

Department for Environment, Food and Rural Affairs

Notice by the Secretary of State under section 52 of the National Parks and Access to the Countryside Act 1949: Cumbria: Allonby to Whitehaven

July 2013

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Introduction

On 17 December 2012 Natural England submitted a coastal access report relating to Cumbria: Allonby to Whitehaven (“the coastal access report”) to the Secretary of State for Environment, Food and Rural Affairs under section 51 of the National Parks and Access to the Countryside Act 1949 (“the 1949 Act”) pursuant to its duty under section 296(1) of the Marine and Coastal Access Act 2009 (“the 2009 Act”).

A person was appointed under paragraph 4(2) of Schedule 1A to the 1949 Act, inserted by Schedule 19 to the 2009 Act (“the Schedule”), for the purpose of considering whether the proposals in the coastal access report failed, in the respects specified in the objections received by Natural England under paragraph 3 of that Schedule in relation to that report, to strike a “fair balance” as a result of the matter or matters specified in those objections¹.

In reaching his determination under section 52 of the 1949 Act the Secretary of State has considered:

- a. Coastal Access Cumbria: Allonby to Whitehaven - Natural England’s coastal access report submitted to the Secretary of State on 17 December 2012;
- b. in accordance with paragraph 16(1)(a) of the Schedule, the objection which the appointed person determined to be an admissible objection;
- c. in accordance with paragraph 16(1)(b) of the Schedule, Natural England’s comments on the admissible objection which it sent to the Secretary of State;
- d. in accordance with paragraph 16(1)(c) of the Schedule, the report given to the Secretary of State by the appointed person in respect of the objection which the appointed person determined to be an admissible objection; and
- e. in accordance with paragraph 16(1)(d) of the Schedule, representations made by a person within paragraph 2(2)(b) to (f) of the Schedule, and the summary of other representations made, and Natural England’s comments on those representations which it sent to the Secretary of State on 29 April 2013.

In this notice –

(a) “objection” means an objection about the coastal access report which is made under paragraph 3 of the Schedule; and

(b) “representation” means a representation about the coastal access report which is made under paragraph 7 of the Schedule.

¹ A “fair balance” means a fair balance between the interests of the public in having rights of access over land, and the interests of any person with a relevant interest in the land, as set out in section 297(3) of the 2009 Act and paragraph 1(b) of the Schedule. A person has “a relevant interest in the land” if he is the owner of the land, holds a term of years absolute in the land, or is in lawful occupation of the land: see section 55J(2) of the 1949 Act.

The Secretary of State has determined to approve the proposals set out in the coastal access report so far as they relate to those parts of the route (and associated coastal margin) in relation to which no objections were made, and to which objections were made but which the appointed person determined not to be admissible objections.

In the respects specified in the objection set out at **Annex A** to this notice, the Secretary of State determines that the proposals set out in the coastal access report **do not fail** to strike a “fair balance” as a result of the matters specified in the objection. He therefore approves the proposals set out in the coastal access report, so far as they relate to that part of the route (and associated coastal margin) to which that objection relates.

The conclusions and observations of the Secretary of State in relation to the representations listed in **Annex B** to this notice are set out in the fourth column of that Annex.

The Secretary of State has made a copy of this notice available at www.gov.uk/defra.

Natural England has made available at <http://www.naturalengland.org.uk/ourwork/access/coastalaccess/default.aspx> a copy of:

- a. Coastal Access Cumbria: Allonby to Whitehaven - the coastal access report;
- b. Representations made by a person within paragraph 2(2)(b) to (f) of the Schedule, and Natural England’s comments on those representations which it sent to the Secretary of State on 29 April 2013;
- c. Summary of other representations, and Natural England’s comments on those representations which it sent to the Secretary of State on 29 April 2013.

The Planning Inspectorate has made available at <http://www.planningportal.gov.uk/planning/countryside/coastal> the Report given to the Secretary of State by the appointed person in respect of objection MCA/Allonby to Whitehaven/0/1.

Annex A

In the respects specified in the objection set out below, the Secretary of State has determined that Natural England's proposal in the coastal access report did not fail to strike a "fair balance" as a result of the matters specified in the objection.

Objection Ref: MCA/Allonby to Whitehaven/0/1

Route on land seaward of the railway line at Siddick

Network Rail

The land in the report to which the objection relates is route sections ALW-S036 to ALW S038.

