

NORTH YORKSHIRE COUNTY COUNCIL
NORTH YORKSHIRE LOCAL ACCESS FORUM

24 NOVEMBER 2005

COUNTRYSIDE AGENCY CONSULTATION
PROPOSAL FOR A LONG TERM DIRECTION – ACCESS LAND AT RAISTHORPE
ESTATE

1.0 Purpose of Report

- 1.1 The purpose of this report is to brief the forum on an application for exclusion to Access Land at the Raisthorpe Estate, south of Malton, North Yorkshire. The LAF has been consulted by the Countryside Agency and invited to submit comments.
- 1.2 The report also outlines the consultation procedure with some comments from officers.

2.0 Background

- 2.1 An application has been submitted by the Raisthorpe Estate to the Countryside Agency for a direction to exclude access to some of their land in order to prevent disturbance to game birds.
- 2.2 The Countryside Agency has denied full exclusion, suggesting that the measure would be excessive in light of the low numbers of people using access land in this area. They have allowed the estate an extra 50 days a year to exclude people from the land. This is to ensure game birds are not disturbed on shoot days.
- 2.3 As the above direction will restrict access for less than 6 months of the year, the Countryside Agency is not required to consult on this decision and therefore the LAF are not invited to comment on this section of the direction.
- 2.3 Appendix 1 contains a full summary of the Consultation and the enclosed map illustrates the areas affected by the proposal.

3.0 Direction to Restrict dogs to Leads

- 3.1 As well as the extra days to exclude people, the Countryside Agency are proposing to give a direction to restrict dogs to leads from 1st August to 1st February each year for the next five years. **This is the Direction that the LAF is invited to comment upon.**
- 3.2 The Direction was proposed as a result of guidance set out, for the management of game birds in relation to Open Access. The guidance suggests that dogs have a far greater effect on the disturbance of game birds if allowed to roam off the lead. If dogs are required to be kept on leads this is the suggested level of restriction needed to ensure that the sporting interests of the estate are not compromised by Open Access.

3.3 There is a national restriction requiring dogs to be kept on leads between 1st March and 31st July. If the Direction is given, this will result in a restriction to keep dogs on leads all year except for the month of February.

3.4 The conditions attached to this Direction are:

1. This Direction only affects the availability of CROW access rights. It has no effect on public rights of way over the same land, or on any other access right, tradition or custom, or any uses of the land permitted or tolerated by the landowner.
2. It has no effect on any area within the specified land that is not subject to CROW access rights – for example because it is excepted land under CROW Schedule 1, or subject to existing open access rights of the type listed at CROW section 15¹.

4.0 Consultation Questions

4.1 Below are the questions upon which the LAF is asked to provide a response together with Officer comments.

1. *Is it necessary to restrict CROW access for the reason(s) given in the purpose of this proposed Direction?*

Officers Comment: It is generally accepted that dogs can cover more ground than humans and therefore can potentially disturb more birds. Most dogs also have some instinct to put up or hunt birds. Keeping dogs on leads should reduce the impact of this disturbance and therefore reduce the impact that access may have on game birds. Wild birds and mammals are also likely to benefit from this restriction.

2. *Have we correctly identified the area of land where the restriction is necessary for this purpose in the map attached?*

Officers Comment: The areas identified seem to be the correct areas. There is no land included in the map that is not covered by Open Access rights.

3. *Have we correctly identified the period of restriction for which the restriction is necessary for this purpose?*

Officers Comment: There is sound logic behind the chosen dates for the restriction to co-inside with the breeding and shooting seasons. However I would suggest that allowing dogs off leads for just one month of the year will be difficult to manage and would result in complicated signage leading to confusion. If the restriction was to start from 1st August to 28/29th February it would be much easier to educate the public with a simple message that dogs must be kept on leads at all times.

4. *Have we correctly identified the minimum form of restriction that is necessary for this purpose as displayed in the nature of restriction opposite? (For example, requiring dogs to be kept on leads may be sufficient to resolve the issue rather than excluding the public completely).*

Officers Comment: It could be argued that any form of restriction is unnecessary in the light of the low numbers of people using their new right. However Open Access is still in its infancy and there is the potential for the numbers of people using the right to increase as it becomes more established. Therefore it is considered that this is a measured compromise to protect both the interests of the estate owners and peoples rights to access.

5. *Have we correctly identified the conditions which apply to this Direction to ensure that it imposes the minimum restriction necessary for this purpose?*

Officers Comment: The conditions seem reasonable.

6. *Any other comments on the proposed direction?*

Officers Comment: The Direction seems to be a measured response to a potential problem. However restricting dogs to leads all year round would simplify the message to the public and reduce confusion.

3.2 The LAF will have to agree its response at the meeting on the 24 November as the deadline for the consultation is on the 25 November. The Countryside Agency has been notified of the tight timetable. If a response cannot be decided at the meeting our comments will be taken into consideration after the 25 November but will not be included in the official consultation process.

