

NORTH YORKSHIRE  
LOCAL ACCESS FORUM

21<sup>st</sup> November 2012

DEFENCE INFRASTRUCTURE ORGANISATION CONSULTATION ON s28  
INDEFINITE DIRECTIONS

1.0 PURPOSE OF REPORT

1.1 The purpose of this report is to make members aware of the consultation issued by the Defence Infrastructure Organisation.

2.0 BACKGROUND

2.1 The consultation letter and relevant documents are attached at Appendix 1.

2.2 There are 3 sites in question – only the Feldom Ranges, Catterick site is within North Yorkshire. A location plan showing the context of all three sites is attached at Appendix 2.

3.0 RECOMMENDATIONS

3.1 It is recommended that members consider the consultation and respond to the Defence Infrastructure Organisation.

Contact Officer  
Aidan Rayner  
01609 533077



**Defence  
Infrastructure  
Organisation**

Environmental Advisory Services Access and  
Recreation Team

Building 97a Land Warfare Centre

Warminster

Wiltshire

BA12 0DJ

United Kingdom

NORTH YORKSHIRE  
19 OCT 2012  
COUNTY COUNCIL

**Ref. Battle Hill Range, Catterick; DFG  
Bowes Moor; Feldom Ranges**

Telephone: +44 (0)1985 222913

Telephone [MOD]: (9) 4381 2913

E-mail: [Richard.Brooks667@mod.uk](mailto:Richard.Brooks667@mod.uk)

Website: [www.access.mod.uk](http://www.access.mod.uk)

Jane Wilkinson – Local Access Forum Secretary

North Yorkshire County Council

County Hall

DL8 8AH

16<sup>th</sup> October 2012

Dear Jane,

**CROW ACT 2000 – CONSULTATION ON A SECTION 28 INDEFINITE DIRECTION**

I am writing to you regarding a site at which the Ministry of Defence (MOD) is reviewing the use of an Indefinite Direction under Section 28 of the Countryside and Rights of Way Act 2000 ('the Act').

Most sites where hazardous or sensitive activities take place are covered by byelaws made under the Military Lands Act 1892. These provide arrangements for safe public access (when this is permitted) and give approval for appropriate activities. All land under MLA byelaws is excepted from the provisions of the CROW Act (under Schedule 1). Therefore the CROW Act does not apply at these sites. We rely upon the terms in the byelaws to deliver safe public access.

Some minor facilities and lower profile secure sites are not covered by byelaws. As a general rule responsible use by the public has meant that there has been no need to formalise access arrangements this way. The 'red flag rule' has been respected and we have an excellent safety record. However, most ranges and secure sites are by nature open areas and most have not been subject to ploughing. As a consequence the Countryside Agency's original habitat mapping exercise identified many non-byelawed MOD sites as matching the criteria for access land. Incidentally, because of the benign land management regime many of these sites are wildlife havens and have nature conservation designations.

We have a programme to review and update the byelaws and we expect to introduce byelaws for the majority of these sites at some time in the future. In the meantime, we used Section 28 of the CROW Act 2000 to regularise the current public access arrangements for the reasons of defence effectiveness and public safety where this was compromised by the prospect of open access.

Section 28 of the CROW Act 2000 allows the Secretary of State for Defence to make a 'Direction' that excludes or restricts access for the purpose of Defence onto land covered by the Act. These can be for short-term, long-term or indefinite periods. Indefinite Directions are made when it is reasonable to assume that the area requires special arrangements for public access for the foreseeable future as was the case in this instance.

Indefinite Directions have to be reviewed within 5 years and the initial s28 Directions were signed off on the 5<sup>th</sup> December 2012. As a result the MOD has reviewed all its s28 Directions internally and can demonstrate that there is a sound military justification for the continued application of the Direction in this case. The Regulations also require us, as part of the review, to consult with the Local Access Forum in the area concerned, and statutory consultees, and as part of this process we are also informing all Access Authorities which have a s28 direction within their area of the review. I would be grateful if you would circulate this letter and the details of this review to the members of your Local Access Forum. The s28 directions under review are also available for the public to view via a link from [www.access.mod.uk](http://www.access.mod.uk). The consultation runs 18<sup>th</sup> October 2012 until 19<sup>th</sup> November 2012, during which time responses and comments may be made. Consultation documents can be found at:

<http://www.mod.uk/DefenceInternet/AboutDefence/CorporatePublications/ConsultationsandCommunications/PublicConsultations/CountrysideAndRightsOfWayAct2000IndefiniteSection28Directions5YearReviewConsultation.htm>

Or via a link on:

[www.access.mod.uk](http://www.access.mod.uk)

Following consultation all responses will be reviewed and due regard will be taken of observations made. The Secretary of State will then be advised to finalise or revoke the Direction.

