

Coastal Access in East Sussex and Kent Camber to Folkestone

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



Map A: Key map – Camber to Folkestone

Chapter number and title

- 1** Camber car park to end of Dengemarsh Gully, Dungeness (Maps 1a to 1i)
- 2** End of Dengemarsh Gully, Dungeness to Battery Road (The Pilot Pub) (Maps 2a to 2c)
- 3** Battery Road (The Pilot Pub) to Littlestone-on-Sea car park (Maps 3a to 3d)
- 4** Littlestone-on-Sea car park to Dymchurch Redoubt (Maps 4a to 4g)
- 5** Dymchurch Redoubt to Folkestone Lower Leas Coastal Park (Maps 5a to 5g)



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 Camber to Folkestone stretch divided into short numbered lengths of coast, from Camber, East Sussex at the west end (chapter 1) to Folkestone at the north 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.

Contents

Part	Title	Page
Map A.	Key map – Camber to Folkestone	2
	Advice on reading the report	3
Introduction		
1.	Purpose of the report	5
2.	The determination process	6
3.	Understanding the proposals and accompanying maps	7
Preparation of the report		
4.	General approach	13
5.	Key issues along this stretch	
	a) Recreational issues	15
	b) Natural environment	17
	c) Historic environment	18
	d) Interests of owners & occupiers	19
	e) Coastal processes	21
Map B.	Existing public access on the Camber to Folkestone stretch	23
Map C.	Key statutory environmental designations on the Camber to Folkestone stretch	24
Implementation of the proposals		
6.	Physical establishment of the trail	25
Table 1.	Estimate of capital costs	25
7.	Maintenance of the trail	25
8.	Future changes	26
9.	Restrictions and exclusions	28
Map D.	Extent of proposed exclusion at Dungeness	29
Map E.	Extent of proposed exclusion at Coast Drive, Lydd-on-Sea	30
Annexes		
A.	Bibliography	31
B.	Glossary of terms	33
C.	Excepted land categories	39
D.	National restrictions	40

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 people will be able to spread out and explore, rest or picnic in appropriate places.

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 East Sussex and Kent between Camber and Folkestone.

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 rights of way into a continuous route along this stretch of coast for the first time;
- New sections of path through Hythe and Lydd would be created to provide a new and continuous route around the two large, predominantly inaccessible military ranges on this coast. These routes would provide a valuable link into both towns, and utilise the attractive Military Canal route through Hythe;
- New access management measures would be implemented in the Dungeness area to clarify the use of the area, reduce impacts from visitor pressure and enhance visitor experience;
- For the first time, there would be secure statutory rights of public access to most areas of beach and other coastal land on this stretch of coast;
- The coastal path would be able to 'roll back' as parts of the low lying coast erode or change, ensuring the maintenance of 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.

On 19 September 2014 the report was advertised in accordance with Schedule 19 of the 2009 Act. During the eight week period starting with this date:

- 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.

Guidance on how to make representations and objections about the report, together with the forms which must be used in each case can be viewed here:

www.naturalengland.org.uk/coastalaccess

All objections and representations must be received by Natural England no later than 14 November 2014 in order to be regarded as valid.

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 Camber to Folkestone 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 place 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 Camber to Folkestone 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 6 to 8 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 Camber to Folkestone 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 five 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 numbers – 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 future, in the event of significant erosion or other coastal processes or significant encroachment by the sea, a section of trail should be capable of being repositioned at any time after approval of our report, in accordance with its formal proposals in that respect, without needing further confirmation of the change by the Secretary of State. 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.
- 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.
- Reason for proposed landward boundary discretion – 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.
- 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 the 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 2.2.3 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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2.2.1 Section details: Dengemarsh Gully, Dungeness to Dungeness power station – maps 2a to 2b

1	2	3	4	5	6a	6b	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)	Landward boundary of margin (See maps)	Reason for landward boundary discretion	Exclusions or restrictions (See Part 9 of Overview)
2a	CFK-2-S001* to CFK-2-S003*	Other existing walked route	Shingle	Yes – see table 2.2.3	Landward edge of the trail	Discretion not used	None
2b	CFK-2-S004* to CFK-2-S005*	Other existing walked route	Shingle	Yes – see table 2.2.3	Landward edge of bank or barrier	Discretion not used	None
	CFK-2-S006*	Public Footpath	Tarmac	Yes – see table 2.2.3	Landward edge of road	Clarity and cohesion	Margin

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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2.2.2 Other options considered: Dengemarsh Gully, Dungeness to Dungeness Power Station– maps 2a and 2b

Map(s)	Section number(s)	Option(s) considered	Reasons for not proposing this option
2a and 2b	CFK-2-S003 to CFK-2-S006	We considered aligning the trail along the concrete service road that runs to the seaward side of both Dungeness A and B power stations.	We opted for the proposed route because: <ul style="list-style-type: none"> ■ Issues relating to site security and flood defence were raised by the bodies responsible for Dungeness Power Station. ■ Additionally, the proposed route is closer to the sea and maintains views of the sea.
2a and 2b	CFK-2-S005 to CFK-2-S012 (see map 3a)	We considered aligning the trail along the beach between the eastern end of the nuclear power stations and the boardwalk off Dungeness Road.	We opted for the proposed route because: <ul style="list-style-type: none"> ■ A route along the beach at Dungeness might compromise the nature conservation interest for which the Special Area of Conservation is designated. ■ Additionally, the proposed position of the trail at sections CFK-2-S010 and CFK-2-S011 and the direction to exclude coastal access rights from the coastal margin in this area respects the privacy issues raised by residents. ■ It has existing access and we concluded that overall the proposed route struck the best balance in terms of the criteria described in chapter 7 of the Coastal Access Scheme.

