



Devon Countryside Access Forum
c/o Public Rights of Way Team
Great Moor House
Bittern Road
Sowton
Exeter
EX2 7NL

Tel: 07837 171000
01392 382771

devoncaf@devon.gov.uk

www.devon.gov.uk/dcaf

Sixty-Sixth meeting
Devon Countryside Access Forum
Committee Suite, County Hall, Topsham Road, Exeter EX2 4QD

Monday, 22 January 2024 at 10.00 am

The meeting will be open to the public in accordance with provisions of reg.7 of The Local Access Forums (England) Regulations 2007 (under s 94 and 95 of the Countryside and Rights of Way Act 2000).

SUPPLEMENTARY AGENDA ITEM

12.3 Countryside and Rights of Way Act. Review of restriction Hemyock Common, Natural England (Pages 1 - 10)

Consultation on review of direction number 2013036672 restricting access under the Countryside and Rights of Way Act 2000 at Hemyock Common, Devon.

Natural England, the relevant authority, is reviewing the direction above. This is to determine whether the restriction is still necessary for its original purpose, and if so whether the extent and nature of the restriction is still appropriate.

At the discretion of the Chair members of the public may be invited to ask a question or make a statement.



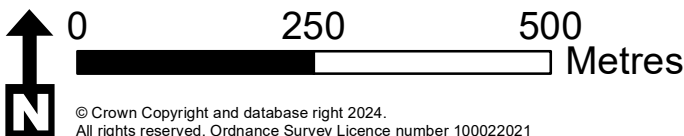
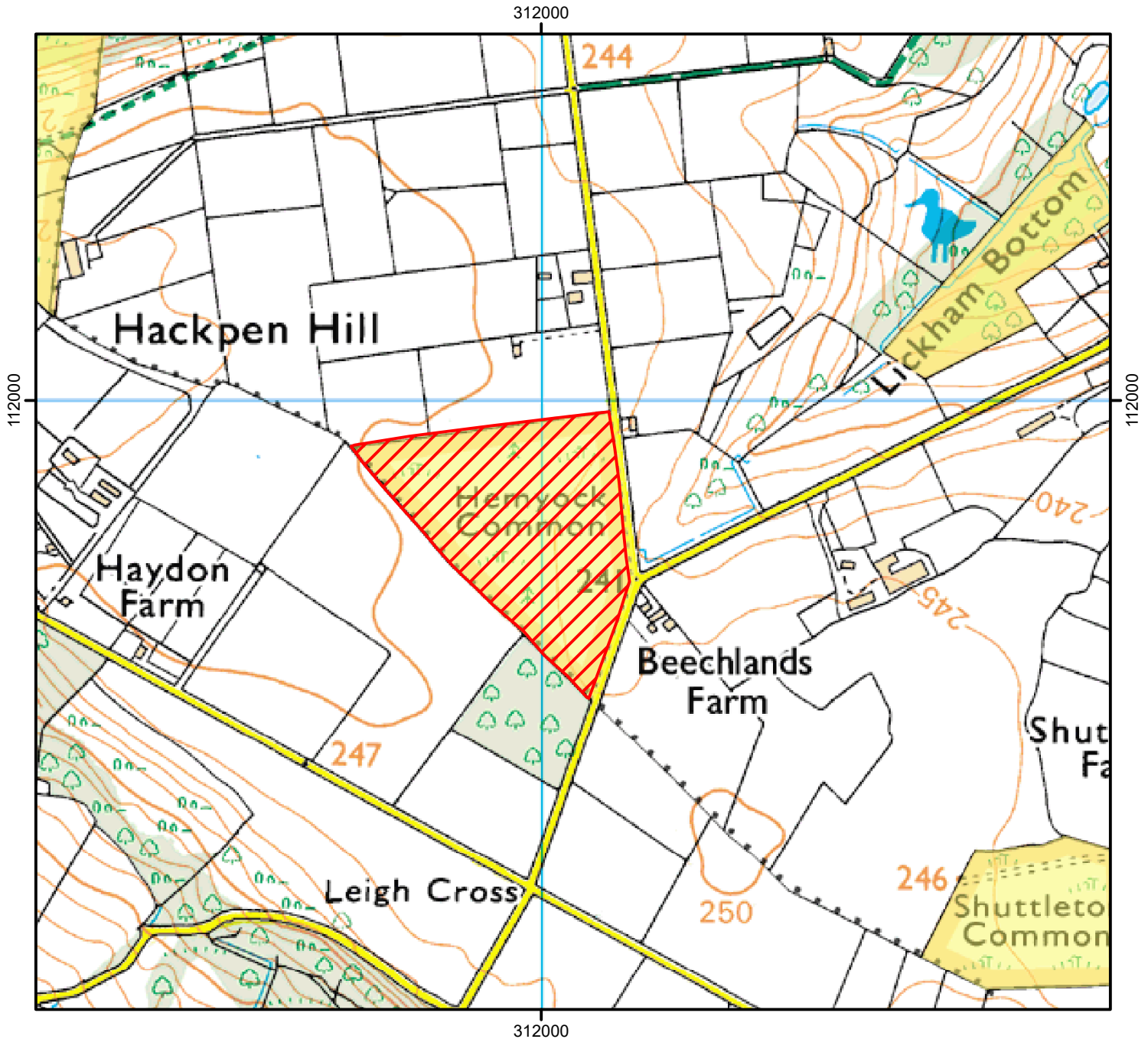
CROW Open Access: Consultation on review of restriction

