

MINUTES of the Court of Verderers held on Wednesday, 16th February 2005 at 10.00 a.m. in the Verderers' Hall, The Queen's House, Lyndhurst.

PRESENT: Mr O Crosthwaite Eyre Official Verderer
 Mr J Adams Elected Verderer & Chairman of the Staff Committee
 Mr A Gerrelli Elected Verderer
 Mr P Frost Countryside Agency Appointed Verderer
 Mrs K Heron Appointed Hampshire County Council Verderer
 Mr J F Kitcher 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 M Seddon Deputy Surveyor of the New Forest
 Mr W Parke Area Land Agent (New Forest)

APOLOGIES: The Hon R Montagu Appointed Forestry Commission Verderer

ANNOUNCEMENTS & DECISIONS BY THE OFFICIAL VERDERER

2005/1417 NATIONAL PARK

An unexpected consequence of the New Forest National Park designation is that the current right under the New Forest Acts for Hampshire County Council to appoint one Verderer will be transferred to the Park Authority. This is because section 1 of the New Forest Act 1949 specifically states the a local planning authority may appoint one Verderer, and since the Park Authority takes on that planning role in April 2006, they will automatically inherit that right.

Plans will be formulated in order to arrange a smooth transition, and in the meantime our much valued County Council appointed Verderer, Kathy Heron will continue to serve on the Court.

2005/1418 HOLLANDS WOOD AND ROUNDHILL CAMPSITES

The Deputy Surveyor's Presentment, made on the 17th November 2004, was considered in Committee at last month's Court. For reasons that we have given in writing, we have decided to withhold our consent to the development of new and additional facilities at both these campsites on the basis that these proposals are contrary to our policy on recreation and development.

2005/1419 ENFORCEMENT OF BYLAWS

The prosecution against Thomas and James Penny was heard on February 8th at Southampton Magistrates Court and was adjourned until Friday, May 6th 2005.

2005/1420 LIFE III

As announced at the October 2004 Court, we wrote to the Environment Agency asking for a clear guarantee that, since no-one can be entirely sure if remedial works will succeed in the long term, the Agency or its successors will fully restore any grazing that fails to recover.

Following a vigorous exchange of letters the Agency has stated that it seeks to properly

restore such sites whenever damage occurs. In addition the Agency has stressed that it always seeks to minimise the impact of its restoration works.

The Agency has further pointed out that legislation already exists which provides a method for seeking compensation in the event of damage as a result of its works, and any sort of undertaking or guarantee is therefore superfluous.

In summary, therefore, whilst we do not doubt the Agency's aim and intention to minimise damage, we remain concerned as to who will be responsible for remedial works in the long term if ever a section of grazing on the Open Forest fails to recover. Since the Agency is not prepared to give the sort of guarantees and indemnities that we have requested, we must therefore register our continuing dissatisfaction with the current state of affairs.

Despite this, we fully recognise the significant gains that the LIFE III works aim to bring to the Forest in terms of improved and increased grazing, and we do not wish to discourage the Agency in its endeavours. We are as hopeful as no doubt the Agency is, that these works will succeed in achieving those objectives.

2005/1421 COUNTRYSIDE STEWARDSHIP SCHEME

Application forms have now been sent out for Year Two of the scheme and I would urge all those wishing to join to complete and return their forms as soon as possible. The target date for the completion of forms is March 1st, a mere two weeks from now.

ANIMAL ACCIDENT REPORT

2005/1422 ACCIDENTS IN JANUARY 2005

The Clerk reported that the Agisters attended 9 accidents in January which compares with 11 for January last year.

6 ponies and 2 cattle were killed and 1 pony was injured.

All 9 accidents occurred during the hours of darkness and all involved private cars or light commercials.

7 accidents involved local motorists.

