

Peak District Local Access Forum

Date: 4 December 2014

Item: 10

Title: Review of Directions to Restrict Access

Author: Sue Smith

Purpose of the Report

The purpose of the report is to notify the Forum on the consultations for the review of long-term directions for open access land exclusions. The report asks the Local Access Forum to consider any response they may wish to make.

Background

In accordance with statutory requirements, the National Park Authority is reviewing its long-term directions to see whether they are still necessary and appropriate.

A further round of consultation is required at Hollins Hill, Hollinsclough as the direction is proposed to be varied. The next direction to be reviewed is at Top Field, Crowden.

Information on open access land is now held on the Government's website:

- Using Access land: <https://www.gov.uk/right-of-way-open-access-land/use-your-right-to-roam>
- Rights and responsibilities: www.gov.uk/open-access-land-management-rights-and-responsibilities
- Consultations: [Consultation Pages](#)

Hollins Hill, Hollinsclough

The restriction relates to an exclusion of dogs whilst cattle are calving or have calves at foot. The Forum considered the original directions in 2004 and 2005 and the review during 2009/10. The consultation relating to the statutory review was considered at the September Forum meeting and by the Access Sub-group.

For this latest review, the Forum supported the direction subject to verification of need, duration and the availability of alternatives. The Forum also considered it was important to secure the concessionary path because of the opportunities it provided to access this area.

The Authority has met with the landowner regarding the review of this long-term direction. The landowner has confirmed that the direction is required for the purposes and duration for which it was originally applied for and that there are no suitable alternatives. The direction is conditional on the concession path to the land being available at all times.

Subject to further consultation, it is proposed that the existing direction is varied as follows:

- Extend the end date to provide a further 6 years
- The concession path to the land to be available at all times

Forum members are asked for their views on the consultation proposal as attached in Appendix 1 and to consider whether they wish to make any changes to the LAF's response as set out below. The outcome of this will constitute the Forum's formal response to the consultation.

The Forum is satisfied that the restriction on dogs is reasonable on the basis of safety and improved access opportunities for the public as a whole afforded by the concession path. However, clarification should be sought on need, duration and the availability of alternative sites.

Top Field, Crowden

The Forum were consulted on the review during 2010 following an appeal in 2005. The consultation relating to the statutory review is attached at Appendix 2. LAF members are asked for their views on the direction.

Recommendations

- 1. That the report is noted**
- 2. That the LAF consider their response to the consultation at Hollins Hill.**
- 3. That the LAF considers whether they wish to make a response to the consultation at Top Field, Crowden.**

Countryside and Rights of Way (CROW) Act 2000

REVIEW OF STATUTORY DIRECTION – PROPOSED VARIATION TO EXISTING DIRECTION

SUMMARY FOR PUBLIC CONSULTATION

Prepared by Peak District National Park Authority – December 2014

1. INFORMATION ABOUT THE PUBLIC CONSULTATION:

Access Authority: Peak District National Park Authority
Relevant Authority: Peak District National Park Authority
Local Access Forum: Peak District Local Access Forum

Land Parcel Name:	Direction Ref.	Dates of restriction on existing direction:	Reason for Exclusion
Hollins Hill	2005020158	Dogs excluded between 01/05 to 31/10 until 31/12/2016.	Land management

The Peak District National Park has begun a review of the above long-term direction in accordance with statutory guidance (see Annex 1). A consultation to seek views on the existing direction was held between 15 September and 10 October 2014 with statutory consultees and the general public.

Feedback was received from:

- 1) Peak District Local Access Forum. The Forum supported the direction subject to verification of need, duration and the availability of alternatives. The Forum also considered it was important to secure the concessionary path because of the opportunities it provided to access this area.
- 2) Ramblers - If no other changes have taken place, such as to cattle stocking and use of the site for calving, and the landowner has a continuing willingness to provide a concessionary path linking to other areas of access land we believe a continuation of the current direction would be in line with the relevant authority guidance. However, all signs on the site should make clear the period of restriction and type of restriction and indicate that the land is fully open at other times for all users as well as clearly indicating the route of the concessionary path.
- 3) Kennel Club - It would be ideal to have a through route for people with and without dogs, but would not wish to jeopardise the concessionary path in its entirety.
- 4) Individual – object. Area is popular and responsible owners have dogs on short lead. Not heard of altercations in this area. Calm control and close group attention ignoring direct confrontation has proved to be enough to prevent major animal reactions. On site notices will warn of possible confrontation. Do not wish for open access rights to be eroded.