Please see accompanying notice.

This does not affect Public Rights of Way.

Consultation end: 12 February 2024.

Case Number: 2013036672



© Crown Copyright and database right 2024. All rights reserved. Ordnance Survey Licence number 100022021

 CROW Consultation

 CROW Access Land



For more information call the Open Access Contact Centre on 0300 060 2091 or visit our website at www.gov.uk/right-of-way-open-access-land/use-your-right-to-roam

Agenda Item 12.3

Countryside and Rights of Way (CROW) Act 2000

REVIEW OF STATUTORY DIRECTION(S)

SUMMARY FOR PUBLIC CONSULTATION

Prepared by Natural England

1. INFORMATION ABOUT THE PUBLIC CONSULTATION

Access Authority: Devon County Council
Relevant Authority: Natural England
Local Access Forum: Devon Countryside Access Forum

Natural England is about to review the following direction:

Land Parcel Name:	Direction Reference:
Hemyock Common	2013036672

Your views on the current direction are sought to assist Natural England in deciding 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.

The relevant authority may decide that no change 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 a direction or revoke it, a further round of public consultation may be necessary (see Annex 1) in which case a second Consultation Summary Report will be published.

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.

2. SUMMARY OF EXISTING DIRECTION(S)

Land Parcel Name:	Direction Ref.	Dates of restriction on existing direction:	Reason for Exclusion
Hemyock Common	2013036672	<p>Outline Direction 12 days between 1st May to 1st October Every year until 7th March 2025.</p> <p>This will only apply between 13:00 and 18:00 hours on any day, or between 11:00 and 17:00 hours as notified on the site notice.</p>	<p>S24 Land management – Disruption to the Shoot Total Exclusion</p>

Natural England made this long-term direction on 1st May 2013 and completed a review of it on 8th March 2019.

A summary is provided below giving the background to the direction. This should be read in conjunction with the consultation notice sent as part of this consultation. Further information is available from:

Further information is available from:

Christine White, Lead Adviser Open Access
christine.white@naturalengland.org.uk

Hemyock Common is a small common to the west of the village of Hemyock on the Blackdown Hills in Devon. The common is around 8 hectares in size and a County Wildlife Site due to its dry heathland. In 2013 Natural England received an application from the landowner Hemyock Parish Council on behalf of a clay pigeon shoot run by a gun club that had been using the site for over 40 years and managing the site and shooting safely during this long period. During this time there had been no incidents or issues. The members of the shoot are fully licensed with regard to their firearms, insured and the shooting dates are certified by Devon and Cornwall Police. They supplied a risk assessment which refers to safety guidelines provided to all members and guests and also details other measures to ensure safety on the day. It was necessary for the club to continue this management and to continue management on the ground which included restricting access to the common to the single entrance point using signage and having two safety officers on the ground. Shooting stops when a vehicle or member of the public on foot enters from this access point and continues when it is safe to resume.

Agenda Item 12.3

The guns were shooting over the open space in the centre of the common which was being kept open by vegetation management carried out by the shoot specifically to keep this area safe and open. Therefore, given the safe working practices detailed in the risk assessment including access management measures, and the clear unobstructed view of the area of risk, it was determined in 2013 that a restriction for public safety was not required.

