

Countryside and Rights of Way (CROW) Act 2000

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

Prepared by Natural England

Access authority: Hampshire County Council
Relevant authority: Natural England
Local access forum: Hampshire Countryside Access Forum

Direction reference: 2006030177

Land Parcel Name	Direction Reference	Details of restriction on original direction
Marshalling Yard, East Dean	2006030177	Total exclusion all year, from 15 th June 2012 for six years until 14 th June 2018 for Public Safety due to contamination by lead and hydrocarbons.

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. A second consultation has been held between 07th July and 11th August 2017 with statutory consultees and the general public, we did not receive any comments.

Outcome of the review:

Natural England's decision is to leave the original direction unchanged in the way it was originally proposed. There is still significant risk to the health of the public should they visit this site, and following the best scientific advice available, an extension to the current restriction is required.

It is necessary to restrict CROW access to this extent to prevent danger to the public from land contaminated with hydrocarbons and lead. This remains unchanged from the original direction.

A 2005 Enviro Consulting Land Quality Assessment identified two **sources** of contamination at the site:-

- 1) Metals associated with shallow made ground in the former burning area within the Eastern Burning Ground
- 2) Localised metals within the shallow made ground in the former railway lines, within the Eastern Burning Ground and former sidings within the Eastern Marshalling Yard.

The report found Polycyclic Aromatic Hydrocarbon (PAH) contamination associated with made ground within the former eastern marshalling yard as well as "arsenic, lead, cadmium, nickel, copper and zinc contamination associated with made ground within the former eastern burning ground".

Pathways of exposure were identified in the report as inhalation, ingestion, or direct contact with contaminated soil by humans.

Receptors of the contamination would be humans using the site under CROW legislation.

Page 33 of the Land Quality Assessment report states that risks to public access users of the Eastern Burning Ground are assessed as "HIGH" and of the Eastern Marshalling Yard are assessed as "MODERATE" due to the presence of surface or near surface contamination.

No work has been done to remove this contamination since 2005 and in fact it is probable that many more tonnes of contaminated ballast have been added to the site, (though we do not have any scientific evidence to determine whether this material is also contaminated).

The Scientific Officer from TVBC concluded that "Based on the information currently available I would suggest that the CROW land on the Dean Hill Park site would not currently meet the formal definition of 'Contaminated Land' [defined at section 78A(2) of Part 2A of the EP Act 1990], although it is clear that some soils on the CROW land do contain elevated levels of lead and a significant concentration of PAH". However if public access to the site was allowed **source, pathway** and **receptor** would all be present and the site would be classified as 'Contaminated Land'. The Scientific Officer stated that under no circumstances would TVBC be able to recommend public access and allow this 'high' and 'moderate' risk to the public to occur.

Given the present circumstances, a complete exclusion is considered necessary as the land owner's discretionary rights to close the land for 28 days a year would not be sufficient in this case. Informal management was considered, as recommended and investigated in the 2012 case review. Following recent investigations, fencing of the area of concern was reconsidered but there is still no funding for this informal management option, therefore a formal restriction for public safety is still required.

At initial consultation The Hampshire Countryside Access Forum responded to inform us that their position in this matter had not changed since their original response to the consultation in March 2012. They do not support the continued restriction of access to the entire site without further investigation into the potential to appropriately manage access on the site. They asked us to reconsider managing the site through fencing and/or capping of contaminated land and use of signage. These management options were fully investigated in 2012. We re-investigated these informal management options but found that they were not possible due to lack of funding from the local council or the land owner to carry out works.

The British Mountaineering Council also responded to the initial consultation but were not opposed to the restriction.

At second consultation we received no further comments.

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 24th August 2023.

Summary of changes made to the existing directions:

Land Parcel Name:	Details of restriction on original direction:	New details of restriction
Marshalling Yard, East Dean	Total exclusion all year, from 15 th June 2012 for six years until 14 th June 2018 for Public Safety due to contamination by lead and hydrocarbons	Total exclusion all year, from 25 th August 2017 for six years until 24 th August 2023 for Public Safety due to contamination by lead and hydrocarbons

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: 15th August 2017