

## Countryside and Rights of Way (CROW) Act 2000

### REVIEW OF STATUTORY DIRECTION – PROPOSED CHANGE TO EXISTING DIRECTION

#### SUMMARY FOR PUBLIC CONSULTATION

Prepared by Natural England

#### 1. INFORMATION ABOUT THE PUBLIC CONSULTATION:

**Access Authority:** Herefordshire  
**Relevant Authority:** Natural England  
**Local Access Forum:** Herefordshire Local Access forum

**Original direction reference:** 2006030159

<b>Land Parcel Name:</b>	<b>Details of restriction on original direction</b>
Lower Lugg Meadow	1 March – 31 July each year No Public Access. Nature Conservation, ground nesting birds.

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 three consultees, the Ramblers, the Chair of both the Herefordshire Local Access Forum and Herefordshire Ramblers, and Natural England as Relevant Advisory Body.

Summary of consultee comments:

The Ramblers stated that they recognise the need to protect Curlew breeding sites and have supported restrictions on such sites in the past. However the information given with this review is very limited and out of date with no records or birds observed since 2010 with the last breeding pair observed in 2007.

They state that any direction given would be not follow the least restrictive option or in line with the Relevant Authority Guidance and as such they felt they cannot support any continuation of the current direction. However, if information could be

provided that breeding sites for Curlew are present on the site they could be minded to agree with the direction.

The Chair of the two organisations, the HLA and the Herefordshire Ramblers, stated that although there are only small numbers of birds present they do agree with the continued restrictions. He did stress that 'outside of the restrictions there must be better access provided by installing pedestrian gates at 2 points on to the site.'

Natural England also commented in its RAB role. The Site of Special Scientific Interest Responsible Officer stated that 'the Lower Lugg Meadows are extremely important as a nesting site for Curlew and access to the site during this time would be extremely damaging. The site (now called Lugg and Hampton Meadows) isn't actually notified for the Curlew, but it is mentioned on the citation and as such should be taken into account when considering likely impact on this species'. She stated that the restriction should remain in place.

After due consideration, Natural England now proposes to extend the direction for a further six years.

As we have decided to VARY by extending 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:**

<b>Details of restriction on original direction:</b>	<b>Proposed details for new direction</b>	<b>Reason for proposed direction</b>
1 March – 31 July each year	1 March – 31 July each year until 2020.	To prevent disturbance to ground nesting birds

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

### **i) Summary of proposal**

Lugg Meadows are divided into the Upper and Lower Lugg separated by the busy A438. The site is designated as a Local Nature Reserve and a SSSI. Herefordshire Wildlife Trust (HWT) manages both the Upper and Lower Lugg Meadows. The Upper Lugg is Section 15 Common Land, so access has been in place for many years, and is heavily used by the public, particularly dog walkers as it is in close proximity to the housing estates in Hereford. There are numerous entry points and Public Rights of Way (PRoW) on the site. At the time of the original restriction the Upper Lugg experienced typical urban fringe problems such as vandalism, rubbish dumping, burnt out cars etc, and some of this behaviour continues today. Both Upper and Lower Lugg are part of the Site of Special Scientific Interest (SSSI), the River Lugg which runs through both sites is also SSSI, and is also designated a Special Area of Conservation (SAC).

During the winter the river often bursts its banks and floods across the meadows, this annual enrichment creates a very productive soil which produces a nutritious hay crop. The Upper and Lower Lugg has been managed for hay making since historical times and is recorded in the Domesday Book. The meadows are a surviving Lammas Meadow, ownership is divided amongst many individuals just as in medieval times. Many commoners exercise their grazing rights during the winter months before Candlemas (2 February), after this date the meadows are shut for hay with no grazing permitted until Lammas Day (1 August) in the summer. Once the hay crop has been cut the meadow is opened up again for communal grazing. They are the largest surviving system of Lammas meadows in England.

The Lower Lugg is a very flat and open site and of particular interest to breeding Curlew. In 2005 Lower Lugg Meadows and Hampton meadows collectively supported half the breeding population of Curlew in Herefordshire; therefore this site is locally very important to this sensitive ground-nesting bird species. For this reason it was therefore considered that a section 26 restriction was necessary between 1 March and 31 July inclusive to totally exclude people and dogs during the breeding season.

There are no PRoW on Lower Lugg. However, the close proximity of Upper Lugg may help offset many of the urban fringe problems associated with this area.

Lugg and Hampton Meadows SSSI were notified as SSSI on 14 December 2011. The SSSI citation states:

'Lugg and Hampton Meadows is a nationally important site for its species-rich neutral grassland communities, with various expressions and varieties of the nationally scarce National Vegetation Classification (NVC) type MG4 meadow foxtail *Alopecurus pratensis* – great burnet *Sanguisorba officinalis* grassland and a community transitional between this NVC type and the nationally scarce MG5 crested dog's-tail *Cynosurus cristatus* – common knapweed *Centaurea nigra* grassland, and for its populations of two vascular plants: the nationally scarce and near threatened narrow-leaved water-dropwort

*Oenanthe silaifolia*, and the declining and vulnerable mousetail *Myosurus minimus*. Lugg and Hampton Meadows are a large expanse of traditionally managed hay meadows in the floodplain of the River Lugg to the east of Hereford. They represent one of the largest surviving Lammas meadows in the country and are thought to have been managed in this way for at least 900 years.

