

**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  
Whitehaven to Silecroft  
September 2015**

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# Introduction

On 15 October 2014 Natural England submitted a coastal access report relating to the stretch of land between Whitehaven and Silecroft (“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 objections 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 those objections<sup>1</sup>.

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

- a. Whitehaven to Silecroft - Natural England’s coastal access report submitted to the Secretary of State on 15 October 2014;
- b. in accordance with paragraph 16(1)(a) of the Schedule, the objections which the appointed person determined to be admissible objections;
- c. in accordance with paragraph 16(1)(b) of the Schedule, Natural England’s comments on the admissible objections which it sent to the Secretary of State;
- d. in accordance with paragraph 16(1)(c) of the Schedule, the reports given to the Secretary of State by the appointed person in respect of the objections which the appointed person determined to be admissible objections; 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 17 March 2015.

In this notice –

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

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<sup>1</sup> 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 objections 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 objections. 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 those objections relate.

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](http://www.gov.uk) a copy of this notice and the reports given to her by the appointed person. Natural England has also made available at [www.gov.uk](http://www.gov.uk):

- a. Whitehaven to Silecroft - 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 17 March 2015; and
- c. Summary of other representations, and Natural England’s comments on those representations, which it sent to the Secretary of State on 17 March 2015.

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

In the respects specified in the objections 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 those objections.

### **Objection Ref: MCA/WHS/O2**

Townhead Farm, Nethertown, Egremont, Cumbria

Mr J. Brough

The land to which the objection relates are the route sections WHS-2-S037 to WHS-2-S038.

### **Objection Ref: MCA/WHS/O3**

Land between Pow Beck, St Bees and Sea Lane, Coulderton

Yvonne Clarkson on behalf of Thomsen Estates

The land to which the objection relates are the route sections WHS-2-S009 to WHS-2-S016.

### **Objection Ref: MCA/WHS/O4**

Walkhole Bank, Silecroft

Mr D.Jordan

The land to which the objection relates are the route sections WHS-4-S051 to WHS-4-S054.

### **Objection Ref: MCA/WHS/O5**

Townend Bank, Silecroft

Mr D. Lowery

The land to which the objection relates is the route section WHS-4-S048.

## **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\Whitehaven Silecroft\R\1\WHS0302**

Name of representation: Private individual

Report chapter and route section:

Chapter 3

Not specifically listed

Secretary of State's conclusion and observation:

Secretary of State notes that representation suggests that it will be necessary to fully advise walkers of the potential dangers posed to them by stock, particularly if those walkers have dogs with them. She further notes that Natural England will discuss and agree required signage with the access authority, prior to establishment and commencement of the access rights.

### **Representation No: MCA\Whitehaven Silecroft\R\2\WHS0808**

Name of representation: Private individual

Report chapter and route section:

Whole report

None specifically indicated

Secretary of State's conclusion and observation:

Secretary of State notes the issues in the representation are not the responsibility of Natural England but she hopes that local businesses and communities will take steps to decide what additional visitor facilities might be appropriate.

### **Representation No: MCA\Whitehaven Silecroft\R\3\WHS0809**

Name of representation: Beckermeth with Thornhill Parish Councils

Report chapter and route section:

## Chapter 2

WHS-2-S047 to WHS-2-S066

Secretary of State's conclusion and observation:

Secretary of State notes the representation and expression of support. She approves route sections WHS-2-S047 to WHS-2-S066.

### **Representation No: MCA\Whitehaven Silecroft\R\4\WHS0067**

Name of representation: Land Restoration Trust

Report chapter and route section:

Chapter 1

WHS-1-S001 to WHS-1-S028

Secretary of State's conclusion and observation:

Secretary of State notes Natural England's comments on the use of way-markers and kissing gates and that it generally proposed a route at the seaward edge of all fields, especially where there was no other walked line. She approves route sections WHS-1-S001 to WHS-1-S028 with the proposed modifications:

Landward of section WHS-1-S003, the margin boundary should coincide with the existing boundary fences;

Landward of section WHS-1-S004, the margin boundary should coincide with the vehicle barrier and stone bollards; and

Landward of section WHS-1-S006, the margin boundary should coincide with the existing field boundary fences and walls.

The recommended modifications are shown on the map at **Annex C**.

### **Representation No: MCA\Whitehaven Silecroft\R\5\WHS0670**

Name of representation: Private Individuals

Report chapter and route section:

Chapter 2

WHS-2-S043

Secretary of State's conclusion and observation:

Secretary of State notes that the representation does not seem to seek any changes to Natural England's proposed route or the associated coastal margin. She further notes that Cumbria County Council will be responsible for maintaining the England Coast Path (supported by an annual grant from Natural England) to the National Trail standard required for walkers rather than as a vehicular track. She approves route section WHS-2-S043.

