

## Part B

### Key principles of alignment and management

Part B sets out key principles that Natural England will take into account in deciding what access to recommend and outlines the approach we will take to balancing these considerations.

The 2009 Act requires us, in discharging our coastal access duty, to 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 coastal access rights would be conferred. The structure of part B reflects this requirement:

- Chapter 4 considers principles relating to the public interest.
- Chapter 5 considers principles relating to the interests of owners and lawful occupiers.
- Chapter 6 explains how we will deploy access alignment and management solutions to ensure that an appropriate balance is struck between these principles on each section of coast.

### Chapter 4. Public interests

#### 4.1 Overview

4.1.1 In relation to the trail, Natural England is required by section 297(2) of the 2009 Act to have specific regard to:

- the **safety** and **convenience** of those using the English coastal route; and
- the desirability of that route adhering to the **periphery** of the coast and providing **views** of the sea; and
- the desirability of ensuring that, so far as is reasonably practicable, **interruptions** to that route are kept to a minimum.

4.1.2 Since in many places there will be a choice as to the route, with each option fulfilling each of these considerations to varying degrees, it will be for Natural England in its recommendations to the Secretary of State to propose the balance to be struck between them on each stretch of coast.

4.1.3 The extent to which **spreading room** should be available to the public will also be relevant to our considerations, insofar as it will be affected by our recommendations regarding:

- the position of the trail;
- places where the landward boundary of spreading room should be made to coincide with a physical feature (see section 4.7); and
- any local exclusions or restrictions we think are necessary.

4.1.4 The sections that follow explain the public interest criteria above in more detail, together with two additional ones also addressed by this and associated legislation:

- enjoyment and protection of the **coastal environment**; and
- responsiveness to **coastal change**.

#### 4.2 Safety on the trail

4.2.1 Most people already understand that the coast can be a dangerous environment, and are aware of many of the risks. Our key principle is that visitors should take primary responsibility for their own safety when visiting the coast 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.

4.2.2 Accordingly, a much reduced level of occupiers' liability is provided on the coastal margin by virtue of section 306 of the 2009 Act. This absolves occupiers of potential liability arising from the presence of either natural or man-made features on land subject to the coastal access rights. However, occupiers retain some degree of residual liability in

relation to reckless or deliberate acts or omissions<sup>44</sup>.

- 4.2.3 Our approach to risk management on the trail will therefore 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. We may monitor safety at locations where we have specific concerns, normally working through the access authority.
- 4.2.4 It will often be possible to minimise significant risks without special mitigation measures, through sensitive positioning of the trail. For example, the trail need not be aligned along a road used regularly by motor vehicles where a reasonable alternative route can be provided. The position of any road crossings that are necessary can be chosen in consultation with the highway authority, with safety and convenience in mind. Local authorities have traffic management powers which may be appropriate in this context.
- 4.2.5 We will assess the likely level of visitors' familiarity with and expectations of the risks on each section of trail in deciding what safety measures are necessary, if any. Intervention is most likely where visitors are leaving a familiar, managed environment such as a formal car park and moving into a more rugged environment such as a cliff path in order to signal the change. Outside such managed environments we will adopt a principle of minimal intervention, assuming that people will avoid dangers that are well known – such as cliff edges – provided that they are readily apparent.
- 4.2.6 Both Natural England and the access authorities have powers to erect signs along the trail warning of potential dangers, or use fencing or natural vegetation barriers where required. We expect these to be used very sparingly, to warn or protect people from dangers they could not reasonably anticipate, such as entrances to abandoned mines or unstable cliffs. The 2009 Act provides that no liability will attach to Natural England or access authorities for failing to erect such signs or barriers, or to Natural England or the Secretary of State for the choice of route.
- 4.2.7 We will take into account risks periodically posed by other activities on the route itself such as land management activities or other recreational activities such as horse riding or cycling. Any sections of the trail likely to be used by horse riders, cyclists or vehicles will require special consideration. We may make allowance for this in the positioning of the trail, for example if it necessary to accommodate a mixture of uses safely on a cliff top path.
- 4.2.8 Local restrictions and exclusions will be available where necessary to prevent danger to the public from things that have been done, or are proposed to be done on the land, but may not be used to prevent danger from natural features or natural events (see section 6.6).
- 4.2.9 Part C explains our approach to specific safety concerns that are likely to arise: Chapter 7 includes considerations in relation to natural hazards such as cliff edges and tides; chapter 8 considers risks arising from other activities on the land.

### 4.3 Convenience of the trail

- 4.3.1 For the trail to be convenient, it should be a reasonably direct route and pleasant to walk along. There should be reasonable adjustments for disabled people and others with reduced mobility.

*Reasonably direct*

- 4.3.2 People using the trail should not have to follow an indented coastline slavishly. The trail needs in general to be close to the sea (see section 4.5) and to offer sea views (see section 4.6), but also needs to enable people to make reasonable progress if their key aim is an onward walk around the coast.

