

NEW FOREST NOTES DECEMBER 2025

Paying (or not) for access to Forest houses or land

The A & T report (7th November) into Forestry England's demands for access payments raises some troubling questions about the validity of those demands, but without seeing the paperwork and knowing the history of individual properties, it is impossible to make a judgement in any particular case. Certainly, I have heard some extraordinary stories recently, including one case where thousands of pounds are alleged to have been demanded of a field owner for access which was not even over FE land. The landowner is said to have resisted, forcing FE to back off. In another case, the owner of a cottage probably 200 years old and accessed only by a forest track, claims he was suddenly billed huge sums and, perhaps ill-advisedly, paid up.

So, what is FE entitled to demand of property owners where their land or houses are accessed from Crown Lands? I don't think King's House has ever issued publicly-available guidance on the subject, although presumably some explanation is given to recipients of large demands for money. From a recent discussion with the new land agent, I understand that the matter is being looked into at present.

When I first became involved in Forest management, and particularly through a quarter of a century on the Commoners' Defence Association Committee, the rules were clearly understood and were embodied in a doctrine laid down by the licence provisions of the New Forest Act of 1949 and the rules of "ancient accesses" in respect of much earlier rights. An understanding of these rules seems now to have been largely forgotten and not just in the farming and residential communities of the Forest, but within management too. We therefore need to look back to some rather distant history.

Much of the present distribution of Forest villages dates back to near the time the Forest was established or even before that. Publicly maintained roads here were non-existent and the communities depended on a network of trackways through, between and around settlements. If you needed to get to your field, you simply drove your cart along a track to the field gate. Exactly how the imposition of the (now repealed) Forest Law affected this usage is not, I think, recorded. No doubt the track networks were added to from time to time as slightly later settlements were established, but still without payment. These ancient accesses persisted into my lifetime and still do today. Although the Forest Law was sometimes quite strict in such matters as fencing of land and the rules of cultivation, it is apparently silent on accesses.

In the 19th and early 20th centuries, well before the establishment of the Forestry Commission and its acquisition of the New Forest, there were constant disputes between the Verderers Court and the Crown authorities as to what works on the Open Forest the latter might carry out or permit. These rows rumbled on until the 1949 Act imposed a settlement. Virtually all works on the Forest now required the Verderers' consent, but there was one very important exception. The Forestry Commission, which had acquired the Forest in 1923, was empowered to grant licences to build ways

over the Forest for the benefit of private landowners, perhaps for the first time without the consent of the Court. The construction of new gateways into the private land is not specifically mentioned in the Act, but may well be implied by its wording. Certainly, all parties seemed to accept that this was the case. I think it follows therefore that any new access tracks and gates opening onto Forest land after 1949 had to be authorised by the Forestry Commission. The actual charges at the time were between five shillings and one pound per annum for all but the most expensive properties – perhaps up to £31 in today's money. Levels of charge were not written into the Act, so I suppose FC and its successor can legally charge what they like, although some of the money demanded seems hardly equitable.

Perhaps the most important question is what payments (if any) can be demanded for pre-1949 accesses. Despite the fact that there must have been many thousands of accesses in existence then, only about 400 attracted licence liability. Many of these were no doubt related to the inter-war boom in ribbon development of bungalows and cheap houses. The total of all licence payments for the entire Forest was less than £500 and this included sports fields, rubbish dumps, power lines and so on. All the other (non-licenced) easements presumably fell into the category of ancient accesses for which no charge was due. If in 1949 Parliament had intended to tax these pre-existing property rights, it would I am sure have made that clear. It did not do so.

In summary the position seems to be that if your access was created after 1949, you must pay up so long as FE operates within the terms of the Act. If your licence was granted by the Office of Woods or Forestry Commission before 1949, your position is less certain and may depend on the terms of the original grant. Finally, and most importantly, if your access dates from before 1949 and falls into the category of ancient accesses, I think you should have good grounds for resisting any demands made by FE.

Forest parking charges – who will be liable?

