

**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:** Somerset County Council  
**Relevant Authority:** Natural England  
**Local Access Forum:** Somerset Local Access Forum

Natural England is about to review the following directions:

<b>Land Parcel Name:</b>	<b>Direction References:</b>
Shapwick Heath NNR	2015118003 and 2015118004

This is in line with the relevant authority’s statutory duties (see Annex 1).

Your views on the current directions are sought to assist Natural England in deciding whether the restrictions are still necessary for their original purpose, and if so, whether the extent and nature of the restrictions is still appropriate for the original purpose.

The relevant authority may decide to revoke the directions or that no change to the extent and/ or nature of a direction except the end date is necessary. In which case a Consultation Outcome Report will be published on the Consultation Pages of the Government’s website<sup>1</sup>.

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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.

If the relevant authority decides to vary the extent or nature of a restriction, 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 DIRECTIONS**

<b>Land Parcel Name:</b>	<b>Direction Ref.</b>	<b>Dates of restriction on existing direction:</b>	<b>Reason for Exclusion</b>
Shapwick Heath	2015118003 and 2015118004	7 February 2016 until 6 February 2022	No dogs  No public access

Natural England made these long-term directions on 05 February 2016.

A 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. Further information is available from Richard Thomas at [Richard.Thomas@naturalengland.org.uk](mailto:Richard.Thomas@naturalengland.org.uk).

National Nature Reserves (NNRs) were established to protect some of our most important habitats, species and geology, and to provide 'outdoor laboratories' for research. Land owned by Natural England at Shapwick Heath NNR was dedicated as Open Access Land under Section 16 of the Countryside and Rights of Way Act 2000 in 2016. This was as part of a project to dedicate all land at NNR's owned by Natural England, unless there were compelling reasons not to do so. Access rights commenced at Shapwick Heath on the 7<sup>th</sup> February 2016.

As part of this project for every site to be dedicated the Natural England Project Officer sought advice from the Senior Reserve Manager (SRM) for the NNR and the Responsible Officer (RO) for the Site of Special Scientific Interest (SSSI), to ensure that there would be no significant effect on important and sensitive species at that site. At Shapwick Heath there were specific concerns that an increase in access to the reed bed parts of the site and any access with dogs could cause disturbance to breeding and overwintering birds, and the restrictions described here were designed to address these concerns.

Shapwick Heath NNR is a heavily designated site, being SSSI, and part of a larger Special Protection Area (SPA) and Ramsar site. It is 530ha in size, and is an exceptionally diverse area, with restored reed beds, open water, ditches, flower rich wet meadows, remnant mire, woodland and a large part of it is farmland, called Canada Farm.

Part of the site is in the Somerset Moors SPA, which covers approximately 7000 hectares with 100,000 birds using it, with big winter populations of ducks (Wigeon, Teal and Shoveler), Golden Plover, Berwick Swan and a large assemblage of wetland birds.

### Sensitive Species

The site hosts an assemblage of 65 species of breeding bird, of which some species are tolerant of people and some are not. These include a number of waterfowl species including ducks: mallard, garganey, gadwall, pochard, and significant populations of warblers: cetti's, reed and sedge warblers.

Bittern, Bearded Tit, and Marsh Harrier are reed bed specialists and nest in the reed beds in the summer months, along with cuckoo that uses the warblers nest. Shapwick and Ham Wall are some of the key sites in Somerset where these species can be found. In the few years prior to 2016 Great White Egret also nested on the reserve.

In the winter the reserve is especially valuable for large numbers of feeding wildfowl and the reed beds are used as a roosting site by hundreds of thousands of starlings. It is a key undisturbed day time roost in the Somerset Levels and Moors. Disturbance from recreation, bird watching, and wild fowling is being highlighted as a major problem across the SPA and this is one of the key undisturbed sites.

There is also a small otter population that use the whole reserve, being a key site along the River Brue where breeding is confirmed.

There are also water vole found at the site (European Protected Species), and evidence of water shrew have been found, alongside good populations of harvest mouse. The site also has great crested newt present, and there is a bat roost on the NNR with lesser and greater Horseshoe bats, though the area where this is located has not been dedicated as access land.

### Access Levels in 2016

Figures up to 2016 suggested the site has from 75,000 to 100,000 visitors a year (85,000 in 2013), including birdwatchers, nature lovers, walkers and general public. They mostly access the reserve on the South Drain, and visit the hides and certain other parts of the reserve where they are encouraged by maintained

paths and signage.

The South Drain is the main route into the site, it is actually owned by the Environment Agency, and used by Natural England by agreement. It has a gravelled surface and is wide enough to accommodate staff vehicles.

The main Natural England owned car park giving direct access to the reserve is the Discovery Trail car park, which can hold about 30 cars, and gives access to a popular circular boardwalk route, suitable for disabled access over a reedbed area. This is wheelchair accessible and has been recently completed.

