

Independent Panel on Forestry

August

2012

Hands Off Our Forest Campaign (HOOF)

Forest of Dean, Gloucestershire

Response to the IPF Final Report and Recommendations

Introduction

HOOF welcomes the IPF Report and the government's commitment to retain England's public forest estate (PFE) in public ownership.

We applaud the Panel's recognition of the value of our forests and woodlands. The natural capital valuation of £400 million per annum indicates the overwhelming benefits of our forests to people and to the environment. It outweighs to a considerable extent the annual cost of maintaining the PFE at the current £22 million. It also outweighs the proposed small annual increases needed initially to bring the PFE to a position where it can be self-sustaining.

We welcome the Panel's calls for vastly improved management of private sector woodland and for a 50% increase in our woodland cover.

We support the proposed governance model: the Charter and Trustees appear to be an effective way of distancing the management and ownership of the PFE from the vagaries of politics, as has been the case for the past 90 years of the existence of the Forestry Commission.

We also support the proposal that the new management body should become self sufficient over time if this ensures its continuing independence.

However, we are concerned that the Report makes no distinction between forests. The Forest of Dean is an ancient, historic forest gifted by King George V to the people of the nation, and has many unique traditions and customs. The Report identifies the Forest of Dean as one of the forests 'where trees, woods, forests and other habitats come together to provide great benefits' and recommends that one of the main purposes of the new public forest management organisation will be 'to sustain and maximise the public value of the estate, in terms of wildlife, access, recreation, education and cultural heritage'. If this former Crown forest is to sustain and maximise those benefits it is important that the legislation creating the Charter provide for, and that the Charter itself (together with the framework agreement) contain provision for the protection and safeguarding of the Forest's natural and cultural heritage. **This document initially addresses those issues unique to the Forest of Dean.**

In addition, many of the Report's recommendations require further clarity. **This document also highlights those recommendations and provides HOOF's views on how we believe they should be implemented in order to ensure that the spirit of the Panel's Report is retained.**

Finally, we expect there to be pre-legislative scrutiny of the draft bill implementing the Panel's recommendations. We would also expect to be consulted on the development of the Charter, its framework agreement and especially on the powers and duties of the Trustees.

Requirements unique to the Forest of Dean

Definition and enlargement of the Forest of Dean

Panel Recommendation

Government to ensure that land use creates a coherent and resilient ecological network at a landscape scale, by integrating policy and delivery mechanisms for woods, trees and forests in line with the principles set in the “Making Space for Nature” report.

HOOF response

HOOF approves this concept and, as far as the Forest of Dean is concerned, believes it provides the opportunity for enlargement of the Forest of Dean as recommended in our submission to the Panel.

The Statutory Forest is defined by a perambulation of 1834 under the Dean Forest Commission Act 1831. There are nevertheless differences of opinion as to its true extent and the meaning of the term “the Forest of Dean”. To some it means the Statutory Forest; to others the Statutory Forest together with the other woods commonly regarded as part of the Forest and transferred to the Forestry Commission under the Forestry (Transfer of Woods) Act 1923.

During the third reading of the 1981 Forestry Bill in the House of Lords, Lord Mansfield, for the Government, said: “Because of their former Crown status and their long and intimate association with the Dean Forest, I confirm for the record that in implementing the disposal powers (of Section 39 Forestry Act 1967) these areas too will be treated in all respects as though they are part of the forest.” His definition of these areas of woodland was unfortunately obscure and this uncertainty has had unfortunate results. Lord Mansfield’s use of “for the record” was intended to place the additional woodlands on the same footing as the Statutory Forest with regard to the exemption from disposal. However, the Forestry Commission has taken the exemption to apply to the Statutory Forest alone. In consequence, parts of the Highmeadow Estate have been sold, including Bircham Woods in 2011.

For sound ecological reasons, to avoid the adverse effects of fragmentation and having regard to Parliament’s intention, and the Panel’s recommendation, there is merit in putting the question beyond doubt and incorporating into the Forest of Dean and treating as a single entity the Forestry Commission woodlands of the Dean and the Lower Wye Valley (as in the list following) together with the hedgerows, forest “waste”, grasslands and bog areas associated with them.

