

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
Atkinson Peat Moss Allotment	2009020012	Public Exclusion from October 1 st to March 31 st each year (until 2017)	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, all the responses supported a continuation of the current restriction unless new information would indicate that the site is no longer important for Black Grouse.

Outcome of the Review

a) Site Context

Atkinson Peat Moss forms part of Upper Teesdale SSSI, an extensive upland area within the North Pennines which contains a number of nationally rare habitat types as well as a rich variety of representative habitats and associated plant and animal communities. Upper Teesdale is one of the most important botanical sites in Britain supporting a flora exceptionally rich in nationally rare species and including a relict arctic-alpine element. There is a diverse avifauna with internationally important breeding populations of wading birds and a number of rare invertebrate species are present.

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 Game and Wildlife Conservation Trust (GWCT) have indicated that the total population was wiped out in this area following the harsh winters of 2010/11 and 2011/12 making this site more important to the recovery of Black Grouse.

The English Nature Report¹ (Contract No JW/05/04) reported that during the winter months Atkinson Peat Moss provided refuge to 26 males and 4 females. Given the high

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.*

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 are no Public Rights of Way across the site, however a Public Right of Way runs along the southern edge that CRoW users may be inclined to follow, giving access to access land either side of the restricted area and a minor highway to the north which potentially provides uninterrupted access to Open Access land.

Durham County Council believes that there has been little change in the levels and patterns of use since the last review. They feel that users in this area would tend to stick to the Public Rights of Way and minor highway as the terrain makes this site difficult to walk on. This was view shared by the Ramblers at the last review.

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 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 at 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.

² See Annex 1

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
- As the area has a Public Highway and a Public Right of Way abutting the Northern and Southern boundaries respectively there is a potential for people to stray into the area of concern.

Natural England's decision is to vary the end date of the current direction to allow the public exclusion from October 1st to March 31st each year to continue. 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.

Summary of changes made to the existing directions:

Land Parcel Name:	Details of restriction on original direction:	Details for new direction
Atkinson Peat Moss Allotment	Public Exclusion from October 1 st to March 31 st each year (until 2017).	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 direction will have an end date of March 31st 2021. This will bring the direction into line with the other directions for nature conservation restrictions across the North Pennines.

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 Part1: 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.