

# England Coast Path Easington to Filey Brigg

Natural England's Report to the Secretary of State: Overview



# Map A: Key map - Easington to Filey Brigg

Extent of proposals 

Extent of proposals in each chapter 

A road 

B road 

Minor road 

Railway & station 

0 5 Km

0 5 Miles

## Chapter number and title

- 1 Easington to Waxholme (Maps 1a to 1i)
- 2 Waxholme to Hornsea (Maps 2a to 2m)
- 3 Hornsea to Wilsthorpe (Maps 3a to 3m)
- 4 Wilsthorpe to Speeton Moor (Maps 4a to 4l)
- 5 Speeton Moor to Filey Brigg (Maps 5a to 5f)



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## Advice on reading the report

This report sets out for approval by the Secretary of State our proposals for the England Coast Path and associated Coastal Margin on this stretch of coast. It is published on our web pages as a series of separate documents, alongside more general information about how the Coastal Access programme works:

### Overview

This document is called the **Overview**. It explains the overall context for the report and includes background information which is helpful in understanding our proposals. It also provides key information concerning specific aspects of our proposals, including roll-back and access restrictions or exclusions.

Please read the Overview first – in particular part 3, which includes notes to help you understand the detailed proposals and accompanying maps.

### Proposals

Chapters 1 to 5 are called the **proposals**. These set out and explain the access provisions we propose for each length of coast to which they relate.

Each chapter is accompanied by detailed **maps** of the relevant length of coast. The maps are numbered according to the part of the chapter to which they relate. For example, maps 1a to 1i illustrate the proposals in chapter 1.

### Using Map A (previous page)

Map A shows the whole of the Easington to Filey Brigg stretch divided into short numbered lengths of coast, from Easington at the southern end (Chapter 1) to Filey Brigg at the northern end (Chapter 5).

Each number on Map A corresponds to the number of the chapter in our proposals which relates to that length of coast.

To find our proposals for a particular place, find the place on Map A and note the number of the chapter which includes it. Please read the introduction to that chapter first: it will help you to understand the proposals that follow it. Then read the relevant part of the chapter while viewing the corresponding map as indicated.

If you are interested in an area which crosses the boundary between two chapters then please read the relevant parts of both chapters.

### Printing

If printing, please note that the maps which accompany chapters 1 to 5 should ideally be printed on A3 paper. If you don't have the facility to print at A3 size, we suggest you print the text of the chapter you are interested in on A4 paper and view the associated map on your computer screen, using the zoom tool to view it at a suitable size.

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# Introduction

## 1. Purpose of the report

Natural England has a statutory duty under the Marine and Coastal Access Act 2009 to improve access to the English coast. The duty is in two parts: one relating to securing a long-distance walking route around the whole coast: we call this the England Coast Path; the other relating to a margin of coastal land associated with the route where in appropriate places people will be able to spread out and explore, rest or picnic. Associated with this duty is a discretion given to Natural England to extend the trail up any river estuary on either or both sides beyond the seaward limit of the estuarial waters, as far as the first bridge or tunnel with pedestrian access, or as far as any point between the two.

To secure these objectives, we must submit reports to the Secretary of State for Environment, Food and Rural Affairs recommending where the route should be and identifying the associated coastal margin. The reports must follow the approach set out in our methodology (the Coastal Access Scheme), which – as the legislation requires – has been approved by the Secretary of State for this purpose.

Each report covers a different stretch of coast. This report sets out Natural England's proposals to the Secretary of State under section 51 of the National Parks and Access to the Countryside Act 1949 for improved access along the coast of North Yorkshire and the East Riding of Yorkshire between Easington and Filey Brigg.

Our proposals would make the following key improvements to the existing arrangements for access to this part of the coast:

- New sections of coastal path would be created in strategic places to link existing coastal paths into a continuous route along this stretch of coast for the first time;
- For the first time, there would be secure statutory rights of public access to most areas of beach, cliff and other coastal land on this stretch of coast;
- The coastal path would be able to 'roll back' as the cliffs erode or slip, solving long-standing difficulties with maintaining a continuous route on this stretch of coast.

This is a significant opportunity to improve public access to this stretch of coast in these ways, with benefits for residents, businesses and visitors.

Once approved and established, this part of the England Coast Path will be managed as part of the family of National Trails.

## 2. The determination process

The report is submitted in accordance with our statutory duty under section 296 of the Marine and Coastal Access Act 2009 ('the 2009 Act') to improve access to the English coast.

Publication of the report has been advertised locally and online in accordance with the requirements of the coastal access legislation.

Following publication:

- Any person may make representations to Natural England about the report; and
- Any owner or occupier of affected land may make an objection to Natural England about the report.

**In order to be treated as valid, all objections and representations must be received by Natural England no later than the end of the advertised eight week period following publication. The specific closing date appears in the statutory notice for Easington to Filey Brigg which can be viewed here <https://www.gov.uk/guidance/england-coast-path-comment-on-a-proposed-new-stretch> together with more information about how to make representations or objections.**

Once all representations and objections have been considered, the Secretary of State will make a decision about whether to approve our proposals, with or without modifications. Chapter 3 of our Coastal Access Scheme explains these processes in more detail (see Annex A: Bibliography).

The Secretary of State may confirm the report in full, confirm it with modifications to our proposals, or reject some or all of our proposals. In the latter case we would prepare an amended report for consideration by the Secretary of State, relating to the part(s) of the coast affected by the rejected proposals. The same procedures for representation and objection would apply to the amended report.

Once proposals for the Easington to Filey Brigg stretch have been confirmed, there will be a preparation period before the new access rights come into force. This period is to enable any necessary physical establishment of the trail to be carried out and to put in any necessary local management arrangements (including any approved local access restrictions or exclusions).

Once the preparation period is complete, the rights will be brought into force on the Easington to Filey Brigg stretch by order on a date decided by the Secretary of State. We will publicise the commencement of the rights to ensure they are known about and understood locally.

Parts 7 to 9 of the Overview explain more about the arrangements that we envisage will be necessary for the establishment and maintenance of the route and the procedures which we will follow to make any subsequent changes that prove necessary once proposals for the Easington to Filey Brigg stretch have been approved.

### 3. Understanding the proposals and accompanying maps

Before looking at the proposals and accompanying maps, it will help you if you read the following notes and then look carefully at the key to the maps.

#### Our Proposals:

The proposals are divided into 5 chapters, each relating to a particular length of coast on this stretch. Each chapter is accompanied by detailed maps of the relevant length of coast. The maps are numbered according to the chapters to which they relate. For example, maps 1a to 1i illustrate the proposals described in chapter 1.

Each **chapter** comprises four parts:

- **Part 1** – This introduces our proposals for that length of coast. It sets the context and summarises any proposed use of our discretion in relation to aligning the route along an estuary, or to recommend changes to the default landward coastal margin. It also summarises the main access management measures that will need to be introduced and the overall accessibility (ease of use for all) of this length of coast, for all users. Additionally, it may identify any future changes of which we are aware that are likely to impact on this part of the coast, and explain how our proposals deal with this change.
- **Part 2** – This contains tables which form the detailed commentary to our formal proposals to the Secretary of State. The tables provide key details about the route sections along that particular length of coast, and should be read in conjunction with the relevant maps as identified:
  - In the first table or set of tables, we set out detailed information for each section of coast under the following column headings:
    - **Map(s)** – This column indicates which of the report maps to view alongside the details in the other columns in the same row.
    - **Route section number(s)** – This is the unique identification number for the route section concerned. In some cases, two or more adjacent route sections will be amalgamated into a single row in the table, if all other displayed details happen to be identical.
    - **Current status of this section** – This describes the current status of the route we have proposed and whether it has any existing access rights. Public highways, including public rights of way such as footpaths, are excepted from new coastal access rights because the existing public rights to use such highways will remain in force, and the trail is able to make use of these.
    - **Other sections of the proposed trail** that do not currently have any access rights or where access is currently permitted by the landowner will become subject to

new coastal access rights if our proposals are approved. These new rights, and any national or local restrictions on them, will not affect any existing access arrangements for cyclists, horse-riders or other types of recreational user that may currently exist at the local level - for example by formal agreement with, informal permission from or traditional toleration by the owner of the land, or through any type of pre-existing legal right that remains in force.

- **Current surface of this section** – This is a description of the existing surface of the proposed section of the trail.
- **Roll-back proposed?** – This indicates whether we propose that, in the event of significant coastal erosion or other geomorphological processes or significant encroachment by the sea, a section of trail which is affected by such factors should be capable of being repositioned in accordance with formal proposals in this report, without needing further confirmation of the change by the Secretary of State. Roll back may be used to adjust the trail either in direct response to such changes or in order to link with other parts of the route that need to roll back in response to such changes. The column also indicates whether the ‘roll-back’ requirement is likely to give rise to a normal or more complex change on this section. (In the case of more complex outcomes, further details are provided in the ‘Roll-back implementation’ table). Section 4.10 of the Coastal Access Scheme explains in more detail how roll-back works.
- **Default landward coastal margin?** – Certain coastal land types are automatically included in the coastal margin where they fall landward of the trail if they touch it at some point. These coastal land types are: foreshore, cliff, bank, barrier, dune, beach, flat or section 15 land. This column identifies where one of the coastal land types is present in the landward coastal margin.
- **Landward boundary of the margin** – This describes any proposals for the default landward boundary of the coastal margin on this section to be altered or clarified - see iv below in the Notes on Maps. In addition, in the Alternative Routes and Optional Alternative Route Table there are columns that describe the landward and seaward boundaries of the alternative route strip. Alternative routes/optional alternative routes have a default width of two metres either side of the approved line. We propose specific landward and/or seaward boundaries to the route strip where doing so would add further clarity to the extent of access rights along the route, by working with the grain of what is already there. It should be noted that where the alternative route/optional alternative route follows an existing path corridor, the trail may adopt a variable width as dictated by existing physical features.
- This provides an explanation for any such proposal to alter or clarify the default margin on this section. This may be either because we are proposing a clear boundary around land that in our view would be margin by default, because it matches the description of ‘coastal land’ explained at paragraphs 4.8.8 of the

Scheme; or because we propose using our discretion to add land to or remove it from the default margin, as described at paragraphs 4.8.11 of the Scheme.

- **Proposed exclusions or restrictions** – This indicates whether, at the time the proposals were prepared, we had identified any requirement for exclusions or restrictions that might affect either the section of trail itself or the adjacent margin. Any such exclusion or restriction identified might either come into force immediately following commencement or at some future date. It will sometimes be necessary to introduce new exclusions or restrictions in the future, even if not identified at the time of preparing our proposals. See Part 10 of this document and Part 2.4 of the approved Coastal Access Scheme for more information.
- In the second table or set of tables for each chapter, we set out any other options that were considered during our initial planning (in relation to the route and the coastal margin), and explain why they did not form part of our proposals.
- The third table or set of tables for each chapter provides further details of any situation where local circumstances mean that implementation of roll-back is likely to be more complex. We identify the key issue and our expected resolution.

Annotated examples of these various tables are given below, to illustrate how they are used.

- **Part 3** – This sets out our formal proposals to the Secretary of State for which we are seeking approval in relation to the length of coast covered by the chapter. These proposals give legal effect to the position summarised by the preceding tables.

