

# Part A: Introduction

## Chapter 1. Background

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### 1.1 Applicability

1.1.1 This is Version 2 of the Coastal Access Scheme (“the Scheme”), which is the methodology for implementation of the England Coast Path and associated coastal margin of coastal land. It replaces the previous version of the Scheme for the purposes of all coastal access reports published by Natural England after the date of its approval. In the Scheme, “we”, “us” and “our” refer to Natural England or to any organisation succeeding after the date of approval to its relevant functions.

### 1.2 The Coastal Access Duty

1.2.1 Part 9 of the Marine and Coastal Access Act 2009 (“the 2009 Act”)<sup>1</sup> aims to improve public access to, and enjoyment of, the English coastline by creating clear and consistent public rights along the English coast for open-air recreation on foot. It allows existing coastal access to be secured and improved and new access to be created in coastal places where it did not already exist.

1.2.2 Section 296 of the 2009 Act places a duty on Natural England and the Secretary of State to use their powers to secure twin objectives:

- The first objective is to secure a route around the whole of the English coast, which the 2009 Act refers to as “the English coastal route”. This route is an approved mapped line, rather than a physical path.
- The second objective is to secure an associated “margin” of land for the public to enjoy, either in conjunction with their access along the route line, or otherwise.

1.2.3 This legal duty on Natural England and the Secretary of State is known in the 2009 Act as “the Coastal Access Duty”.

### 1.3 Key terms

1.3.1 In this document we use the following key terms relating to the Coastal Access Duty:

- **the route**, meaning the route line to which the first objective in section 1.2.2 relates;
- **the coastal margin (or the margin)**, meaning the associated margin of land to which the second objective in section 1.2.2 relates; and
- **the trail**, meaning the path corridor through the coastal margin that the route follows, as distinct from the wider areas of land within the coastal margin.

1.3.2 In our work to comply with the Coastal Access Duty:

- We refer publicly to the trail as the **England Coast Path**, and this term also periodically appears in this document. When complete, the England Coast Path will be England’s longest national trail and one of the longest coast paths in the world.
- We use the term **spreading room** to refer to those parts of the coastal margin, other than the trail itself, that will be available to the public for enjoyment on foot. This does not include areas of the coastal margin that are automatically excepted from the coastal access rights, which are known as **excepted land**.

### 1.4 The Scheme

1.4.1 Section 298 of the 2009 Act requires us to prepare a Scheme setting out the approach we will take to discharging the Coastal Access Duty.

1.4.2 This version of the Scheme was approved by the Secretary of State on 9th July 2013

<sup>1</sup> The legislation referred to in the Scheme is published at <http://www.statutelaw.gov.uk/Home.aspx>

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and is the basis on which we prepare our proposals, in the form of reports to the Secretary of State published after that date for particular stretches of coast, in relation to both objectives included in the Coastal Access Duty.

- 1.4.3 Our reports may include proposals on both the extent and the management of coastal access. The Scheme therefore explains how we decide where it is necessary to restrict or exclude coastal access rights locally, using the powers available to us under chapter 2 of the Countryside and Rights of Way Act 2000 ("CROW"), including consideration of other management options that may be appropriate in particular circumstances.
- 1.4.4 Our statutory guidance to the CROW relevant authorities<sup>2</sup> on their functions in relation to local restrictions and exclusions<sup>3</sup> (the "relevant authority guidance") provides similar guidance to the relevant authorities in relation to their decisions about the need for local restrictions and exclusions on other land with access rights provided under Part 1 of CROW. To avoid unnecessary repetition, the Scheme occasionally refers to particular parts of the relevant authority guidance which explain procedural aspects of the two regimes, where they are identical.

## Chapter 2. Statutory framework

### 2.1 Introduction

- 2.1.1 This chapter describes the statutory framework which underpins the alignment and management of the access established under the provisions in the 2009 Act. By "alignment" we mean the choices we make about the route and the coastal margin that we propose in our reports to the Secretary of State.

### 2.2 Natural England's coastal access reports

- 2.2.1 Under section 55A of the National Parks and Access to the Countryside Act 1949 ("the 1949 Act"), Natural England may prepare a series of coastal access reports, each relating to a different stretch of the English coast, recommending to the Secretary of State the alignment of the route.
- 2.2.2 Each report includes:
- maps of the proposed route that the **trail** should follow, and any alternative routes;
  - an indication of the extent of **the coastal margin** to either side of the trail; and
  - a description of any **local management** that we consider necessary including any local restrictions or exclusions for which we foresee a need at the time we submit the report.
- 2.2.3 Figure 9 in chapter 3 explains the contents of our reports in more detail. The considerations to which we must have regard when making our proposals are set out in Part B of the Scheme. Part C of the Scheme explains their application to different circumstances around the English coast.