PRESENTMENTS BY THE DEPUTY SURVEYOR OF THE NEW FOREST

There were no presentments by the Deputy Surveyor

PRESENTMENTS

2005/1423 CAMPING DAMAGE Presentment by Mrs Olive Collins

Mrs Collins was concerned at the damage to pitches which seems to have increased as a result of campers staying for extended periods. Bare patches are left behind each Autumn on many Open Forest sites, damaging the animals' grazing and destroying some of the Forest's valuable eco-systems. A tent was reported to have been in-situ in the same place on Hollands Wood Campsite from April until September in 2004. A way of minimising this damage in future was requested.

2005/1424 LIFE III
Presentment by Mr Bob Cooper, Minstead Manor Commoner

Mr Cooper said he noted the Environment Agency's indemnity which led him to believe that before any further consents are given in respect of works requested by the Environment Agency or English Nature, an appropriate undertaking should be obtained. He considered the statement from the Environment Agency was impudent and arrogant.

Mr Cooper then asked for a progress report on Markway Lawn which he said has been wrecked by the inactivity of English Nature combined with works carried out by the Environment Agency.

2005/1425 NEW FOREST COUNTRYSIDE STEWARDSHIP SCHEME
Presentment by Mr Bob Cooper, Minstead Manor Commoner

Mr Cooper asked if the Court is satisfied that the Stewardship Scheme has not brought the locus of the Elected Verderers into issue.

2005/1426 SINGLE FARM PAYMENTS
Presentment by Mr Bob Cooper, Minstead Manor Commoner

Mr Cooper said he has heard a rumour that the Court is trying to influence DEFRA to restrict single farm payments to only those commoners who pay marking fees. He asked the Court to make it clear that under no circumstances will the contentious and somewhat spiteful arguments of the past be part of the Court's case in negotiating the Single Farm Payment cover for the common lands of the Forest.

Mr Cooper asked if he could have an answer to both his Presentments today please. He said he has always supported the Stewardship Scheme and sees no reason why it should not continue as it is.

In response to Mr Cooper's Presentments the Official Verderer replied that it is not negotiating with DEFRA as respects the Single Farm Payments. The Court has not been invited to negotiate, neither does it have the right to do so.

The Official Verderer went on to say that the Stewardship Scheme does not infringe the New Forest Acts and specifically, participation of the Verderers as commoners in their own right does not conflict with the 1877 Act.

As respects the Environment Agency, the Official Verderer commented that he does not feel that the statements made in the correspondence are either impudent or arrogant.

There being no further Presentments, the Open Court was closed.

IN COMMITTEE

2005/1427 MINUTES OF THE LAST MEETING

DISCHARGE

The Minutes of the Court held on Wednesday, 19th January 2005 were approved and signed.

2005/1428 **CONDITION OF STOCK** **RESUME**

Mr Adams reported that stock continues to look exceptionally well. One or two animals are being closely watched as they are just beginning to lose condition. Nothing could be classified as poor.

A deterioration in conditions may be seen towards the end of the month as is usual. A lot will depend on weather conditions and whether strangles returns. Last year at this time the animals looked good but by the end of April animals were having to be removed.

Commoners are removing animals of their own volition as many are keen to remove them before they become poor. It was remarked that the stallions that have been turned out have been busy.

There are no welfare issues at present.

2005/1429 **DECLARATIONS OF INTEREST** **RESUME**

All the Elected Verderers, together with Mrs Thorne declared they have an interest in the Countryside Stewardship Scheme.

The Official Verderer declared an interest as someone with licensed premises in the Forest.

Mr A Gerrelli declared an interest as someone with a small campsite (licensed for 5 touring caravans) just outside the Forest.

2005/1430 **FINANCIAL STATEMENT** **RESUME**

The Financial Statements for January had been circulated in advance of the meeting and was approved.

2005/1431 **BYELAW ENFORCEMENT** **RESUME**

There are no additional byelaw offences ongoing at present.

2005/1432 **PROSECUTIONS FOR NON-PAYMENT OF MARKING FEES** **RESUME**
May

There is nothing further to add at present and this matter will be resumed at the May Court.

