

Natural England's Coastal Access Programme

Frequently Asked Questions (FAQs)

NOTES

These FAQs deal with common questions about Natural England's role in implementing the Coastal Access provisions of the Marine and Coastal Access Act 2009.

If you have further questions, please contact the Natural England coastal access enquiry service:

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Telephone: 0300 060 2067.

If you have any questions regarding the content of the Coastal Access legislation, please check <http://www.defra.gov.uk/rural/countryside/coastaccess.htm> in the first instance.

1. Current position

1.1 What is the current position?

Work has started on the England Coast Path - a new National Trail around all of England's open coast.

The England Coastal Path is possible because of the Marine and Coastal Access Act 2009 (the 2009 Act). For the first time people will have the right of access around all of England's open coast, including – where appropriate – 'spreading room' along the way where they can rest, relax or admire the view.

Local people, including owners and occupiers of coastal land, local access forums and key interest groups, will be fully consulted about the new access arrangements.

The new rights are not yet in force and will be brought into effect at different times around the coast.

The first stretch of the new England Coastal Path, at Weymouth Bay in Dorset, will open in time for the Olympic and Paralympics sailing events which will take place there in July 2012.

In Spring 2011 we will start delivering the next 5 stretches:

- Cumbria – from Whitehaven to Allonby
- Durham, Sunderland and Hartlepool – from Seaton Carew to North Bents
- Norfolk - from Weybourne to Sea Palling
- Kent - from Ramsgate to Folkestone
- Somerset - from Minehead to Brean Down

Our website has the most up to date information about our activity on each stretch of coast:

www.naturalengland.org.uk/coastalaccess

2. Natural England's role and responsibilities in relation to coastal access

2.1 What is Natural England's role?

The 2009 Act places a duty on the Secretary of State and Natural England to secure a long distance walking trail around the open coast of England – the England Coast Path - together with a wider area of land along the way for people to enjoy – what we call 'spreading room'. As part of this process Natural England will also propose any restrictions or exclusions it considers necessary on the new access rights over this land.

Natural England will do this by preparing a series of reports recommending a coastal route to the Secretary of State, each relating to a different stretch of the English coast. Our approach to the preparation of these reports (including detailed local consultation) must be in accordance with our [Coastal Access Scheme](#).

2.2 What is the purpose of Natural England's Coastal Access Scheme?

The Scheme is the methodology for the process of local implementation of the new rights. It has been approved by the Secretary of State.

The Scheme sets out in detail the approach that Natural England will take and the criteria that will guide its recommendations to the Secretary of State for each stretch of coast. It also explains how the new access arrangements will be established and managed, once the Secretary of State has approved proposals for a stretch of coast. The Scheme was developed in close consultation with key stakeholders, and reflects extensive fieldwork and testing around the coast in order to get the fine detail right.

3. Environmental Protection and Enhancement

3.1 How will the coastal environment be protected?

The key principle in our approach will be to strike the right balance for each circumstance between securing opportunities for the public to enjoy the coastal environment and ensuring appropriate protection for it. This is in keeping with our statutory purpose to conserve, enhance and manage the natural environment for the benefit of present and future generations.

We will avoid the new access arrangements leading to any harmful impacts on key features through the sensitive way in which the trail is aligned and managed.

In particular, on Natura 2000 sites we will ensure the protection of the relevant features in accordance with Article 6.3 of the Habitats Directive, using a rigorous screening and assessment process and taking steps to ensure no adverse effect. Natural England has a statutory duty to carry out this work. The Scheme explains how we will do this. We will also conduct a strategic environmental assessment (SEA) if any situation were to arise where our proposals would potentially affect European wildlife sites.

In relation to historic and archaeological features, we will consult English Heritage as the 2009 Act requires and where appropriate seek advice from local government archaeological officers during the preparation of our coastal access proposals for each stretch.

3.2 Will there be environmental enhancement as well as protection?

We will build on the important results we already achieve in partnership with coastal land managers through our agri-environment programmes. We will aim to ensure that further environmental enhancement is secured within the coastal corridor, both for its own sake and to add to the quality of people's experience and enjoyment of the coast, alongside our local alignment of the new access rights.