Please note: A Section 28 direction does not necessarily restrict all public access. In most cases the public are welcome to visit the ranges or training areas when the red flags are down or at times of reduced military activity – **we do not propose to change the current arrangements to access arrangements.**

I attach some 'Frequently Asked Questions' to this letter which offer a further explanation of the review.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Richard Brooks', with a long horizontal flourish extending to the right.

Richard Brooks  
Senior Environmental Advisor

**SECTION 28 DIRECTION FORM REVIEW FORM**

<b>MOD HOLDING:</b>	Feldom Ranges, Catterick				
<b>TLB:</b>	Defence Infrastructure Organisation				
<b>CROW AREA:</b>	4				
<b>DATE OF ORIGINAL DIRECTION:</b>	05/12/2007				
<b>CATEGORY</b>	<b>COMMON</b>		<b>OPEN COUNTRY</b>	<input checked="" type="checkbox"/>	<b>DEDICATED</b>
<b>S28 TERM</b>	<b>SHORT TERM DATES:</b>				
	<b>LONG TERM DATES:</b>				
	<b>INDEFINITE:</b> <input checked="" type="checkbox"/>				
<b>DESCRIPTION OF SITE:</b> This is an area of open hillside above the northern limit of the Feldom Range Danger Area. It contains a thin strip of coniferous plantation which crosses the area mapped as open country. The mapped area represents 2% of the training area.					
<b>HECTARAGE OF DIRECTION:</b> 51.20					
<b>DESCRIPTION OF MILITARY USE:</b> The Infantry Training Centre, Catterick uses this parcel of land extensively for dry training in particular for the training of recruits and young soldiers. This includes the firing of blank ammunition and use of smoke and pyrotechnics. The area is also in use for bivouacking and overnight exercises by both male and female recruits and young soldiers.					
<b>CURRENT PUBLIC ACCESS:</b> There is currently no public access onto this small parcel of land. The adjacent areas are well served by PROW which provide adequate separation between the general public and troops training.					
<b>ORIGINAL S28 JUSTIFICATION:</b> The highly intensive use of this area by recruits and young soldiers under training make it impractical to permit open access. To do so would cause unacceptable disruption to their concentrated programme of activity.					
<b>REVIEW COMMENTS:</b> The Military Use section is still relevant. The original s28 justification remains valid and there is a continued need for a s28 CROW direction.					
<b>ORIGINAL REQUEST FROM:</b> SO2 Strategic Environmental Assessment Major Braithwaite -Exley ATE HQ			<b>COMMAND REVIEW BY:</b> Lt. Col. Niall Macgregor-Smith (Acting Commander DTE North) Major Mark Fleccia (Commandant Catterick Training Area)		
<b>ORIGINAL DE OFFICE:</b> Rob Manners - DE Catterick			<b>LMS REVIEW BY:</b> Graham Newcombe, Catterick		
<b>MAP ATTACHED:</b>	<b>YES</b> <input checked="" type="checkbox"/>			<b>NO</b>	

**RELEVANT ACCESS AUTHORITY:**

**North Yorkshire County Council** - Aiden Rayner, PROW Team Leader, North Yorkshire County Council, Room 32, County Hall, North Hallerton, DL7 8AH  
Tel. 01609 533 077; Email: [aiden.rayner@northyorks.gov.uk](mailto:aiden.rayner@northyorks.gov.uk)

**LOCAL ACCESS FORUM INFORMED:**

Jane Wilkinson, North Yorkshire County Council, Room 32, County Hall, North Hallerton, DL7 8AH  
Email; [jane.1.wilkinson@northyorks.gov.uk](mailto:jane.1.wilkinson@northyorks.gov.uk)

