Access and Sensitive Features Appraisal

Coastal Access Programme

This document records the conclusions of Natural England's appraisal of any potential for ecological impacts from our proposals to establish the England Coast Path in the light of the requirements of the legislation affecting Natura 2000 sites, SSSIs, NNRs, protected species and Marine Conservation Zones.

Whitstable to Iwade

21st June 2017

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This appraisal should be read alongside Natural England's related Coastal Access Report in which the access proposal is fully described and explained

https://www.gov.uk/government/collections/england-coast-path-whitstable-to-iwade

1. Our approach

Natural England's approach to protection of sensitive features under the Coastal Access Programme is set out in section 4.9 Coastal Access: Natural England's Approved Scheme 2013[1]. We call our internal processes to support this approach 'Access and Sensitive Features Appraisal' (ASFA) and this document is a record of our conclusions. The appraisal includes Habitats Regulation Assessment wherever relevant to the site in question.

Our final published proposal for a stretch of England Coast Path is preceded by detailed local consideration of options for route alignment, the extent of the coastal margin and any requirement for restrictions, exclusions or seasonal alternative routes. The proposals are thoroughly considered before being finalised and initial ideas may be modified or rejected during the iterative design process, drawing on the range of relevant expertise available within Natural England.

Evidence is also gathered as appropriate from a range of other sources which can include information and data held locally by external partners or from the experience of local land owners and occupiers. The approach includes looking at any current visitor management practices, either informal or formal and any future plans for access management. The Thames, Medway and Swale Estuaries – Strategic Access Management and Monitoring Strategy[2] has informed thinking in this area, as it includes measures for enhancing The Swale SPA as well as to mitigate for potential impacts on wintering birds of increased recreational visits to the estuary as a result of planned housing developments. The process also involves discussing our emerging conclusions as appropriate with key local interests such as land owners or occupiers, conservation organisations or the local access authority. In these ways, nature conservation concerns are discussed early and constructive solutions identified.

The conclusions of our assessment are certified by both the member of staff responsible for developing the access proposal and the person responsible for authorising its conclusions with respect to ecological impacts. This ensures appropriate separation of duties within Natural England.

Where our proposals for the England Coast Path and associated Coastal Margin are relevant to a Natura 2000 site, this appraisal fulfils our duty under the Habitats Regulations 2010 to assess their potential implications in order to ensure no likely significant effect on the site. The formal conclusions relating to this are recorded in Part 7 of the document.

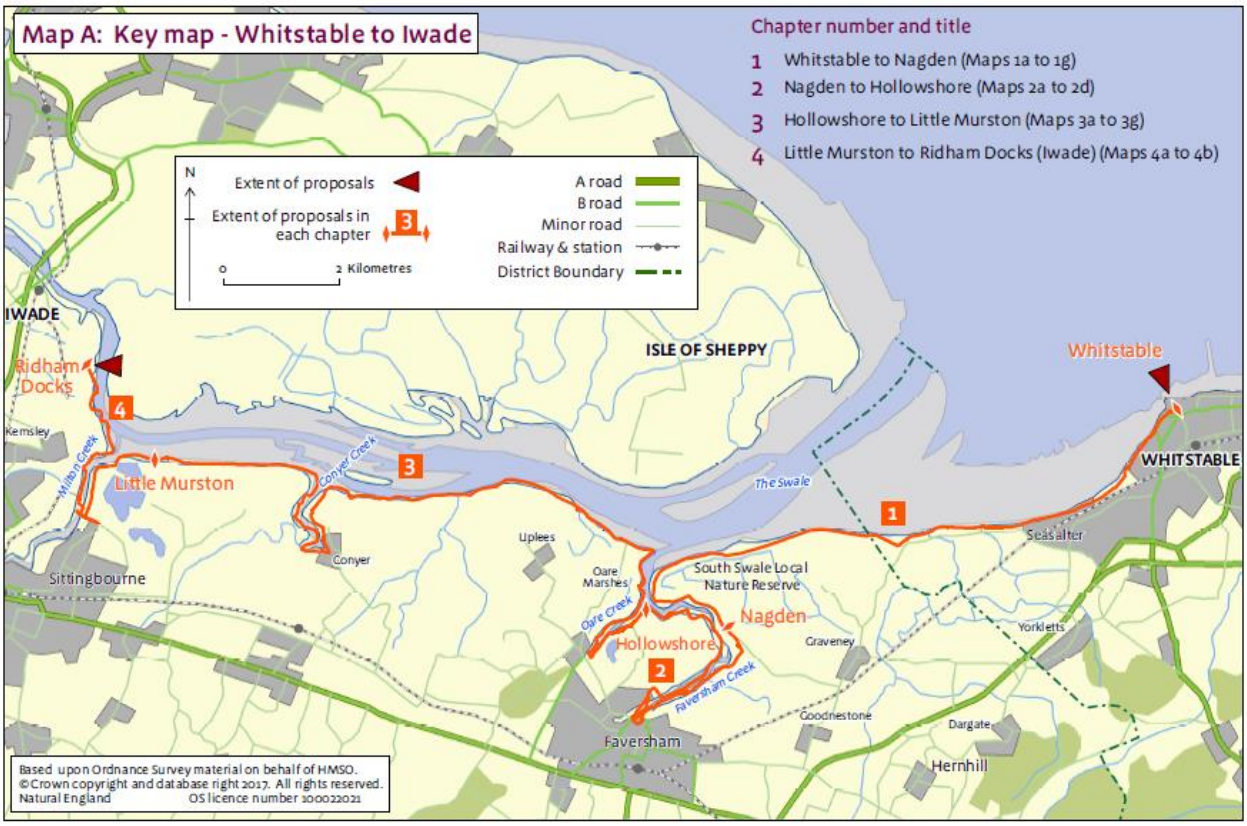
2. Scope

In this part of the document we define the geographic extent for the appraisal and features that are included. Note that this appraisal is concerned with ecological features; other possible sensitivities, including landscape and historic features, are discussed in our coastal access report.

2.1 Geographic extent

The stretch extends from Whitstable Harbour in the east to Ridham Docks, Iwade in the west. The stretch is broken down into four chapters as described in the main report and overview documents, as follows:

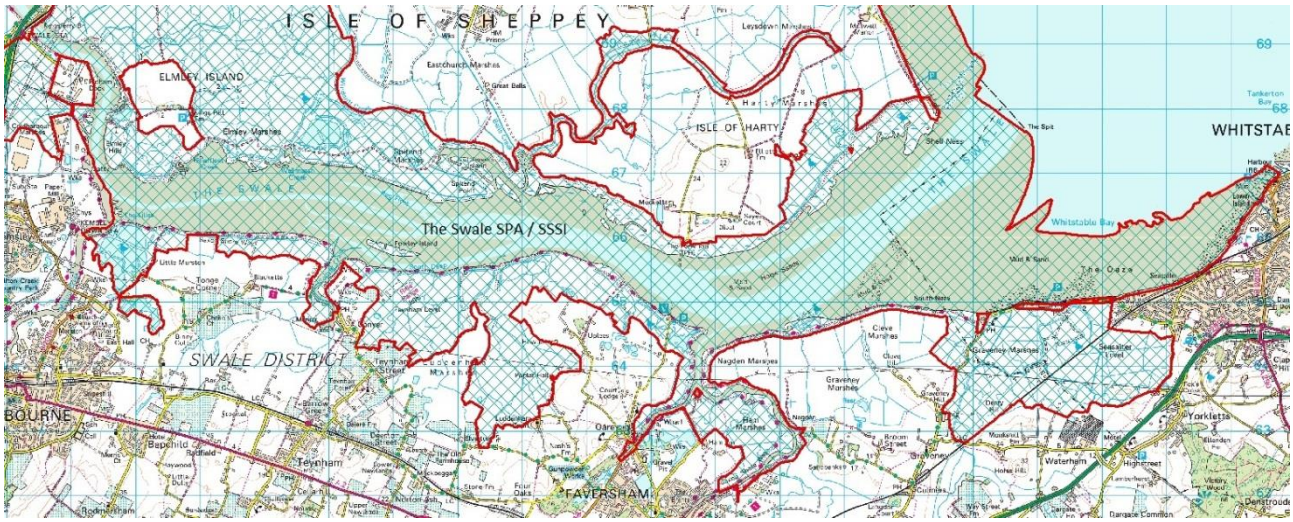
1. Whitstable to Nagde
2. Nagden to Hollowshore
3. Hollwshore to Little Murston
4. Little Murston to Ridham Docks (Iwade)



