

Chapter 5. Interest of owners and occupiers

5.1 Overview

- 5.1.1 Chapter 5 introduces general principles relating to the interests of owners and occupiers.
- 5.1.2 Much of the relevant detail on this appears in chapter 8, which explains our likely approach in relation to particular coastal land uses and activities.

5.2 Operational needs

- 5.2.1 Our flexible alignment powers under the 2009 Act should in general ensure that coastal access rights will not interfere in any significant way with the operational needs of coastal businesses or organisations such as sporting clubs.
- 5.2.2 The trail can be aligned in a way that is sensitive to land use: it can pass along the seaward edge of fields, along existing paths and tracks where suitable ones are available, and avoid altogether any areas where it would otherwise be necessary to exclude access for long periods, such as areas of heavy industry.
- 5.2.3 Some work environments will be automatically excepted from the coastal access rights, for example land subject to military byelaws and land in use for quarrying.
- 5.2.4 Small-scale operations can and do normally take place alongside public access. Where there is potential for visitors to disrupt work the problems can often be avoided through informal techniques such as putting up a sign or asking for their co-operation face-to-face.
- 5.2.5 Local restrictions and exclusions will be available if informal management cannot meet operational needs. These may be on grounds of land management or public safety⁵⁵. Where it is likely to be necessary to exclude access to the trail from time to time for temporary operational reasons, we will recommend an alternative route in our report wherever practicable. This will preserve continuity of access and so minimise disruption to visitors, helping to ensure that they comply with the terms of the exclusion. Figure 16 in chapter 6 explains in more detail how alternative routes will work.
- 5.2.6 There are also powers to exclude access to spreading room for fire prevention during exceptional weather or ground conditions, although access along the trail is not affected by these. Figure 19 in chapter 6 explains our approach to use of these powers.

5.3 Income

- 5.3.1 Business will not be expected to contribute in any significant way to the establishment and maintenance costs associated with improved coastal access.
- 5.3.2 Where businesses wish to charge visitors for specific 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 falling within those rights.
- 5.3.3 Within these basic parameters, we will aim in our report to the Secretary of State for each section of coast to prevent coastal 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 are persuaded that significant loss of income is likely, we will include specific recommendations to prevent it.
- 5.3.4 Where such recommendations prove necessary, the action we recommend will depend on the objectives of the business, the management of any existing public access arrangements which affect it and our best prediction of future levels and patterns of public use following the introduction of coastal access rights. These considerations may influence the position of the trail, the extent of any spreading room landward of the trail,

⁵⁵ These powers will correspond in most respects with current powers under CROW sections 24 and 25.

or the management of the access rights, either informally or through local restrictions, exclusions and alternative routes.

- 5.3.5 Chapter 8 includes examples of circumstances where in particular cases some action may be necessary to prevent significant loss of income, including some businesses offering visitor attractions and holiday accommodation.

5.4 Privacy

- 5.4.1 The duties set out in the 2009 Act, when implemented, mean that public rights of access will be available to some land which was previously only available for the enjoyment of the owner or occupier and invited guests. However, there are specific provisions under CROW intended to protect privacy in key respects: buildings and the area surrounding buildings (known as curtilage), and land used as a garden or park, are excepted from coastal access rights, though existing rights of way through such areas remain in force and the trail may make use of them.
- 5.4.2 These provisions may prevent people reaching the shoreline or cliff edge in some places, if the only means of access to it (other than from the sea itself) is through a garden or park, or the curtilage of a building.
- 5.4.3 We will also consider in the preparation of our recommendations to the Secretary of State how our proposals may affect the privacy of people in the immediate vicinity of houses, hotels or other residences, and aim to strike a fair balance between these concerns and the interests of the public in having rights of access, as the 2009 Act requires.
- 5.4.4 Where a large park or garden presents a significant obstacle to public access around the coast, we will approach the owners to explore the scope to negotiate a route through which respects their privacy. The detailed assessment criteria in section 8.17 considers this aspect further.

5.5 Changes in the use of affected land

- 5.5.1 Our report to the Secretary of State will take full account of any change in the use of affected land which can reasonably be foreseen at the time that we prepare our initial recommendations to the Secretary of State. This includes both temporary changes, such as those arising from crop rotation or special events, and permanent changes arising from built development that is underway or imminent.
- 5.5.2 There are powers to amend the access arrangements on a section of coast after the report is confirmed, if this is necessary as a result of changes in the use of affected land which could not be foreseen at the time when we made our initial recommendations (see stage 10 of the implementation process described in chapter 3).

Temporary changes

- 5.5.3 The trail can be aligned in a way that is sensitive to temporary changes in the use of coastal land. However, in some instances this may be better achieved through temporary management measures, including local restrictions, exclusions and alternative routes.

Built development and re-development

- 5.5.4 Our reports to the Secretary of State will normally reflect the uses of the affected land at the time. We may recommend changes to the coastal access arrangements at a later date, if this is appropriate as a result of built development or re-development.
- 5.5.5 Coastal access rights do not prevent any land from being developed or redeveloped in the future. When this happens, the developed land is likely to become excepted land by virtue of paragraph 9 of Schedule 1A of CROW, and therefore outwith the coastal access rights. We will submit a variation report to the Secretary of State recommending a change to the trail or landward boundary of spreading room if either is affected in this way.
- 5.5.6 Local planning authorities must have regard to coastal planning policy guidance which encourages both new developments and regeneration schemes to include public access

to the coast as a positive feature of the development unless it is damaging to nature conservation or impractical⁵⁶. Our approach will therefore be to work constructively with planners and developers with the aim of ensuring that development plans and planning proposals take account of our coastal access objectives and make provision for them wherever appropriate.

- 5.5.7 Where a development is in progress or imminent at the time when we prepare our initial recommendations, we are likely to recommend the extent of coastal access rights that are appropriate until the development is complete, for example to get around the site without interfering with operations. We will submit a variation report to the Secretary of State at a later date, recommending that changes to the trail and its associated spreading room which should come into effect on completion of the development.



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⁵⁶ Coastal planning policy guidance is published by the Department for Communities and Local Government at www.communities.gov.uk

