

## Countryside and Rights of Way (CROW) Act 2000

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

Prepared by Natural England

**Access Authority:** Wiltshire Council  
**Relevant Authority:** Natural England  
**Local Access Forum:** Wiltshire and Swindon Countryside Access Forum

**Direction reference:** 2009050212

Land Parcel Name	Direction Reference	Details of restriction on original direction
Garden View Church Dean	2009050212	Dog Exclusion 22/10/2015 until 23/10/2021 S25 Public Safety: Cows and Calves

Natural England has now decided how to proceed following its review of the long-term direction to restrict open access rights on this land. A consultation was held between 18 June 2020 and 17 July 2020 with statutory consultees and the general public. We received feedback from The Kennel Club.

The Kennel Club don't object to the continuation of the direction, as cows with young calves at foot are a well-documented public safety issue, and also the land is legally an island site. However they would have liked to see the land to help guide this response but were unable too due to the COVID 19 pandemic.

They also referred to the HSE guidance sheet '*17EW(rev1) Cattle and public access in England and Wales*' <https://www.hse.gov.uk/pubns/ais17ew.pdf>

and noted that the direction from Natural England should be only part of the measures that should be taken at the site, and that a complete package of risk assessment and mitigation measures should be undertaken as described in the HSE guidance note.

They also asked that as the landowner had informed Natural England that the overall temperament of the animals was not docile, why was the direction not a complete exclusion rather than the current dog exclusion.

## **Outcome of the review:**

Natural England's decision is to leave the original direction unchanged in the way it was originally proposed and extend the end date for a further six years.

When determining restriction cases, Natural England uses its '**Relevant Authority Guidance**', and 'Criteria Set 10: Other cattle kept on access land', says:

*'Cattle normally tolerate people well, particularly when they have become used to encountering them. However because of their size they can present a significant threat of injury or even death if they feel threatened or, in particular, if they are protecting their young.'*

also

*'It may be necessary to exclude dogs from an area where cattle are calving or have calves at foot, where local circumstances make it difficult for visitors and cattle to maintain a safe distance from one another. Such circumstances will include:*

- 1. Small enclosures where close proximity is unavoidable;*
- 2. Areas where the topography or vegetation makes it difficult for people or cattle to be aware of each other's presence and so keep at a safe distance;*
- 3. Areas where the established or predicted patterns of access coincide with places favoured by the cattle, such as watering or feeding stations and the relocation of such places to less sensitive areas is not practical.'*

and

*'Restrictions may occasionally be necessary on the basis of a herd's temperament, or on the basis of an individual animal's temperament.'*

and

*'Where restriction is justified, this will usually be to exclude people with dogs while cattle are calving or have calves at foot. The maternal instinct in cattle decreases over time, so it is unlikely that a restriction of over three months will be necessary. However the relevant authority may consider granting a longer restriction if it receives compelling justification from the applicant.'*

*'Cattle are usually provoked by aggressive or boisterous behaviour in dogs, but relevant authorities should not rule out the possibility that the presence of a dog may provoke them, even if it is under close control. It is therefore unlikely to be appropriate to exempt people with assistance dogs from directions for this purpose.'*

At the time of the original application the applicant had a wide range of livestock at Bilbury Farm, and some of these were kept on the Open Access parcels called Garden View (2ha) and Church Dean (21ha).

Whilst determining the review of this case in 2020 it has been established that the stocking situation is unchanged from the time of the last review in 2015, or if

anything it is a little higher. The landowner now has 130 cattle using the parcel (and other land), with year-round calving. It is a mixed herd of Welsh Black, Belgian Blue, Herefords and Angus cattle, with over 100 cattle, with around 50 cows, 50 young stock and 30 additional heifers.

At the time of the original restriction it was observed that there was no legal right of way to the parcel, however as the wider countryside is well used, and the applicant's farm track leads very close to the parcel from the main road, it was determined that there was still a small chance that people might inadvertently enter the land. The landowner confirmed recently that there isn't actually a gateway into Garden View from the farm track and farm buildings, so the only way to enter these fields through gateways is across other non-access land fields owned by the landowner. He also confirmed that the two parcels are managed as one with no fence in between the two parcels.

However, though unlikely, it is possible that visitors could enter these fields, and that they could also walk near places favoured by the cattle, such as watering or feeding stations on either parcel.

Also there are large numbers of cows using these parcels, and the cattle are free to wander round different areas of the farm, so there is the potential that large numbers of cattle, over 100, could be on the open access land at any one time.

The temperament of the herd is generally not docile; they know the farmer but are suspicious of other people, generally moving away if people do come within their vicinity. The farmer said they never take their dogs into the fields with the cows as they will go for any dogs, even their own. It doesn't seem possible in this case for the farmer to split aggressive animals away from the herd and he doesn't single out particular animals as aggressive for culling.

Therefore a dog exclusion is still required due to the potential for encountering large numbers of cattle on these parcels, due to the herd temperament and due to the fact there could be young calves present at any time of the year.

The Kennel Club questioned whether a total exclusion should be given due to the herd temperament. Natural England is guided to always find the 'least restrictive option' and The Relevant Authority Guidance does state in Criteria Set 10, step 7 '*Where restriction is justified, this will usually be to **exclude people with dogs** while cattle are calving or have calves at foot.*'

Natural England has in other situations occasionally given a total exclusion of access, but this tends to be when many factors add up to amplify the danger, such as small enclosures with access near feeding/ watering stations, or aggressive herd temperament, combined with topography or vegetation making it difficult to keep a

safe distance. In this case not all those factors were present, there are open views across the fields, and furthermore the land is not legally accessible to the public. The farmer confirmed he has not seen anyone accessing the parcel in many years and confirmed he is using restriction signage and is committed to continuing to do so.

The Kennel Club also noted HSE guidance and asked whether the restriction and signage complied with the wider health and safety requirements in respect of managing cattle on Open Access land. Natural England has brought this to the applicant's attention.

Natural England's policy for long-term directions is that they should not be given for a period of more than six years. Therefore the original direction will be extended to an end date of 23 October 2026.

Details of the restriction will appear on the relevant map of access land on the Open Access website - [www.openaccess.naturalengland.org.uk](http://www.openaccess.naturalengland.org.uk).

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.

Date review completed: 23 October 2020