



Notes on making an objection about a coastal access report

Only owners, tenants or occupiers of affected land may make an objection about a coastal access report. You can find out more about what “occupier” means in the notes on Question 3 below.

Objections must be made on the correct form. You can get it online at <https://www.gov.uk/government/publications/england-coast-path-from-calshot-to-gosport-comment-on-proposals> - or by contacting us at the address at the end of these notes. There is a different form for making representations about a report, which anyone can do – see the separate guidance notes about this.

Please note that each report which forms this stretch will be determined individually. As a consequence, if you wish to make objections about more than one of the individual reports that relate to this stretch, you will need to use a separate form for each. To the extent that your representation relates to an individual report:

If you would like to raise several points that refer to a single section of route or a single land parcel, please use a single form.

If you would like to raise the same point(s) about multiple parcels of land or sections of route in relation to a single report, please use a single form but list all of the parcels or sections you are commenting on.

If you are making an objection about multiple parcels of land or sections of route but your points vary by parcel/section, please use a separate form for each parcel/section.

The notes below will help you answer the questions on the form.

Question 1 asks for the number of the report and map which relates to the land about which you are making the objection. *For example: ‘Report CCC 2, Map CCG 2a’*

Question 2: Please clearly identify the land to which the objection relates here. If your objection is about the route, please write the number(s) of the relevant route section(s) here. Route section numbers are shown on the maps in the report. *For example: ‘Route section CCG-2-S001’*. If your objection is not about the route, please write a description of the land and the number(s) of the route section(s) closest to it. *For example: ‘field seaward of route sections CCG-3-S033 to CCG-3-S034’*. You may also wish to send a separate map showing the land – see question 8.



Question 3 asks you to describe your interest in the land. *For example: ‘owner of freehold’ or ‘farm tenant’.* Anyone with a “relevant interest” in affected land may make an objection about proposals in a report, but no-one else can. A person with a “relevant interest” is defined in section 297(4) of the 2009 Act and means someone who is an owner or tenant of the land, or other lawful occupier. The term “person in lawful occupation of the land” in this section of the 2009 Act is intended to cover those in full, exclusive occupation of the land, or someone with possessory title to the land. It does not include an owner of an easement over the route, those with commoners rights or someone merely entitled to some uses of, or access over, land occupied by another person.

The term “affected land” includes any land over which the route, or an alternative route, is proposed, and any other land which will be coastal margin as a result of the proposals in the report in question. It does not apply to land within the wider margin which is excepted land but will always apply to the route and any alternative route even where these cross excepted land, for example where the route follows an existing right of way. A list of excepted land types can be found at Appendix A.

Question 4 asks you to specify one of the statutory grounds for objection labelled (a) to (f).

To be admissible objections must be made on the ground that the proposals in a report, in such respects as are specified in the objection, fail to strike a fair balance between the interests of the public in having rights of access over land and the interests of any person with a relevant interest in the land, as a result of one or more of the following grounds. Appendix B explains these grounds more thoroughly, but in summary they relate to:

- a) The position of any part of the proposed route shown on the map(s).
- b) Where a report proposes that the route should “roll back” in response to erosion or other forms of coastal change, or the nature of such proposals.
- c) Where a report includes (or fails to include) proposals for an alternative route (in addition to the ordinary route), or the position of any such alternative route or any part of it.
- d) Where a report proposes (or fails to propose) that the landward boundary of the coastal margin should coincide with a physical feature such as a fence or wall, or the nature of any such proposal.



e) Where a report proposes (or fails to propose) a particular access exclusion or restriction, or the nature of any such proposal.

f) The way in which a report proposes to extend the route to any point between the open coast and the first public foot crossing point on a river interrupting the coast.

Question 5 asks you to give details of your objection and explain why you think our proposals fail to strike a fair balance between public and private interests on the grounds you have indicated in question 4.

Question 6 asks you to indicate whether you wish to propose a modification to the proposals that you think would remedy, or mitigate the effects of, the failure to strike a fair balance that your objection relates to. For example, an objector may wish to propose an alternative position for the route, or propose restrictions that would address land management concerns. Where such modifications are put forward, they must meet the criteria in paragraph 3(6) of Schedule 1A to the 1949 Act, which are that:

- (a) the proposed modification is practicable;
- (b) it takes account of the statutory considerations we must also have regard to in making our proposals, which are:
 - the safety and convenience of those using the coastal route,
 - the desirability of the route being close to and providing views of the sea,
 - the desirability of minimising interruptions to the route, and
 - where appropriate, the considerations as regards estuaries set out at section 301(4) of the 2009 Act (see Appendix 3); and
- (c) it is in accordance with Natural England's Scheme¹ setting out the approach we will take in implementing coastal access, which we are required by law to comply with.

