

DEFRA Diary

Introduction

The following is a summary only, of the events in the representations to DEFRA. They appear to demonstrate a level of inconsistency in the application of the Countryside Stewardship Scheme which is viewed by the NCMD as discriminatory with respect to the hobby.

1. 10 October 1999 NCMD became aware of a number of members being banned from detecting on land they had detected for some years. The prohibition appeared to apply to all land including ploughed land. The prohibition had resulted from a previously unknown (to NCMD) agri-environment grant aided scheme.

Extensive enquiries eventually revealed that the then Ministry for Food Agriculture and Fisheries (MAFF) were operating a scheme entitled "Countryside Stewardship" (CSS)

2. 13 October 1999 A copy of the scheme guidance notes was obtained by NCMD. These notes contained an application form dated 1999 and another form dated 1999

The notes were accompanied by a schedule 2.1.1 detailing the management prescriptions to be applied to the land under agreement. **The prescriptions included a prohibition of metal detecting, ploughing and cultivation on agreement land. Ground disturbance on sites of archaeological interest was also prohibited without prior written consent from MAFF and English Heritage.**

The application of the agreement conditions appeared only to be applied to agreement land which could include field margin, odd patches of rough ground etc.

3. 1999 Pilot schemes for **Countryside Stewardship agreements on arable land** were introduced in August. These agreements made no mention of metal detecting. Although ploughing was permitted, there were constraints on the time of year from which it was permissible and was therefore nothing to do with the protection of sites of archaeological interest.

It was also noted that the Welsh version of CSS entitled "Tir Gofal" and dated March 1999 contained no reference to metal detecting

4. September to November 2001 MAFF had been replaced by the Department for Environment Food and Rural Affairs (DEFRA) and NCMD became aware that members were now being prohibited from detecting on all land on the holding where a CSS agreement was in place on only part of the holding even where the land was still being regularly ploughed.

September 2001 Correspondence with the DEFRA SW Project Officer responsible for the implementation of CSS agreements in the South West was unsuccessful in attempting to ascertain specifically what was being said the landowners by DEFRA

Project Officers and in clarifying the matter. The NCMD enquiries were largely unsuccessful and kept being referred back to the DEFRA Archaeological Advisor for the region.

However, it became clear that DEFRA appeared to be selectively applying a cross compliance clause to include the whole landholding to prohibit metal detecting, without DEFRA permission. There appeared to be no similar extension by a cross compliance clause to ploughing or other activities. **There was also a statement from DEFRA that the removal of artefacts even on non agreement land was prohibited. (Note, artefacts with the exception of treasure material belong to the landowner and this was pointed out by NCMD).**

It also became very clear from the correspondence and a later meeting with DEFRA that although it was claimed that cross compliance clauses were being used to protect sites of archaeological interest and landowners were obliged to avoid damaging them, landowners **were not told or provided with a map by DEFRA**, which enabled landowners to identify the locations or extent of such sites. This was despite the agreement condition specifying that there must be no ground disturbance on sites of archaeological interest without DEFRA permission

5. 5 February 2002 NCMD expressed concern at the potential consequences of the DEFRA actions to the Portable Antiquities Voluntary Reporting Scheme (PAS) at a meeting of the PA Scheme Steering Committee (PAS). It was apparent that the archaeological organisations represented at that meeting including English Heritage were unaware of the way in which the scheme was being applied, with regard to metal detecting, across the country. It was agreed that DEFRA would be approached by the PA Scheme to discuss the matter and Doctor Roger Bland agreed to approach DEFRA. At a subsequent PAS meeting on **21 March 2002**, the English Heritage representative commented that English Heritage had received considerable correspondence on the subject of Countryside Stewardship Schemes and was still learning how the schemes were being implemented

6. March 2002 Statement by DEFRA Press Officer in the metal detecting hobby press

(a) Implied that any ground disturbance on detecting on known sites of archaeological interest required consent.

