

**A Sea Road Arts Publication  
for  
Sussex Heritage Community**

# **TRESPASS ON HERITAGE SITES**



**A Guide to Aspects of Civil and Criminal Law**



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**Cover Photo:** *Walkers in Combe Valley Countryside Park, East Sussex.*

*The image shows a patchworked landscape of complicated ownership. The valley is owned by several farmers, a district council, and a borough council. The distant woodland is owned by farmers, councils and Trinity College, Cambridge. Parts of the Valley are managed by Sussex Wildlife Trust and management overview is by the Combe Valley Community Interest Company. Public footpaths are granted rights by East Sussex County Council. The Valley is a major site of special scientific interest.*

*The democratically elected British Government rules England in the name of Her Majesty Queen Elizabeth II and Her Majesty signs all Acts of Parliament governing land ownership and access.*



### **An 18<sup>th</sup> century poem on Trespass**

They hang the man and flog the woman  
Who steals the goose from off the Common  
Yet let the greater villain loose  
That steals the Common from the goose  
The law demands that we atone  
When we take things we do not own  
But leaves the lords and ladies fine  
Who take things that are yours and mine  
The poor and wretched don't escape  
If they conspire the law to break  
This must be so but they endure  
Those who conspire to make the law  
The law locks up the man or woman  
Who steals the goose from off the Common  
And geese will still a Common lack  
Till they go and steal it back.

*Anon*

## INTRODUCTION TO THE CONCEPT OF TRESPASS

**This guide is about the act of trespass on land which has a heritage value. It could be a castle, stately home or park, religious site, hillfort or even the rock formation that the land comprises. The owner of the land where the heritage item is sited has a legal right to privacy and a right to make a choice – to give permission for access, or to refuse access.**

**The landowner's right exists for thousands of feet above their land to the edge of space and right down to the centre of the earth below it. Some laws will limit this right – certainly air traffic laws and mining laws. For example, a private landowner cannot erect a structure so high that it interferes with air travel, nor can they legally drill sideways underground to tap into a water (aquifer) or mineral (iron or coal) resource on a neighbour's land.**

**Most land in England has an owner. Only around 17% of land has no owner. Accessing heritage locations embedded in private land requires patience and permission. Sometimes you will never be granted access. This restrictive and protective situation has come about gradually, as you can read below.**



*Cuckmere Haven, East Sussex*

## Stone Age

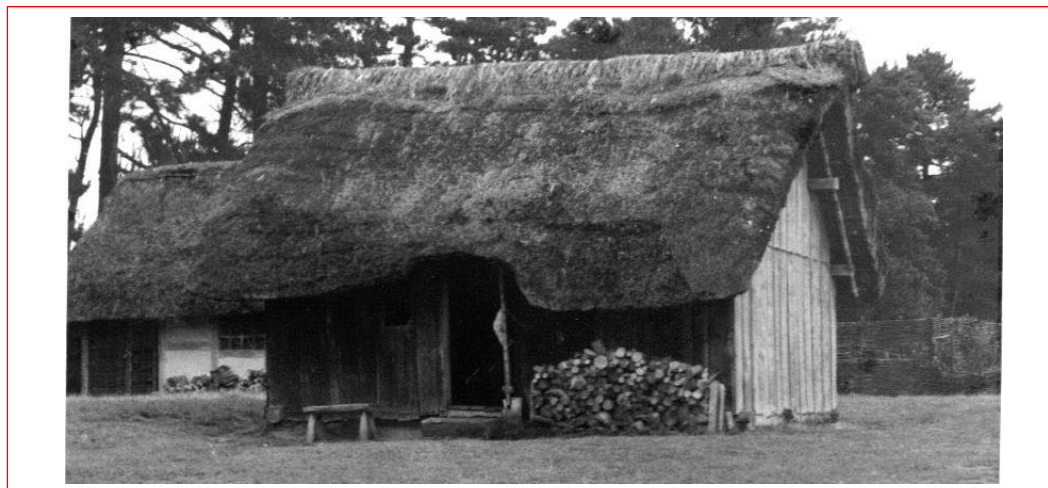


*Image source:*

*Wikimedia Commons*

Our Heritage in Britain stretches back 500,000 years to Boxgrove Man, whose fossil remains were found in a quarry in West Sussex. As the Ice Ages rose and fell and hunters followed the game herds, there were no artificial boundaries to access the landscape. Only natural encroachments of the sea, flooding and marshes might limit travel in the Stone Age. Back then, Stone Age families travelled freely with their herds for hundreds of miles on ridges and trackways.

## Iron Age



*Image source:*

*Wikimedia Commons*

Later on, when early farming concepts of the Iron Age caused tribal territorial settlement, then the idea of land ownership began: these are our crops, our fields, our village. There was fighting between tribes to prevent access to land. But still there were no laws recognised by all.

In the ages where tribal leaders became known as kings, then in England especially, territories were named and marked out by agreed boundaries, for example rivers, or ranges of hills or walled camps and hill forts. The Belgic tribes (often misnamed as Celts) had lands spoken of as Cantiaci, Atrebatas or Regniii, for example.

## The Romans



Then came the Romans with their laws and set out clear territorial enforcement with camps and forts. For several hundreds of years, the Romans ruled England and then they left to deal with continental crises.

## The Saxons and Vikings



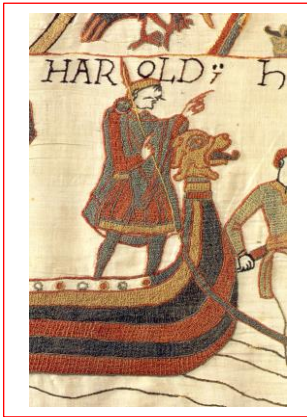
*Anglo Saxon painting of Viking Ship.*

*Image source:*

*Wikimedia Commons*

Roman civilisation fell into ruin in many places until the Germanic Saxons arrived and through them, so territories were once more marked out and on through the ages of conquest by Mercian King Offa and later the Viking Danelaw and the battles by King Alfred to establish Wessex.

