Minutes of the Court of Verderers held on Wednesday 15th May 2024 at 9.30 a.m. in the Verderers Hall, the King's House, Lyndhurst

PRESENT Mr E Heron Official Verderer

> Elected Verderer & Staff Committee Chairman Mr R Deakin

Dr G Ferris Co-opted Elected Verderer

Mr A H Pasmore Senior Elected Verderer (from 2024/13514)

Mr R Stride Elected Verderer

Mr C Chatters Natural England Appointed Verderer Mr M Gammon **Forestry Commission Appointed Verderer**

Miss A Sevier MBE National Park Appointed Verderer

DEFRA Appointed Verderer Mr R Manley

Elected Verderer Mr D Readhead

Miss S Westwood IN ATTENDANCE Clerk to the Verderers

> Mr J R Gerrelli Head Agister

APOLOGIES None

IN COMMITTEE in the Library

2024/13509 MINUTES OF THE LAST MEETING

RESUME

The minutes of the last Court, held on Wednesday 17th April 2024 were approved, and signed by the Official Verderer.

2024/13510 NEW DECLARATIONS OF INTEREST

RESUME

There were no new declarations of interest.

2024/13511 WELFARE TOUR & CONDITION OF STOCK - REPORT BY THE **HEAD AGISTER**

RESUME

The grass is finally growing and ponies whose condition was

borderline a few weeks ago, are now definitely improving. They are losing their winter coats and not looking so scruffy.

The Welfare Tour was very well attended and deemed to be very successful. Over 400 ponies and several hundred cattle were seen, together with quite a number of donkeys.

A number of new people attended the tour which provided an excellent opportunity to explain about the management of the stock on the Forest. In particular, it was explained that the condition of mares which have recently given birth and may look a little ribby but have bright foals feeding well, will soon improve.

Everyone who attended the tour said they were happy with what they saw.

2024/13512 STALLIONS

DISCHARGE

The stallions have now been turned out and are generally settling in their areas. One has moved some distance from his allocated area at Bartley and has been seen on Matley. As he ran there a few years ago, it is likely that attempts will be made to catch him and take him back to Bartley. In that case, the underpass will be closed for a couple of weeks to try to ensure he remains in the Bartley area.

2024/13513 CATTLE DISCHARGE

There are still several large herds to mark.

Mr Pasmore joined the meeting

2024/13514 TB RESUME

Commoners are waiting to see whether APHA calls for radial testing of cattle following the confirmed outbreak of TB at Boldre. A lot of cattle have now been turned out and catching them won't be easy.

This situation highlights the lack of communication between APHA and the Court. The Clerk said she has received an email from the APHA Vet who will be administering the TB Plan in future and she will try to arrange a meeting. Discussions are taking place regarding trying to set up an information sharing agreement but in the past APHA has been unwilling to agree to that. Mr Gammon gave the Clerk the names and contact numbers of two other APHA personnel who may be able to assist and the Clerk will pursue those contacts.

Action Clerk

APHA is also keen to meet with Forestry England to discuss the New Forest Notifiable Animal Disease Contingency Plan which covers more than just TB.

Action Clerk

2024/13515 MARKING FEES RECEIVED TO DATE AND COMPARISON WITH PREVIOUS YEAR

RESUME

	<u>2024</u>	<u>2023</u>
Forest Ponies	4587	4582
Forest Cattle	1219	1821
Forest Donkeys	89	81
Forest Pigs	0	0
Forest Sheep	0	0
Total Forest Stock	5895	6484
Common Ponies	405	441
Common Cattle	339	1077
Common Donkeys	28	41
Common Pigs	11	18
Common Sheep	91	35
Total Common Stock	874	1612
Ponies, Cattle & Donkeys on the Forest	5895	6484
Ponies, Cattle & Donkeys on the Commons	772	1559
Total Ponies, Cattle & Donkeys	6667	8043
Total Stock – Forest & Commons	6769	8096

The Head Agister said a lot of cattle have yet to be marked.

2024/13516 ATTACKS ON SHEEP IN BRAMSHAW

DISCHARGE

Several sheep have been found badly injured around the Bramshaw area. They were all stabbed. Three have died. Hampshire Constabulary's Country Watch team are investigating.