HOOF seeks to enlarge the Forest of Dean beyond that envisaged by Lord Mansfield by the enlargement of the Statutory Forest to include Flaxley, Hope, Mugglewort and Welshbury Woods, Highmeadow Woods, Clearwell Woods, Dymock Woods, Bears/Slade, Clanna Wood, Tidenham and Wye Valley, and Kidnalls Wood.

Cultural heritage

Panel Recommendation

The new English public forest management organisation will have statutory duties, powers and functions, expanding on those currently placed on the Forestry Commission and Commissioners, set by the legislation that creates the Charter. Its main purposes will be:

a. To sustain and maximise the public value of the estate, in terms of wildlife, access, recreation, education and **cultural heritage**;

HOOF response

The Forest of Dean has a unique and diverse cultural heritage, as recognised in the House of Lords debate on the 1981 Forestry Bill.

Many aspects of this heritage are covered by legislation, key amongst them being:

1808	The Dean Forest (Timber) Act (aka 1808 The Dean and New Forest Act) – silvicultural inclosure and inclosure commissioners
1831	Dean Forest Commission Act – defined the statutory forest by perambulation
1838	Dean Forest Mines Act – Freeminers
1971	Wild Creatures and Forest Laws Act – specifically provides for the continuation of the Forest of Dean Verderers
1981	Section 39(2A) of the 1967 Forestry Act as amended by the 1981 Forestry Act.

In order to retain the Forest of Dean’s distinct heritage, it is HOOF’s strong view that these Acts should remain in force when legislation is drawn up to create the new governance structure for the PFE.

Other aspects of the Dean’s cultural heritage are regarded as rights by privilege of ancient custom, as described by Lord McNair in the House of Lords in 1981:

“The rights of the foresters [*the people of the Dean*], the rights of access to the woodlands, the rights to graze sheep, the rights of vert and of pannage—or perhaps "privileges" is a better word for them never had any very firm legal basis in law. As I understand it, that is the price that one pays for living in a Royal forest. The privileges have depended more on custom and usage than on law; but this only makes them all the more precious. It is these rights or privileges which the foresters fear may be eroded, set aside or even extinguished if this (Forestry) Bill becomes law in its present form” [HL Deb 15 April 1981 vol 420].

We also expect a continuation of the current situation where the local Forestry Commission management is not only mindful and tolerant of the Forest traditions but actively works alongside the Foresters to ensure their continuation and proper management.

Specific Panel Recommendations and HOOF's responses

Trees and woods: good for people

Panel Recommendation

Government and other woodland owners to give as many people as possible ready access to trees and woodlands for health and well-being benefits – this means planting trees and woodlands closer to people and incentivising more access to existing woodlands.

HOOF response

The nature and quality of access needs to be defined. It must be more than the access provided under the CROW Act 2000. To ensure no diminution of access, access going forward should be no less than at the commencement of any new Acts governing the PFE.

Panel Recommendation

Planning policy and practice should:

- Ensure woodland creation, tree planting and maintenance is part of the green space plan for new commercial and housing development.
- Integrate tree and woodland strategies into Local and Neighbourhood Plans.
- Encourage local authorities to look creatively, and across boundaries, at the use of S106 agreements, biodiversity off-sets and particularly the Community Infrastructure Levy. These levers could produce green space schemes, including trees and woodland, that make a significant difference to the landscape as a whole.
- Lead to more Local Plans encouraging woodland-based businesses, including those based on leisure and tourism, that are appropriate to their location and enhance natural capital.

HOOF response

Recognition of and protection is also required for existing open spaces, sometimes called forest waste, which form an integral part of the forest or woodland landscape.

Trees and woods: good for nature

Panel Recommendation

Government, working in partnership with the forestry and land management sectors, should proactively offer every woodland owner advice on multi-benefit woodland management, prioritising woods greater than five hectares, with a view to increasing the area of woodland with a current UKFS compliant management plan, from around 50% to 80% of the total, over about the next ten years.