Lugg and Hampton Meadows comprise three areas of unimproved neutral grassland on alluvial soils with underlying gravels. The land is adjacent to the River Lugg and floods seasonally providing some enrichment to the soils. As Lammas meadows, they are managed by taking a hay cut in late June or early July and grazing of the aftermath from the 1st August. Unimproved grasslands have suffered substantial decline nationally due to agricultural intensification and Lugg and Hampton Meadows represents a rare surviving example.

In addition to the reasons for notification described above the meadows support small numbers of breeding curlew *Numenius arquata*.

#### Curlew: National Population Trends

Curlew are on the Amber List of Birds of Conservation Concern and are listed as a Species of European Conservation Concern, with its breeding population being listed as in decline.

According to the Breeding Birds Survey (funded by the BTO, JNCC, RSPB) the breeding population from 1995-2012 has fallen by 30% in England and by 43% across the UK, and between 2012 and 2013 it had risen in England by 2% though had fallen by 11% across the UK (BTO, 2013).

#### Site visit

A site visit was held in April 2015 with the Herefordshire Wildlife Trust and the chair of the Herefordshire Local Access Forum.

The HWT provided the following statistics:

<b>Year</b>	<b>Observation</b>
1996	1 pair (confirmed)
1997	1 pair (confirmed)
1998	2 + pairs
1999	4 pairs
2000	3 pairs
2001	2 + pairs
2002	2 + pairs
2003	1 pair
2004	2 pairs
2005	2 pairs (confirmed)
2006	1 pair
2007	2 pair
2008	1 pair (3 birds observed)
2009	1 pair (3 birds observed)
2010	1 pair (2 young seen with adult at hay cut)
2011	1 pair (1 bird observed at hay cutting)
2012	1 pair (3 birds seen early season)

2013	1 pair (3 birds seen early season: 1 pair bred: young observed)
2014	2 pair observed (no young seen)

HWT commented that although Curlew numbers have been low for a number of years the site is still important for Curlew when combined with Hampton Meadow and when looking at the wider Lugg landscape. The numbers did increase last year and Curlew have been observed returning this year and holding territory.

**ii) Why is a statutory restriction necessary?**

Chapter 2 of the Relevant Authority Guidance allows Natural England as Relevant Authority to give statutory restrictions under s26 of the Countryside and Rights of Way Act if informal management solutions will not satisfy the concerns that access could disturb the vulnerable wildlife features of the site.

In this case informal management has been considered and found not to address the concerns. There are two access points and any access through these points would be likely to cause disturbance as the meadow is flat with little vegetation cover in the spring.

Curlew are known to be sensitive to disturbance. Research given at the time of the original direction had shown that breeding curlews are especially sensitive to disturbance and are known to fly up from an intruder entering their territory 1km away (*“Outdoor recreation and birds: Conflict or symbiosis?”* 1984, Zande, A.N. van.der).

Given the UK population declines and the importance of the site locally, and its known vulnerability to disturbance it is proposed to continue a restriction for a further six years.

**iii) What is lowest level of restriction required?**

Disturbance is possible both from people with dogs and just people. Lower Lugg meadow is completely flat and with no vegetation cover other than grass, people accessing the meadow from the two access points would disturb the vulnerable curlew.

Therefore a total exclusion is again proposed from 1<sup>st</sup> March to 31<sup>st</sup> July for six years.

**iv) Access Management**

New restriction signs have been positioned at the two access points, using new HWT branding and mounted on aluminium frames. There was discussion at the site visit about the installation of a kissing gate at the main vehicular access point to allow easy access to the meadows outside of the restriction. This could be locked during the restriction period. The LAF and RA would very much like to see this installed and feel if access is improved outside of the restriction period it could maintain compliance within the restriction period.

### 3. SUBMITTING COMMENTS ON THE REVIEW:

If you wish to comment on the review of this direction then you must do so before 8<sup>th</sup> May 2015 directly to:

Richard Thomas  
Lead Adviser Open Access  
Mail Hub Block B,  
Whittington Road,  
Worcester  
WR5 2LQ  
[Richard.thomas@naturalengland.org.uk](mailto:Richard.thomas@naturalengland.org.uk)

A map accompanies this notice and is attached and can be seen on the [Consultation Pages](#) of the Government's Website<sup>1</sup>.

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<sup>1</sup> [https://www.gov.uk/government/publications?publication\\_filter\\_option=consultations](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.

## 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.