

MINUTES of the Court of Verderers held on Thursday 18th December 2003 at 10.00 a.m. in the Library, The Queen's House, Lyndhurst.

PRESENT:	Mr O Crosthwaite Eyre	Official Verderer
	Mr J Adams	Elected Verderer & Chairman of the Staff Committee
	Mr P Frost	Countryside Agency Appointed Verderer
	Mr A Gerrelli	Elected Verderer
	Miss D Macnair	Elected Verderer
	Mr A H Pasmore	Elected Verderer
	Mrs P Thorne	Appointed DEFRA Verderer
IN ATTENDANCE:	Miss S Westwood	Clerk
	Mr J R Gerrelli	Head Agister (first three items only)
APOLOGIES:	Mrs K Heron	Appointed Hampshire County Council Verderer
	Mr J F Kitcher	Elected Verderer
	The Hon R Montagu	Appointed Forestry Commission Verderer

IN COMMITTEE

The Head Agister was present for the first three items.

2003/597 MINUTES OF THE LAST MEETING DISCHARGE

The Minutes of the Court held on Wednesday, 15th October 2003 were approved subject to minor amendment and signed.

2003/598 COURT OF APPEAL HEARING DISCHARGE

Referring to the recent Court of Appeal hearing, Mr Pasmore said he felt that the satisfactory result in the High Court, which the Verderers have been trying to achieve for the past 20 years, is entirely due to the determination of the present Official Verderer.

2003/599 CONDITION OF STOCK RESUME

Generally stock looks very well although the animals are now deteriorating because of the wet weather. The Agisters are taking a few animals off and will continue to ask commoners to remove anything that loses condition. As usual it is mares with foals and young ponies which are most affected. Unfortunately because of lack of rain in the autumn the usual flush of grass did not occur. The Agisters are pleased to report that no-one is arguing about taking in animals that are going back in condition.

2003/600 STRANGLES RESUME

A few animals still appear to have strangles but there have not been any major problems. A few foals are looking a bit rough but they do not appear to have strangles. It is thought they may be suffering from a flu-like virus about but so far it is not been serious enough to cause concern.

The Head Agister left the meeting.

2003/601 CLERK'S PARTICIPATION IN MEETINGS DISCHARGE

The Official Verderer circulated a memorandum concerning the best way in which the Clerk can contribute to meetings. In future, the Clerk will address the meeting through the chair if she feels she can make a useful contribution to the discussions. Everyone agreed to this arrangement.

2003/602 DECLARATIONS OF INTEREST RESUME

There were no declarations of interest in respect of any item on the Agenda.

2003/603 FINANCIAL STATEMENT RESUME

The financial statement for November was approved.

2003/604 VERDERERS' ELECTION DISCHARGE

The Election costs amounted to £10,820 which is a little higher than expected.

MATTERS ARISING FROM THE MINUTES OF THE LAST COURT

2003/605 UNBRANDED PONIES RESUME

Mr & Mrs East-Rigby have asked Agister Rix to brand their ponies. This will be done as soon as possible.

2003/606 NON PAYMENT OF MARKING FEES RESUME

In October 2002 prosecutions were commenced in the Southampton Magistrates Court against various commoners for breach of the Verderers' byelaws. The commoners in question had allegedly depastured their animals onto the Open Forest without paying any annual marking fees to the Verderers as required by law.

On 16th March 2003 at the Southampton Magistrates Court, District Judge Miss Babbington-Brown declined to hear these cases on the basis that she believed that the Verderers were not entitled to use the Magistrates Court and that they should instead use their own Court of Swainmote.

The Verderers appealed against this decision to the High Court and at a hearing held on Wednesday, 17th December District Judge Babbington-Brown's Ruling of 16th March was overturned and the Verderers' were awarded their full legal costs.

The case was heard by Lord Justice Rose (a senior Court of Appeal Judge) and Mr Justice Jackson. Both Judges were unanimous in stating that Miss Babbington-Brown was wrong to decide not to hear the Verderers' cases, and they ruled that the Magistrates Court had jurisdiction to deal with any cases brought to it by the Verderers for prosecution.

The Judges commended the Verderers for their "extremely sensible" decision to use the Magistrates Court to prosecute their byelaws and they further disagreed with Miss Babbington-Brown's statement in her

ruling that the Verderers' duties were "of no interest" to the public. Lord Justice Rose made it plain that he felt that the Verderers' administration of grazing rights in the New Forest are very much in the national interest and that they perform an important duty for the benefit of the general public.

The High Court's decision confirms that the Verderers were acting entirely properly at all times in the enforcement of their byelaws and removes once and for all any doubts about their enforceability.

The Verderers now intend to proceed with their ongoing prosecutions.

2003/607 MR COOPER'S RUBBISH DUMP RESUME

Nothing further has been received from English Nature in respect of its request for support in respect of Mr Cooper's rubbish dump. It was agreed a letter should be send to English Nature saying that the Court is aware that they wish to take action and asking for further information if the Court's support is required. In the meantime Mr Gerrelli agreed to inspect the dump.

