

Countryside and Rights of Way (CROW) Act 2000

REVIEW OF STATUTORY DIRECTION – PROPOSED CHANGE TO EXISTING DIRECTION

SUMMARY FOR PUBLIC CONSULTATION

Prepared by Natural England

1. INFORMATION ABOUT THE PUBLIC CONSULTATION:

Access Authority: Bath & North East Somerset
Relevant Authority: Natural England (South West Region)
Local Access Forum: Bath and North East Somerset Local Access Forum

Original direction reference: 2004080065

Land Parcel Name:	Details of restriction on original direction
Barn Field	2004080065

Natural England has begun a review of the above long term direction in accordance with statutory guidance (see Annex One). A consultation has been held with the statutory consultees and the general public between the 11th May 2015 and the 26th May 2015 that sought views on the existing direction.

We received feedback from the Ramblers who said that if the cows with suckler calves are still being grazed on the land in the same numbers then they would support the continuation of the present restriction, though they ask that the case should be revoked if restriction signs are not being displayed due to the ineffectiveness of the restriction if the public are not made aware of the dangers at the site.

We also received a letter from the applicant informing Natural England that he still keeps cows and calves on this land but from a slightly later date, from 1st June until 15th December. His letter states that the topography of narrow paths through wooded and overgrown areas has not changed so the potentially dangerous situation with cows and calves still exists. He also informed Natural England that he didn't ever receive clip frames as planned from the Council for the restriction signs but has erected signs on boards he has made himself.

Therefore after due consideration, Natural England now proposes to extend the direction for a further six years.

As we have decided to VARY by extending the direction (and are still proposing to make a long term direction) we are obliged to undertake a further round of consultation.

2. SUMMARY OF PROPOSED CHANGES TO EXISTING DIRECTIONS:

Details of restriction on original direction:	Proposed details for new direction	Reason for proposed direction
No Public Access 15 th April to 15 th December every year until 2015	No Public Access 1 st June 2015 until 15 th December every year until 2020	Total Exclusion Public safety s25, cows and calves

We must still review the direction no later than five years after its anniversary (or from the date of the last review).

i) Summary of proposal

When determining restriction applications Natural England follows its Relevant Authority Guidance. This case is covered under **Criteria Set 10 (Chapter 2.5): Other cattle kept on access land.**

It states in this criteria set:

- *Cattle normally tolerate people well, particularly when they have become used to encountering them. However because of their size they can present a significant threat of injury or even death if they feel threatened or, in particular, if they are protecting their young.*
- *Intervention is only likely to be necessary when cattle are calving or have calves at foot in fields on access land*
- *To prevent cattle and visitors from coming into close proximity, the relevant authority should consider informal management techniques. Depending on local circumstances this might be to:*
 1. *Relocate cattle watering or feeding stations away from routes or areas frequented by the public, provided this can be achieved without unreasonable cost or inconvenience to the applicant.*
 2. *Position signs and access points to steer visitors away from areas favoured by cattle.*
- *Where cattle are present on CROW access land, signs may be placed at entry points to remind visitors of the requirements to keep their dogs on leads in the vicinity of livestock. Visitors should be advised for their own safety and that of their dogs to steer clear of the animals and to unclip their dogs' leads if they are chased by cattle.*

The access land is used for keeping a herd of cows with newly calved suckler calves. At this site visibility is reduced by internal boundaries of dense vegetation of trees and scrub. The public could unknowingly walk into small enclosures or narrow passageways where the cows are present and become trapped in these areas between a cow and its calf. They could also be at risk if the cows became distressed and charged through these pinchpoints. The situation is compounded by the general topography of the land, it being steeply sloping, with 'funnels' in the vegetation where the cattle move through gaps in the dense scrub. These funnels were also deeply rutted and if an individual was trapped in one of these areas by charging cows they would have great difficulty escaping.

During a site visit in 2009 relocating the cattle watering and feeding stations was explored with the applicant but found to be impractical.

ii) Why is a statutory restriction necessary?

