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NATURAL ENGLAND

England Coast Path

Whitstable to Iwade

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

Map A: Key map - Whitstable to Iwade
Chapter number and title
1 Whitstable to Nagden (Maps 1a to 1g)
2 Nagden to Hollowshore (Maps 2a to 2d)
3 Hollowshore to Little Murston (Maps 3a to 3g)
4 Little Murston to Ridham Docks (Iwade) (Maps 4a to 4b)
Extent of proposals
Extent of proposals in each chapter
A road
B road
Minor road
Railway & station
District Boundary
N
0
2 Kilometres
Whitstable
WHITSTABLE
Seasalter
Yorkletts
Dargate
Hernhill
Graveney
Goodnestone
Faversham
ISLE OF SHEPPY
The Swale
South Swale Local Nature Reserve
Nagden
Hollowshore
Faversham Creek
Oare Creek
Oare Marshes
Uplees
Conyer Creek
Conyer
Little Murston
Milton Creek
Sittingbourne
Kemsley
Ridham Docks
IWADE
1
2
3
4
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Advice on reading the report

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

Overview

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

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

Proposals

Chapters 1 to 4 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 1g illustrate the proposals in chapter 1.

Using Map A (previous page)

Map A shows the whole of the Whitstable to Iwade stretch divided into short numbered lengths of coast, from Whitstable at the eastern end (chapter 1) to Ridham Docks, Iwade at the western end (chapter 4).

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 4 should ideally be printed on A3 paper. If you don't have the facility to print at A3 size, we suggest you print the text of the chapter you are interested in on A4 paper and view the associated map on your computer screen, using the zoom tool to view it at a suitable size.

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Introduction

1. Purpose of the report

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

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

Each report covers a different stretch of coast. This report sets out Natural England's proposals to the Secretary of State under section 51 of the National Parks and Access to the Countryside Act 1949 for improved access along the coast of Kent between Whitstable and Iwade.

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

- New sections of coastal path would be created in strategic places to link existing coastal paths into a continuous route along this stretch of coast;
- For the first time, there would be secure statutory rights of public access to most areas of beach, cliff and other coastal land on this stretch of coast;
- The coastal path would be able to 'roll back' with any coastal erosion or changes to the coastal flood defences, maintaining a continuous route on this stretch of coast.

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

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

2. The determination process

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

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

Following publication:

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

In order to be treated as valid, all objections and representations must be received by Natural England no later than the end of the advertised eight week period following publication. The specific closing date appears in the statutory notice for the Whitstable to Iwade stretch, and can be viewed here https://www.gov.uk/government/collections/england-coast-path-improving-public-access-to-the-coast together with more information about how to make representations or objections.

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

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

Once proposals for the Whitstable to Iwade 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 Whitstable to Iwade 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 Whitstable to Iwade 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 4 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 1g illustrate the proposals described in chapter 1.

Each **chapter** comprises four parts:

- **Part 1** – This introduces our proposals for that length of coast. It sets the context and summarises any proposed use of our discretion in relation to aligning the route along an estuary, or to recommend changes to the default landward coastal margin. It also summarises the main access management measures that will need to be introduced and the overall accessibility (ease of use for all) of this length of coast, for all users. Additionally, it may identify any future changes of which we are aware that are likely to impact on this part of the coast, and explain how our proposals deal with this change.

- **Part 2** – This contains tables which form the detailed commentary to our formal proposals to the Secretary of State. The tables provide key details about the route sections along that particular length of coast, and should be read in conjunction with the relevant maps as identified:

  - In the first table or set of tables, we set out detailed information for each section of coast under the following column headings:

    - Map(s) – This column indicates which of the report maps to view alongside the details in the other columns in the same row.

    - Route section number(s) – This is the unique identification number for the route section concerned. In some cases, two or more adjacent route sections will be amalgamated into a single row in the table, if all other displayed details happen to be identical.

    - Current status of this section – This describes the current status of the route we have proposed and whether it has any existing access rights. Public highways, including public rights of way such as footpaths, are excepted from new coastal access rights because the existing public rights to use such highways will remain in force, and the trail is able to make use of these.