After consideration, we propose to vary the end date. The effect of this proposal will be to revoke and replace the existing direction.

A further round of consultation is required to be undertaken due to the decision to vary and the long term nature of the direction.

Background

The National Park Authority made a direction under section 24 of the Countryside and Rights of Way Act in 2004 and in 2005 to restrict CRoW access to exclude dogs for the period 01 May to 31 October each year whilst cattle are calving or have calves at foot. The direction was reviewed in 2009/2010.

Why is a statutory restriction necessary?

Criteria Set 10 from the Relevant Authority Guidance covers cattle kept on access land. The most relevant extracts under this Criteria are as follows:

- **Public safety**
Cattle normally tolerate people well, particularly when they have become used to encountering them. However because of their size they can present a significant threat of injury or even death if they feel threatened or, in particular, if they are protecting their young.
On access land, this latter threat only normally applies to suckler cows, which may calve on extensive pasture and have their young at foot for a period after birth. The risks are significantly greater for visitors with dogs.
Employers and the self-employed are required under Health and Safety legislation to assess such risks and take such steps as are reasonably practicable to reduce them to an acceptable level. There is also a relevant duty of care under the Animals Act 1971.
- **Disturbance by the public**
Heavily pregnant cattle may abort or give birth prematurely if chased by dogs. It is an offence under the Dogs (Protection of Livestock) Act 1953 to allow dogs to attack or chase livestock. CROW does not entitle visitors to take a dog into the vicinity of livestock unless on a short lead [Schedule 2, paragraph 5] (though in relation to safety considerations, keeping hold of a dog's lead when attacked by cattle may increase the risk of serious injury or even death).
- **Is a statutory restriction necessary?**
It may be necessary to exclude dogs from an area where cattle are calving or have calves at foot, where local circumstances make it difficult for visitors and cattle to maintain a safe distance from one another. Such circumstances will include: Areas where the topography or vegetation makes it difficult for people or cattle to be aware of each other's presence and so keep at a safe distance.

The topography of the land is such that cattle and dogs could come across each other with little warning. The landowner does not have suitable alternative land available. A concessionary path has been provided by the landowner to access the land and link in with other areas of access land.

After considering the above information we believe that a restriction is still necessary on grounds of land management.

What is lowest level of restriction required?

Informal management including requirements to keep dogs on leads are not considered appropriate because of the topography of the site and limited alternatives.

The Relevant Authority Guidance suggests exclusion of people with dogs whilst cattle are calving or have calves at foot where the local circumstances make it difficult to maintain a safe distance.

The least restrictive option is considered to be a public exclusion for those with dogs for 6 months annually and the extent and nature of the restriction is still considered to be appropriate for its original purpose subject to the retention of the concession path which provides access to this land 365 days a year.

2. SUMMARY OF PROPOSED CHANGES TO EXISTING DIRECTIONS:

Land Parcel Name	Details of restriction on original direction	Proposed details for new direction	Reason for proposed direction
Hollins Hill	Dogs excluded between 01/05 to 31/10 until 31/12/2016	Dogs excluded between 01/05 to 31/10 until 31/12/2020	Land Management

Following the initial consultation, the National Park Authority considers that the restriction should remain in place. However, it is proposed to vary the current direction end date to 31 December 2020.

3. SUBMITTING COMMENTS ON THE REVIEW:

Reference:	Comments to:
Hollins Hill – 2014097377	sue.smith@peakdistrict.gov.uk

If you wish to comment on the review of this direction then please do so before **5 January 2015**.

Maps accompany this notice and are attached and can be seen on the [Consultation Pages](#) of the Government's Website (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).

Using and sharing your consultation responses

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.

Appendix 1

In accordance with statutory guidance, the Peak District National Park Authority (PDNPA) 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 the 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.
- vary a direction, 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; and 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.