

Countryside and Rights of Way (CROW) Act 2000

REVIEW OF STATUTORY DIRECTION

SUMMARY FOR PUBLIC CONSULTATION

Prepared by Natural England

1. INFORMATION ABOUT THE PUBLIC CONSULTATION

Access Authority: Gloucestershire
Relevant Authority: Natural England
Local Access Forum: Gloucestershire Local Access Forum

Natural England is about to review the following direction:

Land Parcel Name:	Open Access or England Coast Path	Direction Ref.	Dates of restriction/exclusion on existing direction:	Reason for restricting/excluding access
Upham Meadow	Open access	2005110053	24/01/2020 – 24/01/2026 Between 1 st March and 31 st July each year.	CROW section S26 No Public Access – Sensitive Wildlife

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 the original purpose, and if so, whether the extent and nature are still appropriate for the original purpose.

The relevant authority may decide to revoke the direction or that no change to the extent and/ or nature except the end date is necessary. In which case a

Consultation Outcome Report will be published on the Consultation Pages of the Government's website¹.

If the relevant authority decides to vary the extent or nature of the 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 DIRECTION

Natural England made this long-term direction on 24 January 2020.

The short summary below gives the background to the direction. This should be read in conjunction with the other documents available as part of this consultation. Further information is available from Christine White – email: christine.white@naturalengland.org.uk or telephone 07900 608017.

Background to the site and existing direction

Upham Meadow and Summer Leasow SSSI is 106.1 ha's in size, of this 102.8 ha's (97%) is defined as access land, being registered common land.

The site had no official access or rights of way prior to 2005 and was considered likely to be popular with walkers after the commencement of CROW access rights.

There are a number of nature conservation features at the site considered vulnerable to access, but concerns focused around the breeding populations of redshank (*Tringa tetanus*) and curlew (*Numenius arquata*), both of which occurred in nationally significant numbers on the site. These populations are considered vulnerable to disturbance from walkers and people walking with dogs off leads.

It is thought that changes in agricultural practices such as the switch from hay making to silage production have left Gloucestershire's breeding curlew population, as well as many other farmland birds, sparse in number and in fragmented populations across the county. These small and increasingly isolated populations are that much more affected by adverse change and are highly vulnerable to further pressure from recreational use. Breeding curlews are especially sensitive to disturbance.

¹ 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.

Upham Meadow is one of the prime wildlife sites in Gloucestershire for ground-nesting birds. The traditional form of hay making on the Upham Lammas Meadow (gradual cutting in strips over a long period between mid-June and early August) reduces the possibility of machinery damaging eggs or chicks. The cut area is in the form of a mosaic, so that there are always some uncut areas to serve as a refuge for chicks which cannot yet fly. The excellent state of the original hay meadow vegetation means that there is plenty of insect food (grasshoppers, crickets) for the young birds.

This management favours ground-nesting birds and combined with the meadows having not being accessed historically has allowed these populations to continue to use the meadows. The meadows are also in a Higher Level Stewardship (HLS) scheme which favours these traditional management practices.

Upham Meadow is cut off from the nearest village, Bredon, by the river Avon. There are three public access points to the site which are reached down tracks from minor roads. Shakespeare's Avon Way trail passes a short distance through the north western edge of the meadow. During the coarse fishing season from mid-June, the site is also legally accessed by anglers with fishing rights. They often drive their vehicles on pre-defined tracks round the edge of the meadow to sit along the Avon bank on designated pegs and sometimes stay overnight.

Continued disturbance of ground-nesting birds and sensitivity of species such as curlew could result in the loss of chicks and nests and even Upham Meadow as a breeding site. Informal management measures alone were considered inadequate to protect these breeding birds. A dog exclusion or the national dogs on leads restriction during this period was not thought to offer enough protection given the sensitivity and importance of these species. Therefore, a direction was given in 2005 to exclude access annually during the breeding season between 1st March and 31st July each year. This direction does not affect existing or traditional rights of access.

Previous reassessments and reviews

The original 2005 restriction was reassessed in 2008 and 2009, and statutory 5-year reviews followed in 2014 and 2019. After each review Natural England as Relevant Authority extended the direction for a further six years.

2008 reassessment of the original direction

The site was reassessed in February 2008, at which point the site had been flooded severely towards the end of the previous summer's restriction period. The flooding was noted to have had a negative effect on the vulnerable features of the site, wiping out the chicks of any breeding waders. It was difficult therefore

to assess the effect of access during the period but there were reports of people on the site with dogs off leads prior to the flooding. The increased vulnerability of the populations increased the need for a restriction at the time of this reassessment.