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.

2.2.3 Roll-back implementation – more complex situations: Dengemarsh Gully to Dungeness power station – maps 2a and 2b

Map(s)	Section numbers(s)	Feature or site potentially affected	How we will manage roll-back in relation to this feature or site
2a and 2b	CFK-2-S001 to CFK-2-S006	Shingle flood defence bund and concrete access road along eastern side of the nuclear power stations	If it is no longer possible to find a viable route seaward of the nuclear power stations and along the existing concrete road, possibly along the line of new defences in future, we will choose a new route after detailed discussions with all relevant interests to pass somewhere on the landward side of them. In reaching this judgement we will have full regard to the nature conservation interests in the area and the need to seek a fair balance between the interests of potentially affected owners and occupiers and those of the public.
2a and 2b	CFK-2-S001 to CFK-2-S003	Area between Lydd military range and the nuclear power stations' flood defence bund	If it is no longer possible to maintain a viable route along the flood defence bund here, there is potential for a route to be re-aligned along existing footpaths further inland. In reaching this judgement we will have full regard to the nature conservation interests in the area and the need to seek a fair balance between the interests of potentially affected owners and occupiers and those of the public.

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 the proposals.
- ii** In places there are differences between the line of public rights of way recorded on the local Definitive Map, 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.

The coastal margin:

- iii** 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).
- iv** 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.

- v 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.
- vi **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

- vii 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 disapplies 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.

Preparation of the report

4. General approach

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 fora (East Sussex Local Access Forum and Kent Countryside Access Forum);
- County and District Council officers, including ecology, geology, historic environment, planning, transport, coastal engineering 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 English Heritage, 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

- National Grid, EDF and Magnox (for the Nuclear Decommissioning Authority at Dungeness).
- Parish and Town Councils at Camber, Lydd, Romney Marsh & Hythe
- the Ramblers Association;
- Cycle Shepway
- Defend Our Coast
- the Open Spaces Society;

- the National Farmers' Union;
- the British Association for Shooting and Conservation, and
- the Country Land and Business Association.

We publicised on our website the start of work on the stretch and provided an opportunity for 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 5 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. In the interests of efficiency we also held a number of larger meetings to discuss our proposals with groups of people with a common legal interest, for example where homes or businesses occupy adjacent coastal frontages, e.g. at Camber and Jury's Gap, (chapter 1 of the proposals), Dungeness (chapter 2 of the proposals) and Coast Drive, Greatstone (chapter 3 of the proposals).

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 8 – Future Change – below.

We then held further detailed discussions with internal and external specialists to refine our thinking on protecting key sensitive features, as well as 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.

5. Key issues along this stretch

a) Recreational Issues

Map B gives an overview of existing public access to the coast between Camber and Folkestone, showing public rights of way, access land and promoted routes along the stretch

This section describes existing access along this stretch of coastline and how the characteristics of the coastline and local user input has affected our choices for the trail alignment.

Existing access: the coastline already affords relatively good linear coastal access as can be seen on Map B, with predominantly level Public Rights of Way and some sections of multi-use promoted routes close to the sea. Promoted routes include the off-road, surfaced Sustrans Regional Cycle Route 2 that runs along the western side of Lydd Ranges and the Sandwich to Rye cycle path that uses the hard sea defences between St Mary's Bay and Folkestone Harbour. Other promoted routes in the area that link with the trail alignment include the Royal Military Canal path that runs between Hythe and Lydd, across the inland landscape of Romney Marsh.

There are a number of gaps in the linear access along the stretch. Lydd and Hythe Military Ranges occupy coastal situations and active firing prevents access on most days of the year. A mix of byways, footways adjacent to roads and a cyclepath can be used to get around Lydd ranges, whereas access around Hythe ranges is along the footway of the busy main coastal road (A259). The Proposals at Hythe will include a quieter route away from the A259 through the town and along the Royal Military Canal, on a mix of level surfaced and unsurfaced paths, and includes a level crossing over a narrow gauge railway line.

In coastal areas fronted by shingle beaches and dunes, there are fewer existing Rights of Way. However, these areas often enjoy de-facto access and include popular holiday destinations, for example Camber Sands, Dungeness, Greatstone and Littlestone. A significant proportion of this low-lying coastline is heavily defended against flooding by a variety of sea defences. Public Rights of Way are not available along the entire length of the defences but most of the surfaced sea walls enjoy de-facto access.

In some places along the coast the sea defences can affect accessibility:

- at Camber Sands the crest of the shingle beach has been narrowed by storms and high tides. The new Broomhill Sands sea defence scheme, due to be completed by the Environment Agency in 2015, will widen this shingle crest and allow safe access at the top of the beach. The scheme should be complete prior to the establishment of the trail. If not, temporary routes through or around the development area will be explored to maintain a continuous route. See chapter 1 for details;
- near Greatstone, extreme high tides come close to the base of the dunes, which are fenced (in part) to encourage dune development. As part of the proposals we have proposed an optional alternative route along the coast road to provide a safer route when this part of the beach is impassable, as described in chapter 3.
- along the concrete sea walls between Littlestone-on-Sea and Dymchurch, the Environment Agency will occasionally close a number of access points temporarily as a result of forecast storms, to minimise the risk of flooding. In these, unscheduled

circumstances, walkers can continue easily along the pavement of the adjacent main roads, including the A259. Just north of Littlestone-on-Sea we have provided an optional alternative route where the adjacent road is not a public highway. See chapter 4 for details.

