

Countryside and Rights of Way (CROW) Act 2000

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

Prepared by Natural England

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

Direction reference: 2014107415

Land Parcel Name	Direction Reference	Details of restriction on original direction
Stert Point	2014107415	Winter Diversion, England Coast Path closed 1 October to 31 March every year until 15 March 2022 S26, to protect sensitive wildlife

Natural England has now decided how to proceed following its review of the long-term direction to restrict coastal access rights in association with the England Coast Path (ECP) on this land. A consultation was held between 17 December 2020 and 29 January 2021 with statutory consultees and the general public. We received feedback from two local residents both with an interest in local bird populations.

The feedback from both local residents provided updated information regarding the bird populations in the area.

The first consultee noted that, based on his own personal data, WeBS counts and Somerset Bird Reports:

- The Shelduck moulting flock in the NNR is no longer the second largest in Europe nor the largest in GB, but in recent years numbers have exceeded 5000 and are of national importance.
- In the last decade wintering populations of Teal, Avocet, Dunlin, Golden Plover, Knot, Curlew, Lapwing and Redshank have, at times, exceeded national thresholds.

The second consultee stressed that the Shelduck moulting flock with a population exceeding 5000 is of international importance, and noted that access should

continue to be restricted especially given the work and resource that has been put into this area recently to protect this population.

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.

The direction is to close the ECP shown in red on the Web Display Notice between 1 October and 31 March every winter, with people using the winter diversion route shown in orange during this period.

The 93 km (58 mile) stretch of the ECP from Brean Down to Minehead (BDM) was opened to the public on 15 March 2016. Coastal access rights came into force along this stretch of coast by order of the Secretary of State at that time.

The area of concern at Stert Point is part of the Bridgwater Bay National Nature Reserve (NNR). It is also heavily designated being part of:

- Bridgwater Bay Site of Special Scientific Interest (SSSI)
- Severn Estuary Ramsar
- Severn Estuary Special Protection Area (SPA)
- Severn Estuary/ Môr Hafren Special Area of Conservation (SAC)

Bridgwater Bay NNR contains one of the biggest intertidal mudflats in Britain as well as the largest area of salt marsh in Somerset. Around 200 bird species have been recorded at the reserve and flocks of up to several thousand birds can be spotted at the busiest times of year. Large numbers of wintering waders and waterfowl visit the site and some species use the area as a stop-off on migration routes.

The main concern at the site is that people walking down the eastern side of Stert Point will disturb birds roosting out on the estuary and on the flats. In the winter months the birds come up very close to the bunds, especially avocets. The route of the ECP runs on the seaward side of a bund created as part of the Stert Inundation works. This stretch of the ECP therefore needs to be closed during the winter to protect sensitive bird species from disturbance. In the winter months walkers therefore follow the inland route that uses already present public rights of way and roads, and goes past Manor Farm, Collards Farm and Dowells Farm. This winter route is shown as a thick orange line on the map and the summer only route is shown as a thick red line.

The SSSI Responsible Officer for the reserve has provided the following data summary of data from the British Trust for Ornithology (BTO) Wetland Bird Survey (WeBS) during the consultation period. It applies to the area shown in the map below known as Bridgwater Bay - Sector 13412



The below table is based on the BTO WeBS Core Count (i.e. roosting waterbird) data, collected between 2014/15 and 2018/19 and excludes data for land to the north of Bridgwater Bay SSSI, the WWT Stert Marshes Nature Reserve and Pawlett Hams to the South:

