

Countryside and Rights of Way (CROW) Act 2000

REVIEW OF STATUTORY DIRECTION

SUMMARY FOR PUBLIC CONSULTATION

Prepared by Natural England

1. INFORMATION ABOUT THE PUBLIC CONSULTATION

Access Authority: Dorset
Relevant Authority: Natural England
Local Access Forum: Dorset Local Access Forum

Natural England is about to review the following direction:

Land Parcel Name:	Direction Reference:
Fontmell Down	2007050190

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

Your views on the current direction are sought to assist Natural England in deciding 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.

The relevant authority may decide to revoke the direction, or may decide 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 website¹.

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.

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

Land Parcel Name:	Direction Ref.	Dates of restriction on existing direction:	Reason for Exclusion
Fontmell Down	2007050190	Dogs excluded annually between 1 st September and 31 st October until 2021.	S25 Public Safety Cows and Calves

- Natural England originally made this long term direction in June 2007 as two cases on two parcels.
- In 2010 the cases were reassessed and the parcels merged and a direction given for 6 years.
- Natural England then reviewed the case in 2015 and extended the direction for a further 6 years.

The original restriction was to restrict people and people with dogs from two parcels of land called Fontmell Down West and Big Bury at Fontmell Down in Dorset.

Fontmell Down is a popular location for walkers and walkers with dogs, managed by the National Trust. It is part of the larger Fontmell and Melbury Downs SSSI, a large area of unimproved chalk downland. This unspoilt grassland supports nine orchid species and the rare endemic early gentian, as well as a large number of other scarce wild flowers. The mosaic of grassland and scrub habitats provides an ideal home to 35 recorded species of butterfly, and several notable species of bird, mammal, invertebrates, moss and lichen.

A local grazier provides a herd of Aubrac Cattle (Aubrac Cattle are a hardy continental beef breed from the Aubrac Mountains, in south central France) to graze the downland in the summer and autumn. They provide the correct grazing for the SSSI chalk downland grassland.

In the summer of 2006 there were three serious incidents with people and people with dogs being chased and gored by the herd of Aubrac cattle with calves at foot on Fontmell Down. Therefore an immediate solution was required to prevent further incidents occurring that season. People were excluded from the small parcel of land called Big Bury as this is where the cattle were grazing at the time of the case decision.

There is a risk to the public, especially those with dogs, should they approach cows with young calves as cows are very protective of their young in the weeks following the birth. The cows could go for the dog to protect their young,

endangering the public if they failed to release their dog. Access with dogs on short leads was not considered sufficient to address the risks and is in fact more dangerous as the dog owner could be injured whilst protecting the dog.

This restriction was originally given for six years until 1st October 2012, and excluded dogs annually between 16th July and 1st October on Fontmell Down West and excluded people completely from 1st October until 31st October on Big Bury. The total exclusion on Big Bury was due to a dangerous pinch point at the eastern end of the parcel.

However in October 2009 there was a further incident with a party of walkers where an elderly lady was lucky to escape with minor injuries. This occurred as the cattle were on the land outside of the restriction period. The restriction signage indicated that the restriction had finished on Fontmell Down West so the party of walkers entered the land thinking it was now unrestricted and free of cattle and calves. There were also problems with implementing the correct grazing regime at the site, with complaints that the site has been undergrazed.

The case was reassessed, at which point it became clear that the restriction was not flexible enough for the stockman to allow him to move his stock when he needed to. It was also noted that the Aubrac cattle are very different from the more docile breeds normally found in the British countryside and in fact the public on entering Fontmell Down might get lured into a false sense of security as they leave the car park and pass through a docile herd on their way to Fontmell Down West.

Therefore the Natural Trust and the grazier agreed that the two parcels would be grazed simultaneously as one unit from the 1st September until the 31st October only. The grazier was also going to try to select more docile animals from the stock available to him at his discretion, and the pinch point on Big Bury had been removed. These changes meant that a total exclusion was no longer necessary.

Therefore Natural England on 24th September 2010 implemented a dog exclusion from 1st September until 31st October every year for six years until 2015, on Fontmell Down West and Big Bury, managed as one parcel.

Natural England also revoked case 2007050192 that covered Big Bury at the same time. The restriction was being used alongside access management in the form of signage and improved infrastructure that had been installed during the years leading up to 2010.

The case was then reviewed again in 2015, by then the herd has generally been de-horned with polled animals being selected, and the stockman has been selecting better temperament animals over the previous few years. However these are still large animals from a herd with a generally less docile temperament than might often be encountered from more domesticated breeds. And it was felt the parcels of Open Access land are relatively small and the likelihood of coming into close proximity with the herd by someone entering these parcels is quite high. Therefore due to the presence of the Aubrac cows and calves, and the size of the parcels, in 2015 Natural England decided to extend the dog exclusion for a further six years.

During the 2015 review the official applicant for this case was changed to be the stock owner rather than the National Trust, and the stockman agreed to be responsible for restriction signage at Fontmell Down. As Fontmell Down is so well used with numerous access points, the checking of this signage needs to be done on a regular basis, and the stockman was aware of and agreed to that commitment.

Also since the 2015 the National Trust has been managing ever increasing numbers of visitors to Fontmell Down. They therefore trialled an approach to relax the 'General Restrictions' under CRoW which requires people to keep their dogs on short leads in the vicinity of livestock, and between 1st March and 31st July. This Relaxation of the General Restriction (RGR) allows people to walk with their dogs off leads on a linear route heading South West from the main car park, and then joins with up with a public right of way to allow people to complete a circular walk back to the car park. However dogs must be kept under effective control on this linear route, i.e. the dog is within sight of the person and the person remains aware of the dog's actions and has reason to be confident that the dog will return to the person reliably and promptly on the person's command. This was trialled under case 2017038360 for two years and in 2020 rolled out for a further 10 years. The linear route takes people towards the restriction area but the two do not actually overlap.

This should be read in conjunction with the other associated documents sent as part of this consultation. Further information is available from Richard Thomas at Richard.Thomas@naturalengland.org.uk.

3. SUBMITTING COMMENTS ON THE REVIEW

If you wish to comment on the review of this direction then you must do so before 17th July 2020 directly to Richard Thomas at

Richard.Thomas@naturalengland.org.uk.

A map accompanies this notice and is attached and can 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 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.

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 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 will issue a new direction under the same section and direction number 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.