

CHAPTER FIFTEEN

“Substantial increase in funding”

1. NELMS and BREXIT - WHAT IS GOING ON?



[15 A] Mulfra Quoit after a controlled burn that got out of hand (March 2012)

NELMS WAS THE WORKING TITLE OF THE NEW ENVIRONMENTAL STEWARDSHIP SCHEME Countryside Stewardship [CS] and is intended to replace current agri-environmental schemes [AES]. However, the recent referendum vote for the UK to leave the European Union – who supply most of the funding for these AES – has thrown the whole issue into doubt as to who will now pay for it.

Since 2012 Environmental Stewardship agreements – including Higher Level Stewardship – have been closed to new applicants although existing agreements will continue until their agreed end date.^A

On 31 October 2013 the Government initiated a public consultation on the implementation of the Common Agricultural Policy [CAP] reform in England. There were almost 400

^ALanyon Farm: May 2021; Carn Galva: May 2021; Watch Croft: May 2021; Higher Downs: December 2021; Chun Down: December 2022; Carnyorth Common: August 2017; Botallack Common (pt of Carnyorth Common): January 2020; Nine Maidens Common: no ES agreements

Organisational respondents including, from Cornwall: Farm Cornwall; Ramblers' Association (Cornwall Area, Restormel Group); Cornwall Ancient Tree Forum; Cornwall and Isles of Scilly Local Nature Partnership; Cornwall AONB Partnership; Cornwall Council, Cornwall and Isles of Scilly Local Enterprise Partnership; Cornwall Countryside Access Forum; Cornwall Ramblers; Cornwall Rural Community Council; Cornwall Wildlife Trust; Cornish Heritage Safaris (Ltd); Clay Country and West Cornwall Local Action Groups.¹

It was not until we had a meeting with Natural England and our MP on 8th November 2013 that we first became aware of NELMS, but it was not until nine months later that NE informed us that Defra had already undertaken a month-long extensive public consultation, in the autumn of 2013, when views were sought on the new scheme proposals prior to approval by the European Commission.² This revelation prompted SPM to send a series of queries to Natural England in the summer of 2014. Here are the questions and their answers:³

(1) Question: The extensive public consultation in the autumn of 2013: which organisations and individuals were consulted – county, town, parish councils, MPs? And why were neither CASPN nor SPM made aware of it until long after the event and given the opportunity to have an input since they now represent some 1500 members of the public? Was the ‘consultation’ merely with those in general agreement with the new scheme?

Answer: It is not possible for Natural England or Defra to directly address every group or interest party when undertaking this type of consultation. Details relating to the consultation undertaken in the autumn of 2013 can be found at the following location <https://www.gov.uk/government/consultations/common-agricultural-policy-reform-implementation-in-england>. The report indicates the extent of stakeholder engagement and the following link gives details of the locations where public events were held https://consult.defra.gov.uk/agricultural-policy/cap-consultation/consult_view

(2) Question: Will any Environmental Impact Assessments be carried out for the new scheme – especially with regard to effective protection of historic sites and monuments – since, as you know, none were undertaken for the HEATH Project or HLS agreements which have resulted in significant damage and degradation of several iconic monuments (Tregeseal Stone Circle and the Men-an-Tol)? How is NELMS being tailored to avoid the archaeological damage done through HLS?

Answer: Our response to your original query advises that statutory approvals will need to be obtained where these are a legal requirement. It will be the responsibility of applicants/agreement holders to obtain all necessary permissions and consents, not Natural England. We have responded to correspondence from Save Penwith Moors on several occasions in respect of alleged damage to Scheduled Ancient Monuments caused by grazing stock on land under HLS agreement. English Heritage have consistently advised Natural England that there is no damage to any Scheduled Ancient Monuments as a consequence of grazing. We have nothing more to add to our earlier responses to you about this.

SPM Response: *As we have already documented cattle have caused serial damage and degradation of both Tregeseal Stone Circle and the Men-an-Tol complex.*

(3) Question: Can you advise me – when ready in late autumn – of any NELMS targeting outputs that will affect West Penwith and what will signatories have to do to get this funding? Will the new scheme be tailored to the individual needs and characteristics of each area, or will it just be another "one size fits all" disaster?