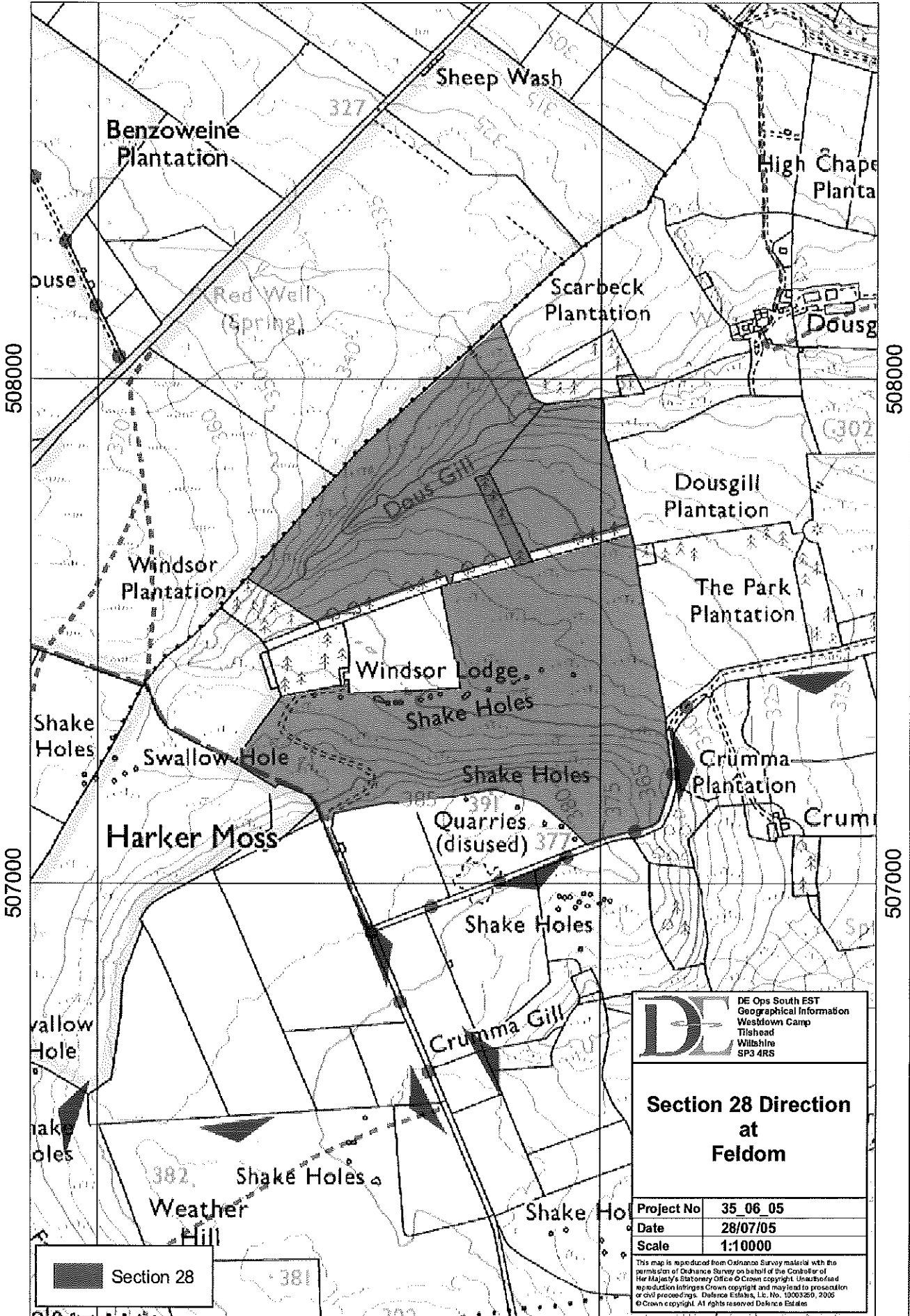
**COMMENTS:-****NAME OF DESIGNATED OFFICER:-**

Richard Brooks  
Environmental Advisory Service  
Defence Estates, Land Warfare Centre  
Warminster  
Wiltshire BA12 0DJ


**SIGNATURE ON REVIEW COMPLETION:****DATE:**

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 Section 28

	DE Ops South EST Geographical Information Westdown Camp Tilshead Wilts/Ine SP3 4RS
	<b>Section 28 Direction at Feldom</b>
	Project No <b>35_06_05</b> Date <b>28/07/05</b> Scale <b>1:10000</b>
	<small>         This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Defence Estates, L.C. No. 10003260, 2005 © Crown copyright. All rights reserved Defence Estates       </small>

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**SECTION 28 DIRECTION REVIEW FORM**