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<sup>44</sup> The reduced liability only applies to liability for people exercising coastal access rights. It does not affect civil liabilities for people on other land within the coastal margin, or people invited on to land; nor does it affect existing duties on employers and the self-employed in relation to public safety under health and safety at work legislation.

*Pleasant to walk along*

- 4.3.3 So far as practicable, we will design the trail to avoid excessively steep, narrow or oppressive sections, whilst accepting the natural limitations and challenges of access over some coastal terrain.
- 4.3.4 The effect of the Order will be to secure access rights to the land 2 metres either side of the route line shown on the map. This allows for the trail itself to be 4 metres wide under ordinary circumstances, enabling two people to walk comfortably abreast. In practice, we will often adopt as part of the trail sections of existing path or track that may be wider or narrower than 4 metres or not of uniform width. People will have access rights to the land 2 metres either side of the route line in these places, but we are unlikely to carry out any physical alterations to the path or track to make it conform to a standard 4-metre width, provided that we consider it satisfactory when measured against the public interest criteria set out in this part of the Scheme.
- 4.3.5 Where we create a new route for the trail, it will typically have a natural surface rather than an artificial one (see next paragraph). This too will often result in a visible path narrower than the 4 metres provided in law.
- 4.3.6 Whether we recommend that an existing route be adopted or a new one created, we will always aim to ‘work with the grain’ of existing physical features such as fences, walls, hedges, and rocks.
- 4.3.7 The management of the trail and its associated infrastructure and signs will conform to the published standards for other National Trails<sup>45</sup>. These standards will enhance the overall convenience of the trail within a design framework that uses natural surfaces such as grass wherever possible and otherwise favours the use of natural or carefully chosen artificial materials and local designs that blend well with their setting. We will pay particular attention to the location, design and installation of access infrastructure on sites of conservation value (where clearance, digging and drainage works have the potential to damage features of interest) and in other areas where specific consents are required from other authorities.

*Adjustments for disabled people and others with reduced mobility*

- 4.3.8 We will adopt the principles set out in our publication “By All Reasonable Means” to make the trail as easy to use as we reasonably can for disabled people and others with reduced mobility, whilst accepting that such opportunities will often be constrained by practical limitations, such as the rugged nature of the terrain or the availability of visitor transport and facilities (see paragraph 4.3.12 below). Where there is a choice of routes (after taking into account all the key principles described chapters 4 and 5 of the Scheme), we will favour the route that is accessible to the widest range of people or most easily adapted for that purpose.
- 4.3.9 Throughout the trail, we will avoid creating any unnecessary barriers to access by choosing the least restrictive infrastructure that is practical in the circumstances. For example, where we install infrastructure in preparation for the introduction of the rights (or replace existing infrastructure, once it has reached the end of its useful life) we will normally use:
- gaps to cross field boundaries where livestock control is not an issue; and
  - gates rather than stiles where livestock will be present, designed to enable access by people with wheelchairs; and
  - graded slopes rather than steps if practicable.

<sup>45</sup> The Countryside Agency (2004): “Quality Standards for National Trails in England” (CA 183) available at [www.nationaltrails.co.uk](http://www.nationaltrails.co.uk)

- 4.3.10 Where appropriate, our recommendations will include further targeted adjustments to make the trail more accessible for people with reduced mobility. This will include improvements to the information available about those lengths of trail that are already accessible to a wide range of people. We will also ask local representatives to help us identify, prioritise and design suitable and affordable physical improvements to the trail according to their local needs and the available budget. They might typically identify:
- particular sections of trail that are well-served by public transport and visitor facilities, but have physical barriers to access for people with reduced mobility which could realistically be removed; or
  - sections with potential to provide key strategic links through adjustments that are readily achievable.
- 4.3.11 In all this, we will have regard to:
- any concerns about making it easier in practice for people to enter land unlawfully with vehicles;
  - the importance of conserving cultural heritage features and landscape character in the design of the trail and infrastructure;
  - land management needs, for example the need for crossing points to be designed to prevent livestock from escaping; and
  - the need for crossing points between fields to facilitate access for horse riding or cycling where there are existing rights or permissions for these activities.

#### *Visitor transport and facilities*

- 4.3.12 We are not required to consider additional visitor facilities such as car parks, toilets or public transport as part of our recommendations to the Secretary of State, though section 51 of the 1949 Act enables us to make proposals for accommodation, meals and refreshments along the route if we see fit. In practice we expect local businesses and communities to decide what additional visitor facilities are appropriate. These will not form part of the recommendations in our report.
- 4.3.13 The presence of additional facilities may affect the management of the trail, for example if it is likely to attract more people to a particular location. Where proposals for additional facilities are in train during the preparation of our initial recommendations we will reflect any likely impact in the coastal access report. Otherwise we may reassess coastal access in the light of any facilities that are later provided.

