

Countryside and Rights of Way (CROW) Act 2000
NOTICE OF RELEVANT AUTHORITY DECISION FOLLOWING REVIEW /
REASSESSMENT OF DIRECTIONS RESTRICTING CROW ACCESS

Prepared by Natural England

1. INFORMATION ABOUT THE PUBLIC CONSULTATION

Access Authority: Durham County Council
Relevant Authority: Natural England
Local Access Forum: Durham

Land Parcel Name:	Direction Ref.	Dates of exclusion on existing direction:	Reason for Exclusion
Derwent Gorge and Muggleswick Woods National Nature Reserve (NNR)	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 (NNR)	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 has now decided how to proceed following its review / reassessment of the above directions to exclude open access rights on this land. A consultation was held between 11th May and June 6th 2020 with statutory consultees and the general public. We received feedback from the NNR Senior Reserve Manager, the Land Agent of the shooting tenants, Durham Local Access Forum and Northumberland County Council, as the neighbouring Access Authority (NCC).

In summary the feedback was as follows:

- The NNR Senior Reserve Manager (SRM) informed us that since the dedication of the NNR staff have noticed an increase on access on the days that they are on site. Visitors are following the usual access patterns that they see on other open access areas and sticking to the tracks within the site rather than going off the “beaten track”. This is mainly by people with dogs. The SRM was not aware of any conflicts / issue arising from access and the use of the site on shoot days”. He also raised concerns around the current management of the exclusion on site when being used.
- The Land Agent, on behalf of the shooting tenants, informed us that *“all the current existing direction exclusion allowances have been used on an annual basis in line with the terms of the direction. This is because the use of the land has not changed, shooting actively takes place and the current arrangements have been working well”*. The agent also added that *“In relation to Direction 2015107941 – Public Safety – Please be advised that the topography and tree cover has not changed within the area and the circumstance continue to warrant the direction under s.25”* and in relation to *“Direction 2019018802 – Land Management – disturbance to the quarry – The most appropriate way to avoid disturbance to the quarry is to continue total exclusion for the proceeding day to the shoot day due to the topography and tree cover within the area”*. The agent also went on to say *“There has been no noticeable change to the levels of public access since the original dedications were made. They*

use the existing Rights of Way but the exclusions allow our staff to explain to members of the public why they must remain on the Rights of Way when the exclusions are being exercised". In summing up the response the agent said "It is vitally important that my client's sporting interests are protected and these exclusions enable this to happen. I trust the above is clear, and you agree that the current directions are working well and will continue on the same basis".

- Durham Local Access Forum said "The LAF is concerned that an NNR owned by Natural England and which has been dedicated for open access should be closed for the purpose of shooting. This is a matter of principle. The LAF considers that it is surely not in Natural England's remit to facilitate this activity which contradicts its responsibility to conserve flora and fauna, and promote outdoor enjoyment by the public." They also raised a second point and said "Concern has also been expressed by a LAF member in respect of case number 2015107941 and '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'. The member has voiced concerns regarding the safety of the general public and asked if an adjust On seeking further explanation to the Local Access Forum response we received the following reply "I have consulted the LAF member who commented on the last paragraph and he suggests a review of any sign posting as to when the shoot will commence and finish, and increased safety /awareness should be publicised to members of the public".
- NCC had no comments to make in relation to the review of these directions. They informed us that "The site doesn't appear to stretch into Northumberland, although access to it is gained along one of our public rights of way."

Outcome of the review / reassessment:

Natural England's decision is to leave the original directions 2015107941 and 2019018802 unchanged in the way they were originally proposed and extend the end date as detailed below.

During the consultation we received comments, from the SRM and Local Access Forum, in relation to the management of the exclusions, especially in light of the increased use of the site. On speaking to the land agent he informed us that signage was erected in the past and on numerous occasions has been removed. He has assured me that in the future the shooting tenants will do their utmost to make users aware of the shoot prior to and on the day. He also informed me that on shoot days staff are present and if they encounter anyone trying to access the shoot area request people to move away from the shoot area, directing users away using either the Public Right of Way or other tracks. As a result of the reported increase in use he would speak to his clients to ensure that on site management is in place. In addition, the agent would try to give as much notice when calling off the outline directions to allow the exclusions to be displayed in advance on the open access web site.

In relation to the point raised by the Local Access Forum in connection to shooting being undertaken on NNRs, we noted this comment but considered it was for wider discussion outside the scope of this review. On speaking to the SRM we were informed that "our ownership within the NNR did not include the sporting rights, these were retained by the previous land owner, and therefore we do not facilitate this activity, but have to accommodate." In addition Natural England do not own the full extent of the NNR, in which shooting also takes place.

Case Number 2015107941 – public safety

On looking at the evidence provided and considering the feedback from the Local Access Forum, Natural England concludes that an exclusion under s25(1)(b) is still 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 and the tree cover, Natural England consider that the circumstances warrant a continuation of this outline direction under s25(1)(b) for up to 10 days from November 1st to February 1st each year.

Case Number 2019018802 – land management

On looking at the evidence provided, Natural England concludes that an exclusion under s24 is still required the day before a shoot 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 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, 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 considers that the circumstances warrant a continuation of this 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.

Long-term directions are usually given for six years. Therefore the original directions will be extended to an end date of February 1st 2026.

However, 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.

Details of the restriction will appear on the relevant map of access land on the Open Access website - www.openaccess.naturalengland.org.uk.

In relation to case number 2019018802 only, you should note that the applicant has the right to appeal within six weeks against our decision not to act in accordance with the application originally submitted to us. Only the applicant can appeal against this decision. Details of any appeal will appear on the Planning Inspectorate's website at www.planningportal.gov.uk/planning/countryside/countryside.

Date review completed: June 19th 2020