As the months go by, Forestry England's intended introduction of parking charges on its New Forest lands, which is due in April, comes ever closer without many of the significant problems being satisfactorily resolved or planned for. Over the last month the preparation of what FE calls its "green list" has made some progress, but has yet to be fully approved. The green list is a register of those people who will be issued with free (digital) parking permits for use across the Forest. Top of the list are practising commoners (those actually grazing livestock on the Forest). Also included will be FE staff, contractors and others needing access with vehicles for their work and one or two other very small categories of users. The precise details have yet to be settled and these include such matters as the number of permitted vehicles per commoner's household and the management of parking at drifts (round-ups) where many helpers may not automatically be permit-holders. Still, I think there is a good chance that such matters can be satisfactorily resolved by the April deadline. For all practical purposes the commoners should be wholly unaffected by the charging scheme, while the rest of us in the community will be subject to it.

During discussions about the green list, there has arisen serious concern about FE's ability to enforce the parking charges regime and this is in addition to the overwhelming threat from displaced

parking onto National Trust and other common land not in public ownership. That threat to the commons, about which I wrote in October, is no nearer to being resolved and further complexities are arising all the time, but it is the Crown lands which are the latest focus of attention. FE has failed to give a satisfactory account of how enforcement against verge parking can be undertaken. Since this will affect every one of us who lives in or visits the Forest, it deserves much more careful study than seems to have taken place so far.



Parking on Forest land (as here) away from the public highways may be reduced by the scheme, but on the road verges it may be a different matter.

The parking charges will apply in FE car parks and access tracks to them. If your car is seen in such a park, its number will be scanned and you can be identified. There may be the odd meter in some of the bigger parks, but generally you must pay online (probably within 24 hours) and if you fail to pay you will be liable to prosecution “under the byelaws”. A new team of enforcers will be employed. The team will scan registration numbers, record them and check against official records. Those who have not paid within the time limit or who have not bought long term permits or who are not on the green list will be the targets. So far, the scheme is quite straightforward, but its success is wholly dependent upon a vigorous elimination of verge parking across the entire FE lands. That is where it could become unstuck. If I have to pay in the car park, why should I not park free of charge on the verge further along the road? Verge parking on FE land is not illegal and cannot be made illegal under this scheme as drafted. Indeed, it is specifically excluded from the byelaw which prohibits driving vehicles over FE land. The exact wording of the exemption is that the driving ban “shall not apply to the parking of any vehicle by the side of a highway”. FE is, of course, perfectly entitled to undertake physical works to limit verge parking. Such works comprise principally the installation of posts and the digging of ditches, for which there is good precedent in the making of car-free zones of the 1970s. They are initially ugly, but soon weather and blend into the background. In substitution for

such watertight provision (except in limited lengths currently intended), the promoters of the scheme are apparently relying on another byelaw which states that it is an offence to “wilfully evade payment of any charges or tolls levied by the Commissioners for the use of car parks or forest roads” – i.e., non-highway tracks. FE has been asked for, but has so far not provided, the legal advice which apparently tells it that it can use this regulation to suppress verge parking, in defiance of the entitlement to so park within the same byelaw code. Perhaps there is some legal technicality which it has yet to disclose which will justify it in a clamp-down on verge parking, but at the moment its claim seems remarkably weak and perhaps without any foundation.

Because most of the roadside verges throughout the New Forest are FE property the byelaws apply to them. If I wish to visit friends in Burley and to park briefly on a probably worn-out gravel verge outside their house, as the byelaws permit me to do, and the house is a good mile distant from the nearest FE car park, am I “wilfully evading” the charge in that distant park? Remember, the charge is only applicable in the car park, not on the verge. I find it difficult to believe that any court would find me guilty of “wilful evasion” in such circumstances. Similarly, suppose that I am an elderly dog-walker with limited mobility who has been accustomed for many years to walk my dog after verge parking my car at Black Gutter on the main Fordingbridge road. I wish to continue visiting this favourite bit of Forest. Am I “wilfully evading” charges in the nearest car park (Bramshaw Telegraph) over a mile away and from which I would have no hope of reaching my destination on foot? I think it would be a very unreasonable or hard-hearted magistrate who would convict me of having an evasion motive. The term “wilful” appears elsewhere in the byelaws and there it is clear and not open to the challenge of having to divine motive. I may not wilfully disturb wildlife or annoy or obstruct other Forest users or simply break glass.

If the scheme is to be made to work, the threat of verge parking must be eliminated. I must be stopped from parking at my friends’ house in Burley and the egregious behaviour of the lame pensioner of Black Gutter must be stamped-on. I believe that this needs only a simple revision of the byelaws to remove the exemption of verge parking from the list of prohibited acts, but if I am right this is just more evidence of poor planning and over-hasty introduction of the charging scheme.

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