CONSIDERATION OF PRESENTMENTS

2005/1433 **CAMPING DAMAGE** **DISCHARGE**

The Deputy Surveyor advised the Court that the Forestry Commission allows seasonal permits which may last from 1 week upward. Some visitors remain for 6 months or more but no one is allowed to remain long enough to claim residency rights.

On Open Forest sites, Site Managers are encouraged to move longer stay vans, awnings and tents to minimise damage to the habitat.

There was concern that people staying in the same place for a long period restrict the opportunity for others to enjoy the better pitches.

Some people leave their vans on the site and go home during the week, returning at weekends. The Deputy Surveyor, however, felt there are enough pitches to choose from.

2005/1434 LIFE III / COUNTRYSIDE STEWARDSHIP SCHEME AND SINGLE DISCHARGE
FARM PAYMENTS

The Official Verderer felt these matters had been adequately dealt with in Open Court. Markway Lawn is on the Agenda for discussion later. As far as Single Farm Payments are concerned, the Official Verderer added that DEFRA is consulting widely. Members of the Court were satisfied with the responses given by the Official Verderer in Open Court.

SUBMISSIONS BY THE FORESTRY COMMISSION

There were no new submissions.

MATTERS ARISING FROM THE MINUTES OF PREVIOUS COURTS OF CONCERN TO THE FORESTRY COMMISSION AND ANY OTHER BUSINESS OF CONCERN TO THE FORESTRY COMMISSION

2005/1435 HOLLANDS WOOD AND ROUNDHILL CAMPSITE PROPOSALS RESUME

The Official Verderer referred to a recent letter he received from the Deputy Surveyor requesting clarification of the Verderers decision not to approve the Forestry Commission's proposals. The Clerk was requested to circulate the letter to all members of the Court.

The Official Verderer said the Court would need time to deliberate further before replying. This is unlikely to be possible for a few weeks.

Mr Pasmore enquired about the current position of the formal planning application. In reply, the Deputy Surveyor said the application is being held in abeyance by New Forest District Council until the Appropriate Assessment has been carried out and considered.

Currently, the Forestry Commission is consulting on the Scope for the Assessment and the Verderers will be asked to comment.

The Official Verderer said that a copy of the Court's written decision has been sent to NFDC and an acknowledgement has been received saying the decision has been placed on file and will be taken into account during the Planning Committee's deliberations.

2005/1436 UPATED UNDERGROUND ELECTRICITY SUPPLY TO FRITHAM DISCHARGE
NURSING HOME

Agreement has been reached with adjoining land owners which will permit the necessary stays to be erected on the private land allowing the length of cable which crosses Open Forest to be put underground. The Official Verderer thanked Mr Parke for pursuing this with the Electricity Board and achieving a desirable result for the Forest.

2005/1437 DAMAGE TO FRITHAM GREEN & TRAILERS PARKED ON THE DISCHARGE
OPEN FOREST

The Forestry Commission is preparing plans to resolve the parking problems at Fritham. The landlord of the Royal Oak will be consulted.

As respects the trailers parked on the Open Forest, Mr Parke agreed the damage is unacceptable and it is likely that dragons teeth will be needed to prevent further damage.

2005/1438 ASHURST LODGE FENCE DISCHARGE

The removal of the fence is in the Forestry Commission's work programme. An additional piece of land is also due to be thrown open once it has been tidied up. Mr Parke will advise the Clerk when the work has been completed.

2005/1439 FALLEN STOCK RESUME

The National Fallen Stock Collection Scheme is now up and running. The second meeting of the informal group considering options for the Forest will meet again in the Verderers' Hall on 2nd March.

2005/1440 DANGEROUS HOLES ON THE EDGE OF PITTSWOOD DISCHARGE

Mr Parke said he has passed the problem to colleagues. The hole may need temporary fencing whilst a solution is found.

2005/1441 FURZEY LAWN CULVERT RESUME
May

Mr Parke said this matter is also in hand.