    - Other sections of the proposed trail that do not currently have any access rights or where access is currently permitted by the landowner will become subject to

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

- Current surface of this section – This is a description of the existing surface of the proposed section of the trail.

- Roll-back proposed? – This indicates whether we propose that, in the event of significant erosion or other coastal processes or significant encroachment by the sea, a section of trail which is subject to significant erosion or other coastal processes or significant encroachment by the sea should be capable of being repositioned in accordance with formal proposals in this report, without needing further confirmation of the change by the Secretary of State. 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. In addition, in the Alternative Routes and Optional Alternative Route Table there are columns that describe the landward and seaward boundaries of the alternative route strip. This is because alternative routes/optional alternative routes will cover the land two metres either side of the approved route line. However by virtue of s55D(2) of the National Parks and Access to the Countryside Act 1949, where the alternative route/optional alternative route follows an existing path corridor, the trail may adopt a variable width as dictated by existing physical features.

- 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.

- Proposed exclusions or restrictions – This indicates whether, at the time the proposals were prepared, we had identified any requirement for exclusions or restrictions that might affect either the section of trail itself or the adjacent margin. Any such exclusion or restriction identified might either come into force immediately following commencement or at some future date. It will

sometimes be necessary to introduce new exclusions or restrictions in the future, even if not identified at the time of preparing our proposals. See Part 9 of this document and Part 2.4 of the approved Coastal Access Scheme for more information.

- In the second table or set of tables for each chapter, we set out any other options that were considered during our initial planning (in relation to the route and the coastal margin), and explain why they did not form part of our proposals.

- The third table or set of tables for each chapter provides further details of any situation where local circumstances mean that implementation of roll-back is likely to be more complex. We identify the key issue and our expected resolution.

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

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

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

The route section number or numbers (as shown on the accompanying maps).

This column shows whether this route section could be repositioned in future in response to erosion etc without further approval by Secretary of State. See notes to table. More complex situations are explained in the separate table 3.2.3 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.

3.2.1 Section details: Map(s) 3a to 3h: Hollowshore to Little Murston

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**	**Proposed exclusions or restrictions** (See Part 9 of Overview)
3g	WSI-3-S074	Public footpath	Tarmac	No	Road edge	Clarity and cohesion	Margin
	WSI-3-S075*	Public footpath	Gravel	No	Default: Landward edge of trail	Not used	Margin
	WSI-3-S076* and WSI-3-S077*	Public footpath	Gravel	No	Fence line	Clarity and cohesion	Margin
3g, 3h	WSI-3-S078	Public footpath	Grass	Yes – see table 3.2.3	Default: Landward edge of bank	Not used	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.

3.2.2 Other options considered: Map(s) 3a to 3h: Hollowshore to Little Murston

Map(s)	Section number(s)	Option(s) considered	Reasons for not proposing this option
3g	WSI-3-S075 to WSI-3-S077	On this section we considered aligning the path along the edge of the water, through Swale Marina, giving good views of Conyer Creek.	■ We opted to follow the public right of way and Saxon Shore Way to provide a safe route, avoiding the operational activities within the commercial marina that would be hazardous to trail users. ■ This route also has good, elevated views of Conyer Creek and the marina. ■ We concluded that overall it struck the best balance in terms of the criteria described in chapter 4 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.

3.2.3 Roll-back implementation – more complex situations: 3a to 3h: Hollowshore to Little Murston

Map(s)	Section number(s)	Feature or site potentially affected	How we will manage roll-back in relation to this feature or site
3g and 3h	WSI-3-S078 and WSI-3-S079	Designated wildlife sites	Stretches of seawall along this low lying coast have been identified for future 'managed re-alignment' within local Shoreline Management Plans. The exact locations are currently being defined within the Medway Estuary and Swale Flood and Coastal Risk Management Strategy. The trail is likely to be adjusted to follow any new seawall or re-alignment design when the existing flood bank is no longer viable as a walking route. In doing this, we will choose a route: ■ landward of any excepted land, following discussions with owners and occupiers. ■ after detailed discussions with the relevant wildlife experts and with any potentially affected owners or occupiers. In reaching this judgement we will have full regard to 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 our 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 Kent Countryside Access Forum;

- County and District Council officers from Kent County Council, Swale Borough Council and Canterbury City Council, including ecology, geology, historic environment, planning, transport and countryside services staff;

- local officers from the Environment Agency, in relation to flood defence and coastal erosion management on this stretch of coast;

- the Coastguard, in relation to beach and foreshore safety;

- local officers of Historic England and English Heritage Trust, in relation to historic features on this stretch of coast.