### 2.3 The land affected by coastal access rights

#### *The trail*

- 2.3.1 The route we propose usually follows existing walked lines on the ground. These are typically a mixture of sections with an existing public right of way interspersed with sections without.
- 2.3.2 Approval by the Secretary of State of the route proposals in our report leads to the

<sup>2</sup> See entry for 'relevant authority' in the glossary.

<sup>3</sup> See entry for 'local exclusion' in the glossary.

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creation of new public rights along the parts of the trail that are not currently public rights of way. By default, the land within 2 metres of the route on either side becomes subject to such rights, but our reports often propose adjusting the landward edge of the trail to coincide with a particular physical feature on the ground such as a fence or pavement edge.

2.3.3 There are powers under the 1949 Act to provide alternative routes or temporary routes for the trail, at times when access to the ordinary route is unavailable<sup>4</sup>.

*The coastal margin*

2.3.4 The position of the route that we propose in our report also determines, if approved, the inclusion of land to either side of it as coastal margin<sup>5</sup>:

- land on the seaward side of the trail automatically becomes coastal margin; and
- other land of certain specific types also becomes coastal margin if it lies on the landward side of the trail. These land types are listed at paragraph 4.8.8.

2.3.5 The provision of alternative and temporary routes does not have the effect of making such land part of the coastal margin.

2.3.6 We also have a discretionary power under section 55D(2) of the 1949 Act to recommend that the landward boundary of the coastal margin should be extended or contracted in places to coincide with a recognisable physical feature such as a fence, wall or woodland edge<sup>6</sup>. This discretionary power may be used either:

- to include further land within the coastal margin on the landward side of the trail; or
- to reduce the area of default coastal margin, for example for reasons of clarity.

The way in which we use this discretion is explained in more detail in section 4.8 of the Scheme.

2.3.7 Land owners may also dedicate land as coastal margin under the provisions of section 16 of CROW, as amended for this purpose by section 303(6) of the 2009 Act.

*Access rights on the coastal margin*

2.3.8 Once a report to the Secretary of State has been approved and the necessary preparatory work has been completed, public access rights under section 2(1) of CROW are brought into force by Order on the affected stretch of coast on a date decided by the Secretary of State. These access rights are called "coastal access rights" in the Scheme.

2.3.9 Subject to what follows, coastal access rights apply throughout the coastal margin. They replace other access rights provided under Part 1 of CROW on land which forms part of the coastal margin. This includes access rights over open country, registered common land<sup>7</sup> and any land previously dedicated for access under section 16 of CROW.

2.3.10 Any public rights of way over the coastal margin are unaffected by the coastal access rights, as are existing maintenance responsibilities for them.

2.3.11 Land with public access rights of the types listed in section 15 of CROW ("section 15 land"<sup>8</sup>) may also form part of the coastal margin, but coastal access rights do not apply there because the existing rights continue to apply instead.

2.3.12 Figure 6 at the end of this chapter summarises the relationship between coastal access rights and the other public access on the coastal margin.

<sup>4</sup> The powers to provide alternative routes and temporary routes are under sections 55C and 55I respectively of the 1949 Act. They are explained in more detail in figure 17, in section 6.3 of the Scheme.

<sup>5</sup> The Access to the Countryside (Coastal Margin) (England) Order 2010 SI2010 No. 558.

<sup>6</sup> This discretionary power is provided in section 55D(2) of the 1949 Act.

<sup>7</sup> See entries for 'open country' and 'registered common land' in the glossary.

<sup>8</sup> See the entry for 'section 15 land' in the glossary for a list of the types of public access rights listed under section 15 of CROW.

Figure 1

*Excepted land*

This table lists those categories of land which are excepted from the coastal access rights under Schedule 1 to CROW, as amended by the Order.

