

Countryside and Rights of Way (CROW) Act 2000

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

Prepared by Natural England

Access Authority: Wiltshire Council
Relevant Authority: Natural England
Local Access Forum: Wiltshire and Swindon Countryside Access Forum

Direction reference: 2008090037

Land Parcel Name	Direction Reference	Details of restriction on original direction
Woodley Down	2008090037	1 st September to 1 st February every year until 2021 S24 – Total Exclusion To prevent disturbance to game and disruption to shooting

Natural England has now decided how to proceed following its review of the long-term direction to restrict open access on this land. A consultation was held between 29th January 2020 and 26th February 2020 with statutory consultees and the general public. We received feedback from The Ramblers.

The Ramblers are concerned about signage, particularly as this land is close to the Wessex Ridgeway. They would like to know more about how signage and information is currently being managed and whether this has been monitored. They state that as a minimum, the signage should explain the exclusions, clearly state that all public rights of way remain open at all times and that the public is welcome to use them.

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. As we are not varying the extent or nature of the direction, a second consultation is not required.

It is necessary to restrict CROW access to this extent to:

- To prevent disturbance to game during the shooting season
- To prevent disruption to the shoot on shoot days.

i) Summary of the shoot

The restriction covers three parcels of open access land, Woodley Down, Ashgrove Bottom and Long Down. These three parcels are managed as an integral part of the Ashcombe Shoot who rent the shooting rights from the landowner of these parcels. At the time of the original decision in 2004 it was stated that the parcels need to be used as part of regular shoot days at potentially short notice by the shoot. At the time of the last review the Ashcombe Shoot was a partridge and pheasant shoot covering approximately 1634 acres, including five parcels of open access land totalling around 163 acres. The shoot consists of 24 principle drives (reducing to 14 over the course of the shooting season), with 13 (54%) utilising open access land, and four utilising the 3 rented parcels covered by this restriction. This was an intensive shoot with around 55 days of shooting occurring over the season.

The four drives on the land covered in this application are, one on each of the two western parcels, Woodley Down and Ashgrove Bottom, and then one either side of Long Down. They are all both pheasant and partridge drives. The Ashgrove Bottom drive in particular is of high quality and high reliability and was shot on 50% of shoot days in 2015 (compared to 22% in 2006). The Woodley Down drive was found to be reliable but not so challenging, good for use on a windy day or by less experienced shots. It was thought to be used about 20% of shoot days (compared to 2% in 2006) and was shot a lot in the early shoot season. The first Long Down drive is of medium reliability and is maybe shot on between 30 to 40% of shoot days compared to 30% in 2006, and the other Long Down drive was found to be not so relevant to Long Down in 2015.

Partridge can be observed foraging, resting and roosting on the open access land on shoot days and non-shoot days, and it is these behaviours that make them very susceptible to disturbance. However disturbance on non-shoot days is equally detrimental to the success of the shoot. The flushing points for the drives were found next to the open access land and therefore people walking across the downland could cause disturbance to the habituated partridge, especially if users accessed the higher parts of the downland slopes. Birds could then be lost from the drive if this disturbance occurred on the day of, or even the day before a shoot, or from the drive altogether if disturbance became regular. Dogs running off the lead could cause additional disturbance to birds sheltering in the adjacent cover crops.

A Public Right of Way (PRoW), a restricted byway, runs along the bottom of Woodley Down and Ashgrove bottom, and the Wessex Ridgeway runs along the bottom of Long Down. These PRoW give good public access to all three parcels and are managed by stops or banksman who ask walkers to pause if shooting is in progress.

A site visit was planned as part of this review but was cancelled due to Covid -19. Instead a call was held with the Estate Manager and agent for the applicant. During the call it was confirmed that in 2020 the details of the shoot are essentially the same as described above, although the shoot is now again managed in hand by the Ashcombe Estate. Ashcombe Shoot will still lease in the land from the applicant of these three parcels, and they are planning to reduce the number of days shot down from around 55 days per season to 30 days per season. This is to allow land management works to take place and for the new management regime to bed in. It is thought this lower number of days will continue for a couple of years and then the number of days will probably increase again. The actual shoot day timings are likely to be more fluid, being booked less formally at shorter notice, and to suit the Ashcombe Estate.