Annex B

The Secretary of State has considered, in relation to the coastal access report, the following representations made under paragraph 7 of the Schedule.

Representation No.	Name of representation	Report Chapter and route section(s)	Secretary of State's conclusion and observation
MCA / Allonby to Whitehaven/ R /1	Private individual	Chapter 2 ALW-S021 to ALW-S039	Secretary of State notes the representation about the long-term viability of the proposed coastal route, seaward of the coastal railway. He notes that the proposed coastal route will be protected during forthcoming coastal defence engineering works by Network Rail. He further notes that Natural England has concluded that the possibility of an alternative coastal route, which would be much further inland, does not appear to meet the criteria in the Coastal Access Scheme (approved under section

			299 of the Marine and Coastal Access Act 2009).
MCA / Allonby to Whitehaven/ R /2	Workington Rugby League Football Club	Chapter 3 Map 3.1 ALW-S043 and ALW-S044	Secretary of State notes that Natural England has proposed a new coastal route on land owned by Workington Rugby League Football Club which will be an improvement on the one it proposed in the draft coastal access report as it will avoid crossing a large car parking area. He approves the new proposed coastal route as set out on the revised map 3.1 and the revised wording for paragraphs 3.1.13 to 3.1.15 (as attached at Annex C to this notice).
MCA / Allonby to Whitehaven/ R /3	Private Individual	Chapter 3 ALW-S040 to ALW-S048	Secretary of State notes representation which proposes the reinstatement of a previously demolished light railway bridge as a preferred means of crossing the River Derwent in Workington. He notes the assurance given to Natural England by the local highway authority that if any bridge is installed in this area in the future in connection with development of the port facilities, it will include public footways. Accordingly the Secretary of State notes that Natural England would anticipate submitting a variation report to the Secretary of State.
MCA/Allonby to Whitehaven/R/4	Ramblers	Chapter 1 ALW-S01 to ALW-S04	Secretary of State notes that Natural England should avoid creating a new coastal route where an adequate route already exists (or, in this case, will exist, by the time of commencement of the new access rights). He further notes that the route will allow plenty of

			space for the various users to pass each other and that visibility is good along this particular length of the coast, which will help to minimise any conflicts between users.
MCA/Allonby to Whitehaven/R/5	Ramblers	Chapter 1 ALW-S02 to ALW-S03	Secretary of State notes that that a new bridge is due to be installed at this location – a beck unnamed on Ordnance Survey maps which crosses underneath the coastal road adjacent to Mealo House - as part of the new Hadrian's cycleway development project. He notes that the existing crossing over Mealo Beck, adjacent to Staith House, is in a satisfactory condition.
MCA/Allonby to Whitehaven/R/6	Ramblers	Chapter 2 Map 2.1 ALW-S016 to ALW-S019	Secretary of State notes that Natural England considered the option of a coastal route which crossed the dock bridges at Elizabeth Dock and Senhouse Dock. He approves Natural England's proposed coastal route because it is more direct and is available for use at all times. He further notes that the route suggested in the representation will lie within the proposed coastal margin and be accessible whenever the bridges and gates are physically passable.
MCA/Allonby to Whitehaven/R/7	Ramblers	Chapter 3 Map 3.1 ALW-S040 to ALW-S047	Secretary of State notes that Natural England considered the option of re-instating the former railway bridge and for the coastal route to be aligned across it. He approves the proposed river crossing in Natural England's coastal access report but notes that Natural England will continue

			to liaise with Cumbria County Council and Workington Port Authority over their possible development of a new bridge in the approximate location of the one identified in the representation. Any such new bridge would provide pedestrian access across the River Derwent in Workington.
MCA/Allonby to Whitehaven/R/8	Ramblers	Chapter 3 Map 3.2 & 3.3 ALW-S057 to ALW-S069	Secretary of State notes that Natural England will continue to pursue the potential redevelopment of the former Workington Steel Works site with Cumbria County Council, Allerdale District Council and the eventual owners/developers of the site including the possible alignment of the coastal route via a promenade or pathway to the seaward edge of the site.
MCA/Allonby to Whitehaven/R/9	Ramblers	Chapter 4 ALW-S093 to ALW-S094	Secretary of State approves Natural England's proposal that, using its powers under section 55D(2) of the 1949 Act (as inserted by the Marine and Coastal Access Act 2009), the landward boundary of the coastal margin coincides with a physical recognisable feature, in this case a boundary fence.
MCA/Allonby to Whitehaven/R/10	Ramblers	Chapter 4 ALW-S107 to ALW-S110	Secretary of State approves the proposals that the boundary of the coastal margin should be coincident with the landward edge of the cycleway.
MCA/Allonby to Whitehaven/R/11	English Heritage	Chapters 1 and 4 Maps 1.2, 1.3,	Secretary of State notes the representation which supports Natural England's overall proposals and that Natural England will work with English

