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

**REVIEW OF STATUTORY DIRECTION(S)**

**SUMMARY FOR PUBLIC CONSULTATION**
Prepared by Natural England

1. **INFORMATION ABOUT THE PUBLIC CONSULTATION**

Access Authority: Nottinghamshire County Council  
Relevant Authority: Natural England  
Local Access Forum: Nottinghamshire LAF

Natural England is about to review the following direction:

<table>
<thead>
<tr>
<th>Land Parcel Name:</th>
<th>Direction Reference:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Budby Heath (part of Birklands &amp; Bilhaugh Site of Special Scientific Interest)</td>
<td>2005100069</td>
</tr>
</tbody>
</table>

This is in line with the relevant authority’s statutory duties (see Annex 1).

Your view on this current direction are sought to assist Natural England in deciding whether the restriction is still necessary for the original purposes; and if so, whether the extent and nature of the restrictions are still appropriate for the original purpose.

The relevant authority may decide to revoke the direction or that no change to the extent and/or nature of a direction except the end date is necessary. In which case a Consultation Outcome Report will be published on the Consultation Pages of the Government’s Website.

If the relevant authority decides to vary the extent or nature of a restriction, a further round of public consultation may be necessary (see Annex 1) in which case a second Consultation Summary Report will be published.

2. **SUMMARY OF EXISTING DIRECTION(S)**

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1. [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.
<table>
<thead>
<tr>
<th>Land Parcel Name: Budby Heath (part of Sherwood Forest National Nature Reserve and Birklands &amp; Bilhaugh Site of Special Scientific Interest)</th>
<th>Direction Ref.</th>
<th>Dates of restriction on existing direction:</th>
<th>Reason for Exclusion</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005100069</td>
<td>Direction given under section 26(3)(a) restricting dogs to short leads from 1 August to 31 August each year until 31 August 2021</td>
<td>To protect ground nesting birds, specifically nightjar</td>
<td></td>
</tr>
</tbody>
</table>

Natural England originally gave this direction in September 2005, and it was last reviewed in August 2015. Following consultation the only change made to the direction was to extend the end date to 31 August 2021.

The existing restriction extends the national restriction on CROW access land for dogs to be on a short lead between 1 March and 31 July each year through to the end of August each year. This is to protect ground nesting birds from disturbance from dogs, specifically to protect nesting nightjars on the heathland rearing young from a second clutch of eggs.

Natural England’s officer responsible for Birklands and Bilhaugh SSSI, has been contacted to advise on the need for the existing restriction. The email response is as follows:

Budby Heath is part of Sherwood Forest National Nature Reserve and Birklands & Bilhaugh Site of Special Scientific Interest. It is one of the largest remaining areas of lowland heathland habitat in the East Midlands and is of notifiable importance for its habitat and invertebrate interest. Although currently not notified for ground nesting birds, the heath has and continues to support important breeding populations of species of conservation concern such as woodlark and nightjar.

The proposed continuation of the dogs on leads restriction to the 31st August annually is specifically due to the importance of the site for nightjar. This species is particularly susceptible to disturbance pressure from dogs, and although males churr on site each year, their breeding success has reduced. Without the extended restriction in place, there are serious concerns that the second clutch of eggs laid may not be successfully reared due to this form of disturbance.

Dog walking activity has continued to increase on site since the withdrawal of the military and there has historically never been an on-site wardening presence to reinforce the CROW control measures. The RSPB are now managing the heath and engage with the dog walking community in a positive manner, using the restriction to minimise adverse effects on the nightjar.
Based on this information, Natural England is currently inclined to extend the existing direction for another 6 years. However, we will consider any representations received from this consultation before making a decision.

3. SUBMITTING COMMENTS ON THE REVIEW

If you wish to comment on the review of this direction then you must do so before 7 September 2020 directly to Hillary Scott at hillary.scott@naturalengland.org.uk. A map accompanies this notice and can be seen on the Consultation Pages of the Government’s Website.

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 will summarise all responses and place this summary on the Government’s consultation website. This summary will include a list of names of organisations that responded but not the names, addresses or other contact details of individual respondents.

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.

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2 [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.
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 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, the relevant authority 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 the extent or nature of a restriction, the relevant authority 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, we will record the date that the decision was made.

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.