

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

### REVIEW OF STATUTORY DIRECTION(S) - PROPOSED CHANGE TO EXISTING DIRECTION(S)

#### SUMMARY FOR PUBLIC CONSULTATION Prepared by South Downs National Park Authority

#### 1. INFORMATION ABOUT THE PUBLIC CONSULTATION

**Access Authority:** South Downs National Park Authority  
**Relevant Authority:** South Downs National Park Authority  
**Local Access Forum:** South Downs Local Access Forum

**Original direction reference:** 2006040060

Land Parcel Name	Details of restriction on current direction
Cheriton Wood, Hampshire	Direction to exclude the public from Cheriton Wood for a period of six years. The direction may operate for up to 210 days annually between 1st July and 1st February. The direction was given for reasons of public safety and land management, specifically game bird management. 28 March 2017 to 27 March 2023

The South Downs National Park Authority (SDNPA) has begun a review of the above long term direction in accordance with statutory guidance (see Annex 1). A consultation has been held with statutory consultees and the general public that sought views on the existing direction.

#### **Summary of comments on the current restriction:**

Two members of the South Downs Local Access Forum (SDLAF) said that they agreed with the advice given by the SDLAF at the last review, and that the restriction should be renewed with the same arrangement.

The Landscapes of Freedom, Brighton Downs Alliance, objected to the continuance of access restrictions commenting that the damaged wood and clutter of shooting infrastructure is intimidating to the public and deleterious to the conservation of wildlife. The Alliance said that any shooting should only be carried out alongside unimpeded public access, and the shooting business

should not be prioritised over the public access rights. All access restrictions should be withdrawn.

After due consideration and in discussion with the land owner, although the management has not changed, it is deemed appropriate to allow public access during July as the game birds are not introduced to the site until August. It is also deemed appropriate to allow public access to that area of Cheriton Wood, specifically a part of Tenant Woods, which is not actively managed for released game bird management or the shooting of live quarry.

**The SDNPA now proposes to vary the direction by extending it for a further 6 years, reducing the annual exclusion to a maximum of 185 days between 1 August and 1 February annually, and omitting a part of Tenant Woods from the area of restriction.**

As the SDNPA has decided to vary the direction (and is still proposing to make a long term direction) it is obliged to undertake a further round of consultation.

## **2. SUMMARY OF PROPOSED CHANGES TO EXISTING DIRECTIONS**

<b>Details of restriction on original direction</b>	<b>Proposed details for new direction</b>	<b>Reasons for proposed direction</b>
<p>To exclude the public from Cheriton Wood for up to 210 days annually between 1st July and 1st February</p> <p>28 March 2017 to 27 March 2023</p>	<p>To exclude the public from Cheriton Wood, with the exception of Tenant Woods, for up to 185 days annually between 1st August and 1st February</p> <p>28 March 2022 to 27 March 2028</p>	<p>Land management and avoidance of danger to the public</p>

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

### **Summary of proposal**

The proposal is to exclude access to that part of Cheriton Wood that is managed as a pheasant shoot from the date that the pheasants are brought onto site in

August, through to the last shooting day, which will normally be in the following January. This is for land management reasons - to allow the pheasants to habituate to the Wood and to prevent them leaving the Wood due to disturbance - and for public safety reasons on the shoot days.

### **Why is a statutory restriction necessary?**

Cheriton Wood is a 91 hectare registered common situated approximately 1.8 km north-east of the village of Cheriton on the edge of the South Downs National Park. The wood is managed as a non-commercial pheasant shoot. It is privately owned; the application to restrict access was made by the landowner. There is a single, non-practicing, commoner with rights of estover (wood collection). Public rights of way pass adjacent, or close, to parts of the western, southern and eastern boundaries of the wood. A public bridleway passes through the easternmost section of the wood. Cheriton Lane lies adjacent to part of the northern boundary of the Wood. A small car park lies off Cheriton Lane on the north-east side of the Wood.

In determining applications for restrictions the Relevant Authority Guidance 2010 (RAG) must be followed. Chapter 2.5 of the RAG considers the case for a land management or public safety direction. Criteria set 16.1 refers to the management of released game birds such as pheasants. The RAG describes how shooting estates are managed to maximise the number of birds at a drive on the day of a shoot, noting that disturbance of the birds is minimised from the time they are released until the last day of the shooting season. The birds form a strong bond, known as 'habituation', with the area where they are fed and where they roost. Habituation takes around four to six weeks following the birds' release from their pens. Visitors may disturb birds and cause them to leave a feeding area or drive, but once they are habituated to the land, they are more likely to return to it after a temporary absence. However, frequent disturbance may be damaging to shooting interests at any stage before the end of the shooting season if it causes some birds to desert a drive altogether or significantly disrupts the daily movement of birds from their roosting site to the drive.