		1.5 and 4.2. ALW-S005, ALW-S009 to ALW-S015, ALW-S095 to ALW-102	Heritage and others during the design of the interpretation panels identified in its coastal access report.
MCA/Allonby to Whitehaven/R/12	Canoe England	General	Secretary of State notes representation which supports Natural England's overall proposals.
MCA / Allonby to Whitehaven/R /13	Transmission Investment	Chapter 2 ALW-S035	Secretary of State notes that Natural England does not consider that coastal access rights will interfere in any significant way with the operational needs of coastal businesses or organisations and that, where there is potential for visitors to disrupt work, the problems can often be avoided by using informal techniques. He asks Natural England to hold discussions about the need for any access restrictions in the future if these appear necessary.
MCA / Allonby to Whitehaven/ R /13; MCA/Allonby to Whitehaven/R/15; MCA /Allonby to Whitehaven/ R /17	Transmission Investment; United Utilities: National Grid	Chapter 3 ALW-S035, ALW-S078, others unspecified in Representation 17.	Secretary of State notes that although it is not possible at this stage to identify when or where such work may be carried out, Natural England acknowledges that from time to time maintenance work and major new infrastructure development could impact upon any coastal access rights in place in an area. Chapter 8 of the Coastal Access Scheme (approved under section 299 of the Marine and Coastal Access Act 2009) sets out a

			<p>variety of circumstances in which this might be the case and suggests how such situations can be dealt with, both formally and informally. The Secretary of State asks Natural England to work closely with Transmission Investment; United Utilities and the National Grid in the event that access management measures are required.</p>
MCA / Allonby to Whitehaven/ R /14	Network Rail	<p>Chapter 2</p> <p>Sections not specified in Representation.</p>	<p>Secretary of State notes the railway line would be “excepted land” under paragraph 6 of Schedule 1 to the Countryside and Rights of Way Act 2000 and would not be subject to any new access rights. He also notes that only in one small area is Natural England proposing new access rights within the strict boundaries of operational land but envisages Network Rail wishing to erect a fence between the tracks and the route effectively removing the trail from operational land.</p>
MCA /Allonby to Whitehaven/ R /14	Network Rail	<p>Chapter 3</p> <p>Sections not specified in Representation.</p>	<p>Secretary of State notes the railway line would be “excepted land” under paragraph 6 of Schedule 1 to the Countryside and Rights of Way Act 2000 and would not be subject to any new access rights.</p>
MCA /Allonby to Whitehaven/ R /14	Network Rail	<p>Chapter 4</p> <p>Sections not specified in Representation.</p>	<p>Secretary of State notes that Natural England does not consider that coastal access rights will interfere in any significant way with the operational needs of coastal businesses or organisations and that, where there is potential for visitors to disrupt work, the problems can often be avoided by</p>

			using informal techniques. The Secretary of State asks Natural England to hold discussions about the need for any access restrictions in the future if these appear necessary.
MCA/Allonby to Whitehaven/R/15	United Utilities	Chapter 4 ALW-S096 to ALW-S098	<p>Secretary of State notes that although it is not possible at this stage to identify when or where such work may be carried out Natural England acknowledges that from time to time maintenance work and major new infrastructure development could impact upon any coastal access rights in place in an area.</p> <p>Chapter 8 of the Coastal Access Scheme (approved under section 299 of the Marine and Coastal Access Act 2009) sets out a variety of circumstances in which this might be the case and suggests how such situations can be dealt with, both formally and informally. The Secretary of State asks Natural England to work closely with United Utilities in the event that access management measures are required.</p>
MCA/Allonby to Whitehaven/R/17	National Grid	General	Secretary of State notes representation about the future possibility of offshore and onshore energy development in coastal areas. He notes that Chapter 8 of the Coastal Access Scheme (approved under section 299 of the Marine and Coastal Access Act 2009) sets out a variety of circumstances in which this might be the case and suggests how

			such situations can be dealt with, both formally and informally. The Secretary of State furthermore asks Natural England to work closely with National Grid in the event of such change occurring.
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Annex C

