

Chapter 10. Additional considerations at estuaries

10.1 Overview

- 10.1.1 There is no requirement in the 2009 Act for the trail to extend up any river estuary further than the seaward limit of the estuarial waters ('seaward limit'). Estuarial waters occur where the fresh water of a river mixes with salt water from the open sea¹⁰⁶. *Chapter 11 illustrates the seaward limit on several English estuaries.*
- 10.1.2 Beyond the seaward limit, Natural England has a discretion under section 301 to extend the trail further upstream on either side (or both) as far as:
- the first bridge or tunnel with pedestrian public access; or
 - a specified point between the seaward limit and the first bridge or tunnel.
- 10.1.3 Wherever we use the discretion, the same principles will apply as on the open coast in relation to inclusion of spreading room, the status of excepted land and local management considerations.
- 10.1.4 The seaward limit is an arbitrary point from the perspective of public access. Often it will not be convenient for the trail to end exactly at that point, unless it happens to coincide with an appropriate destination for people using the coastal access rights, for example a feature of interest or an existing pedestrian access point. We are therefore likely to use our discretion at most estuaries to extend the trail upstream to a more convenient point.
- 10.1.5 We will always give careful consideration to our option to extend the trail as far as the first bridge or tunnel with pedestrian public access. This is in keeping our duty under the 2009 Act to have regard to the desirability of ensuring, so far as is reasonably practicable, that interruptions to the trail are kept to a minimum (see section 4.4) and the additional requirement, in deciding whether and how to exercise our discretion on estuaries, to consider any other recreational benefits that would accrue from doing so (see section 10.5). Where there are short lengths of estuary between the seaward limit and the first bridge or tunnel with pedestrian public access, we would expect to recommend that the trail is extended as far as the bridge or tunnel for these reasons.
- 10.1.6 In considering this, we will take fully into account whether the cost of extending the trail to the first public bridge or tunnel would be proportionate to the extra public enjoyment of the coast that would result. This might not be the case for example:
- where the first bridge or tunnel is very far from the sea;
 - where a ferry downstream from the bridge or tunnel provides a convenient means for trail users to cross the estuary on foot (see section 10.3);
 - where there would be very limited public enjoyment of the estuary because of the extent of the diversions that would be necessary to reach the bridge or tunnel, for example to achieve a fair balance between public and private interests (as required by the 2009 Act), or to avoid large areas of excepted land.
- 10.1.7 In such circumstances, we may recommend that the trail ends (on one side of the estuary or both) at the seaward limit, or a specified point between that limit and the crossing point. The alignment criteria for estuaries in section 10.2 and the examples in chapter 11 provide an indication of how we might decide on an appropriate alignment in such circumstances.
- ### 10.2 Alignment criteria for estuaries
- 10.2.1 On estuaries as elsewhere, our recommendations must in all instances take account of the statutory criteria set out in section 297 of the 2009 Act (see paragraph 2.3.4). We will also in all instances consider the three additional criteria set out in chapter 4 of the Scheme, to ensure that:
- the public have opportunities to enjoy suitable areas of spreading room – see section 4.7;

¹⁰⁶ See entries for 'estuarial waters' and 'seaward limit' in part B of the glossary.

- an appropriate balance is struck between enjoyment and protection of the coastal environment – see section 4.8; and
- our recommendations are responsive to coastal change – see section 4.9.

10.2.2 Section 30(4) of the 2009 Act sets out additional statutory criteria ('the estuary criteria') which we must take into account when deciding whether, and if so how, to exercise our discretion to extend the trail along an estuary. The criteria are:

- a) the **nature of the land** which would be affected;
- b) the topography of the **shoreline**;
- c) the **width of the river** upstream to the first crossing point;
- d) the **recreational benefit** to the public;
- e) the extent of adjoining land which would be **excepted land**;
- f) particular physical features (whether of the landscape or otherwise) or viewpoints (referred to as '**features of interest**' in the remaining sections);
- g) the existence of a **ferry service** by which the public may cross the river.

10.2.3 Sections 10.3 to 10.6 explain in more detail how we will interpret each of the estuary criteria. Whereas paragraph 10.2.2 sets them out in the order in which they appear in the 2009 Act, we have reordered and regrouped the criteria below to help explain considerations which are common to several of them.

Chapter 11 illustrates considerations which might arise from the application of the criteria to a selection of English estuaries.

10.3 Ferry services

10.3.1 The existence of a ferry service may be an important factor in our decision, if it crosses the estuary at a convenient place downstream from the first bridge or tunnel, and is available to foot passengers.

10.3.2 Regular, year-round services such as the Mersey ferry (figure 30) better meet the requirement for a convenient crossing point than occasional or seasonal services such as the Yealm ferry (figure 36). But even regular ferry services do not rule out taking the trail up to the first public crossing point if the balance between recreational benefit and cost is right, having regard to the other statutory criteria.