2003/608 REVIEW OF THE VERDERERS' BYELAWS RESUME

To date, the Minister has not approved the revised byelaws.

2003/609 LAND AT IBSLEY RESUME

This matter is to be resumed as Mrs Heron, who was to attend a meeting, was unfortunately absent from today's meeting.

2003/610 ANONYMOUS DONATION DISCHARGE

Mr Adams reported that he is well on the way to obtaining costs for new pounds. The donor has written saying that payment will be made on receipt of paid invoices.

2003/611 BEAULIEU ROAD HOTEL RESUME
March 2004

This matter will be resumed in March when it is hoped there will be something further to report.

2003/612 AGRI-ENVIRONMENT / COUNTRYSIDE STEWARDSHIP SCHEME RESUME

DEFRA has given the strongest possible indication that the scheme will run. Final confirmation has to await the outcome of the public consultation. Everything is ready and a mailshot will be completed by the end of the week. A draft contract, application forms and an explanatory letter will be sent to all commoners whose names appear on the marking fee register.

An open day will be held on the 14th January when commoners will be invited to come along with their queries.

The Official Verderer apologised to members of the Court that they had received so little information but DEFRA had not given any encouraging signals on the scheme's actual prospects until now.

The Elected Verderers will be provided with a copy of the scheme details as a matter of urgency.

The Official Verderer explained that it will be necessary to fund the employment of an administrator for the scheme as well as purchasing some capital equipment (computer, desk, telephone connection etc.) in advance of funds being obtained from DEFRA.

The Court approved expenditure for set-up costs of £35,000 on a rolling basis (i.e. not all the money is needed at once). The money will be repaid around November 2004 when funds are received from DEFRA. It was further agreed that the money should be taken in the first instance from the general fund and that the Railway Account will only be used as a fall back if necessary.

2003/613 STOCK CONDITION GRADING SYSTEM

For the purposes of the Agri-Environment / Countryside Stewardship Scheme, it will be necessary to draw up a minimum standard of condition for stock belonging to commoners entering the scheme. It is proposed that a guide be prepared which will cover cattle, donkeys, pigs and ponies. At the same time, in order to avoid confusion in the future, it was agreed that the Verderers' present condition grading system should be brought into line with that used by welfare agencies such as DEFRA, the ILPH and RSPCA. i.e. The Verderers currently consider ponies in Grade 1 condition to be in exceptionally good condition, whereas the other welfare agencies regard Grade 1 as very poor.

2003/614 STALLION SCHEME

RESUME

Mr Adams asked for the Stallion Scheme sub-committee minutes to be circulated. He went on to briefly explain the proposed selection procedure. The percentage rates for passing stallions has still to be agreed. At least 3 judges must be Panel Judges. The Pony Society should accept the decision of the panel. Mr Adams proposed that the Verderers accept the proposals contained in the sub-committee minutes and Miss Macnair seconded the proposal. Mr Gerrelli said he continued to be concerned that the Verderers are losing control of the stallion inspections but after a short discussion it was agreed that Mr Adams will turn the minutes into a formal proposal for submission to the Society. The Official Verderer thanked those who attend the sub-committee for their efforts in resolving the issues.

2003/615 WATER BASIN FORUM

DISCHARGE

The Forum has not met since the last Court. Copes of the promised plans have still not been provided. The recent site meeting at Sluffers attended by Mr Adams, Mr Pasmore and Simon Weymouth from the Forestry Commission was very useful. Minutes have been produced and whilst Mr Pasmore had some further queries, the proposals appear quite reasonable.

After some discussion the Court agreed to approve the proposals subject to one amendment concerning a ride and a commitment by the Forestry Commission and English Nature to future maintenance. Mr Pasmore will assist the Clerk in drafting a suitable response to the Forestry Commission.

2003/616 LYMINGTON RIVER STRATEGY DISCHARGE

A meeting was held last week, attended by Mr Frost and Mr Pasmore and four representatives from the Environment Agency plus Mr Parke from the Forestry Commission. The Environment Agency was dissuaded from the idea of storing water on the Forest behind artificial dams. English Nature was not keen on that suggestion either. Various difficulties were seen and efforts will be made to persuade the Environment Agency to pursue proposals elsewhere. A formal response is required and Mr Pasmore will help the Clerk write a suitable letter.

2003/617 KINGSTON GREAT COMMON RESUME

The Commoners' Defence Association is happy to tackle this encroachment as it is a direct interference with commoners' rights. A request has been received for £1,000 each from the Court and the New Forest Association towards a "fighting fund". The Official Verderer suggested that the Verderers should support the CDA in respect of Kingston Great Common if legal advice is received that indicates it is worth fighting and proceeding to the County Court. He said the Verderers would donate if they are satisfied that there is a good chance of success in securing the permanent removal of the fencing materials.

