

Countryside and Rights of Way (CROW) Act 2000

NOTICE OF RELEVANT AUTHORITY DECISION FOLLOWING CONSULTATION ON A PROPOSED LONG-TERM RESTRICTION OF CROW ACCESS

Prepared by Natural England

Case Number	2018118766
Site Name	Barnack Holes and Hills National Nature Reserve
Grid reference	TF 075 046
Access Authority	Peterborough City Council
Relevant Authority	Natural England
Local Access Forum	Peterborough Local Access Forum
Consultation began	8 March 2019
Consultation ended	5 April 2019
Date of direction notice	24 May 2019

Natural England has now decided how to proceed following its consultation to extend the previous short term dog exclusion within a fenced compartment where livestock are present on Barnack Hills and Holes National Nature Reserve (NNR), given under Section 26(3)(a) of the CROW Act for the purpose of nature conservation, which formally expired on 30 April 2019.

15 responses were received during the consultation, 5 of which were supportive of the restriction as proposed. The responses of those objecting in some way to the proposed restriction covered three broad concerns:

1. The process and reasoning for determining the need for a CROW restriction.
2. The practical management on site and engagement with the local community.
3. The evidence of the need for adjusting the conservation grazing and future monitoring.

Natural England have considered all of the concerns raised and a more detailed response to those concerns are detailed below. A range of suggestions were made which will be helpful in guiding future engagement by Natural England with the local community. The responses also highlighted a need to give more information on the rationale behind the conservation grazing, which is also provided below.

Whilst some useful information has come out of the consultation, the original concern remains, and on balance the relevant authority's decision is to give a direction restricting CROW access rights in the way it originally proposed, which is to exclude dogs from a fenced compartment where livestock are present on Barnack Hills and Holes National Nature Reserve NNR until 24 May 2025, given under Section 26(3)(a) of the CROW Act for the purpose of nature conservation.

Details of the restriction will appear on the relevant map of access land on the Open Access website at: 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 are obliged to review it within five years of the date of issue.

Summary

Barnack Hills and Holes National Nature Reserve (NNR) is leased and managed by Natural England, and publically accessible with CROW access rights. The site is situated close to Stamford and Peterborough in Cambridgeshire.

The site requires regular grazing to provide suitable habitat for the flora features notified under its designations as a Special Area of Conservation (SAC) and as a Special Site of Scientific Interest (SSSI). The site is currently grazed by up to 80 sheep, with the addition of 4 ponies during 2018. The sheep and ponies have been located together in one of five fenced compartments on site, and rotated around each compartment as required.

The CROW Act requires access users to keep dogs on a short lead in the vicinity of livestock, and it is also an offence under the Dogs (Protection of Livestock) Act 1953 to allow dogs to attack or chase livestock. Previously, signage was placed at the entrances to each compartment when the sheep were present, saying: "sheep now on site – your dog will need a lead". Unfortunately the restriction has not been adhered to by all visitors, and there have been regular incidents where sheep have been chased by dogs, with regular sheep fatalities each year as a result of attacks from dogs off lead. In addition to the obvious welfare issue, the effectiveness of the grazing is impacted negatively when the sheep are chased by dogs, as they tend to huddle in a corner, rather than being spread out across the site. The ponies also graze more effectively when not being moved around the site by dogs.

Having considered the circumstances Natural England decided to give a short term dog exclusion on CROW access land within the fenced compartment where the sheep and ponies were present, effective from 31 October 2018 until 31 April 2019, given for the purpose of nature conservation.

Since the short term restriction was given, the NNR manager has reported back that the dog exclusion appears to be well respected by most visitors and is having the desired effect. The grazing regime on this site is under constant review, and the NNR have decided to retain livestock on site on and off throughout the year. The grazing will be closely monitored and adjusted as necessary to provide suitable habitat for the designated flora features.

As livestock will graze the site for different periods throughout the year, we are now extending the existing dog exclusion within the fenced compartment when livestock are present to year round. The dog exclusion will only apply when livestock are present, and the entire site will be available to people visiting with dogs when livestock is removed from site.