**Examples of tables in each chapter, with explanation of their contents:**

The route section number or numbers (as shown on the accompanying maps).	This column shows whether this route section could be repositioned in future in response to erosion etc without further approval by Secretary of State. See notes to table. More complex situations are explained in the separate table 1.2.3 below.	If we have proposed any change or clarification to the landward extent of the margin, this column says why.	This column indicates if we have proposed any restriction or exclusion over trail or margin.
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**1.2.1 Section details:- Easington Caravan Park to Waxholme – maps 1a to 1i**

1	2	3	4	5	6a	6b	6c	7
Map(s)	Route section number(s)	Current status of this section	Current surface of this section	Roll-back proposed? (See Part 8 of Overview)	Default landward coastal margin?	Landward boundary of margin (See maps)	Reason for landward boundary discretion	Proposed exclusions or restrictions (see Part 10 of Overview)
1d	EFB-1-S019 to EFB-1-S020	Other existing walked route	Bare Soil (compacted)	Yes: Normal	No	Landward edge of trail	Not used	None
1e	EFB-1-S021 RD	Public Highway	Tarmac	Yes: Normal	No	Landward edge of trail	Not used	None

The relevant map(s) for the route section(s).	This column specifies the current access status of the proposed trail section.	This column specifies existing surface type of the proposed trail section.	This column indicates where the landward boundary of the coastal margin would be, adjacent to each route section. This might be by default, because it meets the description of 'coastal land types' in the Scheme, or because we propose to exercise our discretion to extend or reduce the margin.
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**1.2.2 Other options considered: Easington to Filey Brigg – map 3f Skipsea Cliff to Hornsea Road**

Map(s)	Section number(s)	Option(s) considered	Reasons for not proposing this option
3f	EFB-3-S024 to EFB-3-S026	<p>We considered aligning the trail along an access track immediately to the seaward side of the route shown.</p> <p>The track provides access for residents of Cliff Lane from Hornsea Road.</p>	<p>We opted for the proposed route because:</p> <ul style="list-style-type: none"> <li>■ this proposal is made with the support of the landowner.</li> <li>■ we concluded that overall the proposed route struck the best balance in terms of the criteria described in chapter 4 of the Coastal Access Scheme.</li> </ul>

The relevant map(s) for the route section(s).	The trail section number(s) (as shown on the accompanying maps).	This column describes other options we considered for the route or margin for the identified route section(s).	This column summarises the reason(s) that the other options we considered were not preferred.
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**1.2.3 Roll-back implementation – more complex situations: Easington to Filey Brigg – map 2a  
Waxholme to Sand le Mere**

Map(s)	Section number(s)	Feature or site potentially affected	How we will manage roll-back in relation to this feature or site
2a	EFB-2-S004	Managed realignment of sea defences	This stretch of coast is affected by a planned managed realignment, At present the proposal is for the current defences to be breached naturally once the new works are in place. When this breach occurs the trail will roll back to cross the new sea defences. The timescale for the works is not yet confirmed.

The relevant map(s) for the route section(s).

The trail section number(s) (as shown on the accompanying maps).

This column identifies any areas that could cause us to consider a more complex solution to roll-back than would normally be required.

This column summarises our expected approach to roll-back in these circumstances.

**Notes on Maps:**

The notes that follow will help explain the maps provided for each chapter.

*The proposed route of the trail:*

- i The thickness of the line used to depict the proposed route on the maps is intended to make it easy to find on the map and to enable us to differentiate, by shading the line differently, between sections of the route that would use existing rights of way, sections that appear to follow other existing walked lines on the ground, and sections that do neither. The thickness of the line on the map is not an indication of the width of the actual trail on the ground – the proposed route simply follows the centre of the line shown. The legislation makes the default width of the trail four metres, but its actual width varies a good deal in practice according to the detail included section by section in our proposals.
- ii In places there are differences between the line of public rights of way recorded on the local Definitive Map that is maintained by the local highway authority, and paths currently used and managed on the ground as public rights of way. Some of these differences may be attributed to adaptation of the path over time to cope with coastal erosion and other processes, whilst others appear to arise from anomalies in the way the rights were originally recorded on the definitive map. The maps in this report show the public rights of way as recorded on the definitive map, and depict them as accurately as possible at the scale used. See part 4.7 of the Scheme for further information.
- iii The coast south of Bridlington is subject to very high rates of coastal erosion. This has led to difficulties in recording the exact and most appropriate line for the proposed route, since the situation on the ground is changing rapidly and cannot always be represented accurately on the available base map. We have endeavoured to depict the most up to date situation on the maps which accompany each chapter of the proposals at the time of survey; however we acknowledge that the exact situation

on the ground may well have changed by the time the proposals are published. On the soft, eroding cliffs of Holderness we have attempted to show the approximate position of the proposed route in relation to the cliff top at the time of survey. Once the route is approved by the Secretary of State, and establishment works begin, it is likely that the situation will have changed further and that decisions regarding the exact alignment of the trail will have to be made on the ground, after discussions with the owners and occupiers of the affected land.

#### *The coastal margin:*

- iv The proposed route of the trail shown on the maps is important in understanding the extent of the coastal margin to either side of it. Under the legislation:
  - the coastal margin is a single, continuous corridor of land which includes the trail itself;
  - the margin also includes all land seaward of the trail land - although not all of that land would be subject to a new right of access (see point vi below);
  - the landward extent of this margin is by default the trail itself, or the inland edge of any land adjoining the trail on its landward side that is foreshore, cliff, dune or beach, or a bank, barrier or flat, or section 15 land (see Annex B: Glossary of terms).
- v We have the discretion to propose that the landward boundary of the coastal margin should coincide with a recognisable physical feature on the ground – even if the effect of doing so is to add land into the margin, or to remove land from it. We may use this discretion:
  - to propose that instead of the default trail width of four metres set by the legislation, particular physical features such as walls, fences or pavement edges should be used where appropriate to define the landward extent of the trail land on that section of the route: such features cannot be depicted on the maps at the scale used, but they are described in the formal proposals which accompany each map;
  - to clarify or adjust the boundaries of a landward area included by default as margin, in order to create a better ‘fit’ with the circumstances on the ground; or
  - to propose in some places that additional areas of land should be added to the coastal margin landward of the trail: land which is affected by such proposals is indicated on the maps with a purple wash and described in the formal proposals which accompany each map.

Further explanation of these powers can be found at part 4.8 of the Coastal Access Scheme. Our proposals take full account of any views expressed by the owner or occupier of affected land about whether the powers should be used in any of these ways.

- vi Land which forms part of the coastal margin would be subject to access rights, other than:

- any **excepted** land, such as land covered by buildings or their gardens or curtilage: Annex C summarises in full the categories of excepted land under the legislation; or
- any land where coastal access rights would be **excluded** under our statutory powers: we indicate in the report where we already know of circumstances that make this necessary, and make any proposals accordingly.

**vii Spreading room** is the term used in the report to describe any land, other than trail land, which would form part of the coastal margin and would have public rights of access. It does not therefore include any excepted land within the margin, or any existing access land on the landward side of the trail that is omitted from the margin.

Annex B (Glossary of terms) includes a full definition of these terms which you may find helpful in understanding the report.

#### *Voluntary access dedication*

**viii** Land that was previously dedicated as access land under section 16 of the Countryside and Rights of Way Act 2000 (CROW) will become subject to the coastal access regime if it forms part of the coastal margin in any of the ways described above. There is also provision in the legislation for a land owner or long leaseholder to dedicate other land voluntarily as coastal margin if it lies adjacent to it or within it. Dedicating land as coastal margin disappplies the excepted land provisions within it, and may also make provision for the removal or relaxation of specific national restrictions that would otherwise apply. Section 4.8 of the Coastal Access Scheme explains these provisions in more detail.

## 4. Preparation of the report

To secure the twin objectives under the legislation we have followed the approach set out in our Coastal Access Scheme, as approved by the Secretary of State on 9 July 2013. Chapter 3 of this detailed document sets out the stages of implementation we must follow.

In line with this, before making the proposals in this report, we conducted extensive preliminary work in two main stages:

- **Stage 1: Prepare** – defining the extent of the coastal stretch with access authorities and identifying the key issues and opportunities, including sensitive features, in conjunction with key organisations; and
- **Stage 2: Develop** – checking the alignment on the ground, sharing our initial thoughts with land owners and offering to ‘walk the course’ with them, planning for the protection of key features, talking further with key interests and reality checking our proposals.

### Stage 1 - Prepare

This stage involved us working closely with access authorities to develop an understanding of the stretch, agree its exact extent and carry out initial familiarisation visits. We held discussions with representatives of national and local organisations with a strategic interest in this stretch of coast. This included discussions with those we are required by legislation to consult at this stage:

- the local access forum;
- County Council officers, including ecology, geology, historic environment, planning, transport and countryside ranger staff;
- local officers from the Environment Agency, in relation to flood defence and coastal erosion management on this stretch of coast;
- local officers of Historic England, in relation to historic features on this stretch of coast; and
- the Ministry of Defence, in relation to defence interests on this stretch of coast.

We also held discussions with representatives of specific interest groups, including:

- the Ramblers;
- the British Mountaineering Council;
- HM Coastguard;

- The RSPB;
- Parish Councils;
- the National Farmers Union; and
- the Country Land and Business Association.

We publicised on our website the start of work on the stretch and provided an opportunity for all other interested parties to submit to us their views on local issues and opportunities.

We also engaged with relevant specialists, both within Natural England and from other organisations, to consider any potential for impacts on key sensitive features. See part 6 below for more information.

In addition to these discussions we took into account a wide variety of information, plans and strategies that we considered relevant to the alignment process. Those that are published on the internet are listed in Annex A: Bibliography.

We then took all reasonable steps to identify owners, occupiers and those with a legal interest in the land which could be affected.

## **Stage 2 - Develop**

This stage involved us contacting, and discussing our initial thoughts with, relevant owners, occupiers and other legal interests.

We asked for their views and invited them to join us when we visited the land to ‘walk the course’ so that we could discuss options for alignment based on mapped summaries of our emerging proposals.

In most cases this was done through separate site meetings with the individuals and businesses concerned and through drop-in events organised for owners and occupiers before we began individual site visits.

We also took reasonable steps to identify and contact any owners, occupiers or other legal interests who could foreseeably be affected in the future as a result of any roll-back that may prove necessary. See part 9 – Future Change – below.

We then held further detailed discussions with internal and external specialists to refine our thinking on protecting key sensitive features, carrying out any necessary assessments.

After further discussions with key local and national organisations we refined our proposals and checked them on the ground before moving onto Stage 3 – Propose, which is the substance of this report.

## Key issues along this stretch

### 5. Discretion to include part or all of an estuary or estuaries

The proposed Easington to Filey Brigg stretch contains no estuarial waters.

### 6. Other considerations

#### a) Recreational Issues

Map B gives an overview of existing public access to the coast between Easington and Filey Brigg, showing public rights of way, access land and promoted routes/National Trails along the stretch.

In the south of the stretch, from Easington to Bridlington, there is very little formal, legal access, other than in urban areas such as Hornsea and Withernsea. This part of the stretch has been heavily eroding for many years, with the loss of many villages and much of the footpath network. The area had few historic public footpaths and many of those that did formally exist have been lost to the North Sea. Clearly there is a great opportunity to create new, secure access along this coast, linking together local communities, often for the first time.

North of Bridlington with its promenade, a public footpath runs along the top of the cliffs around Flamborough Head as far as Speeton Village. This is locally promoted as the “Headland Way” and is a very popular route around this spectacular landscape. In general we are proposing that the England Coast Path follows this footpath, with a few minor improvements, as it retains views of the sea and is in close proximity to the cliff top throughout its course.