REPORTS OF MEETINGS OF EXTERNAL COMMITTEES & WORKING GROUPS

2003/617 NEW FOREST COMMITTEE RESUME

The Minutes of the last committee have been circulated as usual. Concern was expressed that the New Forest Committee has not become involved in the Kingston Great Common issue.

The Official Verderer or Miss Macnair will raise the matter at the next meeting. Miss Macnair will be provided with the letter that was written seeking support from various organisations.

2003/618 THE PROGRESS PROJECT DISCHARGE

Mr Frost and Mr Pasmore will attend the Forum which is being created.

2003/619 NEW FOREST COMMITTEE WORKSHOP ON THE STRATEGY FOR THE NEW FOREST RESUME

The Official Verderer will attend the workshop which is scheduled to be held on the 8th January.

STAFF MATTERS (including the Staff Committee)

2003/620 AGISTERS' MILEAGE DISCHARGE

At the last Court, the Staff Committee's recommendations were approved subject to slight modification. Legal advice was then obtained and it was confirmed that the changes do not contravene any legislation as respects the employment acts. The Agisters have each been provided with a copy of the paper setting out the journeys for which they may claim mileage and those which they may not.

- 2003/627 MILKHAM INCLOSURE RESUME
- Some of the gates to the part that has been thrown open are often shut and the Forestry Commission will be asked to fix them open. Plans of the gates will be requested from Mr Mihalop.
- 2003/628 SEAT AT BURLEY DISCHARGE
- A Mrs Wilde has been in contact with various Verderers as well as the office and the Forestry Commission as she would like to place a seat near the cricket pavilion in memory of her late husband. It has been explained to Mrs Wilde that the policy of the Court and Forestry Commission is that new seats will only be considered when they are replacements for one removed from elsewhere in the vicinity.
- 2003/629 OLD RUBBISH TIP AT HARDLEY DISCHARGE
- There are ongoing concerns at the poor state of the fencing on the old Tip. Ponies are getting in on a daily basis and it is only a matter of time before they find their way out onto the A326. The Clerk said she has asked the Forestry Commission on several occasions to repair the fence and has been told it is in the work programme to be done shortly.
- 2003/630 ROAD TRAFFIC ACCIDENTS RESUME
- The Commoners' Defence Association is commencing an initiative to try to reduce the number of commoners' animals which are killed or injured on the Forest's roads. As sub-committee has been set up and Mr Adams asked for ideas.
- 2003/631 FALLEN STOCK DISCHARGE
- A letter has now been received from Ben Bradshaw MP, Minister for Nature Conservation and Fisheries. From the letter it is clear that the Ministry does not want to include New Forest ponies in its classification of "livestock". The Official Verderer will write to Julian Lewis MP and Desmond Swayne MP encouraging them to pursue the issue. Mr Gerrelli reported he has also approached the Farmers' Union on the same matter. It will also be pointed out that ponies will be considered as a conservation tool in the forthcoming Stewardship / Agri-Environment Scheme.
- 2003/632 LOW FLYING AIRCRAFT DISCHARGE
- Hyde Parish Council has raised the issue of low flying helicopters. Aircraft are permitted to fly at 500 feet under certain conditions but if any complaints are to be made it is necessary to have a description of the aircraft in order to know to whom to direct the complaint.
- 2003/633 COMMEMORATIVE OAK TREE DISCHARGE
- A further request has been received for an oak tree to be planted on the Open Forest. English Nature are very strict about this in that the tree must be an indigenous species. The Court's policy is that such trees should not be planted on the Crown Lands because of inevitable problems with the essential protective fencing. Such trees are best planted on private land where they can be properly protected from interference by Forest stock.

2003/634 NEWLANDS PLANTATION DISCHARGE

It was reported that the plantation has a number of deep drains full of "slop". They would be very dangerous if animals were to get in and something needs to be done to resolve the problem.

2003/635 RESPONSE TO THOSE MAKING PRESENTMENTS DISCHARGE

The Official Verderer reported that written responses were produced swiftly to most of those who made presentments at the last Court. Efforts will be made to continue this service.

The Clerk was requested to leave the meeting at this point.

2003/636 ADMINISTRATIVE STAFF REMUNERATION DISCHARGE

The Clerk to the Verderers, Sue Westwood.

In recognition of Miss Westwood's considerable experience and length of service, an increase in her annual salary was agreed. Her revised salary will continue to be subject to the annual percentage increases as recommended by the Agricultural Wages Board.

The Assistant to the Clerk, Mrs Sally Cardwell.

It was further agreed that Mrs Cardwell should receive an increase in her hourly rate in order to reflect her experience and length of service. As with the Clerk's salary, the annual percentage increases as recommended by the Agricultural Wages Board will also continue to be applied.

There being no further business, the meeting closed at 12.35 p.m.