

Department for Environment, Food and Rural Affairs

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

Filey Brigg to Newport Bridge

January 2016

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Introduction

On 26 March 2015 Natural England submitted a coastal access report relating to the stretch of land between Filey Brigg to Newport Bridge (“the coastal access report”) to the Secretary of State for Environment, Food and Rural Affairs under section 51 of the National Parks and Access to the Countryside Act 1949 (“the 1949 Act”), pursuant to its duty under section 296(1) of the Marine and Coastal Access Act 2009 (“the 2009 Act”).

A person was appointed under paragraph 4(2) of Schedule 1A to the 1949 Act, inserted by Schedule 19 to the 2009 Act (“the Schedule”), for the purpose of considering whether the proposals in the coastal access report failed, in the respects specified in the objection received by Natural England under paragraph 3 of that Schedule in relation to that report, to strike a “fair balance” as a result of the matter or matters specified in that objection¹.

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

- a. Filey Brigg to Newport Bridge - Natural England’s coastal access report submitted to the Secretary of State on 26 March 2015;
- b. in accordance with paragraph 16(1)(a) of the Schedule, the objection which the appointed person determined to be an admissible objection;
- c. in accordance with paragraph 16(1)(b) of the Schedule, Natural England’s comments on the admissible objection which it sent to the Secretary of State;
- d. in accordance with paragraph 16(1)(c) of the Schedule, the report given to the Secretary of State by the appointed person in respect of the objection which the appointed person determined to be an admissible objection; and
- e. in accordance with paragraph 16(1)(d) of the Schedule, representations made by a person within paragraph 2(2)(b) to (f) of the Schedule, and the summary of other representations made, and Natural England’s comments on those representations which it sent to the Secretary of State on 24 September 2015.

In this notice –

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

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

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

Secretary of State’s approval of coastal access proposals

The Secretary of State has determined to approve the proposals set out in the coastal access report so far as they relate to those parts of the route (and associated coastal margin) in relation to which no objections or representations were made.

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

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

The Secretary of State has made available at www.gov.uk a copy of this notice and the report given to her by the appointed person. Natural England has also made available:

- a. Filey Brigg to Newport Bridge - the coastal access report;
- b. Representations made by a person within paragraph 2(2)(b) to (f) of the Schedule, and Natural England’s comments on those representations, which it sent to the Secretary of State on 24 September 2015; and
- c. Summary of other representations, and Natural England’s comments on those representations, which it sent to the Secretary of State on 24 September 2015.

Annex A: objections which did not fail to strike a “fair balance”

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

Objection Ref: MCA/FNG/01

Location of land Boulby Grange to White Stone (East)

Name of objector Mr L. Tabner

The land to which the objection relates is the spreading room seaward of route sections FNG-7-S006 to FNG-7-S009.

Annex B: conclusions and observations on representations

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

Representation No. MCA/FNG/R/1

Name of representation: Trinity House

Report Chapter and route section:

Chapter 4

FNG-4-SO36

Secretary of State’s conclusion and observation:

Secretary of State welcomes Trinity House’s representation and approves route section FNG-4-SO36.

Representation No. MCA/FNG/R/2a

Name of representation: Ramblers

Report chapter and route sections:

Chapter 6

FNG-6-S008 to FNG-6-S029

Secretary of State's conclusion and observation:

Secretary of State notes that the representation asks that an alternative route should be provided at high tides. She notes that on the specialist advice of the Cleveland Way and Yorkshire Wolds Way National Trail and the Maritime and Coastguard Agency, and following several site visits, Natural England felt that, on balance, the existing route of the Cleveland Way National Trail provided a more direct and interesting route in this area, and one which is significantly closer to the sea than any alternative - including the one outlined in the representation. She approves route sections FNG-6-S008 to FNG-6-S029.

Representation No. MCA/FNG/R/2b

Name of representation: Ramblers

Report chapter and route sections:

Chapter 7

FNG-7-S006

FNG-7-S006RD

Secretary of State's conclusion and observation:

Secretary of State notes that Natural England and the access authority consider that, at present, the site is both safe and accessible. She approves route sections FNG-7-S006 and FNG-7-S006RD but asks Natural England to monitor the site and use its "roll back" powers as necessary.

