

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: Durham County Council
Relevant Authority: Natural England
Local Access Forum: Durham

Land Parcel Name:	Direction Reference	Details of restriction on original direction
Lambshield	2005110004	No Access 30/7/2010 to 31/07/2016 S25(1)(b) Public Safety: Presence of Bull and Other cattle

Natural England has begun a review of the above long term direction in accordance with statutory guidance (see Annex One). A consultation was held between 30th January and 27th February 2015 seeking views on the existing direction.

We received feedback from Durham County Council, Durham Local Access Forum and the Ramblers Association.

Durham County Council and Durham LAF have no concerns about the restriction or its continuation.

The Ramblers commented that they believe that the level of public demand for access to the site is low especially given the other areas of open access and rights of way near the site. Therefore they asked whether use of signs and other forms of land management would allow the restriction to be reduced to an exclusion of people with dogs.

However they do note that the current direction was the result of an Inspector's appeal decision made in July 2005 based on the stocking level given at the time and asked that the Relevant Authority reassess the direction and check current stocking levels.

The landowner would like the restriction to continue and confirms that circumstances have not changed since the original direction was given, apart from a reduction in the average number of cattle from 35 to 25.

After due consideration, Natural England now proposes to vary the restriction.

As we have decided to extend the end date of 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 Access 30/7/2010 to 31/07/2016 S25 Public Safety: Presence of Bull and other cattle	No Access 8/5/15 – 8/5/21	S25(1)(b) Public Safety: Presence of Bull and Cattle

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

Summary of proposal

The existing restriction excluding access to the parcel of land would continue until 8/5/2021

Why is a statutory restriction necessary?

Following an appeal against a decision by the Relevant Authority not to restrict access on this parcel an Inspector from the Planning Inspectorate concluded (on 28th October 2005) that a direction was necessary to exclude access to the public indefinitely. A review of this restriction in 2010 also concluded that a restriction was necessary.

The site is a small (7.5ha) enclosed parcel of land on the edge of Muggleswick Common. There are no public rights of way through the parcel and it is enclosed with fencing and dry stone walls. The northern point and the west and eastern edges abut non CROW land so the site is effectively a dead end.

The average number of cattle is now 25 rather than 35 which was the number at the time of the appeal, but other than this there has been no change in

circumstances. A bull runs with the cattle and there may be calves at foot at any time of the year.

Criteria set 9 of the Relevant Authority Guidance (RAG) which deals with bulls kept on access land says that beef bulls running with cattle are less inclined to be aggressive. However, the RAG also says there may be more of a risk if the bull is in a confined area and is not used to the presence of people.

The bull at Lambshield is not used to people and the parcel of land is relatively small at approximately 7.5 ha. It is narrow at the south eastern end and comes to a narrow point at the north. The Inspector identified a potential risk to the public if a bull was cornered in one of the sharp corners of the field.

The RAG states that restriction may be necessary where a beef bull is running with cows, if the relevant authority concludes that warning signs are inadequate to address the risk from the particular bull in question and that suitable alternative grazing is not available.

Relocation of the bull and cattle was considered but a permanent relocation is not possible due to the size of the holding and the availability of alternative grazing. There are times when livestock are not in the field, however, it is not possible to determine when this will be as it relies on weather and available grazing. This rules out the use of an outline restriction and makes the maintenance of accurate signage difficult.

Other cattle kept on access land are covered by criteria set 10. It states that cows can present a significant threat of injury or even death if they feel threatened or, in particular if they are protecting their young. The national restriction to keep 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 stocking density is high. In these circumstances the relevant authority may consider complete exclusion of dogs from the enclosure if necessary. Even with the reduction in the average number of cattle 25 is still considered a high density for a field of this size.

What is the lowest level of restriction required?

The RAG indicates that where a restriction is justified for cattle being kept on access land, this will usually be to exclude people with dogs while cattle are calving or have calves at foot. However, bulls are considered separately and where a restriction is justified, it is likely to take the form of a complete exclusion of the CROW rights from the enclosure containing the bull.

The lowest level of restriction is therefore a total exclusion.

3. SUBMITTING COMMENTS ON THE REVIEW:

If you wish to comment on the review of this direction then you must do so before 8th May 2015 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 Government's 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.