2024/13517 BREACHES OF THE BYELAWS

RESUME

There is one potential byelaw breach but it is hoped the commoner will take action following a warning letter which has been sent.

Action RD

OPEN COURT

IN ATTENDANCE: Mr Craig Harrison, Deputy Surveyor

Mrs Joan Clark

The Head Agister opened the Court with the usual proclamation.

ANNOUNCEMENTS & DECISIONS

2024/13518 MOBILE REFRESHMENT SALES

We would like to thank Andrew Parry-Norton and Hilary Harper on behalf of the CDA, Brian Tarnoff representing the New Forest Association and Mark Ferrett for their further presentments on this subject, their comments were considered very carefully and discussed at length in committee after the April Open Court.

Whilst we do have significant concerns regarding the introduction of the extended refreshment sales, because of their potential to increase the likelihood of interactions between members of the public and commoners' animals, at present we have not identified sufficient new evidence to lead us to consider reviewing our decision.

Unfortunately, the Risk Assessments were only received on Monday of this week and we have yet to receive the final HRA. We will be discussing with FE as to why they are either unwilling or unable to provide the final HRA, either of which are of significant concern to the Court.

FE has undertaken to look at means of mitigating the risk of interactions between people and the livestock and we will give proposals brought forward by FE in this connection careful consideration.

A review of our consent for the new mobile refreshment sales will, in any event, be undertaken in two years time.

2024/13519 FLOODING

In response to Mr Peter Hebbard's presentment in our last Court, we understand Forestry England had a site meeting with Mr Hibbard and others from Brockenhurst in March to understand the issues of concern. Further meetings with the relevant statutory authorities will take place in due course.

2024/13520 SUBSIDY PAYMENTS TO COMMONERS

The Forest Farming Group is not a formal body and there are no minutes of its meetings. However, transparency is important. Myself and Mr Graham Ferris represent the Verderers on the Forest Farming Group. The New Forest National Park Authority supports the meetings.

2024/13521 HAY

A problem we often see at this time of year is old hay being dumped on the Forest, sometimes in large quantities. It is usually the previous year's hay that horse-owners feel is no longer suitable for their riding horses and they think that dumping it on the

Forest is a good way of getting rid of it. However, it causes problems for the animals because it is usually mouldy or dusty and the animals will compete for it and sometimes become aggressive meaning injuries result. Leaving anything on the Forest for the livestock to eat constitutes fly tipping and is also a breach of the Verderers' byelaws. We ask horse-owners to dispose of unwanted hay responsibly.

2024/13522 FOALS

Foals are being born now. Please keep away from mares with foals. The mares can be very protective of their young offspring. Dogs should be kept under close control and preferably on leads in the presence of foals. Even the best behaved dog may chase a foal which is running around playing with disastrous results for the foal which could be injured and the dog if the mare attacks it.

2024/13523 STALLIONS

Twenty Stallions were turned out on Tuesday 7th May. We would like to reiterate what we said last month and that is, as with all livestock, our strong advice is to always keep a good distance away from the Stallions as they go about their duties and gather a herd. In particular, we advise horse riders to avoid stallion areas.

ANIMAL ACCIDENT REPORT

2024/13524 THE ANIMAL ACCIDENT REPORT FOR APRIL 2024

The Agisters attended 1 accident in April compared with 2 in April last year.

The pony involved in the accident was killed.

The accident happened in the dark.

The driver involved reported the accident.

The total number of commoners animals killed and injured this year is 5. That compares with 11 in the same period last year.

PRESENTMENT BY THE DEPUTY SURVEYOR

There were no presentments from the Deputy Surveyor

PRESENTMENTS BY THE PUBLIC

2024/13525 OP MOUNTIE

Presentment by Gilly Jones, Commoner, lead on New Forest Roads Awareness. Founder Of Operation Mountie.

'Good morning Official Verderer, Verderers, Members of the Public.

I must apologise for my late presentment, but we held yesterday's Operation Mountie after the cut off point for getting presentments to get to the clerk.

We were on the B3055 at Hawk Hill from 4 pm, within a couple of minutes we caught one driver, the owner of a local business doing 60 mph in a 40, with no seat belt on and with one of his children in his car. We had to finish a couple of hours later, after pulling in another 14 drivers in, with a van, speeding, towing a trailer with the wrong reg plate on. Hopefully you think that is bad enough, but no, the driver tested positive for cannabis and cocaine, Bad enough, no, he only had a provisional licence and no

insurance. This van was a company van. He was arrested and the vehicle was seized.