- on Dymchurch Wall, south of Dymchurch Redoubt, it is necessary to climb steps to access the promenade along the top of the sea defences.

There are no significant areas of land along the stretch of coast with existing wider rights of access. The spreading room described in the report chapters include suitable additional land as described in chapter 1 – on dunes behind Camber Sands, owned by county and district authorities and in chapter 4 – on recreational parkland in Hythe, owned by Hythe Town Council.

Input from local user groups: Local interest groups asked for improvements to be made in managing access along Dungeness Road and across the shingle near Dungeness point. This issue is addressed as part of our proposals to address potential impacts of trampling on the fragile shingle habitat at Dungeness and is further explained in part 5b and 9 of the Overview and in chapter 2 of the proposals. .

Local user groups also asked that the new trail avoided creating any new barriers to existing equestrian access to the beaches along the coast. No such barriers would be created by our proposals.

Some of the aspirations of local users which emerged from these discussions have not been addressed fully in our proposals, for reasons set out elsewhere in the report. These include:

- better seafront access across the beach fronts of Lydd and Hythe Military Ranges. These ranges are in frequent use for live firing and are currently excepted land due to their military byelaws. See part 8 of the Overview on Future changes, and chapters 1 and 4 about our stated aspirations to move the trail closer to the coast if and when the circumstances arise;
- establishment of a multi-use path between Lydd and St Mary's Bay, around Dungeness. An ongoing feasibility study by Kent County Council is looking at new multi-use paths along this part of the coast. Also see part 5b of the Overview which explains the sensitivities of the designated nature conservation sites around Dungeness;
- establishment of a multi-use path at the south-western end of the military ranges near Dymchurch Redoubt, Hythe. An off-road path is sought to provide a better route for walkers and cyclists - away from the busy A259. We were not able to secure agreement for a path along the southern verge of the A259, at present. The Kent County Council feasibility study is also looking into a new multi-use path in this area, linked with local development plans. See part 8 of the Overview on Future changes and chapter 4 of the proposals about our stated aspiration to improve access here.

b) Natural environment

Data relating to the natural environment was provided by Kent and Medway Biological Records Centre and then assessed by officers from Natural England with 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.

We paid particular regard to sites with certain key designations for their wildlife and/or geological interest (See Map C: Key statutory environmental designations on Camber to Folkestone stretch):

- European sites, including: Dungeness Special Area of Conservation (SAC), Dungeness, Romney Marsh & Rye Bay potential Special Protection Area (pSPA) and proposed Ramsar sites (see glossary for a fuller explanation of 'European sites');
- Dungeness, Romney Marsh & Rye Bay Site of Special Scientific Interest (SSSI), and
- Dungeness National Nature Reserve

As a matter of good practice, the Natural England staff scrutinising the proposals and providing specialist environmental advice have maintained clearly distinct and separate roles from those preparing them throughout the assessment process.

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 sites, 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, with input from the Romney Marsh Countryside Project and Kent County Council, identified specific measures which would, in Natural England's judgement be necessary in some places on the stretch to prevent any likelihood of significant effect on the special features of Dungeness SAC (particularly the perennial vegetation of stony banks and annual vegetation of drift lines).

Our proposals in Chapter 2 and 3 incorporate these measures, which include:

- Directional information, including painted trail symbols along Dungeness Road (chapter 2 of the proposals) and signs along Coast Drive (chapter 3) to reinforce the location and direction of the coastal trail and reduce the likelihood of its creation leading to additional recreational use of the adjacent vegetated shingle landscape.
- Promotion of existing surfaced routes between Dungeness Road and the beach, such as the existing boardwalks at Dungeness and Lade car park and the RNLI entrance, to encourage use of these robust tracks to reach the sea and thereby deter wider use of the surrounding fragile shingle vegetation (see chapter 2 for details).
- New and updated interpretive information for visitors to highlight and explain the importance and sensitivity of the shingle habitat (see chapters 2 and 3 for details).

- Relevant information also to be made available at the entrance to Dungeness Estate about the trail location, beach access points and the sensitivity of the habitat.

We consider that the use of these positive access management measures alone would probably be sufficient to avoid our proposals leading to an overall likely significant effect on the vegetated shingle: indeed we consider that they may help to reduce some of the current impacts. However, as a precautionary measure, we initially propose a direction to exclude coastal access rights across the vegetated shingle parcels between the trail, beach access routes and the mean high water mark (see Maps D and E for details). This exclusion will be for an initial 2 year period, followed by a review of its necessity based on the results of monitoring during this period. The exclusion would not affect any activities that take place with the agreement of the landowner or where another type of access right exists.

With regard to other protected sites and species, we concluded that the specific measures outlined above would integrate our environmental and coastal access objectives and comply with our legal duties where relevant (see part 4.9 of the Coastal Access Scheme). These measures have been incorporated into the relevant chapters of the proposals and are also summarised at Part 9 below.

Once a route for the trail has been confirmed by the Secretary of State, we will hold further discussions with relevant environmental specialists from Natural England, East Sussex and Kent County Council about the detail of any other works on the ground that are necessary to prepare for commencement of the access rights.