<b>MOD HOLDING:</b>	Battle Hill Range, Catterick		
<b>TLB:</b>	Defence Infrastructure Organisation		
<b>CROW AREA:</b>	4		
<b>DATE OF ORIGINAL DIRECTION:</b>	5/12/07		
<b>CATEGORY</b>	<b>COMMON</b>	<b>OPEN COUNTRY</b>	<b>X</b> <b>DEDICATED</b>
<b>S28 TERM</b>	<b>SHORT TERM DATES:</b>		
	<b>LONG TERM DATES:</b>		
	<b>INDEFINITE: X</b>		
<b>DESCRIPTION OF SITE:</b> Battle Hill Range lies in an upland area remote from centres of population. It contains rifle ranges surrounded by upland habitat typical of that in the Northern Pennines.			
<b>HECTARAGE OF SITE:</b> 51.20			
<b>DESCRIPTION OF MILITARY USE:</b> The ranges are used for rifle and machine gun training including night firing. The area is also used for dry training including battle simulation and the use of pyrotechnics. The entire site falls within a larger Danger Area however this section is not covered by existing military byelaws,			
<b>CURRENT PUBLIC ACCESS:</b> Two Public Rights of Way cross the Danger Area. During periods of live firing access along these routes is controlled by the raising of red flags or illumination of red lamps. There is no intention to further restrict access.			
<b>Original S28 JUSTIFICATION:</b> 1. The habitat criteria for CROW mapping has created the situation where a live firing danger area has been mapped as access land. It is MOD policy that all land within any Danger Area must be subject to restriction in the interest of clarity and public safety.  2. MOD intends to put in place byelaws on this site under the current byelaw review programme. This would lead to this area being excepted from CROW access rights. Any byelaw proposals will be subject to public consultation.			
<b>REVIEW COMMENTS:</b> The Military Use section is still relevant. The original s28 justification remains valid and there is a continued need for a s28 CROW direction.			
<b>ORIGINAL REQUEST FROM:</b> SO2 Strategic Environmental Assessment. Major Braithwaite Exley - ATE HQ		<b>COMMAND REVIEW BY:</b> Major Fleccia (Commandant Catterick Training Area)	
<b>ORIGINAL DE OFFICE:</b> Rob Manners - DE Catterick		<b>LMS REVIEW BY:</b> Graham Newcombe, Catterick	
<b>MAP ATTACHED</b>	<b>YES</b> X	<b>NO</b>	

**RELEVANT ACCESS AUTHORITY:****North Yorkshire County Council**

Aiden Rayner, PROW Team Leader, North Yorkshire County Council, Room 32, County Hall, North Hallerton, DL7 8AH

Tel. 01609 533 077; Email: [aiden.rayner@northyorks.gov.uk](mailto:aiden.rayner@northyorks.gov.uk)

**LOCAL ACCESS FORUM INFORMED:**

Jane Wilkinson, North Yorkshire County Council, Room 32, County Hall, North Hallerton, DL7 8AH;  
Email: [jane.1.wilkinson@northyorks.gov.uk](mailto:jane.1.wilkinson@northyorks.gov.uk)

**COMMENTS:-****NAME OF DESIGNATED OFFICER:-**

Richard Brooks  
Environmental Advisory Services  
Defence Infrastructure Organisation  
Land Warfare Centre  
Warminster  
Wiltshire BA12 0DJ

