

**Minutes of the
MEETING OF THE BOARD OF CONSERVATORS OF ASHDOWN FOREST**

14.30, Monday 24 November 2008
Ashdown Forest Centre

Present: Cllr J Barnes (in the Chair), Mr M Cooper, Mr R Galley, Mr L Gillham, Mr P Glyn, Cllr M Hoy, Cllr S Martin, Dr H Prendergast (Clerk), Cllr A Reid, Cllr R St Pierre, Mr J Spicer, Mr E Stenhouse, Cllr R Stogdon, Mr R Thornely-Taylor and Cllr F Whetstone. Minutes taken by Mrs T Buxton.

The Chairman opened the meeting, welcomed the members of the public present and invited questions for 10 minutes from the floor. There were no questions.

30/08 Apologies.

Cllr B Lacey and Cllr S Shing.

31/08 Declarations of any interest by Members of a Personal or Prejudicial Nature.

The Clerk declared an interest of a personal nature in agenda item 33/08 as he has an access across the Forest.

There was a short discussion regarding whether Commoners need to declare an interest and the Chairman suggested that the Board, for the sake of simplicity and transparency, should develop a Register of Interests.

It was agreed that a Register of Interests be developed in time for the next Board.

32/08 To receive the Minutes of the Board Meeting of 8 September 2008 and Matters Arising – BOARD 16/08.

32.1/08 The Minutes of the last meeting had been circulated and were assessed by the Board for accuracy. No changes were required and the Board received the minutes.

32.2/08 Cllr Whetstone asked, regarding Board minute 25/08, that the minutes of Executive Committee meetings be circulated. The Chairman stated that since the last Board the Executive Committee had not met again. However, he was happy that any existing minutes be circulated.

33/08 To receive the Minutes of the Meeting of the Conservation Committee of 29 September 2008 – BOARD 17/08.

33.1/08 The Minutes of the last meeting had been circulated and were assessed by the Conservation Committee for accuracy. No changes were required and the Board received the minutes.

33.2/08 Mr Glyn stated that the Committee had made no recommendations and he was happy to answer any questions the Board may have. Mr Stenhouse queried whether, if two people were using the same holding number for in-bye land, the restrictions on animal movement would prejudice lambing. He went on to say he was aware that this was a serious problem elsewhere.

33.3/08 Mr Glyn replied that there was now further in-bye land available and there was nothing to prejudice lambing. He said he was unable to answer the question on restrictions on animal movements without some research but would give Mr Stenhouse the answer outside the meeting.

33.4/08 The Chairman reminded the Board that any questions requiring specialist knowledge would be better directed to the appropriate member of staff rather than at meetings so that real issues can be swiftly dealt with. He went on to say that where technical detail was required advance notice of the question or comment should be given.

34/08 To receive the Minutes of the Roads, Planning & Amenities Committee Meeting of 20 October 2008 – BOARD 18/08.

