

Countryside and Rights of Way (CRoW) Act 2000

NOTICE OF RELEVANT AUTHORITY DECISION FOLLOWING REASSESSMENT OF DIRECTION RESTRICTING CRoW ACCESS

Prepared by Natural England

Access Authority: Durham County Council
Relevant Authority: Natural England
Local Access Forum: Durham

Land Parcel Name:	Direction Ref.	Details of restriction on original direction:	Reason for Exclusion
West Allotment	2009085039	Public Exclusion from March 1 st to May 31 st (until 2016)	CRoW s26: Nature Conservation

The Relevant Authority, Natural England, has now decided how to proceed following its review of the above direction to restrict CRoW access. The final decision is to extend the current restriction and make a change to the direction end date; to exclude the public from the site from March 1st to May 31st each year for nature conservation purposes.

An initial consultation has already been held with statutory consultees and the general public. This consultation period ended on January 30th 2015. Following that consultation, Natural England received feedback the Local Access Forum, Durham County Council and the Ramblers.

In summary all the responses supported a continuation of the current restriction unless new information would indicate that the site is no longer important for Black Grouse.

Outcome of the Review

a) Site Context

West Allotment forms part of Upper Teesdale SSSI, an extensive upland area within the North Pennines which contains a number of nationally rare habitat types as well as a rich variety of representative habitats and associated plant and animal communities.

Upper Teesdale SSSI is one of the most important botanical sites in Britain supporting a flora exceptionally rich in nationally rare species and including a relict arctic-alpine element. There is a diverse avifauna with internationally important breeding populations of wading birds and a number of rare invertebrate species are present.

The SSSI also includes a series of locations of national geological importance.

b) Black Grouse

In 2005, the English Nature / Countryside Agency detailed assessment identified this particular site as having wintering Black Grouse present which are prone to human disturbance and particularly disturbance from dogs. The GWCT have indicated that this site is still important for the recovery of Black Grouse.

During the course of this review, the matter was discussed with GWCT who indicated that the behaviour of Black Grouse varies in response to disturbance changes throughout the year. Generally, the leking period (April – May) is not a significant area of concern as it is an early morning activity, at a time when people are unlikely to be up and about. However, this site is unusual as it is situated adjacent to a minor road which provides adequate parking for

visitors and is prone to a higher level of visitors, compared to other areas of Open Access land under CRoW. These visitors come to watch the Black Grouse leking and potentially could enter the allotment. Visitors tend to be bird watchers early in the morning, not average general public, who would like to access the allotment to view and photograph the Black Grouse closely.

We have no current data on bird numbers on this site; however, GWCT informed us that following the national lek survey, in 2014, it considers that bird numbers have increased across the North Pennines following the decline in numbers due to the harsh winters in 2010/11 and 2011/12, and there is now a stable population in line with the 2005 levels.

c) Current levels and patterns of use

West Allotment is situated adjacent to a minor road which provides adequate parking for visitors and is prone to a higher level of visitors, who come to watch the Black Grouse and potentially enter the allotment. Visitors tend to be bird watchers early in the morning, not average general public, who like to access the allotment to view and photograph the Black Grouse closely.

There are no Public Rights of Way across the site.

d) What is the lowest level of restriction necessary?

The CRoW Act is clear in stating that in deciding whether a CRoW restriction is necessary, the Relevant Authority may give a direction if it is satisfied that the exclusion / restriction is necessary.

During the research the GWCT informed us that 90% of population in the North Pennines can be found concentrated in areas equating to only 5% of the total area (in Winter), making the current restricted site still important for the survival of the birds. They also pointed out that the availability of suitable habitats and management is also just as important as lack of disturbance.

The GWCT also informed us that Black Grouse are susceptible to climatic condition; the recent bad winters had seen a decline in Black Grouse numbers. However, GWCT considers that the numbers have recovered and are now stable in line with the 2005 levels.

The SSSI Responsible Officer, from Natural England, for this site has indicated that they believe the habitat is still favourable for Black Grouse; this view was supported by the GWCT.

To help determine what action may need to be taken a set of default recommendations¹ to protect Black Grouse on CRoW Access land was published in 2005. We believe these recommendations to still be valid and have considered these recommendations as part of our decision making process.

e) Conclusion following consultation

Having considered the information gathered, Natural England, as the Relevant Authority, has concluded that the current direction is still required based on the following information:

- The site is still a recognised leking site and important in the recovery of Black Grouse;
- There is a trend that numbers are returning to 2005 levels across the North Pennines;
- Due to the sensitive nature of this particular area, informal management measures are not sufficient to protect the vulnerable features;
- Black Grouse tend to start leking at this site in March; and

¹ See Annex 1.

- The presence of Black Grouse results in these areas being much more susceptible to disturbance from the new CRoW access right.

Natural England's decision is to vary the end date of the current direction to allow the public exclusion from March 1st to May 31st each year to continue. As this is a short term restriction, i.e. it restricts access for less than six months continuously; a second round of consultation is not required.

Summary of changes made to the existing direction:

Land Parcel Name:	Details of restriction on original direction:	Details for new direction
West Allotment	Public Exclusion from March 1 st to May 31 st (until 2016)	Public Exclusion from March 1 st to May 31 st (until 2021)

The current Relevant Authority Statutory Guidance states that long term directions should not be given for a period of more than 6 years. Therefore the original direction will be varied to have an end date of May 31st 2021.

Details of the restriction will appear on the relevant map of access land on the Open Access website - www.openaccess.naturalengland.org.uk.

Where a direction restricts access indefinitely, for more than five years, for part of every year, or for part of at least six consecutive years, we have a statutory duty to review it within five years of the date of its issue.

Date review completed: April 22nd 2015.

Annex 1

CRoW Part 1: After Predicted Access Increase Default Recommendations to protect Black Grouse on Access Land (Final 18/07/05). Where impractical to meaningfully define lek sites or allotment lands flexibility, discretion and exceptions will apply.

	Traditional Lekking Sites²	Breeding Sites	Wintering Sites
On Open Moorland	Access Excluded April-May inclusive	Access Management³	No special action
Within Enclosed Allotment Land⁴		Traditional sites ⁵ : i) where no increase in access use is anticipated; dogs on short leads 1st May to 31st August ii) where an increase in access use is predicted (or results); dogs on short leads 1st May to 31st August <u>and</u> access users excluded to linear routes	Traditional wintering grounds with large aggregations of Black Grouse ⁶ : Pre-emptive exclusion of access 1 October to 31 March
		Occasional or new sites ⁷ : Access Management	Occasional wintering grounds: No special action

² Sites used for lekking, present annually.

³ Focussing on existing Schedule 2 signs (or s23) restrictions on dogs

⁴ Defined as enclosed, often walled, adjacent to but below the 'fell wall' some show evidence of partial improvement if only grazing & dunging by livestock. Often demonstrate the lower limit of heather (or other dwarf shrub), cover. Sheltered with good food supply (invertebrates & cotton-grass), also provide feeding & roosting opportunities when more exposed land is inaccessible due to adverse weather i.e. snow cover.

⁵ Sites used for breeding (presence of eggs/chicks or 'nest' site or sustained pairing/courtship behaviour) present annually for at least the last 3 years.

⁶ Sites occupied by minimum of 5 birds (smallest sites at about 5 ha), annually for at least 3 years.

⁷ Sites which have demonstrated sustained occupancy for at least a 3 year period.