Representation No. MCA/FNG/R/2c

Name of representation: Ramblers

Report chapter and route section:

Chapter 7

FNG-7-S009

Secretary of State's conclusion and observation:

Secretary of State notes the representation but agrees that the route which is managed and walked as the Cleveland Way continues to be used as the National Trail and therefore should form part of the England Coast Path. She approves route section FNG-7-S009.

Representation No. MCA/FNG/R/2d

Name of representation: Ramblers

Report chapter and route section:

Chapter 6

FNG-6-S004

Secretary of State's conclusion and observation:

Secretary of State notes the representation and the input given to Natural England from the Cleveland Way and Wolds Way National Trail. She approves route section FNG-6-S004.

Representation No. MCA/FNG/R/2e

Name of representation: Ramblers

Report chapter and route sections:

Chapter 7

FNG-7-S041

Secretary of State's conclusion and observation:

Secretary of State considers that it is not necessary now to provide resting places as requested in the representation. She, however, asks the access authority to monitor the site and, if further demand for this change arises to consider this request. She approves route section FNG-7-S041.

Representation No. MCA/FNG/R/2f

Name of representation: Ramblers

Report chapter and route section:

Chapter 7

FNG-7-S019

Secretary of State's conclusion and observation:

Secretary of State considers that it is not necessary now to provide resting places as requested in the representation. She approves route section FNG-7-S019 and asks the access authority to monitor the site and, if further demand for this change arises, to consider the request made in the representation.

Representation No. MCA/FNG/R/2g

Name of representation: Ramblers

Report chapter and route section:

Chapter 7

FNG-7-S027

Secretary of State's conclusion and observation:

Secretary of State considers that it is not necessary now to provide resting places as requested in the representation. She approves route section FNG-7-S027 and asks the access authority to monitor the site and, if further demand for this change arises, to consider the request made in the representation.

Representation No. MCA/FNG/R/2h

Name of representation: Ramblers

Report chapter and route section:

Chapter 8

FNG-8-S021

Secretary of State's conclusion and observation:

Secretary of State notes the representation proposing South Gare as part of the coastal route. However, she does not agree with aligning the route to the end of South Gare and accordingly approves route section FNG-8-S021.

Representation No. MCA/FNG/R/4

Name of representation: Historic England

Report chapter and route sections:

Whole report, but specifically Chapters 7, 8, and 9

Secretary of State's conclusion and observation:

Secretary of State welcomes Historic England's representation.

Representation No. MCA/FNG/R/5

Name of representation: National Grid

Report chapter and route sections:

Whole report

Secretary of State's conclusion and observation:

Secretary of State notes the detailed information provided by National Grid.

Representation No. MCA/FNG/R/6

Name of representation: Private individual

Report chapter and route section:

Chapter 6

FNG-6-SO19

Secretary of State's conclusion and observation:

Secretary of State notes that Natural England sought the opinion of HM Coastguard regarding the safety of the proposed trail at Runswick Bay. She is satisfied about the safety of the proposed route and therefore approves route section FNG-6-SO19.

Representation No. MCA/FNG/R/7

Name of representation: North York Moors National Park Local Access Forum

Report chapter and route section(s):

Chapters 3 and 6

FNG-3-S013 and FNG-3-S014

FNG-3-S016

FNG-3-S018

FNG-6-S020

FNG-6-S022

Secretary of State's conclusion and observation:

The Secretary of State notes the detailed representation made by the North York Moors National Park Local Access Forum, and welcomes their general support for the coastal path.

Part 9 of the Marine and Coastal Access Act 2009 provides for a right of access for open-air recreation on foot. The Secretary of State notes the concern raised by the Forum about the effect on customary horse riding activities. However, she notes that there is no suggestion that any existing rights, tolerance or permission for horse-riding should be

withdrawn nor that Natural England's coastal access proposals will make horse riding on any of the beaches and sands, mentioned in the representation, "illegal, where it is currently available through permission or tolerance. She also notes that a meeting was held between the British Horse Society and the National Trust, facilitated and attended by Natural England, in order to explore opportunities to extend and/or formalise horse riding in the area.