3.3 If any member of the forum would like to discuss the proposal before the meeting then they are encouraged to contact the author of the report.

5.0 Recommendation

5.1 It is recommended that the comments set out in section 4 of the report, subject to the views of the Local Access Forum, be used as the basis of a response to the Countryside Agency.

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PROPOSAL FOR A LONG TERM DIRECTION BY THE RELEVANT AUTHORITY

SUMMARY FOR PUBLIC CONSULTATION Prepared by the Countryside Agency

1. INFORMATION ABOUT THE PUBLIC CONSULTATION

Case Reference Number : **2005080106 and 2005100182**

Land Affected : **Land at Raisthorpe Estate**

Relevant Authority: **The Countryside Agency**

Local Access Forum : **North Yorkshire and East Riding of Yorkshire**

The Countryside Agency (the Agency) has received an application under section 24 of the Countryside and Rights of Way Act (the Act), for a direction to exclude access at Raisthorpe Estate, in order to prevent disturbance to game. The Agency is the relevant authority responsible for determining the case.

The Act requires us to consult publicly on all proposals for 'long-term directions', whereby access is restricted for a continuous period exceeding six months.

Whilst the effect of the proposed direction here will restrict access for a period not exceeding six months continuously, the Agency nevertheless considers that this is necessary to consult publicly.

This is a summary of our proposal, explaining the reasoning in support of our proposal. The proposal is set out in the consultation notice and map which accompanies this summary. Other documents relating to the proposed direction may be inspected and copies obtained by visiting the Countryside Agency's Manchester Office at Bridgewater House, Whitworth Street, Manchester, M1 6LT.

If you wish to comment on the proposal you must do so before 25th November 2005 using the comment form provided on the website. If you are unsure how to submit your comments, please visit our website: www.openaccess.gov.uk or contact the open access helpline on: tel. 0845 100 3298

If, following consultation, we decide to give a long-term direction, we must formally review the decision, not more than 5 years after it is given. We may also revoke or vary the direction at any other time, if new evidence comes to light showing that the circumstances have changed.

2. SUMMARY OF OUR DETERMINATION

i) Why is a statutory restriction necessary?

Whilst the Relevant Authority Guidance (RAG) indicates that restrictions are unlikely to prove necessary at Raisthorpe, because patterns and levels of access are predicted to be very low (and therefore disturbance no more than occasional), I have considered very carefully the specific circumstances of this case, and taken the view that a precautionary approach is necessary at certain times.

The Countryside Agency has commissioned further research on the game management, shooting and access issues that this and other cases have raised. This may lead us to reach different conclusions about such a case in due course.

In response to the application received, the Agency has decided to give an outline direction for up to 50 days each year to exclude the public from the Estate. This is to avoid disturbance on shooting days. This direction does not form part of this consultation.

The Agency also proposes to give a direction to restrict dogs to leads at certain times of the year. The purpose of this summary is to outline the reasoning behind this proposal.

Criteria set 17 of the RAG states that "there is scope for visitors, particularly people with dogs off leads, to disturb game if they walk through an area where birds are breeding, feeding or taking cover. Restrictions may be necessary to keep dogs to leads to prevent disturbance in the run up to shooting" but that "restrictions are unlikely to prove necessary in other circumstances".

At Raisthorpe, partridge and pheasant poults are released into numerous pens around the Estate from early July each year. Often the pens are located close to areas that are likely to be attractive to visitors. This is a critical period for game management whereby the young birds require habituation to their surroundings and establish patterns of movement

from the pens to the nearby cover crops. The continued presence of the birds in and around the cover crops is essential for the success and viability of the shoot.

The presence of dogs off leads in the areas around release pens is likely to cause disturbance to game at this time.

The Agency also considers that there is potential for dogs off leads to cause disturbance to game during the shooting season. The success of the shoot relies on the presence of birds at specific drives, at particular times. Any disturbance, in particular from dogs off leads, may cause the birds to leave a drive in the run up to a shoot. Because shooting takes place in excess of 40 days between 1st September and 1st February, the Agency believes that there is a significant risk of disturbance between shooting days affecting the success of the shoot.

The Agency has agreed with North Yorkshire County Council (the main access authority) that they will monitor access between now and May 2006 to gain a better understanding of actual patterns and levels of use and whether this is causing disturbance at release time, and at other times. Combined with the outcomes of the commissioned research referred to above, we may decide to review this decision at a future date.

ii) What is the lowest level of restriction necessary?

The Agency proposes to give a direction to restrict dogs to leads from 1st August to 1st February each year for the next five years. This is complemented by the national restrictions requiring dogs to be kept on leads between 1st March and 31st July. Access will not be restricted from 2nd February to 28th February.