

NEW FOREST NOTES JANUARY 2021

The Verderers and the changing life of the Forest

For the Forest 2020 ended, like the many months which preceded it, with the normal pattern of events a good deal altered. For a start the lockdown restrictions could not have been more inappropriately named. Unlike in France (where I am told strict regulations on movement apply), the announcement of lockdowns has meant that the Forest is immediately flooded with vast numbers of people pouring out of the adjacent towns and driving here, perhaps for fifty miles or more, in pursuit of recreation. The car parks fill to overflowing, the verges are lined with parked cars and illegal activities of all sorts are no longer the exception, but are rather regarded as normal use and are tolerated by the authorities. Now, whenever the rain stops, the pressure once again surges and the woods and heaths suffer yet another blow.

Much of this activity was the subject of discussion at the December Zoom meeting of the Verderers' Court. Here also events were unprecedented. The meeting before Christmas has always been a committee session only, not open to the public and as a consequence, without formal presentments. This time, however, a decision was made that presentments could be submitted in writing, although efforts to broadcast this relaxation of the rules seem not to have been very effective and few people were aware of it.

The first presentment considered by the Court was from Forestry England seeking consent for the re-design of the Hatchet Pond recreation complex. This scheme is to include the re-location of the car park and the demolition (without replacement) of the lavatory block. In accordance with the Court's rules, the proposals will be open to objection, support or comment at the next meeting in January, before the Verderers make a decision. It is usual for Forestry England to answer any questions the Verderers may have at the time of the initial presentment and on this occasion the Court was distinctly disappointed (perhaps annoyed would be a better term so far as some of us were concerned) to discover that the demolition of the lavatory block had already taken place the week before the consultation with the Court. The Deputy Surveyor's explanation for this was that while the Court's consent is needed for the construction of facilities such as this on the Forest, no approval for their removal is required. Moreover, he told the Court that full consultation with local residents had already taken place months ago and that there had been general agreement that his plans were acceptable. Adequate alternative lavatory facilities were, he said, available nearby in Brockenhurst and Beaulieu. I have no doubt that in law he is quite correct, but the scheme was being presented to the Verderers as a package. To undertake one major element of that package in advance of the presentment seemed bizarre to say the least. I did not attend the consultation at which residents "approved" the removal of the lavatories, but its results do seem markedly at variance with the views of a number of my correspondents.

There was next a presentment from the New Forest Commoners' Defence Association whose members are rightly distressed at the damage and disruption caused by uncontrolled lockdown verge

parking. On this I fear that the hands of all management agencies are tied by a ludicrous provision of the byelaws which specifically permits such activity. Until this nonsense is corrected or other regulatory measures are brought in and enforced, the average verge parker simply makes a metaphorical rude gesture to Forestry England and says he will do as he pleases.

The CDA also questioned the winter closure of a number of car parks. This has been done over many years to relieve pressure on gravel surfaces at a wet season and thus to reduce maintenance costs. This year, however, with usage on a cold December day equivalent to that on a normal sunny August weekend, the closures do seem very unfortunate. On this the Deputy Surveyor said there will be some flexibility to reflect actual demand and it will be interesting to see how this works.

The final and most crucial recreation question to be discussed in December was the uncontrolled trespass of mountain bikers throughout the Forest. Whether this constituted a presentment, I am not quite clear. In the autumn the Deputy Surveyor applied to the Verderers for a renewal of the permission for the vast network of over 100 miles of cycle routes on the Crown lands. This is a time-limited permission, re-issued every few years. At the time of the application the Court deferred consideration of the matter until the Deputy Surveyor could provide plans for proper enforcement of the rules, including firm action against offenders. In December the Deputy Surveyor produced to the Verderers his proposals for future regulation. They amounted, I am afraid, to two pages of plans for study, monitoring and education, so feeble that they will achieve nothing. We are not dealing with family parties or small urban children, innocently straying off the permitted routes through a lack of understanding, but with gangs of hardcore bikers determined to ride where they please disturbing the peace and cutting up the Forest. That was a view shared by many of my colleagues and the Court refused consent for the long-term renewal. A one-year extension only was agreed, during which Forestry England will need to toughen up its ideas for the future. Any extension beyond that will depend on its ability to get the problem under control.