- 34.1/08 The Minutes of the last meeting had been circulated. Mr Spicer stated that he had attended this meeting. The required changes were made and the minutes were duly received.
- 34.2/08 Mr Cooper reported that, in relation to RPA minute 30.1/08, a meeting with mountain bikers had been arranged and they were planning a presentation. He went on to say the Clerk was making extensive enquiries into the experience of other bodies with mountain bikes and the opinions of local people via the parishes. Mr Cooper also said that the issue was not going to go away and the Committee would continue to have an open mind and to respond constructively.
- 34.3/08 The Chairman reported that he had received correspondence from the public on mountain biking entirely against, and the Clerk stated he too was receiving correspondence and e-mails on the issue.
- 34.4/08 Cllr Whetstone asked why the issue was being discussed again as he understood Standing Orders prevented re-discussion until six months had elapsed and Mr Cooper replied that six months had indeed elapsed since the last discussion.
- 34.5/08 Mr Cooper reported he had attended the Airman's Grave ceremony (RPA minute 37/08) and members of the public approached him and had made various suggestions such as the provision of loud speakers and the introduction of a religious element. He went on to say these suggestions would be added to the next RPA agenda for a full discussion of the form of remembrance. The Chairman thanked Mr Gillham for standing in for him on Remembrance Sunday. Mr Gillham said it was an honour.
- 34.6/08 Mr Cooper asked that the Board discuss the paper on access (document 18i/08). Mr Stenhouse said that any new proposals should be capable of being fully implemented. He went on to say any agricultural access was, these days, primarily equine and horses were not agricultural animals. He continued that it was difficult to prevent access to a field with or without a horse or horse box and principle B should be changed to include equine use.
- 34.7/08 Mr Cooper replied that Mr Stenhouse was right that principles A and C to D had been agreed. The Chairman agreed that it was correct for the Board to discuss this issue but that the legal position would need further clarification.
- 34.8/08 Cllr Whetstone commented that less and less land was used for agriculture and agreed that the majority of accesses was being used for equine activities.
- 34.9/08 Mr Gillham commented that he had no objection to agricultural accesses being extended for equestrian use providing it did not weaken the Board's legal stance or lead to general usage.
- 34.10/08 The Clerk questioned what gain there would be to the Forest by allowing equestrian access and he was certain that WDC's planning department would receive many applications to erect stables, followed by applications for utilities and further development. He went on to say that agricultural access was well defined in law and that the Board had a well-established policy and the ability to comment on WDC planning applications and stop development.
- 34.11/08 Cllr Whetstone asked if the Clerk was intending to enforce the rules and he replied that rules were enforced but there were some unresolved issues, as the Board was well aware. He went on to say legal opinion was being sought. The Chairman stated that a pony in a field was a very different matter than someone setting up stables and the Board might choose not to enforce the policy *de minimis*. Mr Spicer stated that he agreed with Cllr Whetstone that the Board should be more pragmatic.
- 34.12/08 Mr Galley stated that the Board was, broadly speaking, right to seek legal advice but that the Clerk took too narrow a view. He went on to say it was important to look at the perspective of users and visitors rather than just habitat. Mr Glyn replied that the Forest was the Board's first duty of care but it was a fact if access was allowed to fields and stables it was very likely that

owners would seek to develop the land and the Board needed to keep the greater good of the Forest in mind.

34.13/08 Mr Stenhouse commented that mobile shelters did not require planning permission and that principle B could be ignored *de minimis* or suitable wording could be found that would exclude any extra development and limit use.

34.14/08 Mr Cooper commented that the issue was a tricky one and he inclined towards pragmatism. He went on to say that simply sticking to the current policy was unrealistic and did not reflect actuality. He agreed with Mr Stenhouse that a legal form of words was required. The Chairman stated that legal advice was currently being sought and, once a satisfactory form of words was devised that would allow a realistic approach, they would be circulated to the Board.

34.15/08 Cllr St Pierre stated that she would also like to see an environmental statement as land can become horse sick (caused by run-off) an environmental problem in itself that could impact on the Forest.

It was agreed that for principle B a satisfactory form of words, that would allow a realistic approach yet protect the Forest from development, would be devised and discussed at the next Board.

It was agreed that principle B would stand until the next Board meeting.

It was agreed that principles A, C, D, E, F and G be accepted.

35/08 To receive the Minutes of the Finance & General Purposes Committee of 3 November 2008 – BOARD 19/08 & 19i/08.

35.1/08 The Minutes of the last meeting had been circulated and were assessed by the FGP Committee for accuracy. In FGP minute 26/08 names were amended to read Cllr Coussons and Mrs Hemsley. The required changes were made and the minutes were duly received.

35.2/08 Mr Thornely-Taylor stated that the budget estimates, presented in Board 19i/08, were self-explanatory. The financial information and estimates were adopted by the Board.

35.3/08 Mr Thornely-Taylor reported that, in minute FGP 26/08, there had been a discussion regarding monies being held in non-bank deposits in a similar manner to ESCC who held monies with HM Government. He went on to say that this was something the Board could investigate with the assistance of Cllr Reid.

35.4/08 Mr Thornely-Taylor reported that, in FGP minute 26/08, there had been a discussion regarding the possibility that ESCC could enter into contracts on the Forest's behalf in order to reclaim the VAT.

35.5/08 Mr Thornely-Taylor reported that the Clerk had made contact with Mrs Mo Hemsley but had not yet received a reply. Cllr Reid replied that Mrs Hemsley was not aware of that communication and the Clerk should re-contact her. He went on to say it was important that the Clerk discusses how to manage reserves and discuss terms and conditions with Mr Richard Hemsley and Mrs Hemsley. He also said that the Clerk should have discussions and ask questions regarding the very complex issue of VAT with Karen Regan, who has County responsibilities for VAT issues, in order to find a practical way forward. Cllr Reid stated he was willing to help. Mr Thornely-Taylor stated that the potential benefits to the Forest were large. The Clerk was asked to contact Mrs Hemsley to set up an early meeting.

