

Countryside and Rights of Way (CROW) Act 2000:

NOTICE OF RELEVANT AUTHORITY DECISION FOLLOWING REVIEW OF DIRECTION RESTRICTING CROW ACCESS

Prepared by the South Downs National Park Authority

Access Authority: South Downs National Park Authority
Relevant Authority: South Downs National Park Authority
Local Access Forum: South Downs Local Access Forum

Direction reference: 2006040060
Grid reference: SU 608 294

Land Parcel Name	Details of restriction on existing direction
Cheriton Wood, Hampshire	Direction to exclude the public from Cheriton Wood for a period of six years. The direction may operate for up to 210 days annually between 1st July and 1st February. The direction is given for reasons of public safety and land management, specifically game bird management. 28 March 2017 to 27 March 2023

The South Downs National Park Authority (SDNPA) has now decided how to proceed following its review of the above mentioned long-term direction to restrict CROW Access rights on this land. A second consultation was held between 8 September 2021 and 19 November 2021 with statutory consultees and the general public. Representations were received from two members of the South Downs Local Access Forum (SDLAF), and two members of the public one of whom represented the Landscapes of Freedom, Brighton Downs Alliance.

The consultation responses are summarised as follows:

Both SDLAF members supported the SDNPA's proposal to renew the restriction with reductions to both the area and the duration of the restriction.

The representative of the Landscapes of Freedom, Brighton Downs Alliance objected to the proposed restriction on anti-social terms stating that the direction should be rescinded completely. The submission referred to a number of matters which have been addressed below.

The other member of the public expressed their disapproval of the proposal, saying that land management, especially in a National Park, should not favour productivity for the landowner over the protection of wildlife and biodiversity; and that the proposed direction

will deprive access and encourage the 'unlawful' release of game birds, of which the impact on biodiversity has yet to be fully assessed.

Outcome of the review:

The SDNPA has considered the comments made during the consultation period and has decided to vary the direction, as proposed in the second consultation, by altering the period of the restriction and the geographic extent of the land affected, and extending the restriction for a further six years.

The site is a privately owned woodland which is managed as a pheasant shoot. The CROW access rights exist by virtue of Cheriton Wood being a Registered Common (Register Unit Number CL118). A long term direction was first given in 2006 and has subsequently been extended; the directions have allowed the exclusion of public access from the whole of Cheriton Wood from the time the pheasant poults are released to the end of the final shoot. During this review it has been found that there has been little or no change to the land management regime since 2006. There remains a requirement to minimise disturbance to the game birds caused by visitors in areas used by birds from the time they are released to the end of the shooting season, and to maintain public safety while shooting is taking place. Positive discussions between the SDNPA and the landowner identified both an area of Cheriton Wood that could be omitted from the restriction, and that it would be acceptable to reduce the maximum duration of the restriction. Hence the new direction is less restrictive than the previous directions.

Guidance for long term directions is that they should not be given for a period of more than six years. The direction will exclude access for up to 185 days annually between 1st August and 1st February, and will extend for six years having an end date of 27th March 2028.

In considering the comments received during the second consultation, reference was made to the Relevant Authority Guidance (RAG) which states that CROW access rights should not significantly interfere with land management operations. Public access may be restricted by direction to avoid conflict between the public use of access rights and other legitimate land use, but any access restrictions should be kept to the minimum necessary (the 'least restrictive option' principle). When reviewing the direction to restrict access to Cheriton Wood only matters relating to the interaction between public access and game bird management can be considered. Other matters are not relevant to the procedure, as described in the RAG.

Further reference to the RAG was made when considering matters raised by objectors, as follows:

- *the wood is managed as a non-commercial shoot.* Paragraph 2.5.21 of the RAG indicates that a land management direction may be given in relation to any non-commercial activity
- *there is a lack of evidence to show whether access would seriously disrupt the land management activity.* The absence of evidence was noted and discussed by the SDNPA when making the proposal that was the subject of the second consultation. No studies had been found about the impacts of public access on game bird management in an isolated small woodland where the woodland provides both game bird cover and

shooting drives, as is the case at Cheriton Wood. It is therefore not known whether or not public access would significantly interfere with the land management activity - lengthy studies would be required to produce the evidence necessary and it would not be reasonable to require the landowner to conduct such studies at his own expense. Therefore, following an approach previously taken by Natural England when restricting access to Access Land managed for game birds, the report concluded that the risk of significant disruption to the game bird management activity is sufficient to justify the restriction of access

- *the shoot should be modified to take account of CROW access rights / the land management activity does not have greater status than walking and other Access Land activities.* Paragraph 1.1.1 of the RAG indicates that Government policy is that CROW access rights should not significantly interfere with land management operations, and paragraph 2.5.22 says that the sole over-arching criterion for consideration is whether access would significantly disrupt the land management activity
- *game bird shooting and open access co-exist on other named sites.* The interaction between game bird shooting and public access on any particular site will depend on a range of characteristics including, but not restricted to, the sight-lines available on the drives; the provision or otherwise of wardens to manage movement of the public; and the existence and extent of both CROW and non-CROW access, including public rights of way. Such information was not provided for the sites named, but it was noted that they are dissimilar to Cheriton Wood in that some sites are not woodland sites so the visibility issues are different and it is likely that the gun users will have a clear view of the area they are shooting across; other (woodland) sites are predominantly not CROW Access Land and/or are crossed by public rights of way meaning that if the woodland is used as a shooting drive (and not just for game cover) then additional precautions would be necessary to ensure the safety of the public. The geographic overlap between the shooting drives and open access rights had not been made clear, but it was noted that at least some of the named sites are not wholly accessible under CROW

Other matters raised by the objectors and listed below are not considered to be relevant to the decision making process. This is not to say that the matters are necessarily unimportant, only that any powers to address them lie outwith the scope of this process.

- an objection on anti-social terms
- the existence or appearance of signage, gates, and other infrastructure whether related to access, game bird management or anything else
- the ownership of the Wood, whether private or state
- the relative costs of game bird shooting and walking as recreational activities
- Cheriton Wood's location in a National Park
- the appropriateness of the site for game bird release and shooting
- the principle of what land should be managed for, and who it privileges
- the impact of game bird management on biodiversity

Taking into account all the representations received, the SDNPA considered that none of the representations raised relevant issues that had not been considered when the proposal to give the direction was made. The Authority therefore decided to give the direction as proposed.

Summary of restriction:

Land Parcel Name	Details of restriction	Reason for Direction
Cheriton Wood, Hampshire	<p>Direction to exclude the public from Cheriton Wood for a period of six years. The direction may operate for up to 185 days annually between 1st August and 1st February.</p> <p>28 March 2022 to 27 March 2028</p>	Land management, specifically game bird management, and public safety.