

## **NEW FOREST NOTES JULY 2010**

### **The Forest boundary question**

Owners of property in the New Forest are, by and large, well aware of the rules when it comes to the fences on their boundaries against the Forest. You have to fence against the commoners' lawfully depastured stock or take the consequences, whether those consequences are damage to your property or a liability to compensate the commoner for injury to his stock through your failure to erect a proper fence. It is a rule which, with local variations, applies fairly generally on common land throughout the country, but it is sometimes hard for newcomers to understand. They may be used to the reverse applying, as it does in most other places, where it is normally the responsibility of a farmer to fence-in his own animals. If he fails to do so and his animals escape and damage adjoining property, he may be liable.

The situation on common land such as the New Forest is necessarily quite different because the commoner has neither power to erect fences on the common, nor the right to do any works to fences adjoining on private land, because that would be a trespass. It is one of those cases where the law and the practicalities of farming common land fit together perfectly.

On the whole the system works fairly well with the exception of those adjoining occupiers who don't mind if Forest stock gains access to their land. This usually arises in the case of developers or large estates holding banks of scrubland adjoining the Forest. The Verderers spend a lot of time pursuing such owners, even though the offenders know (or should know) that failure to fence can result in serious consequences. Many years ago a valuable stallion got through broken fences at Brockenhurst and drowned in a cesspool belonging to the landowner concerned. The Commoners Defence Association took up the case and won, recovering a substantial sum for the commoner.

Things become a little more difficult in the case of those rare animals which act outside the normal character of their species and persistently break through adequate fencing or regularly cross well-constructed and maintained cattle grids. In such cases the Verderers Court has power to order the removal of that animal from the Forest, but it is a power which is exercised very sparingly and with the onus firmly on the landowner to prove his allegations against the pony or cow.

The obvious first question is what constitutes an adequate boundary fence or hedge? In the past and in relation to fences, the Verderers had a simple answer to this: it is a fence which is constructed and maintained to meet the British Standard for farm stockproof fencing. In recent years, there have actually been few disputes, while British Standards are not easy for the average householder to obtain, and the system has tended to lapse. For practical purposes I suppose a stockproof fence may be described as stock netting with two lines of barbed wire above, all well strained and supported throughout its length. In the case of fencing directly against a highway, a higher standard incorporating plain wire may be required on public safety grounds.

The question of hedges is more difficult. Owners may believe that their hedges are thick and strong, but to cattle looking for fresh green shoots in Spring, they are a larder and a challenge which, if overcome, can give access to untold delights on the other side. In a Forest context, hedges without a wire fence on one side are seldom stockproof. How this problem was solved in the days before wire, I am uncertain. Probably regular hedge-laying, hardly practised anywhere in the Forest nowadays, was the rule.

### **The Park recreation plan**

Last month the post brought me the national park's absolutely final version of their recreation plan. It is sixty odd pages packed with superb colour photographs, but what plan these days is not? Its cover is dominated by a picture of two legs terminating in heavy walking shoes and almost crying out for a facetious sub-title "Putting the boot into the Forest". To be fair, however, many of the worst features of the early drafts have disappeared leaving a fairly bland document. It may do little good, but the harm it suggests is limited.

After all the shouting about this plan, I remain mystified as to why the Park has produced it at all. As I noted earlier this year, recreation management is the business of the Forestry Commission, regulated by the Verderers so far as the law allows. Both are legally required to have regard to national park purposes, but certainly not to this document – however beautifully illustrated. It cannot be repeated too often that the Park's role in managing the commonable lands of the New Forest is to regulate development (in the town planning sense) and nothing more. Thus it may judge the merits of a car park or lavatory block proposed by the Forestry Commission, but not initiate their building unless it is prepared to use compulsory powers against the Forest. There is no suggestion that it intends to do that. Still, I suppose we can take comfort that the plan will disappear onto the bookshelves and there moulder amongst a dozen or so disregarded predecessors, while the actual tasks of management go on as before.