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

- the Ramblers Association;

- the Open Spaces Society;

- the National Farmers Union;
- the British Association for Shooting and Conservation and the Kent Wildfowlers;
- the Country Land and Business Association;
- Kent Wildlife Trust;
- RSPB;
- the North Kent Environmental Planning Group;
- Swale Local Engagement Forum;
- Whitstable Beach Campaign;
- Whitstable Society;
- Faversham Local Engagement Forum;
- Faversham Footpaths Group; and
- Parish or Town Councils (Whitstable, Teynham, Faversham, Oare, Graveney / Goodnestone and Iwade).

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

We also engaged with relevant specialists, both within Natural England and from other organisations, to consider any potential for impacts on key sensitive features. See part 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 small 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, for example along the coast at Seasalter (chapter 1 of the proposals), on Faversham Creek (chapter 2 of the proposals) and along Oare Creek (chapter 3 of the proposals). We also invited those with legal interests and others in the local community to a number of open sessions at Whitstable, Seasalter, Faversham, Oare and Conyer to discuss options for the Coast Path.

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, carrying out any necessary assessments.

After further discussions with national and local organisations and interests 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 north Kent coast between Whitstable and Iwade, showing public rights of way and promoted routes along the stretch.

The Saxon Shore Way, part of the 163 mile promoted walking route that traces the ancient, Roman coast line of Kent and Sussex, already affords relatively good linear coastal access along the Kent coastline along The Swale Estuary, as can be seen on Map B: Existing public access between Whitstable and Iwade. For the most part it maintains relatively close proximity to the sea, but there are points where it moves inland and loses sea views and where its current alignment is unsatisfactory in relation to providing a quality long distance walking route. These areas are described below and in the chapters of the report relating to the places where they occur. Other than these areas, there are few apparent access issues on the stretch that might be addressed by the Marine and Coastal Access Act 2009.

Chapter 1: Whitstable Harbour to Nagden

- In Whitstable, at the eastern extent of the stretch, for the most part the existing paths (a mix of public highway, the Saxon Shore Way and other walked routes) maintain close proximity to the sea on a combination of the harbour side, beach top promenade and minor roads.

- The existing walked paths along the top of the beach and seawall at Seasalter also follow the coast closely, while the promoted Saxon Shore Way runs further inland away from the coast, affording fewer sea views. Our proposals will follow the shoreline.

- The existing access arrangements are less good in the residential area just west of Seasalter along the Faversham Road, where the Saxon Shore Way and a National Cycle Route run along this busy coast road. Without any adequate pavement or verge, this section of road often exposes walkers to heavy traffic which compromises their safety. We propose to align the trail inland to provide a safe route (see chapter 1 of the proposals).

- Further west of Seasalter, the existing path runs adjacent to the coast, along a raised seawall, into Faversham Creek, following public rights of way, the Saxon Shore Way and other existing walked routes.

- Near Nagden, a long term blockage to the public footpath has resulted in another walked route being developed adjacent to the definitive footpath (see chapter 1 of the proposals).

Chapter 2: Nagden to Hollwshore, including Faversham

- The existing paths around Faversham Creek, between Nagden and Hollowshore, for the most part maintain close proximity to the creek, following a combination of the Saxon Shore Way, public rights of way, existing walked paths and public highways.

- Outside of Faversham town the paths are mainly on the raised seawall adjacent to the creek, whilst in town the existing paths follow a mix of quay side, minor roads, pavements and creekside paths. In places, the path surface is in poor condition, including along the seawall between Faversham and Hollowshore. Our proposals include minor improvements to the existing surfaces, which will be carried out prior to the trail opening.

