

Countryside and Rights of Way (CROW) Act 2000:

**PROPOSAL FOR A LONG TERM DIRECTION
BY THE RELEVANT AUTHORITY**

SUMMARY FOR PUBLIC CONSULTATION

Prepared by Natural England

1. INFORMATION ABOUT THE PUBLIC CONSULTATION

Case Reference Number: 2016058166
Name of site/land parcel: Beeny (SX108920)
Access Authority: Cornwall Council
Relevant Authority: Natural England
Local Access Forum: Cornwall Countryside Access Forum

Natural England has received an application under section 25 of the Countryside and Rights of Way Act for a direction to exclude access to the public as indicated on the attached map, in order to prevent danger to the public from cows and calves.

Having considered the application, Natural England now proposes to give a direction on the site that would restrict access for longer than six months continuously. The Act requires us to consult publicly on all such proposals for 'long-term directions'.

2. SUMMARY OF RELEVANT AUTHORITY PROPOSAL

i) Summary of proposed direction to restrict access

An application has been received by Natural England to permanently exclude people from two parcels of Open Access land at Beeny, near Boscastle in Cornwall.

The applicant will be keeping cows and calves on the land for most of the year and is concerned that due to the poor access, steep terrain and thick scrub vegetation a member of the public accessing the land encountering a cow and calf would not be able to easily escape if necessary.

A site visit has been held with the applicant at which Natural England was able to gather more information about the farm and land.

The applicant has relatively recently taken over the land in question and is required to graze the land under a Higher Level Stewardship (HLS) agreement. It is understood these parcels are owned by the National Trust and will be grazed by the applicant as steward of the land. The previous steward of the land fenced the area and may have introduced light grazing, but essentially the land has not been grazed for some time and is therefore thickly vegetated with gorse and scrub.

The area is the northern slope and valley bottom of a steep valley with a stream flowing through the middle of the valley, and is around 3ha in size. The South West Coast Path (SWCP) runs through the western end of the valley, coming down steeply into the valley and then rising up steeply to continue adjacent to a neighbour's land. At the bottom of the valley the SWCP passes close to the new post and wire fencing as it crosses over a small bridge over the stream. This point would be the only access point onto the land but currently it looks unused as there is no access furniture or signage. There is also no obvious pathway onto or through the land or any obvious attractors to divert people into the land off the SWCP.

The applicant is waiting for the result of this application before grazing the land as they deem it would be unsafe to graze the area without the formal restriction. They are also keen to start grazing the land very soon as they are required too under HLS and also their current stocking levels require them to do so.

The applicant has a large suckler herd of Ruby Red Devon cattle and is proposing to graze the land with between 20 and 40 of this herd in a flash grazing style. This involves grazing the land hard for 3 weeks with a high stocking density and then removing the stock for two weeks to allow grass re-growth and then repeating throughout the year

The applicant has room to house all their cattle in the winter if necessary but is intending to graze this parcel all winter in the same style if the weather permits and there is enough grass to do so.

Therefore grazing could be happening on the parcel for 3 weeks on and 2 weeks off all year.

The herd are year round calving, with calves staying with their mothers for 12 months before weaning. They may also put a small number of Welsh Black suckler cattle on this land as well.

Natural England's Relevant Authority Guidance (RAG) in Criteria Set 10: 'Other Cattle kept on access land', states:

'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 birth¹. The risks are significantly greater for visitors with dogs.

- *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.'*

On the Open Access land at Beeny the cattle are likely to congregate on the flat land near the stream, where there are areas that are more grassy and less scrubby, and where they can drink from the stream easily. One of these areas is very near the main access point from the SWCP. A separate watering point has been installed at the top of the valley but the cattle are likely to use both areas.

Therefore it can be seen from the guidance that some form of restriction is likely to be necessary as there will be cows with calves at foot on the land, and also due to the location of water points and areas favoured by cattle.

¹ Suckler cows are normally part of beef enterprises. The young of dairy cows are normally separated from the mother at birth and housed, or kept on land near the dairy that is unlikely to be access land.

ii) Why is a statutory restriction necessary?

The RAG also states:

- *'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.'*

At this site all three of these factors are important, the valley area is reasonably small given the number of cattle proposed to graze it, the land is steep and heavily vegetated with dense gorse and scrub, and the main potential access point from the SWCP is near an area favoured by cattle.

The RAG States:

'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 applicant has been building up his herd of Ruby Red Devons by purchasing lots from various different places, and whilst some of the herd are of docile temperament as Red Devon's are generally known to be, some of the purchased lots are of much wilder temperament. In this case it is not possible to ascertain the temperament of each animal as there are over 80 of them, but it is thought that some of the herd grazing the land may be of wilder temperament.

Therefore it can be seen that some form of restriction will be required on these parcels.

iii) What is lowest level of restriction required?

The RAG states:

- *'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.'*

In this case the herd is in year round calving so a longer term restriction will be necessary as there could be a number of cows calving or with calves at foot on the land at any time.

The RAG states

- *'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.'*

This particular herd is not used to people or people with dogs and has some animals of wilder temperament, and restricting people to routes is not possible due to the terrain and watering points.

The RAG States:

- *'Under some farming systems, cattle will be housed for part of the year, so it will be necessary to establish the periods in which the cattle will be grazed on access land, in order to determine the period when the restriction is necessary. An outline direction may be appropriate where the grazing period varies from year to year. An outline direction should carefully specify the circumstances when the restriction will be necessary and may limit the number of days in each year when access may be restricted for the purpose.'*

As the applicant will be moving the cows on and off the land many times over the year it would be too onerous on them and their business to have to notify Natural England every time they moved cattle under an Outline Direction regime, therefore a year round restriction is proposed.

The RAG States:

- *'Restrictions are unlikely to be necessary where the cattle are pregnant but not yet calving, as they are generally more docile during pregnancy. It is the maternal instinct that occurs at calving that could cause the cattle to become more aggressive.'*
- *Cattle are usually provoked by aggressive or boisterous behaviour in dogs, but relevant authorities should not rule out the possibility that the presence of*

a dog may provoke them, even if it is under close control. It is therefore unlikely to be appropriate to exempt people with assistance dogs from directions for this purpose.'

The RAG guides Natural England to the conclusion that a dog exclusion is necessary but Natural England has a small number of cases where they have decided that a total exclusion is required. Natural England believes this is one such case. This is due to a combination of factors; the steepness of the valley sides, the density of the scrub and gorse, the proximity of the likely favoured feeding and watering areas of the animals to the potential access point from the SWCP, the number of cattle being proposed to be put onto the land, and the wilder temperament of some of the animals. If a member of the public was caught between a cow and young calf they could have great difficulty in escaping should the cow become protective of its calf.

Therefore Natural England is proposing a year round total exclusion on these parcels.

iv) Additional Supporting Information

As the applicant is required to graze the land in 2016 under a Higher Level Stewardship agreement a non-application short term exclusion (2016078202) has been put in place by Natural England from the 29th July 2016 to the 30th September 2016 to allow them to graze the land whilst this restriction application is being determined.

3. SUBMITTING COMMENTS ABOUT THE PROPOSED DIRECTION:

If you wish to comment on the review of this direction then you must do so before 31st August 2016 directly to Kathryn Gregory, at

Natural England

Temple Quay House

2 The Square

Bristol BS1 6DG

or

kathryn.gregory@naturalengland.org.uk

A map accompanies this notice and is attached and/or ~~[delete as appropriate]~~ can be seen on the [Consultation Pages](#) of the Government's Website².

² 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.