It was reported that the restricted byway is used but not heavily, but that the Wessex Ridgeway is used more heavily by walkers. The Estate Manager stated that restriction signage is put up early in the season but was destroyed or stolen twice in 2019. They are therefore going to look at more permanent, robust and heavier signage for the 2020/21 season.

ii) Why is a statutory restriction necessary?

In determining an application or a review of an application to restrict or exclude Open Access Land Natural England follows its Relevant Authority Guidance (2010) (RAG). Criteria Set 18: 'Shooting Live Quarry' is relevant to this application and states:

Employers and the self-employed whose undertakings involve use of guns have a legal duty under health and safety at work legislation to take all reasonably practicable steps so that no-one is put at risk as a result. The use of firearms is also licensed under the Firearms Act and the Games Licences Act, and is guided by well-observed codes of practice.

It is well established that the primary responsibility for preventing injury lies with the user of the gun. Consequently it is extremely rare for countryside visitors to be injured as a result of shooting. However visitors in the vicinity of a shoot are potentially disruptive because:

- *they can disturb the quarry, making it difficult to locate or to drive towards the guns – particularly if they bring dogs; and*
- *those shooting can be distracted from their sport by the need for extra vigilance to prevent any risk of accidental injury to visitors.*

Access management techniques will often be necessary to minimize any such disruption.

It may be necessary to manage public access during and immediately prior to a shoot for three reasons, each of which is considered separately.

- *18.1 - to prevent disturbance to the quarry;*
- *18.2 - to prevent danger to the public; or*
- *18.3 - to prevent disruption to the shoot.*

Disturbance to the Quarry

The RAG in Criteria Set 18.1 states:

- *Visitors may cause quarry to leave an area where a shoot is planned to take place, if by passing through they disturb it. This is most likely if they bring dogs and their dogs run freely.*
- *Disturbance is more critical in the twenty-four hours before a commercial driven shoot where the timing of the shoot, the position of the guns and of the quarry are all predetermined to provide the best shooting conditions, and where future business may depend on presenting sufficient birds to the guns.*
- *Gamekeepers can sometimes counteract disturbance to game birds, using dogs to move them back to their drive or changing the location of the drive, but only where there is sufficient time before the shoot to do so, and where the quarry has moved to an area managed by the same estate.*
- *The need for access management will also vary according to the density of vegetation cover and the patterns of visitor use. Quarry will usually remain still in good cover, but are easily disturbed in poor cover where they feel more vulnerable. Visitors almost always prefer to follow clear routes with short vegetation and are therefore less likely to disturb quarry in dense cover, though their dogs may be attracted to it.*
- *Notices may be used requesting visitors to keep their dogs on leads during the shooting season, in order to prevent dogs from flushing the quarry.*
- *Restrictions for the purposes of land management may be necessary before a shoot takes place. This is most likely to be necessary before a driven shoot:*
 - *where access routes pass through or very close to the area of the drive;*
 - *the quarry is likely to respond by moving away from the drive; and*
 - *it is impractical for the shoot organisers to recover the quarry or relocate the shoot before it takes place.*

It has been found that access routes pass very close to these drives and that as vegetation cover on the downland is sparse it is likely that the quarry will respond by moving away, and that it may be difficult to recover the birds back in time for the drive. Therefore some form of restriction for this purpose will still be required.

To Prevent Danger to the public

Criteria Set 18.2: 'Shooting live quarry: danger to the public' states:

- *Shooters have to assume that members of the public may be present and take all necessary precautions, even at times when they are unlikely to encounter visitors.*
- *People using shotguns should be able to see the whole area where their shot could fall and must not shoot if anyone enters that zone of risk.*
- *These standard precautions are normally sufficient to reduce risks to the public to an acceptable level. Further precautions may be necessary where the topography, vegetation cover or other obstacles obstruct the views of shooters over the zone of risk.*

- *Signs, flags or lookouts ('stops') may be used to let visitors know when shooting is taking place and recommend safe routes through or around the affected area. Night visitors can be advised to wear a reflective strip on their clothing to make it easier for shooters to spot them quickly.*
- *Restrictions to prevent danger to the public will only be necessary where shooter's views over the area of risk are obstructed. The area of risk will depend on sightlines in the direction(s) of fire, and the gun and ammunition used. Relevant authorities may take advice from the police or another recognised shooting body to determine its precise extent.*

In this case lines of sight are clear over the Open Access downland so no restrictions are required for this reason.

