

NEW FOREST NOTES - JANUARY 2001

Fudging the National Park Question

The Forest starts 2001 with the prospect of the public enquiry into the imposition of a national park administration growing ever closer. Countryside Agency estimates are that the enquiry is likely to commence about the middle of 2002. After eighteen months of discussion so far, a few disputed areas are becoming a little clearer – the most important being the dispelling of the myth that a park would not affect the ability of the Verderers to protect the Forest. Park supporters continue to try obscuring this key flaw in the proposals by repeating that “the New Forest Acts will not change” and that “the Verderers’ powers will not be taken away”. Both statements are perfectly correct, but are repeated simply to conceal the truth, that the national park authority will simply bypass the Verderers and carry out whatever recreational development it thinks fit. The Court will be powerless to stop it. Car parks, camp sites, visitor centres, information points could all be constructed and there would be absolutely nothing the Verderers could do to stop them. This certainly seems like a paradox. If the New Forest Acts “will not be changed”, how can the park do all these things ? The answer is simply that the New Forest Acts regulate the activities of the Forestry Commission – not those of the park authority. The Verderers can prevent the Forestry Commission from developing, but they have no power whatsoever to stop the park. This has now been acknowledged in writing by both the minister (Chris Mullin) and the Countryside Agency, although both express horrified disbelief that the park authority would do something so shocking as to exercise its normal statutory powers of development within the New Forest. Since every other park authority carries out recreational development (often on common land), it is difficult to see why the New Forest national park should be any different.

For those interested in the mechanism of these development powers (which would be used to evade the Verderers’ control), the process is remarkably simple. If the park authority wants part of the New Forest for a visitor centre, it has only to buy the land from the Forestry Commission subject to common rights. It extinguishes the rights (by compulsion if necessary) and carries out its desired project. The Verderers have absolutely no control. Now of course the Countryside Agency seeks to put the best gloss possible on this process. It points out, quite rightly, that compulsory powers are complex to use and politically unpopular. They are subject to numerous checks. They argue that there are all sorts of planning and conservation restrictions which would shackle the park’s ambitions, but such shackles have never stopped Forestry Commission projects, approved by the Verderers. Finally, they say that of course the park would not want to challenge the Verderers or damage the commoners’ interests.

All these arguments seeking to play down the park’s overwhelming powers are irrelevant. The simple fact is that in any irreconcilable clash over recreational development in the Forest, the

park will be able to ignore the Verderers. Providing for recreation (including development) is a secondary duty of park authorities which, in practice, almost invariably become a primary objective – contrary directions in the Acts notwithstanding. The protective shield of the Court will have become worthless, but of course “the New Forest Acts will remain in force” ! Moreover, anyone with experience of compulsory powers knows perfectly well that their use is extremely rare. The threat is almost always sufficient to secure capitulation. “You Verderers must agree to this visitor centre project or else” The language would be more diplomatic, but the effect would be the same.

For a long time, this looked like a cul-de-sac from which there was no escape short of a long fight through the public enquiry. That *may* still be the case, but now there does seem a possible way forward. The fact that neither the minister, nor the Countryside Agency, has rejected it out of hand is at least encouraging. This possible solution is to put the park authority into exactly the same position as the Forestry Commission or the highway authority over developing commonable land in the Forest. In other words, a two line clause inserted into an Agriculture Bill could be used to subject the park’s activities (other than planning) to the control of the Verderers. On private land the park could do as it pleased. It is a proposal which now has the support of the Verderers and the Official Verderer has written to the Countryside Agency advocating it. It is being studied by the Commons Defence as a possible way forward and it is to be considered by the New Forest Association this month. Its disadvantage is that it does not tackle the other damaging aspects of the park – intensified tourism, choking bureaucracy, party political control and council influence in favour of non-recreational development – but it is at least a chink of light.