2009 reassessment of the original direction

Natural England discussed the site with the representative of the Upham Pasture Holders, the site SSSI manager and the Access Authority. Curlew were still present at the site and that the lack of disturbance due to the restriction was likely to be an important feature in the population's condition. Access levels on the site were found to be low but again there were reports of people using the site with dogs off leads during the restriction period possibly unaware of the negative effect this behaviour had on ground-nesting birds. Therefore, better signage was proposed, mounting the restriction notice on the access gates rather than the just being incorporated into the information board. Putting a padlock on the gates was discussed but this was thought likely to be unworkable on all the gates due to the access requirements of the pasture holders.

2014 review

The case was reviewed in 2014 and a meeting was held locally with the Haywardens, SSSI Responsible Officer, Access Authority and Ornithologist. It was found that there were still some issues, a few dog walkers were persisting in using the meadows with dogs off leads during the closed period, with dogs also worrying livestock, and a permanent restriction notice had gone missing. Improvements to access management were also discussed. The grazing of the meadows with cows and calves was assessed in terms of public safety and found not to require any restriction over and above this one. Since the review in 2014 one of the access points has been closed off as it was not on a Public Right of Way. In May 2015 new restriction signage was installed at the access points by the Access Authority.

2019 review

This direction was given as curlew were present in nationally significant breeding populations. The curlew population is monitored as part of the Wildfowl and Wetlands Trust's (WWT) Severn Vale Curlew Recovery project which was set up in 2019. WWT believe that monitoring over the whole of the floodplain clearly demonstrates that Upham Meadow remains by far the most important breeding site in the Vales for Curlew with a small number of young thought to have been produced at Upham Meadow in 2019. One of the reasons for this success is

considered to be the lack of disturbance from visitors and dog-walkers during the breeding season.

Discussions between Natural England and the haywarden raised the issue that there were still some regular committed dog walkers ignoring the legal direction and restriction notices. It is possible access from these people caused a higher level of predation which affected the overall Curlew population and their breeding success. During 2019, with the approval of the Hay Warden and other landowners, signs funded by the Gloucestershire Naturalists' Society were erected by WWT on the gates leading to the meadow, pointing out that there was no access to the site from 1 March to 31 July because of the risk of disturbing ground-nesting birds.

Whilst monitoring curlews at Upham Meadow in 2019 there were no records of Redshanks (*Tringa totanus*), or snipe present. WWT found healthy populations of breeding skylark and reed buntings on the ground and in the vegetation of the meadow, and the vegetation in the brook on the western fringe of the meadow held good populations of breeding sedge warblers and reed buntings. In addition, the reeds along the Avon held good nesting populations of reed and sedge warblers.

Recent management of the site and curlew numbers (2019-2024)

The Severn and Avon Vale is home to 30-35 breeding pairs of curlew, one of the largest lowland breeding populations. Upham Meadow is the most important site in the Vale and continues to hold six or seven breeding pairs.

In 2023 the Severn Vale Curlew Recovery project coloured ringed 24 curlew (8 adults and 16 chicks) and GPS tagged six of the adults. This will help future monitoring of the species in the area.

One curlew attempted to breed on Upham Meadow in 2023, however her clutch of 4 eggs was predated by a jackdaw. Another held a territory on Upham Meadow but did not attempt to breed during 2023.

While curlew continue to breed at Upham, other species including redshanks, yellow wagtails and corn buntings, have almost disappeared as breeding species over the last twenty years. Skylarks and reed buntings continue to occur in good numbers.

An ongoing WWT study of the area demonstrates that sites which are undisturbed during the breeding season hold more pairs of nesting curlew and produce more chicks than sites exposed to disturbance. Where there is extensive use of a site by the public (and in particular by dog walkers) monitoring shows that breeding curlew pairs are rarely successful in rearing chicks.

Local farmers and landowners who cut the hay at Upham are aware of the presence of nesting curlews and work to promote their survival. Kemerton Conservation Trust has recently made purchases of land on Upham Meadow with the purpose of conserving curlew.

Local reports suggest that the restriction of public access has been mostly well observed, however, a few local dog walkers persistently use the meadow and allow their dogs off leads during the closed period. Signs are still present at the access points advising of the restriction to access.

Upham Meadow remains an important site for curlew and other ground-nesting birds and continuing the exclusion during the breeding season will provide the undisturbed conditions that these species favour.

Natural England's proposal

Natural England proposes to extend the direction for a further 6 years. This direction does not affect existing or traditional rights of access.

3. SUBMITTING COMMENTS ON THE REVIEW

If you wish to comment on the review of this direction, then you must do so before **Monday 9th December 2024** directly to Christine White at christine.white@naturalengland.org.uk

A map accompanies this notice and is attached and can be seen on the [Consultation Pages](#) of the Government's website².

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/ exclusion 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).

² 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.

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.