4. Implementation

4.1 How long will it take to establish the new coastal access rights on each stretch?

The new rights will be commenced on the Weymouth stretch in time for the opening of the Olympics in 2012.

We expect each other stretch of coast to have the new right of access in place within 4 years of starting work there. Therefore the stretches we start in 2011 will have the new right commenced by 2015.

4.2 How much will it cost to implement coastal access?

Natural England is working closely with Defra to ensure that coastal access is delivered as cost effectively as possible.

Our reports for the Secretary of State will set out estimates of the cost of establishing and maintaining the route along each stretch of coast.

The information gathered during the Access Audit estimated that capital works in the region of £4.5 million will be required to put in place the infrastructure required to deliver a route for the whole English coast..

The other costs involved in implementing the new access provisions are staff costs for the organisations involved in their delivery: Natural England , local access authorities, Defra and the Planning Inspectorate.

4.3 What is the approach to funding maintenance of the coastal trail?

Some two-thirds of the English coast is served by public rights of way. The England Coast Path will follow these wherever they meet the criteria in the 2009 Act and the Scheme. So the key responsibility for maintenance will continue to sit with local highway authorities, who also have maintenance powers under the legislation in relation to new stretches of the route. This reflects the recreational and economic benefits that are expected to be gained by their local communities when existing path problems are resolved using the new Coastal Access powers.

Natural England is committed to finding a sustainable, long-term model for the future management of all National Trails, including the England Coast Path. We envisage continuing to work in partnership with local authorities and making a significant ongoing contribution to the cost of maintaining National Trails. Other sectors also have an potential important role to play and we plan to seek opportunities for local partners and voluntary bodies to be more actively involved in the delivery of National Trails, in line with Government policy on working with civil society. We are convening discussions with

key interests about these inter-related roles and about any associated maintenance issues on the coast.

4.4 Who is going to do the implementation work?

The implementation of the Coastal Access programme will be led by Natural England. Local delivery will be undertaken by Natural England staff with all relevant local authorities working in close partnership. All stakeholder interests will have an opportunity to input into the delivery of Coastal Access.

4.5 Who will be consulted?

There will be extensive local consultation throughout the period during which we prepare our access proposals for each stretch of coast, as set out in detail in chapter 3 of the Scheme.

When starting work on a stretch of coast, we will hold strategic discussions with key local interests including any relevant local access forums, local authorities, and representatives of key interests.

When undertaking the detailed alignment process, we will 'walk the course' with occupiers of affected land wherever they are willing to do this, to get their views about the best position for the trail and to hear any concerns about how access might affect their own use of the land. Under the Act, we must aim to strike a fair balance between the interests of the public in having rights of access over coastal land, and the interests of owners and occupiers of land over which any new rights would be conferred.

Once we have finished the 'walking the course' process we will publish Draft Proposals and invite the public to comment on them.

After the public consultation, we will give careful consideration to the comments we receive before preparing a report for submission to the Secretary of State.

After we have submitted our report, there is an eight-week period during which:

- Any person may make representations to us about the report; and
- Owners and occupiers of affected land may submit a formal objection if they wish to.

The Secretary of State for Environment, Food and Rural Affairs will make a decision about the report when all representations and objections have been considered. Establishment of the new access arrangements will not begin until that decision is made.

4.6 What will happen to representations about the report?

We must send certain representations to the Secretary of State in full, together with a summary of all the other representations we have received. The 2009 Act and subsequent regulations list those representations which must be sent in full (this list is included in Defra's guidance – linked below).

We cannot change our report in response to representations, but we are able to make comments relating to particular points that have been put to us. For example our comments might recommend the Secretary of State to make modifications to the proposals in response to a particular representation, or they might explain why we do not think that any modification is necessary.

Defra have published detailed guidance about the representations and objections process at:

<http://www.defra.gov.uk/rural/countryside/access/>

4.7 What will happen to objections about the report?

Natural England will send any objections to the Secretary of State, who will forward them to an appointed person who will decide if they are admissible. Admissible objections will be considered by the appointed person, who will be a Planning Inspector. Defra's guidance explains the procedures for this in more detail.

We cannot change our report in response to objections, but we will be asked to make comments relating to any objection which the inspector decides is admissible. For example our comments might recommend the Secretary of State to make modifications to the proposals in response to a particular objection, or they might explain why we do not think that any modification is necessary.