The Forestry Commission & the Verderers

The Forestry Commission’s recent attempts to evade the Verderers’ jurisdiction in certain limited and well defined areas of management has produced a rather hysterical response in some quarters. The collapse of the Court under legal and financial pressures from the Commission has been portrayed as imminent. That, fortunately, is complete nonsense. The Commission’s probing of the defences is, unquestionably, reprehensible and indicative of a complete lack of sympathy with protecting the remaining wilderness quality of the Forest. Their slogan is “Forest First”, but their actions as demonstrated by such promotions as mountain biking and draghunting are the reverse of this. On the other hand, it is only in these fringe areas of the Court’s jurisdiction that there is any dispute at all. The Recreation Department, even in its most optimistic moments, has never challenged the Court’s immense powers of control over every form of physical development. Similarly, while the Forestry Commission is itself subject to intense financial constraints and is certainly not over-generous to the Court in the matter of subsidies, there has been no question of linkage between the Verderers’ acquiescence in some cherished recreational project and the issue of a fat grant cheque. There is no doubt that “independent”

financing of the Court is highly desirable, but I certainly don't think that the Commission can be entirely blamed for the Verderers' present money troubles.

There are two possible responses to the recreational and financial challenges which the Court now faces. The Verderers can go off into a corner and sulk, claiming that everything is the Deputy Surveyor's fault, or they can adopt a more level-headed approach. As to recreation, I believe that they should (as they are doing) explore the legal position as fully as possible, negotiate in a sensible manner with the Commission and only then, when all else has failed, raise enough money by appeal for a determined legal and public relations challenge. Then we would see just how important are these issues to the Forest societies and local people. They have not failed in similar situations in the past and I doubt if they would do so now.

Finance is certainly more difficult and really a matter for persons in positions of influence rather than for those of us who are the foot soldiers of the Forest. In the past it has been a task for Official Verderers, Members of Parliament, local peers and so on. One of the problems they may well face is that it could quite well suit the government to have a financially submissive Verderers' Court while it tries to impose a national park upon the Forest.

Animal Condition

This looks like being the most testing winter for years so far as the Forest's livestock is concerned. In the autumn, the ponies had never looked better, but by the beginning of December, they were starting to go to pieces in all parts of the Forest. The incessant rain, interspersed with occasional frosts constituted about as debilitating conditions as it is possible to imagine. Ponies can stand any amount of cold, but only so long as their backs are dry.

On top of all this, the state of the pony market has meant that far more foals have been retained on the mares than is desirable. It takes an exceptional mare to feed herself, a foal and an embryo inside her, in such appalling weather and without loss of condition herself. Unfortunately, many of our mares are not exceptional and the consequences are inevitable. The Verderers have issued repeated warnings to pony owners that stock falling off in condition must be removed at once. The agisters (depleted in number by injury at present) are going to be hard pressed supervising standards and assisting owners over the coming months. Conditions may already be bad at the beginning of the year, but experience shows that deterioration will continue until May (usually the worst month). It is going to be a long hard winter for all concerned.

Erosion restoration

One of the consequences of far too much recreational use of the New Forest is that growing areas are becoming physically worn out. Vegetation is killed off by pressure of feet and bike tyres on top of the more traditional uses of forestry vehicles and hoofs. As part of its work under the Life Projects, the Forestry Commission has large sums of money available for repair and the effects of this expenditure are now being seen in all parts of the Forest. It might be argued that it would have been a lot better to prevent the damage in the first place by rather more

vigorous controls, but that is not how the Commission sees it. Over the last couple of years there have been complaints about the appearance of the restoration work at Thompson's Castle, near Blissford and at Holmhill near Brockenhurst. The Commission's dilemma is that it must use hard materials and engineering techniques to counter the damage and that these inevitably look out of place in the Forest landscape. Worse still, they can actually encourage yet more damaging pressure by attracting people to use them. That may not have physical consequences (the newly laid gravel can stand the load), but it draws more and more disturbance into those parts of the Forest which are often least able to withstand it.

Matters have come to a head recently with the "repair" of the track from Hasley to Linwood in a remote and beautiful part of the Forest. It has always been a bad track, liable to break up in wet weather and the Commission's solution has been professional and thorough. It is also undoubtedly intrusive within the landscape and local people believe that it will exacerbate the already growing mountain bike trespass in the area. It must be said straight away that what the Commission has done so far (the work appears to have stopped following recent television coverage) was approved by the Verderers, so there is no question of the officers having exceeded their authority. On the other hand, it is now clear that all concerned will have to give a great deal more thought to such schemes in the future. It may be that leaving the erosion damage untreated may be the lesser of two evils in many cases, while in others a much more sympathetic design will be necessary. That will have to include more appropriately coloured gravel, the burying of timber track shuttering with soil externally, and a general reduction in the scale of the works. Not for the first time, Life money is proving something of a mixed blessing in the Forest.

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