2.2 Designated sites

The boundaries of the following designations coincide, as illustrated on the map below:

The Swale SSSI
The Swale SPA
The Swale Ramsar Site



The Swale MCZ

2.3 Context

2.3.1 Multiple stretches affecting a Natura 2000 site

Where multiple stretches affect a Natural 2000 site we may need to consider if a combination of minor effects we identify for individual stretches could add up to an overall effect that is significant at the European site level. We do this by treating each of the affected stretches as an independent project for the purposes of our Habitat Regulations Assessment and considering in-combination assessment as part of the Likely Significant Effect screening stage of the Habitats Regulation Assessment in Part 7 of this document.

Work on the ASFAs for the northern and western reaches of the Swale have commenced as part of the Isle of Sheppey stretch and the Iwade to Grain stretch.

2.3.2 Strategic mitigation

The Thames, Medway and Swale Strategic Access Management and Monitoring Plan 2013, provides a framework to mitigate the effects of additional visitor pressure and disturbance to Natura 2000 sites arising from housing developments and is administered by the North Kent Environmental Planning Group (NKEPG). This strategy is concerned with the impact from developments on the basis of existing access, and does not cover any new access provision. The mitigation identified within this assessment for the England Coast Path, which along this stretch in the main utilises existing public rights of way and promoted routes, will complement the mitigation measures identified in this strategy, notably interpretation provision.

2.4 Designated features

Features – of the designated sites listed in 2.2	**SPA**	**Ramsar**	**SSSI**	**MCZ**
A046a dark-bellied brent goose *Branta bernicla bernicla* (non-breeding)	X	X	X	
A149 dunlin *Calidris alpina alpina* (non-breeding)	X		X	
Breeding bird assemblage (main component species are teal, mallard, gadwall, shelduck, moorhen, coot, snipe, ringed plover, oystercatcher, redshank, lapwing, avocet, marsh harrier, yellow wagtail, reed bunting and reed warbler).	Associated with lowland damp grassland habitat		Associated with lowland fen habitat	

Features – of the designated sites listed in 2.2	**SPA**	**Ramsar**	**SSSI**	**MCZ**
<u>Breeding bird species:</u> Avocet Gadwall Pochard Shoveler			 X X X X	
<u>Waterbird assemblage</u> – wintering migratory waterfowl of mudflat and grazing marsh, non-breeding (main component species are avocet, bar-tailed godwit, black-tailed godwit, curlew, little egret, dunlin, ringed plover, golden plover, knot, lapwing, oystercatcher, sanderling, green sandpiper, greenshank, ruff, *grey plover, redshank, spotted redshank, dark-bellied brent goose*, pintail, shelduck, shoveler, teal, european white-fronted goose and wigeon)	X	Species in italics	X	
<u>Non-breeding species:</u> Knot Spotted Redshank Black-tailed godwit Curlew Gadwall Grey plover Ringed plover Oystercatcher Pintail Redshank Ruff Little Stint European white-fronted goose Great-crested grebe Shoveler Shelduck Wigeon Teal Hen Harrier			 X X X X X X X X X X X X X X X X X X X X	

Features – of the designated sites listed in 2.2	**SPA**	**Ramsar**	**SSSI**	**MCZ**
Habitat features: • Brackish lakes • Ditches • Floodplain fen (lowland) • Invertebrate assemblage M311 saltmarsh and transitional brackish marsh • Invertebrate assemblage W211 open water in disturbed sediments • Invertebrate assemblage W314 reed-fen and pools • Ponds • SM4-28-Saltmarsh • Standing waters • Vascular Plant Assemblages			X X	
Estuarine rocky habitats and intertidal rock; intertidal mixed and coarse[i] sediments; intertidal sand and muddy sand; subtidal coarse and mixed sediments; subtidal sand and mud				X

2.5 Other features about which concerns have been expressed

Feature	**Conservation interest**
Little Tern (breeding) at South Swale LNR	Protected under Schedule 1 of the Wildlife & Countryside Act 1981. Amber listed in Birds of Conservation concern 4 (2015). Listed in Annex 1 and as a migratory species under the Birds Directive. Castle Coote is only one of two known breeding sites in the Swale, the other at Shellness, Isle of Sheppey. As a breeding species highly sensitive to habitat loss, poor weather conditions, tidal inundation, food shortage, predation from many sources and recreational disturbance in particular.
Common tern, ringed plover and oystercatcher	Associated vulnerable ground-nesting shorebirds of

Feature	Conservation interest
(breeding)	coastal shingle
Short-eared owl (wintering and occasional breeding)	Annex 1 of Birds Directive Hunts in the rough tussocky grassland behind the seawalls between the South Swale LNR in the east and Kemsley Marshes in the west, including Oare Marshes and Little Murston Nature Reserve. May be breeding at some of these locations.

3 Baseline conditions and ecological sensitivities

In this part of the document we identify any of the features mentioned above that are potentially sensitive to changes in access, and rule out from further consideration those that are not.

3.1 Intertidal and farmland feeding and roosting non-breeding species

Composition of feature group - where applicable
Dark-bellied brent goose, dunlin and non-breeding/overwintering waterbird SPA and SSSI features
Current conservation status and use of the site
Dark-bellied brent goose At the time of SPA designation Brent goose numbers represented 1.6% of the biogeographic population. Numbers have increased steadily over the decades from the 1970s however, since 2014 there has been a downward trend due to poor breeding in the Arctic. Around 2,000 birds currently overwinter in the Swale. Brent geese roost in the intertidal and areas of brackish and freshwater grazing marsh at Oare and South Oaze Marshes near Castle Coote within the South Swale LNR. Within areas of saltmarsh bordering Oare Marshes brent geese feed on saltmarsh plants and adjacent agricultural land, favouring grasses and winter cereals and the algae and eelgrass found on mudflats bordering the Swale. Dunlin Numbers of dunlin have declined since SPA classification. It is likely that this long term decline is influenced by broader-scale factors than those operating on the site itself (WeBS Alerts, Cook *et al.* 2013). They feed on the mudflats of the South Oaze within the South Swale LNR, Oare Marshes LNR and Conyer Creek. The saltmarsh at the latter provides important high tide roosts during the winter, with the creek supporting 4.2% of the Swale population of this species and 4.0% for redshank.[1] Waterbird assemblage (wintering migratory waterfowl) Of the non-breeding/overwintering waterbird assemblage there are nine amber and red WeBS alerts: four for wading species (grey plover, lapwing, dunlin and redshank) and three for wildfowl species (white-fronted goose, dark-bellied brent goose and shoveler). Wildfowl feed amongst the saltmarsh and loaf on the estuary at high tide. Waders feed on the mudflats at low tide and then roost on the upper saltmarsh at high tide. Wildfowl and waders will also move onto the adjacent farmland of grazing marsh and arable, particularly during the higher tides, to feed and roost – notably where there are shallow pools and scrapes or localised flooding.
Ecological sensitivities to changes in access
Wildfowl and waders are sensitive to sudden or sporadic human activity, particularly if this is within a few

[1] Bioscan (UK) Ltd. Report No. E1579/R2 February 2014 - Conyer Brickworks, Kent. Wintering bird survey (Conyer Creek)

hundred metres. Dogs off leads are known to be a cause of disturbance, putting birds to flight and potentially forcing them to find alternative roosting or feeding sites. Walkers can disturb wader roosts through being visible from an adjacent route or by directly accessing these areas in the coastal margin at high tide.

