

NEW FOREST NOTES NOVEMBER 2016

The Member of Parliament and the HLS Scheme

The complaint by Sir Desmond Swayne, Member of Parliament for New Forest West, that improper or even illegal expenditure of HLS money may have occurred, raises some complex questions. The HLS scheme is simply money supplied to the New Forest from EU funds to support a variety of projects and salaries related to the common land of the Forest. The money is channelled through Natural England to the Verderers' Court under a contract signed in the early part of 2010. It amounts to not far short of two million pounds a year for ten years. From the Verderers the money is distributed to the Forestry Commission and the National Park, while the Court retains part of the funds for its own purposes, particularly headage payments for animals turned out to graze. Which schemes will be financed is decided by a "board" comprising the Official Verderer, the Deputy Surveyor (Forestry Commission) and a representative of the National Park. The board is advised by other relevant bodies. Natural England oversees the expenditure and can secure inspections of the process, undertaken by the Rural Payments Agency. Such an inspection has been carried out, resulting in the scheme being given a clean bill of financial health. So far there is not much in this that seems controversial.

Sir Desmond's concerns appear to centre on the rather obscure rules which, under EU regulations, prohibit "more than one source of funding for the same activity". In other words, if the Forestry Commission had a statutory duty to run toadstool farms in the New Forest and expended public money in carrying out that duty, it would not be entitled to receive money out of HLS funds to assist with that farming. If the Verderers HLS scheme had supported the toadstool operations, both the Court and the Forestry Commission would appear to be in breach of the EU regulations. The Verderers would also be in breach of their contract with Natural England, since the contract specifically prohibits double funding.

We are told that Natural England is entirely content with the way in which the scheme is being run, while the response of the relevant authorities to the MP's concerns seems to be that he is simply talking nonsense. Perhaps that will ultimately prove to be the case, but it seems to me that when a prominent member of the New Forest community, such as one of our two MPs, makes a serious complaint, it should certainly not be dismissed out of hand. Moreover, once the HLS scheme has been put on notice that its actions have been called in question by a responsible public figure, it would be most imprudent to proceed with the challenged expenditure until the air has been cleared by an impartial audit. In this respect Natural England could scarcely be regarded as impartial since it is the genius, evil or otherwise, behind the HLS scheme. The Verderers are, wisely, writing to Sir Desmond asking for details of in what way he feels that they and the other parties in the HLS scheme have offended.

It is reported that the MP is to (or already has) referred the matter to the National Audit Office. I have no idea of the scope of that body's responsibilities, but as EU money is involved, perhaps the

European Court of Auditors might be equally interested in the matter. Much of the money is being spent on stream filling projects where the principal objective is to disrupt the grazing improvement drainage carried out under the New Forest Act 1949. The Forestry Commission is, under section 11 of that Act, and subject to certain conditions, given the duty of "securing that the Forest will be properly drained". That provision of the Act was the great achievement of the Verderers' Court, the Commoners' Defence Association and other Forest societies as the original Bill was fought in Parliament. Not least it resulted from the work of our then MP, Colonel Crosthwaite Eyre. Over the years the Forestry Commission spent a great deal of public money complying with the dictates of the Act. Since it is now spending HLS money doing the exact opposite of what the Act required and destroying its earlier works, it is difficult to see how double funding arises so far. However, the argument of both Forestry Commission officers and Natural England has repeatedly been that EU regulations which impose conservation designations on the Forest are sufficient to repeal the requirements of a British Act of Parliament – namely Section 11 of the New Forest Act 1949. That somewhat repugnant idea has never been fully explained or justified in the Forest, but seems to have been widely, and perhaps too readily, accepted. If it is correct and if the Forestry Commission is right in its claims that it now has a legal duty to implement a reversal of the works done under the Act (with a consequent financial liability to achieve that reversal) the potential for there having been double funding, begins to seem more likely. If you are legally required to fill in streams, it follows that you, as a public body, must spend public money doing your duty. If you then accept HLS money as well, one can begin to see what Sir Desmond is driving at. This seems to me to be a rather difficult area of law and regulations which could give the lawyers and accountants much to think about.