*Excepted in full*

The following land categories are excepted in full:

- land covered by buildings<sup>9</sup> or the curtilage of such land;
- land used as a park or garden (see section 8.18);
- land used for the getting of minerals by surface working including quarrying (except, under certain circumstances, the removal of sand or shingle from an area of foreshore or beach - see section 8.24);
- land used for the purposes of a railway (including a light railway) or tramway;
- land covered by pens in use for the temporary detention of livestock<sup>10</sup>;
- land used for the purposes of a racecourse or aerodrome;
- land which is being developed and which will become excepted land under certain other excepted land provisions;
- land covered by works used for the purposes of a statutory undertaking (other than flood defence works or sea defence works) or the curtilage of such land;
- land covered by works used for an electronic communications code network or the curtilage of any such land;
- land the use of which is regulated by byelaws under section 14 of the Military Lands Act 1892 or section 2 of the Military Lands Act 1900;
- land which is, or forms part of, a school playing field or is otherwise occupied by the school and used for the purposes of the school; and
- land which is, or forms part of, a highway (within the meaning of the Highways Act 1980) – see below.

*Excepted, with provision for an access strip*

The following land categories are excepted land, but we have the power to recommend that the trail should cross them on an access strip - in which case the strip itself is not excepted from the coastal access rights:

- land on which the soil is being, or has at any time within the previous 12 months been, disturbed by any ploughing or drilling undertaken for the purposes of planting or sowing crops or trees (see section 8.7);
- land used for the purposes of a golf course (see section 8.20);
- land which is, or forms part of, a regulated caravan or camping site (see section 8.19 of the Scheme); and
- land which is, or forms part of, a burial ground.

The access strip will normally be 4 metres wide (2 metres either side of the approved route), although we may recommend that its landward boundary should coincide with a physical feature such as a fence, wall or hedge<sup>11</sup>. Where appropriate we will use this power to “work with the grain” of existing physical features along the access strip, resulting in sections that are wider or narrower than 4 metres or not of uniform width.

*Highways, including public rights of way*

Coastal access rights do not apply to existing public highways including roads and public rights of way such as byways, bridleways and footpaths. The public already has rights to use such highways and these take precedence over the coastal access rights. This does not prevent the route from following a public footpath or other highway, and in many instances it will. Nor does it prevent people continuing to use highways that fall within the wider coastal margin.

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<sup>9</sup> See the entry for 'buildings' in the glossary.

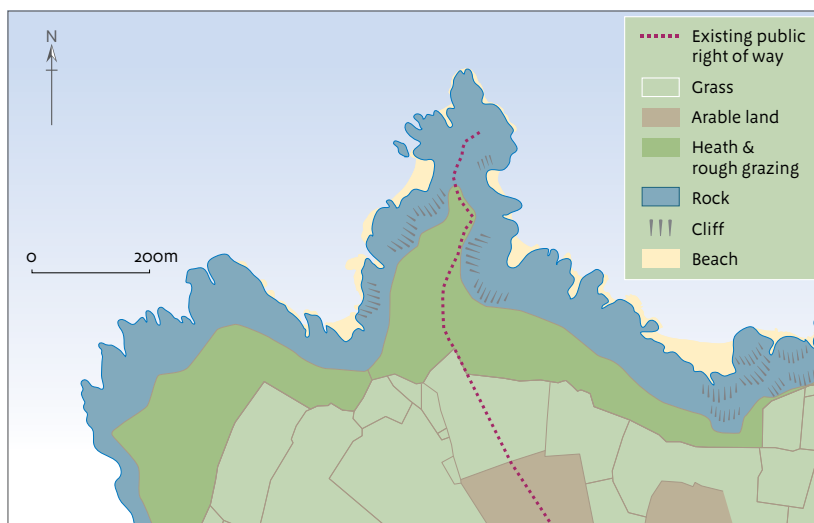
<sup>10</sup> See the entry for 'livestock' in the glossary.

<sup>11</sup> This power is provided under section 55D(2)(c) of the 1949 Act.