Potential interactions with our proposals for England Coast Path are considered further in Part 4 of this document.

3.2 Saltmarsh and grazing marsh/wet grassland breeding species

Composition of feature group - where applicable

Breeding bird assemblage SPA and SSSI features (see Table 2.4 for main component species), SSSI breeding species (avocet, gadwall, pochard, shoveler). Additionally marsh harrier and short-eared owl

Current conservation status and use of the site

Marsh Harrier and Short-eared Owl

Marsh harrier and occasionally short-eared owl breed (as well as overwinter) in the surrounding farmland behind the seawalls. There is some anecdotal evidence of marsh harriers breeding in the borrowdyke reedbeds at the South Swale LNR, south of Castle Coote in the spring/summer of 2002 during the Foot & Mouth outbreak when the public rights of way were closed. This species is doing well at Elmley NNR and elsewhere on the south coast of Sheppey on the north side of the Swale.

Short-eared owl is described as an 'Amber List' species under the Birds of Conservation Concern 4 by virtue of the decline in the breeding range (Eaton et al. 2015).

Avocet

Breeding avocet are associated with shallow saline pools and scrapes adjacent to the wet grassland and grazing marshes along the Swale. A species that both overwinters and breeds here, notably at Oare Marshes LNR.

Breeding bird assemblage

The Swale SSSI is currently 98% in Favourable Condition (assessment 4th March 2009). The saltmarsh and grassland provides important feeding and breeding habitats for wetland birds.

Breeding wildfowl and waders, notably redshank, lapwing and shelduck frequent areas of saltmarsh and adjacent wet grassland/grazing marsh, particularly at Oare Marshes LNR, while reed warbler and reed bunting nest in the linear reedbed running along the ditch system behind the seawall/ECP.

Ecological sensitivities to changes in access

The breeding birds of the SPA and SSSI will vary with regard to their sensitivity. Marsh harrier and short eared owls (if present) generally require nest sites in areas that are largely free from human activity. Ground nesting waders in open landscapes can respond to visual cues from walkers/dogs, although this will depend on the distances involved and the degree of obstruction of view, for example from screening. The types of possible responses are birds being dissuaded from making nesting attempts or by moving away from nests, leaving eggs exposed to chilling or predation. Ducks nesting in marginal dense aquatic

vegetation will generally be less vulnerable to passing people/dogs, by virtue of the more closed nature of the nesting habitat. However, they would be sensitive to dogs entering the water. Similarly, widespread and common passerine birds such as reed bunting and reed warbler that nest in reedbeds or in scrub are less sensitive as the closed habitats provide some shielding from the visual cues from passing people/dogs.

Potential interactions with our proposals for England Coast Path are considered further in Part 4 of this document.

3.3 Off-shore feeding and inshore roosting and breeding species

Composition of feature group - where applicable
Little tern (Schedule 1 species) Common tern, ringed plover and oystercatcher – associated breeding birds of coastal shingle habitat
Current conservation status and use of the site
Little Tern Protected under Schedule 1 of the Wildlife & Countryside Act 1981. Amber listed in Birds of Conservation concern 4 (2015). Listed in Annex 1 and as a migratory species under the Birds Directive. Little tern productivity has been low in recent decades and insufficient to maintain the population by recruitment alone. Given present average breeding success (0.51 chicks per nest) it is predicted that the population will decline nationally by 41% over 25 years.[2] This is due to a combination of factors – availability of food supply (sand eels), predation by a number of aerial and terrestrial predators, increasing storminess during the summer (little terns nest near the MHW mark and nests are often washed out), habitat erosion and increasing pressure from recreational disturbance (dog walking, bird watching, angling etc). The declining trend visible since 1987 has been partly halted in recent years due to increased management measures and there is now a national effort to reverse this trend with a number of EU Life+ funded projects in key locations around the country, focusing on habitat enhancement/creation and protection, and raising public awareness of the vulnerability of this species. Annually 2-3 pairs of little tern attempt to nest on the shingle spit at Castle Coote, within the South Swale LNR but due to a number of factors, including recreational disturbance, tidal surges and predation, usually fail to raise any young. There is evidence that in the last couple of years one or two birds may have fledged, but in the 7 or 8 years prior to this they are thought to have been unsuccessful. Associated ground-nesting shorebirds such as common tern, ringed plover and oystercatcher, also breed on Castle Coote, as this is the only shingle spit found along this southern stretch of the Swale. The nest sites of these species are also prone to disturbance and trampling.
Ecological sensitivities to changes in access
These breeding shorebirds are sensitive to disturbance by people and dogs, and the well camouflaged nests and eggs can easily be trampled and destroyed. Nesting little terns are especially vulnerable to human

[2] JNCC species conservation status and designations: marine biodiversity monitoring – seabirds and seaduck – latest population trends – distribution and abundance

activity and likely to abandon their nests if repeatedly displaced.

Potential interactions with our proposals for England Coast Path are considered further in Part 4 of this document.

3.4 SSSI habitat features

Composition of feature group - where applicable
Brackish lakes; Ditches; Floodplain fen (lowland); Invertebrate assemblage M311 - saltmarsh and transitional brackish marsh; Invertebrate assemblage W211 - open water in disturbed sediments; Invertebrate assemblage W314 - reed-fen and pools; Ponds; SM4-28-Saltmarsh; Standing waters; Vascular plant assemblages
Current conservation status and use of the site
Swale SSSI in Favourable Condition. Wetlands and saltmarsh support specialised plants and invertebrates, and providing high tide roosting, feeding and breeding areas for a number of SSSI/SPA wildfowl and wader species. A vital component of the Swale SSSI.
Ecological sensitivities to changes in access
Areas of saltmarsh (vascular plant assemblage) near to paths and facilities such as bird hides prone to trampling, leading to habitat erosion and loss of feeding and high tide roosting sites for SSSI/SPA wildfowl and wading bird species. Potential interactions with our proposals for England Coast Path are considered further in Part 4 of this document.

3.5 Marine features

Composition of feature group
Estuarine rocky habitats and intertidal rock; intertidal mixed and coarse[ii] sediments; intertidal sand and muddy sand; subtidal coarse and mixed sediments; subtidal sand and mud
Current conservation status and use of site by features
Sediment habitats within the site include extensive areas of intertidal mudflats and sandflats.
Sensitivities to changes in access
Mudflats and sandflat are not sensitive to being walked on occasionally. As there is no possibility of interaction with these features the MCZ designation is not considered relevant to this assessment and will not be considered further. The sensitivity of feeding birds to the presence of people is considered in sections 3.1 & 3.2

4 Potential for interaction

In this part of the document we identify places where sensitive features are present *and* whether there could, or will not, be an interaction with proposed changes in access. Where we conclude there is potential for interaction between sensitive features and our proposals for England Coast Path at a particular location, in Part 5 of this document we consider the circumstances in more detail, including current access provision, how this will be affected by our coastal access proposals, and how use of the site for recreation might change as a consequence.

Our proposals for England Coast Path have two main components:

- Identification and physical establishment of a trail; and,
- Identification of an associated coastal margin.

Trail

A continuous walking trail – the England Coast Path National Trail - will be established by joining up existing coastal routes and creating new sections of path where necessary.

Coastal Margin

An area of land associated with the proposed trail will become coastal margin, including all land seawards of the trail down to mean low water. The extent of the coastal margin along this section of coast is shown as a purple wash on maps 1 to 3.

Coastal margin is typically subject to new coastal access rights, though there are some obvious exceptions to this. The nature and limitations of the new rights, and the key types of land excepted from them, are explained in more detail in Chapter 2 of our Coastal Access Scheme[1]. Where there are already public or local rights to do other things, these are normally unaffected and will continue to exist in parallel to the new coastal access rights. The exception to this principle is any pre-existing open access rights under Part 1 of the Countryside and Rights of Way Act 2000 (CROW) over land falling within the coastal margin: the new coastal access rights will apply in place of these.