Choice of a new Verderer

The Verderers' Court is made up of five elected and five appointed members. The latter are chosen by various government agencies for a fixed period, after which the Nolan rules for standards in public life require that they should stand down. I presume that this is intended to avoid any suggestion of corruption. The elected Verderers are chosen by owners and occupiers of land in and around the Forest to which rights of common are attached. Since the possession or otherwise of adequate areas of land for the depasturing of livestock on the common is no longer enforced, the pasture rights are for all practical purposes completely redundant, with the sole exception of qualification to vote or stand at a Verderers' election. Electors are as varied as a great landowner with a thousand acres and an office worker renting an acre of abandoned orchard to keep a pet donkey in. The bulk of them however comprises small farmers or residents with large gardens or paddocks. Elections take place every three years and there will (virus permitting) be one in November of 2021, but when a Verderer retires other than at the end of his term of office, special rules apply. Since

Dionis Macnair retired in November and was due to serve for another four years, the special rules take effect. The New Forest Act of 1877 provides that the replacement should be chosen by the four remaining elected members and the person they appoint will serve until November 2024.

Normally the choice of a replacement member is made after conversations around the Forest, including meetings of such bodies as the New Forest Association, New Forest Commoners' Defence Association and New Forest Pony Breeding and Cattle Society. But in the unusual circumstances of Covid restrictions, that has not been possible this year. In November the Verderers agreed that applications for the position should be sent in to the office of the Clerk to the Verderers and the remaining elected members would then decide who, if any, of the applicants should be appointed. Applications had to be in by yesterday (31st December) and it will be interesting to see how this new system works, even if it is for one occasion only. The legislation does not require the appointment of a successor to be made within any particular time frame, so if no suitable applicant comes forward, no doubt the decision can be deferred.

Rural Payments Agency consultation on subsidies in the New Forest

The New Forest is in the middle of a fiendishly complicated, but very important, consultation on the future implementation of the main subsidy scheme for commoners, called the Basic Payment Scheme. The details are tedious in the extreme and I will not try to explain them, but it is sufficient to say that the BPS has been responsible for the huge explosion of livestock numbers, particularly cattle, grazing the Forest over recent years. This has serious consequences for the vegetation and landscape. It has aggravated conflict with dog walkers and others and has produced seas of mud around feeding areas in winter.

Three possible alternatives have been put forward by RPA, two of which they clearly dislike and which are intended merely as make-weights to give validity to the idea of "consultation". The third says that they will continue to pay commoners on the number of animals they turned out in a yet to be determined base year, irrespective of whether they continue to turn out more than a token number. For example, if a commoner was turning out a large number of cattle in, say 2019, and receiving £100,000 subsidy a year for his "use" of the Forest, and that year becomes the base year, he will in future (subject to one important qualification) still receive the same amount each year. For this he need only continue to graze on the Forest – perhaps with a single donkey! Most commoners, of course, receive only a small fraction of such a sum and some (not registered with RPA) receive nothing at all. The important qualification mentioned above is that BPS will be very slowly phased out over the next decade and subsidy money will then be handed over for ill-defined "public goods".

The Verderers and Forest societies have long seen the inequity and dangers of the BPS, resulting in the exploding and wholly unsustainable stocking density of the Forest. Tony Hockley, lately retired chairman of the Commoners' Defence Association, referred (in a presentment) to this "perverse incentive" to increase cattle numbers and to the "gaming of the system" so that "an end to the exploitation of the BPS by a handful of people with large and growing cattle herds cannot come

soon enough". Nobody in government listened to the polite representations of the Verderers and to the helpful support of our members of parliament. I doubt if anything would have happened but for one individual (not named in the consultation document) who has sought a judicial review of what has been going on. Whether he or she is successful or not, they have dragged this whole distressing business into the open and are owed a considerable debt by the Forest.

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