SEVERN ESTUARY SPA - 5 YEAR MEAN PEAK COUNTS (2014/15 TO 2018/19) FOR WATERBIRDS OF BRIDGWATER BAY (SECTOR 13412)					
Waterbird Species	5 Year Peak (Sector 13412)	5 Year Mean Peak (Sector 13412)	5 Year Mean Peak (SPA)	% of SPA Population (>1% classified significant)	Bridgwater Bay SSSI Feature
SPA Qualifying Species (Article 4.2 of EC Wild Birds Directive) - Overwintering (October to March)					
Dunlin (<i>Alpina</i>)	15111	9392	24561	38 %	*
Redshank	4165	2824	4714	60 %	*
Shelduck (November to June)	2252	1147	4796	24 %	*
Gadwall	13	6	156	4 %	
SPA Qualifying Waterbird Assemblage: Listed Species - Overwintering (October to March)					
Curlew	1293	946	2511	38 %	*
Grey Plover	235	174	250	70 %	*
Ringed Plover	30	23	867	3 %	*
Teal	386	217	4397	5 %	*

Wigeon	972	622	6262	10 %	*
Pintail	169	101	597	17 %	
Tufted Duck	21	14	625	2 %	
Spotted Redshank	4	2.6	6	43 %	
SPA Qualifying Waterbird Assemblage: Non-Listed Species – Overwintering (October to March)					
Knot	2360	1753	1927	91 %	*
Turnstone	472	296	474	62 %	*
Snipe	68	17	479	4 %	*
Mallard	510	313	1858	17 %	*
Black-Tailed Godwit	306	140	796	18 %	*
Bar-Tailed Godwit	88	31	125	25 %	
Avocet	779	505	595	85 %	
Golden Plover	2460	790	3165	25 %	
Lapwing	1402	843	10187	8 %	
Shoveler	79	22	326	7 %	
Little Ringed Plover	5	1.2	13	9 %	

High Tide Roost survey (BTO, 2016)

This major survey was undertaken since the direction was first given and assists in understanding the usage of the area by bird populations. It is the third phase of a wider assessment to identify roost sites in the Severn Estuary SPA and this phase provides information on wintering waterbird high tide roosts at Bridgwater Bay (Phase 3). Three roost sites from the survey are relevant to this proposed direction, Roost sites 13F, 13I and 13K. These are shown in Map 19 of the report:

<http://publications.naturalengland.org.uk/publication/5645233772036096>



Legend

 WeBS sector boundaries

Roost Status

-  Primary Roost
-  Potential Primary Roost
-  Non-primary Roost
-  Pre-roost site only

Roost site 13F is subdivided into four sub sites of which the report notes that 13F-4 is likely to be the most sensitive to disturbance from the England Coast Path. This area is made up of a muddy creek and grazed saltmarsh. It is used by both Redshank and Teal, which feed in the creek before moving onto the saltmarsh when the mud is covered by the rising tide. Even the presence of the people surveying for this report, on the summer route of the ECP, flushed the birds using the creek and saltmarsh.

Why is a statutory restriction necessary?

Natural England still considers that this direction is the least restrictive option, and follows the principles given in Natural England's Approved Coastal Access Scheme, 2013. Section 6.6.26 provides the scope for directions for nature conservation:

6.6.26 Section 26(3)(a) of CROW provides powers for Natural England to give directions for the purposes of conserving flora or fauna or geological or physiographical features. There is no power to apply for nature conservation directions, but people may alert us at any stage if they have relevant concerns. Chapter 7 explains more about our approach in relation to the likely concerns.

Chapter 7 provides guidance in sections based on land cover or landform. The area in this proposed restriction is made up mainly of saltmarsh, therefore for the purpose of this report we refer to Section 7.15, which covers saltmarsh and flats.

Disturbance to birds

The need for intervention

7.15.27 Birds nest on the ground on parts of the upper salt marsh closer to where people are likely to be walking past. These are vulnerable to people or their dogs trampling on their nests because they are usually difficult to see. People or their dogs can also disturb nesting birds by passing very close to the nest, causing them to abandon their nests or leave them for short periods which may expose them to adverse weather conditions or allow predatory species (including dogs) to take eggs or young birds. Some species which nest on salt marsh are subject to special protection.

7.15.28 Birds which feed or roost on salt marsh and flats are also vulnerable to disturbance and may be subject to special protection. Disturbance can be critical during severe weather and late winter when food is in short supply and birds must develop fat reserves for the spring migration to breeding grounds. Invertebrates and molluscs are less abundant in sand than in mud, so correspondingly fewer birds are attracted to feed on sandy flats than on muddy flats. However, where sandy flats do support significant populations of feeding and roosting birds, they may also be vulnerable to disturbance.