**SIGNATURE ON REVIEW COMPLETION:****DATE:**



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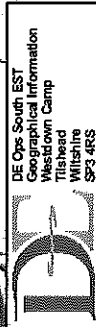
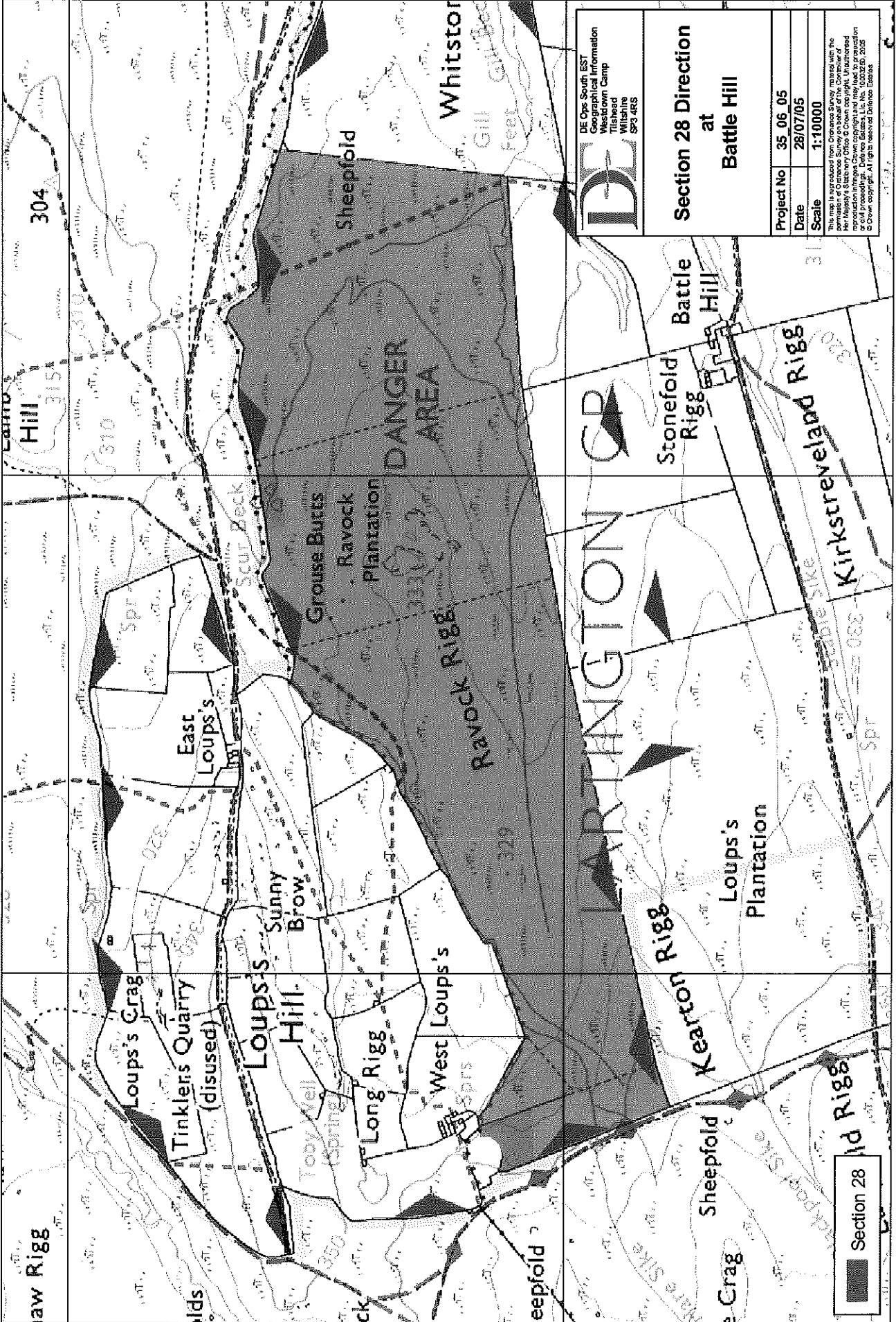
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**Section 28 Direction  
 at  
 Battle Hill**

Project No	35 06 05
Date	28/07/05
Scale	1:10000

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■ Section 28

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**SECTION 28 DIRECTION REVIEW FORM**

<b>MOD HOLDING:</b>	Defence Fuel Group Bowes Moor		
<b>TLB:</b>	Defence Logistics Organisation		
<b>CROW AREA:</b>	4		
<b>DATE OF ORIGINAL DIRECTION:</b>	5/12/07		
<b>CATEGORY</b>	<b>COMMON</b>	<input checked="" type="checkbox"/>	<b>OPEN COUNTRY</b>
			<b>DEDICATED</b>
<b>S28 TERM</b>	<b>SHORT TERM DATES:</b>		
	<b>LONG TERM DATES:</b>		
	<b>INDEFINITE:</b> <input checked="" type="checkbox"/>		
<b>DESCRIPTION OF SITE:</b> Area of open rough grassland. There are numerous tracks and storage units across the site in various states of repair. It is behind a fence and signs advise that there is no public access.			
<b>HECTARAGE OF DIRECTION:</b> 37.69			
<b>DESCRIPTION OF MILITARY USE:</b> The site is used for temporary storage of fuels and flammables and is classed as a secure site. It is envisaged that this site will remain secure for the foreseeable future.			
<b>CURRENT PUBLIC ACCESS:</b> There is no public access to the s28 area.			
<b>ORIGINAL S28 JUSTIFICATION:</b> This area lies within a fuel and flammable storage area. Public access is not permitted for reasons of safety and defence security.			
<b>REVIEW COMMENTS:</b> Whilst the military storage use of this site has continued to reduce over the 5 years since the review there continues to remain a requirement to keep public access to this site restricted. This is to ensure that the public are protected from any residual chemicals and risks on site. The continued application of a s28 direction on-site will NOT impact upon the single right of way across the site as agreed during the initial review.			
<b>ORIGINAL REQUEST FROM:</b> Guy Jarvis - Site Manager		<b>COMMAND REVIEW BY:</b> Will Town, DIO LMS, Catterick	
<b>ORIGINAL DE OFFICE:</b> Will Town, DIO LMS, Catterick		<b>LMS REVIEW BY:</b> Will Town, DIO LMS, Catterick	
<b>MAP ATTACHED:</b>	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b>	

