

FOREST LAW

Today we think of a forest as an area of woodland, but to the Normans it was an area where the king had an exclusive right to hunt (and the greenery, or 'vert', upon which the animals fed). Peter Brandon¹ noted that 'forest used in this sense was neither a botanical nor a geographical term, but a legal one. The word derived from the Latin *foris*, meaning outside, and was applied to land where the Common Law of England did not pertain'.

At the time of the Domesday Survey Pyrford was recorded as being part of the Forest of Windsor, but 'Henry II further proceeded to afforest his manors of Guildford, Woking, Brookwood and part of Stoke, and finally declared the whole county to be forest'.²

According to the Woking History Society³, 'while population was generally growing from the early 12th century, soil conditions meant that the Woking area was not able to play its part in the expansion of population nor in provision of crops to feed them. Afforestation, from the 1150's was a further deterrent to development, since it meant tracts of land were reserved to protect deer for hunting by the royal court and could not be used for agriculture'.

In the second year of the reign of Richard I (1159-60), he 'agreed to disafforest everything in the county eastward of the Wey and south of Guildford Down, in return for 200 marks of fine'⁴ – leaving Woking well and truly within the jurisdiction of the Forest of Windsor and the harsh 'Forest Law'.

Having said that, Blair⁵ points out that 'however strict in theory, forest law was not in practice an absolute barrier to assarts and encroachments. From as early as the mid-12th century the need was tacitly recognised, and clearances allowed in return for fines and rents. Nonetheless, a peasant wishing to colonise in the royal forest needed to overcome a whole additional set of petty hindrances and financial disincentives'.

According to Malden⁶ 'the extent of the royal Forest of Windsor was one standing cause of quarrel between the Crown and the baronage and people alike in Surrey'. He goes on to note that 'the forests were the seat of special royal power. When baronial franchises, on the one hand, with the growth of national and popular liberties, on the other, threatened the power and revenues of the Crown, the King was still master in his forests as he was not elsewhere'.

Is it any wonder then that clauses relating to the forest formed a major part of the 'Great Charter' that King John was forced to sign (or seal) at Runnymede in 1216⁷!



In 1217, Henry III, agreed to the Charter of the Forest⁸, but as Malden noted 'it was not til 1226 that, in return for a subsidy, [that he] agreed that the charter should be carried out with regard to all land not in royal demesne'⁹. The result was that in Woking 'the pressures of increased population meant that parts of the waste were enclosed and assarts were taken out from areas of the forest or the waste for arable use, in the outlying parts of the parish. Meanwhile, the area near the church was probably assuming the characteristics of a village settlement'¹⁰.

The keeping of pigs within the woodlands of Woking was still very important, as was revealed in a case between Gregory de la Dun, and Gilbert Basset. 'At Westminster in November 1234, Gregory de la Dun declared that Gilbert was not permitting him to have his pigs in the wood quit of pannage, as was customary and had seized his pigs. Gregory claimed his family had held this exemption from the reign of Richard I, and rendered 40s yearly to the Exchequer for the privilege of having a hundred pigs in the forest'.¹¹ Gregory also claimed in the spring of 1235 that his father, William, 'had released to Gilbert's father, Alan Basset, his rights in Brookwood in exchange for the right to have forty pigs quit of pannage there'¹².

It appears that Gregory's pigs were seized at the time when Gilbert was in rebellion with the king - the sheriff of Surrey, William le Brun, seizing the animals. Gilbert challenged Gregory 'to produce evidence of the convention between their fathers over the rights of pannage in Brookwood. When Gregory failed to do so, and acknowledged that the initial dissesin was made by the sheriff not Gilbert, and no other evidence could be found, the case was dismissed'¹³

Even into Edwardian times, local people in the St Johns area of Woking, maintained their right of pannage – this photograph of St Johns Lye showing some of the damage done by the animals rooting for acorns on the common.

¹ p38 (Brandon 1977)

² Close Rolls, 9 Hen III as quoted in (Malden, Victoria County History of the County of Surrey 1902) p356

³ p13 (Members of the Woking History Society 2014)

⁴ With another 100 marks to confirm the concession in 1205, and 500 marks more in 1207-08 (Malden, Victoria County History of the County of Surrey 1902) p357

⁵ p42-43 (Blair 1991)

⁶ p119 (Malden, A History of Surrey (Popular County Histories) 1900)

⁷ The signing (or sealing) of which by King John was witnessed by the Lord of the Manor of Woking – Alan Basset

⁸ The clauses relating to the forest in what became known as 'Magna Carta' were brought together a couple of years later in the Charter of the Forest and issued, with some minor adjustments, in 1225.