### **Kingfishers in a sick stream**

The Forestry Commission has recently coined what I suppose it imagines is a winning catch-phrase – "the sick stream". It is designed to convince the public that the vast disruption and unbelievable expenditure on Forest streams is somehow a mercy mission designed to save them from terminal decline and pollution. It is, of course, nothing of the kind. Thousands of tons of clay and gravel are being poured into perfectly acceptable clean and beautiful watercourses because that is what extreme scientific conservation dictates. It is, perhaps, a strange world in which the government is compelled to make savings in every branch of public expenditure, while money, some of which presumably emanates from the European Union, continues to flood into these projects without stint. If there is any "sickness" involved, I think that is where it lies.

Nowhere is this waste of money more apparent than in Fletchers Thorns Inclosure. Here the "sick" stream or river course wends its way through beautiful oak woods, with overhanging trees (being felled), secret pools (being filled) and patches of sunlight illuminating a formerly quiet streamside path. It may be deeper and wider than the original

river of two hundred years back, but it is not sick as the publicity boards surrounding the engineering works claim.

I am no ornithologist, but like almost everyone else, I find the flash of a kingfisher crossing my path a quite heart-stopping event. It is something which is not very common in the Forest now. In my childhood I used to see them in Bignell Wood, going back and forth to the Cadnam River (on private land), but in recent years I cannot remember seeing kingfishers except in the banks of another sick stream which is on the Commission's hit list near Queen Meadow. Anyhow, just downstream from the engineering works on Fletchers Water there is (or was) a kingfisher's nest in a steep bank which is due for destruction as the present river is replaced with what is little more than a shallow ditch designed to promote flooding. The water passing beneath the nest was a horrid opaque brown liquid discharged from the works. Its appearance (if not consistency) exactly matched the filthy effluent from BP's Gulf of Mexico oil well which disfigures our television screens daily. The pathetic line of heather bales intended as a filter below the works was achieving little.

My complaints to Queen's House about all this fell on deaf ears. I was told that the engineering works would stop, temporarily, well short of the nest. I did not need to worry about the birds, because "there were plenty of fish in the river for the kingfishers to eat" and "if they don't like it, they will go elsewhere". How they are supposed to see fish in mud-saturated water or remove their eggs or chicks to safety from the conservation operations was not explained. I was also exhorted to consider the bigger picture and the need to accept short-term losses to obtain worthwhile gains - in other words, their idea of gains versus the kingfishers' losses. It is a rather unequal contest.

### **Death of a Forest pony**

There is a good deal of killing of ponies in the New Forest. It is an almost daily routine for the agisters who must deal with the aftermath of road accidents, but it is the more private and inevitable killing which has concerned me recently. Anyone who keeps horses over the long term has to face the fact that in a human lifetime they will probably have to witness the natural death or, more usually, killing of several valued and loved servants. It is not a pleasant business. In June I watched the destruction of a much-loved New Forest pony, a mare which had been at the centre of family life since her birth within yards of the kitchen window thirty four years ago. Her age was in itself an outstanding testimony to the toughness and durability of Forest ponies. She died with shoes still on her feet. She was a mare who had carried me twenty years ago (and even then I was no lightweight) into every corner of the Forest, twice across the length of Dorset, round Salisbury Plain and into the remotest uplands of Dartmoor and Exmoor. I have had other breeds, but nothing quite matches the stamina and nature of a good Forest pony.

I don't like the modern way of death for horses. Injections may seem clean and civilized, but the process can be protracted. In this case the vet struggled for what seemed like an eternity to gain access to a vein. She explained that this was because blood pressure was so low. In the old days, the late Forest vet John Broughton would produce his gun and

the whole process was over in seconds. The patient knew nothing. Still, as I contemplate a field empty for the first time in years, there is the interesting thought that we humans will not be permitted the mercy of either the bullet or injection in our last sufferings. Perhaps horses are better off after all.

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