**RELEVANT ACCESS AUTHORITY:**

North Yorkshire County Council - Aiden Rayner, PROW Team Leader, North Yorkshire County Council, Room 32, County Hall, North Hallerton, DL7 8AH - Tel. 01609 533 077; [aiden.rayner@northyorks.gov.uk](mailto:aiden.rayner@northyorks.gov.uk)

**LOCAL ACCESS FORUM INFORMED:**

Jane Wilkinson, County Hall; [jane.1.wilkinson@northyorks.gov.uk](mailto:jane.1.wilkinson@northyorks.gov.uk)

**COMMENTS:-****NAME OF DESIGNATED OFFICER:-**

Richard Brooks  
Environmental Advisory Service  
Defence Estates, Land Warfare Centre  
Warminster  
Wiltshire BA12 0DJ

**SIGNATURE ON REVIEW COMPLETION:****DATE:**

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# Deep Dale

Hazelgill

Levy Pool

Strand Foot

Stoney Keld

515000

West Stoney Keld

Tute Hill

East Stoney Keld

515000

Layer Tree

Storage Site (disused)

Stony Keld

514000

Philip Hill

Stone

514000

The Old Moss

Stone

Clint Top

# DE

DE Ops South EST  
Geographical Information  
Westdown Camp  
Tilshead  
Wiltshire  
SP3 4RS

## Section 28 Direction at Bowes

Project No	35_06_05
Date	28/07/05
Scale	1:10000

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Section 28

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Sealgill Quarries (disused)



# Defence Infrastructure Organisation

## **CROW Act 2000 s28 Direction 5 Year Review**

### **Frequently Asked Questions:**

#### **1. Is MOD land subject to CROW?**

All MOD land was included in the original Countryside Agency (CA) (now Natural England) mapping exercise which identified land that fell into the mountain, moor, heath, down and common land categories. However the majority of MOD sites are subject to Military Byelaws. Under Schedule 1 Part I of the CROW Act these areas are excepted from this legislation.

#### **2. What are MOD Byelaws?**

Military Byelaws are Statutory Instruments which control both the military activity and public access at MOD sites. The byelaws are in place to ensure the safety of both the public and the troops and to minimise interruptions to military training. They can be enforced by uniformed soldiers, military police or civilian guards. The Military Lands Act 1892 is the overarching legislation.

#### **3. Why aren't all MOD ranges and training areas byelawed?**

Some sites have never been subject to byelaws because public access was never an issue. Access rights were generally restricted to Public Rights of Way – or even non-existent. In other cases byelaws still relate to an original land holding which has been extended, however the byelaws were not updated. The current byelaw review should resolve these issues.

#### **4. What is the Byelaw Review?**

The byelaw review is an MOD wide review of all Defence properties that require byelaws. The review will refresh and update existing byelaws and create new byelaws, where needed, for sites that currently operate without them. Each byelaw will be open for public consultation on the MOD Byelaws Website (link found under Related Links) and notices placed in the local press. Copies will also be sent to Parish, District and County Councils. The review is expected to take several years to complete.

#### **5. What is a Section 28 Direction and why does it need reviewing?**

Section 28 of the CROW Act allows the Secretary of State for Defence to exclude or restrict access by direction to any land if this is felt necessary for the purposes of Defence or National Security. This authority has been passed to Defence Infrastructure Organisation (DIO) and in particular the Designated Officer.