RAG Criteria Set 18 covers the shooting of live quarry, noting that it is well established that the primary responsibility for preventing injury lies with the user of the gun. 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.

The landowner states that it is necessary to prevent all public access to Cheriton Wood in order to allow the pheasants to habituate, and remain habituated throughout the shooting season. He notes that there is attractive habitat for pheasants on neighbouring, commercially operated, shoots, and that Cheriton

Wood is relatively small for a shoot. The landowner believes there is a significant risk that if pheasants are disturbed by members of the public in Cheriton Wood, they will fly onto, and remain on, neighbouring land. In addition the topography and wooded nature of the site make it difficult for shooters to be able to see the whole area where their shot could fall.

In respect of non-commercial land management activities, the RAG's sole overarching criterion for consideration is whether there is evidence to show that access would significantly disrupt the activity and that no suitable informal management solution is available that would meet the need. A direction should be given if, without it, public access would disrupt the activity.

There is a lack of evidence to show whether access would or would not significantly disrupt game bird management, post habituation, at a small, woodland only, shoot such as Cheriton Wood. However, at another shooting estate (albeit dissimilar in size and character) a direction was given by the Relevant Authority to restrict public access although no direct evidence of disturbance was quoted. Natural England, as the Relevant Authority, concluded that "the risk of a small amount of disturbance causing a significant detrimental effect to the shoot weighed in favour of having a full exclusion during the pre-shooting season".

The RAG recommends that any solution should both provide clarity for the public, and be practical for the land manager to manage - these principles should be weighed against the public benefit that would be achieved by a rigid interpretation of the least restrictive access principle. Since shoots are held regularly throughout the months of November, December and January, it is considered that to continually close the Wood for a short period for each shoot would be both impractical for the land manager and confusing for the public.

Taking all the above into account, a statutory restriction is considered necessary in order to prevent damage to the shooting interest from disturbance that might cause the birds to abandon the woods, and to prevent risk to the public from shooting.

### **What is the lowest level of restriction required?**

The RAG notes that disturbance to game birds is more likely to occur from free-roaming dogs than people, and suggests placing signs at site entrances from release until the end of the shooting season to encourage visitors to keep their dogs under close control. However, the landowner already uses large signs on the main access points informing people of the national CROW requirement to keep dogs to leads between March 1st and July 31st. He reports that the majority of walkers do not pay heed to these signs. Off-lead dogs have been observed during site visits undertaken during this period, and the SDNPA is aware of a

fairly widespread disregarding of similar signage across the National Park. It therefore seems unlikely that the use of signage alone, without additional enforcement methods such as on-site wardening, would significantly affect the amount of disturbance caused by dogs. On-site wardening is not something that would be practicable for the landowner to undertake.

The RAG suggests that, for both the management of released game birds and the shooting of live quarry, people should be excluded from sensitive areas only, leaving residual routes or areas unrestricted wherever practicable. Discussions with the landowner have resulted in the identification of a residual area (part of Tenant Woods) which can be left unrestricted.

Taking all the above into account, it is considered necessary to exclude the public in order to prevent disturbance during the critical habituation period. It is also considered necessary to exclude the public from the area during both the pre-shooting season and the shooting season in order to prevent potential damage to the shooting interest from disturbance causing birds to abandon the wood, and to prevent risk to the public from shooting. The lowest level of restriction is considered to be a full exclusion applying to the whole of Cheriton Wood except for the identified residual area comprising a part of Tenant Woods. The proposed excluded area extends to 79 ha.

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

If you wish to comment on the review of this direction then you must do so before 5th November 2021 directly to the SDNPA at [access@southdowns.gov.uk](mailto:access@southdowns.gov.uk). Comments received after this date cannot be taken into account.

A map accompanies this notice and can be seen on the [Consultation Pages](#) of the Government's website<sup>1</sup>.

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

Information is collected for the purpose of delivering the SDNPA's Public Task under the Countryside and Rights of Way (CROW) Act 2000 and used in line with SDNPA's Privacy Policy. Any comments you make and any information you send in support of them will help us to determine the application and / or determine if

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<sup>1</sup> [https://www.gov.uk/government/publications?publication\\_filter\\_option=consultations](https://www.gov.uk/government/publications?publication_filter_option=consultations). To access the consultation enter "Open Access" into the free text box titled "Search" and then filter by "Natural England" in the Organisation drop down.

the restriction is still necessary in relation to the review or reassessment of a current direction.

We may 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 Natural England.

We do not plan to publish individual comments in full, but we may publish extracts from them when we report on our consultation(s). This report may 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 notify us as to 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 SDNPA.

Identifiable personal data will be deleted after 6 years of the completion of the consultation exercise, any anonymised comments used in the production of the final report will be retained in perpetuity.

## **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.