## The Normans



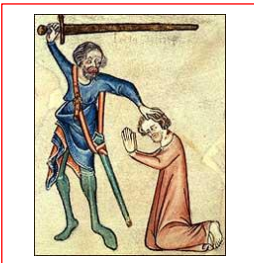
*Panel of Bayeux Tapestry*

*Image source:*

*Wikimedia Commons*

With the coming of the Normans in 1066 and the subsequent detailed Domesday Book listing of land and property, so the King's law was rigorously applied. Entering the so-called New Forest to kill a deer for your starving family would usually result in death by hanging.

During this period of upheaval from Anglo-Saxon to Norman, the various tribal areas became what we now call England. There were new laws of territory and personal ownership, but also the concept of the common ground where anyone could graze their pigs and cattle. The '**Common**' became a vital part of the community's ability to feed itself. The swineherds took their pigs to the woods, people made funnel-shaped duck decoys on rivers and used dogs to herd them into netting. Lords made and signed parchment charters detailing their land boundaries, but also setting out the rights of others within the main tribal areas, such as Kent or Wessex. Their charters can be viewed today as part of our written heritage.



*Execution of Thomas Plantagenet  
– March 1322*

*Image source:*

*Wikimedia Commons*

Later on, the land of England was ruled mainly by powerful barons who supported the king or rose against him. Some upstarts were executed.



## Magna Carta



*Bronze image in Salisbury Cathedral of King John signing Magna Carta at Runnymede near Windsor – 15<sup>th</sup> June 1215.*

In 1215 Magna Carta was signed at Runnymede by King John. This charter lessened the power of the king and gave more rights to land ownership for barons.

## Medieval Period: The Beginning of Trespass



*Part of Salisbury Cathedral – built during the period 1220 to 1320.*

The very first mention of the word 'Trespass' in print occurred in 1303 in a book called *'Mannyng's Handling Synne*. Mannyng was writing about sin as a transgression or offense against God. Mannyng borrowed the composite word: tres/pass from Latin and Old French namely from the Latin verb 'transpassare' and the old French 'trespasser', both of which mean 'pass across', and so the word 'Trespass' entered Middle English.

The next significant event was when this new word became connected to land or property and this, remarkably, occurred first in the Scottish Forest Law of 1455. Once this happened, then people spoke of trespass as a ‘passing across’ or transgression of someone’s land.

Obviously, as tribal leaders, king and barons possessed their lands by force of arms and treaties, so the heritage items we care for now were part of their lands – their hill forts, castles, grand houses, and landscapes. So heritage became a matter of possession of land. Heritage sites are embedded in public and private land.



*Long Man of Wilmington Hill Figure – the Figure and the land it is on, is fully owned by Sussex Archaeological Society within the bounds of the South Downs National Park.*

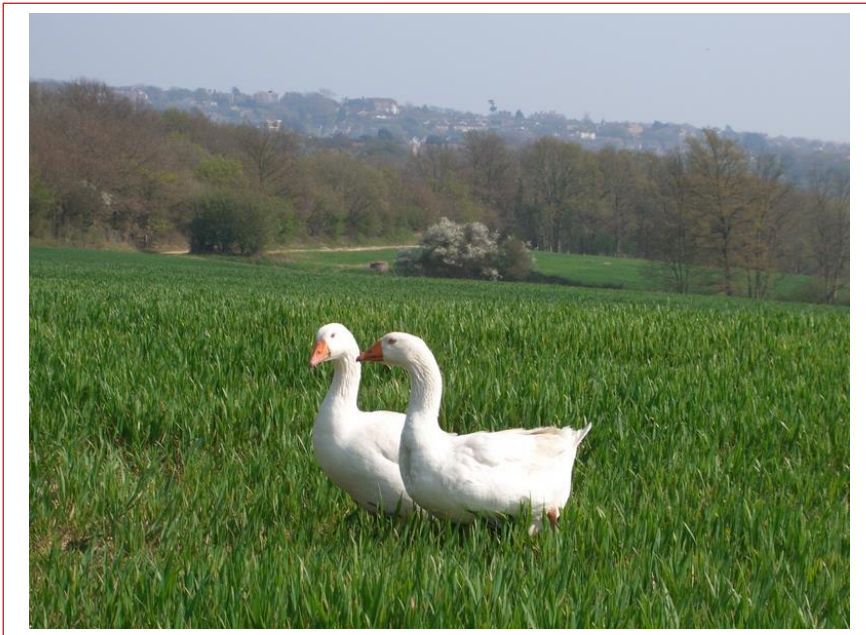
Moving on, we find that in the many laws there have been enacted over the centuries, trespass to land belonging to landowner involves the **“unjustifiable interference with land which is in the immediate and exclusive possession of another”**.



*Image source:  
Daryl Holter*

## The Enclosure Act (called at the time 'Inclosure')

Central to the law of Trespass is the notorious Inclosure Act 1773:



Wikipedia explains: 'The powers granted in the Inclosure Act of 1773 of the Parliament of the Kingdom of Great Britain were often abused by landowners: the preliminary meetings where enclosure was discussed, intended to be held in public, often took place in the presence of only the local landowners, who regularly chose their own solicitors, surveyors and Commissioners to decide on each case. In 1786 there were still 250,000 independent landowners, but in the course of only thirty years their number was reduced to 32,000.'

## Tort

To fully understand the concept of trespass, we now need to understand an unfamiliar word: 'tort'. This first occurred in writing in 1250 as an 'injury' or 'wrong' in the book, *The Owl and the Nightingale*. The word was formed from Old French 'tort' and Medieval Latin 'tortum' meaning 'wrung', 'twisted', 'to turn', 'to make awry' – to wring, twist or distort (hence 'torture') and thus 'tort' ended up as a breach of civil law for which one may sue for damages. The very first use of 'tort' in the sense of experiencing a wrong or injury suffered and then to sue in court against a culprit in civil law, occurred in England in 1586.