Defra have published detailed guidance about the representations and objections process at:

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4.8 How will you work with Local Access Forums (LAFs) during the implementation process?

We acknowledge the important strategic role that local access forums have to play during rollout. We will consult the relevant local access forum(s) when we start work on each stretch of the coast, and again when we publish our draft recommendations for the stretch. On publication of our final report, we will invite representation from the local access forums on the affected stretch, as required by the legislation. Representations from the relevant local access forums will be sent in full to the Secretary of State for consideration alongside our recommendations.

It is our hope that LAFs will recognise the opportunities that coastal access will bring and fully engage in the implementation process.

4.9 How will the implementation process affect existing proposals to improve access to the coast?

Our proposals will incorporate existing satisfactory access arrangements along the coast where appropriate, and will take full account of existing and future local proposals for improvement as we develop our report for each stretch of coast.

5. Alignment of the Coastal Trail

5.1 How will affected land be identified?

In the Scheme we call the process of identifying the affected land 'the alignment process'. It involves mapping the proposed route of the trail around the coast, and identifying the related 'spreading room' along the way. The local access authority is closely involved in considering these issues and there is extensive consultation with owners and occupiers of the affected land and other local interests – see question 4.5. Natural England makes the final decisions on what to propose to the Secretary of State.

As required by the legislation, our report to the Secretary of State clearly indicates where the landward boundary of the coastal margin would fall under our proposals. Where this boundary is significantly different from the proposed route of the trail, it is depicted on the maps we include with our report. The normal principle is that all land seaward of this line is spreading room. This is subject to various exceptions under the legislation – for example land covered by buildings or their curtilage is not subject to the coastal access rights.

5.2 Will Natural England be able to realign the coastal trail later?

Yes. On eroding coasts we will have powers to make changes to the route in accordance with proposals set out in our reports - see question 5.3. This will happen without further approval by the Secretary of State.

We will be able to make changes to the trail and spreading room in other circumstances too – for example where there is new development or managed realignment of coastal defences – but such changes must first be set out in a further report to the Secretary of State and the procedures for public consultation and formal representations and objections will apply.

We will also have the ability to impose new restrictions or exclusions on the coastal access rights if they become necessary through a change in circumstances – or to remove them if they cease to be necessary in the future.

5.3 Doesn't the coast erode? Won't the coastal trail disappear?

Many sections of coastline are changing – some rapidly – because of erosion, landslip or other geomorphological processes. The Act allows us, for the first time, to identify in our coastal access reports relevant sections of the trail that we may in the future adjust in response to any future change of this kind in accordance with proposals set out in the reports. Changes in accordance with these proposals will happen without further approval by the Secretary of State. In the Coastal Access Scheme we call this provision 'roll back'.

5.4 What influence will the new right have on being able to develop land?

Future development of land is not restricted under the legislation. The new rights are about access, not development control.

5.5 What will happen when coastal access meets an existing development?

The principle on the open coast is that the trail should be continuous as a result of the alignment process. Our proposals can provide detours in the most appropriate way around obstructions such as big industrial sites or secure ports. We will always work with the land owners or operators with the aim of agreeing a sensible way forward to provide access around the coast, preferably on the seaward side.

5.6 What about estuaries?

The Act imposes no obligation on Natural England to continue the trail around an estuary – but we have power to do so. When going through the alignment process on a stretch of coast, we always consider whether to use this power on any estuary that it contains.

We may adopt as the crossing point the first existing bridge or tunnel with pedestrian public access, or a convenient ferry downstream of that point. Equally the Act allows us to stop the trail short of the first bridge or tunnel at a specified point between that and the 'seaward limit' – a point defined by the Environment Agency as the 'start' of an estuary. The alignment criteria that we will use in reaching our conclusions for specific estuaries are explained in section 10.2 of our Scheme and chapter 11 provides some illustrative examples.

5.7 What impact will the new rights have on coastal farming?

Chapter 8 of the Scheme sets out how we will take account of agricultural land uses and management issues in reaching our view as to how the coastal access rights should be put in place. For example, where a cliff-top field is cropped, the access corridor would typically run along the cliff top and would not affect the rest of the field. Arable crops will usually stop well short of the cliff edge in practice. Whilst the trail may pass across arable land, there is no provision for spreading room on it.

