

# **Peak District Local Access Forum**

**Date: 13 March 2014**

**Item: 6**

**Title: Review of Directions to Restrict Access**

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## **Purpose of the Report**

The purpose of the report is to:

1. Advise the Forum on the process for reviewing long-term directions for exclusion of the public to open access land
2. Update the Forum on the sites to be statutorily reviewed
3. Seek the Forum's response to the consultation for the review at Deer Hill, Meltham

## **Background**

The Countryside and Rights of Way (CROW) Act 2000 introduced a public right of access on foot for open-air recreation to access land in England and Wales. It also provided for individual local restrictions where access management would be insufficient or would place an unreasonable burden or cost on the land manager. Annex 1 provides an overview of CROW: the land affected, activities included and the management of access rights.

In the National Park, the Authority has the statutory responsibility for dealing with applications for long-term restrictions. Long-term directions are required to be reviewed no later than their fifth anniversary. 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 whether its extent and nature is still appropriate. A direction may restrict CROW access rights only to the 'extent necessary' for the purpose stated - the least restrictive approach - and does not affect other access rights, permissions or traditions.

Before reviewing a long-term direction, the Relevant Authority must consult publicly on the direction and request feedback from the Local Access Forum, applicant, and other consultees on how the direction has worked. Further information may be sought as part of this process. If the relevant authority decides not to vary or revoke the direction, then the outcome shall be notified. If the relevant authority proposes to vary or revoke a direction then a further round of consultation must be undertaken and the outcome duly notified.

## **Restrictions in the National Park**

There are 5 long-term directions on land management and public safety grounds in the National Park. Details of these are set out in Appendix 2. These sites are now coming up to their second review. The first of these, at Deer Hill, is being carried out in conjunction with Natural England as it is a cross-boundary site. There are also 2 more sites to be reviewed in 2014.

The Access Sub-group was set up to deal with the process relating to directions. Further meetings of the sub-group will be arranged to take account of the consultation deadlines and will be reported to the full Forum.

Information on open access land and restrictions is hosted and administered by Natural England at [www.naturalengland.org/openaccess](http://www.naturalengland.org/openaccess). The Authority also shows discretionary restrictions at [www.peakdistrict.gov.uk/crow](http://www.peakdistrict.gov.uk/crow)

### **Deer Hill, Meltham**

Lydgate Rifle and Pistol Club own and operate the Deer Hill site. The rifle range is outside the National Park; its fall of shot extends into the National Park.

The consultation relating to the statutory review is attached at Appendix 3. The consultation expires on 24 April 2014. The directions are being reviewed in conjunction with Natural England as the Relevant Authority for the part of the site outside the National Park.

The Forum considered the original directions in 2004 and 2007 and the review and reassessment during 2009 and 2010. At their meeting in March 2014, the Access Sub-group was updated on the current review. LAF members are asked for their views on the direction at Deer Hill.

### **Recommendation**

- 1. That the report is noted**
- 2. That the LAF consider their response to the current consultation on Deer Hill**
- 3. That future consultations on the review of directions are referred to the LAF sub-group for reporting back to the full Forum**

## Appendix 1 - Overview of CROW Access Rights and their Management

The Countryside and Rights of Way (CROW) Act 2000 introduces a public right of access on foot for open-air recreation to access land which includes:

- **registered common land** – land shown on the existing statutory registers of common land
- **open country** - land shown on a conclusive map of open country consisting wholly or predominantly of mountain, moor, heath or down
- **dedicated land** - land voluntarily dedicated for access under CROW section 16,

but does not include (even if they fall within such areas):

- **excepted land** - categories of land set out in CROW Schedule 1 that are not subject to the access rights; or
- **section 15 land** - categories of land listed at CROW s15 as already legally accessible to the public

When in force, the access rights entitle the public to enter and remain on CROW access land for the purposes of open-air recreation. This term is not defined, but includes most common forms of recreation on foot, including walking, running and climbing.

Certain activities are specifically excluded from the access rights by CROW Schedule 2. These national restrictions do not affect existing access rights or agreements, or use of public rights of way. Landowners remain free to consent to, or tolerate, any type of access over their land for any lawful purpose. They may also waive any of the national restrictions on the access rights if they choose to do so, and CROW provides ways of doing this.