North of Speeton, towards Filey, access close to the sea is generally absent, other than a short section around Reighton Gap and across the golf course just south of Filey. This picturesque and fascinating coast, popular with walkers who currently use the beach to gain through access, would be opened up for access along the cliff tops and through the coastal valleys in this area, providing benefits for walkers and linking coastal villages, holiday complexes and the resort of Filey.

Through Filey and north to the Filey Brigg Country Park, the proposed route runs along the Yorkshire Wolds Way National Trail as far as the northern limit of the car park, just short of where the path becomes the Cleveland Way National Trail/England Coast Path.

There are no existing open access rights along this stretch of coast.

#### b) Protection of sensitive features

Data relating to sensitive features was assessed by officers from Natural England with a

knowledge of the conservation objectives of the sites and features under consideration. We looked for evidence of any potential for our proposals to have a detrimental effect on protected sites and species. This included potential effects arising from the works that would be necessary to establish and/or maintain the proposed route and from people's use of the new access rights. The proposals have been thoroughly considered before being finalised and our initial ideas were modified during an iterative design process, with input from people with relevant expertise within Natural England and other organisations.

We paid particular regard to sites with certain key designations for their wildlife and/or geological interest (See Maps C1 and C2: Key statutory designations - Easington to Filey Brigg):

- European sites, including: Special Areas of Conservation (Flamborough Head SAC) and Special Protection Areas (Flamborough and Filey Coast SPA) and potential SPAs (see glossary for a fuller explanation of 'European sites'); and
- Sites of Special Scientific Interest (SSSI) and proposed SSSI.

Appropriate separation of duties within Natural England is in place to ensure that impartial judgements can be made in the light of the available evidence about any potential impacts of particular options on key sensitive features before reaching our final decision. This approach ensures that Natural England fully complies with the letter and spirit of the law, throughout the Habitats Regulation Assessment process relating to European sites described below. As a matter of good practice, staff also adopted this separation of roles in assessing the potential for our proposals to affect other protected sites and species.

With regard to European sites, a Habitats Regulations Assessment was carried out on the proposals in this report, using procedures compliant with the associated legislation.

It was concluded, on the basis of objective information, that our proposals will not have a likely significant effect on any of the qualifying features of the European site, either alone or in combination with other plans or projects. We therefore advise the Secretary of State that further assessment in this respect is not required.

In reaching this conclusion we identified specific measures which would in our judgement be necessary in some places on the stretch to prevent any likely significant effect on The Flamborough Head SPA. Our proposals incorporating these measures have been incorporated into the relevant chapters of the proposals:

There is a small risk that our proposals for the coastal margin might undermine visitor management at RSPB Bempton, where visitors are required to stay on the cliff top path or within the viewing areas provided. The project team has identified an area that requires some form of intervention and it therefore proposes that public access rights to parts of the coastal margin are excluded by direction:

- Under s26 of CROW, for the purpose of conserving nature conservation interests of the land in question.

Under the terms of the s26 direction there would be no new access rights: To the coastal margin at RSPB Bempton from the safety fence on the seaward side of the trail to mean low water from 1 March to 30 September each year access will be excluded to reinforce existing management.

There is a small risk that our proposals for the coastal margin might undermine visitor management at Flamborough (Thornwick Nab, High Holme and Breil), where visitors are requested to view nesting seabirds from the path. The project team has identified an area that requires some form of intervention and it therefore proposes that public access rights to parts of the coastal margin are excluded by direction:

- Under s26 of CROW, for the purpose of conserving nature conservation interests of the land in question.

Under the terms of the s26 direction there would be no new access rights: To the coastal margin at Thornwick Nab, High Holme and Breil as indicated on the associated maps from 1 March to 30 September each year access will be excluded to reinforce existing management.

- There is no proposed direction to exclude access to the line of the trail itself.

With regard to other protected sites and protected species, we concluded that our proposals could be implemented without taking any special measures to protect them.

Once a route for the trail has been confirmed by the Secretary of State, we will work with East Riding of Yorkshire Council to ensure any works on the ground are carried out with due regard to the results of the appraisals and that all relevant statutory requirements have been fulfilled.

Refer to the Access and Sensitive Features Appraisal for more information.

### **c) Landscape**

We collated data relating to the sensitive landscape features. This included data about the presence of protected landscapes, recognised Heritage Coast, designed landscapes within registered and historic parklands and registered Parks and Gardens on this stretch of coast and specialist advice as to the potential vulnerability of the sites and features to access. The data was then assessed by Natural England in consultation with Flamborough Headland Heritage Coast and local authority officers from the East Riding of Yorkshire Council.

(See Map D: Key Statutory Landscape Designations Easington to Filey Brigg):

We looked for evidence of any potential for our proposals to have a detrimental effect on sensitive landscape sites or features. This included potential effects arising from the works that would be necessary to establish and/or maintain the proposed route including the use of local vernacular in the design of access signage and furniture, local materials used for path surfacing and alignment of the route to complement any designed and/or protected landscapes.

Our conclusion from this assessment is that our proposals would not undermine the landscape character or the sensitive features within the Flamborough Headland Heritage Coast, including the historic parkland at Sewerby.

Once a route for the trail has been confirmed by the Secretary of State, we will hold further discussions with local government and protected landscape officers about any works on the ground that are necessary to prepare for commencement of the access rights.

#### **d) Historic Environment**

Data relating to the historic sites and features was collated for us by the East Riding of Yorkshire Council and North Yorkshire County Council. This included data about the presence of historic sites and features on this stretch of coast and specialist advice as to the potential vulnerability of the sites and features to access. The data was then assessed by Natural England in consultation with officers from Historic England and the East Riding of Yorkshire Council. We looked for evidence of any potential for our proposals to have a detrimental effect on protected sites or features. This included potential effects arising from the works that would be necessary to establish and/or maintain the proposed route and from people's use of the new access rights.

We paid particular regard to Scheduled Monuments (See Map C: Key statutory environmental designations on Easington to Filey Brigg stretch).

Our conclusion from this assessment is that our proposals would not undermine the conservation objectives for the historic environment within the Easington to Filey Brigg stretch.

#### **e) Interests of owners and occupiers**

In discharging our coastal access duty we must 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 apply. This was a key driver in the design of our proposals, which were discussed in detail with the owners and occupiers of the affected land during 'walking the course' and other processes, and is reflected in the chapters of the report insofar as they were relevant to the individual lengths of coast described.

#### ***The Holderness Coast***

This part of the stretch comprises the sparsely populated coast south of the resort of Bridlington. There are several small villages, often set back from the coast itself, and the small resort towns of Hornsea and Withernsea.

Between the protected promenades of Hornsea and Withernsea there is very little formal access along the coast due to the very rapid rates of erosion along this coast, with

its soft, glacial till cliffs and also due to historic circumstances. This has meant that we have had to discuss proposals to create entirely new access along the majority of the coast, in general across fields or tracks if available.

Landowners and occupiers have often been both farmers and holiday complex owners wishing to minimise the impact of the proposed England Coast Path on their businesses, or residents wishing to maintain their privacy. This has led to extensive discussions regarding the alignment of the proposed trail in order to ensure that a balance has been struck between the interests of residents, farmers and other owners and occupiers, and those of potential walkers, seeking a direct, convenient and safe onward route, with sea views where possible.

At the RAF Cowden site, a route has been agreed with the Ministry of Defence, through an area known to be free from unexploded ordnance. Although this route is distant from the sea, it will provide a safe, attractive and convenient way of walking through the area, avoiding a busy and potentially dangerous main road.

### ***Bridlington and Flamborough***

Bridlington has an extensive and attractive promenade throughout the developed part of the town. This is defended from coastal erosion and is currently suitable for the proposed England Coast Path. North of the town, the “Headland Way” runs around Flamborough Head as far as the county boundary at Speeton.

In general the existing public access provisions are already managed effectively alongside adjacent land uses, but there are places where we have been able, through discussion with relevant interests, to identify small adjustments to the existing coastal route, which better integrate recreational benefits with the interests of owners and occupiers. These are described in the relevant chapters of the proposals.

### ***North Yorkshire (Speeton to Filey Brigg)***

This area of low cliffs and coastal valleys currently has only small-scale, local provision for access and has required considerable consultations with landowners and occupiers in order to find a proposed solution which seeks to minimise any impact on businesses, both holiday complexes and agricultural, or on the privacy of residents, while aiming to provide a safe, convenient and attractive route as close to the sea as possible.

Through Filey itself, it is proposed that the trail follows the promenade, currently a part of the Yorkshire Wolds Way National Trail. This provides an attractive route to the country park north of the resort and joins the existing England Coast Path/Cleveland Way National Trail.

## f) Coastal processes

The principal sources of information regarding coastal processes on this stretch of coast are the Flamborough Head to Gibraltar Point and the River Tyne to Flamborough Head Shoreline Management Plans (see Annex A: Bibliography), non-statutory policy documents for the management of flood risk and coastal erosion. With reference to these documents and with advice from the Environment Agency and officers from relevant local authorities, we have identified the lengths of coast within this stretch which are particularly susceptible to coastal erosion or other geomorphological processes, such as landslips.

In general where the coast is defended with some certainty, we have not made any specific proposals to enable the trail to adapt to coastal change - for example, where the trail would be:

- on, or on the landward side of sea defences which would protect it; or
- landward of the roads and railway which would be protected under the policies set out in the Shoreline Management Plan.

However, in many cases we have identified a possible requirement for roll-back even in scenarios like this; to ensure that we can maintain continuity of the trail should a nearby section of the trail be affected by coastal change (see Part 4.10 of the approved Scheme).

The developed areas of Withernsea, Hornsea, Skipsea, Bridlington and Filey described in the proposals are defended and are unlikely to be affected significantly by coastal processes in the foreseeable future, although where these hard defences abut the softer cliffs there may be points of weakness or areas which may be indirectly affected by the need to roll the trail back in the future. We have not made any specific proposals to enable the trail to adapt to coastal change on these lengths of coast.

The soft cliffs along the open, rural coast described in chapters 1 to 3 of the proposals are largely undefended and subject to varying rates of change. Here we propose to recommend that the trail is able to roll back so that it can be repositioned without further reference to the Secretary of State, once the initial route has been approved. There is more detail about these roll-back arrangements in part 9 of the Overview and in the relevant chapters of the proposals.

As noted above (*Understanding our proposals and accompanying maps- the proposed route of the trail*), the coast south of Bridlington is subject to very high rates of coastal erosion. We have endeavoured to depict the most up to date situation on the maps which accompany each chapter of the proposals at the time of survey; however we acknowledge that the exact situation on the ground may well have changed by the time the proposals are published. On the soft, eroding cliffs of Holderness we have attempted to show the approximate position of the proposed route in relation to the cliff top at the time of survey. In November 2017 the proposed path alignment was adjusted to take into account the May 2017 cliff line erosion data provided by East Riding of Yorkshire Council. Once the route is approved by the Secretary of State, and establishment works begin, it is

likely that the situation will have changed further and that decisions regarding the exact alignment of the trail will have to be made on the ground, after discussions with the owners and occupiers of the affected land.

The dynamic nature of this part of the coast has led to a number of public highways close to the coast being closed to the public - both as driving and as walking routes. Where this has happened or where this is planned to happen in the near future, we have not proposed that the route should follow any such road or track - even where the road or track is still theoretically passable and may be seen on the ground. This follows advice from the East Riding of Yorkshire Council and includes points where roads have been stopped by concrete blocks or bollards.