Please refer to the published Camber to Folkestone Access and Sensitive Features Appraisal which provides more information on our assessment of any impacts on sensitive features or sites along the stretch as well as providing a record of compliance with our legal duty under the Habitats Regulations 1994 (as amended).

c) Historic Environment

We also consider any historic sites when developing our proposals. Data was collected about the presence of historic sites and features on this stretch of coast and specialist advice sought from English Heritage as to the potential vulnerability of the sites and features to access. 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 the Camber to Folkestone stretch), which included:

- Dymchurch Redoubt Scheduled Ancient Monument
- Royal Military Canal, West Hythe Bridge to Scanlon's Bridge

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

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

d) 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 are reflected in the chapters of the report insofar as they were relevant to the individual lengths of coast described.

In this section we identify the main issues that were raised along the different parts of the trail.

East Sussex: The short stretch of coast in East Sussex is diverse in nature. It is dominated by Camber Sands, Camber – a popular summer resort attracting hundreds of thousands of visitors every year. The coast stretching east is more rural in nature as it approaches the Dungeness peninsula.

Camber: There are residential properties and businesses on and close to the well-used Camber Sands beach. Owners and occupiers in this area raised issues associated with the possibility of more visitors, including privacy, antisocial behaviour and the safety and effects of walkers on the narrow, eroded beach crest near The Suttons. These issues are largely addressed by the Environment Agency's new Broomhill Sands sea defence scheme, which is due to complete in late 2015. This will provide enhanced protection against flooding between Camber and Jury's Gap, as well as significantly widening the beach crest at Camber to reduce local erosion and flooding. The scheme incorporates a defined gap for the trail line within its design, which will take walkers further from The Suttons gardens which back directly onto the beach, than the current route that people walk.

The new defence scheme design is complemented by the provisions in the legislation that provides for particular categories of land, such as buildings and their curtilage and land used as garden, to be excepted from coastal access rights (see Annex C: Excepted land categories, which sets out these provisions in more detail). Due to the concern raised, we considered more inland options for the trail near Camber Sands beach, as detailed in chapter 1 of the proposals. The proposed option was chosen as it is well used currently, makes use of the new defence scheme and maintains views of the sea.

Jury's Gap: In some places on this part of the stretch we have made specific recommendations to address issues raised by owners and occupiers, for example the trail alignment at this point uses an Environment Agency access ramp between the sea defence and the road crossing, as requested by Jury's Gap residents. This will improve an existing walked line onto the sea defences. See chapter 1 for details.

Dungeness Peninsula

Lydd Ranges: along the inland route that is necessary around Lydd ranges, existing public access provisions are already managed effectively alongside adjacent land uses. The Ministry of Defence informed us of their plans to review the byelaws around Lydd Ranges. Any future extension of military byelaws over the trail would lead to a review of the trail alignment (see section 8, Future changes and chapter 1 for more details).

Dungeness: the coastal landscape of Dungeness is unique, with the shingle foreland accommodating internationally important wildlife and geomorphological characteristics as well as being home to a residential community whose homes sit directly on the shingle, two nuclear power stations and leisure attractions such as the terminus of the Romney, Hythe and Dymchurch light railway.

In general the existing public access arrangements are already established alongside land uses, although some concerns exist amongst residents over the existing volume of visitors. The issues raised here by owners and occupiers mainly relate to the privacy of residents close to the trail, car parking concerns and the protection of the local wildlife interests. Working closely with the Dungeness Estate, Kent County Council and Romney Marsh Countryside Project, these issues have largely been addressed through a series of positive access management measures developed as part of the proposals and summarised earlier in section 5b of this Overview, under 'Natural Environment'.

The shingle flood defence bund that protects Dungeness A and B nuclear power stations provides access currently along the front of Dungeness point. Regular maintenance works are undertaken to maintain this bund and a planning application to use locally extracted shingle is under consideration. Future shingle movement and associated works on the flood defence bund would be restricted to winter weekdays (October - March inclusive). These operations would normally take place alongside public access, and where there is potential for visitors along the trail or the public footpaths in this area to disrupt work, informal techniques or temporary restrictions may be necessary. These can be agreed between EDF Energy (who manage the whole bund) and Natural England or the highway authority, in relation to public rights of way. Site security was an issue raised by EDF Energy and Magnox and the proposed alignment along the top of the flood defence bund, away from their access road, takes account of this issue. See chapter 2 of the Proposals for the other alignment options considered.

Lydd-on-Sea to Littlestone-on-Sea

Shingle beach and sand dunes dominate this residential stretch of coast. The Proposals include measures to improve signage and information along the shingle beach near Lydd-on-Sea. A direction is proposed to exclude coastal access rights on certain parts of the shingle beach here, due to its sensitive wildlife value. This exclusion does not affect any activities that take place with the agreement of the landowner or where another type of access right exists. These measures are described in more detail in section 5b of this document, under 'Natural Environment'.

Some homes and businesses back directly onto the dunes near Greatstone-on-Sea. The issues raised by owners and occupiers on this part of the stretch related to privacy and the safety of walkers. These issues are largely addressed by the provisions in the legislation for particular categories of land to be automatically excepted from the coastal access rights – including land covered by buildings and their curtilage and land used as a garden (see Annex C: Excepted land categories, which sets out these provisions in more detail).

We also used our discretion regarding the landward coastal margin to propose a landward boundary on the seaward edge of the dunes in this area, away from the private gardens that back directly onto the high dunes.