Answer: It is almost certain that the targeting criteria for the new scheme will be made publicly available on Natural England's website, we expect this to be available in early 2015. It is anticipated that the scheme will follow a national framework and that local targeting will seek to address nationally agreed priorities. Defra have not yet indicated their preference as to how the targeting approach will be applied at the local level, though it is anticipated that Natural England will work with potential agreement holders to bring forward the best proposals that fit the criteria within respective target areas. A regular newsletter is published which informs on progress with scheme development, these can be accessed by the public on Natural England's website at <http://www.naturalengland.org.uk/ourwork/farming/funding/developments.aspx>.

Major announcements in respect of scheme development are also published on the GOV.UK website <https://www.gov.uk/government/collections/common-agricultural-policy-reform>

(4) Question: How, under NELMS, are NE being resourced to overcome monitoring/mentoring problems as experienced under ESA, HEATH and HLS?

Answer: We await further direction from Defra about how they expect the provision of advice and monitoring to be organised for the new scheme, early indications are that technical advice will remain with Natural England. A training programme for NE staff is planned.

(5) Question: How will NELMS reinstate visitor numbers?

Answer: We are aware that Save Penwith Moors have expressed concern that the implementation of agri-environment agreements in west Cornwall has reduced the number of visitors to some sites. We are not aware of any academic research or evidence that supports this claim and therefore are unable to comment further except to say that additional access to land is being made possible as scrub, bramble and bracken management is implemented under existing agreements. Strategies and plans for increasing numbers of visitors to the countryside are most likely to be coordinated through bodies such as Cornwall Council, the AONB Partnership, Cornwall Tourist Board, the Local Access Forum and the Local Enterprise Partnerships.

SPM Response: *Natural England never carried out any audit of visitor numbers before starting to stock-proof and graze moorland sites.*

(6) Question: What specifically will NELMS do to reduce the increasing bracken coverage?

Answer: Bracken management is likely to be a constituent part of habitat management options under the new scheme, for example on lowland heath and on some grassland areas. Where it is appropriate we will continue to encourage management of bracken within existing agreements and under any new scheme agreements entered into.

(7) Question: What plans does NE have, within NELMS, for disabled access?

Answer: A review of access options has been undertaken ... At the present time Natural England have no further information regarding the inclusion of disabled access options and related capital work items within the new scheme as this has yet to be confirmed. The Local Access Forum or Cornwall Council may be able to advise you about any strategic plans they have for improving disabled access in the area. If a plan exists it may be possible to identify opportunities to make provision where there is overlap with existing HLS agreements or on areas targeted for future agreements under the new scheme. Also there may be other sources not currently known to us that could help deliver improved facilities for disabled access.

(8) Question: It seems that no public consultations with local affected communities are likely to take place unless the proposed scheme is affected by any statutory approvals (common land, scheduled monuments). How does "we do not expect holding public consultations of all applications" comply with the Aarhus Convention, particularly when target areas are Open Access Areas in which the public are a major stakeholder? I am somewhat surprised and disappointed that NE continue to disregard the Convention in relation to the new agri-environment schemes and have learnt nothing from the opposition towards aspects of the HEATH Project and Higher Level Stewardship agreements.

Answer: Natural England does not consider individual land management agreements to be within the scope of the Aarhus Convention.

SPM Response: *We strongly disagree with this statement as it would give local communities no say on the impact of any agricultural schemes and this is, we consider, in direct contravention of the articles of the Aarhus Convention.*

(9) Question: All the issues above could have been addressed had any meaningful consultation taken place – is it too late now? I recollect that our last joint meeting with Andrew George MP was held on 8th November 2013 at around the time of the NELMS ‘consultation’: why was the issue of NELMS not brought up then?

Answer: The public consultation was undertaken last autumn by Defra (see our answer at (1) above). At the meeting I recall advising you that a public consultation was to be undertaken. Defra have not indicated that there will be any further public consultation in respect of scheme design. If further public consultation is to be undertaken it is most likely that details will be made available on the GOV.UK and Natural England websites (please see our answer at (3) above).

In July 2016 SPM contacted the Aarhus Convention Compliance Committee [ACCC] complaining that SPM were never informed that it was, apparently, possible to have an input through the consultation process for the new UK Countryside Stewardship scheme with a previous working title of NELMS.

We wrote that, while we can accept it may not be possible for Natural England or Defra to directly address every group or interest party when undertaking this type of consultation’ when considering the overall national strategy of this new scheme, we would like advice on whether further consultation should be carried out once specific locations have been decided upon so that affected local communities – as major stakeholders – might have an input before being

faced with a *fait accompli* ‘on the ground’ (i.e. new fencing, gates, cattle grids etc on previously unenclosed areas).