### **g) Other substantive issues**

As explained in e) above the area south of Bridlington - the Holderness Coast - is subject to exceptional rates of coastal erosion. It is likely that this process will continue to create problems for landowners and walkers in the future. The problem is exacerbated by the geology of the area, where soft glacial till forms cliffs, generally decreasing in height from north to south. During the preparatory phase of our work in this area it became clear that there was a genuine concern that the cliffs may present an unusual and real danger to walkers, especially where the trail, once established, runs close to the cliff top. Although the Coastal Access Scheme makes it clear that walkers should take responsibility for their own safety in such environments, it was felt that the line of the route itself should take careful regard of any risks posed and should attempt to minimise the danger to users on the trail.

In order to understand the nature and potential severity of the risks to users, Natural England and the East Riding of Yorkshire Council commissioned an expert consultant to provide impartial advice regarding any parts of the trail which may be close to the cliff top in Holderness. The report, by Asken and John Chatterton Associates, is published with our proposals and can be viewed at <https://www.gov.uk/government/collections/england-coast-path-easington-to-filey-brigg> .

Whilst the findings of the report suggest that overall risks to users on the cliffs are low, a clear recommendation was made, one which was agreed by both Natural England and the East Riding of Yorkshire Council, stating that Natural England, *“should not align the centre line of the path within the first 6m back from the cliff top edge, meaning that the seaward boundary of the path corridor is no closer to the cliff top edge than 4m”*.

Although we have attempted to record this alignment in this report, the ever-changing nature and position of the cliff top has not allowed us to propose an exact and definitive line for the route (see e) above). What this means in practice is that once establishment works begin on the part of the trail south of Bridlington decisions regarding the exact alignment of the trail will have to be made on the ground, after discussions with the owners and occupiers of the affected land, but in accordance with this principle that no part of the trail on the ground should be closer than 4 metres from the cliff top.

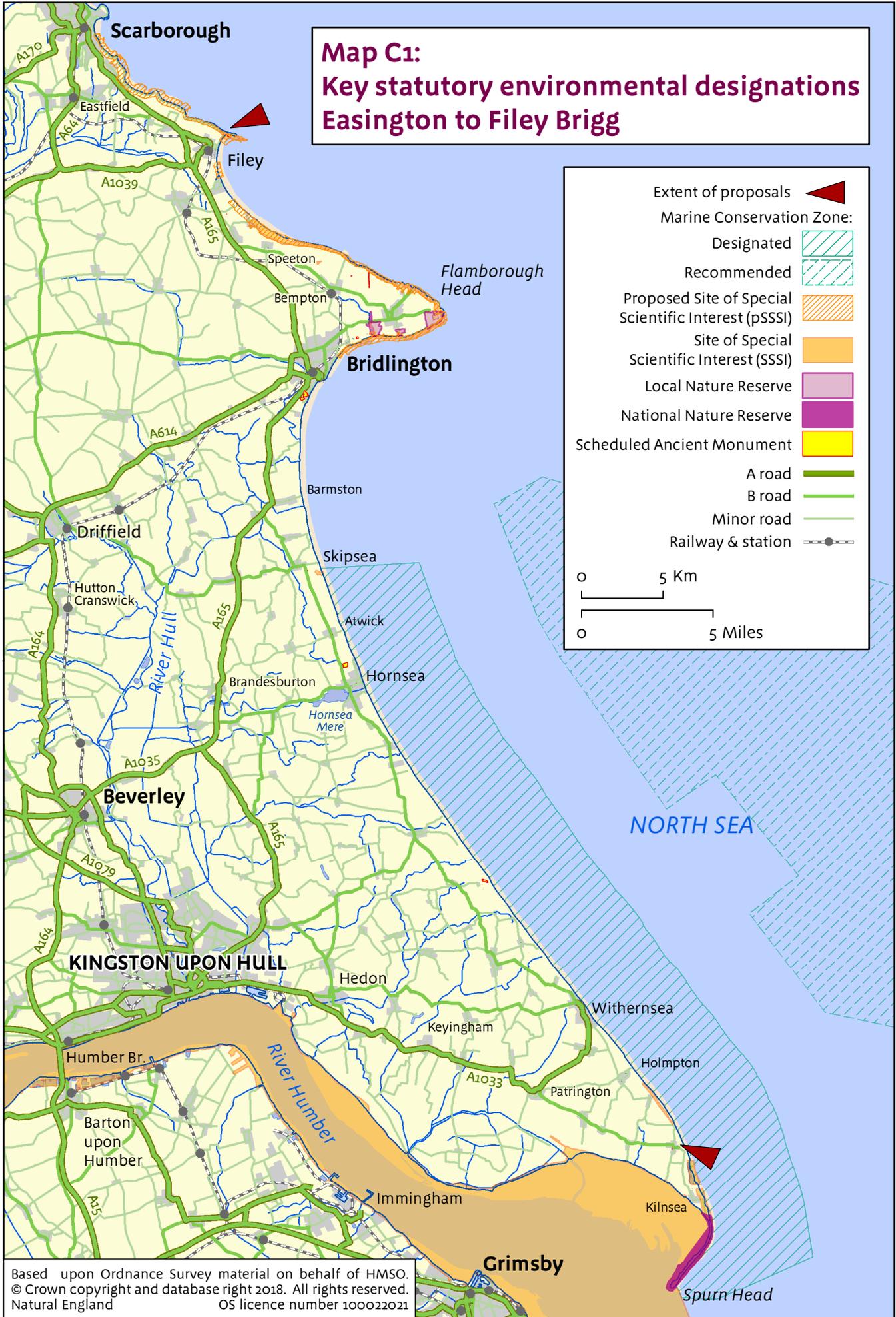
## Map B: Existing public access on the Easington to Filey Brigg stretch

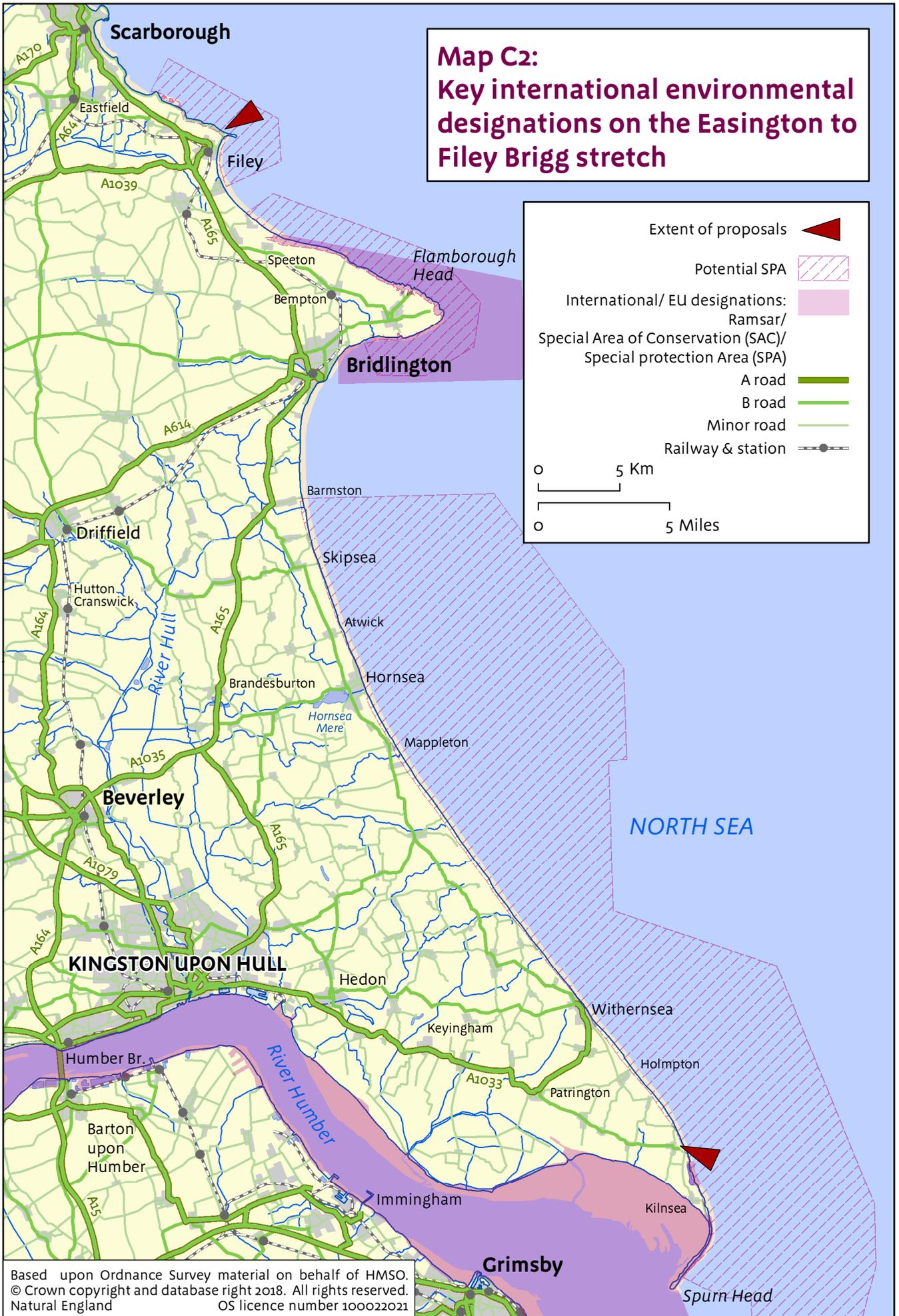
England Coast Path	
Yorkshire Wolds Way	
Cleveland Way	
Extent of proposals	
Public Right of Way	
A road	
B road	
Minor road	
Railway & station	

0 5 Km  
0 5 Miles



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**Map C2:**  
**Key international environmental designations on the Easington to Filey Brigg stretch**

Extent of proposals 

Potential SPA 

International/ EU designations:  
 Ramsar/  
 Special Area of Conservation (SAC)/  
 Special protection Area (SPA) 

A road 

B road 

Minor road 

Railway & station 

0 5 Km

0 5 Miles

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# Map D: Key landscape designations on the Easington to Filey Brigg stretch



## Implementation of the proposals

### 7. Physical establishment of the trail

Below we summarise how our proposed route for the trail would be physically established to make it ready for public use before any new rights come into force. There is further detail in the proposals about some of the provisions mentioned here.

The trail would make extensive use of existing coastal paths on the ground around Flamborough Head and through the country park north of Filey. It would also make use of promenades in Withernsea, Hornsea, Bridlington and Filey. For much of the remaining majority of the stretch new paths will need to be constructed, or signposted. Our estimate of the capital costs for physical establishment of the trail on the proposed route is £634,825 and is informed by:

- information already held by the access authority, the East Riding of Yorkshire Council and North Yorkshire County Council, in relation to the management of the existing Yorkshire Wolds Way National Trail; and
- information gathered while visiting affected land and talking to the people who own and manage it about the options for the route.

There are four main elements to the overall cost:

- A significant number of new signs would be needed, in all of the rural sections of the proposed trail.
- A significant number of new footbridges would be needed, in many of the rural sections of the trail.
- Two stretches of roadside footway will be needed on the southern approach to Withernsea and to the south of Great Cowden.
- Extensive clearance work will be required at the RAF Cowden site, and between Speeton and Filey.
- The access furniture of the existing paths and footways on the proposed route around Flamborough Head need upgrading to National Trail standard. These are mentioned in the detailed descriptions for the relevant route sections in the proposals.
- Some construction work will be required through Filey Golf Club, at “The Bay” holiday village near Filey and at Earls’ Dyke, south of Bridlington.