(b), Stated that approximately 5% of land in England is under CSS agreement hence 95% is not governed by CSS conditions. It was later established that the 5% applied only to land under agreement. This statement appears to be contradicted by the fact that cross compliance clauses are being used to introduce some of the CSS conditions on non agreement land.

7. 12 April 2002 Doctor Bland, Co-ordinator of the PA Scheme met with DEFRA to discuss the problem. It was apparently suggested and agreed that a guidance note should be prepared by DEFRA.

8. April 2002 Draft Guidance notes regarding metal detecting and CSS circulated by DEFRA amongst archaeological circles for comment (**NOTE BUT NOT THE NCMD**)

9. **8 May 2002** Statement in a letter from a West Country County Archaeologist that it was important to ensure that there was no detecting on pasture land or “unknown “ sites.

10. **26 August 2002** Letter from NCMD to DEFRA complaining that NCMD had not received a copy of the finalised draft CSS guidance notes in preparation for the planned meeting on 9 September 2002

11. **30 August 2002** Email and draft guidance notes received by NCMD

12. **9 September 2002** Meeting between the PAS including NCMD and DEFRA. The NCMD had not been supplied with the draft document to enable a proper and reasoned appraisal to be carried out. However a commitment was given by NCMD that a written response to the draft would be sent to DEFRA in a matter of a few weeks after consultation with the NCMD regions.

It was stated by DEFRA that the seeking of permission to detect on non agreement land on the same holding as CS agreement land was a recommendation only and NOT a requirement. It was agreed that a letter would be sent by DEFRA to the hobby magazines confirming this statement. It was also stated that the purpose of seeking DEFRA permission was to ensure that sites of archaeological interest on non agreement land were not damaged by metal detecting. **However, it was also stated that land owners were not advised of the locations of such sites and ploughing was allowed to continue on non agreement land.**

13. **20 September 2002** Letter from Rt. Hon. Alun Michael Minister for Rural Affairs to Mark Simmonds M.P. suggesting that DEFRA permission would not be required to detect on agreement land if there was no known site of archaeological interest and other CSS conditions would not be breached. Detecting was not ruled out on land not covered by the CS Scheme.

14. **30 September 2002** Written response to DEFRA draft Guidance notes sent by NCMD to DEFRA

15. **4 October 2002** Letter from DEFRA to hobby magazines confirming that permission from DEFRA to detect on non agreement land on the same holding was a recommendation and not a requirement. (Note - See 2 above)

16. **21 October 2002** Statement in DEFRA e mail that ploughing was **NOT** prohibited on CS agreement land Note this appeared to be in contradiction of the clause in the CSS agreement document

17. **12 November 2002** - Letter from a farm owned by an archaeologist to an NCMD member refusing permission to metal detect (which is the landowners prerogative) however the reasons given included the fact that a high health pig herd was maintained on the land and it was in a detailed CS scheme NOTE - the keeping of pigs on CS agreement land is proscribed by CSS schemes, hence the cross compliance clauses do not seem to have been applied in a similar manner to that employed for metal detecting.

18. 20 March 2003 Letter to NCMD from DEFRA Stating that the clause contained in the new Entry Level Scheme (ELS) guidance booklet that “Metal Detecting is not permitted on sites of archaeological interest on land being managed under EL Scheme options, without the written consent of English Heritage”, was incorrect . The clause was included (and issued) in error.

19. 7 April 2003 Letter from DEFRA confirming that metal detecting is not proscribed on land being managed under an ELS agreement and there is no need to consult English Heritage to detect , except where there is a Scheduled Monument. It was also stated that detecting on land under ELS Agreement is under the same constraints as on land that is not under agri-environment agreement.

20. 22 May 2003 Letter from the Acting Chief Executive of Resource to DEFRA seeking a meeting with DEFRA to discuss the problems caused by the CS Schemes with reference to the Portable Antiquities Reporting Scheme

21. 5 June 2003 Revised Guidance notes received from DEFRA Group and DEFRA to discuss the first revision of the draft guidance notes prepared by **22. 24 September 2003** Meeting between the PA Scheme (including NCMD) Advisory DEFRA in response to the NCMD’s written submission of September 2002. There had been little change apart from acknowledging that the requirement to seek DEFRA permission on non agreement land was a recommendation only.