#### **4.4 Continuity of the trail**

- 4.4.1 Having arrived at the coast, people should normally be able to walk in either direction for as long as they like around the open coast of England.
- 4.4.2 They should normally be able to do this at all states of the tide. The trail will therefore normally avoid any route which is prone to tidal encroachment, unless in our view such a route would strike the best balance of public and private interests, taking into account the other criteria in Part B. On sections of the trail where tidal encroachment is likely, we may provide an optional alternative route (see section 4.9).
- 4.4.3 Breaks in continuity may arise, particularly at estuaries where there is no convenient crossing point within reasonable distance of the coast (see chapter 10).
- 4.4.4 The trail should avoid altogether any places where long-term or permanent local exclusions would affect it, including exclusions of people with dogs. However, temporary or seasonal restrictions or exclusions may from time to time be necessary on the trail locally. Wherever possible we will provide alternative routes where this happens, so that people can continue their journey along the coast.
- 4.4.5 The trail should also where practicable be designed to link up with routes leading to and from the coast, with existing public transport links and car-parks on the coast, and with river crossings.



#### 4.5 Proximity of the trail to the sea

- 4.5.1 The trail should normally be close to the sea, otherwise it would fail in its primary purpose to enable people to enjoy the coast of England.
- 4.5.2 This does not mean the trail must pass along the land closest to the sea. Often the best route will be on the cliff top rather than the beach, for example, because the sea views are better and the surface is more convenient for walking. Equally, the route may be set further back if in our view this strikes the best balance between all the key principles described in chapters 4 and 5 of the Scheme.
- 4.5.3 Normally the land between the trail and the sea will be spreading room, allowing people to get closer to the sea if they want to. However, in some places the trail may be a considerable distance from the sea at low tide and closer access to the water may not be practicable or convenient or, for example, in keeping with nature conservation objectives.
- 4.5.4 Significant detours from the periphery of the coast may occasionally be necessary in order to take account of other uses of the land, or of wildlife sensitivities. Part C explains some of these circumstances in more detail.

#### 4.6 Views of the sea from the trail

- 4.6.1 The route of the trail should normally offer views of the sea, because they are a key part of many people's enjoyment of the coast.
- 4.6.2 Views from the trail may be interrupted by vegetation, landforms, buildings or coastal defence structures. Where this happens, there will sometimes be spreading room beside the trail which people can use to get a better sea view. We are unlikely to clear vegetation in order to open up views, but we may do so if it is necessary to make room for the trail itself (see stage 8 in chapter 3 of the Scheme).



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- 4.6.3 The trail may also lose sight of the sea temporarily in order to follow a safer or more convenient route, or to take account of other uses of the land.
- 4.6.4 On low-lying coast, it may not be possible to see the sea from the trail at some states of the tide.

#### 4.7 Availability of spreading room

##### *Land considered to be accessible*

- 4.7.1 The availability of spreading room relates to the second objective under section 296(3) of the 2009 Act to secure a margin of land along the length of the English coast which is accessible to the public. For land within the coastal margin to be considered accessible for these purposes, the 2009 Act says it must be:
- land where the coastal access rights apply; or
  - land with access rights of the types listed in CROW section 15; or
  - excepted land which is accessible to the public by another enactment or rule of law – principally public footpaths, bridleways and other highways.
- 4.7.2 There is no duty on Natural England to make it possible for the public to reach all parts of the coastal margin on foot. Some coastal areas, such as cliff faces and rocky shores, are inherently difficult to reach and this is part of their appeal for some people. However, the route of the trail will wherever practicable be chosen to make it easy for the public to reach popular areas of spreading room like beaches, either by touching them at a safe and convenient point of entry, or by linking to a secondary route which leads to them.
- 4.7.3 We may also promote or improve existing secondary routes or points of access to spreading room from the trail, either to make it easy for people to reach it or to encourage people to avoid other areas that are less suitable for general use. *For example, see figures 25, 28 and 29 in chapter 9.*
- 4.7.4 However, we are unlikely to recommend new routes through spreading room in our coastal access reports, unless we conclude that it is necessary to encourage people to take a particular route for safety, land management or conservation reasons. The detailed assessment criteria in chapters 7 and 8 indicate circumstances where this might be necessary.

##### *Land seaward of the trail*

- 4.7.5 The Order provides for any land seaward of the ordinary route of the trail to qualify automatically as coastal margin as a consequence of the route being put in that position. On estuaries, as on the open coast, this relates to any land between the trail and the seaward extremity of the foreshore – see chapter 10.
- 4.7.6 Some parts of the coastal margin on the seaward of the trail will not be spreading room as a result of this provision, because:
- they may be excepted land; or
  - where coastal access rights apply, they may be subject to long-term local exclusions (see section 6.6).
- 4.7.7 In some instances, there may be no lawful means for the public to reach spreading room from the trail because the intervening land is excepted land (or excluded by direction). For example, the only way to reach a particular beach may be through a building or private garden that lies between the trail and the beach.