Where public access on foot already takes place on land within the margin without any legal right for people to use the land in this way, the new coastal access rights will secure this existing use legally. Access secured in this way is subject to various national restrictions. It remains open to the owner of the land, should they wish, to continue tolerating other types of established public use not provided for by coastal access rights.

Natural England has powers that mean that we can, where necessary, impose local restrictions or exclusions on the new coastal access rights on grounds set out in the legislation. Such restrictions or exclusions do not apply to public rights of way, or to other types of pre-existing access right other than CROW rights (see above).

4.1 Whitstable Harbour to Nagden – South Swale LNR

Outline of changes in access
Our proposed alignment for the England Coast Path follows an existing PROW and promoted long distance walking route – the Saxon Shore Way. The ECP trail does not deviate from this path along the sea wall and access to the coastal margin will not noticeably change due to the inaccessibility of the intertidal mud and saltmarsh. Land seawards of the trail will become part of the coastal margin including at Castle Coote, part of the South Swale LNR, where access is currently actively discouraged through fencing and signage by Kent Wildlife Trust.
Potential for interaction (or lack of it)
It should be noted that between Whitstable Harbour and Seasalter there is particularly frequent use of the seaward margin due to the extensive and accessible flats at low tide here. Overwintering bird interest is consequently found much further off-shore at low tide than exists further west along the Swale, where there is minimal access to the intertidal margin. Our proposals for the England Coast Path here involve little change and so we do not expect there will be a noticeable difference in the overall level or pattern of access as a result of our proposals. The potential for interaction along the remainder of this section from Seasalter westwards to Nagden is limited as the seaward margin beyond a narrow shingle beach is soft intertidal mud and saltmarsh, with minimal existing access due to dangerous conditions for which exclusion notices will be erected. However at Castle Coote there is accessible saltmarsh and shingle. Although this if fenced off with basic signage requesting people to keep out due to the sensitive nature of the habitat (breeding shorebirds and wader roosts) the public occasionally access the shingle spit from the beach. Due to inclusion of the area within the coastal margin there is a risk that more people will attempt to access the site (despite the fencing and signage) particularly during the summer months when the shingle spit may appear an attractive destination to visitors. This potential for interaction is considered further in 5.1 Marsh harriers may be prospecting or nesting in the reedbeds on the landward side of the trail beyond the coastal margin here, but there will not be significantly more interaction here than presently exists along the Saxon Shore Way with walkers or walkers with dogs, given the low level of increase in access anticipated and the current levels of use by local dog walkers. As no significant change in access is proposed, breeding marsh harrier is not a concern that needs further consideration. The waterbird (wildfowl & wader) assemblage (SPA) is present year-round, but the predominant interest is overwintering and passage birds on the mudflats (feeding and roosting) and saltmarsh (feeding and high tide roosts). Given the trail will be using an existing PRoW and promoted route along which there is predicted to be only a low level increase in access (for both the trail and the margin) there is unlikely to be any overall effect on the SPA waterbird assemblage abundance and diversity, but the potential for some interaction is explored further in 5.1 The adjacent farmland, although outside of the SPA/SSSI, is arable (often wheat) which can provide essential functional land for feeding and roosting brent geese at high tide, when the intertidal mudflats and saltmarsh are unavailable. Maintaining this connectivity between the intertidal and arable land to enable brent geese to move freely between these habitats is important. As there is an established pattern of access and an established pattern of brent goose movement between

the intertidal and arable land to the south of the Reserve there is no reason why this behaviour and connectivity function would change as a result of a small increase in walkers and walkers with dogs along this stretch of the trail. As it is common for brent geese on coastal sites to fly over public rights of way to get to inland feeding areas, there is unlikely to be any impact from the ECP.

As the trail is restricted to the seawall it does not enter or cross any functional land supporting relevant SPA species (notably lapwing and golden plover).

4.2 Hollowshore to Little Murston - Oare Marshes LNR

Outline of changes in access
Our proposed alignment for ECP follows an existing PROW and promoted long distance walking route – the Saxon Shore Way. The ECP trail does not deviate from this path along the sea wall. Although the access patterns will therefore not change, there is likely to be a low level increase on the trail and in the margin.
Potential for interaction (or lack of it)
It is possible that as a result of the predicted low increase in visitor levels and promotion of the ECP, that there could be an interaction (or increased interaction) with the wildfowl and waders roosting or feeding on the small areas of saltmarsh along the Swale and Oare Creek. However as the public do not currently leave the Saxon Shore Way / PRoW and access the saltmarsh here, other than that beside the bird hide in the north east corner of the Reserve where there is established de-facto access, there is no reason why a low increase in visitors would cause any additional disturbance. It is highly likely that roosting and feeding birds, which are some distance, away have long habituated to people along this promoted route. As a result there is unlikely to be any overall effect on the SPA waterbird assemblage abundance and diversity, but this is explored further in 5.1 As the trail is restricted to the sea wall it does not enter or cross any functional land supporting relevant SPA species (notably lapwing and golden plover).

4.3 Hollowshore to Little Murston - Conyer Creek

Outline of changes in access
Little change. Access remains on the seawall along an existing PROW and promoted long distance walking route – the Saxon Shore Way, however on the east side of the creek the ECP follows a public footpath, well used by local dog walkers, rather than the Saxon Shore Way, which deviates inland.
Potential for interaction (or lack of it)
Although following an existing PROW, it is possible that as a result of the predicted low increase in visitor levels and promotion of the ECP, that there could be an interaction (or increased interaction) with an important winter wader high tide roost site for dunlin and redshank along the upper reaches of Conyer Creek. This is on the saltmarsh on either side of the creek, adjacent to the south west corner of the old Conyer Brickworks site. This potential for interaction is considered further in 5.1

As the trail is restricted to the sea wall it does not enter or cross any functional land supporting relevant SPA species (notably lapwing and golden plover).

4.4 Little Muston to Ridham Docks (Iwade) – Milton Creek

Outline of changes in access

East side of Milton Creek

No change. Access remains on an existing PROW and promoted long distance walking route – the Saxon Shore Way. The ECP trail does not deviate from this path along the sea wall. Although the access patterns will therefore not change, there is a predicted low level increase in access on both the trail and the margin.

West side of Milton Creek

As above, but no increase in access levels

As the trail is restricted to the sea wall it does not enter or cross any functional land supporting relevant SPA species (notably lapwing and golden plover).

Potential for interaction (or lack of it)

Some distance out into the Swale Estuary from the mouth of Milton Creek there is a collection of small saltmarsh islands that are used as roosting and feeding areas at high tide by small numbers of wildfowl and waders in the winter.

The nearest of these islands is 150m off shore and they are regularly shot over by the Kent Wildfowling Association. As a result the majority of waterbirds prefer to roost on the saltmarsh at Elmley along the southern shores of the Isle of Sheppey, on the opposite side of the Swale Estuary. Given that the ECP uses the Saxon Shore Way along this section and there is only a low level increase in access predicted as far as the Sittingbourne bridge and no increase for the remainder of the stretch, there is a no foreseen potential for any interaction with wintering wildfowl and wader roosts along this part of the Swale or along Milton Creek and it can be concluded that there will be no overall effect on the SPA waterbird assemblage abundance and diversity. As a result this will not be carried forward for discussion in the remaining sections of this appraisal.

5 Assessment of any possible adverse impacts and mitigation measures

In this part of the document we look in more detail at sections of coast where there could be an interaction between the access proposal and sensitive features. We discuss possible risks to sensitive features and explain how these have shaped the design of our proposals and/or led to the inclusion of specific mitigation measures.

