

Countryside and Rights of Way (CRoW) Act 2000

NOTICE OF RELEVANT AUTHORITY DECISION FOLLOWING REVIEW OF DIRECTION RESTRICTING CRoW ACCESS

Prepared by Natural England

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

| Land Parcel Name: | Direction Ref. | Details of restriction on original direction: | Reason for Exclusion |
|---------------------------|----------------|--|-------------------------------|
| South Crossthwaite Common | 2009030090 | Public Exclusion from October 1 st to March 31 st (until 2016) | CRoW s26: Nature Conservation |

The Relevant Authority, Natural England, has now decided how to proceed following its review of the above direction to restrict CRoW access. The final decision is to extend the current restriction and make a change to the direction end date; to exclude the public from the site between October and March each year for nature conservation purposes.

An initial consultation has already been held with statutory consultees and the general public. This consultation period ended on January 30th 2015. Following that consultation, Natural England received feedback from the Local Access Forum, Durham County Council and the Ramblers.

In summary:

- The Local Access Forum felt that dogs pose more of a threat to Black Grouse than humans, in terms of disturbance. They felt the current restriction was not the least restrictive option and that a dog on short lead restriction would be more appropriate.
- Durham County Council and the Ramblers felt that the current restriction appropriate unless new information would indicate that the site is no longer important for Black Grouse. However, the Ramblers asked if the Access Authority and Relevant Authority could investigate the possibility of a marked route along the track at Rake Gill could be included in the direction.

Outcome of the Review

a) Site Context

South Crossthwaite Common forms part of the upland block encompassing Lune Forest, together with moorland surrounding the headwaters of the River Lune, and has been identified from comprehensive surveys of the North Pennines as one of the most extensive areas of relatively undamaged blanket mire in the north of England. The presence of dry and wet heath, acid grassland, limestone grassland and flushes increases the habitat diversity of this moorland. The area supports an important assemblage of moorland breeding birds. These include merlin and golden plover, contributing to the internationally important North Pennine populations of these species.

b) Black Grouse

In 2005, the English Nature / Countryside Agency detailed assessment identified this particular site as having wintering Black Grouse present which are prone to human

disturbance and particularly disturbance from dogs. The GWCT have indicated that this site is still important for over wintering birds.

The English Nature Report¹ (Contract No JW/05/04) reported that during the winter months South Crossthwaite Common provided refuge to 15 females. Given the high concentrations of Black Grouse and their tendency to flush at considerable distances, the small patches of traditionally favoured habitat during the winter months may be the occasion when the potential for disturbance is highest.

We have no current data on bird numbers on this site; however, GWCT informed us that following the national lek survey, in 2014, it considers that bird numbers have increased across the North Pennines following the decline in numbers due to the harsh winters in 2010/11 and 2011/12, and there is now a stable population in line with the 2005 levels.

c) Current levels and patterns of use

There is one existing Public Right of Way that crosses the site and a well-defined shooting track running along Rake Gill.

Information from Durham County Council would indicate that most users to this area either use the Public Right of Way or the track at Rake Gill.

d) What is the lowest level of restriction necessary?

The CRoW Act is clear in stating that in deciding whether a CRoW restriction is necessary, the Relevant Authority may give a direction if it is satisfied that the exclusion / restriction is necessary.

During the research the GWCT informed us that 90% of population in the North Pennines can be found concentrated in areas equating to only 5% of the total area (in Winter), making the current restricted site still important for the survival of the birds. They also pointed out that the availability of suitable habitats and management is also just as important as lack of disturbance.

The GWCT also informed us that Black Grouse are susceptible to climatic condition; the recent bad winters had seen a decline in Black Grouse numbers. However, GWCT considers that the numbers have recovered and are now stable in line with the 2006 levels. Even though the national survey was restricted to lek sites the SSSI Responsible Officer, from Natural England, for this site felt that this increase was evident on a number of known breeding / wintering sites across the North Pennines, but to get a true indication of numbers on this site more detailed monitoring needs to be undertaken.

The Responsible Officer has indicated that they believe the habitat is still favourable for Black Grouse; this view was supported by the GWCT. Therefore an assumption could be made that the numbers would be similar, if not higher, than reported in the English Nature Report given the increase in numbers across the North Pennines as a whole.

To help determine what action may need to be taken a set of default recommendations² to protect Black Grouse on CRoW Access land was published in 2005. We believe these recommendations to still be valid and have considered these recommendations as part of our decision making process.

Although we have no information on current bird numbers on this site, the default recommendations indicate that the Relevant Authority should consider an exclusion, or pre-emptive exclusion, of access from October 1st to March 31st each year on traditional wintering grounds with large aggregations of Black Grouse.