## Duality in Law

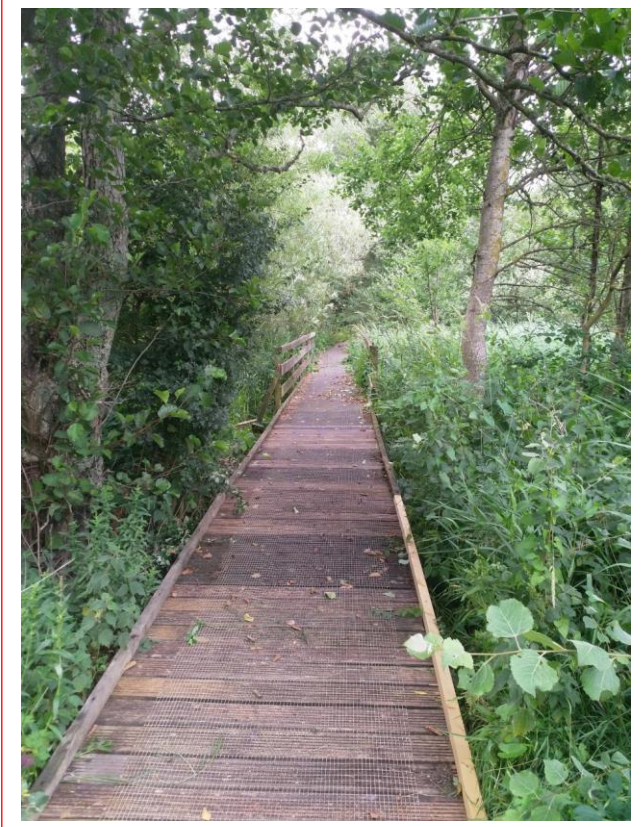
However, although trespass is mainly seen as a civil tort, some aspects of trespass are so offensive as to be criminal (as you will read below). Therefore, trespass is both a civil tort and, in certain circumstances, a crime under the Criminal Justice and Public Order Act 1994. It is unnecessary to prove that harm was suffered to bring a claim, and is instead actionable per se. While most trespasses on land are intentional, the courts have decided that it could also be committed negligently. Accidental trespass also incurs liability. One exemption that is often stated is the car crash. If a car careers off the road and through a hedge onto someone's property, this is not trespass if it can be shown that the driver had no control over the vehicle.



*This car was illegally placed in woods owned by Rother District Council on the old railway track bed from Bexhill to Crowhurst.*

However, other than a random vehicle accident, failure to check the ownership of land over which a person is intending to pass or is passing cannot then be used to claim that entering private land was an accident. This is so important. To avoid trespass, it is necessary to expect that land is owned and permission is required to enter it. However, extensive law gives rights to public footpaths and rights of way across private land.

Thus, the overall situation for trespass is complicated. It is usually a civil offence but can be criminal. It requires research before entering any piece of land.



*Filsham Reed Beds SSSI – the largest body of reeds in Sussex, is owned by Hastings Borough Council and managed by Sussex Wildlife Trust.*

*There is no legal access to the wildlife reserve apart from this trackway.*

A private owner cannot prevent a person from crossing private land if the law says that the pathway is public. Veer off that public path for your own reasons and that action can end you up in court.

We now move on to consider trespass on heritage sites.

**Daryl Holter**

**Sussex Heritage Community**



## TRESPASS - AVOIDING CRIME AND CIVIL OFFENCES

This guide offers advice and guidance on how to reduce or eliminate the risk of criminal and civil offences under the law on Trespass. It is invaluable to every person who has a responsibility for heritage sites and to anyone wanting to move over land in England. Its aim is to provide advice to help deter these crimes from happening.

### Understanding Trespass within the historic environment

Heritage sites and structures can sit on private property. As the structures belong to the landowner, consent must be gained before accessing the property. Trespassing, that is accessing private land and property without landowner consent, is a growing problem. Sadly, our heritage is at risk from damage and theft through Trespass.

As explained in the introduction to this guide, Trespass is not generally a criminal offence. However, if damage is caused to the land or property (e.g. illegal excavation or vegetation clearance) or abusive behaviour exhibited, or items stolen whilst trespassing, then the landowner can call the Police - and criminal charges may be brought against the culprit.

If a person intends to enter land, they **must assume that it is private** unless there are clear official and legal signs to show otherwise. For example, a notice board inviting a visit to a castle as seen below.



*Pevensey Castle , East Sussex - original foundations by the Romans, then later major construction by the Normans.*

Therefore, **Landowner consent** is required to access private land or property and landowner consent should always be gained. The landowner has no duty to show you he or she owns the land, but you have a duty never to enter land unless you have first ensured that it is legal to do so.

Always be courteous when meeting landowners, explain the reasons why you would like to access their land and exchange contact details. If possible, written consent from the landowner is recommended.

Here is an example of a historic site on private land used for glamping.



*Ruins of Glottenham Castle,  
Mountfield, East Sussex.*

*Image: Wikimedia  
Commons.*

Here is an example of a Roman iron mining bloomery site on the Heritage at Risk register, which is now adjacent to a private golf course.



*Beauport Park, Hastings*

<https://historicengland.org.uk/advice/heritage-at-risk/search-register/list-entry/29039>

*Image: Geograph.*



If you are granted access, arrange a convenient date to conduct your site visit; especially if fields are under crop or being used to graze livestock. If the landowner doesn't allow you to access their land, that's the end of the matter; don't trespass, regardless.

As noted above, private land doesn't need to be marked with a sign and a lack of signage does not give you the right to access private property without consent.

Trespassing is highly unprofessional and has the long-term potential to contribute to the demolition or permanent sealing of surviving structures by the landowner. This ruins things for those with an actual desire to learn from surviving sites and ensure their preservation.

### **Landowner Rights**

You should aim to work closely with landowners. As the sites and structures you are recording belong to them, then build up a good relationship with landowners, aiming to highlight the significance of the history you're interested in.

Respect the landowner's property and right to privacy. Although it may be legal to photograph a site on private property from a place of public access, it is best to use some discretion when taking photographs that may intrude on someone's right to privacy. Always consult the landowner beforehand.

Any surviving structures you encounter are the property of the landowner. It is not your responsibility to clear them of vegetation or earth; especially without the prior consent of the landowner.

Unauthorised clearance of structures can leave them open to vandalism and malicious use and may even lead to their demolition by the owner. Unauthorised clearance can also destroy important archaeological and environmental features, such as supporting trenches and a structure's original camouflage scheme. Unauthorised clearance of vegetation and excavation within Sites of Special Scientific Interest (SSSIs) is highly illegal.