A direction can be made indefinitely or for short and long term periods. Indefinite Directions are made when it is reasonable to assume that the areas require special arrangements for public access for the foreseeable future or until byelaws are applied under the current review. All indefinite Section 28 directions must be reviewed within 5 years. 21 such directions were made by the MOD in 2007 and are thus due for review.

## **6. Does a S28 Direction exclude all access?**

No – the direction only applies to CROW access rights. Any existing rights or permissions are not affected by this direction. The direction is applied where or when open access rights under CROW are considered to be unsafe due to the military activity undertaken or to impinge on the necessary delivery of training. Many of the areas covered by the existing Section 28 directions do have public access at times through Public Rights of Way and along permissive routes. Secure sites are sites where public access is not permitted.

## **7. Are the areas covered by a S28 Direction shown on Ordnance Survey (OS) and Natural England (NE) maps?**

In discussion with OS, CA and Defra in 2007 it was felt appropriate for reasons of public safety and security that these areas would not be shown on public maps in line with land under Military Byelaws. These S28 direction areas will, therefore, not be seen as yellow colourwash on maps published by both OS and CA. Areas under existing s28 directions have been removed from the published maps, but will be returned to a yellow colourwash should this consultation lead to a revoking of the direction. This approach maintains public safety and site security.

## **8. What process does the direction review follow?**

When the final maps of the habitat for CROW access land were produced MOD undertook a comprehensive review of all areas that were potentially affected. A risk assessment was undertaken at each site using a specific set of criteria to ensure a consistent approach was taken across England and Wales. Where we identified a high risk to safe public access and/or the military capability a s28 Direction was applied after a formal and consultative process was followed.

21 Such directions were made in total by the MOD and 5 years later these directions are due for review. We have already undertaken an internal review of these directions to ensure that they are still valid and robust. It is our opinion that 19 of the 21 directions remain valid and should remain in place. It is proposed to revoke 2 of the original directions as there is no longer a valid defence requirement to exclude the public at these sites.

This review is now in the public domain as the next stage of this consultation process. The consultation period will run from 10:00 hrs on 18/10/12 until 19/11/12 during which time we will accept comments. At the end of the period the Secretary of State will take due regard of all comments made throughout the process and then finalise or revoke each direction.

## **10. Who is being consulted during the s28 direction review process?**

The review consultation process is laid down in 'The Access to the Countryside (Exclusions and Restrictions) Regulations 2003'. We are required to consult with:

- Local Access Forums
- British Association for Shooting and Conservation
- British Mountaineering Council
- Countryside Council for Wales (in respect of any land in or adjoining Wales)
- Country Land and Business Association
- National Farmers' Union

- Open Spaces Society
- Ramblers' Association

We are also required to inform the following of the direction:

- The Relevant Authority, (the National Park Authority, appropriate countryside body or Forestry Commissioners, depending on where the land subject to the direction is situated);
- The Access Authority for the area in which the land subject to the direction is situated;
- The owner of the land, if it is reasonably practicable to do so.