It is regrettable that those visitors respecting the dogs on leads restriction should be excluded, but there is greater clarity for everyone in excluding dogs completely, which will help to minimise livestock being chased and attacked, and hence avoid a detrimental impact on the effectiveness of the grazing. While there is a reduction in the space available for people with dogs, this will only apply to the compartment where livestock are present, leaving at least 75% of the site unaffected at any one time.

Responses to comments

Natural England is obliged to consult a prescribed list of statutory consultees¹ and to publish consultations on the government's website <https://consult.defra.gov.uk/>. We also emailed the consultation report to Barnack Parish Council and the Langdyke Trust² for comment, and shared the consultation on social media. We accept that more could have been done to publicise this

¹ The Local Access Forum, the Access Authority (Peterborough Council), British Association of Shooting & Conservation, British Mountaineering Council, Country Land and Business Association, National Farmers' Union, Open Spaces Society, Ramblers' Association.

² The Langdyke Countryside Trust provide guided events for the public and volunteer working parties on Barnack Hills & Holes NNR.

consultation on site but understand that the consultation was picked up and shared locally, for which we are grateful.

One correspondent was concerned about a conflict of interest as Natural England manage the site and also determine the need for a restriction on CROW access rights. There is a separation of duties within Natural England to avoid conflict:

- Land managers (e.g. NNR site managers) must apply to a separate part of the organisation, the Statutory Access team, for open access restrictions.
- The request for a restriction is assessed by the Natural England's Statutory Access Team which is obliged to follow the statutory guidance for Relevant Authorities, and, if a restriction is needed, it must be the least restrictive option.
- Where a restriction is being considered for nature conservation reasons, the Statutory Access Team must also consult with the relevant Natural England expert on nature conservation for the site as Natural England has a separate role as Relevant Advisory Body in this regard under the CROW Act.

In this case the expert is Kate Fagan, ecologist & responsible officer for Barnack Hills & Holes Special Area of Conservation (SAC) and Barnack Hills & Holes Special Site of Scientific Interest (SSSI).

There was a concern about a general reduction in the areas people were able to roam and take dogs. While there is a reduction this will be kept to a minimum as the restriction will only apply to the compartment where livestock are present, leaving at least 75% of the site unaffected at any one time.

Some concerns were also raised about the state of various "footpaths" across the site. The site is available for open access use, formalised by the CROW Act, but there is no legal obligation under CROW for a landowner or land manager to facilitate CROW access rights. The NNR promote a signed marked path around the edge of the reserve, partly covered by the PROW, and periodically clear encroaching scrub. Other paths on site are desire lines formed by recreational access use or by livestock, and their surface is not actively managed.

Concerns were raised that the 4 ponies on site were off-putting to access use, and it was pointed out that there was a period when the ponies had been in a separate compartment to the sheep. To clarify the latter point, the ponies were separated from the sheep for 2 weeks to avoid possible damage to any cars parked in the car park when the sheep were grazing, but otherwise they have been kept in with the sheep. The general concern with the ponies has been seriously considered by NNR staff and the ponies have now been taken off site and careful consideration will be given to whether they return.

One of the respondents noted that the previous restriction period did not reflect when the livestock were present on site. The period of the previous exclusion from 31 October 2018 to 30 April 2019 refers to the formal period when dogs could legally be excluded from enclosure with livestock in, and did not reflect the actual dates when the livestock were present. Whilst the renewed exclusion can be applied throughout the year, it will only come into force during times when livestock are present, which will vary from year to year.

Comments objecting to the restriction referred to preventing access to the public right of way and some correspondents suggested fencing the public right of way so it could remain unrestricted. The CROW restriction does not apply to the public right of way and so access with dogs along the footpath is unaffected. Reserve staff are planning to fence the public right of way, along with pedestrian gates, as suggested, to help keep dogs separate from the compartments when livestock are present.

It was also suggested that any incidents with livestock are reported to the Parish Council, and reserve staff will explore this idea directly with the Parish Council.

There was a suggestion that an alternative dog walking area be created in a new housing development that has been granted planning permission. Unfortunately Natural England cannot comment on the likelihood of this. However the likely increase in dogs using the NNR due to new housing is another reason that Natural England considers this restriction necessary.