*Excepted land*

- 2.3.13 Schedule 1 to CROW, which lists various types of land excepted from the right of access, was modified by the coastal access legislation to add or remove certain categories of coastal land. Any excepted land is normally outside the operation of coastal access rights but there is scope for the trail to cross certain categories of excepted land on an access strip. There may be other public rights of access over some excepted land – notably public rights of way.
- 2.3.14 Land owners may also choose to dedicate excepted land as coastal margin under the provisions of section 16 of CROW, as amended for this purpose by section 303(6) of the 2009 Act. Such a dedication may:
  - provide for the trail to cross an area of excepted land – section 8.18 includes examples of circumstances when we will explore this option with the land owner; or
  - dedicate wider access rights across excepted land, as described in section 4.8.
- 2.3.15 Figure 1 lists all the coastal excepted land categories, including those which the trail may cross on an access strip.  
*“Spreading room”*
- 2.3.16 As explained in chapter 1, we use the term “spreading room” to describe any land, other than the trail itself, which forms part of the coastal margin and which has public rights of access. In addition to land with coastal access rights it therefore includes areas of section 15 land and may be either seaward or landward of the trail. Section 4.8 explains in more detail the ways in which land may become spreading room.
- 2.3.17 Land is not described as spreading room in the Scheme if it falls into one of the descriptions of excepted land. Such land may become spreading room if it loses its excepted status as a result of a change of use, or if the owner dedicates it as coastal margin. Spreading room will often be crossed by public rights of way which, being excepted land, remain subject to the pre-existing rights along them rather than acquiring coastal access rights.
- 2.3.18 Figures 2 to 5 illustrate a simple example of how the alignment of the trail and spreading room might look in practice on a short section of coast. Chapter 9 includes more detailed examples.

**Figure 2**



A section of coast before coastal access rights are created. A rocky shore is overlooked by sloping cliffs covered with heath and rough grass. Further inland there are fields of grass and arable crops. A public right of way leads to the end of a small headland.

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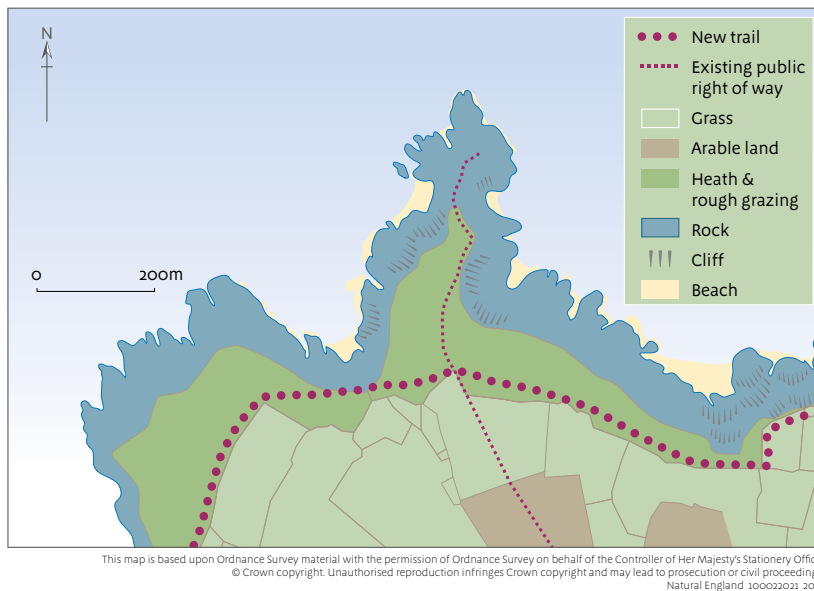
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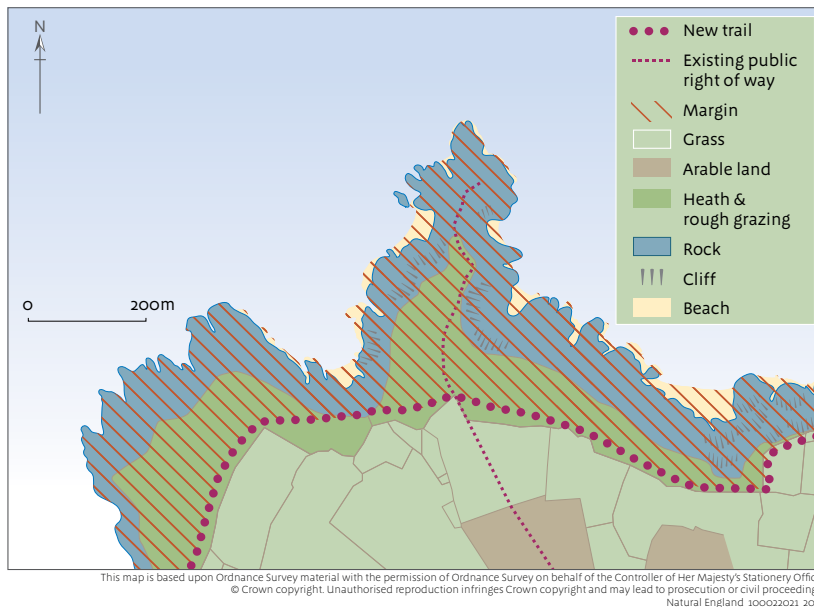
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**Figure 3**



