

Countryside and Rights of Way (CROW) Act 2000

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

SUMMARY FOR PUBLIC CONSULTATION

Prepared by Natural England

1. INFORMATION ABOUT THE PUBLIC CONSULTATION:

Access Authority: Derbyshire County Council
Relevant Authority: Natural England
Local Access Forum: Peak District Local Access Forum

Original direction reference: 2005020163

Land Parcel Name:	Details of restriction on original direction
Turncliff Common	For public safety from hazards associated with explosive detonations: outline direction excluding access for up to 200 days each year until 23 March 2016

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 statutory consultees and the general public that sought views on the existing direction.

We received feedback from the Ramblers supporting the continuation of the restriction, and from the Peak District Local Access Forum as follows:

“Whilst the LAF concluded that it would accept the continuation of a restriction, Forum members have suggested some changes/ measures to help give more certainty to users of the open access land and surrounding public rights of way network, as follows:-

- a) The exclusions of access only taking place during working hours on week days rather than at weekends or on bank holidays when more people are out walking
- b) The notification of all closures should be provided well in advance so people can plan their routes with more confidence – there have been occasions when notice has only been given 2 or 3 days beforehand
- c) With several reports of walkers approaching the area from the south being confused by the continuous presence of red flags just off the Dale Head road, it is requested that any red flags are removed or hidden from view when the access land is open. The site would also benefit from better signage and

information at the main access points - this needs to make it clear that public rights of way in the vicinity remain open for use when the access land is closed.”

Typically, HSL try to avoid weekends and bank holidays for testing, although there are rare occasions where this is necessary. Records show that since the start of 2010 the site has only been restricted on a total of 5 weekend or bank holiday days out of a total of 237 restricted days.

HSL aim to give as much notice as possible for restrictions, but there are a number of factors that determine when they test, and they are unable to plan the precise timetable for testing very far in advance.

The red flags are used to indicate energetic experiments within the site, and cover a wider area around which the CROW access land is contained in. HSL are reviewing their use of red flags and they will also be looking at better signage to communicate information about testing to access users. HSL have agreed to engage with the LAF as part of their review.

After due consideration, Natural England now proposes to extend the expiry date of the direction to 1 December 2021. HSL have not previously used their full allowance of 200 days per year, but based on their planned business they anticipate that they will need up to 180 days per year going forward, so the total days allowed will be amended in line with this.

As we have decided to extend 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
Outline direction excluding access for up to 200 days each year until 23 March 2016	Outline direction excluding access for up to 180 days each year until 1 December 2021	For public safety from hazards associated with explosive detonations

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

3. SUBMITTING COMMENTS ON THE REVIEW:

If you wish to comment on the review of this direction then you must do so before **30 November 2015** directly to Sarah Haigh, email sarah.haigh@naturalengland.org.uk. A map accompanies this notice and is

attached and can be seen on the [Consultation Pages](#) of the Government's Website¹.

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.

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.

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.