35.6/08 Mr Thornely-Taylor drew the Board's attention to FGP minute 27/08, Board 21/08, that relate to the Freedom of Information Act. The Chairman moved to accept the wording and the Board adopted the wording.

35.7/08 Mr Thornely-Taylor drew the Board's attention to FGP minute 28/08 on charges for activities 2009-2010. Riding permit charges were discussed. Cllr Whetstone proposed that the charging

method set out in footnote 2 be adopted. Mr Thornely-Taylor seconded that proposal. Mr Spicer disagreed with the proposal which was then put to a vote. The vote was carried by a majority.

- 35.8/08 Mr Thornely-Taylor stated that the scale of charges for activities 2009-2010 would be amended *pro-rata* in line with the new VAT rate.
- 35.9/08 Mr Thornely-Taylor drew the Board's attention to the Forest Rate for 2009-2010. It was agreed that the Forest Rate be adopted by the Board and forwarded to the Secretary of State for approval.
- 35.10/08 Mr Thornely-Taylor drew the Board's attention to FGP minute 30/08 and stated that further meetings would be required on this matter to iron out income and expenditure and cash flow. He went on to say there was a lot of work needed by the Board and partner organisations. The Chairman commented that the HLF had its own set of quirks and other organisations were experiencing problems which could mean further discussions. The Clerk reported that some activities planned for HLF would require some amendment such as the proposed visitor survey (a visitor survey had taken place as part of the Habitat Regulations Appropriate Assessment by Mid Sussex and Wealden Councils in September).
- 35.11/08 The Clerk reported that HLF work would not get underway until 1 January 2009 and after that date the Executive Committee and FGP would have more detail and greater involvement. He went on to say he would be learning more at the HWU/HLF Board Meeting later this week.
- 35.12/08 There was a short discussion regarding where funds had been obtained from and the Clerk reported the Ashdown Forest Conservation Trust, the Friends and the Rotherwick Foundation were all supplying financial support in addition to that of HLF. The Chairman commented that the Board was dependent on its partners for this project and re-enforced how important it was to ensure the match funding was fully in place.
- 35.13/08 Mr Stenhouse raised the issue of the Forest Centre Development. The Chairman drew the Board's attention to documents 18/08A and 18/08B and took them into the Board papers.
- 35.14/08 Mr Stenhouse asked for a full very detailed written appreciation, including a SWOT analysis, for the FGP and RPA Committees and the Board. He went on to say he was happy to write one as he had a great deal of experience (mentioning his military background and Hill 60) and wanted to see an even-handed document.
- 35.15/08 There followed a very lengthy free-flowing discussion, which is fully minuted, on the development of the Forest Centre with phase 1 of the proposed development coming under scrutiny. Mr Cooper stated that the RPA Committee, in taking forward the Forest Centre development, was acting on a decision made by the Board some time ago. The drawings currently being obtained by Ian Hurst and the Clerk would clearly illustrate the scope of the concept and how phase 1 will fit into the overall plan and this should be clarified by the next Board meeting. He went on to say that it was an implementation rather than a policy issue.
- 35.16/08 Mr Spicer agreed with Mr Stenhouse that phase 1 should be re-visited and that the HLF bid would have an obvious effect on the size of the new toilets and the boiler. He also commented that the implementation timescale had obviously slipped. The Hurst concept had initially looked sensible but, in his opinion, the Board needed to decide where it was going before phase 1 was further implemented.
- 35.17/08 Cllr St Pierre stated that, in her opinion, the whole discussion regarding the Forest Centre development was taking on nightmarish qualities. The discussions were underway when she had joined the Board three years ago and it had seemed the development of a proper visitor and education centre was an exciting prospect.