##### *Specific land types*

- 4.7.8 Subject to these same provisos, the Order also provides for certain specific coastal land types to be included automatically in the coastal margin where they fall landward of the trail. The land types in question are:
- foreshore (which is taken here to mean the area between the mean high water mark and the mean low water mark);
  - any cliff, bank, barrier, dune, beach or flat which either touches the foreshore itself at

some point, or connects indirectly with it by touching another part of the coastal margin that itself touches the foreshore at some point<sup>46</sup>; and

- section 15 land adjoining the trail on the landward side<sup>47</sup>.

4.7.9 In some cases, the spreading room created under this provision may extend for some considerable distance inland of the trail.

*Discretion to include further land up to a recognisable physical feature*

4.7.10 Natural England has a discretionary power under section 55D(2) of the 1949 Act to recommend that the landward boundary of the coastal margin should coincide with a recognisable physical feature. We will consider using this discretion where it would:

- make the extent of people's access rights clearer or more cohesive on the ground, or
- secure or enhance public enjoyment of the coast;

and, in either case, where there is a recognisable physical feature which would provide a suitable boundary.

4.7.11 We will not use the discretion unless we are satisfied that doing so would strike a fair balance with private interests over the land, and an appropriate balance with other objectives such as heritage and nature conservation. In making this assessment we will consider where necessary what forms of local management could be used to address any potential conflicts that might result from new access. Chapter 6 explains the range of solutions available to us to strike this balance, while chapters 7 and 8 outline how we will apply the range of solutions to common circumstances on the coast.

4.7.12 Our use of the discretion may make the extent of people's access rights clearer or more cohesive on the ground by aligning their landward limit with a physical feature that will be easily visible to the public and is likely to be intuitively recognised by them as the inland boundary of their coastal access rights – for example:

- a field boundary e.g. a wall, hedge, fence or ditch;
- a bridge, tunnel, road or surfaced track;
- an embankment, such as those used for flood risk management;
- the top of an inland cliff or crag (allowing sufficient room for climbers to reach the edge or rest after a climb); or
- a clear change in land cover such as the edge of a woodland through which the trail passes.

4.7.13 We may for example use this discretion to recommend further landward spreading room where:

- the trail does not adhere closely and consistently to any recognisable physical feature other than the path itself;
- the trail is intersected frequently by secondary access routes;
- there are areas such as grassland, heath, scrub or woodland next to the trail; or
- to incorporate adjacent land where there are existing access rights provided under Part 1 of CROW.

4.7.14 Using the discretion is normally likely to secure or enhance public enjoyment in some way by allowing people to explore further landward spreading room if they wish rather than continuing straight on along the trail. It may for example provide access to:

- a suitable place to rest, shelter from the elements or picnic;
- an enhanced sea view;

<sup>46</sup> For example dunes are often separated from the foreshore by a narrow strip of beach, but will still be considered to be adjacent to it for these purposes. But in the event that an area of dune was completely separated from the coast by developed land, it would not be included in this way unless the landward boundary of the margin is extended to coincide with the landward boundary of the dune under section 55D(2)(a).

<sup>47</sup> This provision is by virtue of paragraph 3(3)(b)(i) of the Order.



- a contrasting environment to the more typical experience on that section of coast;
- views of, or contact with, the natural environment or features that the public may enjoy, or that may be of special interest to some; or
- a strategic route to and from the coast – for example from a village, a bus-stop or a car park – or an alternative route back along the same length of coast.

4.7.15 The coastal environment is inherently dangerous and we recognise that for some people – climbers for example – that is part of its intrinsic appeal. We are therefore very unlikely to rule out the inclusion of landward spreading room under this discretion on safety grounds, unless there are significant risks arising from other activities on the land that would require intervention (see chapter 8).

*Figures 24, 26 and 28 in Chapter 9 illustrate some circumstances where we might exercise our discretion to recommend landward spreading room.*

*Voluntary dedication of land as coastal margin*

4.7.16 Land that was previously dedicated as access land under section 16 of CROW becomes subject to the coastal access regime if it forms part of the coastal margin in any of the ways described above. This, for example, has the effect of applying to it the reduced level of occupier's liability that applies on land with coastal access rights.

4.7.17 A land owner may also make a dedication to 'opt in' to the coastal access regime adjacent land which would not otherwise be part of the coastal margin. This may have the effect of creating further landward spreading room.

4.7.18 Other land that is already coastal margin may also be permanently dedicated as such under the provisions of CROW section 16, as amended for this purpose by section 303(6) of the 2009 Act. Dedication may be used in this way to create spreading room over areas that would otherwise be excepted land under the provisions of Schedule 1 of CROW.

4.7.19 In any of the scenarios above, a land owner may also make provision in the dedication for specific national restrictions that would otherwise apply over spreading room to be removed or relaxed (see section 2.2 of the Scheme).

#### 4.8 **Enjoyment and protection of the coastal environment**

4.8.1 Coastal access rights will create more opportunities for the public to enjoy the natural and cultural environment of the coast and to understand it better. Our recommendations for the trail and the extent of landward spreading room will be influenced by local opportunities for people to encounter particular features or to get a more varied experience, where this is consistent with their protection and with the other key principles described in chapters 4 and 5 of the Scheme. This includes features designated for their landscape, geological or geomorphological, biodiversity or historic interest.