2005/1442 BRAMSHAW TO WINDYEATS ROAD RUBBISH RESUME

Mr Parke said he had not had time to look at the legislation. It was reported that the stretch of road from Homey Ridge travelling south towards Bramshaw Telegraph is particularly bad. There are quantities of plastic on the verge and caught in trees and bushes. The length of road which is cleared by the man with a bag is not too bad.

2005/1443 HIGH CORNER INN APPEAL DISCHARGE

The Clerk reported that she has written a further letter of objection. A copy will be given to Mr Parke who has also submitted an objection on behalf of the Forestry Commission.

2005/1444 BLUE WATER-MAIN MARKERS DISCHARGE

Mr Parke is waiting for the list of markers from the Keepers. Once received, the list will be sent to the Water Board which has agreed to replace them. It is expected it will take some time for the replacements to be installed but the most visually intrusive will be done first. No further markers of this design will be installed on Open Forest.

2005/1445 SETTHORNS CAMPSITE HOOKUPS

DISCHARGE

The Deputy Surveyor wrote to the Official Verderer setting out the position as far as can be ascertained from the Verderers' Court Minutes and Forestry Commission files.

There remains some doubt as to whether the 10 hookups installed back in the early 1990's were in the part of the campsite which is open to stock or only in the area which is enclosed.

It was finally accepted that the Verderers have probably tacitly agreed to the hookups because they have done nothing about them. Both the Court and the Forestry Commission are probably at fault. After 18 years there are scant written records and there appears to be no specific statement about whether consent was ever formally sought or granted.

The presumption must now be that because of the passage of time, consent for the hookups has been given by implication. It was agreed, however, that this decision must not be regarded by the Forestry Commission as setting a precedent.

2005/1446 LIFE III – MARKWAY LAWN AND VERDERERS' CONSENT TO FURTHER LIFE WORKS

RESUME
May

The Deputy Surveyor referred to his letter to the Official Verderer dated 31st January which states that Southampton University has been contracted to carry out a study of the hydrological processes both on the lawn and in the Ober Water upstream of the A35. The University has also been asked to make recommendations for the restoration of the lawn and the river upstream – the two combined being considered to be more sustainable in the long term than works solely on the lawn. The report will be ready by early May. The recommendations will be considered by the Water Basin Forum and the Verderers will also be provided with a copy of the report. The Forestry Commission will then implement any agreed works as part of the LIFE project this summer. The Deputy Surveyor added that the Commoners' Defence Association is content to accept these proposals.

Mr Adams expressed concern that Mill Lawn, upstream of the A35 is deteriorating in the same way as Markway Lawn has. He hoped that the proposals for the Red Rise stretch of stream would not have an adverse affect on Mill Lawn and that the survey should include the Mill Lawn area.

In view of the above, the Court approved the proposed works on Stoney Moors and Brinken Wood which were presented at the last Court. However the Court expects to be in receipt by early May of a copy of the University's study, and unless the Court is completely satisfied that the proposed works set out in the study will cure the problems at Markway Law,n then any further LIFE III works will not be approved or supported. That decision will be taken at the May Court.

2005/1447 BEAULIEU ROAD HOTEL SEWAGE SYSTEM RESUME
May

Mr Parke reported that the Environment Agency has objected to the proposals for the sewage treatment system because of its proximity to the borehole which supplies drinking water. The Hotel is now redesigning the system to try to meet Environment Agency requirements.

2005/1448 ROE INCLOSURE BRIDGE RESUME

It was suggested the bridge may now have been built. Mr Adams said he will investigate.

ANY OTHER BUSINES INVOLVING THE FORESTRY COMMISSION

2005/1449 CAR PARK ENTRANCES - TARMACING DISCHARGE

The Deputy Surveyor advised the Court that the entrances to car parks at Roundhill, Deerleap and Hatchet Pond will shortly be tarmaced. Surface dressing will be carried out soon after.

