

Countryside and Rights of Way (CROW) Act 2000

**REVIEW OF STATUTORY DIRECTION – PROPOSED CHANGE TO EXISTING
DIRECTION**

**SUMMARY FOR PUBLIC CONSULTATION
Prepared by Natural England**

1. INFORMATION ABOUT THE PUBLIC CONSULTATION:

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

Original direction reference: 2008090037

Land Parcel Name:	Details of restriction on original direction
Woodley Down	1 st September to 1 st February every year until 2015 To prevent disturbance to game and disruption to shooting

Natural England has begun a review of the above long term direction in accordance with statutory guidance (see Annex One). A consultation has been held with statutory consultees and the general public that sought views on the existing direction.

We received feedback from one consultee, the Ramblers.

Summary of consultee comments:

The Ramblers stated that they have no objections to a continuation of the current direction but asked that suitable warning notices are in use when shooting takes place and all rights of way remain open at all times.

After due consideration, Natural England now proposes to extend the direction for a further six years.

As we have decided to VARY by extending the direction (and are still proposing to make a long term direction) we are obliged to undertake a further round of consultation.

2. SUMMARY OF PROPOSED CHANGES TO EXISTING DIRECTIONS:

Details of restriction on original direction:	Proposed details for new direction	Reason for proposed direction
No Public Access 1 st September to 1 st February every year until 2015	No Public Access 1 st September to 1 st February every year until 1 st February 2021	To prevent disturbance to game and disruption to shooting

We must still review the direction no later than five years after its anniversary (or from the date of the last review).

i) Summary of proposal

The restriction covers three parcels, Woodley Down, Ashgrove Bottom and Long Down that are managed as an integral part of the Ashcombe Shoot run by the Ashcombe Estate, who rent the shooting rights from the landowner of these parcels. At the time of the decision in 2004 it was determined that the parcels need to be used as part of regular shoot days at potentially short notice, and that as the Ashcombe shoot is a very intensive shoot a restriction was deemed necessary for the whole of the shooting season each year.

The Ashcombe Shoot is 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.

Since the initial consultation the case has been delayed due to some uncertainty as to whether the agency who dealt with the case in previous years would continue this year. Once this was resolved a site visit was undertaken with the Estate Manager.

He confirmed that the details of the shoot were very much the same as found by the University of Reading's 'Centre for Agri-Environmental Research' (CAER) who undertook a Detailed Spatial Assessment of the site in 2006. There were a only a few minor changes noted since then, for example the number of days shot had risen from 50 to 55.

The Shoot holds four drives across the land covered in this application, 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. In the 2006 assessment the Ashcombe Shoot drives held on open access land were numbered 1-13, and those covered by this case were numbered as:

- 10) Woodley Down
- 11) Ashgrove Bottom
- 12) Long Down
- 13) Long Down

In 2006 partridge were 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. At the time of the site visit, just after the end of the shoot season this behaviour was not so obvious due to most of the birds having been shot during the season.

It was found by CAER that up to around half of the 50 days shooting a season in 2006 can use these drives, which approximates to a rough average of one day a week over the shoot season. These days can be booked at short notice and

make intensive use of the drives when required. 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.

There is also an issue with disruption to the shoot. People choosing to ignore signage and stops could cause significant disruption to the shoot.

In 2006 the Ashgrove Bottom drive (11) in particular was of high quality and highly reliable.

In 2015 drive 10 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.

Drive 11 was still of high quality and high reliability and shot on 50% of shoot days (compared to 22% in 2006).

Drive 12 is an east drive of medium reliability and is maybe shot on between 30 to 40% of shoot days compared to 30% in 2006.

Drive 13 was found to be not so relevant to Long Down in 2015.

Therefore if 55 days are spread over 21 weeks (the full shoot season for Partridge), simple calculations dictate that there are on average 2.6 shoot days per week, and 50% of those use the high quality drive 11, and on some of these days the other drives will also be used.

It should be remembered that a Public Right of Way (PRoW) 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.

During the 2007 reassessment it was observed that restriction signage wasn't being used. Natural England contacted the land agent at the time of the review to ask them to discuss with the applicant the continued importance of maintaining restriction signage at the sites during the restriction periods, to successfully implement the restriction and to cover their duty of care to visitors of open access land. There was no evidence of signage being used at the recent site visit,

though the shooting season had finished, consequently the importance of signage was discussed on the site visit with the Estate Manager. Any further feedback on the use of this signage would be very welcome.

The Ashcombe shoot is a very intense shoot, so even low access levels could have a significant effect in disrupting the shoot, and given drives 10,11 and 12 are now shot more regularly than in 2006 it is proposed that a restriction should again be given.

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.*

i) 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 it is proposed to continue some form of restriction.

ii) 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.

iii) 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.*
- *People engaged in informal recreational shooting (e.g. rough shooting, wildfowling) and shooting for population usually choose quiet times*
- *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 proposed necessary for disruption to the shoot.

iii) What is lowest level of restriction required?

i) 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.*

Drive 11, Ashgrove Bottom, which is a high quality drive is shot on average 1.3 times a week, so in some weeks potentially 2 or more times, potentially at short notice. This intensive use makes the birds here more sensitive to disturbance, and as cover is sparse on the downland a full exclusion for the whole shoot season was given in 2004, and at subsequent reviews, and is proposed again now.

iv) 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.

3. SUBMITTING COMMENTS ON THE REVIEW:

If you wish to comment on the review of this direction then you must do so before 1st May 2015 directly to:

Richard Thomas
Lead Adviser Open Access
Mail Hub Block B,
Whittington Road,
Worcester
WR5 2LQ
Richard.thomas@naturalengland.org.uk

A map accompanies this notice and is attached and can be seen on the [Consultation Pages](#) of the Government's Website¹.

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.

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 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 relevant 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, it 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), it 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, it 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.