4.8.2 The key principle in our approach will be to strike the right balance for each circumstance between securing these opportunities and ensuring appropriate protection of the coastal environment. This principle is in keeping with Natural England's statutory purpose to conserve, enhance and manage the natural environment for the benefit of present and future generations<sup>48</sup>.

4.8.3 The application of this principle will operate between two fundamental boundaries:

- On the one hand, various statutory obligations in respect of sites and features on the coast; and
- On the other hand, our duty to deliver coastal access rights.

4.8.4 We will therefore assess the potential effects of improved coastal access on sensitive features along each stretch of coast, including wildlife, heritage, landscape and geodiversity. Our assessments will consider potential effects arising from any works which are necessary for the establishment or maintenance of improved coastal access,

<sup>48</sup> The Natural Environment and Rural Communities Act 2006, section 2(1).



and from people's exercise of the coastal access rights.

- 4.8.5 As part of this process, we will take advice from local authority archaeological officers regarding the potential effects on heritage features and will consult English Heritage in relation to Scheduled Monuments where they are highlighted.
- 4.8.6 In respect of natural features, our assessments will:
- fulfil our obligation under Article 6.3 of the Habitats Directive to conduct an appropriate assessment where we conclude that any European site could be significantly affected by our coastal access proposals<sup>49</sup>;
  - comply with our duty under section 28G of the Wildlife and Countryside Act 1981 to take reasonable steps, consistent with the proper exercise of all our functions, to further the conservation and enhancement of the flora, fauna or geological features by reason of which a site is of special scientific interest;
  - take into account any potentially significant effects on particular habitats or species protected under other legislation, insofar as they occur on the coast, including:
    - species afforded special protection under relevant schedules to the Wildlife and Countryside Act 1981 or under Schedules 2 and 5 of the Conservation of Habitats and Species Regulations 2010;
    - particular species afforded protection under dedicated legislation such as the Conservation of Seals Act 1970; and
  - take into account any potentially significant effects on species or habitats listed in the United Kingdom Biodiversity Action Plan, as part of our wider duty to have regard, so far as is consistent with the proper exercise of our functions, to the purpose of conserving biodiversity.
- 4.8.7 Often coastal access rights will be put in place without taking any special measures to protect the coastal environment. However, where we conclude from our assessments that there may be potential for the coastal access rights to cause adverse effects on protected sites and species, we will consider whether any action is required to avoid or mitigate such effects. There is a range of options available, including:
- a trail route that avoids sensitive areas, or an alternative route used during sensitive periods;
  - informal management techniques such as public information, wardening or promotion of particular routes;
  - local restrictions or exclusions<sup>50</sup> on public use of spreading room; and
  - monitoring the outcome on the ground.
- 4.8.8 In all cases where we decide that action is necessary, our policy will be to adopt the option which is least restrictive on public access that will meet at reasonable cost our environmental objectives and any specific statutory obligations that apply. Chapter 7 of the Scheme indicates the solutions we are likely to consider in relation to key concerns.
- 4.8.9 In the case of European sites, we have a specific duty to assess the implications of the coastal access rights for them. Where the introduction of coastal access rights at these sites is likely to have a significant effect on the features to which their designation relates, either alone or in combination with other projects, we must carry out an appropriate assessment.
- 4.8.10 On stretches of coast where we conclude that an appropriate assessment is required in relation to a European site, we will also subject our proposals to strategic environmental

<sup>49</sup> The glossary to the Scheme includes a full explanation of each of these terms: "Habitats Directive", "appropriate assessment" and "European site".

<sup>50</sup> Natural England may exclude or restrict coastal access for this purpose using powers under section 26 of the Countryside and Rights of Way Act 2000.

assessment, in accordance with EU Directive 2001/42/EC. Chapter 3 indicates how these assessments of the potential effect of our proposals on the environment will be integrated into key stages of the implementation process.

- 4.8.11 Where we conclude from an appropriate assessment that coastal access rights may have an adverse effect on the integrity of a European site, we will take whatever steps may be necessary in order to be certain that there will be no adverse effect on the integrity of the site.
- 4.8.12 Where other protected sites or protected species may be affected, we will use our flexible powers under the legislation to find solutions that best integrate our nature conservation and coastal objectives, complying with any specific legal duties where relevant. There may be circumstances where after careful assessment we conclude that some impact on nature conservation interests is necessary and acceptable in order to strike an appropriate balance between our nature conservation duties and other interests to which we must have regard under the coastal access duty. In these cases, we will aim to minimise the impacts through appropriate use of the range of solutions described in later chapters of the Scheme. Where appropriate we will consider carrying out monitoring in such a situation to ensure that any actual impacts on nature conservation interests stay within acceptable limits and that we can take steps to mitigate those impacts if we conclude from monitoring that this is necessary.
- 4.8.13 We will also ensure that any operations (such as those necessary to install access infrastructure) which are felt necessary to implement the proposals meet the statutory requirements applying to any SSSI or Scheduled Monument that may be affected.
- 4.8.14 On SSSIs (for which Natural England is the assenting authority) we will ensure that any works are undertaken in the least harmful way that is practicable to the features for which the site is notified, and that the site is restored where necessary to ensure that its overall conservation status is maintained.