MCA / Allonby to Whitehaven/ R /2

Revised wording for paragraphs 3.1.13 to 3.1.15 of the report

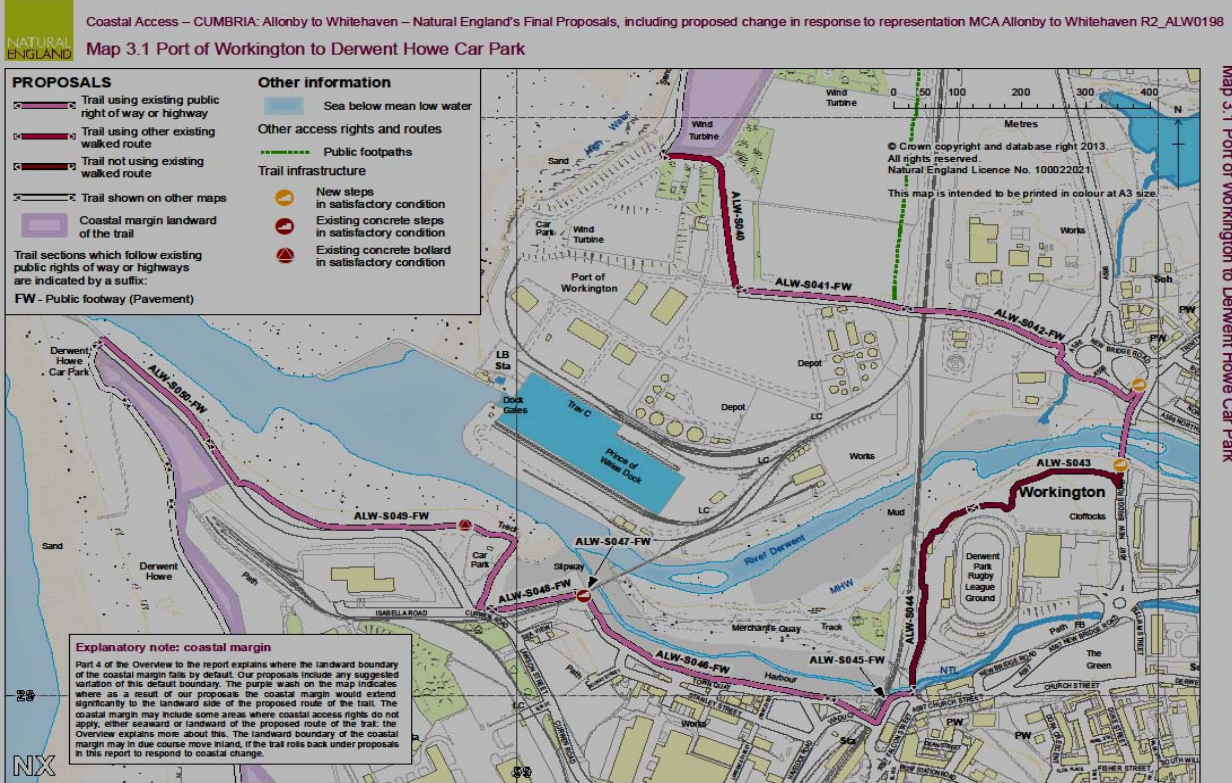
Route section ALW-S044

3.1.13 This part of the trail corresponds to a new path that would be created on the western side of the new fence adjacent to the car park at Derwent Park (Workington RLFC) rugby league ground, and over an access bridge to the junction of Falcon Street and Church Street.

3.1.14 This route section is owned by Allerdale Borough Council and leased by Workington Rugby League Football Club.

3.1.15 New access rights for people on foot would therefore come into effect along the trail. The new rights would be subject to the national restrictions on coastal access rights set out in Annex D of the Overview.

Revised Map 3.1



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