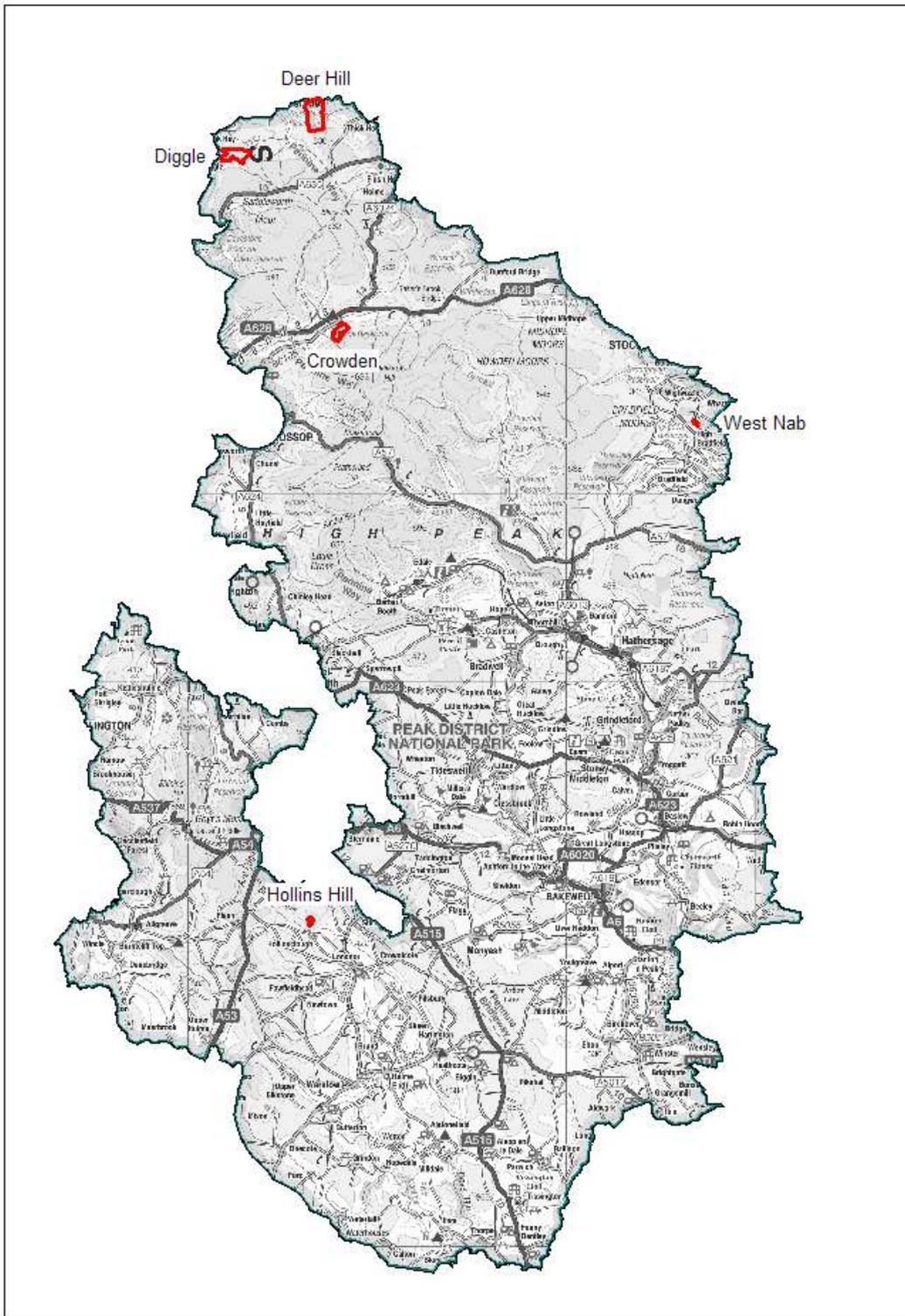
Where, despite the national restrictions on the CROW access rights, there is potential for conflict between use of the rights and other uses of access land, land managers may freely use access management techniques to avoid such conflicts becoming a reality –for example by clearing or waymarking paths to guide the public away from a sensitive area, placing advisory notices, or asking for visitors’ co-operation face to face.

Where access management on its own is likely to be insufficient, or where relying on it alone would place an unreasonable burden or cost on the land manager, CROW and the Regulations made under it provide procedures to exclude or restrict CROW access at the local level:

- discretionary 28 day restrictions and discretionary dog exclusions imposed by the landowner or farm tenant, which are an entitlement but have to be notified in advance to the relevant authority; and
- directions, which are given by the relevant authority only where necessary on a range of grounds set out in CROW - including land management, public safety, fire risk, and protection of sensitive wildlife or heritage features. Directions may only be given on CROW access land, and must only be used to manage the recreational activities that may be undertaken by right under CROW