Table 1 explains our estimate of the capital cost for each of the main elements of physical establishment described above.

**Table 1: Estimate of capital costs**

Item	Cost
Signs & interpretation	£38,020
Steps	£23,200
Boundary crossing	£237,302
Project management	£82,803
Surfacing works	£253,500
<b>Total</b>	<b>£634,825 (Exclusive of any VAT payable)</b>

Once the Secretary of State’s decision on our report has been notified, we, or the relevant access authority acting on our behalf, will consult further with affected land owners and occupiers about relevant aspects of the design, installation and maintenance of the new signs and infrastructure that are needed. All such works would conform to the published standards for National Trails and the other criteria described in our Coastal Access Scheme.

## 8. Maintenance of the trail

Because the trail between Easington and Filey Brigg will form part of the National Trail being created around the whole coast of England called the England Coast Path, we envisage that it will be maintained to the same high quality standards as other National Trails in England (see The New Deal; Management of National Trails in England from April 2013 at Annex A).

Our estimate of the annual cost to maintain the trail is £43,990.20 (exclusive of any VAT payable).

In developing this estimate we have taken account of the formula used to calculate Natural England’s contribution to the maintenance of other National Trails.

## 9. Future changes

Below we explain the procedures for future changes to the coastal access provisions, once proposals have been approved by the Secretary of State. Where the need for future changes was foreseeable at the time of preparing the proposals we have indicated this in the relevant chapters.

### Roll-back

Chapters 1 to 5 of the proposals include proposals for the route to 'roll back' either:

- in direct response to coastal erosion or other geomorphological processes, or significant encroachment by the sea; or
- in order to link with other parts of the route that need to roll back as a direct result of coastal erosion or other geomorphological processes, or significant encroachment by the sea.

Where sections of the approved route need to change for these reasons in order to remain viable, the new route will be determined by Natural England without any requirement for further reference to the Secretary of State. Coastal erosion can happen at any time and so, in some cases, this provision need to be invoked between approval of the report and commencement of new access rights.

In particular, so far as we consider it necessary in order to maintain the viability of the route as a whole, we may determine that any part of the route is to be repositioned landward of any physical boundary feature, area of excepted land or area from which we consider it necessary to exclude access e.g. a protected site designated for its conservation value.

In determining the new route, we will take into account:

- the local factors present at that time, including any views expressed by people with a relevant interest in affected land;
- the terms of the Coastal Access duty (see Annex B: Glossary of terms), including the

requirement to aim to strike a fair balance between the interests of the public and the interests of any person with a relevant interest in the land; and

- the criteria set out in part B of the Coastal Access Scheme.

Any changes to the route in accordance with these proposals will come into force on a date decided by us. On this date, coastal access rights will come into force as necessary along any new alignment. The date of change will follow any necessary physical establishment work, including any installation of signs to enable the public to identify the modified route on the ground. We will take reasonable steps to ensure that anyone with a relevant interest in land directly affected by the change is made aware this date.

In places where the trail rolls back in this way in response to coastal change, the landward extent of the coastal margin may also move inland:

- with the trail itself, or
- because an area of section 15 land (see Annex B: Glossary of terms) or foreshore, cliff, dune, or beach, or a bank, barrier or flat, newly touches the trail when it rolls back, with the result that it automatically becomes part of the margin under the terms of the legislation.

Whilst coastal change is inherently difficult to predict with any accuracy, this report identifies those parts of the stretch where we consider such powers are likely to be needed over time in order to ensure continuity of the trail. All the route of the trail on this length of coast would be able to change without further approval from the Secretary of State in response to coastal erosion or other geomorphological processes, or encroachment by the sea with the exception of:

- Chapter 1 - Withernsea (EFB-1-S034 FP to EFB-1-S040)
- Chapter 2 - Mappleton (EFB-2-S063 RD and EFB-2-S064 FW)
- Chapter 3 - Hornsea (EFB-3-S001 FW to EFB-3-S006 FP) and Hilderthorpe (EFB-3-S068 to EFB-3-S070)
- Chapter 4 - Bridlington (EFB-4-S001 CP to EFB-4-S021 CP)
- Chapter 5 - Filey (EFB-5-S046 to EFB-5-S050)

Ordinarily, where roll-back has been proposed and becomes necessary, we would expect the trail to be adjusted to follow the current feature (for example, the cliff edge or top of foreshore). Where we foresee that local circumstances will require more detailed consideration, we have provided further information within the tables in Part 2 of the relevant report chapters. This and the above information is intended as a guide only, based on information available to us at the time of writing this report, and on expert

advice provided by the access authority, Environment Agency and others. We have taken and will continue to take all reasonable steps to discuss implications and options with all parties likely to be affected by such changes, both during the initial planning work that preceded the writing of this report and during any subsequent work to plan and implement a 'rolled back' route.

## Other changes

We will normally be required to submit a variation report seeking approval from the Secretary of State in order to make other changes to the route of the trail or the landward boundary of the coastal margin - for example if the land was subject to new build development. Such changes would be subject to the same procedures for consultation, representations and objections as our initial reports. There are no potential developments of which we are already aware that could potentially affect the route on the Easington to Filey Brigg stretch.

However, even without a variation report:

- i We would be able to impose new or modify existing local restrictions or exclusions on coastal access rights as necessary, and people with a legal interest in the land would be able to apply to us for such directions under certain circumstances – see chapter 6 of the Coastal Access Scheme.
- ii Further work could be carried out where necessary either to establish or maintain the route, or to provide any means of access to the coastal margin, using powers and procedures set out in Schedule 20 of the Marine and Coastal Access Act 2009 and chapter 3 of the Countryside and Rights of Way Act.
- iii If at any time the use of affected land should change, the normal rules in relation to excepted land would apply, so for example land covered by buildings and their curtilage, and land in the course of development, would automatically become excepted from the coastal access rights – see Annex C: Excepted Land Categories.

## 10. Restrictions and exclusions

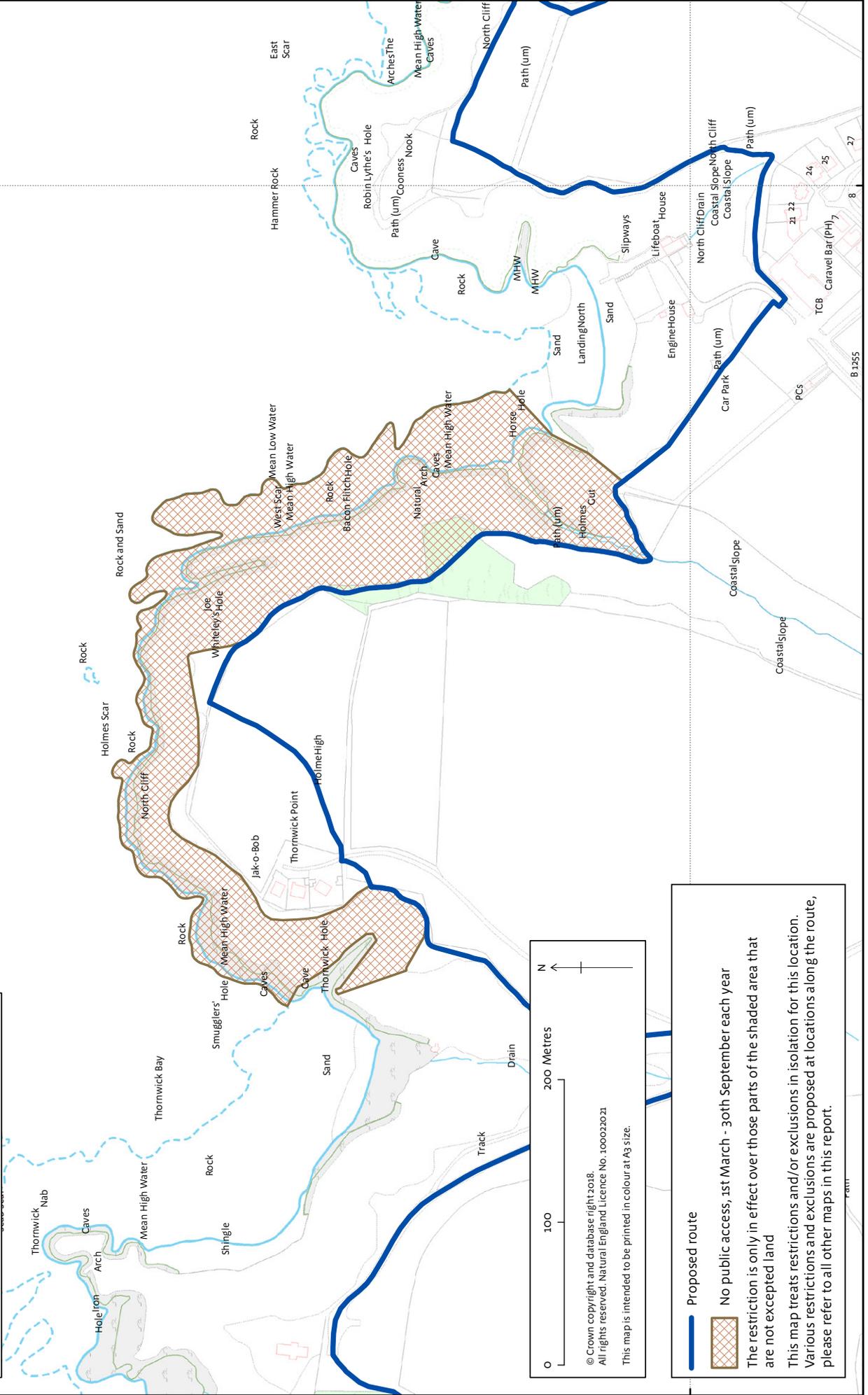
Below, we summarise the directions to exclude or restrict coastal access rights proposed by this report.

Refer to Part 6.7 and Figure 19 of the approved Coastal Access Scheme for more information.

Report chapter	Location/extent (see relevant map for more information)	Type of restriction	Purpose of restriction	Grounds and relevant section of CROW	Duration
<b>Chapter 4 - Wilsthorpe to Speeton Moor</b>	The coastal margin adjacent to EFB-4-S065 to EFB-4-S071 FP EFB-4-S080 FP to EFB-4-S095 FP EFB-4-S108 FP to EFB-4-S118 FP	No public access	Sensitive wildlife	Nature conservation 26(3)(a)	Between March 1 <sup>st</sup> and September 30 <sup>th</sup> , each year



**Map F**  
**Proposed direction under S26(3)(a) CRoW**  
**Thornwick Nab to High Holme**



0 100 200 Metres

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 This map is intended to be printed in colour at A3 size.