ACCC replied the following month that the secretariat was not able to provide legal advice, but that it might be useful for us to contact the European Environmental Bureau. This was done but we were told it would be best for us to contact lawyers of Friends of the Earth UK “who are dealing a lot with Aarhus issues”. This was done, as well as contacting several other environmental legal organisations – responses are awaited.

In view of extensive correspondence and meetings since July 2008 between Save Penwith Moors and Natural England (and others), during which local concerns and opposition were expressed about negative effects on the ground of the NE led HEATH Project, and more recent Higher Level Stewardship agreements, it is extraordinary to us that we were never offered the opportunity to be fully informed of the implications of NELMS or given the chance to have any input into the consultation process. It seems to us that yet another *fait accompli* is in operation.

In a recent Natural England publication, *NELMS: Options review*,⁴ there is an admission that heathland is a relatively uneconomic habitat but that the substantial increase in funding from previous rates has helped reintroduce grazing to many sites, although there may be significant problems in relation to public access and perceptions when grazing common land sites: “Such problems include opposition to fencing being introduced on such sites, and out of control dogs worrying livestock and disturbing ground-nesting birds”. Many heaths are commons and, where grazing is being reintroduced that requires fencing, “securing approval to fence is often extremely difficult (especially in the lowlands), and consultations can take significant time and resources. We should only fund fencing on commons – or indeed on other areas – through AE [agri-environmental] schemes where there is a clear need for grazing on at least part of the site ... However the payment rate helps to make uneconomic management systems (e.g. grazing) more attractive, though rarely profitable.”

There are three main elements to this new environmental land management policy: Mid Tier, Higher Tier, and Capital Grants. Mid Tier applications were open until 30th September 2016 but Higher Tier applications ended on 16th May 2016. It provides financial incentives for farmers and land managers to look after their environment through activities which include conserving and restoring wildlife habitats; keeping the character of the countryside; preserving features important to the history of the rural landscape; and encouraging educational access. CS is a competitive scheme based upon applicants scoring on a points system against their priority targets for maximising environmental benefits.⁵

Applicants receiving more than €10,000 must publicise this funding grant and the financial support from the European Union by displaying a notice on the relevant land holding, and mentioning this on any business web site with a hyperlink to the EU Commission Rural Development. All information material must contain a clear reference to the EU’s participation as the funder. For example: “The European Agricultural Fund for Rural Development: Europe investing in rural areas. This project has received European Union funding under the Countryside Stewardship Scheme’s Facilitation Fund.”⁶

In *Countryside Stewardship priorities for West Penwith* applicants for the Higher Tier have a “greater chance of success if the holding has already helped wildlife thrive under previous schemes. For example, where a Higher Level Stewardship agreement is coming to an end, and

from other areas where priority farmland species are present.” They should choose active management which ensures the long-term survival of historic environment features and protects them against damage and decay. In particular some of the biggest land management threats in this area are from scrub and tree growth, erosion from livestock, and collapse. They should also consider options and capital works to – amongst other things – revert archaeological sites under cultivation to permanent grass; remove scrub and bracken from archaeological or historic features; and maintain below-ground archaeology under permanent uncultivated vegetation or actively manage earthworks, standing stones and structures as visible ‘above ground’ features; and protect and enhance features associated with the Cornwall and West Devon Mining Landscape World Heritage Site.⁷

On 21st May 2016 SPM sent an enquiry to Natural England asking that, as Higher Tier date for applications had then finished, were any applications made for areas of West Penwith heathland. A response five weeks later confirmed that there were two applications that included heathland in Penwith and that NE were working to assess applications to determine those that will proceed to the next stage. A further enquiry requested the location of these two sites but this was refused on the grounds that the local NE had been advised that they: “do not ordinarily release information regarding applications for CS during the application stage. If an application results in the acceptance of an agreement offer, then the agreement will be subject to the same openness criteria as previous requests made by you and the land on which any HT [Higher Tier] agreement is entered will be shown on the Government website MAGIC.”

However, after over three years, the MAGIC map still does not show the Registered Common Land at Carn Galva where the Inspector’s decision was made on 6th February 2013 that the 70 hectare site should be added to the register of common land. So I don’t put any faith in the Natural England remark above.

