

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 | Original Direction Ref. | Details of restriction on original direction | Reason for Exclusion |
|---------------------|-------------------------|--|-------------------------------|
| Teesdale Allotments | 2010075582 | Keep dogs to a short lead from August 1st to 31st each year (until 2016) | CROW s26: Nature Conservation |
| Teesdale Allotments | 2010075583 | Public Exclusion from 1 st October 1 st to March 31 st each year (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 relation case 2010075582 and the Local Access Forum and the Ramblers, in relation to case 2010075583.

In summary all the responses supported a continuation of the current restrictions unless new information would indicate that the sites are no longer important for Black Grouse.

Outcome of the Review

a) Site Context

Teesdale Allotment forms part of an extensive area of enclosed upland grazing in two blocks among a larger area of rough grazing on the north side of the Tees Valley near Middleton-in-Teesdale and are of national importance for their breeding bird assemblage. The bird community includes lapwing, snipe, redshank, curlew, golden plover and Black Grouse. In terms of breeding wader densities the populations in Teesdale District of Durham are the most significant in the uplands of England and the Teesdale Allotments along with the Upper Teesdale SSSI and parts of the tributary valleys of the Lune and Balder are the most important areas for these birds.

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. Black Grouse can flush at variable distances which during the breeding season can have a significant impact on breeding success. Disturbance is potentially critical at times of prospecting; incubation, chick rearing

and feeding and can lead to exposure to the elements and possible chick death. The GWCT have indicated that these sites are still important for over wintering and breeding birds.

The English Nature Report¹ (Contract No JW/05/04) reported that during the winter months a large proportion of Black Grouse from the surrounding area gather at favoured localised feeding points. The location of these sites were recorded in the report, with one site on Teesdale Allotments providing refuge to 18 females and another site to 18 males and 22 females. Given the 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 poor weather in the winter of 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 are a number of existing Public Rights of Way that cross the site, some of which form part of promoted walking routes.

Information from Durham County Council would indicate that users to this area either use the Public Right of Way or the route up Coldberry Gutter. In their initial consultation response Durham County Council would like to see the route through Coldberry Gutter available during the restriction period. As the restriction covering this area is one requiring dogs to be kept on lead from August 1st to 31st each year, we don't feel that the public are being excluded from using this route.

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 2005 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

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.

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 and at traditional breeding allotment sites the Relevant Authority should consider:

- A dogs on short lead restriction from May 1st to August 31st, where no increase in access is anticipated: or
- A dogs on short lead restriction from May 1st to August 31st and access users excluded to linear routes, where an increase in access is anticipated.

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 sites are still recognised over wintering and breeding sites and important in the recovery of Black Grouse;
- There is a trend that numbers are returning to 2004/05 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;
- Black Grouse can flush at variable distances which during the breeding season can have a significant impact on breeding success;
- The period from May 1st to July 31st is covered by the national restriction, under Schedule 2(4); and
- We do not believe there will be an increase in levels and patterns of access.

Natural England's decision is to vary the end date of the current directions to allow the public exclusion from October 1st to March 31st each year (2010075583) and keep dogs to a short lead from August 1st to 31st each year (2010075582) to continue. As these are both short term restrictions, i.e. it restricts access for less than six months continuously; a second round of consultation is not required.

Summary of changes made to the existing directions:

| Land Parcel Name | Details of restriction on original direction | New details of restriction |
|--|--|--|
| Teesdale Allotments Case Number 2010075582 | Keep dogs to a short lead from August 1 st to 31 st each year (until 2016) | Keep dogs to a short lead from August 1 st to 31 st each year (until 2021) |
| Teesdale Allotments Case Number 2010075583 | Public Exclusion from October 1 st to March 31 st each year (until 2016) | Public Exclusion 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 directions will have an end date of August 31st 2021 and March 31st 2021 respectively.

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 Sites³ | Breeding Sites | Wintering Sites |
|---|--|--|---|
| On Open Moorland | Access Excluded April-May inclusive | Access Management⁴ | No special action |
| Within Enclosed Allotment Land⁵ | | Traditional sites ⁶ : 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 ⁷ : Pre-emptive exclusion of access 1 October to 31 March |
| | | Occasional or new sites ⁸ : Access Management | Occasional wintering grounds: No special action |

³ Sites used for lekking, present annually.

⁴ Focussing on existing Schedule 2 signs (or s23) restrictions on dogs

⁵ 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.

⁶ 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.

⁷ Sites occupied by minimum of 5 birds (smallest sites at about 5 ha), annually for at least 3 years.

⁸ Sites which have demonstrated sustained occupancy for at least a 3 year period.