## Appendix 2 – Sites to be Reviewed

<b>Site</b>	<b>Direction</b>	<b>Review Date</b>
Deer Hill, Meltham	The public are excluded at all times on the grounds of land management and public safety. The restriction areas are a fall of shot safety area for the rifle range which lies outside the NP boundary. Revised boundaries allow for access for climbing.	26 May 2015
Diggle Rifle Range, Diggle	The public are excluded at all times on the grounds of land management and public safety. The site is a rifle range with associated safety zones.	14 July 2014
Hollins Hill, Hollinsclough	Dogs are excluded from 1 May to 31 October each year on the grounds of land management due to cattle with calves and the topography of the site. Permissive path provided.	4 March 2015
Top Field, Crowden	The public are excluded at all times on the grounds of land management and public safety. The land is used for clay pigeon shooting. The restriction was granted on appeal.	17 June 2015
West Nab, Bradfield	Access is restricted to a specified linear route on the grounds of land management and public safety. The land is used for clay pigeon shooting and gun testing.	8 July 2014



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## Appendix 3

### Countryside and Rights of Way (CROW) Act 2000

#### REVIEW OF STATUTORY DIRECTIONS

#### SUMMARY FOR PUBLIC CONSULTATION

Prepared by Natural England and Peak District National Park

### 1. INFORMATION ABOUT THE PUBLIC CONSULTATION

**Access Authorities:** Kirklees Council and Peak District National Park Authority  
**Relevant Authorities:** Natural England and Peak District National Park Authority  
**Local Access Forums:** Peak District LAF and West Yorkshire Pennine LAF

Natural England and the Peak District National Park Authority are about to review the following directions:

Land Parcel Name:	Direction Reference:	Relevant Authority
Deer Hill - Site A	2004060106	Natural England
Deer Hill - Site B	2009020053	Peak District National Park
Deer Hill - Site C	2009020054	Peak District National Park

This is in line with the Relevant Authorities' statutory duties (see Annex 1). Your views on the current directions are sought to assist Natural England and the Peak District National Park Authority in deciding whether the restrictions are still necessary for their original purpose; and if so, whether the extent and nature of the restrictions are still appropriate for the original purpose.

The relevant authorities may decide that no change is necessary in which case a Consultation Outcome Report will be published on the Open Access Website<sup>1</sup>

If the relevant authorities decide to vary or revoke the directions, a further round of public consultation may be necessary (see Annex 1) in which case a second Consultation Summary Report will be published.

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<sup>1</sup> <http://www.naturalengland.org.uk/ourwork/enjoying/places/openaccess/consultation.aspx>

## **2. SUMMARY OF EXISTING DIRECTION(S)**

<b>Land Parcel Name:</b>	<b>Direction Ref.</b>	<b>Dates of restriction on existing direction:</b>	<b>Reason for Exclusion</b>
Deer Hill (Shooters Nab)	2004060106	19/09/2004 - 20/5/2015	Public safety and Land management
Deer Hill – Site B	2009020053	27/05/2010 – 31/12/2015	Public safety and land management
Deer Hill – Site C	2009020054	27/05/2010 – 31/12/2015	Public safety and land management

These long term directions were made on:

<b>Direction reference</b>	<b>Date decided</b>
2004060106	10/07/2009
2009020053	27/05/2010
2009020054	27/05/2010

A short summary is provided below giving the background to the directions.

Directions were made by the Peak District National Park and Natural England to restrict CROW access on the above land under sections 24 and 25(1)(b) of the Countryside and Rights of Way Act in order to exclude access to allow shooting to take place without interruption and to avoid danger to the public. Sites B and C were reassessed in 2009/2010 and the area of land restricted was varied following revisions to the fall of shot zones. Access to the crags to the east of the site is now available and also by negotiation with the Club for British Mountaineering members on other climbing areas.

The applicant has confirmed the timings, patterns, and frequency and nature of use. This showed that an outline restriction which requires prior notification was not practical because of the topography of the site and frequent and ad hoc nature of use of the site for shooting, often at short notice. The Club has confirmed that the level and type of use remains the same.

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

If you wish to comment on the review of this direction then you must do so before **24<sup>th</sup> April 2014**. Please send comments directly to the officer listed below.

<b>Restriction</b>	<b>Comments to:</b>
2004060106 – Site A	<a href="mailto:Christine.pope@naturalengland.org.uk">Christine.pope@naturalengland.org.uk</a>
2009020053 – Site B	<a href="mailto:sue.smith@peakdistrict.gov.uk">sue.smith@peakdistrict.gov.uk</a>
2009020054 – Site C	<a href="mailto:sue.smith@peakdistrict.gov.uk">sue.smith@peakdistrict.gov.uk</a>

Maps accompany this notice and are attached and can be seen on the open access consultation page on Natural England's website [www.naturalengland.org.uk/openaccess](http://www.naturalengland.org.uk/openaccess)

## **Using and sharing your consultation responses**

In line with Natural England's [Access to Information Statement](#), 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 do not plan to publish individual comments in full, but we may publish extracts from them when we report on our consultation(s).