UNDER NO CIRCUMSTANCES should you attempt to excavate, metal detect, remove material from, or cut down vegetation to access a site without requisite permissions and/or consultation with relevant heritage or environment organisations.

Excavation (of any kind) should only be carried out by (or with the help of) a qualified/experienced archaeologist. Such archaeological work must be conducted with the prior approval of the local Historic Environment Record and landowner and all results submitted for inclusion in the HER database within the agreed timeframe. Any excavation conducted without landowner consent can be considered a Heritage Crime and is therefore illegal.

Never remove any material from sites as, again, this belongs to the landowner.

### **Public Rights of Way**

Many surviving historic sites can be accessed via public footpaths and rights of way.

Public footpaths and rights of way that give you access to the areas you wish to investigate can be identified in several ways. You can find online versions of most Definitive Maps which show current public footpaths and rights of way, courtesy of the Geograph website-

<http://www.geograph.org.uk/article/Definitive-maps-online>

Ordnance Survey maps also highlight public footpaths and bridleways.

Remember - You will need landowner consent to access features that don't sit directly on a public footpath. If you can't secure landowner consent, don't leave the footpath.



*South Downs National Park*

*Park Authority has given permission for paraglider training school activity.*

## Accessing Structures

As most heritage structures survive in a dilapidated state, it is not recommended to enter them. Be sure to consider your own safety if you decide to enter any structures. If you choose to enter, only do so if you can see inside the structure. Be aware that many wartime structures are now filled with rubbish, stagnant water and may also contain high levels of asbestos.



*World War II  
defensive structure –  
A protected heritage  
site in the Cuckmere  
Valley, East Sussex.*

If you choose to enter a structure, it is at your own risk and will not be the landowner's fault if you are injured or worse.

Significant damage is being caused to surviving structures by those who break and enter or attempt to access secured structures.

Do not break into any structures you encounter. This goes without saying as breaking and entering is illegal and causes damage to surviving sites. Arrange access with the landowner before conducting fieldwork.

For instance, many wartime pillboxes are now used as bat roosts. The entrance to these structures will be barred, so don't attempt to get around the barred entrance. It is a criminal offence to disturb a bat roost.

## Protected Sites

Some sites and structures you may wish to investigate may be subject to statutory protection with Listed or Scheduled status. Such sites are protected by law.

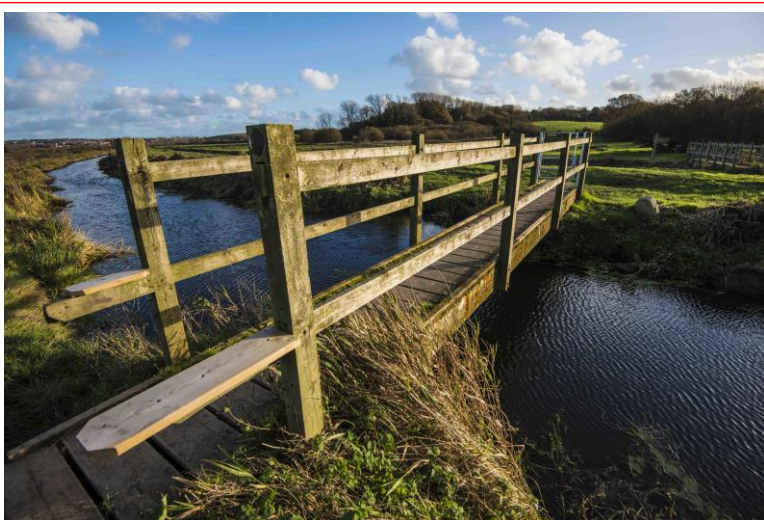
Historic England's website allows you to search the National Heritage List for England for such sites. This is the only official source for Listed and Scheduled sites in England and also includes information on protected wrecks, registered parks and gardens, and battlefields.

The National Heritage List for England can be searched via the following link- <https://historicengland.org.uk/listing/the-list/>

If you are planning on recording a Listed building or Scheduled Monument, it is vital that prior contact with the landowner is established, to discuss what you intend to record and why. It would also be recommended to consult with the local Historic Environment Record and Historic England to check if there are any restrictions in place before you conduct any field work.

Information regarding how to gain Listed or Scheduled status for surviving sites can be found on Historic England's website here- <https://historicengland.org.uk/listing/apply-for-listing/>

Many sites and structures sit within Sites of Special Scientific Interest (SSSI), Special Areas of Conservation (SAC), Special Protected Areas (SPA) and designated Nature Reserves.



### **Who owns what?**

*1066 Trail, Combe Valley, East Sussex. One of three bridges over valley drainage features on privately-owned farmland but with public footpath permission. This bridge structure is owned by East Sussex County Council. The footpath was instituted by Rother District Council.*

Again, it is best to consult with the landowner and Natural England before undertaking fieldwork within such protected sites. There may be restrictions due to nesting birds or flora and fauna within the designated area, and consent may be required before any fieldwork takes place. Consultation with the landowner and Natural England is very important to ensure that no damage is caused during the field recording process. In no circumstances should you attempt to clear vegetation or access sealed structures within SSSIs, SACs, or SPAs.

You can identify SSSIs via the Natural England website via the following link- <https://designatedsites.naturalengland.org.uk/>

Guidance for gaining SSSI consent can be found here- <https://www.gov.uk/government/publications/request-permission-for-works-or-an-activity-on-an-sssi>

Magic Map is an online application that makes it very easy to identify protected sites, such as SSSIs. The map also shows the boundaries of the protected areas. <https://magic.defra.gov.uk/MagicMap.aspx>

SACs can be identified via the following website- <https://sac.jncc.gov.uk/site/england>

Pillboxes and other wartime structures are often converted into Bat roosts. Interfering with a Bat roost is highly illegal and is classed as a criminal offence. Bat roosts are sometimes sealed and barred, which should act as an indicator not to enter. This is one of the many reasons contact with the landowner and any local organisations is a necessity.

It is your responsibility to gain the required permissions and consents BEFORE conducting fieldwork. Failure to do so may land you in trouble.

