

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: Dorset
Relevant Authority: Natural England
Local Access Forum: Dorset Local Access forum

Original direction reference: 2009050215 and 2009085021

Land Parcel Name:	Details of restriction on original direction
Gallows Hill	2009050215 (previously 2005070048) (tues – fri)
Gallows Hill	2009085021 (Previously 2005070049) (outline: sat/sun)

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 24th July 2015 and the 21st August 2015, that sought views on the existing direction.

We received feedback from the Ramblers, who said that if the level of shooting and days times etc. have not changed since the last review they would agree with a continuation of the current direction, as to do so would be the lowest level of restriction necessary, and in line with the relevant authority guidance. However, before doing so they would need this confirming to be the case, and so request up to date information concerning the level of shooting.

They would also question the current system of notification of the outline direction as it appears this has in the past resulted in the direction not being in place on days when shooting has taken place so putting the public at risk. They say that if the Purbeck Shooting School have not used or notified the Relevant Authority then the outline direction should be revoked due to none use, however if they have notified the Relevant Authority then a better system of recording shooting days is required, so that the public have full information on when the land is restricted.

They also ask that if the direction is renewed that all signs and notices on the site or at suitable locations near the site clearly state the reason and duration of the restriction.

Natural England has now considered the case with its decision making given in 2 below, and now proposes to extend direction 2009050215 for a further six years with amended closure days, and to revoke direction 2009085021.

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
09/11/2009 until 09/11/2015 No Public access when shooting in progress: Weekdays: Tues-Fri 9:30-18:30.	12/12/2015 until 12/12/2021 No Public access when shooting in progress: Weekdays: Tues-Sat 9:30-18:30.	Public safety s25, Target shooting
09/11/2009 until 09/11/2015 No Public access when shooting in progress: Outline direction for 52 weekend days per year 9:30-18:30	Revoke	

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
 The access land is an area of scrubby heathland with high gorse and small trees. It is also the grounds of the Purbeck Shooting School (PSS) and includes their shooting facilities, car park, a large building comprising office space and machinery store, and clubhouse.
 The PSS carry out clay pigeon shooting and target shooting with air rifles and archery. The undulating nature of the land and scrub, and the nature of the formal shooting carried out, made a restriction necessary at the time of the original application in 2004, to prevent a risk to public safety and disruption to the shoot.
 A long term direction 2005070048 was given to exclude public access on the shoot days of Tuesday to Friday every week from 9:30-18:30. Outside of these

times on those days, and on Mondays there was no shooting, so no restriction on public access. This was then extended for 6 years in 2009 under new review case number 2009050215.

An outline direction 2005070049 was also given for 52 days a year for either Saturday or Sunday (again effective between 9:30 and 18:30 only) of each weekend depending on which weekend day shooting occurred. These 52 days could be notified a year in advance for the following year. The signage dictates that visitors to the site ask at the clubhouse on arrival, or ring ahead, to determine whether shooting is occurring on that weekend day. This outline direction was also extended a further six years in 2009 under review case 2009085021.

Natural England does not have any record of outline dates being notified from the period 2009 to 2015, a conversation with the Managing Director of PSS in 2009 indicated he thought the dates were sent in to Natural England around Christmas time for the year ahead, but there is no record of any dates being sent in.

A site visit was carried out as part of this review in 2015 and found that shooting activities at the school were continuing as in the original restriction application, but may have intensified. There is a new large building and large carpark area and on the day of the site visit, a quiet day, there were around 40 cars present with many of the 18 gun stands being used.

In determining applications for restriction Natural England follows its Relevant Authority Guidance 2010 (RAG). Criteria set 19 (Chapter 2.5): Shooting at man-made targets states:

Employers and the self-employed have a legal duty under health and safety at work legislation to take all reasonably practicable steps so that no-one is put at risk as a result.

The use of firearms is also licensed under the Firearms Act and the Games Licences Act, and is guided by well-observed codes of practice. It is well established that the primary responsibility for preventing injury lies with the user of the gun. Consequently it is extremely rare for countryside visitors to be injured as a result of shooting.

However, shooters can be distracted from their sport by the need for extra vigilance in order to prevent any risk of accidental injury to visitors. Management techniques will often be necessary to mitigate these effects.

Similar considerations apply to the use of other dangerous weapons such as bows and crossbows.

And

Danger to the public from shooting at targets

- *People shooting at targets have to assume that members of the public may be present and take all necessary precautions, even at times when they are unlikely to encounter visitors.*
- *Where the target is static (e.g. archery or pistol shooting), the main risk is from entering the corridor behind and in front of the target as a shot is taken. The area of risk (sometimes called a safety zone) may extend beyond the target for some distance, depending on the weapon and ammunition in use. People using pistols, rifles, bows or similar weapons must therefore choose a position that provides clear views against a safe backdrop before taking a shot. Shoot organisers must ensure that no-one enters the safety zone while shooting is taking place.*
- *The area of risk in clay pigeon shooting is wider because the target is moving. People are at risk from both shot and from falling clays. Participants should be able to see the whole area where there is a risk of injury from their shot and must not shoot if anyone enters that zone of risk.*
- *These standard precautions are normally sufficient to reduce risks to the public to an acceptable level. Further precautions may be necessary where the topography, vegetation cover or other obstacles may obstruct the views of shooters over the zone of risk.*
- *Signs, flags or lookouts ('stops') may be used to let visitors know when shooting is taking place and recommend safe routes through or around the affected area.*