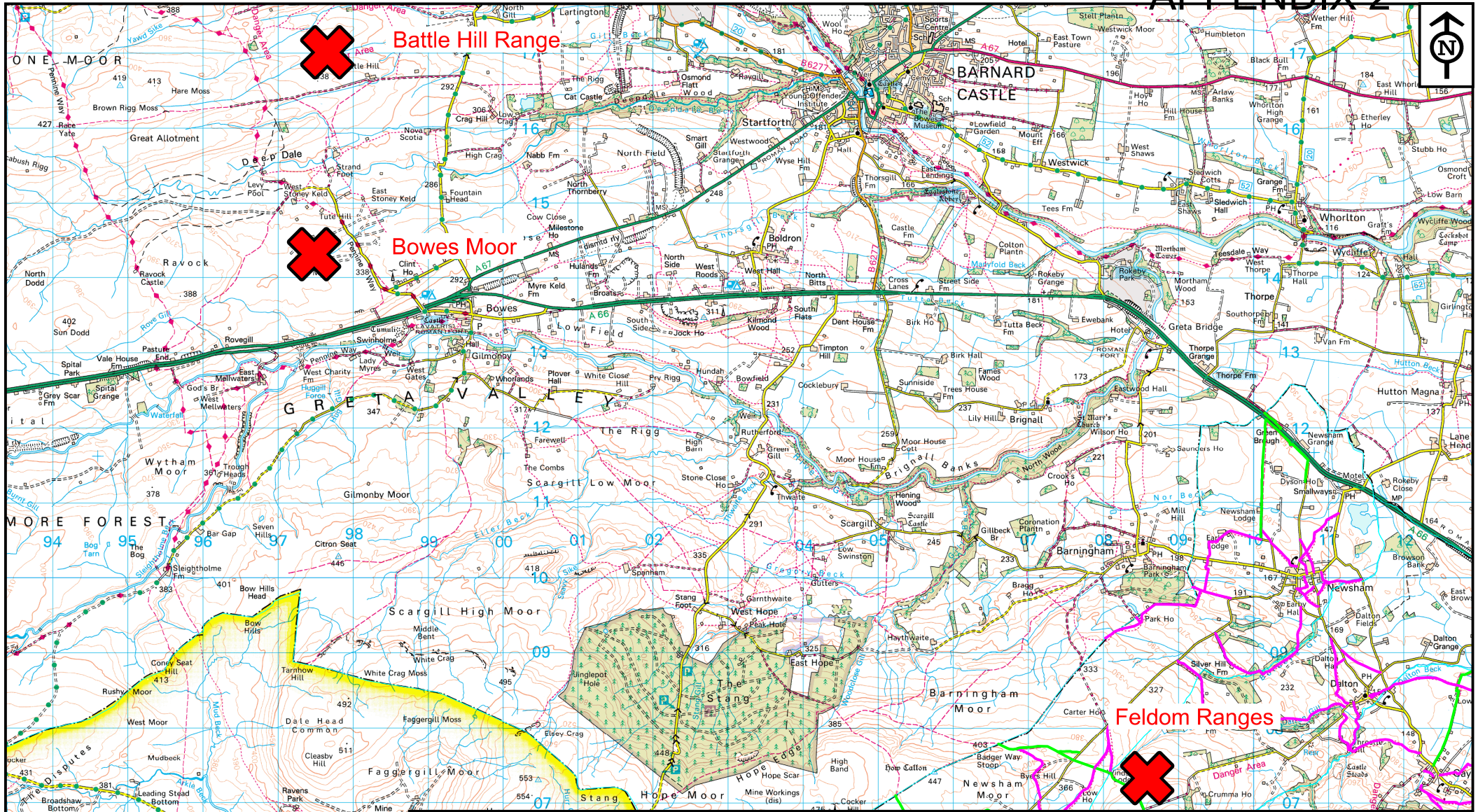
Furthermore, to enable the public opportunity to comment, all direction consultations can be viewed at the MOD Access and Recreation website as laid out in the Regulations.


**11. There are some military terms I do not understand on the direction form:**

- Dry Training – military training that does not involve the use of live ammunition. It can involve vehicles (including armoured vehicles) and the use of blank ammunition and pyrotechnics to impart an element of realism.
- Danger Area – an area where there is a risk that bullets or munitions could injure or kill people. The danger templates for all types of weapons are calculated by a technical advisory team and kept under review. They are designated by red flags (or red lamps at night) and signs warning of the danger.
- Impact Area – the particular area within a danger area where shells or bombs land. Access is excluded to all personnel except authorised staff.
- Pyrotechnics – fireworks that simulate the sounds or appearance of grenades, illumination flares or smoke shells. Safety rules apply.
- Red Flag Rule – when the red flags are raised or red lamps are lit no public access is permitted.
- Secure Site – a secure site is generally, but not always, subject to Military Byelaws. The public are excluded on the grounds of safety or security. The sites range from accommodation barracks to ammunition or fuel storage depots. A few training and test areas are also designated as secure sites. However, public access can sometimes be arranged through the Head of Establishment, particularly for groups interested in nature conservation at the site. Some sites hold periodic Open Days for the local community.

**12. Who should I contact if I require further information?**

For all operational issues in relation to CROW Act and other access issues on MOD land please contact the DIO Access and Recreation Team on: [DIOStratPol-Access@mod.uk](mailto:DIOStratPol-Access@mod.uk)



 **North Yorkshire County Council**

Public Rights of Way  
Waste and Countryside Services  
County Hall  
Northallerton  
DL7 8AH

**Key:**

- Public Footpath —
- Public Bridleway —
- Restricted Byway - - -
- Byway Open to All Traffic —

**North Yorkshire County Council**

DIO Consultation

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Map drawn on 12 November 2012  
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