- 35.18/08 Mr Gillham said that he did not recall the Board agreeing to a full-blown visitor centre and it would be, in his opinion, foolish to move to phase 1 without greater financial detail. Natural scepticism was wonderful but also an appalling burden and he had no problems with the concept of phase 1 as long as the Board were sure it would not have to be ripped down in a few years time. Nothing would be lost by going ahead with Mr Stenhouse's proposal but it must be ready and in place by the next FGP and RPA Committee meetings. He went on to say that a larger, more modern visitor centre was not viable on the visitor numbers we currently have and more visitors were needed. Cllr Whetstone commented that the Board agreed phase 1 on the basis that there would not be any other changes. However, he anticipated the HWU bid would lead to a higher level of visitor activity.
- 35.19/08 The Chairman agreed that the document should be ready by the next FGP and RPA Committee meetings and that a set of drawings were considered by the Working Party to be a useful to aid the Board and later for fundraising purposes. The Working Party would have a chance to make comments on Mr Stenhouse's report before it went to the Committee. He went on to clarify the situation. The Parkin Plan was cancelled as it was unaffordable. However four things were agreed to move forward by the Board: to move the boiler leading to the creation of a new entrance to the Information Barn; to address the lack of disabled access; to improve the visitor toilets and to commission Ian Hurst to advise on a scaled-down scheme (phase 2), to which the Board were not yet committed, with the input of the Working Party. He went on to say he took on board Mr Stenhouse's point that it was important not to underprovide the toilet facilities. The Working Party suggested that the Board see what the later phase of development would look like and how phase 1 would fit in. He stated that the only item at issue was the size of the toilets. He went on to say that he accepted most of Mr Stenhouse's paper, which he thought was reasonable, other than point 4, which would be difficult to reopen as legal advice had already been sought, and point 8 on location, the legality of which had also been settled. He hoped Mr Stenhouse would assist in the production of the document he had proposed.
- 35.20/08 Cllr St Pierre stated that members of the Board and the Working Party should visit the facilities run by the South Downs Joint Committee such as those at Cuckmere Haven which had a huge number of visitors, excellent facilities and little negative impact on the surrounding area. She went on to invite Mr Stenhouse to make a visit. Mr Cooper confirmed that he would do so at an early opportunity.
- 35.21/08 Mr Cooper re-stated that the Board had, at no stage, agreed to promote the Forest, but rather to anticipate increased visitors. He agreed with the Chairman that the drawings being commissioned were done so within the context of phase 1 fitting into later phases in order to clarify the Board's aims and raise funds.
- 35.22/08 Mr Spicer commented that the Board had agreed to phase 1 but that costings and timescales were needed and asked why the Board could not just get on with it. He also said that phase 2 onwards could wait.
- 35.23/08 The Clerk explained that the HLF did not overlap with phase 1 of the Forest Centre development and was, in fact, about the inside of the Centre with distinct projects that would not commence until 2011. At the moment there was nothing substantial about the Forest Centre development, it remained just an idea and there was no funding. He went on to say the Hurst Concept is reachable and would provide the physical environment to educate children and the wider community as to why the Forest is so important. The HLF bid will provide an immediate mechanism to achieving some of that education. He also explained that a set of drawings will allow the Board to talk about and discuss its long term vision with potential funders, one that will be in place long after the members of the Board have all gone.
- 35.24/08 Cllr Hoy suggested that the Board should be looking at contacting surrounding councils and south London councils to elicit their support on what the Board is doing.