### **Representation No: MCA\Whitehaven Silecroft\R\6\WHS0013**

Name of representation: The Ramblers

Report chapter and route section:

Chapter 1

WHS-1-S005 to WHS-1-S011, WHS-1-S033 and WHS-1-S036 to WHS-1-S042

Secretary of State's conclusion and observation:

Secretary of State approves route sections WHS-1-S005 to WHS-1-S011, WHS-1-S033 and WHS-1-S036 to WHS-1-S042 with the proposed modification that landward of section WHS-1-S006, the margin boundary should coincide with the existing field boundary fences and walls. The recommended modification is shown on the map at **Annex C**.

She further notes that Natural England will liaise with Cumbria County Council to ensure that the route is established and maintained to the appropriate standard, and without detriment to any rare flora.

### **Representation No: MCA\Whitehaven Silecroft\R\7\WHS0013**

Name of representation: The Ramblers

Report chapter and route section:

Chapter 2

WHS-2-S038, WHS-2-S062 and WHS-2-S066 to WHS-2-S070

Secretary of State's conclusion and observation:

Secretary of State notes the representation and that Natural England must periodically review long-term exclusions or restrictions. She further notes that land seawards of section S062 will generally be accessible as part of the coastal margin but for the reasons explained in Natural England's coastal access report, an exclusion of access may sometimes be required in order to ensure the safety of certain operations in connection with the nearby facilities. In relation to sections SO66 -SO70 the Secretary of State agrees that there is not sufficient requirement to propose an optional alternative route to the east of the railway line along an existing used path. The public footpath will be

available, should any walkers wish to make use of it. She approves route sections WHS-2-S038, WHS-2-S062 and WHS-2-S066 to WHS-2-S070.

### **Representation No: MCA\Whitehaven Silecroft\R\8\WHS0013**

Name of representation: The Ramblers

Report chapter and route section:

Chapter 3

WHS-3-S001 to WHS-3-S042

Secretary of State's conclusion and observation:

Secretary of State notes that Natural England considered options for creating a route on land above the foreshore but was not able to readily identify a better option than the proposed beach-top route south of Seascale - route sections WHS-3-SO01 to SO04 - which will provide a satisfactory walking surface for a short distance.

Secretary of State notes the issues regarding route sections WHS-3-SO13 to SO21 but approves the proposed route between Saltcoates and the River Irt. She further notes that Natural England did not consider the saltmarsh in this area to be suitable for public access, either to support the route itself, as accessible margin or to allow for a short-term diversion in the absence of a bridge at the proposed crossing point over the River Irt.

Secretary of State notes that Natural England will look to secure a new pedestrian bridge across the River Irt, in the location identified in the report. As stated in its report, Natural England does not believe the alternative (involving a significant inland diversion to the first available crossing point) fits with the criteria within the approved Coastal Access Scheme, as the normal route of the trail. She further notes that Natural England agree that the existing ford on the unclassified county road does not provide a safe pedestrian crossing.

On route sections WHS-3-SO41 and SO42 the Secretary of State notes that there is no public access on a bridge over the River Esk and that Natural England will erect notices with maps at the points where the route is impassable in the short term, advising walkers of the options for continuing their journey. Natural England will continue to liaise with Cumbria County Council and the Lake District National Park Authority to identify any possible improvements in the local paths network that would help to ensure a continuous walking route in the short to medium term. She therefore approves route sections WHS-3-S001 to WHS-3-S012 and WHS-3-SO20 to WHS-3-S038 but, until such time that a suitable river crossing is provided, does not approve route sections WHS-3-S0013 to WHS-3-S019 and WHS-3-S039 to WHS-3-S043.

### **Representation No: MCA\Whitehaven Silecroft\R\09\WHS0013**

Name of representation The Ramblers



Report chapter and route section:

Chapter 4

WHS-4-S001 to WHS-4-S059

Secretary of State's conclusion and observation:

Secretary of State notes that Natural England explored options for the route in the vicinity of Eskmeals range, in discussion with the Ministry of Defence but did not identify any other obvious routes in the area that would be suitable and would not conflict with range operations. The Highways Authority is content that the route WHS-4-S001 may be proposed on the minor road.

Secretary of State notes that the proposed fencing in the vicinity of Hyton Marsh has been agreed as necessary to protect a toad spawning pool. The pool in question is not on common land, but on land to the south. She further notes that Natural England was unable to secure the agreement of owners/occupiers to add further land, landward of the trail at routes section WHS-4-S023 to the coastal margin in the vicinity of Annaside. She approves route sections WHS-4-S001 to WHS-4-S059.