The continuation of the existing bridleway at Stoupe Bank for riders once "rollback" has been implemented is not a matter for Natural England.

The Secretary of State asks Natural England to work with the North York Moors National Park Authority to sign existing bridleways where a bridleway may cross the proposed coastal route.

The Forum's representation proposes that when "rollback" occurs, entailing a new route through an adjacent (inland) landowners' property, compensation should be paid to this landowner. The Secretary of State notes that there is no provision for compensation to be paid within the provisions of Part 9 of the Marine and Coastal Access Act 2009.

Secretary of State approves route sections FNG-3-S013, FNG-3-S014, FNG-3-S016, FNG-3-S018, FNG-6-S020 and FNG-6-S022.

Representation No. MCA/FNG/R/8

Name of representation: North York Moors National Park Authority

Report chapter and route sections:

Chapters 1 to 7

FNG-1-S006

FNG-2-S004

FNG-3-S010 to FNG-3-S012

FNG-4-S034 to FNG-4-S035

FNG-6-S019

FNG-6-S038 to FNG-6-S040

FNG-7-S009

FNG-7-S013

FNG-7-S028

FNG-7- S032 to FNG-7- S034

FNG-7-S040

Secretary of State's conclusion and observation:

Secretary of State notes the detailed representation made by the North York Moors National Park Authority and on the individual points raised she makes the following observations:

1. The Secretary of State notes that the coastal access proposals only relate to the right of access for open- air recreation on foot. It would, therefore, not be appropriate to indicate specific beaches where riding takes place in Natural England's coastal access report.

2. The Secretary of State approves the revised Map 1c set out at Appendix A to this notice.

3 and 4. The Secretary of State notes the two representations but considers that the new access rights should remain as depicted on Maps 2c and 2d of Natural England's coastal access report in order to retain clarity and consistency of the coastal margin boundary.

5. The Secretary of State notes that this is not a matter for Natural England and suggests that the North York Moors National Park Authority contact the Ordnance Survey regarding any out of date maps.

6. The Secretary of State approves the revised Map 3b set out at Appendix A to this notice.

7. The Secretary of State approves the revised Map 3c set out at Appendix A to this notice.

8. The Secretary of State approves the revised Map 4e set out at Appendix A to this notice.

9 to 17. The Secretary of State welcomes the support for Natural England's proposals. She notes that Natural England has contacted affected landowners on the roll-back points and further notes that Natural England has decided not to describe any specific future arrangements in its proposals as there are a number of complexities and uncertainties connected with the railway line, the existing crossing points and any possible route inland of the line, across land owned by the National Trust. She asks Natural England to hold discussions with the relevant interests including Network Rail and the National Trust to consider moving the coastal route inland if, and when, the current line becomes dangerous, inconvenient or unclear.

Representation No. MCA/FNG/R/10

Name of representation: Royal Society for the Protection of Birds

Report chapter and route sections:

Chapters 1 and 9

FNG-1-S001 to FNG-1-S008

FNG-9-S001 to FNG-9-S028

Secretary of State's conclusion and observation:

Secretary of State notes the RSPB's representation and shares the organisation's concerns to protect the bird life in this SPA and on the Coatham Marsh site. She further notes the conclusions of Natural England's Access and Sensitive Features Appraisal for these two sites. She approves route sections FNG-1-S001 to FNG-1-S008 and FNG-9-S001 to FNG-9-S028. Should patterns or levels of use change significantly in the future she asks Natural England to consider whether any management measures should be necessary.

She further notes the two voluntary agreements established with the local angling society and the British Mountaineering Council and asks Natural England to monitor any increased public access to bird breeding cliffs, or any change in patterns of use, and, if necessary, to take further management measures.

Representation No. MCA/FNG/R/11

Name of representation: Flamborough Management Scheme

Report chapter and route sections:

Chapter 1

FNG-1-SO01 to FNG-1-SO06

Secretary of State's conclusion and observation:

Secretary of State notes the Management Scheme's support of the voluntary restrictions negotiated with local angling society and the British Mountaineering Council referred to in representation No. MCA/FNG/R/10. She asks that the information on the proposed interpretation panel includes guidance regarding the nature designation of the area.