So, my first take away from this is Operation Mountie, that I started with Hampshire Police over two years ago is worth its weight in gold. Not only for the now hundreds of drivers we have had the chance to educate, but how the public receives our social media posts. Most are positive, but bizarrely some negative. New Forest Roads Awareness posts over the last 28 day have got to over 200 000 people.

I live in hope that our multi agency work with Forestry England and the NPA, and of course Hampshire police has helped to reduce the livestock deaths on Forest roads. We are identifying other issues on our roads, be that a simple out of date MOT, to drug and drink driving.

But the issue I had yesterday, was the number of drivers who lived locally, and I mean very locally. The 'oh well I have never hit anything' was said, followed up by 'I get so angry at speeding drivers'. That's hard to take from someone who you have just caught doing 49mph.

I wonder now what we can do. I would like some extra support from the Parish Councils and businesses. I am aware that the Official Verderer is pushing the request for average speed cameras forward, but as I have said in previous presentments that we have to look at having B3054 included. My aim is to keep the accident figures as low as we can and have an Op Mountie where we don't stop anyone. If anyone has any suggestions, they would be gratefully received.

I will end now, just reminding people that if you see us on the side of a Forest road, doing an Op Montie, or the verderers funded speed camera van is out, please do not flash people to tell them we are there. That person you flash maybe another drug driver, who is putting you, other and the livestock at risk.

Thank You.'

2024/13526 MOBILE REFRESHMENT SALES Presentment by Mr mark Ferrett

> Mr Ferrett referred to the sales units as 'bun vans'. He said he very reluctantly thinks that they should be fenced in as prevention is better than cure. He feels fencing will reduce the risk of incidents between animals and people resulting in injuries to the public and reduce the number of phone calls to the Agisters and Verderers' Office.

> Mr Ferrett went on to say that many years ago commoners were hostile to visitors coming to 'our' Forest, interfering with the tradition of commoning. Visitors do continue to make it hard, particularly for young commoners. He added that he understands why people want to come but the Forest is a farmstead and Forestry England must take responsibility to safeguard it. Mr Ferrett also suggested the campsites should be fenced for the camping season.

2024/13527 SHEEP

Presentment by Mr Andrew Parry-Norton

'Good morning Official Verderer, Verderers, Members of the Court. Andrew Parry Norton - for once I will actually talk for myself, as a commoner, not as the CDA Chairman.

As I'm sure most of you are aware, last Sunday we had five sheep stabbed on a frenzied attack on Cadnam Green. Three of them haven't made it, two of them possibly aren't going to make it. The week before that we had a ram knocked down

in a hit and run outside the Green Dragon, left in the middle of the road to be picked up.

Last year James Penny, one of our neighbours, had three ewes deliberately run down. The Tyre tracks left the road on Cadham Green and ran over his ewes. Wendy Maughan actually witnessed one being run over and the car backing up and driving back over it again. The year before that Wendy Maughan lost eight ewes in stabbings, one of 13 times. This is going on and on and on its sickening and appalling to see. But it does make us doubt very much whether we should put animals out on the Forest. It's starting to affect how we common – this shouldn't take place. But what I ask the Verderers, is to make sure that in your annual and monthly reports these are acknowledged. I know it's not being hit by a car – well not in so many words but it still needs to be acknowledged.

This pattern has been going on for several years. The police have turned up, we spent several days with the police and I hope they catch this person. But I ask the Verderers to make sure you record this. To make it acknowledged because we need to make sure that sheep are acknowledged in the same way as any other Forest animal in the accident report.

Thank you very much.'

2024/13528 MOBILE REFRESHMENT SALES Presentment by Mr Brian Tarnoff

'I've not prepared this (ad hoc) presentment, but I do feel it reflects the views of the New Forest Association. A minor, but important point. We're very concerned that, generally speaking, how processes have been followed in terms of the vans. For instance, the fact that the tenders were advertised before the Verderers consent was sought, and it appears that the Verderers original decision was made on the promise of the Habitats Regulation Assessment, or just its preliminary stage of the HRA, and they're still awaiting the final version of that.