Extreme high tides (Spring tides) come close to the trail alignment on one part of the beach in this area. To ensure the safety of walkers we have provided for an optional alternative route along Coast Drive and The Parade for when high tides prevent safe access along the beach. See chapter 3 for more information.

St Mary's Bay to Folkestone

This stretch of coast is predominantly residential and urban in nature and few issues were raised by owners and occupiers as current access arrangements along the sea defence walls and through the urban parts of Hythe town are already established alongside the other land uses. The alignment through Hythe and along the Royal Military Canal provides a pleasant route around the Hythe military ranges. As part of this route the trail runs alongside Nickolls Quarry, where re-development is taking place. We have worked with Shepway District Council and the owners of the site to identify a possible future route through this new development, when it is complete.

See Part 8 below and chapter 4 of the Proposals.

e) Coastal processes

The principal sources of information regarding coastal processes on this stretch of coast are the South Foreland to Beachy Head Shoreline Management Plan April 2006, amended by the Folkestone to Cliffend flood and erosion management Strategy 2010 (see Annex A: Bibliography). With reference to this document, and with advice from the Environment Agency and coastal engineers 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 to the landward side of sea defences which would protect it;
- landward of the roads and railway which would be protected under the policies set out in the Shoreline Management Plan and strategy; or
- on the seaward side of natural features that act as sea defences, where the preferred policy within the Shoreline Management Plan and Strategy is to 'hold the line' and a stable natural system is present, with minimal erosion.

However, in some 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).

East Sussex: The soft sand and shingle defences of Camber, described in chapter 1 of the proposals are not subject to significant rates of erosion as they are sheltered by Rye Harbour wall. The shingle beach in front of The Suttons is being widened as part of the new Broomhill Sands sea defence scheme, due to be completed in 2015. As the preferred policy for this area is to 'hold the line', we have not made any specific proposals to enable the trail to adapt to coastal change on these lengths of coast.

Hard sea defences are also being put in place between Camber and Jury's Gap as part of the Broomhill Sands sea defence scheme to defend this length of coast. We have not made any specific proposals to enable the trail to adapt to control coastal change here.

Dungeness peninsula: Dungeness point, described in chapter 2 of the proposals, is largely protected against flooding by its wide shingle beaches. The nuclear power stations are protected by a large shingle flood defence bund and additional sea defence structures.

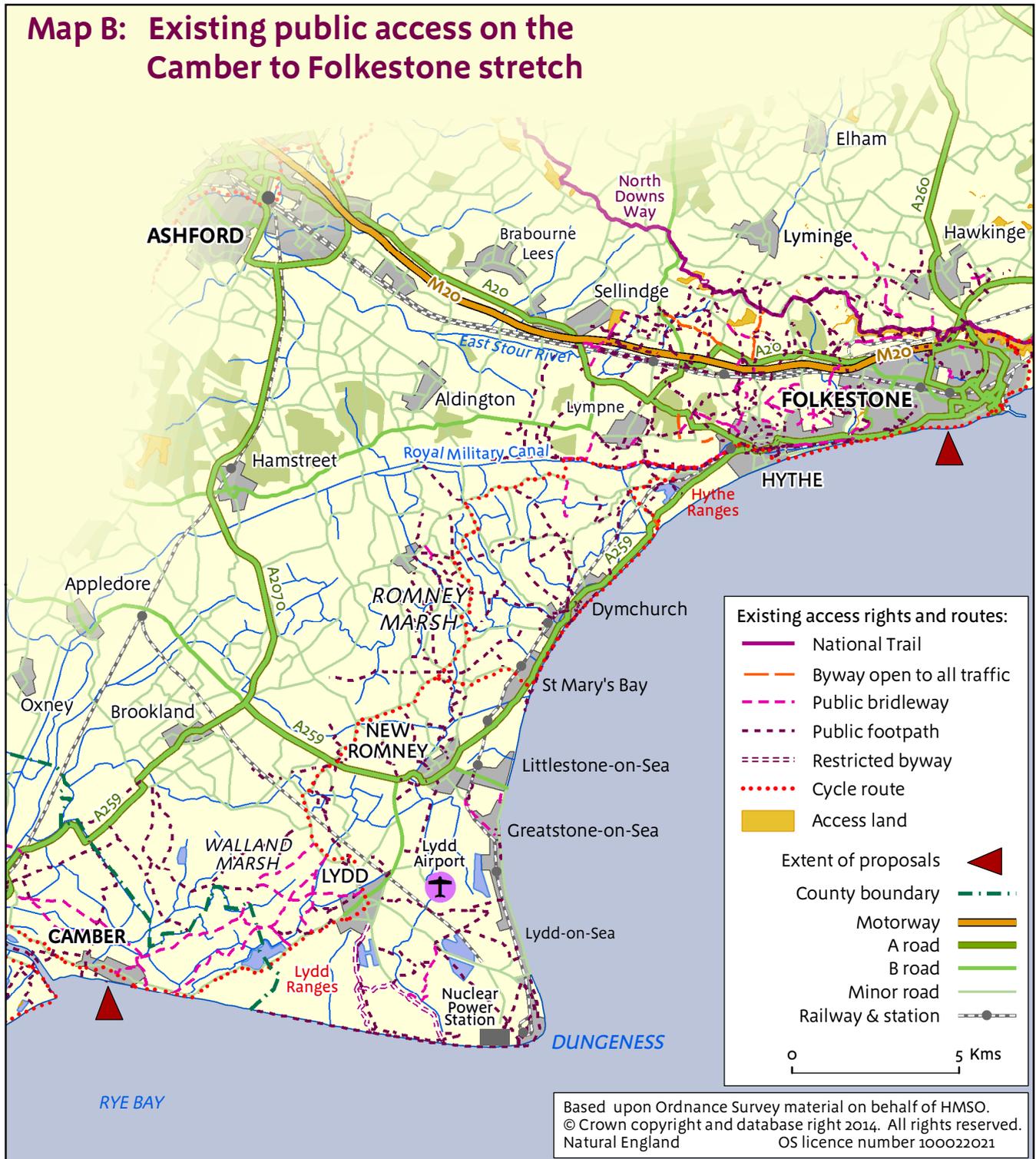
The western edge of the shingle point and the flood defence bund in front of the power stations are subject to erosion. The preferred policy on flood defence is for adaptive management at the western end near Dengemarsh Gully, whilst maintaining the standard of protection around the power stations in the medium term, with adaptive management as they are decommissioned. On these stretches open to erosion and on the adjoining stretches of the trail around Dungeness point 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 she has approved the initial route. There is more detail about these roll-back arrangements in part 7 of the Overview and in the relevant chapters of the proposals. The east edge of Dungeness shingle point is accreting, and the preferred policy is 'no active intervention'. The trail is set significantly inland and we have not made any specific proposals to enable the trail to adapt to coastal change on this length of coast.