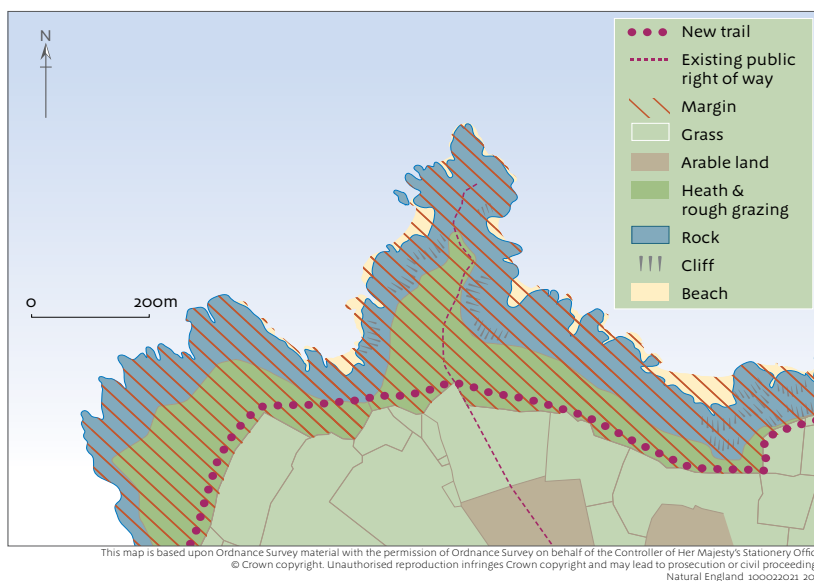
The trail is aligned on a convenient route along the top of the cliff. For the most part, the trail lies seaward of the field boundaries, unless there is no safe route that it could follow there.

**Figure 4**



Land seaward of the trail becomes coastal margin. Any excepted land within the coastal margin will not be subject to new access rights.

**Figure 5**



The land owner agrees that Natural England (under its discretionary power) should propose that for clarity, the landward boundary of the coastal margin should coincide with the walls and fences marking the boundary of the heath and rough grass.

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## 2.4 Managing coastal access rights

### National rules

- 2.4.1 The coastal access rights under section 2(1) of CROW include most types of open-air recreation on foot or by wheelchair<sup>12</sup> including walking, climbing and picnicking. Where the land to which they apply is already accessible under CROW, the coastal access rights apply instead once our proposals are approved by the Secretary of State.
- 2.4.2 As on other land accessible under CROW there are general restrictions on the scope of the coastal access rights, which are called “national restrictions” in the Scheme; for example the coastal access rights do not normally include camping, horse riding or cycling. This does not prevent such recreational uses taking place by virtue of an existing right, with the land owner’s permission or by traditional tolerance, and it has no effect on public rights of way or section 15 land.
- 2.4.3 Natural England may relax any of these national restrictions in specific areas with the consent of the owner or, if the land is let, the farm tenant<sup>13</sup>. The owner may also voluntarily provide such rights by making a permanent access dedication under section 16 of CROW.
- 2.4.4 The national restrictions on the coastal access rights are set out in Schedule 2 to CROW which is amended in several ways by the Order for the purposes of the coast.
- 2.4.5 The main difference between the national restrictions on coastal access rights and those which apply to other access rights under Part 1 of CROW are the rules for people who bring dogs with them:
- there is no national requirement on coastal land to keep dogs on a short lead between March 1st and July 31st - although we may give directions to enable this arrangement to apply locally (see section 6.7); and
  - a person who brings a dog with them must keep it under “effective control”, which means they must:
    - keep the dog on a lead; or
    - 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
    - in either case, keep the dog on land with coastal access rights or other land to which the person has a right of access.
- 2.4.6 As on other land with access rights under Part 1 of CROW, a person with a dog must keep it on a short lead in the vicinity of livestock<sup>14</sup>. The purpose of this provision is to prevent dogs from approaching livestock.
- 2.4.7 There are two other differences between the national restrictions that apply to coastal access rights and those that apply to other access rights provided under Part 1 of CROW:
- People are entitled to bring fishing equipment on to land with coastal access rights and to exercise from that land any existing right to fish, such as the common law right to fish in the sea and tidal waters. They may not use fishing equipment whilst on land used for grazing or other agricultural purposes.
  - People may not obstruct others who are using the trail.
- Local management arrangements*
- 2.4.8 Where, to supplement these national rules, there is a need to manage the coastal access rights at a local level, there are several options available either alone or in combination to ensure that an appropriate balance is struck between the various factors in play on the affected land:

<sup>12</sup> This includes most types of mobility vehicle, as provided by section 20(2) of the Chronically Sick and Disabled Persons Act 1970.

