

Countryside and Rights of Way (CROW) Act 2000

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

Prepared by Natural England

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

Direction reference: 2015118003 and 2015118004

Land Parcel Name	Direction Reference	Details of restriction on original direction
Shapwick Heath NNR	2015118003 and 2015118004	No dogs No public access 7 February 2016 until 6 February 2022

Natural England has now decided how to proceed following its review of the long-term directions to restrict open access rights on this land. A consultation was held between 10 November 2020 and 8 January 2021 with statutory consultees and the general public. We received feedback from the Ramblers and The Kennel Club.

In summary the feedback was as follows:

The Ramblers had no objections to the restrictions but would like the signage along the public right of way that crosses the Canada Farm part of the site to be clearer in distinguishing what the position is regarding dogs on the footpath compared to the rest of the site.

The Kennel Club stated:

“The Kennel Club is very pleased to note that NE site managers in this case are explicitly required to have regard to relevant HSE guidance, as this makes clear that while restrictions on access can have merit, they need to be part of an overall package of measures to mitigate risk. We are also really welcome NE’s consideration of the equality issues arising for people with assistance dogs, and so thank for NE making it clear in signage and other information related to this restriction, the degree to which they impact on assistance dog partnerships, or not. All told we welcome the apparent thought given to all these issues by the site manager which in turn give us more confidence in the need for this restriction. Given

the serious consequences of cattle safety incidents we are reluctant to overtly support restrictions we have not seen on site; however, at face value this seems a well-considered and proportionate restriction and thus we raise no objection.”

Outcome of the review:

Natural England’s decision is to leave the original directions unchanged in the way they were originally proposed and extend the end dates for a further six years.

The two directions are:

- 1) 2015118003. A nature conservation restriction (Section 26) to exclude people with dogs all year from the whole reserve (except Public Rights of Way), in line with the pre-dedication access management policy, to protect breeding and overwintering birds. This will also protect other sensitive species such as otter, water vole and water shrew, and prevent any problems with cattle and dogs at Canada Farm.

- 2) 2015118004. 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.

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 7th February 2016.

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.

The Initial Consultation Report details the situation on the reserve at the time of the dedication in 2016, regarding the sensitive species at the site, the access levels, the farming system and public safety issues related to the reedbeds.

As part of this consultation the Senior Reserve Manager (SRM) confirmed that these details were all very similar to the situation found in 2016. Crucially the breeding bird assemblage is still 65 species, with key reedbed specialists being, bittern (Red Data,

BAP Priority, SPA), great white egrets, marsh harrier and gargany. Little bittern and night heron are also potential breeders. 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. It is considered essential that no access to the reedbeds is 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 address the public safety issues around water and cattle described in the initial consultation report.

A number of other issues were discussed with the SRM, mostly relating to the two consultation comments:

Dog Access

Shapwick Heath is part of a bigger area known as the Avalon Marshes, and Shapwick is managed as the core area providing a minimum of disturbance to the many bird species found across the Marshes. Therefore it is important that the reserve can continue to be managed as a no-dogs reserve, whereas some other parts of the Marshes can accommodate more dog access. There are therefore other areas locally where dog owners can walk, and further information is detailed in the leaflet available here:

http://avalonmarshes.org/wp-content/uploads/AvalonMarshes_Dogwalking_6pp_99x210_PROOF_V05.pdf

A public footpath crosses the reserve at the western end, passing through the Canada Farm area. This is the only route dogs are allowed on the reserve, with dogs allowed off leads.

Dogs are not allowed on the main South Drain through the reserve. This actually runs on land owned by the Environment Agency, and it is a permissive access route. The no-dogs signage has been recently refreshed here at either end. Dogs are welcome however on leads heading east from the main carpark on the south drain, which isn't in the core Shapwick Heath NNR.

Assistance dogs

The Avalon Marshes dog walking leaflet states that 'Registered Assistance dogs are welcome on the reserve, on all trails and in hides'.

Natural England's default position regarding no dogs directions is that assistance dogs will be allowed on land which has dog exclusions in place, unless there is a danger to the human and/or the dog – for example danger from livestock, and following the guidance in s2.2.34 of the Relevant Authority Guidance below relating to s26, nature conservation:

2.2.34 *Before excluding dogs for nature conservation reasons, the relevant authority should have regard to any advice on the matter from the relevant advisory body. It*

may specify in the direction notice that a person with a guide dog or other assistance dog may visit the land, provided that the dog has been trained by an accredited trainer not to act in any way that may disturb wild birds and that it is kept on a short lead.

The Kennel Club in their consultation response did note that while “registered assistance dog” was a commonly used term in the past, given the rise of owner-trained assistance dogs, in legal and practical terms it’s best just to say “assistance dog” and they note in s2.2.34 (above) it does not use the word “registered” which they commend.

Cattle Grazing

The Kennel Club did also as part of the consultation question whether the grazier of the cattle is complying fully with the advice in HSE publication AIS 17.

Natural England NNR managers have to:

1. Ensure a written risk assessment is in place covering visitor safety and livestock;
2. Ensure relevant staff and volunteers are competent to operate the controls in those risk assessments;
3. Any grazing agreements cover risk to visitors, and a joint risk assessment is in place and working

The internal Natural England Health and Safety Guidance ‘Livestock and visitors’, has as its first point:

- You must have regard to HSE guidance Agricultural Information Sheet 17.

The NNR SRM confirmed they had been through this process at Shapwick Heath NNR. The SRM felt that people with assistance dogs wouldn’t come into contact with cattle on the reserve easily, as the cattle are either within the excluded area, or at Canada Farm are in an excepted area, or within gated fields with no through routes that are surrounded by ditches.

The SRM did also mention that they now also have Dartmoor ponies and Bagot goats on the reserve.

Natural England’s policy for long-term directions is that they should not be given for a period of more than six years. Therefore the original direction will be extended to an end date of 4 February 2027.

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: 4 February 2021.