

NEW FOREST NOTES DECEMBER 2005

Parish Council's Lyndhurst Bypass

Lyndhurst Parish Council is, once again, seeking to revive the scheme for an outer Lyndhurst Bypass which was rejected by the Forest and by Parliament in the 1980s. Details of the scheme were shown to the Verderers in a highly polished presentation in November. So far as I can see, the plans are virtually unaltered from those rejected last time, except for a short length underground adjoining the cemetery. For those unfamiliar with the area, any outer bypass of the village must, like this scheme, have a devastating effect on the New Forest. There will be the same deep intrusion into a quiet and beautiful area of the Forest on the edge of Rushpole Wood, the same severance, the same noise, the same loss of land and habitat and the same interference with commoning. As to the ecological importance of the area, the Verderers were assured that they do not need to worry too much. The council's expert informed them that the area is relatively uninteresting from this point of view and that the loss of heathland, while regrettable, should not be regarded as an insuperable obstacle. After all he said, "there is a lot of it" in the New Forest. Ecology is not my subject, but these claims are the antithesis of all the evidence given by English Nature and the conservation bodies before the parliamentary select committees last time and the planning enquiries before that. Moreover, the "lot of it about" has been the war cry of every developer who has sought to despoil part of the New Forest in the last half century. In short, the route is just as objectionable as it was twenty years ago and if the County Council is foolish enough to try again for this line, it has to be fought just as hard as before.

The Parish Council's strategy seems to be to build up a momentum for its plans which, given the traditionally sluggish response of Forest interests, might sweep all before it. That is undoubtedly a very shrewd course to adopt, although I am not sure that in the long run it will succeed. The Forest may be a slow starter, but when facing a really serious threat such as this, it usually responds well in the end.

As to timing, the Parish Council's push is faultless. It has rightly divined that the Forest's protection is now at a very low ebb. The presentation to the Verderers correctly emphasised how much the pressure on the Forest will intensify as a result of the designation of the National Park and how many more visitors will flood in as a consequence. Moreover, if the Council can (as it is attempting to do) secure the backing of the Park Authority in its assault on the Forest, that will be an immensely powerful weapon against the conservation, landscape and commoning interests and against a weakened Verderers' Court. Could a planning inspector or even Parliament itself stand against a National Park decision that the Forest must be sacrificed for the convenience of motorists and of Lyndhurst? The Council was at pains to argue (with what validity I do not know) that the Forest should hope for no help from Europe because international conservation designations may be set aside in cases such as this.

To the suggestion that the Council might consider an inner bypass route, damaging but not devastating to the Forest, such as had been offered in the 1980s, the answer was a determined “no”. No route which causes inconvenience to Lyndhurst or severs any part of it from the remainder (except such as the Council itself deems necessary as at Beaulieu Road and Clayhill) could possibly be considered. The Forest must be moulded absolutely and with no compromise to the will of Lyndhurst’s council.

In one respect only did the Council’s performance fall short of a highly impressive and professional piece of marketing: it seemed totally confused about the legal basis for its cherished project. Despite the exhaustive examination of these aspects of the matter twenty years ago, enquiries as to how the necessary legislation would be fitted into the revived project met a blank response beyond an assertion that the Councillors were not legal experts. That is surprising, because of course, nobody is going to build a bypass through the New Forest without an Act of Parliament and compared to that obstacle, the planning, engineering and financial difficulties are as nothing. It is certainly possible to build roads in the Forest (with the consent of the Verderers or their demolition by an arbitrator), without an Act, but such a road cannot be fenced. An unfenced bypass would become a linear slaughter house bounding the Forest’s capital and hardly a good advertisement for the highway authority. In the 1980s, Hampshire County Council knew perfectly well that legislation would be necessary, firstly to beat the Verderers and the Forest into submission and secondly to fence the road, but it miscalculated very badly.