To prevent disruption to the shoot:

Criteria Set 18.3: Shooting live quarry: disruption to the shoot states:

- *Disruption can be effectively avoided if shooting can be timed to avoid days and times when visitors are likely to be present.*
- *Commercial shooting enterprises (often driven shoots) are less flexible in this respect, since shooting is timed for the convenience of their clients.*
- *Signs at entry points and other local publicity can be used to alert the public to when and where shooting is taking place and encourage behaviour that will avoid disruption to the shoot (e.g. keeping dogs on leads). Lookouts are an established and effective means to alert visitors to a drive and to seek their co-operation by waiting for it to pass or using a different route.*
- *Such techniques are most likely to be effective where there are safe and clearly marked rights of way or other routes that people can use through or around the area affected without causing significant disruption.*
- *Restrictions for the purpose of land management may be necessary where:*
 - *the timing of the shoot unavoidably coincides with times when visitors are likely to be present; and*
 - *it is not practical to manage the passage of visitors effectively through the area while the shoot takes place.*

As the PRow bring people very close to the guns people determined to disrupt the shoot would be very difficult to manage. This combined with some shoot days being organised at short notice dictates that some form of restriction is necessary for disruption to the shoot.

iii) What is lowest level of restriction required?

Disturbance to the Quarry

- *It will often be sufficient to restrict dogs to leads from noon on the preceding day until the shoot is over. Longer restriction periods may be necessary where there is frequent disturbance (see criteria set 17).*
- *On some shoots a favoured drive may be shot more than once a week. This intensive use may make birds more sensitive to disturbance on intervening days. In areas that are shot regularly, relevant authorities may therefore elect to restrict dogs to leads throughout the season,*

both to minimise disturbance and in the interests of clarity for the visiting public.

- *Full exclusions may occasionally be necessary where game cover is sparse. Leave residual routes or areas open to the public wherever practicable to do so. Remember that rights of way are unaffected.*

The number of shoot days will be less for a couple of years at around 30 days per season. If these 30 days are spread over 21 weeks (the full shoot season for partridge), that will be on average 1.4 shoot days per week. This might still be 2 days shooting in some weeks and for Drive 11, Ashgrove Bottom, which is a high quality reliable drive used on half of all shoot days, this could still be used once a week in some weeks. This relatively intensive use makes the birds here still sensitive to disturbance, combined with the fact cover is sparse on the downland. Also as bookings will often be taken at short notice this would make it difficult for the shoot to plan only closing the land on the day of and the day before the shoot under a less restrictive outline direction regime. And of course it is planned the number of shoot days and intensity of shooting will increase again in a couple of years. Therefore a full exclusion for the whole shoot season will be required again.

To prevent disruption to the shoot:

- *Exclude people from the affected area while driving or shooting are in progress or earlier, where necessary to ensure that visitors are not present when the shoot begins.*
- *Leave residual routes or areas open to the public whenever safe and practicable to do so. Remember that public rights of way will be unaffected.*
- *Relate the timing and number of any restrictions to what is actually planned or likely, given the legal and practical constraints. Annex P explains the legal aspects.*
- *Give an outline direction where the exact dates and times of shooting are not known. Recreational shooting will not usually exceed 15 days per year on any particular area of access land, but the relevant authority may give further restrictions where the applicant can demonstrate more intensive use.*

Due to the PROW passing very near the open access land and the guns at the gun pegs a total exclusion would be proposed on shoot days to prevent disturbance to the shoot. This however is already covered by the exclusion required to prevent disturbance to the game.

iv) Signage

The importance of signage was discussed with the Estate Manager and Agent again, as a restriction is of little use without information on the ground to inform people that a closure is in place. The shoot confirmed they had been using the signs but had had problems with the signs being removed. This was the primary concern of the Ramblers therefore Natural England again advises and expects that restriction signs will be clearly displayed every year during the closure period. The shoot stated that they are positively looking into more robust signage which it is hoped will solve the problems of past years.

v) Synchronisation with Quarry Bottom, Case 2008020070

Natural England has reassessed Case 2008020070, Quarry Bottom, at the same time as this review, as it is also part of the Ashcombe Shoot. Therefore these cases can now be reviewed at the same time in the future.

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 1st February 2026.

Summary of changes made to the existing directions:

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: 29th May 2020