2005/1450 NEW FOREST HOUNDS DISCHARGE

The Deputy Surveyor reported that the licences for the Beagles and Foxhounds are terminated with effect from Friday 18th February 2005. Exercising of hounds as would have taken place in the past during the closed season will continue. Thoughts are beginning to turn to possible activities for the hounds but no new permissions will be issued until September when the new hunting season would have commenced.

2005/1451 RADIO CONTROLLED MODEL CARS DISCHARGE

Miss Macnair reported that the use of radio controlled model cars is causing problems in the vicinity of Burbush car park. The cars are very noisy. They upset riding horses and stock had vacated the area.

The Deputy Surveyor said he was not sure the Forestry Commission has a specific policy on this activity but on the basis that they create noise and disturbance their use is probably technically a breach of the byelaws. It was pointed out that radio controlled aeroplanes and boats are restricted to certain areas. The Deputy Surveyor promised to give the problem careful consideration.

The Deputy Surveyor and Mr Parke left the meeting

OTHER MATTERS ARISING FROM THE MINUTES OF THE LAST COURT AND PREVIOUS COURTS

2005/1452 CATTLE GRIDS AT IBSLEY RESUME

Mrs Heron will produce the list as soon as possible.

- 2005/1453 SCHEME FOR NEW FOREST COLTS RESUME
- The proposals for the colt scheme are being sent to the New Forest Trust and the New Forest Show Society. Finance will be sought from the Trust and grazing land in New Park from the Show Society.
- 2005/1454 TWO YEAR OLD COLTS DISCHARGE
- The Court agreed not to proceed with seeking a legal opinion at the moment. The Clerk will, however, maintain a list of matters for consideration next time the byelaws are revised.
- 2005/1455 PIGS DISCHARGE
- There are no pigs on the Forest now except those that are there by privilege or off the commons. The Agisters will note in their diaries and report any illegally depastured pigs to the office.
- 2005/1456 POLICY REVIEW RESUME
- Good progress is being made on draft policies which are currently being drafted. Once they have been agreed by the sub-committee, they will be circulated to the whole Court for further consideration and hopefully final approval.
- The sub-committee meets next on the 1st March at 2.00 p.m. in the Library. At that meeting, the electoral register will also be discussed.
- 2005/1457 COUNTRYSIDE AGENCY GRANT RESUME
- Following a discussion with Mr Chris Fairbrother from the Countryside Agency, the Official Verderer felt that now is not the right time for a review of the Court's procedures. Mr Fairbrother agreed it would be better to wait until the National Park Authority is operating, since the purpose of any review will be to see if current practices or procedures need to be changed in order to ensure a smooth and close working relationship with the National Park Authority. In the meantime, however, it has been suggested that a training package for new National Park members would be most useful to help them understand the Verderers Court. The Countryside Agency would like to help in putting this together. It was agreed this is the best way forward.
- 2005/1458 SINGLE FARM PAYMENTS RESUME
- There is no further news at present.
- 2005/1459 FREEDOM OF INFORMATION ACT RESUME
- Advice on the Court's position as respects the Freedom of Information Act is awaited.
- 2005/1460 VERDERERS' ELECTIONS - ELECTORAL REGISTER RESUME
- Ways of increasing the number of electors will be discussed when the Policy Committee meets on 1st March.

VERDERERS' COUNTRYSIDE STEWARDSHIP SCHEME

2005/1461 DISCLOSURE OF ELECTIVE VERDERERS' PARTICIPATION IN THE DISCHARGE
COUNTRYSIDE STEWARDSHIP SCHEME

Following careful consideration, the Court agreed that the total sum paid to Verderers together with a list of the names of those who participated in the scheme should be included in the Scheme's Audited Accounts. The payments to individual Verderers will not be listed as it was considered to do so would be unnecessarily intrusive and therefore a possible deterrent to those who might otherwise seek election as Verderers and serve on the Court. Any such potential deterrent would not be in the public interest. Mr Gerrelli pointed out that his wife has always paid the marking fees for their animals and he confirmed that Mrs Gerrelli has no objection to this being stated in the audited accounts.