<sup>13</sup> See entry for ‘farm tenant’ in the glossary.

<sup>14</sup> See entry for ‘livestock’ in the glossary.

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- Alignment solutions, by which we mean aligning the route or the landward boundary of the coastal margin in ways that take account of the need. This includes the powers available to us in the 2009 Act to provide temporary or alternative routes for the trail to follow under certain circumstances.
- Informal management solutions, such as posting advisory notices or asking people for their co-operation face-to-face.
- Local restrictions and exclusions, using the powers available to us under Chapter II of CROW. These powers cannot be used on public rights of way or section 15 land.

- 2.4.9 Chapter 6 describes each of these options in more detail alongside the general principles we apply to choose between them. Chapters 7 and 8 outline how we deploy these options in relation to the range of land cover types, landforms and land use issues which commonly occur on the coast.
- 2.4.10 We aim to identify any foreseeable need for local management measures, including local restrictions and exclusions and temporary or alternative routes on each stretch of coast, in our report to the Secretary of State. We develop such proposals in consultation with those who manage the affected land, and with others who have relevant expertise or local knowledge.
- 2.4.11 After commencement of the coastal access rights, further restrictions, exclusions or temporary routes may be necessary locally, if situations arise that could not be foreseen initially. People with a legal interest in the land will have powers to apply to us later for directions to restrict or exclude access, and can appeal to the Secretary of State against our decision if they disagree with it.
- 2.4.12 The procedures for applying later for a direction are very similar to those which apply on other land with access rights under Part 1 of CROW (see section 6.6). However, there are no discretionary powers under the coastal access regime to exclude access for up to 28 days per year for any reason (under section 22 of CROW), or to exclude people with dogs from grouse moors or lambing enclosures (under section 23 of CROW).
- 2.4.13 On some sections of coast, existing rights will apply instead of or as well as the coastal access rights (see figure 6). These may include rights to ride horses or cycles, or other "higher rights". There may already be powers to manage these existing access rights under other legislation; for example, local highway authorities will retain their powers and duties to manage access along coastal bridleways. Where the coastal access rights include rights to ride horses or bicycles by virtue of any relaxation of national restrictions (see paragraph 2.4.3), there are clearance and maintenance powers for that purpose<sup>15</sup>.
- 2.4.14 Local byelaws and other statutory prohibitions may apply in relation to the coastal access rights in particular places along the coast<sup>16</sup> or in relation to other rights of access which may exist on the coastal margin.

<sup>15</sup> These clearance and maintenance powers are by virtue of paragraph 2(3)(c) of Schedule 20 to the 2009 Act.

<sup>16</sup> In accordance with section 2(3) of CROW, as amended by section 303(3) of the 2009 Act.



**Figure 6**  
*Effect of coastal access regime on other access arrangements*

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	<b>Access rights under Part 1 of CROW</b>	<b>Activities permitted by the land owner such as horse riding or cycling, whether informally or under a formal agreement.</b>	<b>Public rights of way Section 15 rights</b>
<b>Effect of coastal access rights</b>	Coastal access rights replace other access rights provided under Part 1 of CROW.	Exist in parallel.	Public rights of way and section 15 rights remain in force instead of coastal access rights. Should the route 'roll back' because of erosion etc, a public right of way would be replaced by coastal access rights along the trail.
<b>Effect of excepted land provisions under Schedule 1 to CROW</b>	Apply as shown in Schedule.	Do not apply.	Do not apply.
<b>Effect of national restrictions under Schedule 2 to CROW</b>	Apply in all cases, unless owner agrees to remove or relaxed, for example by dedication.	Do not apply.	Do not apply.
<b>Scope for informal management (see section 6.5)</b>	Available in all cases.	Available in all cases.	Available in all cases.
<b>Effect of local restrictions and exclusions under Chapter II of CROW (see section 6.6)</b>	Available in all cases.	Not available but the land owner remains able to vary the permissions granted.	Not available. (But local highway authority has separate powers to manage access on public rights of way.)
<b>Effect of local byelaws and other statutory prohibitions</b>	Where these exist, they prevail over coastal access rights.	Where these exist, they continue to apply.	Where these exist, they continue to apply.