Question 7 asks you to describe any modification you propose in this way, and explain why you think it would better strike the fair balance between public and private interests in the land.

Question 8: If there is not enough room on the form for all the information you wish to include, you can send additional information with the form. Please write a description of each additional document you send on this part of the form. *For*

¹ <http://publications.naturalengland.org.uk/publication/5327964912746496?category=50007>



example: 'Document 1- additional information in answer to question 5; Document 2 – map of land to which the objection relates'

Please also label any separate documents or attachments in a way that enables us to match it to your objection form. *For example: 'Objection – Mrs J. Smith - CCG-2-S033 - Document 2: map of land to which objection relates'*

Questions 9 and 10 ask you to tell us if you have made any other objections or representations about the same report. It is important to know this so that the appointed person can consider together all of the points you raise.

Question 11 asks for your contact details. Unfortunately, without these details we are unable to process your objection. To view our privacy notice please go to <https://www.gov.uk/government/publications/natural-england-privacy-notices/england-coast-path-objections-and-representations-privacy-notice>

Please send objections (and any additional supporting information) by email or post to the address shown on the form. Your form must reach us by midnight on 11th September 2019. This date allows eight weeks from when the report in question is first advertised on the relevant website. Please note that any objection received after this date will not be considered.

We will send you an acknowledgement when we receive your objection. If you do not receive an acknowledgement, or if you have any further queries about the objections process, please contact us at:

England Coast Path Delivery Team – South

Natural England, 4th Floor, Eastleigh House, Upper Market Street, Eastleigh, SO50 9YN

Telephone: 07717 694247

Email: southcoastalaccess@naturalengland.org.uk

What happens once an objection form is submitted?

Schedule 1A to the 1949 Act requires Natural England to refer any objections it receives by the statutory deadline to the Secretary of State, who must refer them to a person appointed to consider them. The appointed person will be an inspector from the Planning Inspectorate.



If the inspector decides that the objection is not admissible (for example because the objector does not have a relevant interest in land that would be affected by our proposals), no further action will be taken in relation to the objection.

Where the inspector decides that the objection is admissible, Natural England is invited to provide any comments to the Secretary of State on the objection and the Secretary of State will pass any such comments made by Natural England on to the inspector.

The inspector may decide to consider an objection in one of three ways:

- (a) written representations - where evidence submitted in writing is considered by the inspector and they then make a decision;
- (b) hearing - a relatively informal meeting guided by the inspector; or
- (c) inquiry - a formal procedure led by the inspector which may involve cross-examination of witnesses.

The inspector may wish to visit the land which is subject to the objection to get a clearer understanding of the issues. One or more site visits may be held at any time prior to the inspector reaching a conclusion on the objection.

Where the inspector has considered an objection and reached a conclusion they must submit a report to the Secretary of State setting out their conclusion and making recommendations. Where they conclude that the proposals in the relevant Natural England report(s) do strike a fair balance, they will recommend that the Secretary of State makes a determination in line with that conclusion. Where the inspector concludes that a fair balance has not been struck they must report to that effect and also, where appropriate, make a recommendation for a modification to the proposals if this would remedy the failure to strike a fair balance and would produce proposals which would in their view meet the coastal access requirements

Timetable

The legislation does not include a timetable for the inspector to submit a report to the Secretary of State setting out their conclusion on any admissible objection and, as appropriate, any recommendations. The time taken for the inspector to reach a conclusion on any single objection will depend on such factors as the number and complexity of objections and relevant representations received, and the method by which the inspector has considered the objection. Generally an inspector can be expected to take a longer time to reach a conclusion on an objection where a



hearing or inquiry is necessary than on one considered by written representations only.

Determination by the Secretary of State

The final decision on each report is for the Secretary of State to make, though where an inspector's findings about an objection contain a finding of fact, the Secretary of State is bound in making a decision to accept the inspector's finding unless he is satisfied that:

- (a) the finding involves an assessment of the significance of a matter to any person with a relevant interest in land, or to the public,
- (b) there was insufficient evidence to make the finding,
- (c) the finding was made by reference to irrelevant factors or without regard to relevant factors, or
- (d) the finding was otherwise perverse or irrational.

Once the Secretary of State has considered an objection and the inspector's report and any recommendation on that objection, he will publish a notice setting out his conclusions, which will include a statement explaining the reasons for his decision. The Inspector's report for any objection will be published on the gov.uk website.



Appendix A

Summary of categories of excepted land under Schedule 1 to the CROW Act

The Access to the Countryside (Coastal Margin) (England) Order 2010² made a number of changes to the categories of excepted land set out in Schedule 1, as they apply to land which is coastal margin. Please refer to the Schedule as necessary for the full wording in question.