At this meeting DEFRA stated that legal authority of the use of cross compliance clauses was that it had always been done that way

DEFRA also refused to concede that if a field was ploughed it would be unnecessary to seek permission from DEFRA to detect and confirmed that the clause on page 71 of the Pilot Scheme Guidance booklet for the scheme had been included in error and permission (from English Heritage) to detect was only required for Scheduled Sites

DEFRA stated that the new Entry level scheme would not single out metal detecting for prohibition.

23. 24 September 2003 A formal NCMD written response to DEFRA on the content of the revised guidance notes was handed to DEFRA and the other meeting participants. This response raised a number of questions for which answers were sought.

24. 7 October 2003 DEFRA required formal application for permission to detect on land in the Midlands from an NCMD member which was largely ploughed (annually) and on which the SMR showed no sites of archaeological interest. The letter also stated that DEFRA would not grant permission unless there was a good research remit. The reason given by the applicant was dismissed as insufficient. The letter also required a statement of the methodology proposed.

25. 30 January 2004 Letter from DEFRA agreeing that cultivation does damage sites of archaeological interest and that responsible metal detecting does not.

DEFRA also stated that they had no evidence to support the proposition that CSS was restricting land for detecting in anything other than isolated cases.

DEFRA also pointed out that they were seeking to reconcile **the need for agreement holders to protect sites the location of which “they do not know”**.

26. 30 March 2004 Letter from Chris Batt Senior Executive of the Museums Galleries and Archives Council to DEFRA seeking progress on the revised draft guidance notes which had been promised at the meeting of 24 September 2003

27. 7 April 2004 Letter from R. Middleton of DEFRA in response to Chris Batt's letter dated 30 March 2004 which promised revised draft guidance notes by the end of April 2004.

28. 19 June 2004 At the Cardiff Conference on Hidden Treasure, DEFRA responded to a question about the difference between the Welsh CS agreement which did not mention metal detecting and the English version which proscribed metal detecting on agreement land with out DEFRA permission. It was stated that when both schemes had been submitted to the E U for approval, the Welsh version in contrast to the English version, had not originally mentioned metal detecting and could not subsequently be changed. It was pointed out by NCMD that the earlier versions of the English CS Agreement had also proscribed ploughing but this activity was now permitted in later versions. Hence, the argument did not hold up, DEFRA (England) then appeared to suggest that ploughing had only been restricted on sites of archaeological interest . The NCMD disagreed and pointed out that examination of the schedule to earlier agreement document would show this statement to be incorrect and the proscription of ploughing had then applied to **ALL** agreement land

29. By 21 October 2004 - Nothing had been received from DEFRA. A letter was sent to Sarah Wilson the DEFRA Entry Level Scheme Manager attempting to progress the receipt by NCMD of a copy of the new Entry Level Scheme handbook and model agreement that had been promised over twelve months before.and commenting that NCMD was still awaiting a response to its queries and submission of September 2003.

30. 17 November 2004 Letter received from Sarah Wilson stating that there was no ELS agreement document as such but an application and declaration agreeing to meet the conditions as outlined in the Scheme handbook would be made by the landowner. DEFRA would then issue a letter summarising the options chosen by the landowner to qualify for the grant. The letter from Sarah Wilson also stated that the new draft guidance notes for CSS had earlier been completed and sent to the Portable Antiquity Scheme and English Heritage for comment. **NOTE – Despite the fact that NCMD was represented on the PA Scheme Advisory Panel together with English Heritage, CBA etc., NCMD still had not seen a copy by 25 November 2004.** It was also stated that the new guidance notes would be used to develop the Higher level Entry Scheme proposals. A promise was given that after receipt by DEFRA of the comments from English Heritage, NCMD would receive a copy.