

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: Lancashire County Council

Relevant Authority: Natural England

Local Access Forum: Lancashire

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

Land Parcel Name:	Direction References:
Gait Barrows National Nature Reserve (NNR)	2014087360 and 2016018024

The review under case number 2014087360 is being undertaken in line with Natural England's statutory duties as the relevant authority (see Annex 1). As case number 2016018024 is linked to the same site, 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 restriction / exclusions are still necessary for their original purpose; and if so, whether the extent and nature of the restriction / exclusion 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 restriction / exclusion on existing direction:	Reason for Restriction / Exclusion
Gait Barrows NNR	2014087360	Exclude access to people with dogs all year round until November 18 th 2021	CROW s26: Nature Conservation
Gait Barrows NNR	2016018024	Total exclusion for up to 8 days from November 1 st to January 31 st each year until 2022	CROW s25(1)(b): Public Safety

As part of the Natural England NNR Open Access Dedication Project, Gait Barrows NNR was dedicated as Open Access, under s16 of CROW, on 19th May 2015 with the new access arrangements coming into effect on the 19th November 2015. On the new rights coming into effect Natural England made the long-term direction under case number 2014087360 on November 10th 2015 and, subsequently, under case number 2016018024 on October 3rd 2016.

Case Number 2014087360

We believed that following dedication, no new entrance points were likely to develop as a result of the dedication, a view shared by Arnside and Silverdale AONB and Lancashire Local Access Forum (LAF). Therefore we considered that there was no known demand for people to access the site from anywhere other than the existing entrances.

The site is very well served by paths and tracks. There was no evidence of demand for additional access by the public and most visitors stay on the paths provided. Experience of managing open access elsewhere in the country led us to believe that patterns of use would not change over the majority of the site after dedication. The existing promoted trails and tramper trails would continue to be the way most people use the site

CROW access includes the right to bring dogs to the site; however, while people have been able to access the site on foot, dogs have always been excluded apart from on Public Rights of Way. Dog use on other sites in the area is high and, anecdotally, was increasing. It was considered that the site would have a high number of dog walkers following dedication.

An Access and Sensitive Features Appraisal (ASFA)² looking at the likely effect of introducing open access onto the site was undertaken as part of the work around the dedication. This assessment concluded that, while it is hard to qualify whether the presence of dogs across the site will have a significant effect on individual species, cumulatively it seemed very likely that the presence of dogs will affect the overall

² This appraisal meets Habitat Regulation requirements in assessing impacts and in line with Natural England's duty under CROW as the Relevant Advisory body on nature conservation. This was carried out in partnership with the Responsible Officer (the Natural England officer responsible for the Site of Special Scientific Interest).

conservation value of the site and therefore restricting access for dogs was necessary to mitigate against the potential effects on the nature conservation value of the site.

Accordingly Natural England, as the relevant authority, put in place a direction to exclude people with dogs from the area shown on the attached map each year to assist in maintaining the overall integrity of the site within the context of the NNR Management Plan and the wider AONB Management Plan.

Case Number 2016018024

In undertaking the initial work as part of the dedication it was felt that the “rough” shooting could be managed informally, however following communication from a local volunteer and subsequently the ramblers this was called into question.

The lease we have with the shooting tenants indicate that Natural England, as the land owner, would ensure that the tenants’ rights would not be disturbed and therefore that area was restricted when shooting was taking place prior to dedication.

Based on previous history from the volunteers and locals in undertaking the initial work around the dedication, it was felt that some users of the site will not adhere to the “informal” request to stay out of the area when shooting is taking place.

In light of this information, and the fact that some users looked to exercise their rights under CROW and enter the area, subsequently putting themselves at risk. Although the shooting tenants will have a duty of care under other legislation, we considered that this behaviour would place an unfair burden on the tenants and considered to not be in the terms of the lease.

In light of the nature of the terrain and the shooting operation, they may be occasions where shooter’s views over the area of risk are obstructed. In addition the nature of the terrain would make it difficult for both NNR staff and the shooting tenants to manage the passage of any visitors effectively through this area while the shoot takes place. Therefore, we considered that an outline direction for the purpose of avoiding danger to the public under s25(1)(b) of CROW was appropriate.

3. SUBMITTING COMMENTS ON THE REVIEW

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

Consultation maps accompany this notice and are attached. They can also be seen on the [Consultation Pages](#) of the Government’s Website³.

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

³ 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.

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.

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 restriction / exclusion, 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.