**Aircraft Crash Sites** All military aircraft crash sites in the UK are protected under the Protection of Military Remains Act 1986. It is an offence to tamper, damage, move or unearth remains at such wreck sites without a license from the Ministry of Defence. This covers all sites, irrespective of whether people were killed in the crash.

## **Heritage Crime**

Heritage crime has a severely negative impact on surviving sites and structures. This can be anything from vandalism or graffiti, through to the illegal excavation/metal detecting, or clearance of vegetation from sites without landowner consent and other relevant permissions.

Many sites sit within Scheduled Ancient Monuments (SAMs), or Sites of Special Scientific Interest (SSSIs). Such sites are strictly protected, and any unauthorised clearing of vegetation or excavation within them is highly illegal.

Report any heritage crime you encounter, either in person or online, by calling the Police on 101 or via available online forms. Contrary to what you may read online, you don't need to be the landowner to report heritage crime and the site does not have to be designated (Listed or Scheduled) to be reported.

If you do spot anyone undertaking illegal excavation, unsolicited clearance, or damaging sites, SAMs or SSSIs, it is best to contact the authorities immediately.

Please consult the Historic England Heritage Crime guidance for more information- <https://historicengland.org.uk/advice/caring-for-heritage/heritage-crime/>

## **Unexploded Ordnance**

Given the nature of sites from the Second World War, unexploded ordnance (UXO) is a present danger. If you encounter any objects which you believe to be UXO while conducting field recording, there are several steps to take to ensure your own safety and the safety of others.

- If you suspect that you have found UXO DO NO TOUCH, move, disturb, or tamper with the object.
- Photograph the object without disturbing it or write a description of what the object looks like and describe its location.
- If possible, mark the location of the suspected UXO without disturbing it, so that it can be found.

- Inform the Police that a possible UXO has been found. They will contact the authorities to ensure the item is disposed of.

## **Drones**

Use of drones is becoming more popular and they are frequently used to investigate heritage assets. If you use a drone, there are guidelines in place to ensure that it is used safely and legally within the UK. We recommend you consult the Dronesafe and the CAA websites to ensure that you are legal to fly and operating within current codes of practice- <https://dronesafe.uk/https://www.caa.co.uk/Consumers/Unmanned-aircraft-and-drones/>

A PDF copy of the Drone Code is available from [dronesafe.co.uk](https://dronesafe.uk/wp-content/uploads/2019/11/Drone-Code_October2019.pdf) here- [https://dronesafe.uk/wp-content/uploads/2019/11/Drone-Code\\_October2019.pdf](https://dronesafe.uk/wp-content/uploads/2019/11/Drone-Code_October2019.pdf)

It is also recommended that you contact your local Historic Environment Record to check whether they have the facility to archive video footage recorded during a drone survey and the formats required for this data. Remember, you are not effectively recording sites unless your data and reports are submitted to the local Historic Environment Record.

## **Criminal trespass and outdoor gatherings**

Blackstone's Handbook of Policing published by Oxford University Press points out that sometimes, for example 'opportunistic traveller's sites', causing 'anxiety and distress' to a landowner may not automatically be a criminal offence if the trespasser's intention is not to reside, gather or disrupt lawful activity – or if only one trespasser is involved, then the situation might be a civil matter rather than a criminal one.

There is separate legislation to deal with large outdoor music and dancing events or 'raves' under sections 63 to 65 of the Criminal Justice and Public Order Act 1994.

If at least two suspects are planning to live on land for a period of time, then they must first be asked to leave by the landowner and then only if they have caused damage or been threatening or abusive and also have six or more vehicles with them including any caravans or unroadworthy vehicles. Police would decide on their actions based on Section 61(1) of the Criminal Justice and Public Order Act 1994.

There are other categories of law called Aggravated Trespass, where the trespass disrupts or obstructs a lawful activity of the landowner or land adjoining it.

In all cases of possible trespass, the police will first decide if the situation is covered by criminal or civil law and if the latter, leave the remedy up to the landowner. Police are instructed to use their intervention to ensure a peaceful outcome to any civil trespass. However, where a trespasser enters private land as a civil offence could later be compounded if they commit burglary - then the trespass and burglary all become criminal offences.



*Public footpath beside the Combe Haven River in East Sussex. The legally accessible path is on land owned by Hastings Borough Council.*



## What is Illicit Metal Detecting?

It is any metal detecting that contravenes the Code of Practice for Responsible Metal Detecting in England and Wales (2017). There has been great concern about the practice of 'nighthawking' where illegal metal detectorists go out during darkness to plunder heritage sites. However, both by night and by day, vital information about past history is lost when metal detectorists act illegally. The concerns are detailed in a major article in the Guardian Newspaper that you can read here:

<https://www.theguardian.com/culture/2020/jun/02/theres-a-romanticism-about-nighthawking-but-its-theft-when-metal-detectorists-go-rogue>

In addition, a major guardian of heritage sites, English Heritage, has published an article about the rise in heritage crime using metal detectors.

<https://www.english-heritage.org.uk/about-us/search-news/rise-in-illegal-metal-detecting-at-english-heritage-sites/>

Thankfully, most metal detectorists are responsible, and some remarkable finds have been unearthed and reported in a proper and legal manner to County Finds Officers, who operate the Portable Antiquities Scheme. The Code is shown below.



*Farming at  
Worsham  
Barns, East  
Sussex.*

*Do you have  
the farmer's  
written  
permission to  
use a metal  
detector in  
open fields?  
Have you  
declared any  
finds to the  
Finds Officer of  
the County you  
are in?*

## Code of Practice for Responsible Metal Detecting in England and Wales (2017).

If undertaken responsibly metal detecting can make an important contribution to archaeological knowledge. This document aims to provide guidance for metal-detectorists who wish to contribute to our understanding of the history of England and Wales. It combines both the requirements of finders under the law, as well as more general voluntary guidance on accepted best practice.