The preferred policy for the soft shingle and dune defences between Dungeness and Littlestone-on-Sea, described in chapters 3 and 4 of the proposals is a mix of no active intervention and 'hold the line'. The natural sea defences require some management, through dune fencing and shingle replenishment but are considered stable. We have not made any specific proposals to enable the trail to adapt to control coastal change on these lengths of coast.

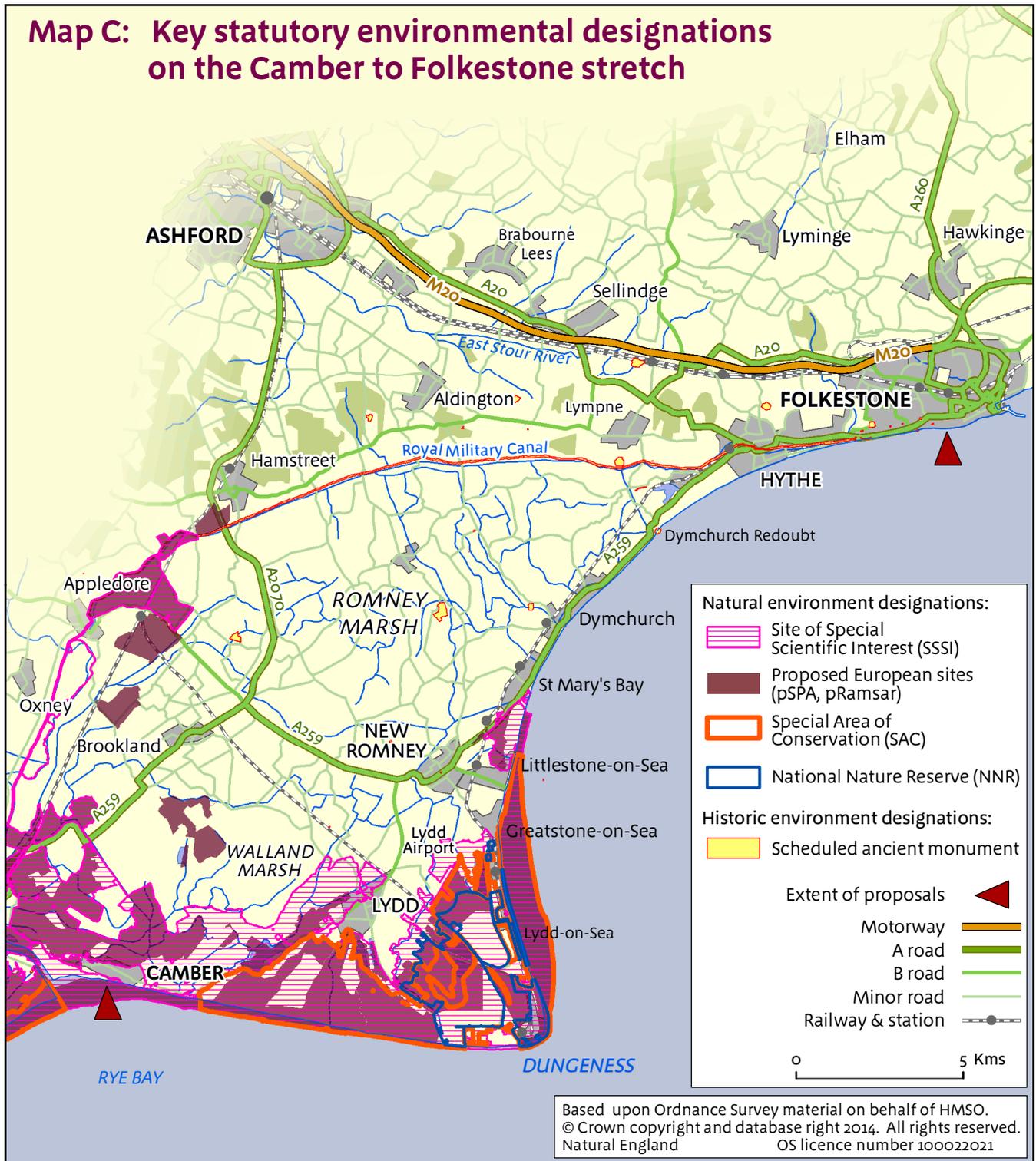
Littlestone-on-Sea to Folkestone: The trail along the coast north of Littlestone-on-Sea is aligned along the sea defences, as described in chapters 4 and 5 of the proposals. The defences vary from low walls to major flood defence structures, for example at St Mary's Bay. We have not made any specific proposals to enable the trail to adapt to control coastal change on these lengths of coast.