The Official Verderer therefore proposed that the Audited Accounts should include a statement setting out the total payments to the Verderers together with a list of the names of those receiving payment under the Scheme. The amounts received by individual Verderers will not be divulged. Mrs Heron seconded the proposal and all those present voted to approve the resolution with the exception of Mr Frost who felt the amounts paid to individual Verderers should be specified.

NATIONAL PARK

2005/1462 APPOINTMENTS TO THE NATIONAL PARK AUTHORITY RESUME

No further appointments have been announced.

2005/1463 LETTER FROM ALUN MICHAEL MP TO SUSAN CARTER, RESUME
NATIONAL PARK AUTHORITY INTERIM CHIEF EXECUTIVE

The Court was disappointed that the Government has not adopted the recommendation of the Inspector at the public inquiry. A precise form of words, drafted by the inspector, designed to protect the Verderers' powers should be included in the guidance on how the new authority will be expected to take into account the special features of the New Forest. The guidance which has been given is included in a letter sent by Alun Michael MP to Susan Carter dated 19th January 2005.

REPORTS FROM EXTERNAL COMMITTEES AND WORKING GROUPS

2005/1464 THE PROGRESS PROJECT DISCHARGE

Mr Pasmore reported that the Progress Project continues to discuss the publication of voluntary codes of conduct for various Forest users.

STAFF MATTERS (including the Staff Committee)

2005/1465 PONIES IN LYBURN ESTATE

DISCHARGE

The Chairman of the Staff Committee asked the Court for guidance for the Agisters should they be called out to ponies which have escaped onto the A36 from Lyburn or Hamptworth. The Court agreed unanimously that in such a case the Agisters must attend.

The Clerk reported that Mr Anderson, who owns Hamptworth Estate is planning to fence his boundary with Lyburn in order to try to prevent ponies gaining access to his land.

HEALTH AND SAFETY AT WORK

There were no health and safety matters to report at this meeting.

TRAINING

No training is currently taking place or required at the present time.

ANY OTHER BUSINESS

2005/1466 ASHURST TO LYNDHURST CYCLE WAY

RESUME

Mr Frost said he has been speaking with Mr Clive Chatters of the Wildlife Trust and they are concerned that the new cycleway signage will be out of character with the Forest. The Clerk pointed out that Hampshire Highways have assured the Court that only essential signage will be erected and that it will be in keeping with the Forest landscape as far as possible. The Clerk will, however, contact Mr John Sorrell of Hampshire County Council for further assurance.

2005/1467 MOCK DRIFT AT THE NEW FOREST SHOW

RESUME

The Head Agister has been approached by Mr Richard Cuzens, the Chief Executive of the Show Society, asking if it is possible to stage a mock drift as the main event at this year's show.

Careful consideration was given to the suggestion but several concerns were voiced.

The safety of the spectators and the welfare of the stock used for the display are of major concern.

It was suggested that it may be very difficult to stop ponies from attempting to jump the rails around the main ring and the collecting ring. If this were to happen the chances of a member of the public being seriously injured was considered to be very high.

Additionally, there was strong feeling amongst members of the Court that semi-feral ponies being driven in the alien environment of the show and loaded into vehicles may result in complaints on welfare grounds from the public and it was felt essential that the support of the RSPCA and ILPH is obtained.

The Official Verderer felt the event should not be dismissed out of hand since there were very clear benefits to be gained in particular the education, through entertainment, of the public.

It was finally decided that if the event can be staged without risk to the reputation of the Court it may be acceptable and it was agreed that if the plan is to be considered further a pre-run is essential and the Agisters will need to draw up a plan.

It was further agreed that the Show Society must obtain written confirmation from the RSPCA and ILPH that they do not disapprove of the concept in principle.

The Clerk will communicate the views of the Court to the Chief Executive.

There being no further business, the meeting closed at 1.15 p.m.