We will discuss with the farmer any special requirements, for example in relation to dog control around food crops. The legislation states that dogs will have to be kept on short leads around livestock, and under effective control elsewhere see question 6.6.

5.8 What about busy roads?

Wherever there is a reasonable alternative, Natural England will avoid aligning the trail along a road used regularly by motor vehicles. The position of road crossings that prove necessary will be chosen with safety and convenience in mind.

5.9 What about existing rights of way or highways?

These rights will continue to exist and existing legal responsibilities for their maintenance will be unchanged. We can 'adopt' such routes as part of the trail, and often do so. Where they are threatened by erosion or landslip, we can propose in our reports that the new route should roll back with the changing coastline in accordance with proposals set out in the reports – without further approval from the Secretary of State. The new "coastal access" rights provided under section 2(1) of the Countryside and Rights of Way Act 2000 (CROW) would then come into effect along such a new route as and when it moves off the line of the existing right of way in response to erosion.

5.10 What new provision will be made to reach the coast from inland?

Often there is good access to the coast from inland and this is not normally a priority for improvement. Where practical our proposals for the trail will link up with walking routes leading to and from the coast, and with public transport links and existing car parks.

5.11 Will there be new access rights over salt marshes and flats?

Not normally. Many areas of this type are unsuitable for public access, so the coastal trail will not normally be aligned over them, and we will typically use directions to exclude them from the 'spreading room'. The Order provides a specific power for us to exclude access from salt marsh and flats that we consider unsuitable for public access.

Section 7.15 of the Scheme sets out our approach to the use of this power and the criteria we will follow. We will ask local interests to help us to identify any areas that they

consider “suitable” or “unsuitable” in terms of the criteria, including areas that are already used by the public in this way. Even where access to salt marsh or flat is considered “suitable” in these terms, we will consider whether it is necessary to exclude access on other grounds such as nature conservation.

5.12 What happens to land already subject to entry charges?

Where businesses wish to charge visitors for goods, services or facilities, the coastal access rights will not prevent it. This includes for example charges for parking or deck-chair hire, entry to attractions such as theme parks, historic buildings or formal gardens, and permits for activities not covered under the access rights. However, businesses will not be able to charge the general public to enter land where the coastal access rights apply for activities covered by the rights.

Most managed visitor attractions which the public pay to enter will not be affected by the new coastal access arrangements. For cases where they may be, section 8.16 of our Scheme sets out how we will aim to prevent the businesses suffering significant loss of income from the introduction of coastal access rights. If, on the basis of the evidence available at the time, we think significant loss of income is likely, we will include specific recommendations to prevent this happening.

5.13 Will islands be included in the new right?

Islands will be included within the scope of the coastal access powers if it is possible to walk to them from the mainland or from another accessible island – including over a causeway at low tide. The Secretary of State may include other islands by means of an Order if she is satisfied that the coastline of that island is long enough to provide a long-distance walk. The Isle of Wight is expected to be included in this way.

5.14 Will golf courses be included?

If it is not viable to align the trail to the seaward of a coastal golf course, it may be aligned through the course instead along an access strip. Natural England has discussed its approach fully with representatives from the golf industry and any route will be chosen to balance business interests with public interests. Natural England will consult closely with the course manager when considering the best alignment. Where we recommend a route through a golf course, there will be no new access to the playing areas of the course other than to the access strip along which the trail passes.

5.15 Will caravan parks be subject to the new right?

If it is not viable to align the trail to the seaward of a caravan site or camp site, it may be aligned through the site instead along an access strip. The route will be chosen to balance business interests with public interests and Natural England will consult closely with the site manager when considering the best alignment. Where we recommend a route through a caravan or camping site, there will be no new access to the site other than to the access strip along which the trail passes.

6. Managing Coastal Access Rights

6.1 How will the coastal trail be marked on the ground?

Often the route of the trail will be clear on the ground without any special intervention. We will use visual indicators where necessary to help people follow it. Carefully targeted signs and access infrastructure will enhance the overall convenience of the trail. They should meet the same quality standards as on other National Trails, so helping people to enjoy the trail with confidence and certainty.