5.1 Castle Coote – South Swale LNR

Ecological sensitivity
Intertidal and farmland feeding and roosting species Castle Coote is the main roost site for overwintering and passage birds along the southern shores of the Swale. Due to the potential accessibility from both the shingle beach and the Saxon, the site is fenced off and signed, with some wardening and monitoring by the wildlife trust. Saltmarsh and grazing marsh/wet grassland breeding species Anecdotal evidence that marsh harrier bred in the reedbed landward of the proposed trail (beyond the landward margin) in 2001 during the foot and mouth outbreak, when the PROW/Saxon Shore Way was closed to the public. No monitoring of this species or breeding records available since this time. Off-shore feeding and inshore roosting and breeding species Little tern and other shorebirds nest on the shingle spit at Castle Coote (see map 1) April to August, and are highly sensitive to the presence of people and their dogs. Direct effects are possible via accidental trampling of nests and eggs. Indirect effects can occur where adult birds are disturbed off eggs or away from chicks, leaving them more vulnerable to predation or chilling.

5.1.2 Proposed improvements to access
Access will remain unchanged as the trail will utilise the existing PROW and promoted route – the Saxon Shore Way. Improvements will be limited to upgrading surfacing at kissing gates. The intertidal of the South Swale LNR will form part of the coastal margin (purple wash in map 1) but will be subject to a local exclusion on grounds that it comprises an area of mudflat and some saltmarsh that is unsuitable for public access. Additional interpretation panels/notices will be installed at points A and B on Map 1 to explain to people about the importance of the site for wildlife, the value of keeping dogs on leads, and the dangers of the exclusion area. These locations are the main access points into the site and also where footpaths from the south join the Saxon Shore Way.

5.1.3 Access assessment	
Current situation	**Predicted change**
Limited access	**Negligible change**

Established access via PROW/Saxon Shore Way. Whitstable to Seasalter: established, well used de-facto access to the beaches and the seaward margin (intertidal flats of consistently firm mud/sand and gravel along this section). Good use of the SSW and informal beach top routes. Between Seasalter and Nagden, established use of the Saxon Shore Way by local walkers and walkers with dogs. Nearby parking along seawall at Seasalter and at the popular Sportsman pub (good start/finish point for walks). Access into seaward margin west of Seasalter is limited to bait diggers on mudflats as the intertidal here is unsafe. A narrow shingle beach accessible between Seasalter and Castle Coote. Currently, there is no permitted access to Castle Coote saltmarsh and shingle spit, although the public do occasionally enter the site, mainly from the beach. The site is managed by Kent Wildlife Trust and is fenced off year round to prevent people entering the area. There is limited signage and some wardening/monitoring.	No change in patterns of use or behaviours no new means of access (landward or seaward coastal margin).

5.1.4 Possible adverse impacts

There is existing concern over disturbance to Castle Coote, particularly from people with dogs and those wishing to access the shingle. There is a possibility that a slight increase in users may add to the visitor pressure in this part of the margin which is accessible from the beach, especially during the summer months, although improved signage and information here (currently very limited) combined with existing site management measures, is likely to address this.

5.1.5 Mitigation measures included in the access proposal to address any possible impacts

Mitigation measures:

5.1.5.1. Signage and information - The provision of improved signage / interpretation (at points A and B on Map 1) at South Swale LNR/Castle Coote with specific messages to raise awareness of the winter high tide roosts and breeding little tern and marsh harrier, and the value of keeping dogs on leads, in addition to identifying the areas with restricted access rights. These will be supplemented by notices identifying the start (eastern boundary) of the s25A restriction (see points 1 and 2 on Map 1) making a clear distinction

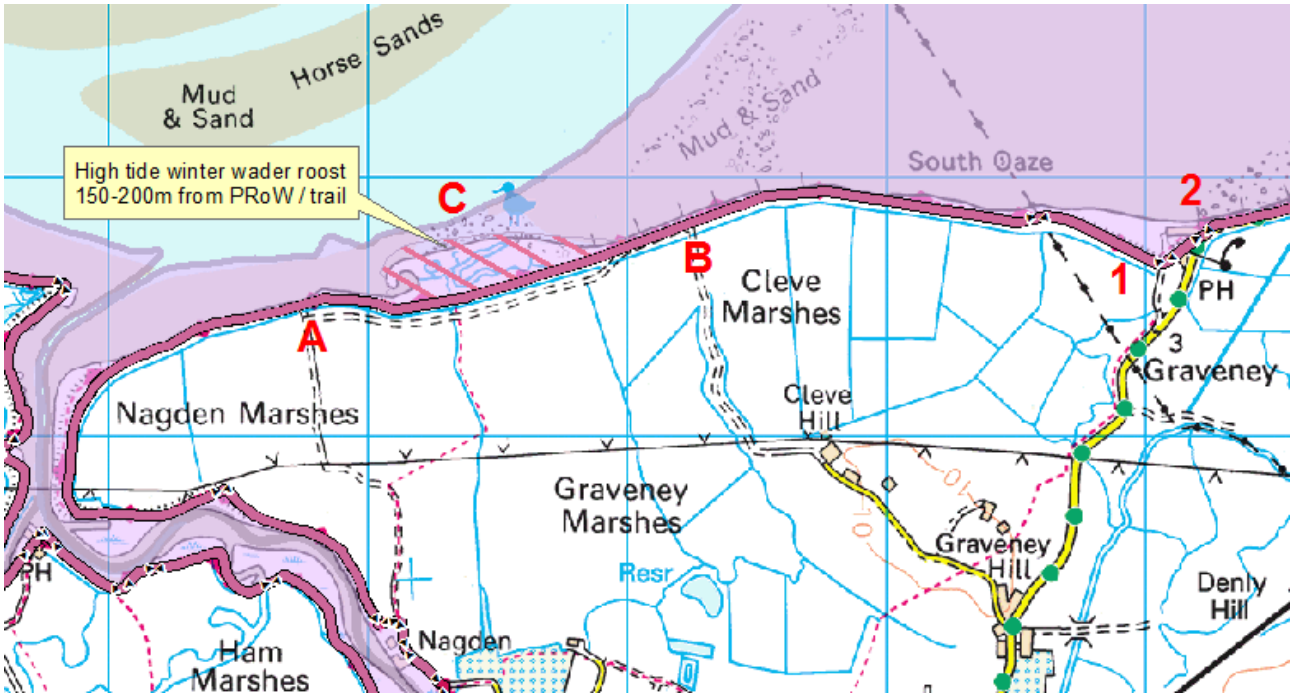
between the intertidal from Whitstable Harbour to the Seasalter chalets (coastal access rights) and the remainder of the Swale to the west (no coastal access rights).

5.1.5.2. Local restrictions and exclusions – To replicate the existing site management regime and to take account of the predicted low increase in access to the coastal margin at Castle Coote, a year-round (s26 direction) exclusion will be introduced to protect this sensitive site of high nature conservation importance, notably for breeding little tern (Schedule 1 species) on the shingle spit and overwintering, roosting and feeding birds (SPA) on the shingle spit and small area of saltmarsh. See shaded zone at point C on Map 1.

5.1.6 Conclusion

The above measures will address the concerns regarding the introduction of the ECP and may help to reduce existing recreational disturbance here and across the wider SPA. There will be no overall effect on the abundance and diversity of either of the SPA waterbird or breeding bird assemblages.

No new coastal access rights will be created over the intertidal mudflats and salt marsh from the east side of the Seasalter chalets (near The Sportsman Public House) to Ridham Docks, as they are unsuitable for access. Coastal access rights will be excluded through a s25A direction.



Map 1 – South Swale LNR

5.2 Oare Marshes

5.2.1 Ecological sensitivity

Intertidal and farmland feeding and roosting species

Predominantly overwintering wildfowl and waders roosting and feeding on the mudflats and areas of saltmarsh (more so along the Swale than at the mouth of Oare Creek where the saltmarsh habitat is more patchy and fragmented). SSSI/SPA birds could be disturbed and prevented from feeding here if people were to leave the trail and walk out onto the saltmarsh or allow their dogs to access these areas. Waterfowl using the inland wetlands, including saline pools, behind the seawall (beyond the coastal margin) to feed and roost could also be disturbed by dogs off leads.