It seems to me that these decisions should not have been made without going through those in the right order. I'm a pragmatic person and I do see you want businesses to be able to continue, but sometimes when you're getting all your ducks in a row, you don't do it eventually, you do it before you proceed.'

The Head Agister closed the Court

IN COMMITTEE (in the Library)

CONSIDERATION OF PRESENTMENTS

2024/13529 OP MOUNTIE & SHEEP

DISCHARGE

The Official Verderer said he has been in contact with the Police and Crime Commissioner following her re-election and he is arranging a meeting with her over the summer. Op Mountie will be discussed as will speeding on the B3054. He will also raise the deliberate attacks on Forest livestock. The OV recently attended a meeting with the Inspector for the New Forest West area. He said he understands there appears to be no link between the latest incidents involving the sheep and those in previous years. The Deputy Surveyor said he will ask his team to be vigilant.

2024/13530 MOBILE REFRESHMENT SALES & POSSIBLE FENCING

DISCHARGE

Three presentments referred to these issues and were therefore discussed together.

The DS assured the Court that FE does acknowledge that the Forest is a working forest, incorporating both farming and forestry.

The DS went on to explain what is happening at the various food concession sites. Some are already in, or could easily be moved, into fenced areas. Boltons Bench needs further consideration.

2024/13531 CAMPSITES

DISCHARGE

Proposals to fence the campsites would be very controversial. Following this morning's presentments, no further consideration will be given to this until at least after the next Open Court, in order to allow time for counter or supporting presentments to be heard.

Mr Chatters will email CNF to find out what options and management choices they are considering or may consider in the future.

CNF's suggestion that a joint Risk Assessment should be undertaken with the CDA has been turned down as it is felt that CNF must undertake an independent RA. The identified risks and mitigation will then be considered.

A discussion then took place surrounding confidentiality whilst preliminary discussions take place. Mr Pasmore felt that the subjects under discussion should be freely available to the public. However, the OV disagreed. He said that confidentiality is important in order to allow the sharing of early thoughts. Decisions will only be made by the Court at a stage when proposals are brought forward and all relevant information is in the public domain.

MATTERS ARISING FROM PREVIOUS COURTS OF CONCERN TO FORESTRY ENGLAND

2024/13532 MOBILE REFRESHMENT SALES – RISK ASSESSMENTS

DISCHARGE

The OV thanked FE for the Risk Assessments.

A detailed discussion took place. Some members of the Court felt that the potential consequences quoted in some sections were too low, and also that some hazards were missing completely. This resulted in an overall risk picture which appears lower than is believed to be the actual case. The Court does understand that in completing the risk assessment, FE are entitled to exercise judgements which are acceptable to them. The difficulty is that it is unlikely to be FE which suffers as a result of a member of the public being seriously injured by an animal and possibly suffering life changing injury or even death. That risk is most likely to be borne by the owner of the pony, not by FE.

It is understood that the CDA has asked to see the Risk Assessments. It was agreed they should be provided by FE and not the Court. The Court asked FE to share the assessments with the CDA and let the Clerk know when that has been done.

Action DS

2024/13533 MOBILE REFRESHMENT SALES – HABITAT REGULATIONS RESUME ASSESSMENTS

The Court feels that whilst it did have sight of an early HRA, the final version of the HRA should have been in place before the sales commenced.

The DS explained that the HRA had gone through a further review in light of Court comments, plus further liaison with NE. As a result, minor adjustments were made. The DS said he would ask his team when the final HRA will be available.

Action DS

The OV said the Court was promised sight of the HRA. He added that if the HRA is not received at least 7 days before the June Court, it will be grounds for the Court to consider reviewing its decision. It was agreed that if the HRA is not available within that timescale, the DS and OV will have a discussion.

2024/13534 BOLTON'S BENCH TO DENNY CAMPSITE VERGE PROTECTION DISCHARGE WORKS (HLS)

A meeting is to be arranged with archaeologists from the NFNPA. FE will circulate the date. Proposals will be considered when they Action DS/FE are submitted.