### Being responsible means:

#### Before you go metal-detecting

1. **Not trespassing;** before you start detecting obtain permission to search from the landowner, regardless of the status, or perceived status, of the land. Remember that all land (including parks, public open-spaces, beaches, and foreshores) has an owner, and an occupier (such as a tenant farmer) can only grant permission with both the landowner's and tenant's agreement. Any finds discovered will normally be the property of the landowner, so to avoid disputes it is advisable to get permission and agreement in writing first regarding the ownership of any finds subsequently discovered.
2. Obeying the law concerning **protected sites** (such as those defined as Scheduled Monuments, Sites of Special Scientific Interest or military crash sites, and those involving human remains), and also those other sites on which metal-detecting might also be restricted (such as land under Countryside Stewardship or other agri-environment schemes). You can obtain details of these sites from several sources, including the landowner/occupier, your local Finds Liaison Officer or Historic Environment Record or from [Magic](#), [Historic England](#) or [Cadw](#), which will help research and better understand the site.  
Take extra care when detecting near protected sites since it is not always clear where the boundaries of these lie on the ground.

3. Familiarising yourself with the **Portable Antiquities Scheme** (including contact details for your local [Finds Liaison Officer](#), telephone 0207 323 8611), and its guidance on the recording of archaeological finds discovered by the public; make it clear to the landowner that you wish to record finds with the Portable Antiquities Scheme. Ensure that you follow current [conservation advice](#) on the handling, care, and storage of archaeological objects.
4. Obtaining public liability insurance (to protect yourself and others from accidental damage), such as that offered by the National Council for Metal-Detecting or the Federation of Independent Detectorists.

### **While you are metal-detecting**

1. Working on **ground** that has already been disturbed (such as ploughed land or that which has formerly been ploughed), and only within the depth of ploughing. If detecting takes place on pasture, be careful to ensure that no damage is done to the archaeological value of the land, including earthworks. Avoid damaging stratified archaeological deposits (that is to say, finds that seem to be in the place where they were deposited in antiquity) and minimise any ground disturbance through the use of suitable tools and by reinstating any ground and turf as neatly as possible.
2. **Stopping any digging** and making the landowner aware that you are seeking expert help if you discover something below the ploughsoil, or a concentration of finds or unusual material, or wreck remains. Your local Finds Liaison Officer may be able to help or will be able to advise on an appropriate person. Reporting the find does not change your rights of discovery but will result in far more archaeological evidence being recovered.
3. Recording **findspots** as accurately as possible for all archaeological finds (i.e. to at least a one ten metre square - an 8-Figure National Grid Reference), using a hand-held Global Positioning Systems (GPS) device whilst in the field or a 1:25000 scale map if this is not possible.

Bag finds individually, recording the National Grid Reference on the bag with a waterproof/indelible marker.

Archaeologists are interested in learning about all archaeological finds you discover, not just metallic items, because such finds contribute to knowledge.

4. Respecting the [Country Code](#) (leave gates and property as you find them and do not damage crops, frighten animals, or disturb ground nesting birds, and dispose properly of litter).

### **After you have been metal-detecting**

1. Reporting all archaeological finds to the relevant **landowner / occupier**; and making it clear to the landowner that you wish to record archaeological finds to the Portable Antiquities Scheme, so the information can pass into the local Historic Environment Record. Both the Country Land and Business Association and the National Farmers Union support the reporting of finds with the Portable Antiquities Scheme. Details of your local Finds Liaison Officer can be found at <https://finds.org.uk/contacts>, e-mail [info@finds.org.uk](mailto:info@finds.org.uk) or phone 020 7323 8611.
2. Abiding by the statutory provisions of the **Treasure Act 1996**, the *Treasure Act Code of Practice* and [wreck law](#). If you wish to take artefacts and archaeological material older than 50 years old out of the UK, you will require an **export licence**. If you need advice your local Finds Liaison Officer will be able to help you.
3. Calling the Police (101), and notifying the landowner/occupier, if you find any traces of **human remains** or a likely burial; human remains can only be disturbed further with a [Home Office licence](#).
4. Calling the Police or HM Coastguard, and notifying the landowner/occupier, if you find anything that may be a live **explosive**, device, or other ordnance. Do not attempt to move or interfere with any such explosives.
5. Calling the Police if you notice any illegal activity whilst out metal-detecting, such as theft of farm equipment or **illegal** metal-detecting (nighthawking). Further details can

be found by contacting Historic England/Cadw or the 'heritage crime' contact within your local police force.

## Finding out more about archaeology and metal detecting

- You can find out more about the archaeology of your own area from the **Historic Environment Records** maintained by local authority archaeology services (in England) and the Welsh archaeological trusts. Also the [Heritage Gateway](#) (in England) and [Archwilio](#) (in Wales).
- For further information about the **recording and reporting** of finds discovered by the public and the **Treasure Act 1996** contact the [Portable Antiquities Scheme](#) (email [info@finds.org.uk](mailto:info@finds.org.uk) / telephone 0207 323 8611).
- For further information about how you can become involved in archaeology contact the [Council for British Archaeology](#) (telephone 01904 671417). They can also supply details of local archaeology societies.
- You can find out about metal detecting via the [National Council for Metal Detecting](#) or the [Federation of Independent Detectorists](#).

Revised 23 October 2017

This Code has been endorsed by: Amgueddfa Cymru - National Museum of Wales / PAS Cymru, Association of Local Government Archaeological Officers, British Museum / Portable Antiquities Scheme, Chartered Institute for Archaeologists, Council for British Archaeology, Country Land & Business Association, Institute for Archaeology (University College London), Historic England, National Farmers Union, Royal Commission on the Historical & Ancient Monuments of Wales, Society of Museum Archaeologists.