CS priorities include management of lowland heathland (LH1) paid at a rate of £274 per hectare (HLS £200 per ha)⁸ to create “a diverse mosaic of vegetation, allowing all heathland types ... to flourish ... If successful there will be heathland areas with a diverse mosaic structure, including undisturbed bare ground and vegetation in all stages of its life cycle.” Agreement holders will probably (final details not yet worked out) be required to create a wide range of heather ages and structure through appropriate management of grazing, burning and/or cutting; provide bare ground cover between 1% and 10%; maintain tree and scrub cover below 15%; maintain the full range of age classes of Western or European gorse; and manage bracken so that cover is less than 10% in dense canopy. It is likely that agreement holders will not be allowed, amongst other items, to create bare ground on historic or archaeological features; carry out supplementary feeding; or plough, cultivate or re-seed.⁹

In addition to the principal part of an agreement [LH1] there are also a dozen supplements that will increase financial benefits.¹⁰ These include bracken control, shepherding, native breeds at risk, cattle grazing and cattle grids.^A Where grazing takes place the benefits to the environment should be a more varied sward structure which will increase wildlife diversity;

^A Cattle grid (LV1) @ £835 per item which cannot be placed on public highways or public rights of way; Bracken Control (SP3) @ £153 per ha; Shepherding (SP5) @ £7 per ha; Native breeds at risk (SP8) @ £94 per ha; Cattle grazing (SP6) @ £45 per ha

better control of scrub, bracken and coarse vegetation; better grazing of wet areas and difficult sites such as steep slopes: agreement holders would be required to keep stock records to show grazing activity on land parcels.¹¹ In addition to these supplements there are a number of capital grants for fencing, stone gate posts and wooden field gates.^A

For an example, assuming no capital works are required, if we take a typical West Penwith example of an 80 hectare moorland site – roughly the area of Carnyorth Common – then this will generate payments of:

CS scheme	CS Payment rate	Total	HLS Payment rate	Total
LH 1	@ £274 ha	£21,920	@ £200 ha	£16,000
Bracken control	@ £153 ha	£12,240	@ £35 ha	£2,800
Native Breeds	@ £94 ha	£7,520	up to £70 ha	£5,600
Cattle grazing	@ £45 ha	£3,600	up to £35 ha	£2,800
TOTALS		£45,280		£27,200

Assuming all the figures are correct – and I think they are – then the increase of annual payment for CS, as opposed to HLS, will be £18,080. Not bad in a time of recession and austerity.

Although similar to HLS in that grazing, burning and cutting are permitted, ploughing, cultivating or re-seeding are not. This is very significant in that burning and cutting are not equated with cultivation: a situation that has been fiercely argued during common land inquiries and hearings as to whether cultivation – that determines whether the land is ‘occupied’ or not – can include management activities of burning and cutting. Inspectors came to differing opinions.

¹ Annex B List of organisational respondents

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/267987/cap-reform-sum-resp-201312.pdf

² Email dated 12th August 2014 from NE to SPM

³ Email dated 29th August 2014 from NE to SPM

⁴ NELMS: Options review - Access to Evidence nepubprod.appspot.com/file/5341061 - HO1 & HO2 Maintenance and Restoration of lowland heathland (undated but after December 2013)

⁵ Countryside Stewardship <https://www.gov.uk/government/collections/countryside-stewardship-get-paid-for-environmental-land-management>

⁶ Guide to Countryside Stewardship: facilitation fund <https://www.gov.uk/government/publications/guide-to-countryside-stewardship-facilitation-fund/guide-to-countryside-stewardship-facilitation-fund>

⁷ Countryside Stewardship priorities for West Penwith https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/410950/NCA156-West-Penwith.pdf

⁸ <https://www.gov.uk/countryside-stewardship-grants/management-of-lowland-heathland-lh1>

⁹ Countryside Stewardship: Higher Tier Options, Supplements and Capital Items, Revised April 2016 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/514481/cs-higher-tier-options-supplements-capital-items.pdf

¹⁰ Countryside Stewardship grants <https://www.gov.uk/countryside-stewardship-grants>

¹¹ <https://www.gov.uk/countryside-stewardship-grants/cattle-grazing-supplement-sp6>

^A Fencing (FG1) @ £4 per metre; Stone gate post (FG13) @ £280 per post; Wooden field gate (FG12) @ £390 per gate