Occasionally, prior to significant storm warnings, the Environment Agency will temporarily close the 'flood gates' (easy access points through the seawall) between Littlestone-on-Sea and Dymchurch which reduces the number of access points along the stretches. In these circumstances, walkers will be able to follow signs to use the main highway pavements or optional alternative routes along the coast. Details can be found in chapter 4 of the proposals.

Map B: Existing public access on the Camber to Folkestone stretch



Map C: Key statutory environmental designations on the Camber to Folkestone stretch



Implementation of the proposals

6. 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, including parts of the Sandwich to Rye cycle route and Sustrans Route 2. Our estimate of the costs for physical establishment of the trail on the proposed route is £28,808 and is informed by:

- information already held by the access authorities, East Sussex and Kent County Councils, in relation to the management of the existing routes; 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 two main elements to the overall cost:

- Signage: additional directional signs will be added to existing infrastructure to emphasise the route of the trail. New signs will also be needed on the trail, in particular: on route sections to mark informal and optional alternative routes to the trail.
- Positive access management measures: information and interpretation will be developed where the trail passes sensitive designated nature conservation sites, for example at Dungeness and Greatstone.

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

<i>Item</i>	<i>Cost</i>
New and additional direction signs	£15,048
Positive access management measures	£13,760
Total	£28,808 (Exclusive of any VAT payable)

Once the Secretary of State’s decision on our report has been notified, we, or East Sussex or Kent County Councils 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.

7. Maintenance of the trail

Because the trail between Camber and Folkestone 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 £5583 (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.

8. 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 and 2 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 needs 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. These are as follows:

- Dungeness point and adjoining trail sections in chapters 1 and 2.

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. Potential developments of which we are already aware that could potentially affect the route on the Camber to Folkestone stretch are summarised below.

Nickolls Quarry, Hythe (chapter 5). Outline planning permission has been granted for residential development on land north of the A259 at Hythe (Nickolls Quarry). Land subject to development becomes excepted land and outside the coastal access rights. None the less it is understood that the proposed development will incorporate access routes which will facilitate pedestrian access through the development, around the open water features and across the light railway line. The development may also improve pedestrian and cycle access adjacent to the busy A259. Assuming that these plans proceed and the new pedestrian access becomes established on the ground, we would be likely to submit a variation report at that stage to incorporate a new route through the development.

Lydd & Hythe military ranges (chapter 1 and 5). There are places alongside Lydd ranges where it might be necessary to propose variations should any changes be made to the status of land over which the trail passes as a consequence of any future review of military byelaws. Any changes we proposed in such circumstances would require the Secretary of State's approval to a variation report. In addition, if changes were ever announced regarding the use of these military ranges that would allow improved access along the coast or nearer to the coast we would explore the potential for a variation report to propose a new route.

In addition, there are several sections of the proposed trail which may in the future be affected by proposals to improve existing cycleways in the area with more off-road sections. These include the sections along the A259 at Hythe (chapter 5) and along the front at Sandgate (chapter 5). These cycleway proposals are at various stages of consideration and consultation is ongoing with landowners and relevant interests. It is likely that for some of these improvements, the cycleways will follow the line of the trail and we do not foresee the need to alter the route, but if others create an improved route to current on-road sections of the trail, we would be likely to submit a variation report to incorporate any new, off-road route.

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.

