

Government Policies on FC Housing & Land for Commoning

August 2018

Current policy is based on the “Illingworth Report” commissioned by ministers in 1991. This Inter-Departmental Working Party on New Forest Grazing was chaired by the Forestry Commission Chief Land Agent, Richard Illingworth and comprised one official each from the Forestry Commission, Department of the Environment, Ministry of Agriculture, Fisheries and Food. It reported back to ministers in 1992 and was accepted by MAFF on 24th September 1992

Government Response to Recommendation 45 (*We recommend that the measures set out in Appendix 10/4 (on housing, back-up land and planning) should be followed-up and implemented as appropriate*)

“The Forestry Commission can also play a part, and we have asked it to adopt those recommendations relating to houses, buildings and land under its management.”

Letter from the Secretary of State

“Introduction of the measures we have agreed ... should go a long way to ensure that the unique features of the Forest are secured for future generations”.

Rt Hon John Gummer MP, Secretary of State, MAFF, 24th September 1992

On 24th July 2006 the DEFRA minister stated that he expected the proportion of Forestry Commission cottages let to commoners to continue to increase as direct forestry needs decline.

Minister’s Mandate for the New Forest

The Forestry Commission will support a sustainable commoning tradition, principally through actively maintaining open forest grazing capacity in a scientifically sound way ...

Management Objectives

The Forestry Commission’s objectives for the management of the Crown Lands will be:

- (i) Conservation of the natural and cultural heritage as the principal objective of management;
- (ii) Community engagement...
- (iii) Insofar as is consistent and compatible with the first and second objectives, efficient management of the Forestry Commission’s operations and appropriate generation of income from timber production and other uses of the Crown lands.

Forestry Commission, Estates Management Objectives of the Crown Lands Management Plan (Policy B8-1): *“To support the commoning community through the provision of rental accommodation and provision of back-up grazing land to practising commoners at discounted rents”*

Response by DEFRA Minister, Therese Coffey, to a Parliamentary Question by Desmond Swayne MP (2 Nov 2017)

The Forestry Commission is initiating a review of its policies on land and property leases in the New Forest. This would include consultation with interested parties in the New Forest. I expect the Forestry Commission to work with those with an interest and present their findings and any planned changes in approach to Ministers for approval.

Illingworth: Appendix 10/4

Housing, Buildings, Back-up Land & Planning

Part 1: General Principles

General Principles

1. We first set out a number of general principles which relate to the letting of houses and land specifically to commoners.

Holdings

2. We consider houses, and run-back land separately but these will be of most benefit to commoning when they are combined in a small-holding.
 - Whenever possible, houses, land and buildings which are to be let to commoners, should be let together to form self-contained smallholdings.

Selection of Tenants

3. A number of our proposals involve preferential lettings to commoners on condition that they will turn-out animals onto the Forest. It is important to ensure that there are reasonable prospects of this obligation being met.
 - Applications for property which is to be let subject to an obligation to turn-out animals onto the Forest should be considered by a panel consisting of the owner or his representative, an appointed Verderer and an elected Verderer. This panel would select the most suitable applicant, having regard to the following criteria:
 - The applicant's length of residence in the New Forest;
 - The applicant's family connections with commoning;
 - The applicant's practical knowledge of and experience in commoning;
 - The applicant's knowledge and experience of farming;
 - **The applicant's financial resources relative to commoning;**
 - The applicant's marital status;
 - Whether the applicant has children living with them;
 - The potential number of animals to be turned-out by the applicant.

Obligation to Turn-out animals

4. There is the risk that tenants would not fulfil their obligations to turn-out animals once they had secured a tenancy.
 - Houses which are let subject to an obligation to turn-out animals should be leased on shorthold tenancy for an initial period of 2 years, towards the end of which the tenant's track record of turning-out animals should be reviewed. If he, or she has patently failed to comply with the above obligation, the tenancy should not be renewed. Otherwise a further shorthold tenancy would be granted for a longer period, and so on.

- i. Lets of land to commoners be for periods of 5 years. To avoid secure tenancies being created, the consent of the Minister of Agriculture, Fisheries and Food under Section 2(1) of the Agricultural Holdings Act 1986 should be obtained.

Rents

5. Under the Housing Act 1988, most rents are related to open market value. In the New Forest these can be well over £100 per week for even a small cottage. Preferential lettings to commoners would therefore have little practical effect if the rent was more than they could afford. We see a way out of this difficulty in the arrangements operated by Government departments for employees who are required to occupy a specific house as a condition of their employment.
 - When a house is let subject to a commoning obligation, the rent to be charged should be 15% of the tenant's basic pay or income.
6. The demand for land in the New Forest is very high. As a result, rents can be offered which bear no relation to agricultural use.
 - When land is let to commoners, the rent to be paid should be its open market agricultural value.

Size of Land Lettings

7. Over the past 40 years or so the trend in Britain has been for the amalgamation of small farms into large units. In the New Forest, this has added greatly to the problems commoners now face.
 - Lets of land to commoners should be in small parcels and should normally be limited to not more than 5 hectares per individual commoner.