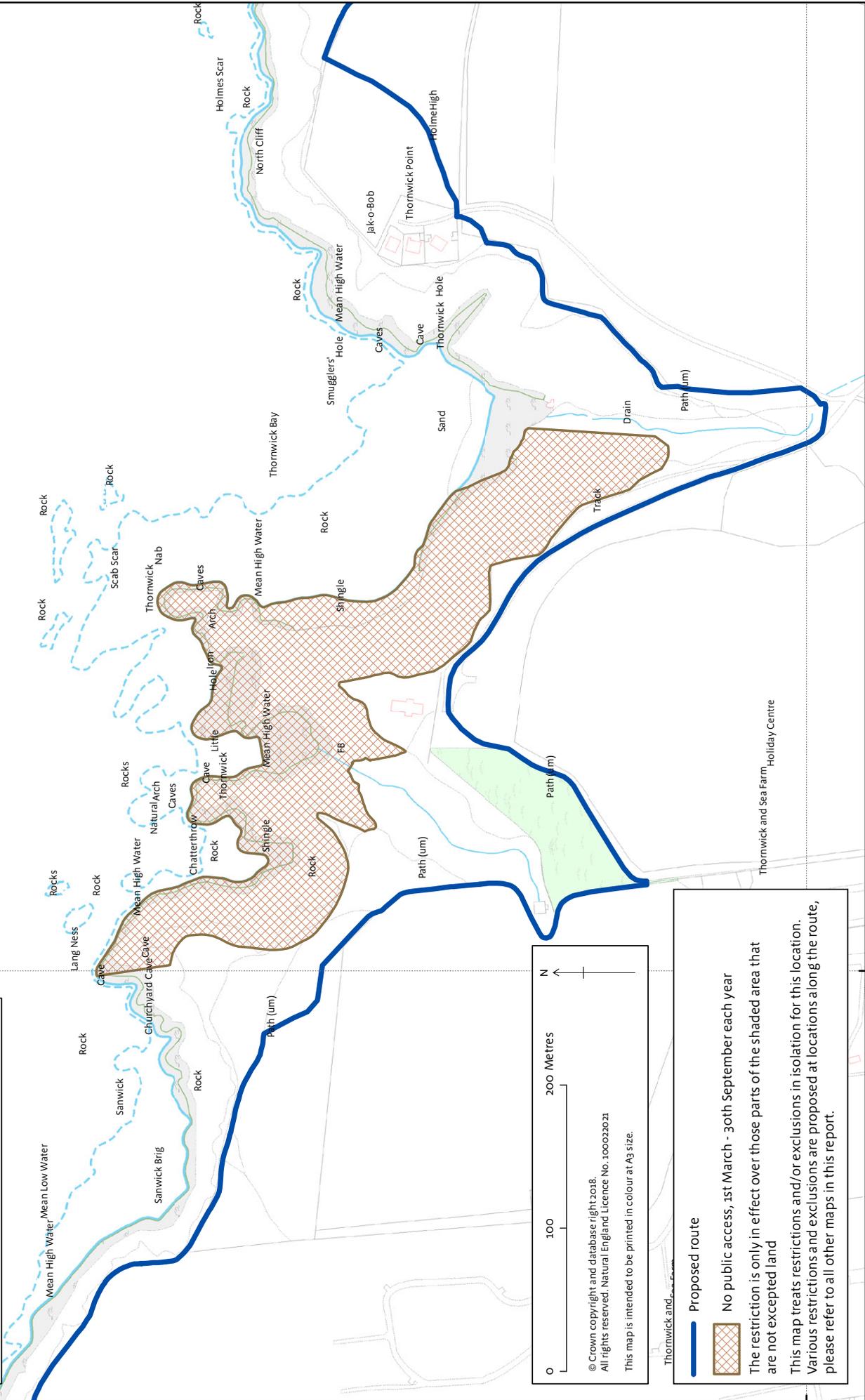
**Proposed route**

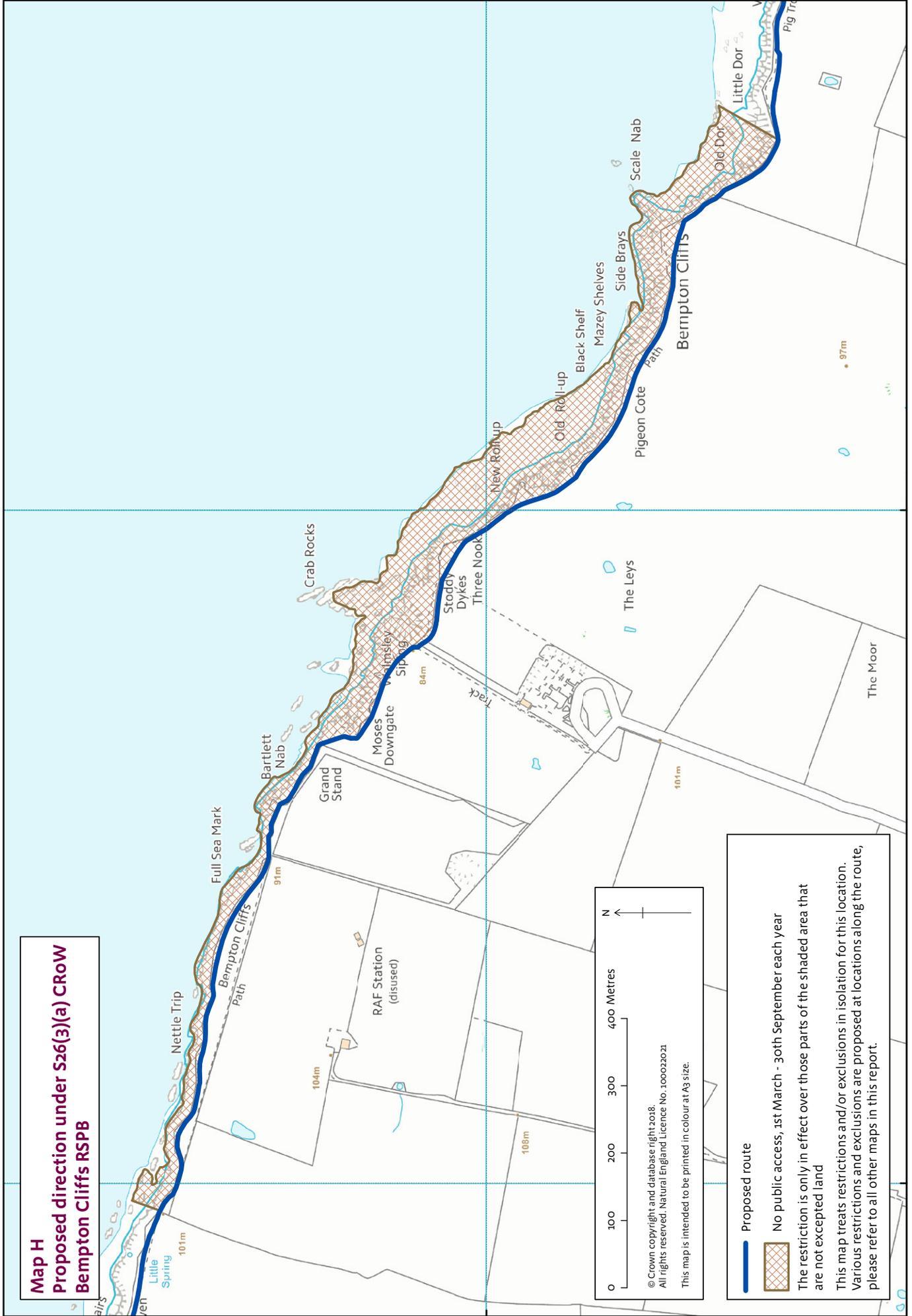
 No public access, 1st March - 30th September each year

The restriction is only in effect over those parts of the shaded area that are not excepted land

This map treats restrictions and/or exclusions in isolation for this location. Various restrictions and exclusions are proposed at locations along the route, please refer to all other maps in this report.

**Map G**  
**Proposed direction under S26(3)(a) CRoW**  
**Thornwick Bay to Gull Nook**





**Map H**  
**Proposed direction under S26(3)(a) CRoW**  
**Bemp-ton Cliffs RSPB**

**Proposed route**

**No public access, 1st March - 30th September each year**

The restriction is only in effect over those parts of the shaded area that are not excepted land

This map treats restrictions and/or exclusions in isolation for this location. Various restrictions and exclusions are proposed at locations along the route, please refer to all other maps in this report.

## Annexes

### Annex A: Bibliography

Information about Natural England's coastal access programme:

#### **Natural England**

[www.gov.uk/government/collections/england-coast-path-improving-public-access-to-the-coast](http://www.gov.uk/government/collections/england-coast-path-improving-public-access-to-the-coast)

#### **Coastal Access Scheme**

NE446 - Coastal Access: Natural England's Approved Scheme

Natural England

<http://publications.naturalengland.org.uk/publication/5327964912746496>

#### **Marine and Coastal Access Act 2009**

[www.legislation.gov.uk/ukpga/2009/23/part/9/crossheading/the-coastal-access-duty](http://www.legislation.gov.uk/ukpga/2009/23/part/9/crossheading/the-coastal-access-duty)

#### **Countryside & Rights of Way Act 2000 [CROW]**

[www.legislation.gov.uk/ukpga/2000/37/contents](http://www.legislation.gov.uk/ukpga/2000/37/contents)

#### **The Access to the Countryside (Coastal Margin) (England) Order 2010**

[www.legislation.gov.uk/uksi/2010/558/contents/made](http://www.legislation.gov.uk/uksi/2010/558/contents/made)

#### **National Parks and Access to the Countryside Act 1949**

[www.legislation.gov.uk/ukpga/Geo6/12-13-14/97](http://www.legislation.gov.uk/ukpga/Geo6/12-13-14/97)

#### **The Coastal Access Reports (Consideration and Modification Procedure) (England) Regulations 2010**

[www.legislation.gov.uk/uksi/2010/1976/contents/made](http://www.legislation.gov.uk/uksi/2010/1976/contents/made)

Environmental legislation referred to in the report:

#### **Strategic Environmental Assessment Directive**

(Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment)

European Commission

<http://ec.europa.eu/environment/eia/sea-legalcontext.htm>

#### **Habitats Directive**

(Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora)

European Commission

[http://ec.europa.eu/environment/nature/legislation/habitatsdirective/index\\_en.htm](http://ec.europa.eu/environment/nature/legislation/habitatsdirective/index_en.htm)

Other published information used in the preparation of the report:

**A register of coastal climbing sites in England**

British Mountaineering Council

[www.thebmc.co.uk/Download.aspx?id=692](http://www.thebmc.co.uk/Download.aspx?id=692)

**East Riding of Yorkshire Rights of Way Improvement Plan (draft)**

East Riding of Yorkshire Council

<http://www2.eastriding.gov.uk/EasySiteWeb/GatewayLink.aspx?allId=103183>

**North Yorkshire Rights of Way Improvement Plan**

North Yorkshire County Council

[http://www.scarboroughramblers.co.uk/archive/resources/third\\_party\\_documents/North%20Yorkshire%20Rights%20of%20Way%20Improvement%20Plan%202007\\_11.pdf](http://www.scarboroughramblers.co.uk/archive/resources/third_party_documents/North%20Yorkshire%20Rights%20of%20Way%20Improvement%20Plan%202007_11.pdf)

**Flamborough Head Management Plan**

<http://www.flamboroughheadsac.org.uk/documents/Flamborough%20Head%20Management%20Plan%20-%20final%20may%202007.pdf>

**The New deal; Management of National Trails in England from April 2013 (NE426)**

<http://Publications.naturalengland.org.uk/publication/6238141>

**Shoreline Management Plan Flamborough Head to Gibraltar Point**

<http://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwjG3oLFgfPYAhWFKMAKHcwED0sQFggsMAA&url=http%3A%2F%2Fwww2.eastriding.gov.uk%2FEasySiteWeb%2FGatewayLink.aspx%3FallId%3D128637&usg=AOvVaw3e03fLJhnbvd0TOurQSCBQ>

**Shoreline Management Plan River Tyne to Flamborough Head**

<http://democracy.scarborough.gov.uk/mgConvert2PDF.aspx?ID=942>

**Natural England and East Riding of Yorkshire Council**

**Risks to potential future coastal path users on the Holderness Coast**

Asken Ltd with John Chatterton Associates

<https://www.gov.uk/government/collections/england-coast-path-easington-to-filey-brigg>

## Annex B: Glossary of terms

The terms and their explanations below are simply for guidance and are not intended to have any legal effect.