⁹ p358 (Malden, Victoria County History of the County of Surrey 1902)

¹⁰ p13 (Members of the Woking History Society 2014)

¹¹ p136 (Stewart-Parker 2013)

¹² p190 (Meekings 1979), quoting case 1129 in Bracton's Note Book (Maitland 1887) which notes the spelling of Brookwood as 'Brookwde'.

¹³ p136 (Stewart-Parker 2013)

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Woking was now outside the control of the forest, but not for long. A special Eyre in 1258¹⁴ found that although 'payment had been made for disafforestation, the north-west corner of Surrey remained under forest law as an extension of the forest of Windsor', and the bailiff of that forest, Godfrey de Liston, was charging 2s per cartload driven along forest tracks, where previously the cart-toll was just 4d., and 2d per pig for pannage, where previously it was just a penny. The latter payment is interesting as the complaint was made by the inhabitants of Effingham Hundred, showing that 'the peasants of Effingham, having insufficient wooded areas in their small hundred, drove their pigs each autumn for fattening across to the forest area in Woking Hundred'.

The Forest Eyre of 1269¹⁵ lists a number of purprestures (areas of encroachment within the forest) in the Woking area, including one by Fulk Basset of an acre of moorland; enclosures of half an acre by Thomas de la Goldhourde, William le Justise, William de la Bruere and William de la Rude (the latter two of moorland); and smaller encroachments of just one perch, by Edrich de La Feylde, William Hereward, Geoffrey le Faunceys, Robert le Faunceys and Reynold le Faunceys (again the latter specifically noting that he had enclosed moorland). The list also notes an old assart¹⁶ of two acres that had been made by William le Turnur.

It is interesting that as well as the place-names 'Goldhourde' and 'de la Rude (Hall)' being recorded (along with Edrich 'of the field'), the occupations of brewer (la bruer); Hayward, or hedge warden (hereward); and turnur (wood turner) – not to mention William le Justise's possible role in helping keep law and order – are also recorded.

Brandon¹⁷ notes that 'although the progressive clearing of woodland in the early middle ages was the main process of landmaking in Surrey, the reclamation of heathland in the Forest of Windsor was also an important process in the development of its peasant society. There were many surviving areas of opportunity for the colonist. In the late 13th century the Crown empowered its Constable of Windsor to enclose and lease out for cultivation all the old sheepwalks near villages within the Forest and peasants secured the right to fence meadow and fields with a growing hedge in these parts of the Forest'. Whether that was actually the case in Woking, however, is debatable as the old sheep-walk here crossed part of the deer park surrounding the manor house.

In the Pleas of the Forest heard at Guildford on the 8th July 1269, two men from Woking were fined for offending against the vert of the forest. They were Roger and Henry le Coliere (colliers, or charcoal burners – another example of professions in the Woking area at that time), but according to the records they were too poor to pay the fine¹⁸.

The above were all fairly minor (and numerous) offences, but at least one Woking person, William Noseless (how he got his name, I hate to think), went a lot further. He was accused, along with a William le Tornor of Fellow Green (West End, Chobham), of being 'open thieves of the king's venison'¹⁹, Tornor was recorded as being in prison (and later fined 13s 4d), but Noseless was still missing and in danger of being outlawed. Three other men from the Crastock, Mayford and Brookwood areas were also noted as 'habitual thieves in the forest of hares, rabbits and pheasants with nets and other contrivances'.

In 1280 Hugh Despenser the Elder, son of Aliva Basset and Hugh Despenser, instigated a commission that found that that North-West Surrey was 'ancient forest' and not, therefore, covered by the Charter of the Forest which only affected 'new forests'²⁰. The following year, with the death of his mother, Hugh became lord of the Manor of Woking and in 1289²¹ 'Geoffrey de Pycheford, keeper of the forest of Windesore' was ordered that Hugh le Despenser 'may let at rent and bring into cultivation a piece of land adjoining the wood of Brokewode lying near Coresbrok', 'provided that the piece of land be enclosed with a ditch and a low hedge, so that the king's deer may freely pass through it in entering and leaving it' - the land containing 'forty acres of land by the forest perch'. The order was witnessed by Edmund, Earl of Cornwall, at Westminster on the 20th February that year.

