

Countryside and Rights of Way (CROW) Act 2000
REVIEW / REASSESSMENT OF STATUTORY DIRECTION(S)
SUMMARY FOR PUBLIC CONSULTATION

Prepared by Natural England

1. INFORMATION ABOUT THE PUBLIC CONSULTATION

Access Authority: Durham County Council

Relevant Authority: Natural England

Local Access Forum: Durham

Natural England is about to review and reassess the following directions:

Land Parcel Name:	Direction Reference:
Derwent Gorge and Muggleswick Woods National Nature Reserve	2015107941 and 2019018802

The review under case number 2015107941 is being undertaken in line with Natural England's statutory duties as the relevant authority (see Annex 1). As case number 2019018802 is linked to the direction under review, Natural England has decided to reassess this direction before it is due for review to establish whether there is a continuing need for both directions.

Your views on the current directions are sought to assist Natural England in deciding whether the exclusions are still necessary for their original purpose; and if so, whether the extent and nature of the exclusions are still appropriate for the original purpose.

Natural England may decide to revoke the directions or that no change to the extent and/or nature of a direction is necessary. In this case a Consultation Outcome Report will be published on the [Consultation Pages](#) of the Government's Website¹ and, if required, the end dates will be extended.

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

¹ 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.

2. SUMMARY OF EXISTING DIRECTION(S)

Land Parcel Name:	Direction Ref.	Dates of exclusion on existing direction:	Reason for Exclusion
Derwent Gorge and Muggleswick Woods National Nature Reserve	2015107941	A maximum of 10 days from November 1 st to February 1 st each year until December 2022	CROW s25(1)(b): Public Safety
Derwent Gorge and Muggleswick Woods National Nature Reserve	2019018802	A maximum of 10 days from November 1 st to February 1 st each year until December 2022	CROW s24: Land Management - disturbance to the quarry

Natural England made the long-term direction under case number 2015107941 on December 5th 2016 and under case number 2019018802 on February 4th 2019.

The original exclusions were given following concerns raised by the shooting tenants, following the partial dedication of the Derwent Gorge and Muggleswick Woods National Nature Reserve as part of Natural England's project to dedicate NNRs for open access.

The Site

The site contains some of the finest ancient oak woodlands in north-east England as well as some unique semi natural grasslands. It is designated as Site of Scientific Special Interest for these features in addition to its lichen assemblage.

Main habitats: ancient oak and ash woodland

Features of interest

The zonation of woodland types, from dry acid sessile oak woods on the higher ground to the flushed lime rich ash woodland and wet alder woodland in the lower slopes, creates a rich diversity of woodland flora and fauna. The site is recognised as regionally important for epiphytic lichens, with over 60 species recorded.

Red kites and buzzards may be seen gliding above the canopy with spotted and pied flycatcher, redpoll, siskins and wood warblers within the woods. Dippers, kingfishers and goosanders frequent the river and its tributaries, whilst historically the site has had populations of red squirrel and there are roe deer in the woods.

Access

Prior to dedication no access rights existed except along Public Rights of Ways.

Following dedication, the Natural England did not anticipate any change from the above. As part of the preparatory work around the dedication we undertook an access assessment. This involved seeking the views on current and anticipated levels of use from the relevant access authorities, in this case Durham County Council and Northumberland County Council, and our NNR staff. It was concluded that the current levels and patterns of use would not increase based on:

- Other Open Access opportunities in the area;
- No evidence of a latent demand for open access on the NNR;

- No suitable parking, other facilities or site attractors; and
- The overall use of the Public Rights of Way network in this area.

In addition, we looked at the access patterns and use of woodland following the dedication of the Forestry Commission's freehold estate in 2000. This has showed us that most users of these sites are tending to stick to Public Rights of Ways and other clearly defined tracks, such as forest roads. The Forestry Commission also reported that most use occurred on sites with car parking and other facilities, such as toilets and cafes.

Area of dedication

Following the preparatory work, the Project Board agreed to dedicate Natural England's freehold ownership south of the Public Right of Way that runs from the Public Highway to West Crag. No public rights of access would exist on our freehold ownership to the North. The reasoning behind this was due to no current legal public access to the parcels in question.

In undertaking this work we were required to consult with others who had a legal interest in the land to be dedicated. In this case the shooting tenants were consulted who raised concerns around people's safety when shooting is taking place and disturbance to the game prior to a shoot.

Case Number 2015107941

On looking at the evidence provided, Natural England concluded that an exclusion under s25(1)(b) was required on the days that shooting took place. The Statutory Relevant Authority Guidance (Criteria Set 18.2) is clear in that shooters have to assume that members of the public may be present and take all necessary precautions, even at times when they are unlikely to encounter visitors. However people using shotguns should be able to see the whole area where their shot could fall and must not shoot if anyone enters that zone of risk. As a consequence restrictions to prevent danger to the public will only be necessary where shooter's views over the area of risk are obstructed. The area of risk will depend on sightlines in the direction(s) of fire, and the gun and ammunition used.

Due to the topography of the NNR dedicated and the tree cover, Natural England considered that the circumstances warranted a direction under s25(1)(b) for up to 10 days from November 1st to February 1st each year. On checking the records this has been called off annually, in line with the terms of the direction.

Case Number 2019018802

Although an exclusion for public safety had been given under case number 2015107941 we issued, following application, a direction under s24 to prevent disturbance to the quarry.

The Statutory Relevant Authority Guidance (Criteria Set 18.1) states that the least restrictive option usually is that dogs should be kept to leads from noon the preceding day. However, due to the topography of the NNR dedicated and the tree cover we considered that if the game was disturbed in the preceding 24 hours it would be impractical for the game keeper(s) to recover the quarry or relocate the shoot before it took place. Therefore, we decided to that the least restrictive option in this case is a total exclusion for the full day before each shoot on the basis that it would help the gamekeeper(s) manage the situation more efficiently.

Consequently, Natural England issued an outline direction under s24 for up to 10 days from November 1st to February 1st each year. This direction is to be used in conjunction

with the exclusion under case number 2015107941, in that it will exclude access on the day before a shoot. On checking the records this has been called off annually, in line with the terms of the direction.

3. SUBMITTING COMMENTS ON THE REVIEW

If you wish to comment on the review of this direction then you must do so before June 6th 2020 directly to Kevin Vigars at kevin.vigars@naturalengland.org.uk.

A map accompanies this notice and is attached. It can also be seen on the [Consultation Pages](#) of the Government's Website².

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 exclusion 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.

² 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 exclusion is still necessary for its original purpose; and if so, whether the extent and nature of the exclusion 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 exclusion, 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.