Part 2: Houses

The Forestry Commission

8. The Forestry Commission manages 56 houses (excluding those let on an agricultural or long-term lease) in the New Forest. Of these, 39 are currently required for forestry and other purposes, including 31 which are sited within the statutory inclosures and cannot be sold. 17 houses are classified as surplus, of which 7 are occupied by Commission staff, 9 by other tenants and one is vacant.
 - **The Forestry Commission should retain all the houses which it now manages in the New Forest**
 - The existing tenancies of these houses should be respected
 - When the commission lets a house to an employee, it should select a tenant, insofar as operational requirements permit, who will turn-out ponies and/or cattle onto the Forest but without making this a condition of let.
 - When a vacant house is not required for a Commission employee it should be let to a tenant who will, as an express condition of let, turn-out ponies and/or cattle onto the Forest.

9. We considered whether it would be appropriate for the Forestry Commission itself to build new houses for let to commoners. We came to the conclusion that it would not, at least for the time being. The Commission is not a housing authority and we consider others are better placed to carry out this role.

Housing Associations

10. We see a significant role for Housing Associations in commoners' housing. We understand that five Associations operate within or adjacent to the Forest, of whom three have expressed definite interest in cooperating: the Swaythling Housing Society (who are now extending their activities to low-cost rural housing), the Hampshire Voluntary Housing Society and the New Forest Villages Housing Association.

[Omitted: 11. Selection of Tenants for HA-built properties; 12. Section 106 potential for commoners' dwellings; 13, Retention of HA-built properties; 14, Prevention of sale of shared-equity properties]

15. In order to build houses in the New Forest either for rent or for shared-equity purchase, the local housing associations will require sites. We note that the Forestry Commission manages nearly 500 hectares of freehold land in the Forest. By way of illustration, if only 1% of this was suitable for affordable housing, it would provide sites for 50 or more houses.

- The Forestry Commission should review its holding of freehold land in the New Forest in conjunction with the Planning Authority to identify sites with no prospects of normal development but which would be suitable for affordable small scale rural housing.
- Such sites should be sold to housing associations at existing use value
- As a condition of sale, the Commission should retain the right to nominate the tenants or shared-equity purchasers of houses built on this land as being bona fide commoners.
- Houses on this land let by the housing association should be done so on shorthold tenancies. If the tenant fails to meet his commoning obligations, the tenancy should not be renewed.
- Houses on this land sold on a shared-equity basis should be done so subject to a right of pre-emption (repurchase), which the housing association should exercise if the occupant fails to exercise his or her commoning obligations.
- Shared-equity purchase might be beyond the means of suitable commoners. In these circumstances, we consider that it would be appropriate for the Forestry Commission to contribute part of the development costs.

16. The arrangement for housing land referred to above could equally well be operated by other bodies and private landowners holding land in the New Forest.

- We commend these arrangements to Hampshire County Council, New Forest District Council and the National Trust in respect of land which they own in the New Forest.
- Active efforts should be made by the Verderers to encourage private landowners in the New Forest to make low-cost land available to housing associations.

[Omitted: 17 HA dependence on central Government funding; Housing Corporation funding; 18 pilot scheme for commoning; 19 inappropriateness of NFDC council housing priority for commoning]

New Forest Commoning Trust

20. We have already expressed our full support for the proposed New Forest Commoning Trust. We see this as contributing towards commoners' housing in the following ways:

- By buying suitable houses for letting to commoners;
- By accepting gifts or bequests of houses for letting to commoners;
- By encouraging landowners to make land available for affordable housing;
- As a catalyst between such landowners and housing associations;
- By acquiring low-cost land for affordable commoners' housing. The Trust could either build itself or bring-in a housing association. Landowners who make such land available will wish to be confident that it remains in commoning use and that windfall profits do not accrue to others. We anticipate that the powers of the Trust under its Articles of Association would be clearly related and limited to support of commoning. This and a Section 106 Agreement, should reassure the landowners concerned.
- By facilitating the erection of houses on land owned by commoners, as referred to under "planning"

PART 3: BACK-UP LAND AND BUILDINGS

Forestry Commission

21. The Forestry Commission manages 251 hectares of enclosed freehold land in the New Forest. This is made up of 34 seasonal grazings totally 55 hectares; 11 agricultural leases totalling 162 hectares; 1 let of under a hectare on service tenancy with a house; and 5 long-term lets totally 34 hectares dating, in most cases, from the 1970s or earlier.

- **As a general policy, agricultural land managed by the Forestry Commission in the New Forest should be made available only to those who will turn-out ponies and/or cattle onto the Forest.**
- The Forestry Commission should review the land which it currently lets on seasonal grazing. Where this is not being used as back-up land for animals turned out onto the Forest, long-standing licensees should be given one further season's grazing so that they may adjust their affairs. Thereafter the land should be let to a person who will turn-out animals onto the Forest.
- When land which is currently let by the Forestry Commission on agricultural or long-term lease comes vacant, it should be let to a person who will turn-out animals onto the Forest.

22. We consider that up to 50 hectares of Forestry Commission land made available to commoners would provide immediate, valuable and tangible support to commoning in the short-term. It may, however, be essential to provide a greater area in the future. The Commission is a major land manager in the New Forest on behalf of the nation and we consider it appropriate that it should purchase such land.

- **The Forestry Commission should, if necessary, acquire agricultural land in the New Forest for letting to commoners.**

23. We are aware of at least one case where a small range of buildings suitable for commoning use has become surplus to Forestry Commission requirements. There may well be others.

- **The Forestry Commission should review its buildings in the New Forest to identify those which can be made available to commoners. Buildings which become surplus to the Commission's use should be let to commoners at rents which reflect use for commoning.**

CSA