

NEW FOREST NOTES SEPTEMBER 2012

Progress for the Friends of Latchmore

On 7th August the Friends of Latchmore announced that the Forestry Commission has conceded the need for a planning application for its proposed engineering works at Latchmore Brook. This is a major step forward for the campaign group which has been fighting over many months to protect the natural beauty and other qualities of the brook and its surroundings. It does not, of course, mean that planning permission will not in the end be forthcoming, but it will require the Forestry Commission to prepare a detailed case for the work, including much of the assessment which the Friends had been demanding and which the Commission has been refusing to supply. Queen's House is putting a brave face on this setback by saying, in effect, that it might as well apply for a permission (in this case only), which it does not necessarily need, because the work has in any event been delayed until next year by bad weather. In reality though, nobody would willingly undertake the considerable and costly work necessary for such an application, unless he had no option but to do so. Moreover, it would seem very odd for a planning authority to consider an application for permission where such permission is already deemed to be granted.

The question of planning in relation to the Commission's stream-filling and diversion projects raises a number of interesting questions - or opens a can of worms depending upon one's view of the points at issue. The Latchmore residents had been pursuing the line of seeking environmental assessments for the work, which the Forestry Commission had consistently refused to prepare, on the grounds that it was not obliged to do so. The legal questions, involving a threatened judicial review, had promised to become the subject of costly and time-consuming litigation. Then (and I have no idea how), someone hit on the very simple and straightforward idea that the Forestry Commission should have applied for planning permission and had failed to do so, despite work on tree felling having commenced. I remember some years ago asking the Commission's then ecologist why he did not seek planning permission for his engineering works of this nature. He replied that I did not need to worry myself about such matters because everything he was doing was covered by "permitted development rights" and thus escaped scrutiny by the planning authority. Being of a trusting and, it seems, too gullible, a nature, I took his words at face value and did not pursue the question. The lawyers for the Friends of Latchmore are clearly made of sterner stuff and challenged the Commission's claim to permitted development rights, forcing a climb-down. The Commission still maintains that it this is a grey area of law and it implies that it does not really need planning permission and is merely trying to be obliging.

I have read through the General Permitted Development Order (it is very long and tedious) and I can see no greyness from which the Commission can benefit. It is true that drainage authorities might just be able to get away with stream filling on a very loose interpretation of the law, but I don't think the Forestry Commission is a drainage authority.

The next question relates to how the planning application for the Latchmore works is to be considered. The planning authority is, of course, the New Forest national park, a body which has already announced its support for the scheme and is in a sense a party to the development through its membership of the New Forest HLS project. It may be legal for it to sit in judgement on the application, but it certainly outrages any sense of fairness. This is clearly a case which should be "called-in" by the

Secretary of State so that he may make the decision. That would involve the matter being put before an independent inspector who would consider all the arguments on both sides before making his report. Such called-in applications are quite rare but one of the instances in which they are recommended is where there is "substantial regional or national controversy". This is such a case. Another New Forest example was in the same district as Latchmore, when gravel companies applied to destroy much of Rockford Common many years ago.

The implications of the Latchmore planning application are far wider than the consequences for that one scheme alone. If planning permission is needed for engineering works there, it is needed for all other similar schemes. That means that the Commission has, arguably, acted improperly in respect of those works already undertaken and that public money has been expended on unauthorized development. The same applies to the development now taking place on the Lymington River north of Brockenhurst and will apply to that pending north of Beaulieu. Both will need planning applications and that will allow, in theory, a fair hearing for all parties unhappy with the way in which the Commission intends to operate. In the July Notes, I mentioned the failure of the Forestry Commission to prepare proper archaeological assessments of its engineering works and if planning applications are required in future, that will allow a public forum for challenges to such failures. To this end, the planning authority has already been asked to seek applications for the Brockenhurst and Beaulieu projects.