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## 4.9 Responsiveness to coastal change

- 4.9.1 Coastal access will not be a factor in determining shoreline management policies or the strategies that implement them, though individual schemes may make special provisions for coastal access where these can be accommodated within the overall objectives for flood or coastal risk management. This fits with our policy that sustainable management of flood and coastal risk is best achieved by solutions that work with the physical and hydrological processes that shape coastal and river environments.
- 4.9.2 Most parts of the coast will experience coastal change at some point, but adaptations to coastal access are most likely to be necessary where:
- the coastline is already subject to significant erosion or other geomorphological processes (see ‘roll back’ below);
  - the trail is subject to periodic flooding (for example in storm conditions) or more regular tidal action (see ‘optional alternative routes’ below); or
  - there is a strategy of managed realignment<sup>51</sup> or non-intervention with coastal processes which will lead to change occurring (see ‘managed realignment and non-intervention’ below).
- 4.9.3 The 2009 Act includes special powers that enable our coastal access recommendations to facilitate adaptation to these circumstances: these powers are described in detail below.
- 4.9.4 The management of coastal erosion and flood risk is central to these considerations. Accordingly, section 55D of the 1949 Act<sup>52</sup> requires us to consult the Environment Agency in relation to any interests of flood defence, or in the management of coastal erosion or encroachment by the sea, which may be affected by our proposals.

### *‘Roll back’*

- 4.9.5 A continuous and sustainable trail cannot follow the same fixed route year after year on lengths of coast where the coastline is changing significantly, unless it is aligned a significant distance back from where the change is occurring. This may be an option in some places, but it will often be an unattractive option because the trail would be too far from the sea, or because putting it there would increase the impact on other land uses.
- 4.9.6 Accordingly section 55B of the 1949 Act<sup>53</sup> provides powers for the route of trail to be determined in accordance with a written description under which the trail effectively moves inland as the coast changes, for example by reference to its position in relation to a field boundary or cliff edge (as it exists at the time). In the Scheme we call this provision ‘roll back’. The distinction between roll back and any other change to the trail to accommodate coastal change is that roll back takes place without further approval by the Secretary of State. Approval of the way in which roll back is to happen is given as part of the approval of the original report. In this way, everyone knows from the outset how the trail will ‘move’ in response to change.
- 4.9.7 The power enables us to recommend that the trail rolls back in an area which is (or may be) subject to:
- significant coastal erosion or encroachment by the sea; or
  - significant physical change due to other geomorphological processes such as landslip.
- Roll back is an option on both the ordinary route of the trail and on alternative routes which meet these criteria, but not on temporary routes (see figure 16 in section 6.4).
- 4.9.8 Typically we will use roll back where the trail is on sections of cliff that are eroding or subject to periodic landslip. Our description of how the route will be determined will need to take into account local factors such as:

<sup>51</sup> See entry for ‘managed realignment’ in part B of the glossary.

<sup>52</sup> As inserted by section 302 of the 2009 Act.

<sup>53</sup> As inserted by section 302 of the 2009 Act.

- the average rate of erosion;
  - the characteristic patterns and visible evidence of erosion or landslip locally;
  - the safety and convenience of the trail and how these factors may be affected by other recreational uses on the affected section, for example by horse riders or cyclists, or by the management of the land;
  - land management and environmental objectives;
  - how the route will be indicated to the public and the need for crossing points and other infrastructure.
- 4.9.9 The influence of these and other local factors on the detailed design of the route may change over time according to the future pattern of erosion. The description is therefore likely to give a broad indication of how the route will be determined with reference to recognisable physical features such as a field boundary or cliff edge (as it exists at the time) – and specific criteria which will affect how the route is determined in detail according to the conditions at the time.
- 4.9.10 Where we describe the route in this way, the map submitted to the Secretary of State in Natural England’s report will show its starting position against the current coastline. The report will also indicate:
- The criteria we will use to reposition the route from time to time; and
  - Points or circumstances which when reached will trigger a formal reassessment of the route, for example a potential interface with developed land.
- 4.9.11 Where the trail rolls back in the way described, the extent of spreading room is also likely to change, in accordance with the provisions described in section 4.7, but the boundary of any spreading room on the landward side of the trail will not change unless we make a further specific recommendation to that effect to the Secretary of State.
- 4.9.12 Figures 10 and 11 illustrate how roll back might work in practice in a particular case. Figure 12 shows the potential effect of a formal reassessment of the route on the same section of coast.
- 4.9.13 Existing public rights of way have traditionally been lost to coastal change, or rendered unusable by it, when the ground over which they run disappears or slumps. This will continue to happen, but the roll back power provides a means by which onward access on foot along that section of coast can nevertheless be maintained. Where the trail ‘adopts’ an existing right of way along a section subject to significant coastal change, that part of the trail is initially excepted land, with the public’s ability to use it being based on the existing right rather than the coastal access rights. However in this situation, our report will typically describe the position of the trail as rolling back. As the line of the trail rolls back in response to coastal change, it will cease to be excepted land, and coastal access rights along it will come into force, and will then continue to roll back in accordance with the description in the report.
- 4.9.14 Any rights of access for horse riders and cyclists along rights of way such as bridleways are effectively lost when the ground over which they run disappears or slumps, unless the owner voluntarily dedicates further land for access by these groups.