We also assessed whether there was an issue with disruption to the shoot. The Secretary of State approved Relative Authority Guidance (RAG) in Criteria Set 19 states

- *Participants can be distracted from shooting (whether or not the target is moving) by the need for extra vigilance in order to prevent any risk of accidental injury to visitors. Where visitor levels are high, the frequent need to stop shooting in order to allow visitors to pass may detract significantly from their enjoyment of the sport.*
- *Signs, flags or lookouts ('stops') may be used to let visitors know when shooting is taking place and encourage considerate behaviour. These 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.*

It is understood from information supplied at the site visit in 2013 that up to 20 people a day can use the common, mostly local dog walkers. The shoot has generally been able to manage this use by informing people there is a shoot in progress and visitors either leave or are invited to stay to spectate the sport. However, some local residents in the area who are not sympathetic to the continuation of the shoot and may disrupt their activities by insisting on utilising their CROW access rights. A direction to exclude people while shooting is taking place will give the shoot the power to protect their activity from significant levels of disruption and effectively manage visitors by asking them to leave if they feel that is necessary.

The RAG States:

- *If discretionary restriction powers are available and would meet the need, the relevant authority should explore their potential use with the applicant before giving a direction.*

There are limitations on the use of these s22 days limiting closures on Saturdays or Sundays to four per calendar year.

The RAG also states:

- *Exclude people from the area of danger or potential disturbance, taking account of the expected trajectory of the ammunition.*
- *Leave residual routes or areas open to the public if it is safe and practicable to do so. Remember that public rights of way will be unaffected.*

There are no public rights of way crossing the common but to prevent disruption the whole common will need to be excluded.

- *An outline direction is likely to be the most appropriate mechanism, where the exact dates and times of shooting are not known at the time that the decision is made.*

An outline direction is the appropriate method of restricting access at this site because the exact dates and times of closures are known well in advance and can be notified at the start of every season. The closure will only be necessary for the period in a day when shooting is actually occurring, i.e. from 13.00 to 18.00, therefore leaving the common open to other users in the mornings and evenings. This is the least restrictive option available given the need to prevent disruption to the legitimate shooting activities.

The Parish Council has notified Natural England of shooting dates every year since the start of the direction and we have received confirmation as part of this review that clay pigeon shooting is still occurring.

The AONB service and the Devon Countryside Access Forum both attended a site visit in 2013 and wrote letters to Natural England following the visit. Both bodies supported the activities of the shoot, referencing the long historical use and permission from the parish council as landowners. They also both recognised and supported the needs of users to access the common, but felt that as the applied for days were only closing the common while shooting was in progress, this was the least restrictive option allowing access to the common on the remaining parts of the closed shoot days.

Following complaints from some local residents Mid Devon District Council (MDDC) served a Statutory Noise Abatement Notice on the Culm Vale Gun Club (CVGC) Limited on 18th December 2018 in respect of their clay pigeon shoot on Hemyock Common. The Club lodged an appeal on 4th January 2019.

Once an appeal was lodged the Council had a duty to enter into formal dialogue with the Club to discuss measures which could be taken to mitigate the noise nuisance. CVGC, as a registered business and limited company had the right to set out if they believed they were undertaking 'best practicable means' (BPM) to mitigate the nuisance as far as practicable. There was also an expectation by the court that there were discussions in advance of the trial between both parties to determine if a BPM position could be agreed. Both the MDDC and CVGC subsequently undertook parallel additional noise monitoring.

As a consequence of this due process, including the additional noise monitoring, the two parties agreed an updated suite of mitigation measures which constitute

Agenda Item 12.3

BPM. These were formalised in a court Consent Order which the Club must adhere to. The Order states the Club will:

- a) Upgrade the shooting stands at numbers (1) and (4) to the equivalent design specification and construction as the acoustic barrier at stand (2) by the 1st September 2019;
- b) Provide an additional stand (5) which will be positioned between stands (2) and (4) and which would be constructed to the equivalent standards of design as stand (2) by the 1st September 2019. The location of this new stand will need to be agreed with the Council prior to its first use;
- c) Be required to check the Met Office weather forecast (online) for Dunkeswell Aerodrome up to 24 hours in advance of each shoot to determine the forecast conditions. If a wind positive vector between WSW and S is predicted together with a wind speed (average not gust) of 15 mph (<7 m/s) or less then the club would agree to use stand (5) as an alternative to stand (4). Stand (4) and (5) are not to be used at the same time. The Gun Club are required to keep a record of when and by whom the forecast was checked in advance of a shoot;
- d) All other methods of sound mitigation as previously agreed and implemented with the Council will continue to be used by the Club.

The court Consent Order described above supersedes the Noise Abatement Notice which was formally withdrawn in spring 2019.

Following this consultation, provided there have been no fundamental changes to the shoot, Natural England proposes to extend the direction for a further 6 years. A Consultation Outcome Report will be published summarising any comments received.

3. SUBMITTING COMMENTS ON THE REVIEW

If you wish to comment on the review of this direction then you must do so before **Monday 12th February 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.

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.

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 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.

Agenda Item 12.3

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 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, 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.