Perhaps a more straightforward issue is the question of stock subsidies. The Rural Payments Agency pays subsidy on most stock turned out on the Forest. I take it that this is EU money originating from the Common Agricultural Policy. The stupid basis on which it is calculated is placing intolerable strains upon the Forest. The more animals you turn out the more money you get, but nominally at least it is supposed to be "helping" with the farming of the common land. This is known as the Single Payment scheme and beside it the Verderers' HLS subsidies have rightly been described as "peanuts". The significance of the Verderers' subsidies is that they also are from EU (HLS) funds and have the same objective. To my knowledge, this has never been challenged on the grounds of double funding, but Sir Desmond's complaints seem to have many ramifications.

Verge protection

In the 1970s, under the leadership of the then Deputy Surveyor, Donn Small, the recommendations of the "New Forest Conservation Report" were implemented. That report had called for all car access to the Open Forest to be ended and for all future parking and camping to be confined to specific sites. This was achieved by the use of roadside ditching and groups of short posts known locally as "dragons' teeth". These physically prevented people from driving off the roads and over the heaths. At the same time numerous car parks and camp sites were built for the benefit of visitors to the Forest. In the few years the scheme took to complete, the Forest was transformed and the tide of erosion and disturbance was, for a time, forced into retreat. For reasons which were not

explained, a number of fairly small grassy areas in and around Forest villages were not included in this otherwise comprehensive protection operation. They are most numerous in the north of the Forest around Woodgreen and Bramshaw parish. Now, with the benefit of HLS money, the Forestry Commission is attempting to make good the earlier omissions under its "verge protection scheme". The intention of this work is admirable, but its implementation is falling short of this in a number of respects. First of all, the original Conservation Report recommendations were implemented in stages, with detailed hand-drawn maps made widely available for public consultations in advance of each stage. There has been no such provision for the verge protection works, although the Forestry Commission has discussed the plans with relevant parish councils. This means that the first some people have heard of the intended protection in their area is when the machines turn up and start work. Most of the objections at this stage are along the lines of; "I have always parked my cars on the Forest, rather than on my own land, so why should I be made to stop doing it now?" They are thus of a private and perhaps selfish nature, disregarding the greater good of the Forest as a whole, but there are cases where really valid reasons for objection arise. Such problems could have been avoided with 1970s style advance consultation.

The second problem is that the work is being undertaken in a piecemeal and haphazard manner. Disparate lines of posts may be put in and then many months elapse before they are joined up with ditches, so it is not obvious what the ultimate intention is. This is exactly what has happened at Woodgreen. If the job is to be done at all, a clear programme should be drawn up for continuous work from start to finish. The money is available, so there is really no justification for the delays.

Finally, the works themselves are badly designed in many places. The original 1970s dragons' teeth were used sparingly, with ditching always the preferred option. Dragons' teeth are ten times the cost of ditching and maintenance costs also are high. Of course ditching looks a mess for a few months, but it always grasses over within a year, and then it is much less visually intrusive than posts. It is much less vulnerable to damage and in my view much less dangerous to stock and to road users. If you hit a row of posts in a car, there is probably a £1000 bill as a result, while driving into a shallow ditch may require no more than someone to pull the car out. In the scheme so far, dragons' teeth have been widely used where ditching would have been perfectly good. Moreover, the original dragons' teeth were short, peeled and treated softwood, neatly arranged and with a life-span of up to twenty years. The Forestry Commission is now using unpeeled, untreated, small dimension chestnut poles, with a high percentage of sapwood. I doubt if many of them will be around in ten years and they are certainly not of a quality I would want to use in fencing on my own land. They are too tall and they have even been used where there was formerly ditching, which only needed freshening up after many years of good service. Such new ditch profiles as I have seen are quite wrong and entirely different from those used in the original Conservation Report works. Altogether the scheme needs something of a re-think, not only in its planning stages, but also in the design of the works.

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