#### *Optional alternative routes*

- 4.9.15 Section 55C(4) of the 1949 Act<sup>54</sup> provides powers for Natural England to propose an optional alternative to the ordinary route, which would be available for the public to use at times when the ordinary route of the trail could reasonably be regarded as unsuitable for use because of flooding, tidal action, coastal erosion or other geomorphological processes.
- 4.9.16 We will normally avoid aligning the trail on any land that is likely to be subject to periodic

<sup>54</sup> As inserted by section 302 of the 2009 Act.





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**Figure 10**

The trail is aligned on an eroding cliff. The corner of a garden is marked as a potential trigger point for a future reassessment of the route.



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**Figure 11**

2 years after initial alignment: the trail has automatically rolled back as the cliff has eroded.



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**Figure 12**

5 years after initial alignment: the trail has rolled back as far as the place previously identified as a potential trigger for reassessment. This scenario shows how the trail could be repositioned at this stage to avoid the garden.

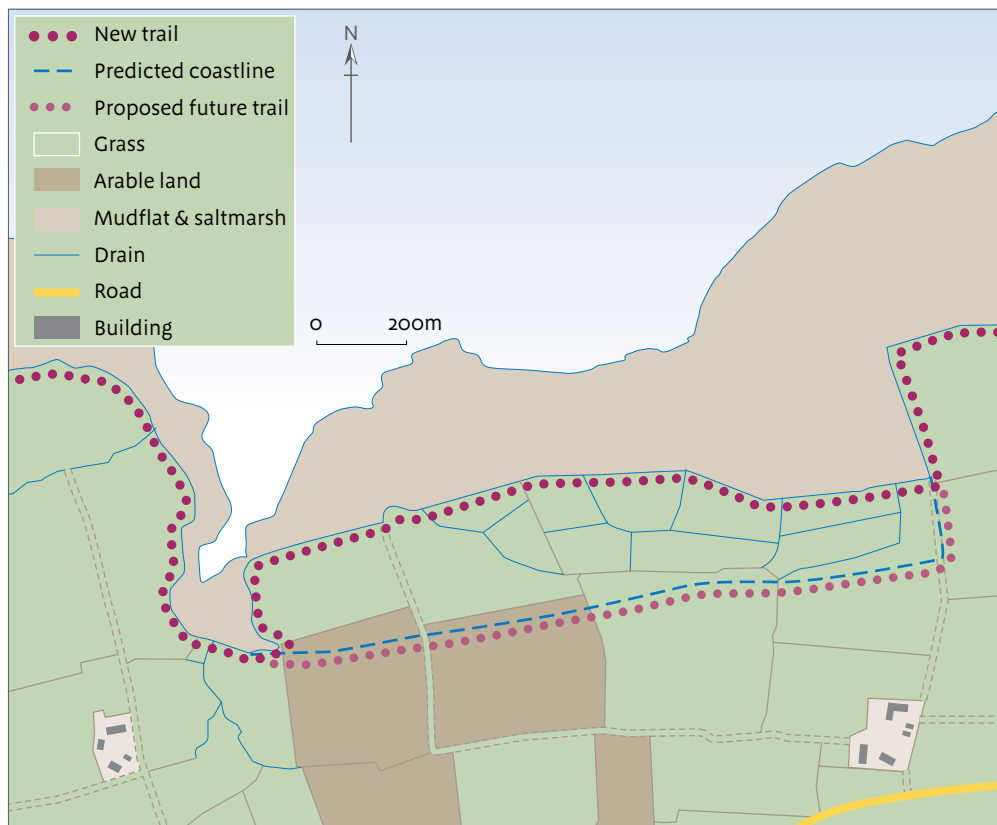
flooding or tidal action, though spreading room on the seaward side of the trail will often by its nature be affected. However, there are likely to be places where the route we recommend will be flooded periodically, for example:

- on a beach, if the other available route options would not offer any views of the sea;
- on an embankment that is subject to occasional flooding during storm conditions.

