

Countryside and Rights of Way (CROW) Act 2000

REVIEW OF STATUTORY DIRECTION(S)

SUMMARY FOR PUBLIC CONSULTATION

Prepared by Natural England

1. INFORMATION ABOUT THE PUBLIC CONSULTATION

Access Authority: Devon County Council
Relevant Authority: Natural England
Local Access Forum: Devon Countryside Access Forum

Natural England is about to review the following direction:

Land Parcel Name:	Direction Reference:
Hemyock Common	2013036672

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 that no change 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 direction or revoke it, 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 on existing direction:	Reason for Exclusion
Hemyock Common	2013036672	Outline Direction 12 days between 1 st May to 1st October Every year until 30 th April 2019 This will only apply between 13:00 and 18:00 hours on any day, or between 11:00 and 17:00 hours as notified on the site notice	S24 Land management – Disruption to the Shoot Total Exclusion

Natural England made this long term direction on 01/05/2013.

A short summary is provided below giving the background to the direction. This should be read in conjunction with the consultation notice sent as part of this consultation. Further information is available from:

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Natural England,
County Hall,
Spetchley Road,
Worcester
WR5 2NP
Richard.Thomas@naturalengland.org.uk

Hemyock Common is a small common to the west of the village of Hemyock on the Blackdown Hills in Devon. The common is around 8 ha's in size and a County Wildlife Site due to its dry heathland. In 2013 Natural England received an application from the landowner Hemyock Parish Council on behalf of a clay pigeon shoot run by a gun club that had been using the site for over 40 years. During this period there had been no incidents or issues. The club had been managing the site and shooting safely during this long period. The members of the shoot are fully licensed with regard to their firearms, insured and the shooting dates are certified by Devon and Cornwall Police. They supplied a risk assessment which refers to safety guidelines provided to all members and guests and also details other measures to ensure safety on the day. It was necessary for the club to continue this management and to continue management on the ground which included restricting access to the common to the single entrance point using signage and having two safety officers on the ground. Shooting stops

when a vehicle or member of the public on foot enters from this access point and continues when it is safe to resume.

The guns were shooting over the open space in the centre of the common. This area was being kept open by vegetation management carried out by the shoot specifically to keep this area safe and open. Therefore given the safe working practices detailed in the risk assessment including access management measures, and the clear unobstructed view of the area of risk, it was determined in 2013 that a restriction for public safety was not required.

We also assessed whether there was an issue with disruption to the shoot. The Secretary of State approved Relative Authority Guidance (RAG) in Criteria Set 19 states

- *Participants can be distracted from shooting (whether or not the target is moving) by the need for extra vigilance in order to prevent any risk of accidental injury to visitors. Where visitor levels are high, the frequent need to stop shooting in order to allow visitors to pass may detract significantly from their enjoyment of the sport.*
- *Signs, flags or lookouts ('stops') may be used to let visitors know when shooting is taking place and encourage considerate behaviour. These techniques are most likely to be effective where there are safe and clearly marked rights of way or other routes that people can use through or around the area affected without causing significant disruption.*

It is understood from information supplied at the site visit that up to 20 people a day can use the common, mostly local dog walkers. The shoot have generally been able to manage this use by informing people there is a shoot in progress and visitors either leave or are invited to stay to spectate the sport. However there are some local residents in the area who are not sympathetic to the continuation of the shoot and may disrupt their activities by insisting on utilising their CROW access rights. A direction to exclude people while shooting is taking place will give the shoot the power to protect their activity from significant levels of disruption and effectively manage visitors by asking them to leave if they feel that is necessary.

The RAG States:

- *If discretionary restriction powers are available and would meet the need, the relevant authority should explore their potential use with the applicant before giving a direction.*

There are limitations on the use of these s22 days limiting closures on Saturdays or Sundays to four per calendar year.

The RAG also states:

- *Exclude people from the area of danger or potential disturbance, taking account of the expected trajectory of the ammunition.*
- *Leave residual routes or areas open to the public if it is safe and practicable to do so. Remember that public rights of way will be unaffected.*

There are no public rights of way crossing the common but to prevent disruption the whole common will need to be excluded.

- *An outline direction is likely to be the most appropriate mechanism, where the exact dates and times of shooting are not known at the time that the decision is made.*

An outline direction is the appropriate method of restricting access at this site because the exact dates and times of closures are known well in advance and can be notified at the start of every season. The closure will only be necessary for the period in a day when shooting is actually occurring, i.e. from 13.00 to 18.00, therefore leaving the common open to other users in the mornings and evenings.

This is the least restrictive option available given the need to prevent disruption to the legitimate shooting activities.

The AONB service and the Devon Countryside Access Forum both attended a site visit and wrote letters to Natural England following the visit. They both supported the activities of the shoot, referencing the long historical use and permission from the parish council as landowners. They also both recognised and supported the needs of users to access the common, but felt that as the applied for days were only closing the common while shooting was in progress, this was the least restrictive option allowing access to the common on the remaining parts of the closed shoot days.

The Parish Council has notified dates every year since the start of the direction so we understand the shooting is still occurring.

Furthermore in 2018 initial discussions with the applicant and landowner, Hemyock Parish Council suggest that nothing has fundamentally changed with the shoot, or the management or use of the site. If this turns out to be the case following this initial consultation then it is proposed that Natural England will not require a second consultation as no details of the direction will have changed, and we will merely extend the direction for a further 6 years and publish a Consultation Outcome Report.

3. SUBMITTING COMMENTS ON THE REVIEW

If you wish to comment on the review of this direction then you must do so before 8th February 2019 directly to Richard Thomas, at the above address. 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

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.

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.

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 direction, 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.