- *Cattle will naturally avoid visitors when calving, and it is reasonable to expect visitors to avoid cattle provided steps have been taken to alert them to the risks. Restrictions are therefore unlikely to be necessary on large open areas of access land.*
- *The national requirement for people to keep their dogs on leads in the vicinity of livestock may not be an adequate precaution in small enclosures where suckler cows are calving or have calves at foot, particularly if the stocking density is high. In these circumstances the relevant authority may consider complete exclusion of dogs from the enclosure if necessary.*
- *It may be necessary to exclude dogs from an area where cattle are calving or have calves at foot, where local circumstances make it difficult for visitors and cattle to maintain a safe distance from one another. Such circumstances will include:*
 1. *Small enclosures where close proximity is unavoidable;*
 2. *Areas where the topography or vegetation makes it difficult for people or cattle to be aware of each other's presence and so keep at a safe distance;*
 3. *Areas where the established or predicted patterns of access coincide with places favoured by the cattle, such as watering or feeding stations and the relocation of such places to less sensitive areas is not practical.*
- *Restrictions may occasionally be necessary on the basis of a herd's temperament, or on the basis of an individual animal's temperament. Quite often there is more temperament variation within breeds than between them, so it is not possible to specify whether a restriction is necessary on the basis of breed alone. The relevant authority should therefore question the handler in order to build up a profile of each individual animal's temperament, comparing the handler's subjective assessment with the other factors above to arrive at a balanced overall assessment of the likely risk to visitors. The relevant authority should ask the handler:*
 - *What their assessment of the degree of danger posed by the cattle to the public is;*
 - *Whether the animal(s) have a history of aggression towards the public or the handler and if so under what circumstances those attacks occurred;*
 - *Whether it is the herd or the individual that has aggressive tendencies;*
 - *Whether members of the public are likely to find themselves in similar circumstances to the situation that led to previous attacks;*
 - *Whether the cattle are handled frequently or are used to the presence*

- *of other people in their enclosure;*
- *Whether the handler would consider splitting the animals from the main herd and housing them elsewhere;*
- *Whether the handler culls aggressive animals*

At Barn Field the landowner keeps about 20 head of mostly Aberdeen Angus with one or two Limousin cattle on this 9.98ha area. He has informed Natural England in conversation that the temperament of the animals is generally reasonable though he did say there is at least one cow of poorer temperament. He is not able to split these animals from the main herd, this parcel is in fact some distance from the main farm which is near Melksham in Wiltshire so his options here are limited.

Therefore the number of cows in this reasonably small enclosure means that people coming into close proximity with the cattle is unavoidable, but furthermore the topography and vegetation dictates that some level of restriction is required.

iii) What is lowest level of restriction required?

- *Where restriction is justified, this will usually be to exclude people with dogs while cattle are calving or have calves at foot. The maternal instinct in cattle decreases over time, so it is unlikely that a restriction of over three months will be necessary. However the relevant authority may consider granting a longer restriction if it receives compelling justification from the applicant.*
- *The relevant authority should only exclude dogs where it is satisfied that this will reduce danger to visitors significantly in the context of any residual access afforded by public rights of way. It should also consider the extent to which the herd is used to the presence of other people and dogs within its enclosure, and whether it is preferable and practical to restrict people with dogs to routes that avoid areas frequented by cattle.*

In this case the applicant has informed Natural England that the calving of his 20 cows is spread out over the period of June to December so there could be very young calves at foot at any time during this period.

A total exclusion is again being proposed due to the combination of steep topography combined with dense scrub in places and pinch-points between open areas where these factors combine to make unusually difficult circumstances. Some of these areas are steep and heavily rutted and a member of the public even without a dog who came between a cow and young calf could have serious difficulties escaping.

Natural England has had confirmation in conversation with the landowner that he will put up restriction signage on the access points.

3. SUBMITTING COMMENTS ON THE REVIEW:

If you wish to comment on the review of this direction then you must do so before 24th August 2015 directly to:

Richard Thomas
Lead Adviser Open Access
Mail Hub Block B,
Whittington Road,
Worcester
WR5 2LQ
Richard.thomas@naturalengland.org.uk

A map accompanies this notice and is attached and can be seen on the [Consultation Pages](#) of the Government's Website¹.

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.

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.

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 relevant 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, it 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), it 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, it 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.