2024/13535 MAINTENANCE OF THE DRAIN AND BRIDGE ON BURLEY LAWN DISCHARGE

A site meeting is to be arranged. Action DS/FE

2024/13536 PROCEDURES RESUME

The DS and OV had a useful meeting to discuss the procedure which FE should follow when submitting applications for Verderers' consent.

It was agreed that it should be made clear when early discussions are simply discussions, and not part of the process for seeking consent. If anything is confidential at that stage, that must also be made clear. When the final request for consent is submitted, all relevant documentation must be provided in one bundle and as stated earlier, proposals must be in the public domain.

There remains some difference of opinion as to the Verderers role under the Habitat Regulations and whether the Court is a Competent Authority. The OV believes it is. The DS said he wishes to seek further advice.

Action DS

2024/13537 BRAMSHAW (FOREST GOLF COURSE) LICENCE DISCHARGE

Mrs Clark explained the licence is not due for renewal until 2025 but she asked that she be advised of any issues or concerns as soon as Verderers/JC possible.

It was suggested that the at some point the Golf Club may have carried out some works which do not fall within the agreed management plan and so have not been agreed and recorded. The new Golf Club owners are reported to be understanding of the nearby farming activity.

2024/13538 ENCROACHMENT AT FOREST GLADE HOUSE, BARTLEY

DISCHARGE

This matter is ongoing. Mrs Clark will bring it back to the Court when she has something to report.

Action JC

UTILITY PROPOSALS - DE-MINIMIS CONSENTS

2024/13539 DE-MINIMIS-CONSENTS - UTILITY PROPOSALS AGREED BY DISCHARGE THE DE-MINIMIS COMMITTEE

DM0199 SSEN, 1 new pole at 1 Broomhill Cottages, East End

UTILITY PROPOSALS - FALLING OUTSIDE THE SCOPE OF THE DE-MINIMIS COMMITTEE

2024/13540 ADMINISTRATION OF UTILITY PROPOSALS

DISCHARGE

The Court gave its approval for Assetsphere to manage, on its behalf, the administration connected with utility proposals in the Forest, whether on or off Crown Land. This is subject to Assetsphere recovering its costs from the utility companies with no financial cost to the Court. Once this arrangement is in place, Assetsphere will liaise direct with the de-minimis committee Verderers.

CAMPSITES (CAMPING IN THE NEW FOREST – CNF)

2024/13541 CNF ADVISORY GROUP

DISCHARGE

Mr Chatters reported on the recent meeting of this group.

Proposals will be submitted by the end of the month.

Campsite Management Plans have been provided. Mr Deakin has looked at the health and safety section in one of them and noted that whilst it talks about health and safety for visitors, and tree safety, there is no mention of livestock or a risk assessment. It is assumed the other sites are the same.

CNF has offered to pay the CDA's insurance premium but the offer has been declined as the latter wishes to ensure its independence. It is understood CNF's liability insurance is increasing to £20M and this raises the question of whether commoners also need that level of cover. If so, that could prove to be very expensive.

2024/13542 CNF LIVESTOCK MEETING

DISCHARGE

Mr Gammon reported on the last meeting of this group. Insurance was one of a number of things discussed.

Mr Deakin stressed again that financial risk is not the whole issue. It is the fact that a commoner's animal has hurt someone, resulting in an (understandable) claim against the owner, which causes stress and usually results in the loss of the animal involved from the Forest.

SSSI RESTORATION WORKS

2024/13543 THE REPAIR & MAINTENANCE/ENHANCEMENT LIST

RESUME

The list was noted.

2024/13544 WORK IN ISLANDS THORNS

RESUME

Mr Pasmore asked for details of the works which are planned for Islands Thorns. There is a lot of archaeology in the stream which FE was advised about in 2012. The DS said he will ask.

Action DS

ENCROACHMENTS

2024/13545 ENCROACHMENTS LIST

RESUME

The list was noted.

ITEMS REQUIRING ACTION BY FORESTRY ENGLAND

2024/13546 ACTION LIST

RESUME

The list was noted.

2024/13547 INFORMATION BOARDS

DISCHARGE

The boards at Bolton's Bench and Hatchet Pond have gone. However, the boards at Denny and Standing Hat are still in situ. The DS will check. He added that he will ask that a list is kept.

Action DS

The OV said that he is sure it should be possible to provide messaging for the public in a better, more modern way. He suggested using mobile phone Apps which would automatically provide information when people cross the perambulation. He added he feels it is important that signs are consistent in content and design.