Saltmarsh and grazing marsh/wet grassland breeding species

Breeding waders and wildfowl in the wet grassland behind seawall are vulnerable to disturbance by dogs off leads.

5.2.2 Proposed improvements to access

No improvements other than that to surfacing around kissing gates. Use of existing PROW/Saxon Shore Way promoted route.

The intertidal shoreline of Oare Marshes LNR will form part of the coastal margin (purple wash in map 2) but will be subject to a local year-round exclusion (s25A) as it comprises an area of mudflat and some saltmarsh that is unsuitable for public access.

New additional interpretation panels/notices will be installed at A, B, C and D to explain to people about the importance of the site for wildlife, particularly the saltmarsh, and the need to keep dogs on leads and the dangers of the exclusion area.

5.2.3 Access assessment

Current situation	Predicted change
Good existing access Established access via PROW/Saxon Shore Way running along the seawall, well used by walkers and walkers with dogs. Nearby parking for visitors to Oare Marshes Reserve (predominantly birdwatchers) and at Oare village. The latter a good start/finish points for a well-established and popular circular walk. KCC promotes walks to Oare Marshes from Oare and Faversham. Access to seaward margin limited to small areas of saltmarsh adjacent to the reserve's nature trail, particularly near the hide, as the intertidal here is generally unsafe.	**Slight increase in use of trail** No change in patterns of use or behaviours but the Open Access team predicts a low increase in access levels on the trail only. No increase in access on the seaward margin and levels likely to fall west of here beyond the circular walk and away from the car parks/facilities.

The site has a nature trail and three bird hides, and is wardened. There is signage and interpretation at the car park and hides.	

5.2.4 Possible adverse impacts

Despite existing management measures there is concern over visitors and their dogs accessing and disturbing/trampling saltmarsh habitat (SSSI) and wader roosts adjacent to the PROW/Saxon Shore Way.

Our proposals for the England Coast Path involve minimal changes and we do not expect there will be a noticeable difference in the overall level or pattern of access as a result of our proposals.

Signage highlighting the sensitivity of saltmarsh and asking people to keep dogs on leads should address existing concerns and help reduce visitor pressure.

5.2.5 Mitigation measures included in the access proposal to address any possible impacts

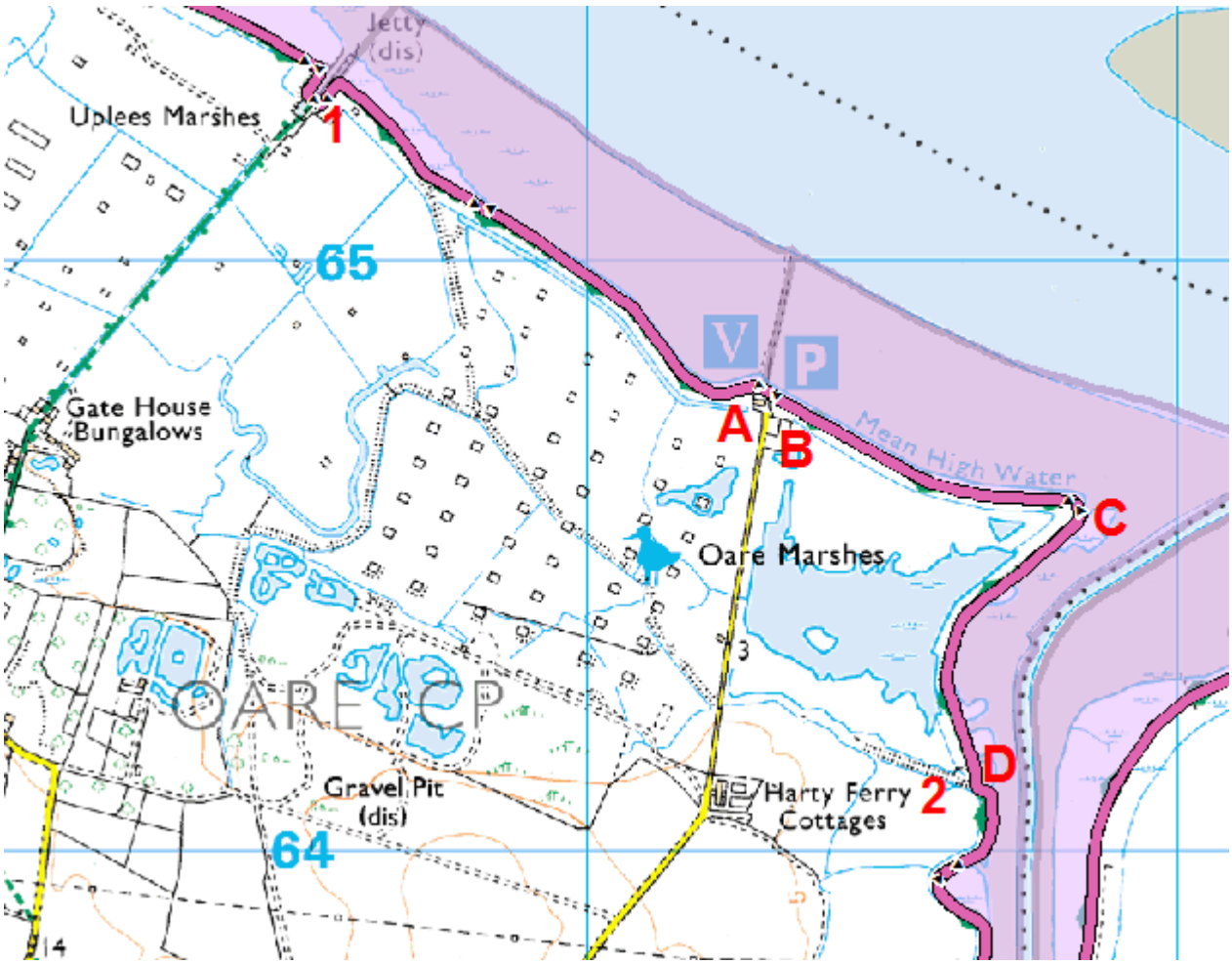
The site is part of a very popular circular walk (from Oare Village or the Reserve car park) which utilises the PROW and promoted route on the seawall to be adopted by the ECP.

5.2.5.1. Signage and Information - Signs at points A, B, C and D on Map 2 with a number of key messages highlighting the sensitivity of the saltmarsh and the importance of keeping dogs on leads, in order to address the existing issues of disturbance to SSSI/SPA birds and the trampling and degradation of the saltmarsh habitat.

5.2.6 Conclusion

The above measures will address the concerns regarding the introduction of the ECP and may help to reduce recreational disturbance and any pressures on the local SSSI saltmarsh habitat here and in so doing also help to maintain the Favourable Condition of the SSSI.

Likewise due to the removal of access rights across the intertidal and improved management measures in the form of new interpretation, feeding and roosting birds of the intertidal will not be subject to increased pressures as a result of the ECP, with the additional likelihood that the proposed measures will enhance the use of saltmarsh and mudflats by SSSI/SPA birds. The abundance and diversity of the SPA waterbird assemblage or breeding bird assemblage will therefore be unaffected.



Map 2 – Oare Marshes Reserve

5.3 Ho llowshore to Little Murston - Conyer Creek

5.3.1 Ecological sensitivity

Intertidal and farmland feeding and roosting species

Conyer Creek (map 3) provides important high tide roosts for waders, particularly dunlin and redshank (4.2% and 4.0% respectively of the total Swale SPA population). As the tide rises, waders move up towards Conyer from the Swale to feed and ultimately roost on the upper saltmarsh on either side of the creek. The waders have a preference for the western bank although they will cross to the eastern bank if disturbed by people and dogs on the Saxon Shore Way here. The saltmarsh on the east side of the bank nearest to the PROW extends to 100m in width with waders therefore roosting some 50-100m away from the PROW and proposed route of the ECP.

There is well established and dense scrub creek-side of the footpath at the southern end of the east bank for almost the full extent of the adjacent saltmarsh, which will screen walkers and dogs from roosting waders. However there is a stretch of around 25m in length at the northern end of the saltmarsh that is mostly open with the potential risk of sky-lining. See point C on map 3.