I cannot help thinking that if the Forestry Commission had been a bit less inflexible in its attitude to Latchmore and to the need for proper reports and assessments, everyone would have been saved a lot of trouble and time. Among officials there seems to have been an attitude that the Commission knows what is good for the Forest and that anyone who thinks otherwise is at best ignorant and more likely simply a trouble maker. In addition, this particular lot of locals needs to be brought to heel before anyone else gets ideas about protecting his bit of the Forest. My own assessment is that the Latchmore residents are sober, well-informed people with a deep love of the Forest. They deserve considerable credit for what they have achieved so far.

Changes at the Verderers' Court

The Verderers' Court goes through long periods of stability in its membership and then changes seem to come one after the other. This month the Court will welcome Mr. Barry Dowsett as the new Forestry Commission Verderer, succeeding Ralph Montagu. Next year we shall lose (under the Nolan Rules) the long-serving and much valued DEFRA Verderer, Pat Thorne. In between there is a Verderers' election at the end of November when two members of the Court – Dionis Macnair and Dave Readhead – reach the end of their terms. Both are eligible to stand for re-election, but we shall not know until much nearer the time whether there is to be a contest. In the meantime, the new electoral register is being prepared. All those whose names were on the old register will receive a form from the Verderers' clerk (via Electoral Reform Services) and they must return this by 7th September if they are to retain their right to vote in November. Anyone who is not registered already and who is entitled to vote, through the occupation of not less than one acre of land with common rights attached, needs to contact the Verderers office urgently – telephone number 02380 282052.

A forgotten anniversary

This autumn marks the fiftieth anniversary of events which had a profound effect on the New Forest and which probably saved the commoners from being forced out of existence. In a sense, one could say that a benign iron curtain came down around the Forest. On every road leading across the perambulation (boundary), cattle grids were to be installed to prevent ponies and cattle wandering out of the Forest into the surrounding villages and towns. Such “straying animals” caused fury among the new residents of such areas, who were unfamiliar with country life and who saw no reason why they should have to fence their gardens or shut gates. Ponies roamed unrestrained from Romsey to Christchurch and sometimes beyond. A sort of wild west situation then existed with groups of commoners carrying out raids into the suburban areas surrounding the Forest to recover their stock. I well remember running through the housing estates of Highcliffe in pursuit of a neighbour’s ponies, trying to dodge infuriated residents.

The local authorities operated “police pounds” within their areas, such as the notorious one in Brokenford Lane at Totton, to which animals were driven, followed by prosecution of their owners. Farmers and market gardeners impounded animals which damaged their crops and commoners could recover their stock only on payment of compensation and costs. Garden owners had no such redress – you can’t impound a herd of ponies in a garage, although I expect some were tempted to try it. Perhaps worse than the damage and anger it caused was the huge numbers of animals which were killed and injured on the roads outside the Forest. The trouble had been smoldering since the introduction of motor cars and by the 1960s, it was reaching crisis point. The Commoners Defence Association was working flat out defending its members in almost constant litigation.

In March 1962 the county council finally accepted that the Forest must be gridded and the Ministry of Transport agreed to the fencing of the A 31. The Verderers’ trump card in securing such concessions was that land was needed for the Hythe Bypass and its grant depended on the agreement of the Court. I don’t think it was ever publicly expressed, but it was a case of “if we don’t get our grids, you don’t get your bypass”. In the same month Mrs. Josephine Westren formed the New Forest Society for the Prevention of Straying Animals. Its initial objective was to have all the Forest livestock enclosed in special fenced reserves in the Forest, effectively destroying the traditional system of common land management. The society went on to attack almost every aspect of New Forest farming over several years.

By August 1962, work on the Hythe bypass was well advanced and the next month tenders were invited for the first section of gridding, on the east side of the Forest. By November the work was underway. I can remember the sense of excitement as construction of the grids started and gaps in the perambulation were successively closed off. It took a further two years before the scheme, including the fencing of the A 31 was complete and then there was a ceremonial closing of the last gate, on the A 337 at Cadnam, in July of 1964. A month later the New Forest Act of that year received the royal assent and the Forest moved into a new era.

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