what it's called, and are unwilling to commit to a regular payment to support it. One identified problem is that 'people are mistrusting of digital giving and social media campaigns, they want a form to fill in'.¹¹ In other words, the technology associated with the subscription website is in itself a barrier. A more entrenched issue is that it is very hard to get across the message that the Heeley park is different from other urban parks in Sheffield, which are owned by the local authority. People understand that these parks are paid for from the council tax and are therefore 'free'. Do the users of Heeley park experience a more immediate relationship with it, than they would with parks which are run by the local authority and paid for by local council taxes?

Empirical work is needed to explore these issues but a possible further problem is that there is little information available about HDT, its history, about what relationship subscribers will have with the Trust and whether subscription will bring an increased sense of ownership of the park. It is surprisingly difficult to find out (through extensive online searches, for example) exactly what the Trust does and who runs it, apart from the fact that it is a company limited by guarantee and a charity. The concept of a company not run for profit is difficult to understand, while 'charity' implies do-gooding from above. Also, charities have had a bad press in England in 2015 because of financial mismanagement scandals and the practice of some charities in ambushing people for financial contributions has been widely criticized. The term 'trust' may itself be a further barrier, as trusts are often associated with wealthy people's tax avoidance schemes. These terminological issues go some way to explaining the difficulty of

¹⁰ www.heeleypeoplespark.org/

¹¹ <http://www.nesta.org.uk/blog/peoples-progress>

persuading local people to trust the Trust, feel part of it, and sign up to its subscription society.

In a sense, HDT may have become the victim of its own success. After the initial act of commoning, local people have seen the park develop over 15 years into the exciting and well-run resource that it is today. They use and appreciate the park's facilities, and thousands more enjoy the events organized by HDT at the park. Local residents respond to calls for involvement when new trees, shrubs, plants and bulbs have to be planted, and there is a growing band of committed volunteers who help to maintain the park. But HDT has moved on from its 'commoning' origins, and some of the people involved at that time have since moved on from the Trust. However, those origins could be used as a powerful reminder of why the park can be described as 'ours'.

Commoning as an activity is often associated with either protest movements such as Occupy, or groups dedicated to providing an alternative resource (for example the social movement centres discussed by Hodgkinson and Chatterton, 2006) or with groups engaged in reclaiming land for a particular purpose in which they are all directly involved (for example guerilla gardening; see Blomley, 2004). HDT's current organization and activities perhaps fits into the second of these, but Ostrom's understanding of the importance of scale is also directly relevant to HDT. Has the Trust become just too big, distant and formal for subscribers to participate in any meaningful way in decision-making about the park? It is hard to work out how HDT can make itself accountable to subscribers or users. In Gaventa's terms, it seems that the Trust is now inviting others to participate on its own terms, demonstrating the change over time from the park as a claimed space of engagement to an invited space of engagement.

Questions for a future research agenda

We have suggested a range of issues about commoning, re-commoning and the commons property which we want to pursue in relation to HDT and Heeley People's Park. In particular:

- Should a People's Park maintained by subscription be categorized as an urban commons, common land or public land?
- Is the subscription society a new form of commoning of urban space?
- How can commoning and collective governance be sustained in the long term?
- Does the legal form adopted by the owner (HDT) matter, in terms of the relationship with park users and their sense of ownership of that land?
- What governance structures and processes might prove successful in liberating urban green space from unstable sources of funding?

References

- Blomley, N. (2004) 'Un-real estate: proprietary space and public gardening', *Antipode* 36: 4, 614-641.
- Bollier, D. (2014) *Think Like a Commoner: A Short Introduction to the Life of the Commons* (Gabriola Island, BC, Canada, New Society Publishers).
- Borch, C. and Kornberger, M. (eds) (2015) *Urban Commons: Rethinking the City* (London: Routledge).
- Brain, D. (1997) 'From public housing to private communities: the discipline of design and the materialisation of the public/private distinction in the built environment', in Weintraub, J., and Kumar, K. (eds) *Public and Private in Thought and Practice: Perspective on a Grand Dichotomy*, pp. 237-267. University of Chicago Press: Chicago.
- Clarke, A. (1997) 'Property Law: Re-establishing Diversity', in *Current Legal Problems* (Oxford, Oxford University Press).
- Fennell, L. A. (2011) 'Ostrom's law: Property rights in the commons', *International Journal of the Commons*, 5(1), 9-27.
- Foster, S. (2011) 'Collective Action and the Urban Commons', 87 *Notre Dame Law Review*, 57.
- Gaventa, J. and Pettit, J. (2011) 'A response to 'Powercube: understanding power for social change', *Journal of Political Power*, 4:2, 309-316.
- Hardin, G. (1968) 'The Tragedy of the Commons', 162 *Science* 124.
- Harvey, D. (2008) 'The right to the city', *New Left Review* 53, 23-40.
- Heritage Lottery Fund (2014) *State of UK Public Parks: Renaissance or Risk?* (London, Heritage Lottery Fund).
- Hodkinson S. and Chatterton P. (2006) 'Autonomy in the city? Reflections on the social centres movement in the UK', *City* 10, 305-15.
- Lefebvre H. (1996) *Writings on Cities*, edited and translated by E. Kofman and E. Lebas (Oxford. Blackwell) [first published in French, 1968].
- Linebaugh, P. (20019) *The Magna Carta Manifesto: Liberties and Commons for All* (Oakland, CA, University of California Press).
- Lukes, Stephen (2005) *Power: A Radical View* (London, Macmillan) [first edition published 1974].
- Mitchell, D. (2003) *The Right to the City* (New York, NY, Guilford Press).
- Ostrom, E. (1990) *Governing the Commons: The Evolution of Institutions for Collective Action* (Princeton, Princeton University Press).
- Ostrom, E. (2005) *Understanding Institutional Diversity* (Oxford, Oxford University Press).
- Rose, C. (2011) 'Ostrom and the lawyers: the impact of Governing the Commons on the American legal academy', *International Journal of the Commons*, 5:1, 28.
- Sport Industry Research Centre (2014) *Valuing the contribution of the outdoor economy in Sheffield* (Sheffield: Sheffield Hallam University).