A link to the Code:

<https://finds.org.uk/getinvolved/guides/codeofpractice>

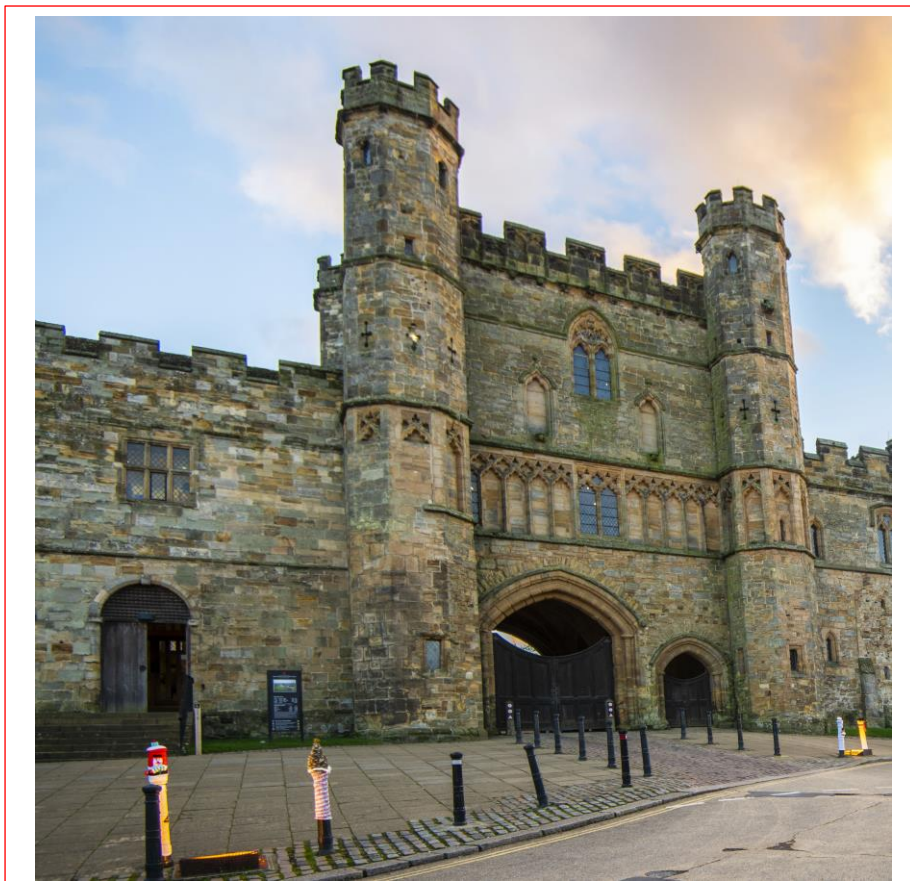
To report Illicit Metal Detecting to police call 101 or check with your local police force online for their reporting form. If evidence is left behind, tell the police, and ask how you can preserve the evidence.

Alternatively you can contact the independent charity Crimestoppers, anonymously, on 0800 555 111, or online at [www.crimestoppers-uk.org](http://www.crimestoppers-uk.org)

England is very fortunate to have a great community of finders, including metal detector users together with a positive and dynamic working relationship between detectorists, archaeologists and the local police officers and staff.

The majority of hobbyists care deeply about our shared heritage and record their finds with the Portable Antiquities Scheme. Unfortunately, a small number of detectorists exploit their hobby in order to obtain archaeologically important artefacts and attempt to profit from their illegal activity. Please don't forget – if you see illegal activity ongoing call 999 - and if you find evidence of illegal activity afterwards, call 101 and report it.

Thanks to Mr Daryl Holter, Heritage Crime expert, for this interview.



*Battle Abbey,  
East Sussex*

## **THE LAWS APPLYING TO LAND OWNERSHIP AND TRESPASS**

**Criminal Justice and Public Order Act 1994**

**Ancient Monuments and Archaeological Areas Act 1979: –**

**Restrictions on use of metal detectors**

**Damaging certain ancient monuments**

**Control of works affecting scheduled monuments**

**Town and Country Planning Act 1990**

**Clean Neighbourhoods and Environment Act 2005**

**Criminal Damage Act 1971**

**Protection of Wrecks Act 1973**

**Treasure Act 1996**

**Merchant Shipping Act 1995**

**Protection of Military Remains Act 1986**

**Theft Act 1968: including Burglary and Going Equipped to Steal**

**Dealing in Cultural Objects Act 2003**

**Road Traffic Offences Acts**

**Hedgerow Protection Act**

The **Hedgerows Regulations** 1997 were made under Section 97 of the Environment Act 1995 and came into operation in England and Wales on 1 June 1997. They provide important **protection** by prohibiting the removal of most countryside **hedgerows** (or parts of them) without first notifying the local planning authority (LPA).

There is a comprehensive set of Heritage Laws covering all site activity. Early laws include the Ancient Monuments Protection Act (1882) and the Town and Country Planning Act (1947).

A new start in law for all archaeology was the Ancient Monuments and Archaeological Areas Act 1979 (AMAA) which enabled English Heritage to schedule sites for protection by the Secretary of State.

However, since 2008, all archaeology and heritage laws have been 'overhauled'. There are now Heritage Protection laws, Marine Protection, and a new Planning Act of Parliament.

Locations have sometimes become protected by the rules on Areas of Outstanding Natural Beauty and Sites of Special Scientific Interest. The Civil Amenities Act (1967) permitted the designation of an area for conservation because of its architectural or historic interest. This Act was replaced in 1990 by the Planning (Listed Buildings and Conservation Areas) (England) Regulations that have been updated in 2009 and 2013.

The Marine and Coastal Access Act (2009) allows for the specifying of Marine Conservation Zones.

The major Town and Country Planning Act (1971) ensured that local authorities must take archaeology into account when considering planning applications. This was enhanced by Planning and Policy Guides (PPG16). This was replaced by the Planning and Policy Statement (PPS) 5 (2010). Then, in 2012, the National Planning Policy Framework (NPPF 2012) was introduced.

Internationally, there is the World Heritage Convention (1972) which protects many global sites, and the Valetta Convention (1992) – the European Charter for the Protection and Management of the Archaeological Heritage (2001).

The old laws on the discovery of 'treasure' were replaced in 1996 by the Treasure Act (1996).



# If a crime may have been committed:

## What the Police will want to know

If a landowner contacts the police to claim that an offence of trespass has been committed, then the police will need to see if the potential offence is a civil tort or a criminal offence. If it is a civil tort, then the police will leave the matter to the landowner and their solicitors. If it is considered a criminal matter, then the police will need more information.

The police will probably try to establish the exact time and date of the offence and then speak to the landowner and any witnesses.

They would be interested in the method of entry to the private land or protected heritage site - and the manner in which property is removed or damaged. Additionally, they would require full descriptions of all property stolen or damaged, with photographs if possible and damage values. They would be interested in any form of property marking that a landowner has implemented.

The Police would likely then try to find out if anybody saw or heard anything suspicious.