- 35.25/08 Mr Stenhouse stated that the Board needed to know the project milestones, the unknown number of visitors, who they were and where they were coming from was all fundamental. He questioned if the Board actually decided to run a visitor centre and questioned the aims and objectives of any future visitor centre. Mr Spicer agreed and stated that, in his opinion, the further developments should be put on hold for a further five years.
- 35.26/08 Cllr Martin replied to Mr Stenhouse that the aim was the education of children and the public at large. Toilets were needed as was heating and some catering (which could be outsourced and not on the shoulders of the Board). The plans were in good taste and the Board should support this kind of plan. Cllr St Pierre echoed Cllr Martin's wise words.
- 35.27/08 Cllr Stogdon stated that he had difficulty with the concept of education and this was not what we were charged to do under the Act. The Chairman replied that the legal position had already been clarified. It was not a duty under the Act but was part of our contract with HLS and an essential tool for visitor management and as long as the activity was a subordinate to our primary duties it was perfectly legal.
- 35.28/08 Mr Cooper asked to defend the Working Party. They had been given a limited brief to look at phase 1 within the context of possible later phases. The Board and the Working Party were responding to the inevitable demand, in the light of the much needed conservation and restoration of the Forest, and the Board needed to manage that demand or face accusations of a dereliction of duty. Mr Gillham replied that the Board members of opposing views did share much common ground, that the Board is committed to education and to a visitor centre and, like the Clerk, is concerned about the future of the Forest after the current Board was gone. However, there was no evidence of viability or public demand and the Board had to look carefully at the finance and not be swayed by overblown visitor numbers. He agreed that Mr Stenhouse's paper was important and would provide much needed evidence to the Committees and to the Board. Once this paper had been discussed the Board should make a decision and stand by it. Cllr Stogdon agreed and went on to say the current visitor centre did not serve, at present, to better manage the Forest.
- 35.29/08 Mr Thornely-Taylor stated that he had been disturbed by Cllr Stogdon's point on education and drew the Board's attention to Section 17 of the Ashdown Forest Act 1974. He went on to say he now had doubts about the Board legally having a visitor centre at all or erecting a new building and asked the Chairman, as a matter of some urgency, to review the legal advice to ensure the Board was not acting *ultra vires*. The Chairman replied that the legal advice had already been obtained, a year ago, from the County Solicitor and when the buildings had been erected over 20 years ago, and the point seemed very clear. He was reluctant, on the grounds of the high cost, to take the matter to a QC for even further clarification. He agreed that the legal opinion should be re-circulated to the Board. Mr Thornely-Taylor stated that he remained uncomfortable. Cllr Whetstone replied to Mr Thornely-Taylor that he thought Section 17 of the Ashdown Forest Act 1974 was being misinterpreted by him and that it was, in his opinion, a tool for management.
- 35.30/08 Cllr St Pierre stated that she was very concerned about the way the discussion was going and, in her opinion, County Councillors in County Hall would be appalled that the Board seemed to have such objections to something that enhances a visitor centre and conservation. Cllr Stogdon replied that the Board was obliged by the terms of the Act but it could be said the Act was wrong. Mr Glyn commented that there was much subsequent legislation and pointed out that under the Act there was no 'obligation' or 'duty' to conserve but the Board had a 'power' to do so. It was no leap in logic to suggest that the Board had to manage visitors; however, he agreed with Mr Thornely-Taylor's fundamental point and that it must be looked at.
- 35.31/08 Cllr Reid stated that there were difficult financial times and budgets ahead and he wished to take up Mr Stenhouse's generous offer to explore specifics of revenue. He moved that the Board should accept Mr Stenhouse's generous offer to write a report for the Working Party. Cllr Whetstone seconded the proposal.

35.32/08 Cllr Reid stated that it was important to encourage discussion over the budget. The Chairman stated that a contingency plan may be needed and downward revisions required. Mr Thornely-Taylor commented that ESCC had to approve any revised budget.

35.33/08 Mr Glyn stated that the Board should thank and give credit the Clerk for the hard work he had put in to secure the HLF funding. The Chairman agreed and also thanked all staff concerned and the HWU.

The budget estimates for 2009-2010 were agreed by the Board.

It was agreed the Clerk would ensure contact is made with Mrs Hemsley and Ms Regan at ESCC to discuss management of reserves and VAT.

It was agreed that the method of charging for riding permits laid out in footnote 2 be adopted by the Board.

It was agreed that the scale of charges for 2009-2010 be adopted by the Board.

It was agreed that the Forest Rate for 2009-2010 be adopted by the Board and forwarded to the Secretary of State for approval.

It was agreed that Mr Stenhouse should go ahead with the proposed report on the Forest Centre development (excluding points 4 and 8) that other members would contribute to what Mr Stenhouse intended to be a balanced paper and be ready for circulation two weeks prior to the RPA and FGP Committees and also presented at the next Board meeting.

It was agreed that the legal opinion referred to in minute 35.27/08 be re-circulated to the members of the Board and confirmed in writing by the legal experts.

36/08 Proposed dates for meetings in 2009-2010 – BOARD 20/08.

The dates were agreed other than RPA 19 October 2009 which has been amended to 26 October 2009.

The dates for meetings for 2009-2010 were agreed by the Board.

37/08 Freedom of Information Act Policy.

This was agreed as above in minute 35.6/08.

It was agreed that the draft wording for the Freedom of Information Act be adopted as policy by the Board.

38/08 Any Urgent Items of which the Clerk has notice in order to pass to the elected Chairman.

The Chairman stated he and the Clerk would review the Standing Orders as there were questions about why Urgent AOB was an agenda item. Standing Orders would be discussed at the next Board meeting. The Chairman re-iterated that any communications regarding minutes should be sent to the Chairman and copied to the Clerk.

There being no other questions or comments, the meeting ended at 16.55.

Chairman _____
9 March 2009

Clerk _____