5.3.2 Proposed improvements to accessibility

Accessibility will remain unchanged as the trail utilises the existing PROW along the northern seawall and east bank of the creek and the Saxon Shore Way along the west bank of the creek. It is likely that the Saxon Shore Way that runs inland from the seawall to the east of the Conyer Brickworks site will be diverted to follow the line of ECP / PROW along the east side of the creek.

The intertidal of Conyer Creek will form part of the coastal margin (purple wash in map 3, but will be subject to a local exclusion on the grounds that it comprises an area of mudflat and some saltmarsh that is unsuitable for public access.

New interpretation panels/notices will be installed at points A and B to explain to people about the importance of the site for wildlife, particularly the roosting waders, the value of keeping dogs on leads, and the dangers/extent of the exclusion area.

5.3.3 Access assessment

Current situation	Predicted change
Good existing access Busy circular walks used by local dog walkers from Conyer village, using a combination of the SSW, PROW along the Creekside and de-facto access through the old Conyer brickworks site. Along this shoreline, the coastal margin beyond the seawall comprises mudflat and saltmarsh that is unsuitable for public access and will be subject to a year round exclusion (s25A).	**Slight increase in use of trail and margin** No change in patterns of use or behaviours for the path network here, as all routes around the site well-used, particularly by local dog walkers. The Open Access team predicts only a low level increase in access for the trail and the seaward coastal margin.

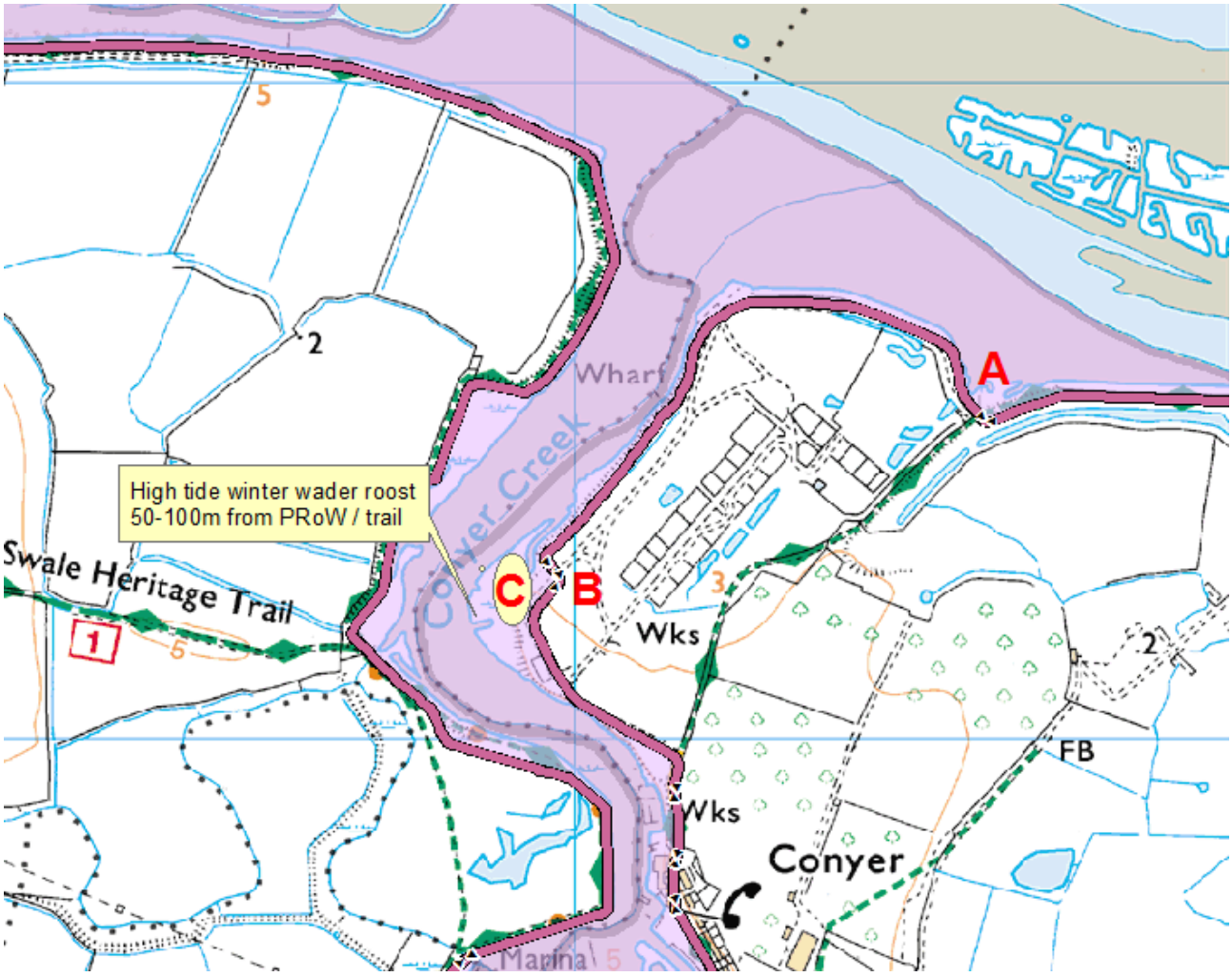
5.3.4 Possible adverse impacts

Taking the route of the PROW along the east bank of the creek (adjacent to the brickworks site) rather than that of the Saxon Shore Way inland (and aligning the SSW to it) could potentially increase the level of disturbance to the winter wader roosts at high tide. However the PROW is already well used by local people and dog walkers and the SSW currently runs along the west bank of Conyer creek, where there is a known preference for waders to roost, perhaps due to the larger area of saltmarsh here.

A housing development of 24 homes is proposed and has been given planning permission on appeal subject to conditions stipulated by Natural England, on part of the adjacent former Conyer Brickworks site. The consented layout is for the houses to be located at the furthest point away from the SPA (in the south-east corner) An application for an improved scheme, outlined to NE, has yet to be submitted by the landowner.

5.3.5 Mitigation measures included in the access proposal to address any possible impacts
No new coastal access rights will be created over the intertidal mudflats and salt marsh, as they are unsuitable for access. Coastal access rights will be excluded through a s25A direction. 5.3.5.1. Signage and Information - Signage is proposed at points A and B on Map 3 to raise awareness of the importance of the saltmarsh as a high tide winter wader roost habitat and the importance of keeping dogs on leads in the vicinity at this time. 5.3.5.2. Management measures - Gapping up of existing scrub with tree planting, using local native hedgerow and scrub species, along an open section (up to 50m) of the creek-side to screen walkers, (particularly walkers with dogs) from the high tide wader roost. See point C on Map 3.

5.3.6 Conclusion
The above measures will address the concerns regarding the introduction of the ECP and may help to reduce existing recreational disturbance. It can be concluded that there will be no overall effect on the abundance and diversity of the SPA waterbird assemblage, of which the overwintering wader population is part.



Map 3 – Conyer Creek (and old Conyer Brickworks site)

6 Establishing and maintaining the England Coast Path

In this part of the document we describe how the access proposal would be implemented and arrangements for ongoing management and maintenance once coastal access rights are in place.

Note that before the access proposal can be taken forward, the coastal access report must first be considered by the Secretary of State in light of any representations, any objections from affected owners or occupiers and the Appointed Person's recommendations as to how any objections should be determined.

6.1 Establishment

6.1.1 Works on the ground

Once approval for a coastal access report is received from the Secretary of State, works can be carried out on the ground to make the trail fit for use and prepare for opening. In this case, works on the ground would be carried out by Kent County Council.

An estimate of the total cost of works needed to establish the trail is given in our coastal access report for the stretch. The cost of establishment works will be met by Natural England.

Kent County Council is responsible for ensuring they take appropriate steps to protect sensitive features whilst works on the ground are carried out, in line with any recommendations or conditions agreed in advance.