It may be that in the intervening years, parliamentary time has become more freely available for consideration of hotly-contested private bills and that, given the Forest’s weakened state, it is worth another immense gamble with council taxpayer’s money, but it will be a brave council that goes down that uncertain road again. As to the confusing public statements in which the National Park has maintained that it may acquire land compulsorily for a road, yet is unlikely to do so, I think the Parish Council might be ill-advised to place much reliance upon them. The Park could (although it is as yet uncertain if it will) throw its large political weight in support of the road scheme and against the Forest, but that is as far as it goes.

Minstead Manor

It is sometimes surprising how little of the New Forest and its management is understood by people who live here. One still meets people who believe that the ponies are wild and ownerless or that the Verderers’ Court is something to do with ancient laws regulating hunting, and all this is despite the huge efforts at education by the Forestry Commission, Verderers, District Council and others. The most probable explanation is that many people are simply not interested. You can’t force people to learn or to appreciate the Forest. However, there are occasional aspects of the Forest’s management which are admittedly confusing – even for the most diligent student. One of these was the subject of a recent announcement by the Official Verderer to the effect that, from the beginning of next

month, marking fees will be collected in respect of Minstead Manor livestock which wanders onto the Crown lands of the Forest.

In the New Forest, the Verderers pay a team of men called agisters to look after the welfare of grazing stock. This team destroys animals badly injured in the many road accidents, makes sure that weak or otherwise unacceptable animals are removed to their owners' holdings, carries out round-ups, and generally ensures the efficient regulation of the agricultural use of the Forest. Their wages are largely financed by "marking fees". These are payments made in respect of every animal in the Forest by the owners. The collection of marking fees and the enforcement of welfare and health standards is provided for by byelaws made from time to time by the Verderers.

In the middle of the Forest at Minstead is a little patch of common (about 200 acres in all) which does not fall within the jurisdiction of the Verderers and on which various people claim the right to turn out animals. In fact nearly all of them choose to abide by the byelaws, to pay marking fees and to collect the valuable subsidies administered by the Verderers. The Official Verderer announced in November that of the eighteen people turning out animals at Minstead Manor, fifteen are complying with the byelaw requirements. Three are not and, so long as their animals remain on the Minstead common, they are not obliged to pay marking fees and their stock is not required to conform to the health and welfare requirements of the byelaws. For this reason, if problems arise with animals at Minstead they have to be referred to the RSPCA or to DEFRA rather than to the Court. Of course an animal in dreadful agony after a road accident would always be attended by an agister, irrespective of the origin of the animal or whether or not it is on Minstead common.

The history of Minstead Manor and its status within the Forest is interesting and a bit complicated, but quite irrelevant to present-day questions of management. It is sufficient to note that the common does not belong to the Crown and as a consequence the byelaws do not apply there.

The three people who do not pay marking fees are perfectly within their rights so long as the animals remain within Minstead village or on the small area of Minstead Manor Waste, but since the common is at its widest no more than 600 metres across, the animals inevitably wander into the Crown lands of the Forest, often for considerable distances. Back in 1980, it was decided by the High Court that as soon as the animals cross the boundary (unfenced and undefined) into the Forest, they become subject to the Verderers' Byelaws, including that byelaw which requires the payment of marking fees. However, an error in drafting a revision of the byelaws about that time rendered them ineffective so far as animals wandering from Minstead Manor were concerned. That error was quickly corrected in a later revision. In October this year, the Official Verderer announced the Court's intention to collect fees in respect of all animals which cross the boundary from Minstead Manor onto the Crown lands. It follows from this that alleged breaches of the byelaw would, in accordance with standard practice, be reported to the Court by the agisters so that the possibility of prosecution could then be considered.

Temporary peace

There has been a lot of complaint recently about the closure of the A35 road for repairs at Holmsley. Perhaps by the time these notes appear the road will have been restored to its usual bedlam, but for a few blessed weeks it has been possible to experience parts of the Forest as they must have been one hundred years ago. It has been wonderful to be able to walk along the valley of Ober Water in silence or, better still, to hear only the sound of running water. If it is still closed, the unique opportunity to experience this part of the Forest in perfect peace is certainly not something to be missed.

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