6.2 How will this new right of access be managed to avoid impacts on other land uses?

Concerns about potential impacts on other land uses will be picked up early in the implementation process, when walking the course. Our consultation on the draft report provides a further safety net to ensure we address these issues.

Where some intervention is required to address such issues, we always consider first whether informal access management such as signs or other information will meet the need. Section 6.5 of our Coastal Access Scheme explains more about common informal management techniques. Where we conclude that informal management would be inadequate, or where it would place an unreasonable cost on the affected land manager, we have powers to restrict or exclude specific activities locally as necessary. There are also powers to divert the trail temporarily when the need arises, for example to enable works to take place.

Ongoing monitoring of the trail and spreading room will pick up any future requirements of this kind.

6.3 When would alternative routes be made available?

The Act provides powers to provide an alternative route that would be available at times when access to the ordinary route is excluded, or to provide an optional alternative route for the public to use when the ordinary route might reasonably be regarded as unsuitable for use because of seasonal flooding, erosion, or other geomorphologic processes. Signing will be used if necessary to indicate the situation on the ground.

6.4 Does Natural England operate an exclusions and restrictions regime, as under CROW?

Yes - but it operates differently. Local exclusions and restrictions that are necessary from the outset, and any powers we think are needed to propose alternative routes will form part of our initial proposals to the Secretary of State. Thereafter, we can put in place additional exclusions, restrictions and temporary diversions, or review existing ones, if circumstances change. Once a coastal access report has been confirmed, any person with a relevant interest in the land may apply to Natural England for a direction to restrict or exclude access on grounds set out in the legislation. Natural England may also give a direction without an application being received.

The discretionary restriction powers that operate on open country and registered common land (the 28 day power and the special dog bans on grouse moors and lambing enclosures) do not apply to land with coastal access rights. Instead, any necessary controls are put in place through the regime set out above.

6.5 What about existing access land on the coast?

Where land which already has CROW access rights is included as spreading room on the coast, or as part of the coastal trail, the coastal regime rather than the CROW regime will apply.

On “Section 15 land” (land that prior to CROW was already subject to the types of access right listed in CROW section 15), the pre-existing rights will continue to apply. Such rights often include higher rights, e.g. to ride a horse. The Glossary of Terms in the Coastal Access Scheme includes a fuller explanation of section 15 land.

6.6 Will people with dogs be allowed to use the new coastal trail?

Yes. Normally people will be allowed to bring dogs provided they keep them under ‘effective control’ at all times. Under the legislation, ‘Effective control’ means the person must:

1. keep the dog on a lead; or
2. keep it within sight, remain aware of its actions and have reason to be confident that the dog will return reliably and promptly to them on command; and
3. in either case, keep the dog on land with coastal access rights or other land to which the person has a right of access.

As on other land with CROW access rights, a person with a dog must keep it on a short lead in the vicinity of livestock.

Where there is a need for further controls in particular places, for example for land management or wildlife reasons, we may give directions to restrict or exclude access for people with dogs. We will aim to avoid excluding access to the trail in this way.

6.7 Who is responsible for enforcing access should someone block the coastal trail?

People are not permitted to obstruct each others’ passage along the trail and we think it unlikely that they would do so in practice.

Should the trail become obstructed as a result of the actions of an owner or land manager, we or the access authority will approach them to discuss how best to address the problem. Natural England and the access authority have powers to remove such obstructions in cases where we are unable to reach agreement for their removal by the owner or occupier.

7. Coastal Access Audit

7.1 What was the Coastal Access Audit?

In 2008 Natural England worked with all 53 coastal access authorities to complete a desk based audit of the 4,422km (2,748 miles) of the English coastline. The audit provides a best estimate of the extent to which there is currently a satisfactory, legally-secure coastal path. The results showed that a third of the English coast lacks such a path, and that these ‘gaps’ regularly interrupt the sections with a good path. The average length of secure, satisfactory path before reaching such an interruption is less than two miles.

In addition, the audit showed that as things stand, a further 13% of existing public rights of way around the coast would be lost to erosion over the next 20 years. The new coastal trail will be able to ‘roll back’ automatically in such situations, so preventing future loss of continuity.