In 1294 Hugh Despenser had been made 'Chief Justice of the Forests South of the Trent'²² and had apparently enforced the forest law religiously. A perambulation of the forest of Windsor in 1299²³ found that 'between Kent and the water which is called the Wey, and from the hill of Guild Down as far as the county of Surrey extends towards the south' were outside of the ancient forest, but that 'beginning at the water of the Wey, as far as the county of Surrey extends to the north of the hill of Guild Down, remained and is forest'.

According to Locke²⁴, Edward II stayed with Despenser at Woking Park in 1297 and 1299', the Close Rolls²⁵ showing that in the latter year the king was staying at Woking on the 20th August, having previously lodged at Chertsey, before going on to Guildford.



Brookwood (from John Speed's map of 1610)

¹⁴ p xxx-xxxii (Stewart 2013)

¹⁵ p88-89 (Stewart 2013) Surrey Forest Regard, Forest Rolls of the Exchequer TNA E32/195

¹⁶ An 'assart' was a piece of woodland, cleared, enclosed and converted into arable land (Richardson 1989) A55.

¹⁷ p39 (Brandon 1977)

¹⁸ p95 (Stewart 2013) Surrey Forest Eyre, Forest Rolls of the Exchequer TNA E32/194

¹⁹ p99 (Stewart 2013) Surrey Forest Eyre, Forest Rolls of the Exchequer TNA E32/194

²⁰ p358 (Malden, Victoria County History of the County of Surrey 1902)

²¹ p4 (Calendar of Close Rolls Preserved in the Public Record Office, Edward I, Vol 3, 1288-1296 1904)

²² p122 (Malden, A History of Surrey (Popular County Histories) 1900)

²³ p117 (Turner 1901)

²⁴ 'Woking under the Wicked Elder Despenser: 1281 AD to 1327 AD' (Locke n.d.)

²⁵ p266-7 (Calendar of Close Rolls Preserved in the Public Record Office, Edward I, Vol 4, 1296-1302 1906)

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The Close Rolls record on the 18th October 1305²⁶ an order to the Sheriff of Surrey to outlaw a number of men (mainly from the New Forest area and elsewhere in Hampshire) who committed trespass 'in the park of Hugh le Despenser at Wokkyng', whilst according to Manning & Bray²⁷ in 1305 Edward II 'had secretly applied to Rome, and had procured, from that mercenary Court, and absolution from all the oaths and engagements' of the Forest Charter, whilst Arthur Locke²⁸ notes it was Hugh Despenser who 'persuaded him [Edward II] he had done himself and his successors wrong, and went off to Rome in 1305 to get the Pope to absolve Edward from keeping his promise'.

Despenser, and his son the younger Hugh, were somewhat 'Marmite' figures – you either loved or loathed them - with many of their tenants and others affected by forest law (and many of the kings opponents) very much of the latter persuasion. Again according to Locke, 'while he was at Rome the people broke down the pales and carried off his peacocks and deer'²⁹.

One of those accused in 1305 of 'breaking the park' at 'Wocking and for taking and carrying away deer in that park against Hugh's will', was a man called Tomas Roleg, but whether he was local to Woking, or came from elsewhere, is not easy to determine from the Close Roll records³⁰. The following year³¹ another accused of carrying away deer from Wokingg Park was John de Sutton, described as 'canon of Chichester', so clearly the trespass against Hugh was not restricted to the poor men of Woking!

Locke also maintains that after Hugh's temporary fall from power at the defeat at Bannockburn in 1314 (after which he was forced to flee the country), 'the men of our district, headed by local landowners for miles around and by parsons and by the canons of Newark, raided his manor and those of his cronies'. Sutton Manor House was 'raised to the ground, but Woking Manor House may have been spared, for Edward II stayed there in 1320'.

By then Desepenser was back in the country and back in favour (although temporarily exiled again in 1321, when a Ralph de Camoys, and then Gilbert de Wygeton and Henry de Thrapston, were appointed as 'surveyors and chief keepers' of the Manor of Wockyng³²).