¹ **Warren, P, Richardson, M. and Baines, D.** 2005. *A Strategic approach to the conservation of Black Grouse in relation to Open Access within the North Pennines Complex.*

² See Annex 1.

However, in light of the request from the Ramblers in relation to a marked route through the restricted area, as the Relevant Authority we discussed the issue with both the GWCT and the Responsible Officer. The outcome of these discussions indicated that the features of interest are located in other parts of the restricted parcel so it was felt that amending the restriction to include a marked route when the restriction is in place would assist in preventing disturbance and should be explored with the Estate.

In light of this the matter was discussed with the Estate, to ascertain if amending the current restriction to include a marked route on the track along Rakes Gill would impact on their management of the moorland in this area. The Estate had no objections to including the track as a marked route when the restriction was in operation.

Conclusion

Having considered the information gathered, Natural England, as the Relevant Authority, has concluded that the current direction is still required based on the following information:

- The site is still a recognised wintering site and important in the recovery of Black Grouse;
- There is a trend that numbers are returning to 2005 levels across the North Pennines;
- Due to the sensitive nature of this particular area, informal management measures are not sufficient to protect the vulnerable features;
- The presence of Black Grouse in the winter results in this area being much more susceptible to disturbance from CRoW access rights; and
- Users to this area are sticking to the Public Right of Way and the Estate’s track at Rake Gill.

Natural England’s decision is to vary the end date and type of restriction from total exclusion to access on marked routes only from October 1st to March 31st each year. As this is a short term restriction, i.e. it restricts access for less than six months continuously; a second round of consultation is not required.

The variation of this direction will be complimented with interpretation.

During the discussion with the Estate, in relation to the track at Rake Gill, it was brought to our attention that the current site name could be misleading and not representative of the geographical location as there is a parcel of land known as South Crossthwaite Common in a different part of the Estate’s ownership. They informed us that this area is known as “The Allotments”, so we have agreed to rename the land parcel as we believe this is more representative of the geographical location.

Summary of changes made to the existing directions:

| Land Parcel Name: | Details of restriction on original direction: | Details for new direction |
|--------------------------|---|--|
| The Allotments | Public Exclusion - from October 1 st to March 31 st each year (until 2016). | Keep to Marked Routes from October 1 st to March 31 st each year (until 2021). |

The current Relevant Authority Statutory Guidance states that long term directions should not be given for a period of more than 6 years. Therefore the new direction will have an end date of March 31st 2021.

Details of the restriction will appear on the relevant map of access land on the Open Access website - www.openaccess.naturalengland.org.uk.

Where a direction restricts access indefinitely, for more than five years, for part of every year, or for part of at least six consecutive years, we have a statutory duty to review it within five years of the date of its issue.

Date review completed: April 22nd 2015

Annex 1

CRoW Part 1: After Predicted Access Increase Default Recommendations to protect Black Grouse on Access Land (Final 18/07/05). Where impractical to meaningfully define lek sites or allotment lands flexibility, discretion and exceptions will apply.

| | Traditional Lekking Sites¹ | Breeding Sites | Wintering Sites |
|---|--|--|---|
| On Open Moorland | Access Excluded April-May inclusive | Access Management² | No special action |
| Within Enclosed Allotment Land³ | | Traditional sites ⁴ : i) where no increase in access use is anticipated; dogs on short leads 1st May to 31st August ii) where an increase in access use is predicted (or results); dogs on short leads 1st May to 31st August <u>and</u> access users excluded to linear routes | Traditional wintering grounds with large aggregations of Black Grouse ⁵ : Pre-emptive exclusion of access 1 October to 31 March |
| | | Occasional or new sites ⁶ : Access Management | Occasional wintering grounds: No special action |

¹ Sites used for lekking, present annually.

² Focussing on existing Schedule 2 signs (or s23) restrictions on dogs

³ Defined as enclosed, often walled, adjacent to but below the 'fell wall' some show evidence of partial improvement if only grazing & dunging by livestock. Often demonstrate the lower limit of heather (or other dwarf shrub), cover. Sheltered with good food supply (invertebrates & cotton-grass), also provide feeding & roosting opportunities when more exposed land is inaccessible due to adverse weather i.e. snow cover.

⁴ Sites used for breeding (presence of eggs/chicks or 'nest' site or sustained pairing/courtship behaviour) present annually for at least the last 3 years.

⁵ Sites occupied by minimum of 5 birds (smallest sites at about 5 ha), annually for at least 3 years.

⁶ Sites which have demonstrated sustained occupancy for at least a 3 year period.