There being no other business involving Forestry England, The Deputy Surveyor and Land Agent left the meeting

MATTERS ARISING FROM EARLIER IN THE MEETING

2024/13548 MOBILE REFRESHMENT SALES

DISCHARGE

The question arose as to what happensif the Court disagrees with the FE evaluation of risk? It was suggested the Court may need to go to a Health & Safety advisor.

It was remarked that the HRA is FE's, and if NE is happy with it, it is difficult for the Court to argue against it.

Unfortunately, prior to the mobile refreshment sales submission, the Court did not have a detailed formal system/process in place for considering requests for consent of this nature.

The Court has now set the following parameters and in future:-

Scoping for the HRA must be agreed.

No presentment will be accepted until it is in its final form.

FE must submit one formal request for Verderers' consent.

A request for consent will not appear on a Court Agenda until all the documents are complete and in their final form.

Mr Chatters said when a Competent Authority draws up an HRA it must be done by a suitably qualified person. The obligation falls on the applicant and the cost must be borne by the applicant. HRA's must pass an integrity test.

Mr Chatters said he has Footprint Ecology's New Forest SAMM (Strategic Access Management and Monitoring) Strategy 2023 and said he will circulate a copy.

Action CC

ENCROACHMENTS

2024/13549 FURTHER ENCROACHMENT AT 153 WOODLANDS ROAD, DISCHARGE BARTLEY

An encroachment at this property, resulting from the construction of a new fence, has now been exacerbated by a hedge being planted on grazed land. The latter is being pursued by the CDA Encroachments Committee.

HIGHER LEVEL STEWARDSHIP SCHEME & THE VERDERERS GRAZING SCHEME

2024/13550 WITHELD VGS PAYMENTS

DISCHARGE

Payments to two commoners have been withheld.

REPORTS FROM EXTERNAL COMMITTEES AND WORKING GROUPS

2024/13551 NEW FOREST ACCESS FORUM

DISCHARGE

Miss Sevier advised the Court that she has been reappointed to the Access Forum.

OTHER ADMINISTRATIVE MATTERS

2024/13552 FINANCIAL STATEMENT

RESUME

The Financial Statement was noted.

TRAINING & HEALTH & SAFETY

2024/13553 ROAD TRAFFIC COLLISIONS AND OTHER INSTANCES WHERE COMMONERS' ANIMALS STRAY ONTO THE FENCED ROADS

RESUME

Mr Deakin said he is making good progress with the risk assessment for removing animals from the fenced roads. He said he feels strongly that the Agisters should not be removing animals from the A31 without a police presence due to the speed of the vehicles on the road. This has been communicated to the Agisters.

RTC's and other incidents where animals stray onto fenced roads other than the A31 are more problematic as it is unusual for the police to be there or have the resources to attend.

2024/13554 PROPOSED EXTENSIONS TO THE WAYMARKED CYCLE DISCHARGE NETWORK & STOCK UNDERPASSES

Mr Deakin said a document is being prepared on the dangers of public access to stock underpasses, particularly by cyclists. This is in relation to a map of proposed new cycle routes across the Forest which is being prepared by FE. The map will be shared for consultation before it gets to the stage where a request for consent is brought to the Court.

ANY OTHER BUSINESS

2024/13555 PROPOSAL FOR A GREEN BRIDGE ALLOWING STOCK DISCHARGE ACCESS TO THE WATERSIDE MARSHES

Miss Sevier said she has seen a proposal to construct a wide 'green bridge' which would allow Forest stock to access the marshes on the Waterside. Miss Sevier said she has pointed out to the NFNPA why it is not practical.

2024/13556 NEOSPORA DISCHARGE

Mr Deakin said he proposes to approach Mr Alex Crook MRCVS regarding a possible further study into the likelihood of Neospora being found in the pony herd.

STAFF MATTERS

2024/13557 HUMAN RESOURCES

DISCHARGE

Permission is delegated to the Official Verderer, in consultation with the Chairman of the Staff Committee, to appoint an HR firm to assist the Court. This was proposed by Mr R Manley and Seconded by Mr M Gammon and approved unanimously.

The meeting ended at 13:50 hrs