Any terms shown in bold type within each explanation are included as a separate entry elsewhere in the glossary.

**1949 Act** means the National Parks and Access to the Countryside Act 1949. The 1949 Act includes provisions and procedures for the creation of long-distance routes (now more commonly known as National Trails). These provisions were amended and added to by the **2009 Act** for the purpose of identifying the coastal **trail**. See bibliography for publication details.

**2009 Act** means the Marine and Coastal Access Act 2009. Part 9 of the 2009 Act includes provisions to improve public access to the coast. There are supplementary provisions relating to:

- consideration of coastal access reports, objections and representations by the Secretary of State – in Schedule 1A of the **1949 Act** (inserted by Schedule 19 of the 2009 Act);
- the establishment and maintenance of the English coastal route – in Schedule 20 of the 2009 Act.

Section 1.2 of the Coastal Access Scheme includes a brief overview of the main provisions, which are explained in more detail in subsequent chapters. See bibliography for publication details.

**alignment** is the term the report uses to describe the choices we make about the proposed route of the **trail** and the landward boundary of the **coastal margin**.

**alternative route** means a route proposed to the **Secretary of State** as part of our report for a stretch of coast, for use by the public at times when access along part of the normal route is excluded under a **direction**. The associated term **optional alternative route** denotes an alternative route which the public has the *option* to use at times when the normal route (even though not formally closed) is unsuitable for use because of flooding, tidal action, coastal erosion or other geomorphological processes. Figure 17 in chapter 6 of the Scheme explains alternative routes in more detail. Paragraphs 4.10.16 to 4.10.18 of the Scheme explain more about the potential use of optional alternative routes.

**appropriate assessment** means, for the purposes of the Scheme, an assessment of the implications of a plan or project for a **European site** in view of the site's conservation objectives, made in accordance with Article 6.3 of the **Habitats Directive**. Natural England

is required to conduct an appropriate assessment where it concludes that the introduction of **coastal access rights** in the form proposed is likely to have a significant effect on the conservation objectives for a European site. Our proposals to the Secretary of State include as necessary any local measures designed to prevent such a likely significant effect arising from improved access. Section 4.9 of the Scheme explains in more detail how we fulfil this requirement where it is relevant.

**Birds Directive** means the European Community Council Directive 2009/147/EEC on the conservation of wild birds. See bibliography for publication details.

**building** has the same meaning given in Schedule 1 of **CROW**, as amended for the coast by the **Order**. The term includes any structure or erection and any part of a building. For this purpose “structure” includes any tent, caravan or other temporary or moveable structure. It does not include any fence or wall, anything which is a means of access (as defined by **CROW** section 34 – for example steps or bridges), or any slipway, hard or quay.

**coastal access duty** means Natural England’s duty under section 296 of the **2009 Act** to secure improvements to public access to the English coast. It is explained in more detail in 1.2 of the Coastal Access Scheme.

**coastal access rights** is the term the report uses to describe the rights of public access to the coast provided under section 2(1) of **CROW** as a result of the provisions of the **2009 Act** and the **Order**. Coastal access rights are normally rights of access on foot for open-air recreation. These rights are by default subject to **national restrictions** and may additionally be subject to **directions** which restrict or **exclude** them locally. Section 2.4 of the Coastal Access Scheme explains more about the nature and management of coastal access rights.

**coastal margin** or margin means a margin of land at the coast falling within one or more of the descriptions given at article 3 of the **Order**. It is explained at section 1.3. Its main component is land subject to the **coastal access rights**, but it also contains other land, including some land that is not accessible to the public. A land owner may also voluntarily include land in the coastal access margin by making a **dedication**. Section 2.3 of the Scheme explains these other categories of land and how they fit in.

**coastal processes** is a term used in the report to mean coastal erosion, encroachment by the sea or other physical change due to geomorphological processes such as landslip. Where any part of the **trail** could be significantly affected by coastal processes, either directly or because of the need to maintain continuity with a part that is directly affected, we have included recommendations for it to **roll back** in accordance with a description in the report.

**CROW** means the Countryside and Rights of Way Act 2000. **Coastal access rights** take effect by virtue of CROW section 2(1). Certain provisions in CROW are amended or added to by the **2009 Act** and the **Order** for the purposes of the coast. Chapter 2 of the Coastal Access Scheme provides an overview of how the amended CROW provisions apply to the coast. See bibliography for publication details.

**dedicate/dedication** means any voluntary dedication of land by the owner or long leaseholder under section 16 of **CROW** so that it will be subject to access rights under that Act. A dedication may also make provision for specific **national restrictions** that would otherwise apply over the affected land to be removed or relaxed.

Land within **the coastal margin** that was previously dedicated as access land under **CROW** becomes subject to the coastal access regime, including the **national restrictions** and the reduced level of liability operating on other parts of the margin with **coastal access rights**. On certain land, a dedication may be used to 'opt in' to the coastal access regime land where it would not otherwise apply. Chapter 2 of the Coastal Access Scheme explains these scenarios in more detail.

**definitive map** means the legal record of public rights of way. It shows public footpaths, bridleways, restricted byways, and byways open to all traffic.

**direction** means a direction under chapter II of **CROW** Part 1 to impose local restrictions or **exclusions** on the use of the **coastal access rights**.

**European site** means a site:

- classified as a Special Protection Area (SPA) for birds under the **Birds Directive**; or
- designated as a Special Area of Conservation (SAC) under the **Habitats Directive**; or
- proposed to the European Commission as a site eligible for designation as a SAC for the purposes of Article 4.4 of the Habitats Directive (a candidate SAC).

Natural England is required in the circumstances described under **appropriate assessment** above to conduct such an assessment of the implications of the introduction of **coastal access rights** for European sites. It is Government policy, stated in the National Planning Policy Framework that, whilst not European sites as a matter of law, the following sites should be subject to the same procedures and protection as European sites:

- Any potential SPA or possible SAC;
- Any site listed or proposed as a Wetland of International Importance especially as Waterfowl Habitat under the Ramsar Convention on Wetlands of International Importance 1971 (a Ramsar site); and
- Sites identified, or required, as compensatory measures for adverse effects on European sites, potential Special Protection Areas, possible Special Areas of Conservation, and listed or proposed Ramsar sites.

For this purpose, any reference in the report to a European site or sites should be taken to include all the categories of site above.

**excepted land** – see Annex C of the Overview.

**exclude/exclusion** are terms the report uses to refer to local exclusion of the **coastal access rights** by **direction** (as opposed to the **national restrictions** that apply on all coastal access land by default). In this way the use of the rights may where necessary either be excluded completely, or restricted in specified ways by means of a local restriction. Section 6.6 of the Coastal Access Scheme explains the provisions in detail and our approach to their use.

**foreshore** is not defined in the **2009 Act** or the **Order**. In the report it is taken to mean the land between mean low water and mean high water.

**gate** is used in several ways in the report:

- 'Field gate' means a wide farm gate, for vehicle access.
- 'Kissing gate' means a pedestrian access gate, sometimes suitable for wheelchairs.
- 'Wicket gate' means a narrow field gate, sometimes suitable for wheelchairs, but unsuitable for larger vehicles.

**guide fencing** is a term the report uses to describe simple temporary fencing which can be put up and taken down with minimal cost or effort – see figure 18 in chapter 6 of the Coastal Access Scheme.

**Habitats Directive** means the European Community Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora. See bibliography for publication details.

the **legislation** is the term the report uses to describe four pieces of legislation which include provisions relevant to the implementation of our proposals: the **2009 Act**, the **1949 Act**, **CROW** and the **Order**. There are separate entries in the glossary which describe each of these in more detail.

**local access forum** means a local access forum established under section 94 of **CROW**. Natural England is required to consult the relevant Local Access Forum in the preparation of the report, and to invite representations from it on its report – see chapter 3 of the Coastal Access Scheme for details.

**national restrictions** – see Annex D of the Overview.

**National Trail** means a long-distance route approved by the Secretary of State under section 52 of the **1949 Act**.

**objection** means an objection by a person with a relevant interest in affected land to Natural England about a proposal in the report. An objection must be made on certain specified grounds, in accordance with the provisions in Schedule 1A of the **1949 Act**

(as inserted by Schedule 19 of the **2009 Act**). Stage 3 of the implementation process described in chapter 3 of the Coastal Access Scheme provides an overview of the procedures for considering objections.

**Order** means the Access to the Countryside (Coastal Margin) (England) Order 2010 (S.I. 2010/558), made under section 3A of **CROW**. It sets out descriptions of land which are **coastal margin** and amends Part I of CROW in certain key respects for the purposes of coastal access. See bibliography for publication details.

**public right of way (PROW)** means a public footpath, bridleway, restricted byway or byway open to all traffic. These public rights of way are recorded on the definitive map.

**relevant interest** means a relevant interest in land, as defined by section 297(4) of the 2009 Act. This is a person who:

- holds an estate in fee simple absolute in possession in the land;
- holds a term of years absolute in the land, or
- is in lawful occupation of the land.

A relevant interest must therefore own or occupy the land in question, rather than simply having some kind of **legal interest** over it.

**representation** means a representation made by any person to Natural England regarding a proposal in its final report. A representation may be made on any grounds, in accordance with the provisions in Schedule 1A of the **1949 Act** (as inserted by Schedule 19 of the **2009 Act**). Stage 3 of the implementation process described in chapter 3 of the Coastal Access Scheme provides an overview of the procedures for considering representations.

**restrict/restriction** – see “exclude/exclusion”.

**Roll-back** is the term the Scheme uses to describe arrangements made under the provisions of section 55B of the **1949 Act**, whereby we may propose to the **Secretary of State** in a **coastal access report** that the route of a specified part of the **trail** which is subject to significant erosion or other coastal processes, or which links to such a section of trail, should be capable of being repositioned later in accordance with the proposals in our report, without further confirmation by the Secretary of State. Section 4.10 of the Scheme explains in more detail how this works.

**route section** is the term used in the report to describe short sections of the proposed route for the **trail**. Each route section is assigned a unique serial number which we use to refer to it in the proposals and on the accompanying maps.

**Scheduled Monument** means a site or monument of national importance given legal

protection by virtue of being listed on the Schedule of Monuments under section 1 of the Ancient Monuments and Archaeological Areas Act 1979.

**section 15 land** means land with public access rights under:

- section 193 of the Law of Property Act 1925;
- a local or private Act;
- a management scheme made under Part I of the Commons Act 1899; or
- an access agreement or access order made under Part V of the National Parks and Access to the Countryside Act 1949;

or land subject to, or potentially subject to, public access under section 19 of the Ancient Monuments and Archaeological Areas Act 1979.

Where Section 15 land forms part of the **coastal margin** (which it may do in any of the ways explained in section 4.8 of the Coastal Access Scheme), these rights apply instead of the **coastal access rights**. Figure 6 in Section 2.4 of the Coastal Access Scheme shows the relationship of Section 15 land to the coastal access regime in more detail.