The Secretary of State also notes that paragliding is excluded from coastal access rights by virtue of the general restrictions at paragraph 1(s) of Schedule 2 to the Countryside and Rights of Way Act 2000.

She approves route sections FNG-1-SO01 to FNG-1-SO06.

Representation No. MCA/FNG/R/12

Name of representation: Historic England

Report chapter and route sections:

General

Secretary of State's conclusion and observation:

Secretary of State notes the representation and asks Natural England to work with Historic England on the provision of interpretation information.

Representation No. MCA/FNG/R/13

Name of representation: Deep Ocean 1 UK Ltd

Report Chapter and route section:

Chapter 9

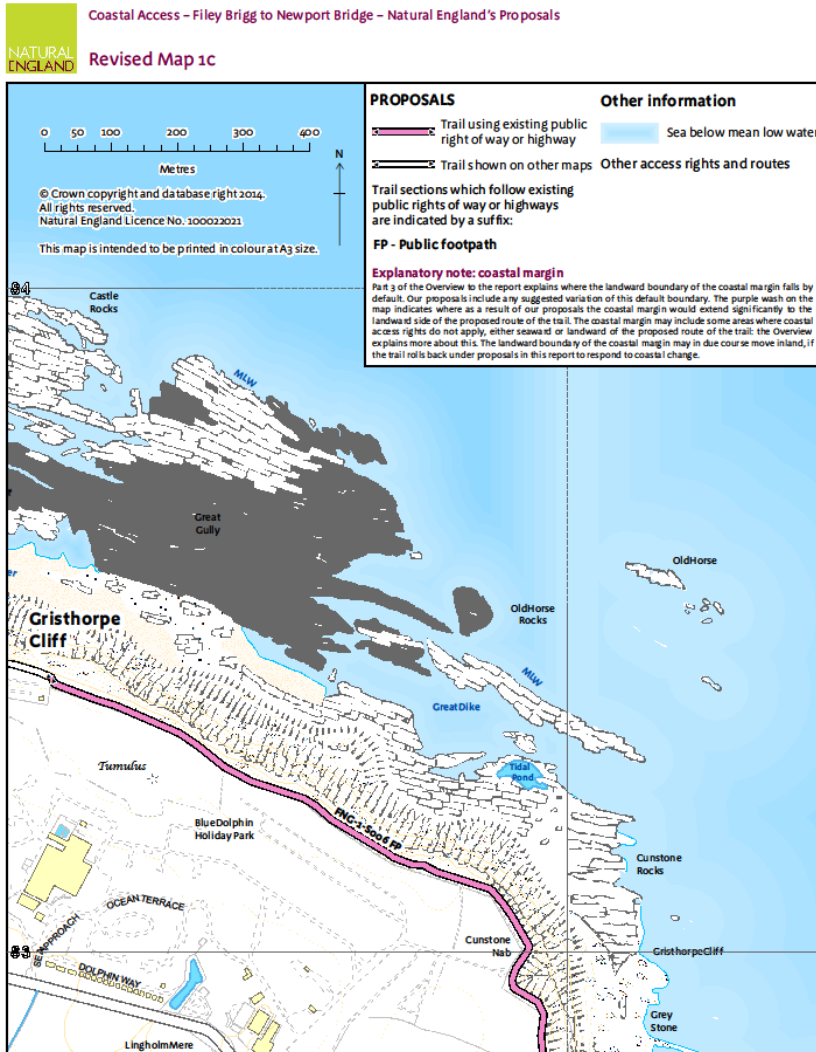
FNG-9-SO13

Secretary of State's conclusion and observation:

Secretary of State notes the representation and approves the proposals subject to the modification that the whole of the area, which is shaded pink on Map 1 at Appendix B to this notice, should be made subject to a direction under section 24 of the Countryside and Rights of Way Act 2000 excluding the right of access in this area.