There were a range of queries around the evidence for, and future monitoring of, the grazing regime. We consulted with Kate Fagan, Natural England's ecologist and responsible officer for Barnack Hills and Holes SAC & SSSI, who gave the following advice:

"The grazing regime will be altered depending on the requirements of the habitat, as demonstrated by regular monitoring, and the livestock available to us. Recent Common Standards Monitoring condition assessments at the site have shown that there is a fairly high average cover of some fast-growing, competitive grass species that are known to increase with low grazing pressure (tor grass, *Bracypodium pinnatum*, and soft brome, *Bromopsis erecta*). The most recent assessment, in 2016, also showed a decrease in the cover of 'positive indicator species' (herbaceous species that associated with good quality examples of the notified habitat) compared to previous assessments. In addition, there are still some areas of ranker, more grassy habitat dominated by false oat grass (*Arrhenatherum elatior*) that previously had a high cover of scrub that we are trying to restore to the orchid-rich, species-rich habitat in much of the rest of the site. Grazing the site only in the winter is unlikely to control the grasses mentioned above, which are growing to the detriment of the smaller, less common, herbaceous species. The type of calcareous grassland that the site is notified for is very tolerant of summer grazing; most of the species either favour asexual reproduction (meaning that they don't need to flower and set seed to spread) or they are very long-lived, e.g. orchids (and so can tolerate the occasional removal of flower heads). A lot of the species that are important in this plant community grow close to the ground and do not tolerate tall-growing competitive species that deprive them of light. Pasqueflowers are an exception and don't tolerate grazing very well, so decisions over grazing management will take this into account. In addition to the likely benefits of summer grazing to the plant community, we have to work with the availability of grazing animals. The large number of visitors, particularly those with dogs, has led to difficulties finding livestock-owners prepared to graze their stock on the site. We currently have access to a much smaller number of sheep than previously, and to protect the site from the implications of undergrazing, which could quickly lead to an increase in competitive grass species and a change in the community, grazing must occur for a longer period than previously. We appreciate that this may inconvenience visitors to the site, but this is the best way that we have of protecting the plant communities that form the special interest.

Barnack Hills and Holes, demonstrated by its designation as a Special Area of Conservation, is one of the most important grassland sites in the country with the strongest legal protection. We have a legal obligation to maintain the site in accordance with the requirements of the site's special interest, and we have to be mindful of the effect that a large number of visitors and dogs might have. We are trying to limit the restrictions placed on the visitors to the site while still making sure that there is no degradation of the habitat.

Grazing (as long as there is no supplementary feeding, which is not permitted at this site) does not lead to nutrient enrichment. Whilst livestock will always be required to maintain the special botanical interest of this site, we will continue to monitor the grassland and adapt the grazing regime and timings accordingly in future years."

Future management

Natural England has a legal responsibility under the Wildlife and Countryside Act to protect and maintain the notified features in good condition. As the priority for the management of the site are the features for which it is notified, this will sometimes mean that other natural features such as

trees and scrub may need to be reduced. Overall though, the NNR take into consideration other nature conservation interests on site to provide a thriving natural environment beside those specified in the legal designations.

Whilst our priority is to look after this site for its special features, a key theme of Natural England's conservation strategy is about putting people at the heart in all that we do, and we recognise the value NNRs provide in giving people access to nature. We will only look to restrict access use where it has a negative impact on the special nature conservation interests, and we are still very supportive of continued recreational access across the site.

Natural England will publicise its grazing plan on social media and share the plan with the Parish Council and Langdyke Trust for further dissemination. Signs will be updated on each gate to the compartment where livestock are present, and further information about the need for grazing will be displayed on noticeboards at access points around the site.

The restricted compartment will be clearly signed and this signage removed when livestock are not present, and advance notice of when the livestock are moving will be added to our social media pages.

We will ensure that we communicate any changes to site users so they are aware of grazing plans. For the foreseeable future, we anticipate that the site will be grazed mainly by sheep, but other larger animals may be needed on occasion. Should we consider introducing other livestock we will consult with the local community.

For any further queries specific to the management of Barnack Hills & Holes NNR, please contact Chris Evans, Senior Reserve Manager, on 07979873504.