We have held preliminary discussions with Kent County Council about the works required and believe that it is feasible for them to be carried out without adverse effect on the designated sites considered in this appraisal.

Kent County Council will instigate the SSSI assent process by writing to us to confirm the timing of works and how operations to be undertaken in line with these conditions. Natural England will provide further ecological advice as necessary.

6.1.2 Implementation of mitigation measures

The mitigation measures described in Part 5 of this document (5.1.5 5.2.5) will be implemented as follows:

Measure	Implementation
5.1.5.1 & 5.2.5.1 Interpretation/signage for the South Swale LNR and Oare Marshes LNR	Designed, produced and installed by Kent County Council in collaboration with Kent Wildlife Trust. Maintenance to be adopted by KWT where relevant.
5.3.5.1 Interpretation / signage at Conyer Creek	Produced and installed by Kent County Council in collaboration with the landowner.

5.3.5.2 Screening at Conyer Creek to prevent disturbance to roosting waders	750 hedgerow species planted up by Kent County Council over 50m. Temporary chestnut paling fencing may be required for a few years until the scrub becomes established.
5.1.5.2 s26a year-round exclusion at Castle Coote (to remove access rights to the sensitive coastal margin of shingle and saltmarsh)	Open Access Team / Natural England

6.1.3 Local restrictions or exclusions

Where specific restrictions or exclusions have been included in the proposal, Natural England will give the necessary directions to give legal effect to these before the new public rights come into force.

6.2 Maintenance

Where there is a need for ongoing maintenance of any special measures proposed, this will become part of longer term arrangements for upkeep of the trail. An overall estimate of the ongoing cost of maintaining stretches of the England Coast Path is given in the relevant part of our report for the stretch.

6.3 Monitoring

Monitoring of the protected site will continue through established programmes including our common standards monitoring protocols. The access authority will be responsible for ongoing monitoring of trail condition. Natural England will be tracking general trends, including in the number of people using the path, as part of our evaluation of the coastal access programme nationally.

6.4 Future changes

The access proposals in this document are designed to ensure appropriate protection of sensitive features, taking account of any mitigation measures that are included. The coast is a dynamic environment and we have taken account of changes predicted by the Environment Agency as a result of coastal erosion or other geomorphological processes in the design of the access proposals. Should it be necessary in the future to identify a new alignment for the trail in line with 'roll back' proposals in the stretch report, due care will be taken at that stage to minimise any potential impacts of this change on sensitive features. The same will be true if any unforeseen other changes arise in the future that may require a variation of the access arrangements described in these proposals, following due procedures.

7 Conclusions

7.1 Overall conclusion – The Swale SPA and Ramsar site

7.1.1 Population level effects

Feature - or feature group	**Conclusion**
Intertidal and farmland feeding and roosting species (A046a dark-bellied brent goose *Branta bernicla bernicla* (non-breeding), A149 dunlin *Calidris alpina alpina* (non-breeding) (Waterbird Assemblage) Saltmarsh and grazing marsh/wet grassland breeding species (Breeding Bird Assemblage) Off-shore feeding and inshore roosting and breeding species	The following non-significant effects associated with the access proposal need to be further considered alongside possible non-significant effects from other live plans or projects: Our proposals for England Coast Path involve minimal changes and we do not expect there will be a noticeable difference in the overall level or pattern of access as a result of our proposals. The effects of a low increase in access levels on the trail and coastal margin have been reduced to non-significant levels through the proposed mitigation.

7.1.2 In combination assessment – where applicable

7.1.2a Other qualifying plans or projects

Competent Authority	**Plan or project**	**Description**
Swale District Council	Housing development at Conyer	Development of 24 homes on part of the old Conyer brickworks site adjacent to east side of Conyer Creek

At the time of carrying out this appraisal, Natural England is not aware of any other qualifying plans or projects that need to be considered

7.1.2b Possible in combination effects

Non-significant effect – access proposal	Non-significant effect – other plan or project	In combination conclusion
A low increase in access levels on the existing PRoW / trail and margin with the subsequent potential for a very minor increase in disturbance events relating to the interest features – notably the nearby overwintering wader high tide roost.	The consented layout of the development is for the houses to be at the furthest point of the site from the SPA and so no residual effects have been identified. Screening by Swale DC demonstrated no effect on the integrity of the SPA features.	The in combination effect of these two proposals remains non-significant given there are no residual effects identified from the housing scheme that can be assessed against the non-significant effects of the ECP.

7.1.3 Overall screening decision

Mark with an X as appropriate

X	**No likely significant effect** - as the new access proposal is unlikely to have a significant effect on the Swale SPA either alone or in combination with other plans or projects, (taking into account any proposed mitigation measures) no further Habitats Regulations assessment is required;
	OR
	Likely significant effect - as the new access proposal is likely to have a significant effect on [insert name of site of sites], either alone or in combination with other plans or projects (despite any proposed mitigation measures), appropriate assessment is required to consider whether the new access proposal may proceed.

7.2 Overall conclusion - SSSI

In the light of this appraisal, Natural England has concluded that the new access proposal:
(Mark one box only with an X below)

X	**complies** with Natural England's duty to further the conservation and enhancement of the notified features of the SSSI, consistent with the proper exercise of its functions[3] - and accordingly the new access proposal may proceed as finally specified in this template
	OR
	would not comply with the duty referred to in (a) – and accordingly permission/ authorisation/ assent should not be given for the new access proposal in the form finally specified in this template, for the following reasons:

[3] The reference in 7.2 above to Natural England's functions includes its balanced general purposes for access, nature conservation and landscape under the NERC Act 2006, any specific statutory duties it may have to deliver specific improvements to public access, and the access-related policies and priorities it periodically agrees with Defra.

7.3 Overall conclusion: Marine Conservation Zone

In respect of any duties that may arise under section 125 of the Marine and Coastal Access Act 2009, Natural England has concluded for The Swale Estuary MCZ that:

(Mark one box only with an X below)

X	The access proposal (including any mitigation measures specified in this appraisal) is the one that, consistently with the proper exercise of its functions under section 296 of the same Act, is least likely to hinder the achievement of the conservation objectives for the Marine Conservation Zone - and accordingly may proceed

OR

	The above test is not met, and accordingly the access proposal should not be taken forward in this form, for the following reasons:

Reasons (where second box is ticked):

7.4 Other features about which concerns have been expressed

In the light of this appraisal, Natural England has concluded that:
(Mark one box only with an X below)

X	the appropriate balance has been struck by the new access proposal between NE's conservation and access objectives, duties and purposes - and accordingly the new access proposal should proceed as finally specified in this template

OR

	the appropriate balance referred to above has not been struck – and accordingly the new access proposal should not proceed in the form finally specified in this template, for the following reasons:

Reasons (where second box is ticked):

8 Certification

8.1 Certification – access proposal

I certify that the details of the access proposal are correct		
Signed: 	Name: Rob Carver	Date: 24/05/2017

8.2 Certification – ecological impacts

I certify the conclusions of this appraisal with regard to ecological impacts		
Name: 	Signed: Paul Hyde	Date: 31-5-2017

9 References

1. Bioscan (UK) Ltd. Report No.E1579/R2 February 2014 - Conyer Brickworks, Kent. Wintering bird survey (Conyer Creek)

2. NCC species conservation status and designations: marine biodiversity monitoring – seabirds and seaduck – latest population trends – distribution and abundance

3. NATURAL ENGLAND. 2013. Coastal Access Natural England's Approved Scheme 2013. Published by Natural England Catalogue Code: NE446
http://publications.naturalengland.org.uk/publication/5327964912746496?category=50007

10 Bibliography

Data and information provided by Kevin Duvall and John McAllister of the Kent wildlife Trust regarding bird usage of the South Swale LNR Oare Marshes Reserve

Liley, D. & Underhill-Day, J. (2013) - Thames, Medway and Swale Estuaries – Strategic Access Management and Monitoring Strategy. Unpublished report by Footprint Ecology