10.3.3 Conversely, even where a ferry is only seasonal or part-time, it may still in all the circumstances be a significant factor in deciding where the trail should end on the estuary. For example we may decide that the additional cost of extending the trail as far as the first bridge or tunnel is not proportionate to the extra public enjoyment of the coast that this would afford.

10.3.4 It would be open to us to include in our recommendations to the Secretary of State proposals relating to a ferry service, for example a plan to enable it to run more regularly or for extra days, weeks or months for the benefit of trail users. This is an option we will weigh alongside all the other considerations on an estuary. We will only make such proposals where in our view the costs would be proportionate to the extra public benefit the enhanced ferry service would afford. Any such proposals would require the agreement of the highway authority, which is the holder of the necessary powers to provide or operate a ferry service or make an agreement with a ferry operator for this kind of purpose.

10.4 Character of the estuary

10.4.1 Several of the estuary criteria relate to its overall character:

- the nature of the land which would be affected;
- the topography of the shoreline;
- the width of the river upstream to the first crossing point; and
- features of interest.

10.4.2 When we consider an estuary in relation to these criteria, we will look for particular stretches or features of the river or adjoining land that are more characteristic of the coast than of a river, and therefore more relevant to our coastal access duty.

Nature of affected land

10.4.3 This criterion specifies the nature of the land that might be affected by our proposals, rather than its management or use. We must in any case give due consideration to its management and use in order that our proposals can aim to strike a fair balance between public and private interests, as required by the 2009 Act.

10.4.4 Some land at estuaries is strongly characteristic of the coast, in particular areas of beach, dune, cliff, flat or salt marsh. For example, the estuary of the River Camel includes popular beaches at Polzeath and Rock which are upstream of the seaward limit (see figure 35).

10.4.5 Although we would typically exclude public access from areas of flat or salt marsh on an estuary, their presence may contribute to the coastal character of the trail if the public is afforded views over them.

Topography of the shoreline

10.4.6 The shorelines of estuaries are often punctuated by distinctive features such as points, inlets, islands and tributaries. For example, the estuary of the River Severn includes the significant tributary of the River Avon at Bristol (see figure 33). Such features would be one potential limit for the trail on an estuary.

10.4.7 The shorelines of some estuaries can be very convoluted, for example the Yealm (figure 36). We will weigh carefully the cost of establishing coastal access rights along convoluted estuary shorelines against the relative public benefit of making them accessible.

River width

10.4.8 Wider stretches of river are more characteristically coastal and therefore most relevant to our coastal access duty. We will therefore attach greater weight to their inclusion.

10.4.9 Major river estuaries such as the Thames (figure 32) or Severn (figure 33) usually become significantly wider as they approach their seaward limit, developing the characteristics of open coast. However, the River Parrett in Somerset is an example of a smaller river which widens suddenly and dramatically at its estuary before reaching its seaward limit (see figure 34).

Features of interest

10.4.10 Other features may interest the public and so enhance their enjoyment of the coast, for example:

- places where the public can enjoy special coastal wildlife;
- geological and geomorphological features;
- historic features, or other manmade features;
- viewpoints.

10.4.11 In relation to historic and other man-made features, we will attach particular weight to the inclusion of those that have special coastal or maritime significance. For example we may attach significance to the historic docks on Merseyside (see figure 30).

10.5 Recreational benefit

10.5.1 Where we decide that a particular stretch or feature of an estuary would enhance the recreational benefit from the new access rights, we may either:

- specify the stretch or feature as the limit of the trail; or
- specify a point further upstream which would make it easier for the public to reach, such as those listed in paragraph 10.5.2 below.

10.5.2 We will in general attach significance to stretches of the estuary that will provide a pedestrian link between the coast and:

- cities, large towns and other settlements;

- transport links such as railway stations, bus-stops and car parks;
- access points on the local rights of way network;
- the locations of local tourist businesses.

The estuaries in figures 30 to 36 include settlements which it would be desirable to link to the coast for this reason

10.5.3 When deciding where and how to intervene on an estuary, we may focus our efforts particularly on lengths of estuary with poor continuity of access at present, in order to make strategic links with lengths that already offer good continuous access without any intervention from us. The Parrett estuary is an example of where we might consider this option (see figure 34). In deciding whether or not to target the gaps in existing public rights of way provision, one consideration we will take into account is whether doing so would produce anomalous or unclear results in relation to spreading room along the estuary.

10.6 Excepted land

10.6.1 Where there is an area of excepted land on an estuary, the trail may need to leave the shoreline.

10.6.2 On some estuaries, a single area of excepted land (such as a port facility) may be so large that it will in itself be a significant factor in our decision as to how to proceed. On others, the cumulative effect of several areas of excepted land will be more significant than the effect of any single area.

10.6.3 We will consider whether the cost and difficulty of providing detours around such areas would be proportionate to any extra public enjoyment of the coast that would result from continuing the route.

10.6.4 The Thames estuary includes several large areas of excepted land which would be significant factors in our decision (see figure 32).