- 4.9.17 In these circumstances we will consider whether an optional alternative route could be provided at reasonable cost that would strike an appropriate balance between the other key principles described in chapters 4 and 5 of the Scheme. *For example, see figure 27 in chapter 9.*
- 4.9.18 We are unlikely to consider an optional alternative route in relation to sections of the trail affected by erosion, landslip or other geomorphological processes, except in circumstances where the intention is to reinstate the ordinary route after erosion or landslip has taken place. More often the effects of erosion or landslip will render the route unusable in the long-term; hence, we are likely to recommend that the trail rolls back in response to these processes. For similar reasons, we are unlikely to recommend that an optional alternative route rolls back, but we may do so under the power in section 55C(6) of the 1949 Act.

#### *Managed realignment and non-intervention*

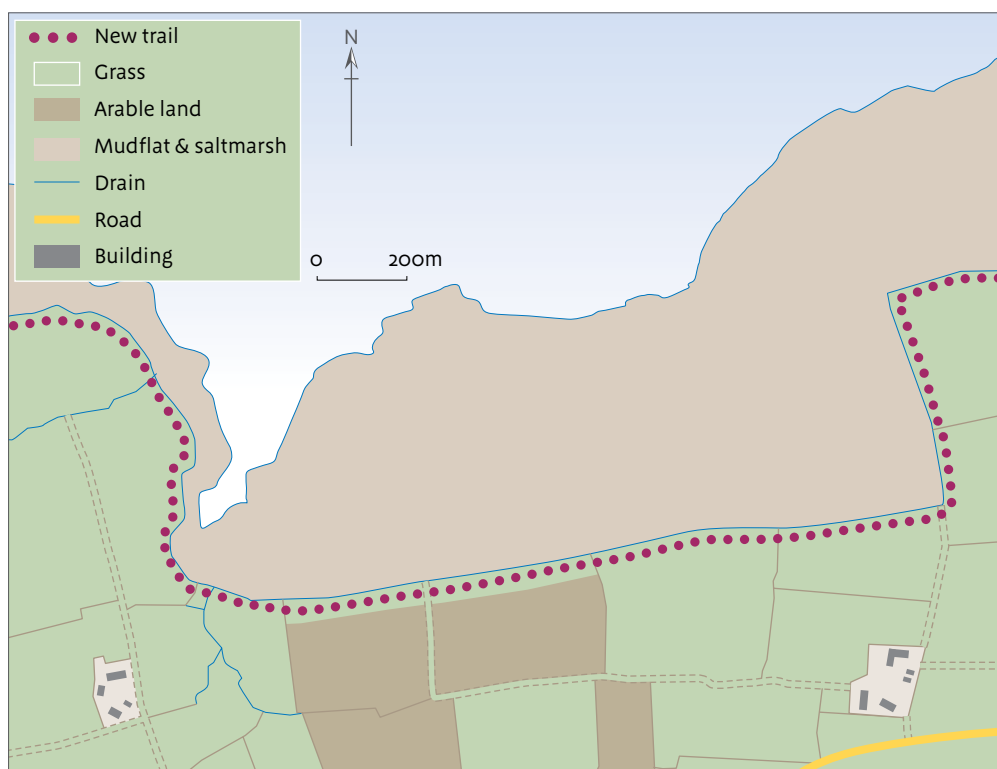
- 4.9.19 Where the shoreline is defended by banks or barriers, it may appear quite stable in the short-term, but it could be subject to significant changes in the future if there is a policy of managed realignment or non-intervention with coastal processes (under which existing defences are no longer actively maintained). We will therefore need to take careful account of Shoreline Management Plans and the strategies which implement them at key stages throughout the implementation process described in chapter 3 of the Scheme, working closely with the Environment Agency and other relevant bodies.
- 4.9.20 Where there is a policy of managed realignment or where defences are not actively maintained, we will consider carefully at the outset the best route for the trail. We may align the trail along the future predicted line of the coast, provided this is known with sufficient certainty, or we may rely on the power given to us under section 55(1) the 1949 Act to recommend a change at a later stage (see stage 10 of the implementation process set out in chapter 3).
- 4.9.21 Where we decide that a trail along the current coastline is for the time being appropriate, it will be necessary to reposition it in the future:
- on a section of coast subject to managed realignment, in accordance with a plan agreed with the Environment Agency and the operating authority, if different;
  - on a section that is no longer actively maintained, when in our judgement it is necessary, taking into account all the criteria in the Scheme, including the safety and convenience of the route.
- 4.9.22 We may discuss both present and future trail routes during the preparation of our initial recommendations to the Secretary of State (alongside any provision regarding the landward boundary of spreading room that we consider appropriate in the relation to either or both routes) but our coastal access report will recommend only the access that is appropriate to the circumstances at the time. We will submit a variation report at a later date when it becomes necessary to change the access as a result of the implementation of the relevant flood risk management policy. The variation report will be subject to the same procedures for consultation as the first report – see figure 9 in chapter 3.
- 4.9.23 Figures 13 and 14 illustrate how the route of the trail might be changed to adapt to managed realignment.



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**Figure 13**

The trail aligned along a section of coast subject to managed coastal realignment. A new route is proposed behind the predicted coastline.



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**Figure 14**

The trail is in its new position, after managed coastal realignment.