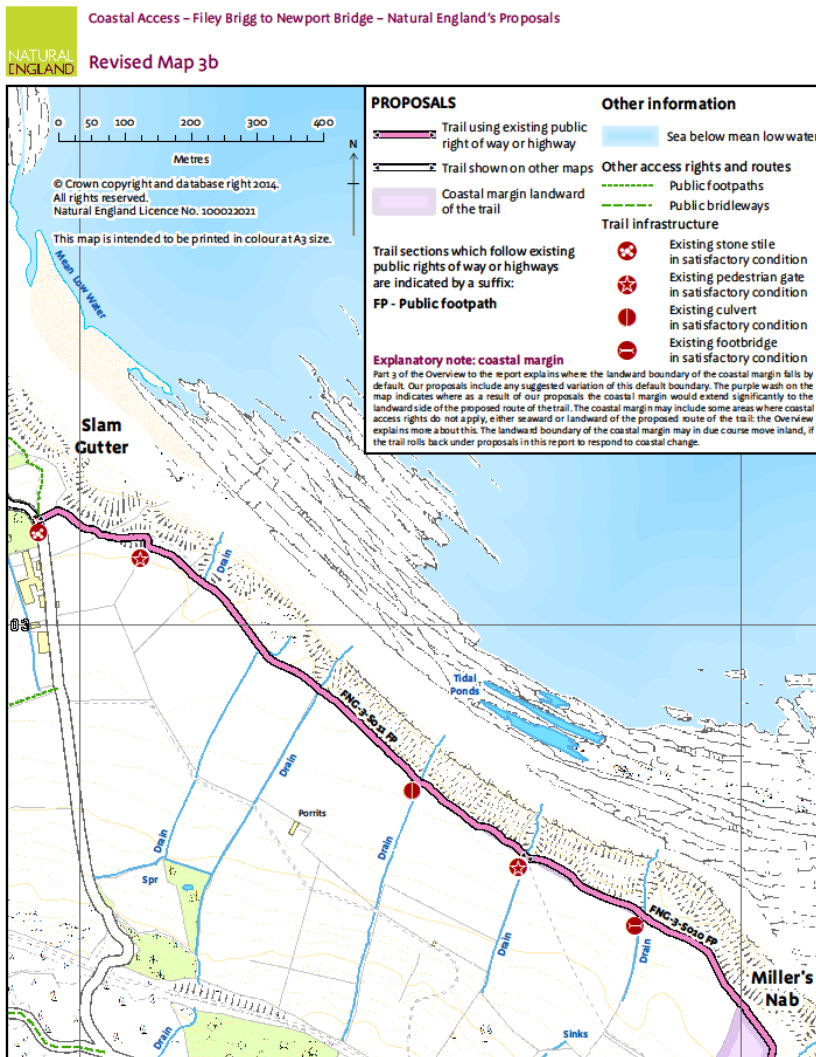
Appendix A:

Revised map 1c

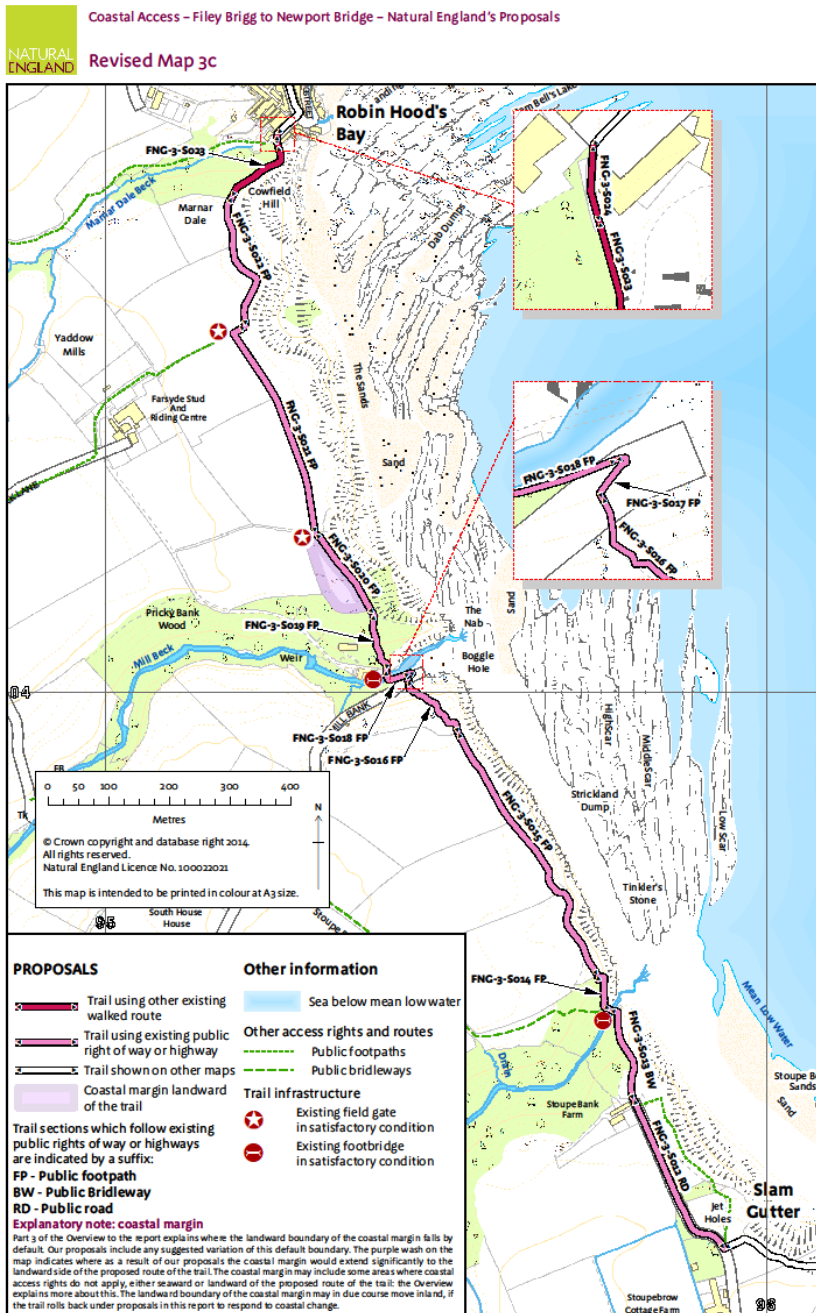


Revised Map 1c

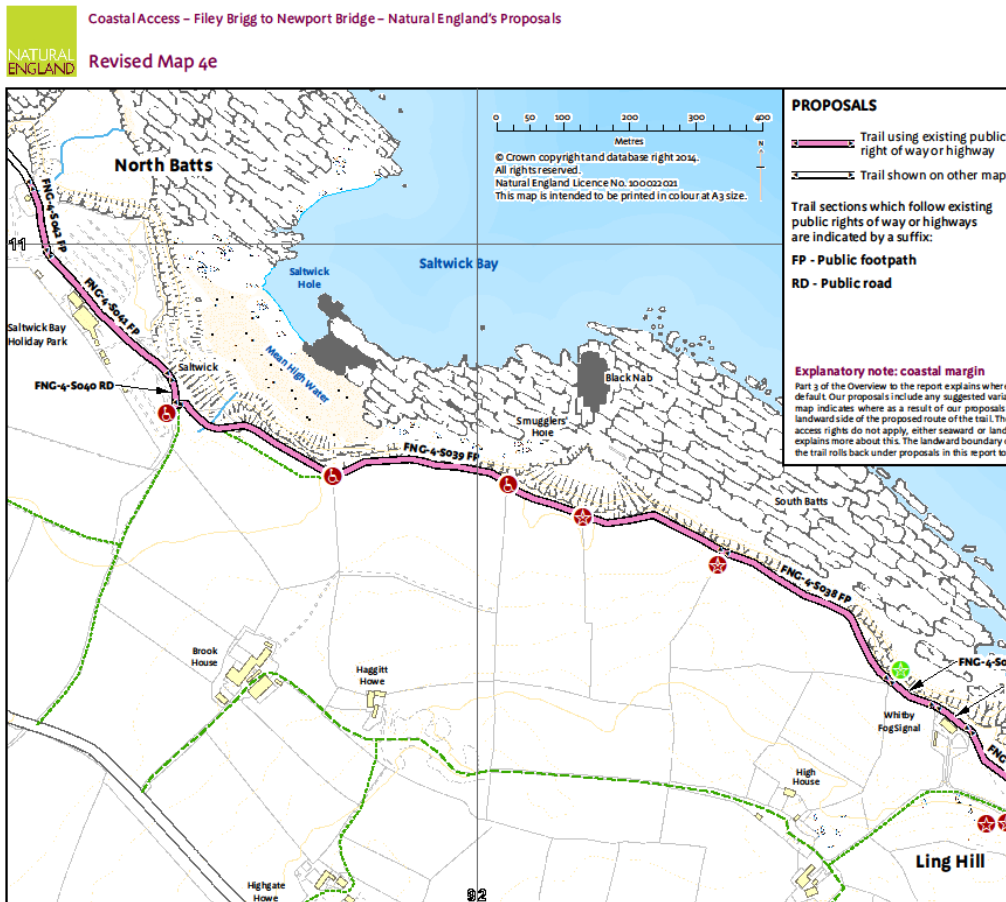
Revised map 3b



Revised map 3c