## **Representation Nos: MCA\Whitehaven Silecroft\R\10\11and12\WHS0709**

Name of representations: Amphibian and Reptile Conservation

Report chapters and route sections

Chapter 2, 3 and 4

WHS-2-S051 to WHS-2-S054 and WHS-2-S057 to WHS-2-S060; WHS-3-S005 to WHS-3-S008 and WHS-3-S010 to WHS-3-S012 and WHS-4-S002 to WHS-4-S029, WHS-4-S033 to WHS-4-S037 and WHS-4-S046 to WHS-4-S057

Secretary of State's conclusion and observation:

Secretary of State notes that Natural England has taken full account of advice provided by its nature conservation specialists on any perceived risks to natterjack toads and their habitat. She further notes that and that Amphibian and Reptile Conservation were consulted extensively during the planning stages and as part of the Access & Sensitive Features Appraisal. She further notes that Cumbria County Council will be managing establishment works on behalf of Natural England, and will be obliged to comply with the relevant legislation and best practice whilst carrying out this work.

She further notes the specific issue relating to the risk of disease to amphibian populations but does not consider this is sufficient to prevent the introduction of new access rights on this part of the coast. She asks Natural England to manage access alongside any establishment works in the future to improve or safeguard amphibian habitat. She approves route sections WHS-2-S051 to WHS-2-S054 and WHS-2-S057 to WHS-2-S060;

WHS-3-S005 to WHS-3-S008 and WHS-3-S010 to WHS-3-S012 and WHS-4-S002 to WHS-4-S029, WHS-4-S033 to WHS-4-S037 and WHS-4-S046 to WHS-4-S057

**Representation Nos: MCA\Whitehaven Silecroft\R\13\14\15 and 16\WHS0080**

Name of representations: English Heritage

Report chapter and route section:

Chapters 1 and 3

WHS-1-S004 and WHS-1-S005, WHS-1-S012 and WHS-3-S037

Secretary of State's conclusion and observation:

Secretary of State notes the representation and expression of support. She approves route sections WHS-1-S004 and S005, WHS-1-S012 and WHS-3-S037.

**Representation No: MCA\Whitehaven Silecroft\R\17\WHS0785**

Name of representation: National Grid

Report chapter and route section:

Whole report

None specifically indicated

Secretary of State's conclusion and observation:

Secretary of State notes the representation and the general support for the principle of enhanced coastal access. She further notes that Natural England was not made aware of any potential conflicts between the actual power transmission infrastructure present, and the proposals being developed for new coastal access. She further notes that it will be possible for local exclusions or restrictions of access to be put in place, if necessary, if unforeseen conflicts between power transmission infrastructure and access are identified at any particular locations.

**Representation No: MCA\Whitehaven Silecroft\R\18\WHS0559**

Name of representation: Private individuals

Report chapter and route section:

Chapter 4

WHS-4-S051 to WHS-4-S053

Secretary of State's conclusion and observation:

Secretary of State notes the representation relates to the alignment of the route on land adjacent to private property and that Natural England should have considered alternatives to the proposed route. She notes that Natural England sought to find an alternative alignment solution but concluded that the proposed route offered the best balance between public and private interests. She asks that information on the extent of public access rights is provided by appropriate signage and way-markers. She approves route sections WHS-4-S051 to WHS-4-S053.

**Representation No: MCA\Whitehaven Silcroft\R\19\WHS0810**

Name of representation: The National Trust

Report chapter and route section:

Chapter 1

WHS-1-S008 to WHS-1-S028

Secretary of State's conclusion and observation:

Secretary of State notes Natural England's comments on the use of way-markers and kissing gates and that it generally proposed a route at the seaward edge of all fields, especially where there was no other walked line. She approves route sections WHS-1-S001 to WHS-1-S028 with the proposed modifications:

Landward of section WHS-1-S003, the margin boundary should coincide with the existing boundary fences;

Landward of section WHS-1-S004, the margin boundary should coincide with the vehicle barrier and stone bollards; and

Landward of section WHS-1-S006, the margin boundary should coincide with the existing field boundary fences and walls. The recommended modifications are shown on the map at Annex C.

**Representation No: MCA\Whitehaven Silcroft\R\20\WHS0703**

Name of representation: Lake District National Park Local Access Forum

Report chapter and route section:

Chapter 3

WHS-3-S013 to WHS-3-S019 and WHS-3-S039 to WHS-3-S043

Secretary of State's conclusion and observation:

Secretary of State notes the support of the delivery of new suitable crossing points of the Rivers Irt and Esk. She therefore approves route sections WHS-3-S001 to WHS-3-S012 and WHS-3-S020 to WHS-3-S038 but, until such time that a suitable river crossing is provided, does not approve route sections WHS-3-S0013 to WHS-3-S019 and WHS-3-S039 to WHS-3-S043.