*Ancient map of Sidlesham, Selsey, West Sussex showing the point where Aelle the Saxon warrior allegedly landed at Cymensora in 477 AD - what is now known as Church Norton. An important heritage site.*

*Image: Bexhill OSM*



# What is Heritage Crime?

## INTERVIEW WITH MR DARYL HOLTER

Extract from the Heritage Crime website: <https://davidbexhill.wixsite.com/heritage>

Our Heritage File site administrator recently interviewed our Heritage Crime expert, Mr Daryl Holter, seeking an answer to the obvious question – What is 'Heritage Crime'?

My name is Daryl Holter. I grew up with a passion for history, so helping to protect our nation's heritage is second nature to me. Therefore, over the last seven years, I have become increasingly involved in preventing heritage crime.

### **What is Heritage Crime?**

Heritage crime is any offence which harms the value of England's heritage assets and their settings to this and future generations. To many criminals, historic buildings, churches, houses, castles, forts, earthworks, battlefields, wreck sites and other historic sites are simply sources of illicit gain, damage, or diversion. These heritage assets are often exploited with no regard to what they may represent to the communities in which they are located. Those who (for instance) are knowingly buying stolen scrap metal or stolen relics from heritage assets are creating a market which is driving heritage crime, some of these buildings have been around for hundreds of years, surviving world wars and the elements of time and nature but are now being spoiled by us.

There are several reasons behind these crimes, greed, selfishness, sheer wanton vandalism, a misguided self-belief of saving our heritage and simply unknowingly committing offences. Churches are often a victim to heritage crime. Offertory boxes, for example, are forced open or stolen for the donations they may contain, lead is indiscriminately pulled up off roofs, tiles and stonework taken or stained-glass windows removed.

All are testament to the skills of medieval artisans, and many are stolen or smashed beyond repair - destroying in a moment something that has been familiar to and appreciated by generations. These crimes often damage the very fabric of the building. Their impact is immeasurable, as, even though items might be restored or replaced, the link to the past has gone forever. Heritage crime can have a devastating impact on local communities, far outweighing the material loss suffered.

Another factor is provenance. Provenance in this example being the sequence of events connected to a historical object. This is key: if items are stolen or removed, it will not only affect us today, but it will also affect future generations' understanding of our past. When items are illicitly removed and not recorded essentially a piece of our history is stolen. Linked to this are those crimes which are unknowingly committed and pose a great threat to our heritage especially when theft also results in damage.



Examples of disturbance at protected sites by illegal metal detectorists. Images: Daryl Holter  
An example of this might be illicit metal detecting or unauthorised off-road driving on sites of historical and archaeological importance. Both have impact on archaeology and artefacts, not only are items removed but their context is destroyed resulting in an irreplaceable loss of information.

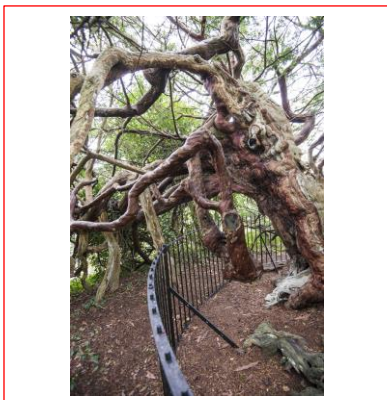


Heritage crime can be organized and be carried out by an individual or group. This area of crime can be difficult to pre-empt, and it underlines the need for constant vigilance on the part of everyone to whom such things are important. I work with many partner agencies and authorities to enable me to deal with reports effectively and with most impact. The expertise of these partners helps me to address issues comprehensively. We all have different tools at our disposal, and where one may not be able to deal with an issue, generally another can. It is through our combined strengths that we are most effective.

Understanding the heritage and how it sits within the local community, combined with education, prevention, engagement, and support can help save our shared heritage. I support volunteers, local groups and societies who work tirelessly to preserve our heritage, we are all one community.

### **Heritage Co-operation**

Sussex Heritage Community work very closely with museums, especially Bexhill Museum and Heritage Eastbourne who often help me. I also work with many heritage sites including Battle Abbey, Pevensey Castle and Shoreham Fort. I have also been fortunate to work alongside The Diocese of Chichester, Church Heritage Eastbourne, and Ecclesiastical Insurance – all four of us helping with Diocesan Road Shows. I further hope that this will inspire others to increase cohesion between partners and communities to reduce heritage crime.



*The 2,000-year-old King Harold Yew Tree at Crowhurst East Sussex on land belonging to the Church of England. You have the right to view but no right to enter behind the fence nor to touch, climb on or interfere with the tree in any way.*

**Daryl makes this plea:**

“We have a choice to defend our heritage, past, present and future. Some take our past heritage for granted; some forget it is amongst our present. We walk on it, drive through it and fly over it.

To many I have met it inspires belief, understanding, feeling, depth, culture, and emotion. A sense of community, ownership, tradition and belonging. It is tangible, it has mystery, it is constant and priceless.

When it falls victim to abuse it is all our moral responsibility to protect our past. It is our future generations that should have opportunity to rediscover, enjoy, experience, and interpret the old and the new. We are but custodians of a rich heritage that tells of our journey. Together describes the action needed to preserve our past. Together bonds us as a community, a group, or a family. Communities are what hold us together, they watch over our heritage.”

**Please report all heritage crime at the time on 101 or 999 or alternatively you can contact Crimestoppers anonymously on 0800 555111.**

## CONCEPT, DESIGN AND PHOTOGRAPHY

### Attributions

With special thanks to Chris Kolonko and Peter Hibbs of the UK Second World War Heritage Group for this collaboration, please see :

<https://ukswwh.wordpress.com>

**This is a Sea Road Arts Guide: Design and Photography:** David EP Dennis BA(Hons) FCIPD LCGI RAF. All photos by David unless otherwise stated in the photograph caption. Contents compiled to support the work of Mr Daryl Holter of Sussex Heritage Community.



### ***Our Glorious Heritage***

***Above:*** Sweet Track replica, Avalon Marshes, Somerset.

***Left:*** View of Chichester Cathedral over the Chichester Canal at Poyntz Bridge, the location used by the great landscape artists JMW Turner to paint this scene.