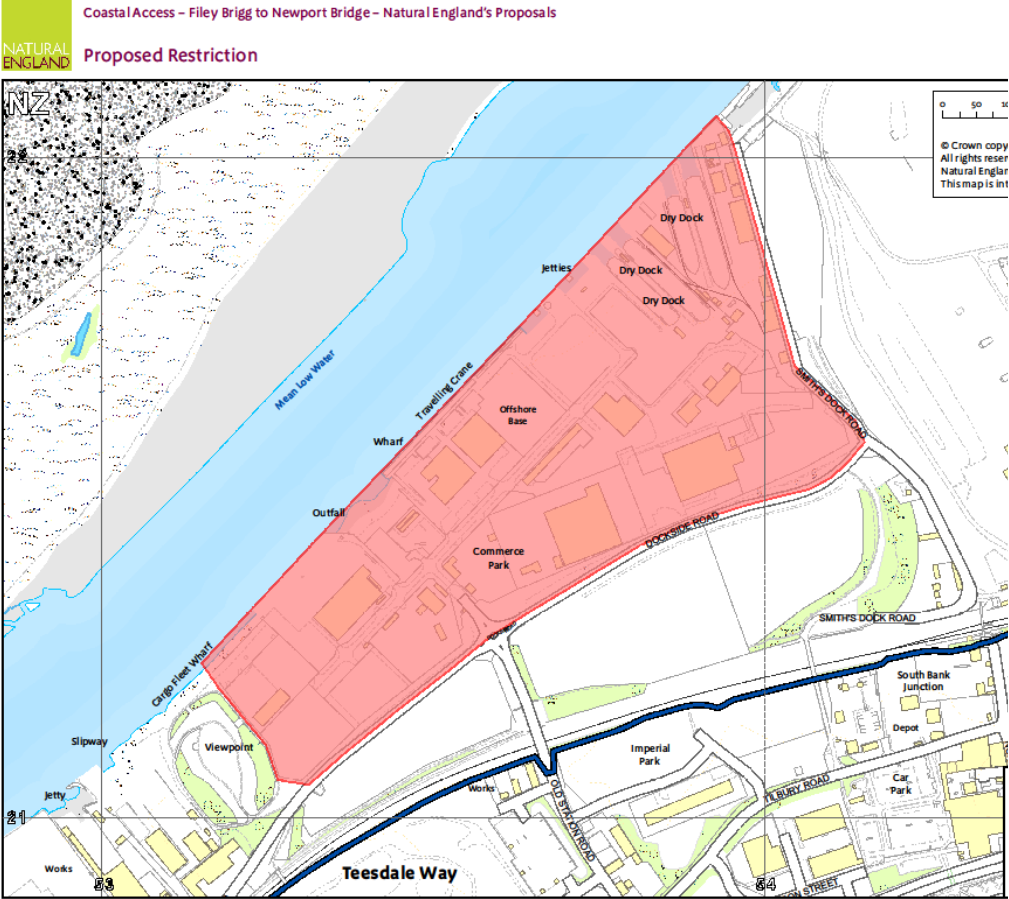


Revised map 4e



Appendix B:

Map 1- depicting proposed restriction



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