**Representation No: MCA\Whitehaven Silcroft\R\21\WHS0774**

Name of representation: Braystones local residents' group

Report chapter and route section:

Chapter 2

WHS-2-S043

Secretary of State's conclusion and observation:

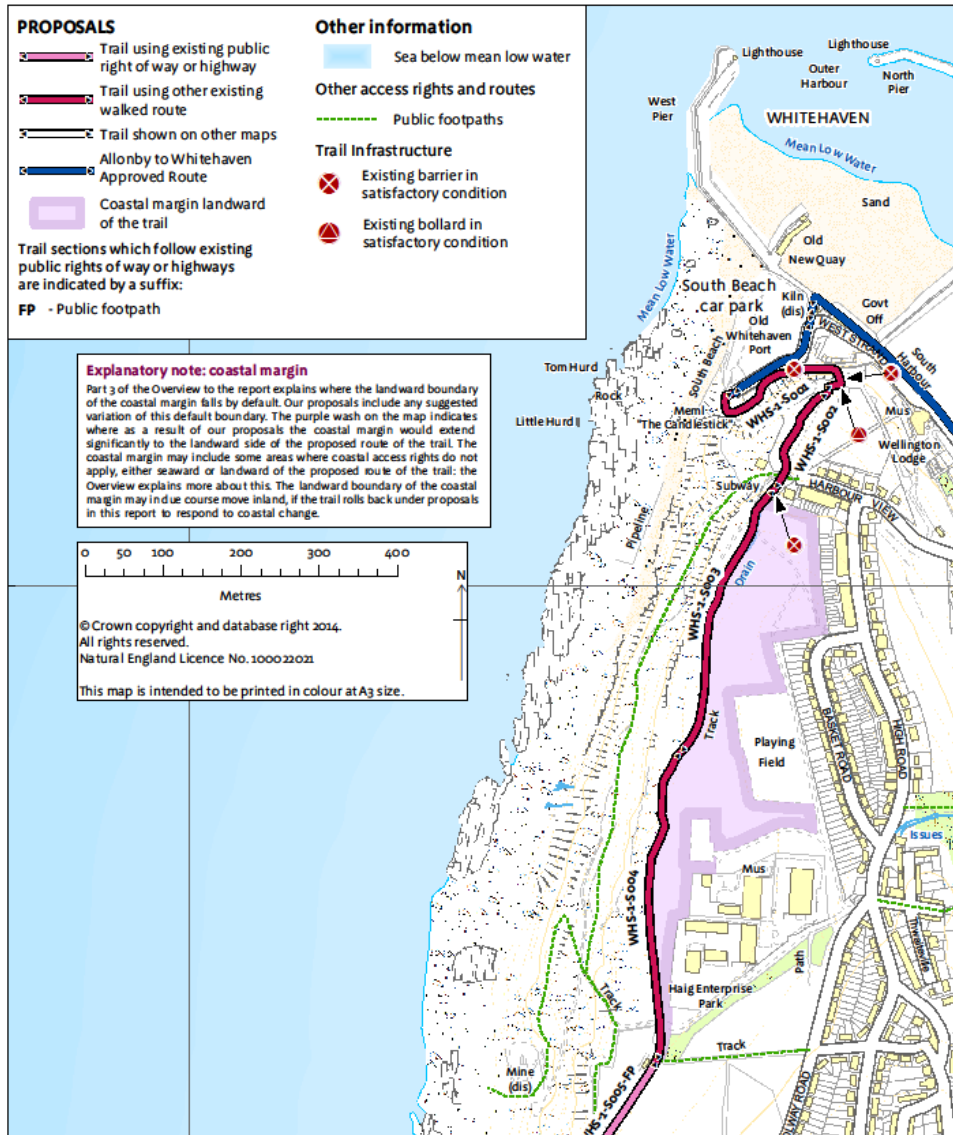
Secretary of State notes that the local access authority will normally be responsible for the maintenance of the approved route, to the National Trail standard for walkers, although this would not encompass maintenance to any higher standard that might be required to support other (vehicular) use. She approves route sections WHS-2-S043.

# Annex C: recommended modifications to proposals



Coastal Access - Whitehaven to Silcroft - Natural England's Proposals - with recommended modifications

Map 1a South Beach car park, Whitehaven to Kells (amended)



Map 1a South Beach car park, Whitehaven to Kells (amended)

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