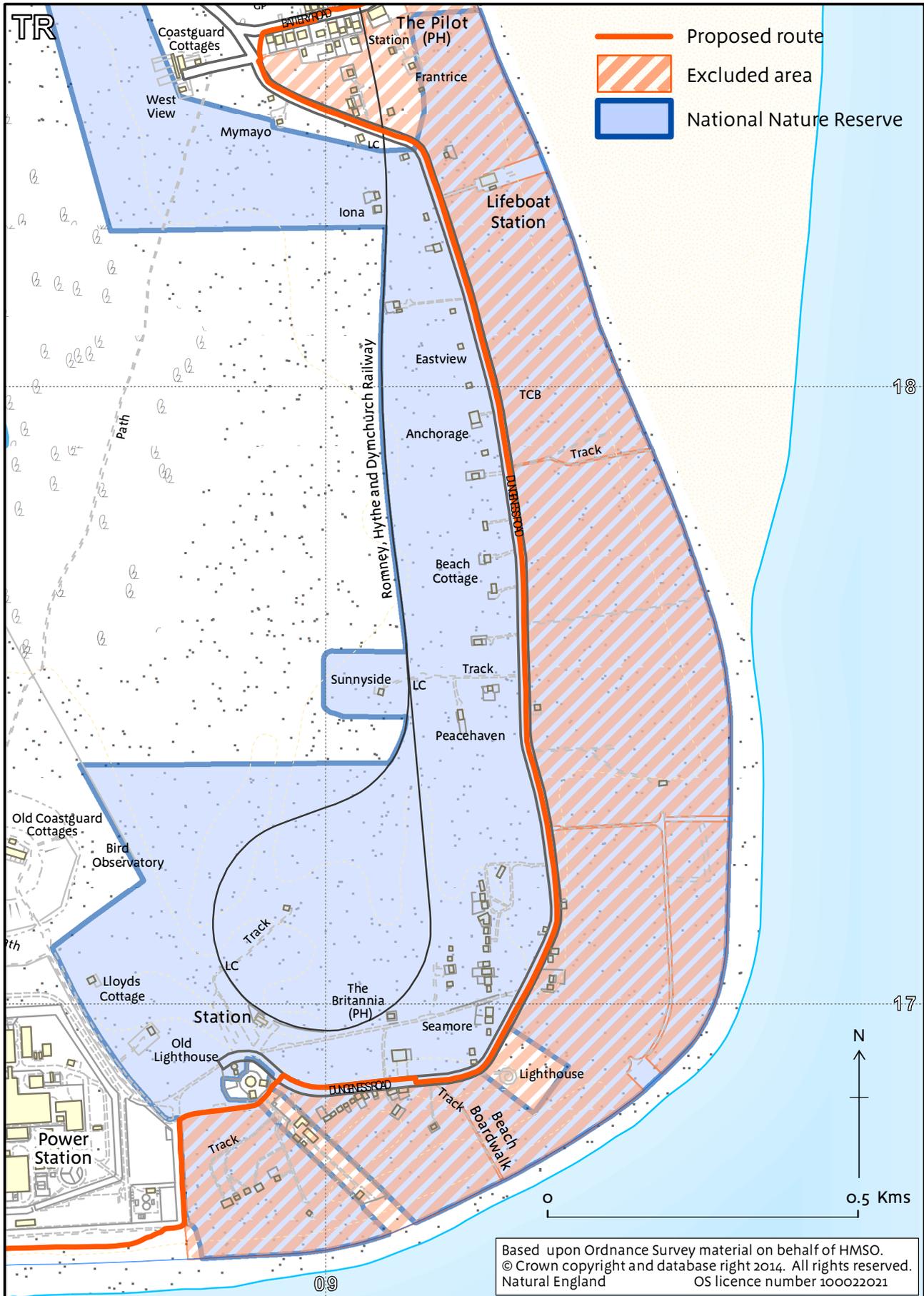
9. Restrictions and exclusions

Below, we provide the details and explain the practical effects of any 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
Chapter 2: Dungeness Power Station to the Pilot Pub, Dungeness	Areas of vegetated shingle that lie between the trail and the line of the high mean water mark on map D and E below.	No Public Access	Sensitive wildlife	Nature conservation 26(3)(a)	Year-round. A review will be carried out after 2 years to assess effectiveness and necessity of direction.
Chapter 3: Pilot Pub, Dungeness to Romney Sands Holiday Park					

Map D: Extent of proposed exclusion at Dungeness



Annexes

Annex A: Bibliography

Information about Natural England's coastal access programme

Natural England

www.naturalengland.org.uk/coastalaccess

Information about the statutory framework for coastal access

Department for Environment, Food and Rural Affairs

www.gov.uk/government/publications/marine-and-coastal-access-act-2009

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

Department for Environment, Food and rural Affairs

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

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

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

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

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

Other published information used in the preparation of the report

Countryside and Coastal Access Improvement Plan for Kent, April 2013

Kent County Council

www.kent.gov.uk/__data/assets/pdf_file/0016/6172/Countryside-and-coastal-access-improvement-plan.pdf

East Sussex Rights of Way Improvement Plan 2007 – 2017

East Sussex County Council

www.eastsussex.gov.uk/leisureandtourism/countryside/rightsofway/improvementplan.htm

Folkestone to Cliffend flood and erosion management Strategy 2010

Environment Agency

www.se-coastalgroup.org.uk/hythe-to-folkestone/

South Foreland to Beachy Head Shoreline Management Plan, April 2006

Environment Agency

www.se-coastalgroup.org.uk/wp-content/uploads/2012/02/SF2BH-SMP_Main-Doc.pdf

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

Natural England

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

The proposed Shepway Coast cycle route, October 2012

Cycle Shepway

http://cycleshepway.org.uk/?page_id=23

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.

optional alternative route - see alternative route

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,
 - (d) lights or tends a fire or does any act which is likely to cause a fire,
 - (e) intentionally or recklessly takes, kills, injures or disturbs any animal, bird or fish,
 - (f) intentionally or recklessly takes, damages or destroys any eggs or nests,
 - (g) feeds any livestock,
 - (h) bathes in any non-tidal water,
 - (i) 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,
 - (j) uses or has with him any metal detector,
 - (k) intentionally removes, damages or destroys any plant, shrub, tree or root or any part of a plant, shrub, tree or root,
 - (l) obstructs the flow of any drain or watercourse, or opens, shuts or otherwise interferes with any sluice-gate or other apparatus,
 - (m) without reasonable excuse, interferes with any fence, barrier or other device designed to prevent accidents to people or to enclose livestock,
 - (n) 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,
 - (o) affixes or writes any advertisement, bill, placard or notice,
 - (p) 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,
 - (q) 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,
 - (r) engages in any organised games, or in camping, hang-gliding or para-gliding, or
 - (s) 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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