

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

Direction reference: 2013036672

Land Parcel Name	Direction Reference	Details of restriction on original direction
Hemyock Common	2013036672	Outline Direction 12 days between 1 st May to 1 st 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

Natural England has now decided how to proceed following its review of the above mentioned long-term direction to restrict CROW Access rights on this land. An initial consultation has been held between 14 December 2018 and 8 February 2019 with statutory consultees and the general public. We received feedback from a number of consultees including the Devon Countryside Access Forum, the Ramblers Access Officer for Devon, and local residents.

In summary the feedback was as follows:

Devon Countryside Access Forum (DCAF) considered that as the reasons for the existing direction are still applicable to allow this well-established shoot to continue, they support an extension of the direction. They would like a clarification of the time periods of closures and consider that the defined times of starting and stopping shooting are well signposted on site, and with as much notice as possible. They also suggest signposting where alternative access land can be found nearby. They also note that the gun club carry out land management works on the common on behalf of the Parish Council which improves access at the site.

The Ramblers' local contact was unsure as to why the direction was a land management direction rather than a public safety direction, but that given the limited days and times of the direction he had no concerns with it continuing for another six years.

Natural England also received two identical comments from one local address. They both object to the continuation of the direction stating that it is no longer necessary for its original purpose. They state this is due to Mid Devon District

Council having served a Statutory Noise Abatement Notice on the Culm Vale Gun Club Limited on 18th December 2018, and that the gun club must abate the occurrence of the statutory notice within two months of the served date. They also consider that this shooting activity should not be permitted on Open Access land by the landowners.

They also state some other concerns such as the shooting is causing environmental damage at a County Wildlife Site, that lead shot is being deposited on adjacent agricultural land where food is being produced to enter the human food chain, and that there may be unlawful structures on Registered Common Land for which the Open Spaces Society have expressed concerns. They also question whether the gun club are maintaining safe public exclusion zone distances and are maintaining sufficient minimum separation distances from noise sensitive premises. They also question whether the direction given by Natural England is excessive and is an unreasonable closure of open access land, and they also question whether the gun club have insurance cover for Environmental Damage.

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. As no details of the direction have changed a second consultation was not required.

As described in the Initial Consultation Report 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 historical period there had been no incidents or issues, and the club had been managing the site and shooting safely during this long period.

During the review process Natural England has spoken to the gun club and had correspondence with Mid Devon District Council. Natural England understands that the District Council have been working with the gun club since 2013 following complaints about noise from local residents. The council and the club agreed certain conditions to be adhered too, which in summary were to use quieter subsonic cartridges, move the four gun stands further into the common away from the complainant's property and construct a wall of straw bales behind each stand to reduce the noise levels travelling to the same property. The noise levels were to be measured using decibel meters and the gun club have informed Natural England that they have shot within these conditions since their implementation in 2014. Natural England understands that a change of policy within the District Council resulted in the Noise Abatement Notice being served on the gun club at the end of 2018, which has been appealed by the club. The appeal dates for this case in the magistrate's court are in June and until those dates Natural England understands the District Council have given permission for the shooting to continue as long as the conditions agreed in 2013/4 are being adhered too.

If the gun club loose the appeal and are no longer able to shoot on the common the Parish Council can advise Natural England as such and the direction can be

revoked. Until that point shooting is continuing and as there have been no other changes at the site relevant to this case there is still a requirement for the direction as given by Natural England in 2013. The circumstances around the shooting and the reasons for the restriction were given in the Initial Consultation Report and these have not changed. The direction was given for disruption to the shoot as it was felt in 2013 that this was a real possibility as some local residents or local dog walkers might insist in utilising their CROW access rights while the shooting was taking place.

It was not given for public safety as we followed the guidance in the Secretary of State approved Relative Authority Guidance (RAG). The RAG states in Criteria Set 18.2:

Step 5. Is it necessary to do anything?

- *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.*
- *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.*
- *These standard precautions are normally sufficient to reduce risks to the public to an acceptable level. Further precautions may be necessary where the topography, vegetation cover or other obstacles obstruct the views of shooters over the zone of risk.*
- *Signs, flags or lookouts ('stops') may be used to let visitors know when shooting is taking place and recommend safe routes through or around the affected area. Night visitors can be advised to wear a reflective strip on their clothing to make it easier for shooters to spot them quickly.*

Step 6. Is statutory restriction necessary?

- *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. Relevant authorities may take advice from the police or another recognised shooting body to determine its precise extent.*

As described in the initial consultation report:

'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.'

The other concerns expressed by the local residents in response to the initial consultation are outside the scope of this review so cannot be considered further, though have been mentioned to the landowner for consideration.

DCAF considered that the times of the shooting should be clearly signed on site. Natural England agrees with this and would like to emphasise the importance of displaying the restriction site notices well in advance of the shoot days. The times allowed in the direction are either from between 13:00 and 18:00 or 11:00 and 17:00 and these times should be notified to Natural England at the same time as the dates (as was the case this year) so they can be included on the restriction site notices produced by Natural England.

Natural England's policy for long term directions is that they should not be given for a period of more than 6 years. Therefore the original direction will be varied to have an end date of 7th March 2025.

Details of the restriction will appear on the relevant map of access land on the Open Access website - 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: 8th March 2019