In 1325 the Despensers appear to have gone too far (even for them) as with the help of others they kidnapped Elizabeth Comyn and imprisoned her at 'Kenynnton, Co Surrey' before taking her 'against her will to Wockyng and from there to Purefrith' (Pirbright) where they detained her 'in prison there for a year and more' until 20th April 1325 when 'by force and duress they compelled her against her will and by threats of death to grant in fee to the earl the manor of Payneswyk, Co. Gloucester, and to Hugh the younger the castle and manor of Castel Godrich in the march of Wales'³³.

She was not the only one, later a petition was issued by Richard de Vautort, brother and heir of John de Vautort³⁴, that 'a message and lands that Despenser gave to the king were granted to Despenser under duress by John de Vautort, who was imprisoned by Despenser in Newgate on a charge of trespass within his park of Woking, and detained there until he enfeoffed him'³⁵.

Could these cases be some of the final straws in the Despenser's fall from power in 1326³⁶ opening the floodgates for reform?

With both the elder and younger Despenser dead, a sworn jury of the county affirmed that the commission of 1280 had been 'at the instigation of Hugh Despenser the elder, without any previous notice given to the County'³⁷- with the Jury 'suspected of having been packed on this occasion by Hugh Despenser to serve the purposes of the Crown'³⁸.

'In 1327 Edward III finally granted a charter excluding all Surrey from forest jurisdiction'³⁹, but although it was 'initially accepted by the king - that "all the county is outside the forest" except for the royal park of Guildford⁴⁰, the king still maintained rights in connection with the deer.

Unfortunately not every Forest Eyre has survived, although it is assumed they were on a fairly regular basis. We know, for instance, that inquisitions for the Forest of Windsor were held at Guildford on the 9th May 1363⁴¹, with another the following January at Windsor. Windsor was again the place of an enquiry in April 1366, with another held at Bagshot on the 1st August 1368 and then Windsor again on the 17th September that year. The meetings seemed to be mainly held in Berkshire (either Windsor or Wokingham) rather than Surrey, although Bagshot was the scene of an inquisition on the 8th November 1369, Guildford on the 4th April 1370, Wanborough on the 23rd February 1372 and then Guildford again on the 4th July 1372. It seems that none were ever held in Woking!

²⁶ p292 (Calendar of Close Rolls Preserved in the Public Record Office, Edward I, Vol 5, 1302-1307 1908)

²⁷ p viii (Manning and Bray 1804-14)

²⁸ 'Woking under the Wicked Elder Despenser: 1281 AD to 1327 AD' (Locke n.d.)

²⁹ One of those people possibly being John Messor who was accused of 'breaking into Hugh le Despenser's park at Woking' (TNA SC1/10/164)

³⁰ p301 (Calendar of Close Rolls Preserved in the Public Record Office, Edward I, Vol 5, 1302-1307 1908)

³¹ p406 (Calendar of Close Rolls Preserved in the Public Record Office, Edward I, Vol 5, 1302-1307 1908)

³² p74-p75 (Calendar of Fine Rolls Preserved in the Public Record Office, Vol 3, Edward II, 1319-27 1912), Ralph on the 12th October 1321, with Gilbert and Henry jointly being appointed on the 3rd November.

³³ p122 (Calendar of Patent Rolls Preserved in the Public Record Office, Edward III, Vol 8, 1348-1350 1905), heard 12th July 1348 at Westminster following an inquisition taken at Guildford at the request of Richard Talbot, Elizabeth's new husband (p254/5 (Calendar of Inquisitions Miscellaneous (Chancery) Preserved in the Public Record Office, Vol II 1916)).

³⁴ The petition was issued in 1329, after Despensers death.

³⁵ TNA SC8/176/8760, p433 (Calendar of Patent Rolls Preserved in the Public Record Office, Edward III, Vol 1, 1327-1330 1891)

³⁶ p91-92 (Cokayne 1890)

³⁷ p vii (Manning and Bray 1804-14)

³⁸ p iv (Manning and Bray 1804-14)

³⁹ p13 (Eedle 1977)

⁴⁰ p189 (Stewart 2013)

⁴¹ pages xlvi – xlvii (Turner 1901)

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