Types of land that are fully excepted include:

- buildings or their curtilage, for example courtyards
- land in use as a park or garden
- quarries and other active mineral workings (except, under certain circumstances, the removal of sand or shingle from an area of foreshore or beach)
- railways or tramways
- temporary livestock pens
- racecourses or aerodromes
- land in the process of being developed which will result in it becoming excepted land
- land covered by works used for the purposes of a statutory undertaking, such as electricity substations, wind turbines, telephone masts – but not flood defences or sea defences
- land under Ministry of Defence byelaws, such as most military training areas
- school grounds including their playing fields
- land which forms part of a public highway

² SI 2010 No.558 available at http://www.opsi.gov.uk/si/si2010/uksi_20100558_en_1



Excepted land with provision for an access strip (normally 4 metres wide) includes:

- land ploughed during the past year for the growing of crops or trees
- golf courses
- regulated caravan or camping sites
- burial grounds



Appendix B – Grounds on which an objection must be based

An objection may only be made on the ground that the proposals in a coastal access report fail to strike a fair balance between the public's interests in having rights of access over land and the interests of the owner or occupier of the land, as a result of one or more of the following:

(a) the position of any part of the proposed route.

This will be shown on a map in the report.

(b) the inclusion of proposals under subsection (2) of section 55B or the nature of any proposal under that subsection.

Section 55B of the 1949 Act enables Natural England to propose that the route should “roll back” in the future where an area of coast is subject to significant erosion or other forms of coastal change. Section 4.10 of the Coastal Access Scheme explains how this power is used where relevant, and the proposals published for a particular stretch contain more information on this where relevant.

(c) the inclusion of, or failure to include, an alternative route under section 55C(2) of the 1949 Act or the position of any such alternative route or part of such a route.

Section 55C provides for a coastal access report to identify, in addition to the ordinary route, an alternative route which will operate as a diversion during specified periods or when access to the ordinary route will be excluded or restricted (for example for land management purposes). This approach enables the alternative route to operate flexibly (for example during a nesting season for a particular breed of bird which may vary from year to year). In addition there is provision for an optional alternative route to be available as well as the ordinary route, during periods when the latter may reasonably be considered unsuitable for use (for example during periods of flooding or action of the tide, or erosion or other geomorphological process).



(d) the inclusion of, or failure to include, proposals under one or more of paragraphs (a) to (c) of section 55D(2) or the nature of any proposal made under such a paragraph.

Section 55D(2) of the 1949 Act deals with the boundaries of the coastal margin. Paragraph (2)(a) enables a coastal access report to describe the landward boundary of the coastal margin (for example to make it clearer to users) by aligning the boundary with a specific physical feature such as a fence or wall. Such a proposal may make the coastal margin wider or narrower than it would be by default. Paragraph (2)(b) says that the same type of flexibility can apply to make the landward and/or seaward boundary of any alternative route strip coincide with physical features on the ground. Paragraph (2)(c) says that the same type of flexibility can apply in a case such as land that would normally be excepted land but where the exception is to be lifted by voluntary dedication, to allow the landward and/or seaward boundaries of a route strip through the land to coincide with a physical feature such as a field boundary.

(e) the inclusion of , or failure to include, a proposal under section 55D(5) or the terms of any such proposal.

Section 55D(5) says that a report must include details of any exclusions or restrictions on access that Natural England intends to put in place if the proposals are approved.

(f) the exercise of a discretion conferred by section 301(2) or (3) of the Marine and Coastal Access Act 2009, or failure to exercise a discretion conferred by section 301(3) of that Act, in relation to a river.

These provisions in the 2009 Act mean that where the coast is interrupted by a river, Natural England may propose that the coastal route should be extended as far upstream as the first public foot crossing, or as a specific point between that crossing and the seaward limit of the estuarial waters (the mouth of the river)



Appendix C - Estuaries

There is no requirement in the Marine and Countryside Act for the England Coast Path to extend up any river estuary further than the seaward limit of the estuarial waters. Estuarial waters occur where the fresh water of a river mixes with salt water from the open sea. Beyond the seaward limit Natural England has a discretion to extend the trail further upstream on either side (or both) as far as the first bridge or tunnel with pedestrian public access; or a specified point between the seaward limit and the first bridge or tunnel.

When considering whether and how to use this discretion, Natural England must have regard to the following statutory criteria set out in section 301 of the 2009 Act:

- (a) the nature of the land which would be affected
- (b) the topography of the estuary shoreline;
- (c) the width of the river upstream to the first crossing point;
- (d) the recreational benefit to the public that would result;
- (e) the extent of the adjoining land which would be excepted land;
- (f) the desirability of the route serving particular physical features (whether of the landscape or otherwise) or viewpoints; and
- (g) the existence of any ferry by which the public may cross the river.

Chapter 10 of the Coastal Access Approved Scheme explains more about how Natural England interprets and applies these criteria in practice.