Visitors do park on the road at the Western end of the South Drain, but there is no official parking here which can cause problems at busy times and extra parking is available up the road at Avalon Marshes, at the reserve base.

In the winter the reserve gets a large number of visitors coming to see the spectacular murmurations of starlings, especially at dusk, when hundreds of visitors can come on a single night. The starlings sometimes use the Natural England owned land to roost and large numbers of visitors parking on the roadsides can cause traffic problems for local communities.

There are large parts of the reserve that are physically inaccessible which helps prevent disturbance to birds.

Canada Farm is a large organic farm with a grazier farmer who has Red Devon Cattle, and Highland Cattle (steers only) which graze the reedbeds.

The Red Devons are docile cattle with large horns, and are run as a closed herd, with a new bull brought in every few years. They are generally spring calving. Parts of Canada Farm were not dedicated as open access land in 2016, to ensure the public are kept away from operational areas where public safety could be an issue.

### Public Safety

There are dangers associated with the reed beds. The site is in an isolated 'Pen', i.e. the water levels on the reserve are isolated from the adjacent rhynes and ditches and can be controlled by the reserve staff. There are therefore many areas of reed beds in which the water is deep enough to be dangerous, there are also desiccation cracks in the wet woodland that could be dangerous if people fell into them.

There is also another major issue with the Highland Cattle on the reedbeds, and the potential for visitors to get stuck in small corridors between these large animals with big horns. The cattle are used to graze throughout the year on certain areas of the reserve and there is potential with open access for visitors

straying off the main paths to come across them. Although not necessary aggressive they can often be quite frisky and jumpy which in a confined space and adjacent deep water could be dangerous to the public, especially if they had dogs with them.

### Dogs

Prior to dedication as Open Access Land Natural England's policy was to have no dogs on the site which prevented disturbance and dog fouling issues. Within Somerset this is a very un-disturbed site compared to other reserves where dogs are allowed. Given the high numbers of visitors, it has been estimated from figures published by The Kennel Club that if access with dogs was allowed this could relate to 40,000 new dog visits per annum, which would have a significant effect on the reserve.

The reserve staff therefore felt that to protect the 65 species of breeding birds on this SPA site, and to protect the otter population, the management prior to dedication should be continued. This feeling was strongly backed up by reserve volunteers and staff at other Somerset reserves, and by current users of the reserve. It is possible to walk dogs on leads on Ham Wall (RSPB). The signage prior to dedication for the site says no dogs and has a picture of an otter to give a reason for this.

### **Why is a statutory restriction necessary?**

The dedication of this land was approved by the SSSI Responsible Officer (RO) on the understanding that the dedication of the NNR would not have an impact on the sensitive species, and the restrictions were required to prevent any disturbance.

These restrictions are:

- 1) A nature conservation restriction (Section 26) to exclude people with dogs all year from the whole of the reserve owned by Natural England (except Public Rights of Way), to protect breeding and overwintering birds. This also protects other sensitive species such as otter, water vole and water shrew, and prevents any problems with cattle and dogs at Canada Farm.
- 2) A nature conservation restriction (Section 26) to exclude people from four reedbed parcels all year, due to the presence of both breeding and overwintering populations of species vulnerable to disturbance.

The breeding bird assemblage is 65 species, with key reedbed specialists being,

Bittern (Red Data list, Biodiversity Action Plan Priority, SPA), Great White Egrets, Marsh Harrier and Gargany. Little bittern and night heron are also potential breeders. These four parcels are shown on the attached Consultation Notice in blue (over red) hatching and are:

- Meare Heath
- The Roughet
- Large area of reedbed to the south of the South Drain
- A small parcel of reedbed with grassy strips and open water

Of the reedbed specialists bittern are known to be very sensitive to disturbance and marsh harrier nest in the reed beds so are also vulnerable to disturbance. There is little data on disturbance for the great white egret but they are also likely to be vulnerable to disturbance. These reedbed areas had no public access prior to dedication, and it was considered essential that this management be continued, as without restrictions visitors may try to enter the reedbed areas to get closer to bird species. The total exclusion on the main reedbeds also addressed the public safety issues described above.

### **What is the lowest level of restriction required?**

The restrictions ensured that the management of visitors prior to dedication at the reserve could be continued in the same way, i.e. there was no dogs allowed on the reserve, and there was no access into the reed bed areas. These are thought to be the lowest level of restriction possible to prevent disturbance to the sensitive features.

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

If you wish to comment on the review of this direction then you must do so before 8 January 2021 directly to Richard Thomas at [Richard.Thomas@naturalengland.org.uk](mailto:Richard.Thomas@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>2</sup>.

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## 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 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 restriction, the relevant authority will issue a new direction under the same section and direction number 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.