HOOF response

For woodlands greater than five hectares, private owners should be given a time period during which they are expected to meet UKFS compliance. If they fail unreasonably to meet this target the woodland should be compulsorily acquired, at unimproved value, by the PFE.

Panel Recommendation

Planning policy and practice should:

- Reflect the value of ancient woodlands, trees of special interest, for example veteran trees, and other priority habitats in Local Plans, and refuse planning permission for developments that would have an adverse impact on them.
- Encourage local authorities to take professional forestry and aboricultural management advice where planning applications affect trees and woodlands.

HOOF response

For the purposes of the Charter, the term ‘ancient woodland’ needs to be redefined, having regard to the Provisional Ancient Woodland Register and resolving the ambiguities inherent in the use of the 1600AD date as a criterion.

Panel Recommendation

Government should speed up delivery of the Tree Health and Plant Biosecurity Action Plan by additional investment in research on tree and woodland diseases, resilience and biosecurity controls.

HOOF response

The Forest of Dean, as a diverse forest, once was and could again become a centre for skills training, research and development.

Managing our woodland asset: the role of our public forestry organisations

Panel Recommendation

Forest Services should evolve to become a public body with duties, powers and functions to champion, protect and increase benefits from trees, woodlands and forests that are good for people, good for nature and good for the green economy. Relevant duties currently placed on the Forestry Commission and its Commissioners should be maintained in the evolved Forest Services organisation.

HOOF response

We fully support this recommendation and urge government to ensure that sufficient funding is made available.

Panel Recommendation

We propose that the public forest estate should remain in public ownership and be defined in statute as land held in trust for the nation. A Charter should be created for the English public forest estate, to be renewed every ten years. The Charter should specify the public benefit mission and statutory duties, and should be delivered through a group of Guardians, or Trustees, who will be accountable to Parliament. The Guardians will oversee the new public forest management organisation evolved from Forest Enterprise England.

HOOF Response

The minimum we would look for in the Charter is:

- **The PFE owned and held in trust for the nation inalienably.**
- **A significantly longer time frame for review than the proposed 10 years, given the Panel's acknowledgement that 'investment in and management of forests requires a very long term view'. We would propose at least 25 years.**
- **Trustees to include representatives of the public interest, namely grassroots representation; and should also contain a diversity of backgrounds.**
- **A clear process for bringing Trustees to account should any one or more be in breach of trust.**
- **A clear obligation to protect and foster woodland culture and heritage.**
- **Clear criteria for buying and selling of woodland generally, e.g.**
 - **to improve forest management**
 - **to enlarge the PFE overall**
 - **to enhance the PFE's economic viability (within the overall stated objectives, not to balance the books)**
 - **to enhance biodiversity/create green corridors**
 - **to protect ancient woodland**
 - **the avoidance of disposal of forest open spaces (including 'forest waste' where these are an integral part of the forest landscape**
- **The above subject to the following over-riding criteria: that no forest or woodland under active management for timber production, biodiversity and/or public recreation and amenity shall be disposed of/sold/leased/exchanged or otherwise alienated from the PFE.**

- **The above criteria should not exclude local community management agreements, under licence, for small woodlands close to residential areas.**

The Report recognises the Forest of Dean as an exemplar of woodland culture, a culture it seeks to promote, and as a forest ‘where trees, woods, forests and other habitats come together to provide great benefits’. To promote this role and to safeguard these benefits it is essential that the duty to secure them be imposed on the Charter trustees and that they be given all necessary powers and discretions to do so.

We strongly urge that there be stakeholder consultation in the development of the Charter and its accompanying framework agreement.