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.

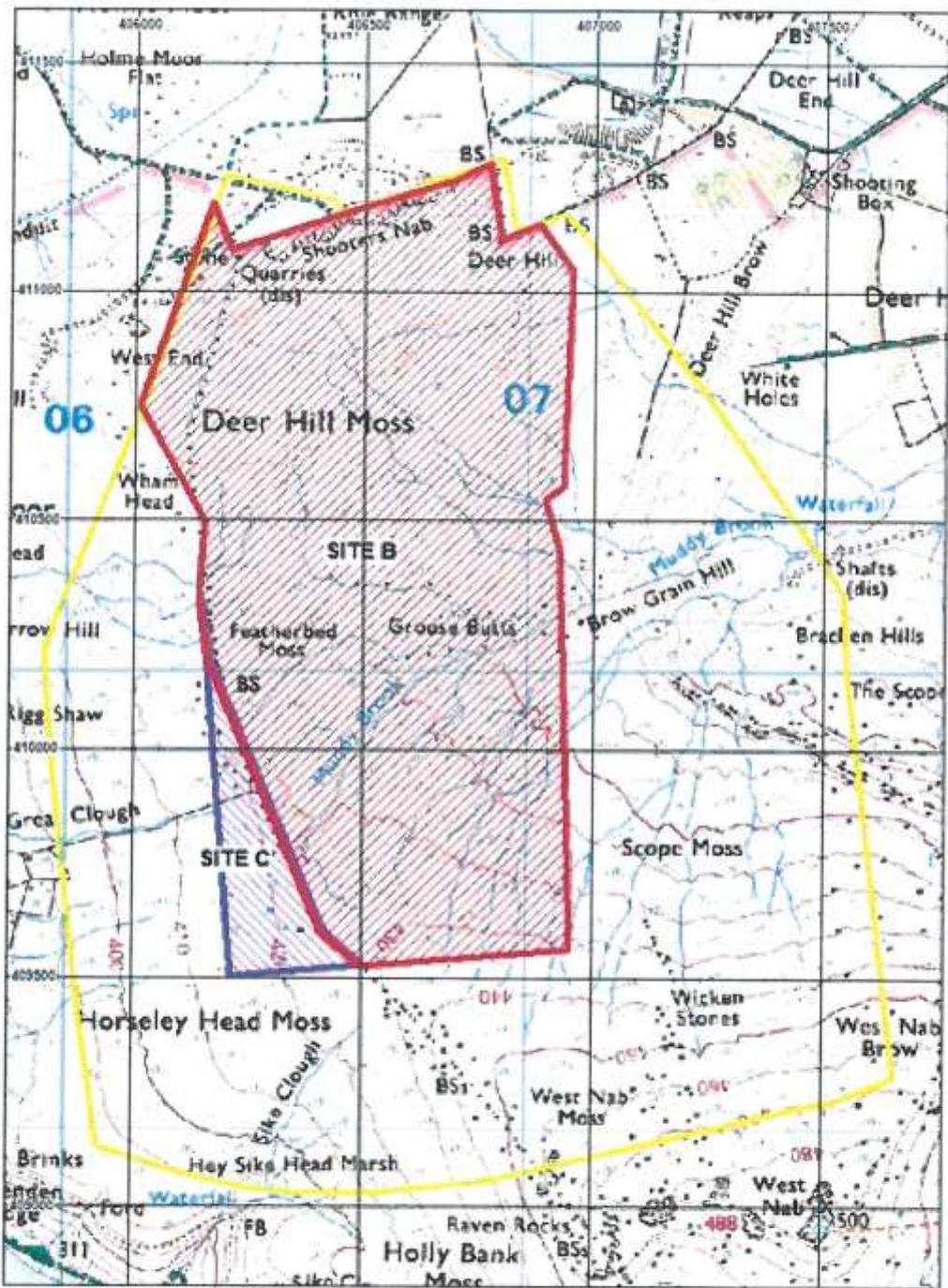
If following the consultation, the Relevant Authority decides to:

- 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 a direction in any way (type, extent or date), the relevant authority must give a new direction under the same section 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, the relevant authority must give a new direction under the same section to revoke it. There is no requirement to review the new direction.

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.



**PEAK DISTRICT**  
NATIONAL PARK AUTHORITY

N  
A  
Scale 1:12000

Deer Hill, Meltham  
Review of Directions

-  Land Ownership Boundary
-  Area of restriction - 2009020053
-  Area of restriction - 2009020054

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