The audit was carried out to inform our implementation planning and resource estimates. It carries no weight when we start the formal alignment process, which involves full consultation with landowners, land managers and other interested parties.

7.2 Is the audit information available?

The findings from the audit have been published on our website in a report:

["Coastal Access: An audit of coastal paths in England 2008-09"](#).

8. Delivering Wider Opportunities

8.1 Why doesn't the Act extend the new Coastal Access rights to horse riders and cyclists?

The Act will enable more people to enjoy the coast on foot. The previous Government's view when enacting it was that it would not be practicable on the coast to give the same right of access to horse riders or cyclists: rather, voluntary dedication of higher rights should be sought at the local level where this could be achieved.

We make clear in our proposals that existing rights and traditions of access are unaffected. We will work with access authorities and local interests to ensure that this is reflected in any local signage etc. We will remain alert to any new local opportunities to provide access improvements for horse-riders and cyclists, but ultimately the decision about this rests with the landowner.

8.2 What steps is Natural England taking to ensure that the coastal trail is accessible for people with reduced mobility?

Natural England will not fund structures on *new* sections of coastal trail, or within the coastal margin, that in themselves form barriers to people with reduced mobility. To avoid creating new obstructions, we will aim to use gaps to cross field boundaries where livestock control is not an issue, or install new gates rather than new stiles where livestock will be present.

In addition we will encourage local access authorities to take local opportunities to make suitable sections of trail more accessible for people with reduced mobility, for example by removing existing obstructions to their access, such as stiles, as part of the normal maintenance cycle. This needs to be done in close consultation with occupiers and local representatives, and with due sensitivity for the historic environment and land management needs.

Section 4.3 of the Scheme sets out our approach to these issues in more detail.

9. Public Safety

9.1 How will Natural England ensure public safety on the coastal trail?

Vast numbers of people visit the coast every year. Most people already understand that the coast can be a dangerous environment, and are aware of the obvious risks. Our key principle is that when visiting the coast, people should take primary responsibility for

their own safety and for the safety of any children or other people in their care, and should be able to decide for themselves the level of personal risk they wish to take.

We will assess the likely level of visitors' familiarity with and expectations of the risks on each section of the trail in deciding whether any specific safety measures are necessary. Our approach to risk management on the trail will be light touch, aiming to avoid any safety measures that would be restrictive on public access or enjoyment, or that would conflict with land management or environmental objectives.

Section 4.2 of the Scheme sets out our approach to safety on the trail in more detail.

9.2 Will signs be used to warn people of any dangers?

Natural England and the access authority have powers to place signs along the trail or on areas of spreading room, warning of potential dangers. We would expect these to be used very sparingly, to warn people about dangers they could not reasonably anticipate such as hidden entrances to abandoned mines, or unstable cliffs. No liability will be attached to Natural England or access authorities for failing to erect such signs, or to Natural England or the Secretary of State for the choice of route.

9.3 What is the effect of the rights on the occupier's liability?

The Act creates a uniquely low level of occupiers' liability. Essentially the occupier cannot be sued for injury or damage unless he has acted intentionally or recklessly. This reduced liability will apply to both natural and non-natural features on land where access rights are newly introduced. A land owner or long lease holder can avail himself of this special liability reduction by dedicating land into the coastal margin. We can provide more information about this option on request.

10. Other questions

10.1 What is the relationship between coastal access and Shoreline Management Plans?

A Shoreline Management Plan (SMP) is a large-scale assessment of the risks associated with coastal processes and helps reduce these risks to people and the developed, historic and natural environments. SMPs should make reference to the coastal trail but the presence of the coastal trail will not influence the SMP. Our proposals for the coastal trail will be influenced by SMPs and will respond to any changes in the coast line which result from implementation of the policies they contain.

10.2 If the new coastal trail follows a different line from an existing coastal National Trail, will the existing National Trail lose its status?

We will adopt the line of an existing coastal National Trail (NT) if it meets the criteria in the Scheme. Where the trail is aligned on a different route to the existing NT then we may recommend to the Secretary of State that the existing NT is changed to the new trail alignment. We will only do this where we think the new route would better meet the purpose for which the existing NT was designated. Any public rights of way along the existing route would remain in place.