

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

## **REVIEW OF STATUTORY DIRECTIONS**

### **SUMMARY FOR PUBLIC CONSULTATION**

**Prepared by Natural England**

#### **1. INFORMATION ABOUT THE PUBLIC CONSULTATION**

**Access Authority:** Norfolk County Council  
**Relevant Authority:** Natural England  
**Local Access Forum:** Norfolk LAF

Natural England is about to review the following direction:

<b>Land Parcel Name</b>	<b>Direction Reference</b>
Holme Bird Observatory	2005040189

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.

Natural England originally gave this direction in October 2005, and last reviewed the direction in February 2012. Following consultation no changes were made to the direction.

If the relevant authority decides to vary or revoke the direction, a further round of public consultation may be necessary (see Annex 1) in which case a second Consultation Summary Report will be published.

## **2. SUMMARY OF EXISTING DIRECTION(S)**

<b>Land Parcel Name</b>	<b>Direction reference</b>	<b>Date of restriction on existing direction</b>	<b>Reason for Exclusion</b>
Holme Bird Observatory	2005040189	31 October 2005 until further notice	Land Management

A short summary is provided below giving the background to the directions. This should be read in conjunction with the other associated documents sent as part of this consultation.

Holme Bird Observatory is situated on land owned by the National Trust and is managed by the Norfolk Ornithologist Trust (a registered charity). The site is used as a bird observatory and is one of a network of 20 observatories across the country. Data has been collected on the site since 1962 and involves both the sighting and ringing of birds. The observatory is also part of the Sea Watch project. The site is part of a large stretch of registered common land which stretches along the North Norfolk Coast. The site is accessible by the public as long as they are members or purchase a day permit.

Criteria set 25 of the statutory Relevant Authority Guidance, which guides our decision making process, states that “certain activities may be fundamentally incompatible with the access rights, and intervention may be necessary to separate them.” When bird ringing is taking place, or when a rare bird is sighted, the Observatory needs to be able to manage visitor numbers to prevent damage or interference to birds or equipment. At these times, an exclusion of CROW access rights is necessary to allow the effective management of visitors.

Criteria Set 22 of the Relevant Authority Guidance states that “the introduction of CROW rights should not disadvantage land managers financially, permanent charging arrangements that were in place before CROW became law on 30 November 2000 should be allowed in principle to continue”.

To enable Holme Bird Observatory to continue to operate as it did prior to CROW legislation, a direction was given excluding CROW access rights to allow the existing permit system to continue, and also to allow visitor management to continue unimpeded.

During the last review, Norfolk Ornithologist Trust reiterated that it is not seeking to exclude the public, but to exclude the area of the reserve from CROW access rights, to allow both its work and its access charges to continue.

Work is well underway on the England Coast Path, which is a new National Trail around England’s entire coast. Natural England expects to publish a proposal for the England Coast Path on the Weybourne to Hunstanton stretch during autumn 2017.

At this stage of our draft proposal we anticipate that the majority of the CROW access land managed by the Norfolk Ornithologist Trust will not be included in the coastal access margin. However, we do anticipate including a small area of CROW access land abutting the Norfolk Wildlife Trust's site on the west side of Holme Bird Observatory. Our intention is to replicate the existing CROW exclusion on this area of land when coastal access rights commence, and the details of this exclusion will be published in our proposal to the Secretary of State.

Based on this information, Natural England is currently inclined to extend the existing direction for another 6 years, with the option to vary the direction when coastal access rights commence. However, we will consider any representations received from consultation about the existing CROW access restriction before making a decision.

### **3. SUBMITTING COMMENTS ON THE REVIEW**

If you wish to comment on the review of this direction then you must do so before 4 September 2017 directly to Sarah Haigh, email: [sarah.haigh@naturalengland.org.uk](mailto:sarah.haigh@naturalengland.org.uk). A map accompanies this notice and is attached and can be seen on the [Consultation Pages](#) of the Government's Website<sup>1</sup>.

#### **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 do not plan to publish individual comments in full, but we may publish extracts from them when we report on our consultation(s).

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

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<sup>1</sup> [https://www.gov.uk/government/publications?publication\\_filter\\_option=consultations](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.

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 a direction in any way (type, extent or date), 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.