Panel Recommendation

The new English public forest management organisation will have statutory duties, powers and functions, expanding on those currently placed on the Forestry Commission and Commissioners, set by the legislation that creates the Charter. Its main purposes will be:

- a. To sustain and maximise the public value of the estate, in terms of wildlife, access, recreation, education and cultural heritage;
- b. To maximise the natural capital value and secure sustainable yields from the asset of the forest estate over the long term including by:
 - i. being an exemplar of sustainable woodland management including production of high quality timber;
 - ii. being an exemplar in conservation of wildlife, woodlands and associated habitats;
 - iii. being an exemplar in large-scale open habitat and ancient woodland restoration across the public forest estate;
 - iv. promoting quality access to woodlands for a wide range of activities consistent with the other purposes;
 - v. engaging communities in developing and achieving the estate's goals;
 - vi. expanding the estate where this improves the capacity of the estate to deliver more public benefits, and in consultation with local people;
 - vii. working in partnership with others to grow local woodland economies and act in circumstances of market failure where the benefits of doing so outweigh the costs.

HOOF response

We strongly urge that all of the above purposes as recommended are fully implemented and would add one further purpose;

- viii. to preserve and maintain such customs, traditions, privileges and rights as individual forests may possess (e.g. Verderers, commoning, pannage, freemining etc., in the Forest of Dean).**

We see this new body as an evolution of the current Forest Enterprise organisation and would expect a smooth transition from FE to the new body.

Panel Recommendation

The public forest management organisation should be explicitly tasked, and incentivised, to get as much value as possible from its assets, in order to invest even more in the public benefits they deliver. This should include the ability to buy and sell land where this serves those wider purposes. This should not be at the expense of its core purpose of sustaining and enhancing the public value of the estate. Any development project or land sale must fully justify any environmental or social risk or cost by enabling more valuable investments, for example by creating woodlands close to where people live. Decisions on major projects and land sales should have stakeholder consultation at their heart, and where judgements are finely balanced, the Guardians (led by their mandate), should be involved.

HOOF response

We expect the whole of the following sentence from this recommendation to be included in the Charter:

“The public forest management organisation should be explicitly tasked, and incentivised, to get as much value as possible from its assets **in order to invest even more in the public benefits they deliver.**”

This requirement should be subject to the protection of our forest heritage. We also refer to HOOF’s proposed criteria for buying and selling woodlands and forest. Further, HOOF is against the leasing of significant tracts of the PFE to individuals or organisations.

The requirement for local accountability should be clearly spelled out (in the Charter or accompanying framework agreement) and local management must then be held accountable for achieving this. The processes by which this is achieved should be left to local management and their communities as needs will differ.

Panel Recommendation

Within the ten year terms of its charter, the public forest management organisation will be run independently from Government. It will not be subject to Government direction except in matters where it delivers international obligations on behalf of Government, or in cases where Parliament feels the body is acting outside, or failing to deliver, its “mandate”. It will have the scope for partnerships and demonstrations of good practice beyond its own estate. The Charter will need to be accompanied by a framework agreement to ensure clear accountabilities and responsibilities.

HOOF response

Note earlier response regarding the 10 year timeframe of the Charter.

Panel Recommendation

The financial accounts will be scrutinised by the National Audit Office (NAO) in the normal way. In addition we recommend the Natural Capital Committee, or successor, advise the NAO on how to use the natural capital approach to judge whether the best management and investments are being made to meet social, economic and environmental goals, and whether the natural capital is being grown sustainably. This will draw on the balance sheet of economic, social and environmental capital based on the comprehensive valuation we recommend.

Panel Recommendation

Ahead of any long-term funding arrangements, some financial breathing space should be provided for the existing organisation to enable it to make strategic (rather than emergency) operational and investment decisions. We want to see the current level of benefits from the public forest estate continue to be delivered without it being forced to sell land to balance the books.

HOOF response

We note that Defra has appointed a Natural Capital Committee ‘to ensure the value of England’s natural capital and its potential to support growth is fully taken into account in decision-making’ and anticipate that the obvious benefits of the PFE will ensure that this recommendation will be implemented as stated.

However, the reality is that a *very small amount* of real money is needed over the medium term to establish the new management organisation in a way which will enable it to fulfil its stated purposes. We expect adequate financial support for the new organisation, together with relevant powers and duties to enable the transition to an entrepreneurial and self-financing body.
