

Countryside and Rights of Way (CROW) Act 2000

REVIEW OF STATUTORY DIRECTION(S) – PROPOSED CHANGE TO EXISTING DIRECTION(S)

SUMMARY FOR PUBLIC CONSULTATION

Prepared by Natural England

1. INFORMATION ABOUT THE PUBLIC CONSULTATION:

Access Authority: Calderdale
Relevant Authority: Natural England
Local Access Forum: Calderdale

Land Parcel Name:	Direction Reference	Details of restriction on original direction
Meg Dike	2004060107	No dogs 20th May 2009 to 20th May 2015 Public Safety and Land management: Cows and Calves

Natural England has begun a review of the above long term direction in accordance with statutory guidance (see Annex One). A consultation was held with statutory consultees and the general public between 10th November and 8th December seeking views on the existing direction.

We received feedback from the Ramblers and the Kennel Club consultees.

The Ramblers accept some form of restriction on dogs is appropriate when suckler cows are present but asked that more information be obtained from the landowner regarding stocking as it appeared that it is the case that there could be extended periods without calves being present, with just a chance that cattle may be pregnant.

The Kennel Club summarised their comments as:

- The quarry should be removed from the exclusion
- The exclusion will not in practice reduce risks due to the presence of the unfenced PROW, and the health and safety responsibilities that will still be imposed
- The restriction is excessive given the significant amount of time cattle are not in the field, especially in the summer when access is most likely to be taken
- Safety would be best served in relation to walkers with dogs on the PROW and access land, to have accurate signage at the access points to

promote a short voluntary alternative route to avoid the cattle when present

After due consideration, Natural England now proposes to vary the restriction by removing the quarry from the restricted area and changing the end date to 1/2/2020.

As we have decided to vary 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 dogs 20th May 2009 to 20th May 2015 Public Safety and Land management: Cows and Calves	No access for people with dogs all year until 1/2/2021	Public Safety and Land management: 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

The proposal reduces the area restricted by removing the fenced off quarry where no livestock is grazed. The exclusion of dogs from the remaining area would continue.

ii) Why is a statutory restriction necessary?

When reviewing this restriction Natural England has made reference to Criteria sets 9 (bulls kept on access land) and 10 (other cattle kept on access land) of the Relevant Authority Guidance (RAG)

<http://publications.naturalengland.org.uk/publication/4650392214306816>

The bull in this case is a beef breed and is running with cattle; this reduces the risk to the public as these factors tend to reduce aggressiveness although in confined areas, they are more likely to exhibit territorial behaviour. The primary concern for public safety is related to the presence of cows and calves.

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.

On access land, this latter threat only normally applies to suckler cows, which may calve on extensive pasture and have their young at foot for a period after birth. The risks are significantly greater for visitors with dogs. However, 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.

The RAG states that intervention is only likely to be necessary when cattle are calving or have calves at foot in fields on access land. It says that 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 small enclosures where close proximity is unavoidable.

There are currently 6 cows and a bull that graze the open access area at Meg Dike; they are not used to encountering people. The bull runs with the cattle all year and so cattle can breed throughout the year and calves may be at foot at any time.

The area of open access land is split into 2 compartments approximately 1.5ha and 0.5 ha in size. The enclosures are grazed individually and cattle moved from one to the other as the grass supply is exhausted. They return once the grass recovers. There is a small amount of grazing land outside the access land but this is limited. In the winter months the gates are left open so cattle can move from one enclosure to the other.

A restriction is necessary due to the small area involved and the fact that cows and calves may be present all year.

iii) What is lowest level of restriction required?

The RAG states that 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. There is a public right of way on this parcel of land; however, its location is at the most westerly edge of the parcel and between the narrowest points of the parcel. On entering the field by the stile the exit at the top of the field is visible and a short distance away. Therefore there is still merit in the exclusion over the rest of the parcel.

The RAG states that where a restriction is justified this will usually be to exclude people with dogs while cattle are calving or have calves at foot. The cows on Meg Dike can be with calves at any time.

Natural England accepts there will be times when the cattle are not in the field and an outline restriction was considered to reduce the level of restriction.

However, it is not possible predict with any accuracy when the cattle will be moved from one enclosure to the other and therefore an outline restriction is not practical during the grazing season.

Under some farming systems, cattle will be housed for part of the year and an outline restriction may be appropriate to cover this period. In this case, when the weather deteriorates the cattle are moved indoors nearer to the house, but allowed to roam back out over parts of the small holding if the weather allows and while the barn is cleaned and fresh food put in. There are no pre-determined dates when cattle begin to use the barn.

As this is a restriction for public safety, clarity is important and we believe this is best achieved, in this instance by having the same type of restriction all year round.

We agree that it is desirable that signage is used to inform the public of the restriction and the presence of the bull and cattle and will recommend this to the landowner.

3. SUBMITTING COMMENTS ON THE REVIEW:

If you wish to comment on the review of this direction then you must do so before Friday 13th February directly to Christine.pope@naturalengland.org.uk A map accompanies this notice and is attached and can be seen on the [consultation pages](#) of the Governments Website

Using and sharing your consultation responses

In line with Natural England's [Access to Information Statement](#), 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.