**Site of Special Scientific Interest (SSSI)** means a site notified under section 28 of the Wildlife and Countryside Act 1981 (as amended) as nationally important for its wildlife and/or geological or physiographical features.

**spreading room** is the term the report uses to describe any land, other than the **trail** itself, which forms part of the **coastal margin** and which has public rights of access.

In addition to land with **coastal access rights** it therefore includes areas of **section 15 land**. Spreading room may be either seaward or landward of the **trail**, according to the extent of the margin. Section 4.8 of the Scheme explains in more detail the ways in which land may become spreading room. Spreading room may be subject to **directions** that **restrict** or **exclude** the coastal access rights locally from time to time. However, the Scheme does not use the term to describe land which is subject to a direction which excludes access for the long-term. Land is not described as spreading room in the Scheme if it falls into one of the descriptions of **excepted land**, although it may become spreading room if it loses its excepted status as a result of a change of use, or if the owner dedicates it as coastal margin. Where highways such as roads or public rights of way cross spreading room, they remain subject to the existing highway rights rather than becoming subject to coastal access rights.

**statutory duty** means the work an organisation must do by order of an Act of Parliament.

**strategic environmental assessment** means the overall requirements of European Community Council Directive 2001/42/EC. Sections 4.9.9 and 4.9.10 of the Scheme

describe the circumstances in which we would conduct a strategic environmental assessment.

**stretch** is the term the report uses to describe the whole coastline affected by proposals it contains.

**temporary route** means a diversionary route which operates while access to the trail is **excluded by direction**. Unlike an **alternative route**, a temporary route may be specified by or under the direction without requiring confirmation by the Secretary of State in the report, though land owner consent is needed in some circumstances. Figure 17 in chapter 6 of the Coastal Access Scheme explains the provisions for temporary routes in more detail.

the **trail** is the term the report uses to describe the strip of land people walk along when following the route identified for the purposes of the **Coastal Access Duty**: see section 1.2. Following approval by the Secretary of State of the proposals in our coastal access report, the trail along that stretch becomes part of the **National Trail** known as the **England Coast Path**. By default, it is the land within 2 metres on either side of the approved route line, but often it is wider or narrower than this. The trail forms part of the **coastal margin**.

**variation report** means a report to the Secretary of State under section 55(1) of the 1949 Act. Natural England may prepare a variation report recommending changes to coastal access proposals that have previously been approved. Figure 10 in chapter 3 of the Coastal Access Scheme explains in more detail the circumstances when a variation report is necessary.

A variation report may also be prepared by Natural England (in the context of our recommendations for the **trail** which we have a duty to secure under section 296 of the **2009 Act**) to recommend that the route of another National Trail at the coast is modified.

## Annex C: Excepted land categories

The effect of Schedule 1 to the Countryside and Rights of Way Act 2000 is that some categories of land are completely excluded from the coastal access rights, even if they fall within the coastal margin:

- land covered by buildings or the curtilage of such land;
- land used as a park or garden;
- land used for the getting of minerals by surface working including quarrying (except, under certain circumstances, the removal of sand or shingle from an area of foreshore or beach);
- land used for the purposes of a railway (including a light railway) or tramway;
- land covered by pens in use for the temporary detention of livestock;
- land used for the purposes of a racecourse or aerodrome;
- land which is being developed and which will become excepted land under certain other excepted land provisions;
- land covered by works used for the purposes of a statutory undertaking (other than flood defence works or sea defence works) or the curtilage of such land;
- land covered by works used for an electronic communications code network or the curtilage of any such land;
- land the use of which is regulated by byelaws under section 14 of the Military Lands Act 1892 or section 2 of the Military Lands Act 1900;
- land which is, or forms part of, a school playing field or is otherwise occupied by the school and used for the purposes of the school; and
- land which is, or forms part of, a highway (within the meaning of the Highways Act 1980) – see below.

Some other land categories are excepted by default, but we may propose that the trail should cross them on an access strip – in which case the strip itself is not excepted from the coastal access rights. Where land in any of these categories would form part of the coastal margin in proposals, it would therefore be fully excepted from coastal access rights. That includes:

- land on which the soil is being, or has at any time within the previous 12 months been, disturbed by any ploughing or drilling undertaken for the purposes of planting or sowing crops or trees;
- land used for the purposes of a golf course;
- land which is, or forms part of, a regulated caravan or camping site; and
- land which is, or forms part of, a burial ground.

Highways are also excepted from the coastal access rights. This does not prevent the trail from following a public footpath or other highway, and people can continue exercising their rights to use highways that fall within the wider spreading room. Such highways form part of the coastal margin even though the access rights along them are afforded by other legislation.

Land owners may choose, under the legislation, to dedicate excepted land as a permanent part of the coastal margin. These provisions are explained in more detail in chapter 2 of our Coastal Access Scheme.

## Annex D: National restrictions

The coastal access rights which would be newly introduced under proposals include most types of open-air recreation on foot or by wheelchair including walking, climbing and picnicking.

The scope of these coastal access rights is normally limited by a set of rules that we call in the Coastal Access Scheme the “national restrictions”.

They list some specific activities not included within the coastal access rights – for example camping, horse riding and cycling. The national restrictions on the coastal access rights are set out on the pages that follow.

The national restrictions do not prevent such recreational uses taking place under other rights, or with the landowner’s permission, or by traditional tolerance – for example on an area of foreshore where horse riding is customary. In particular, these national restrictions have no effect on people’s use of public rights of way or Section 15 land (see the entry for ‘section 15 land’ in the Glossary).

The land owner (or in some circumstances a long leaseholder or farm tenant) also has the option to include such recreational uses within the coastal access rights on a particular area of land, or on his holdings generally. He can do this:

- permanently (i.e. on behalf of himself and future owners of the land), by dedicating such rights under section 16 of the Countryside and Rights of Way Act 2000 (CROW); or
- until further notice, by agreeing that we should give a direction under CROW Schedule 2 paragraph 7 to this effect.

We can provide more information about these options on request.

# Countryside and Rights of Way Act 2000

## SCHEDULE 2 RESTRICTIONS TO BE OBSERVED BY PERSONS EXERCISING RIGHT OF ACCESS (Section 2)

### General restrictions

- 1 (1) Subject to sub-paragraph (2), section 2(1) does not entitle a person to be on any land if, in or on that land, he –
- (a) drives or rides any vehicle other than an invalid carriage as defined by section 20(2) of the Chronically Sick and Disabled Persons Act 1970,
  - (b) uses a vessel or sailboard on any non-tidal water,
  - (c) has with him any animal other than a dog,
  - (d) commits any criminal offence,
  - (e) lights or tends a fire or does any act which is likely to cause a fire,
  - (f) intentionally or recklessly takes, kills, injures or disturbs any animal, bird or fish,
  - (g) intentionally or recklessly takes, damages or destroys any eggs or nests,
  - (h) feeds any livestock,
  - (i) bathes in any non-tidal water,
  - (j) engages in any operations of or connected with hunting, shooting, fishing, trapping, snaring, taking or destroying of animals, birds or fish or has with him any engine, instrument or apparatus used for hunting, shooting, fishing, trapping, snaring, taking or destroying animals, birds or fish,
  - (k) uses or has with him any metal detector,
  - (l) intentionally removes, damages or destroys any plant, shrub, tree or root or any part of a plant, shrub, tree or root,
  - (m) obstructs the flow of any drain or watercourse, or opens, shuts or otherwise interferes with any sluice-gate or other apparatus,
  - (n) without reasonable excuse, interferes with any fence, barrier or other device designed to prevent accidents to people or to enclose livestock,
  - (o) neglects to shut any gate or to fasten it where any means of doing so is provided, except where it is reasonable to assume that a gate is intended to be left open,
  - (p) affixes or writes any advertisement, bill, placard or notice,
  - (q) in relation to any lawful activity which persons are engaging in or are about to engage in on that or adjoining land, does anything which is intended by him to have the effect –
    - (i) of intimidating those persons so as to deter them or any of them from engaging in that activity,
    - (ii) of obstructing that activity, or
    - (iii) of disrupting that activity,
  - (r) without reasonable excuse, does anything which (whether or not intended by him to have the effect mentioned in paragraph (q)) disturbs, annoys or obstructs any persons engaged in a lawful activity on the land,
  - (s) engages in any organised games, or in camping, hang-gliding or para-gliding, or

- (t) engages in any activity which is organised or undertaken (whether by him or another) for any commercial purpose.
- (2) Nothing in sub-paragraph (1)(f) or (j) affects a person's entitlement by virtue of section 2(1) to be on any land which is coastal margin if the person's conduct (to the extent that it falls within sub-paragraph (1)(f) or (j)) is limited to permitted fishing-related conduct.
- (3) In sub-paragraph (2) the reference to permitted fishing-related conduct is a reference to the person –
  - (a) having a fishing rod or line, or
  - (b) engaging in any activities which –
    - (i) are connected with, or ancillary to, fishing with a rod and line, or with a line only, in the exercise of a right to fish, and
    - (ii) take place on land other than land used for grazing or other agricultural purposes.
- 2 (1) In paragraph 1(k), "metal detector" means any device designed or adapted for detecting or locating any metal or mineral in the ground.
- (2) For the purposes of paragraph 1(q) and (r), activity on any occasion on the part of a person or persons on land is "lawful" if he or they may engage in the activity on the land on that occasion without committing an offence or trespassing on the land.
- 3 Regulations may amend paragraphs 1 and 2.
- 4 (1) During the period beginning with 1st March and ending with 31st July in each year, section 2(1) does not entitle a person to be on any land if he takes, or allows to enter or remain, any dog which is not on a short lead.
- (2) Sub-paragraph (1) does not apply in relation to land which is coastal margin.
- 5 Whatever the time of year, section 2(1) does not entitle a person to be on any land if he takes, or allows to enter or remain, any dog which is not on a short lead and which is in the vicinity of livestock.
- 6 In paragraphs 4 and 5, "short lead" means a lead of fixed length and of not more than two metres.
- 6A (1) Whatever the time of year, section 2(1) does not entitle a person to be on any land which is coastal margin at any time if –
  - (a) that person has taken onto the land, or allowed to enter or remain on the land, any dog, and
  - (b) at that time, the dog is not under the effective control of that person or another person.
- (2) For this purpose a dog is under the effective control of a person if the following conditions are met.
- (3) The first condition is that –
  - (a) the dog is on a lead, or
  - (b) the dog is within sight of the person and the person remains aware of the dog's actions and has reason to be confident that the dog will return to the person reliably and promptly on the person's command.
- (4) The second condition is that the dog remains –
  - (a) on access land, or
  - (b) on other land to which that person has a right of access.
- (5) For the purposes of sub-paragraph (4), a dog which is in tidal waters is to be

regarded as remaining on access land.

6B (1) Section 2(1) does not entitle a person to be on any land which is coastal margin if, on that land, the person obstructs any person passing, or attempting to pass, on foot along any part of the English coastal route, any official alternative route or any relevant temporary route.

(2) In this paragraph –

“the English coastal route” means the route secured pursuant to the coastal access duty (within the meaning of section 296 of the Marine and Coastal Access Act 2009);

“official alternative route” has the meaning given by section 55J of the National Parks and Access to the Countryside Act 1949;

“relevant temporary route” means a route for the time being having effect by virtue of a direction under section 55I of that Act to the extent that the line of the route passes over coastal margin.



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