Disruption to the sport

- *Participants can be distracted from shooting (whether or not the target is moving) by the need for extra vigilance in order to prevent any risk of accidental injury to visitors. Where visitor levels are high, the frequent need to stop shooting in order to allow visitors to pass may detract significantly from their enjoyment of the sport.*
- *Signs, flags or lookouts ('stops') may be used to let visitors know when shooting is taking place and encourage considerate behaviour. These techniques are most likely to be effective where there are safe and clearly marked rights of way or other routes that people can use through or around the area affected without causing significant disruption.*

At the Purbeck Shooting School both target shooting and clay pigeon shooting are carried out intensively on Tuesdays to Saturdays all year round. The site is arranged that visitors arrive through the main lockable entrance gate into a large

car-park. Around this car-park are located the clubhouse, an amenity lake, lockups and a large building housing machinery and other equipment. The rest of the site has 18 gun stands and their safety zones arranged around the central car-park arrival area, along with an archery area and an air rifle range.

Some form of management will still be required due to the intensive shooting activities occurring.

i) Why is a statutory restriction necessary?

The RAG states:

Restrictions may be necessary while a shoot or activity is in progress if other available techniques are inadequate to allow it to take place safely and without undue interruption. This is most likely:

- *To prevent danger to the public, where topography, vegetation or other obstacles obstruct the views of shooters over the area of risk;*
- *To prevent disruption to any shooting sport, where visitor levels are significant.*

Stands and exclusion areas are well marked out if approached from the main tracks but as the site is quite extensive and away from the managed areas is scrubby heathland with small trees and gorse it would be impossible to prevent people accessing danger zones without a large number of banksmen. The ground is undulating and there are additional earth banks created to separate stands from one another. For these reasons it is thought that a statutory restriction will be required as it would be possible for people accessing the site from the boundaries to wander into exclusion zones and be at risk from falling shot.

Visitor levels from non-club members or people using the school for shooting are very low, however if the site was completely unrestricted and people did start using the site more there would be real potential for significant disruption to the sport.

ii) What is lowest level of restriction required?

The RAG states:

- *If discretionary restriction powers are available and would meet the need, the relevant authority should explore their potential use with the applicant before giving a direction.*
- *Exclude people from the area of danger or potential disturbance, taking account of the expected trajectory of the ammunition.*
- *Leave residual routes or areas open to the public if it is safe and practicable to do so. Remember that public rights of way will be unaffected.*

In this case discretionary powers would not meet the need as they would only

allow 4 weekend Saturdays a year to be excluded and not provide enough weekday days either.

As there are 18 stands on the site, when the safety zones for the falling shot are considered it is not possible to leave any areas or routes through the site open.

Therefore a total exclusion will be required whilst shooting is occurring.

As shooting is currently limited to the hours of 9.30 to 18.30 Tuesday to Saturday or Sunday, by planning constraints concerned with the noise produced from the site, this dictates the periods that the site can be used for live firing and hence the limits of any exclusions.

The shooting school has confirmed that there are no plans to shoot on Sundays with the current planning consent so it is proposed to revoke the outline direction 2009085021 as it is no longer required, and extend the direction 2009050215 to include Saturdays. This removes the burden for the shoot to notify weekend days to Natural England.

Outside of the shooting times and the excluded periods, if people were to access the site they could walk around the safety zones and gun stands. This would bring them near equipment used by the shoot, such as traps. Any damage to this machinery would be a criminal offence and not permissible under CROW rights, and therefore not able to be prevented by an exclusion. Committing any criminal offence, or tampering with machinery in a way that would obstruct or disrupt the legitimate activities of the shoot would also not be allowed under CROW Section 2(1) as these activities are restricted under the National Restrictions.

iv. Excepted Land

The CROW Act Schedule 1 allows for certain categories of land to be exempt from the open access rights. This includes:

'2. Land covered by buildings or the curtilage of such land.'

and

'9. Land as respects which development which will result in the land becoming land falling within any of paragraphs 2 to 8 is in the course of being carried out.'

In the appeal decision for Appeal ACCESS/CA/R/05/13, that was made on the original application, and dismissed, the inspector stated:

'Although the office and storage sheds referred to in paragraph 2 qualify as excepted land, none of these has a well defined curtilage and I do not consider that it is practicable to map them separately. However as the directions given by the Agency make it clear that they do not affect excepted land I do not propose to give this matter any further consideration.'

And

Directions cannot be made to exclude or restrict excepted land because such land is specifically excluded from the definition of access land set out in section 1(1) of the Act.

Since the original application and the appeal decision in 2005 the area that could be described as excepted land by the PSS has increased. There is a new large building, the club house, a number of lockups, and a large car park. The School has also obtained planning permission to erect a new clubhouse which will be substantially bigger than the current one.

Any excepted land category needs to be determined by the landowner/ tenant and signed as such, Natural England does not interpret Schedule 1 categories for landowners/ tenants. Therefore the PSS may if they wish prevent access to the land they consider to be excepted as it is not access land, i.e. buildings, curtilage and land with planning permission for development. It is likely this would in effect remove a large area of land from the available access land inside the main entrance gate. This proposed direction will then apply to all the land shown in the Consultation Site Notice except any excepted land.

3. SUBMITTING COMMENTS ON THE REVIEW:

If you wish to comment on the review of this direction then you must do so before 8th December 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.