7.15.29 Disturbance in either case is significantly more likely if people let their dogs run about on areas of salt marsh or flats for exercise.

7.15.30 Where we use the power to exclude access to salt marsh or flat on the grounds that it is unsuitable for public access, the need for further intervention will be significantly reduced. However, disturbance may also occur in some situations where people walk past such areas on adjacent land. Birds may become used to people walking along a predictable route, provided they keep their dogs under effective control. The degree of habituation varies according to a combination of factors in play at each site. Relevant factors include:

- the amount of suitable habitat that is available and its distance from the trail or spreading room;*
- the species present and the size of flocks (larger flocks are more likely to fly off when people are present);*
- the distance between people and birds; and any natural vegetation or other barriers acting as a screen between people and birds.*

and

Directions to restrict or exclude access

7.15.35 Where access is not excluded on a salt marsh or flat using our power under section 25A of CROW on the grounds that it is unsuitable for public access, directions may be necessary during sensitive periods to prevent disturbance to populations of birds that are subject to special protection.

7.15.36 The nature of any directions that are necessary on these grounds will depend on the likely levels and patterns of access in the areas affected:

Where the trail is closely adjacent to the affected area, or where people use tidal causeways to reach accessible islands, we will typically require them to keep dogs on a lead during sensitive periods. Where people are likely to walk over the areas used by the birds it may be necessary to exclude access rights.

The table above shows that this area is hugely significant in the protection of waterbirds, with this sector having significant percentages of the Severn Estuary SPA population for many species. The birds come very close to the bund and the route of the England Coast Path in the winter, and there would be no vegetation or other barriers to screen the birds from walkers and therefore from being disturbed. With no screening birds can be disturbed a long way out across the saltmarsh from the ECP.

Curlew and Redshank in particular are very sensitive to disturbance (Smit et al, 1993; Cutts & Allen, 1999; Cutts, et al, 2013), and have declining populations. Curlew is one of the 'listed' species of the assemblage and this sector has 38% of the Severn Estuary SPA population, and it is a named feature of the SSSI (last column in above table). The British Trust for Ornithology (BTO) is studying the potential link between Curlew abundance and management of coastal areas, including the outcome of displacement of individuals from feeding sites on mudflats (Massimino, et al, 2017), as it is thought this may be a factor in the serious decline of Curlew populations.

Furthermore the High Tide Roost survey provides further data showing particular problems with disturbance at high tide.

Therefore given the importance of the area for a number of SPA species, the location of high tide roosts, and the overall potential for disturbance, it is still necessary to close the ECP along this stretch with walkers using the alternative route provided between 1 October and 31 March. This was also the view of the SSSI Responsible Officer in the Natural England area team, acting as Relevant Advisory Body, who confirmed that the direction is still very much needed.

The Web Display Notice shows that people can still actually walk almost to the coast during the winter months when the bund route is closed. These two 'tails' at the north and south of the route are shown as thick blue lines on the map, and allow access to permanently open visitor locations. The southern section runs from the road along the England Coast Path to a screened viewpoint over the mouth of the river Parrett and Stert Marshes, and the northern section gives access to NNR tower bird hide.

To proceed past these two points you need to pass through a gate at either end of the summer route. The locking and unlocking of these gates at the beginning and end of the closed period is of importance in retaining the effectiveness of this direction, and this is now being done by the NNR reserve staff.

The coastal margin all round Stert Point has been excluded under s25A restriction case 2014107416, as saltmarsh and mudflats habitats that are unsuitable for access. This case has also been reviewed concurrently and as part of that review the area of coastal margin immediately around Steart Peninsula will be removed from that s25A direction, and have access excluded under a new s26 short term direction, case number 2021039351. This will run until 15 August 2021 during which time a long term s26 exclusion will be consulted on under case 2020049167.

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 15 March 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: 15 March 2021