

Countryside and Rights of Way (CROW) Act 2000

REVIEW OF STATUTORY DIRECTION

SUMMARY FOR PUBLIC CONSULTATION

Prepared by Natural England

1. INFORMATION ABOUT THE PUBLIC CONSULTATION

Access Authority: Nottinghamshire County Council
Relevant Authority: Natural England
Local Access Forum: Nottinghamshire LAF

Natural England is about to review the following direction:

Land Parcel Name	Direction Reference
Budby Heath (part of Birklands & Bilhaugh Site of Special Scientific Interest)	2005100069

This is in line with the relevant authority's statutory duties (see Annex 1).

Your views on the current direction are sought to assist Natural England in deciding whether the restriction is still necessary for its original purpose; and if so, whether the extent and nature of the restriction is still appropriate for the original purpose.

Natural England originally gave this direction in September 2005, and last reviewed the direction in August 2010. At the last review, responses to the consultation were received from two members of the public, Thoresby Estate, Nottinghamshire Wildlife Trust, Nottinghamshire County Council, Nottinghamshire Local Access Forum and the Ramblers Association, all giving support for the restriction to continue. Following consultation the only change made to the direction was to extend the end date to 31 August 2015.

2. SUMMARY OF EXISTING DIRECTION

Land Parcel Name	Direction reference	Details existing direction	Reason for Exclusion
Budby Heath (<i>part of Sherwood Forest National Nature Reserve and</i>	2005100069	Direction given under section 26(3)(a) restricting dogs to short leads from 1 August to 31 August each	To protect ground nesting birds, specifically

<i>Birklands & Bilhaugh Site of Special Scientific Interest)</i>		year until 31 August 2015	nightjar
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The existing restriction extends the national restriction on CROW access land for dogs to be on a short lead between 1 March and 31 July each year through to the end of August each year. This is to protect ground nesting birds from disturbance from dogs, specifically to protect nesting nightjars on the heathland rearing young from a second clutch of eggs.

Natural England’s responsible officer for Birklands and Bilhaugh SSSI, Karyn Haw, was contacted to advise on the need for the existing restriction. Her email response dated 1 May 2015 was as follows:

“Budby Heath is part of Sherwood Forest National Nature Reserve and Birklands & Bilhaugh Site of Special Scientific Interest. It is one of the largest remaining areas of lowland heathland habitat in the East Midlands and is of notifiable importance for its habitat and invertebrate interest. Although currently not notified for ground nesting birds, the heath has and continues to support important populations of species of conservation concern such as woodlark and nightjar.

The continuation of the dogs on leads restriction to the 31st August annually is specifically due to the importance of the site for nightjar. This species is particularly susceptible to disturbance pressure from dogs, and although males churr on site each year, their breeding success has reduced in recent years. Without the extended restriction in place, there are serious concerns that the second clutch of eggs laid may not be successfully reared due to this form of disturbance.

Dog walking activity has continued to increase on site since the withdrawal of the military and there has never been an on site wardening presence to reinforce the CROW control measures. However, the RSPB have recently taken on site management of the heath and will soon be employing a warden who will actively engage with the dog walking community in a positive manner, using the restriction to minimise adverse effects on the nightjar.”

The previous consultation recognised the merit in wardening to support the restriction, identifying plans to recruit volunteer wardens. Whilst this plan did not reach fruition in the past five years, the imminent transfer of management to the RSPB will lead to a warden being appointed, and the restriction will support the approach in managing the site favourably for breeding nightjar.

Based on this information, Natural England is currently inclined to extend the existing direction for another 6 years. However, we will consider any representations received from this consultation before making a decision.

3. SUBMITTING COMMENTS ON THE REVIEW

If you wish to comment on the review of this direction then you must do so before 29 June 2015 directly to Sarah Haigh, email sarah.haigh@naturalengland.org.uk. A map accompanies this summary and can be seen on the [Consultation Pages](#) of the Government's Website¹.

Using and sharing your consultation responses

In line with Natural England's [Personal Information Charter](#), any comments you make, and any information you send in support of them, will help us to determine the application and / or determine if the restriction is still necessary in relation to the review or reassessment of a current direction.

We may wish to pass such comments or information to others in connection with our duties and powers under the open access legislation. This may mean for example passing information, including your name and contact details, to the Secretary of State or their appointees, the Planning Inspectorate or to the relevant access authority(s).

We do not plan to publish individual comments in full, but we may publish extracts from them when we report on our consultation(s).

There may also be circumstances in which we will be required to disclose your response to third parties, either as part of the statutory process for consideration of representations and objections about our decision, or in order to comply with our wider obligations under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.

If you do not want your response - including your name, contact details and any other personal information – to be publicly available, please explain clearly why you regard the information you have provided as confidential. However, we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not be regarded as binding on Natural England.

¹ https://www.gov.uk/government/publications?publication_filter_option=consultations. To access the consultation enter "Open Access" into the free text box titled "Contains" and then filter by "Natural England" in the Department drop down.

Annex 1

In accordance with statutory guidance, the relevant authority has a duty to:

- review directions of a long-term character no later than their fifth anniversary; and
- revoke or vary directions where necessary.

Under CROW section 27(3) the relevant authority must review, at least every five years, any direction it has given that restricts access indefinitely; for part of every year; for part of each of six or more consecutive calendar years; or for a specified period of more than five years.

During the review the relevant authority must, having regard to the interest of the public in having access to the land, consider whether the restriction is still necessary for its original purpose; and if so, whether the extent and nature of the restriction is still appropriate for the original purpose.

Before reviewing a long-term direction the relevant authority must consult:

- the local access forum;
- the applicant or his successor in title, where reasonably practicable – for directions under section 24 or 25 made on application; or
- the relevant advisory body – for a direction made under section 26.

The authority must also publish a notice on a website (and send a copy to statutory consultees) that must explain that the authority proposes to review the direction in question; where documents relating to the review may be inspected and copies obtained; and that representations in writing with regard to the review may be made by any person to the authority by a date specified in the notice.

Once consultation is complete the relevant authority should have regard to any representations it receives before making a decision.

If following the consultation, the Relevant Authority decides to:

- leave the original direction unchanged, the relevant authority should record the date that the decision was made and should schedule a subsequent review where necessary.

If following the consultation, the Relevant Authority decides to:

- vary a direction in any way (type, extent or date), the relevant authority must give a new direction under the same section that was used to give the original direction. If the new direction is long-term, it must be reviewed within five years of the date it is given;

- revoke a direction, the relevant authority must give a new direction under the same section to revoke it. There is no requirement to review the new direction.

Before varying or revoking a direction the relevant authority must: consult the original applicant or his successor in title, where reasonably practicable – for directions given under section 24 or 25 on an application; or consult the relevant advisory body – for directions given under section 26. In either case, follow the consultation procedures set out in the Relevant Authority Guidance but only if it proposes to give a new direction that would restrict access indefinitely or for more than six months continuously.