- Near Iron Wharf (north east of Faversham), a long term blockage to a short stretch of public footpath has resulted in another walked route being developed adjacent to the definitive footpath (see chapter 2 of the proposals).

- There are areas in Faversham town, such as along the south-eastern bank, between Standard Quay and the Swing Bridge, where creekside access is not continuous. Existing paths are set back from the creek on the inland Saxon Shore Way, public rights of way and public highways, which run behind industrial areas, commercial premises and residential developments, without direct views of the estuary. Walkers can currently gain some access to the creek side from these paths at a number of places, including at Standard Quay and along creekside walkways in front of private residential developments. However, there is currently no promoted path along the creek to offer continuous creekside access and uninterrupted views of the estuary. Our proposals create new creekside access in this area (see chapter 2).

- On the north-western bank of Faversham Creek, localised flooding can occur north of the bridge crossing. In addition, newly erected flood gates will occasionally block the creekside public right of way here, when storms or very high tides are forecast. Our proposals will provide a clear alternative route to follow in these instances (see chapter 2).

- Also on the north-western bank of Faversham Creek, a long term obstruction to an existing public footpath, in Faversham Reach, prevents access along the creek here. The existing walked path along the Saxon Shore Way runs inland behind two private residential estates and an industrial complex on the edge of Faversham town. See chapter 2 of the proposals.

Chapter 3: Hollowshore to Little Murston, including Oare and Conyer

- Along the mainly rural open coast between Hollowshore and Little Murston, existing paths run adjacent to the coast, along a raised seawall, following public rights of way and the Saxon Shore Way. They maintain good views of the coast.

- In the vicinity of Oare and Conyer villages, the path follows the Saxon Shore Way, public rights of way and minor roads. Some sections are inland from the coast with intermittent sea views as existing paths run behind commercial boatyards and through the village centres.

- There is one section of the existing Saxon Shore Way on the east bank of the creek north of Oare, where pedestrians walk along a private road and have to avoid slow moving but heavy industrial traffic associated with a local recycling business. We propose to improve this stretch with the addition of passing / refuge places (see chapter 3 of the proposals).

Chapter 4: Little Murston to Ridham Docks (Iwade)

- The existing paths between Little Murston and Ridham Docks near Iwade, for the most part maintain close proximity to the estuary and creek, with good views of the coast. They utilise the Saxon Shore Way, public rights of way, other existing walked routes and the bridge across Milton Creek.

In addition to the existing linear access routes along the stretch, there are a number of Village Greens on the coast which provide specific rights of access and recreation to local communities. These are located in Whitstable, Seasalter and at Faversham (see Map B: Existing public access between Whitstable and Iwade). The spreading room described in chapter 1 and 2 of the report would include some of these Village Greens, giving the general public coastal access rights, alongside the extended access rights already provided to the local community.

During Stage 1 and Stage 2 of the implementation process we asked interested organisations and individuals to tell us about any relevant opportunities and issues on this stretch.

The key opportunities and issues that emerged from these discussions were:

- To secure perceived traditional access rights across the beach and foreshore at Whitstable. This area of the beach west of Whitstable Harbour will sit within the coastal margin. The directions to exclude the new coastal access rights for commercial operations that are proposed in this report (see chapter 1), would not affect traditional recreational uses that take place under other rights, with the landowner's permission or by traditional tolerance.

- To improve safety and accessibility along Faversham Road, Seasalter, where the current promoted route (Saxon Shore Way) runs on a busy coast road, with no verge or pavement. This has been addressed through identifying a new off-road alignment for the trail (see chapter 1 of the proposals).

- To improve continuous access along the south-eastern shore of Faversham Creek, in Faversham town, using existing creekside walkways and through future residential and industrial development opportunities. This was an aspiration of some local

groups and is highlighted within the Draft Faversham Creek Neighbourhood Plan. See chapter 2 of the proposals for details of new access along this side of the creek.

- To create a wider pedestrian walkway as part of a local plan for improving Faversham's Swing Bridge.

- Kent County Council's current plans to create a new public right of way in Faversham, along the north-western bank of Faversham Creek, by extinguishing part of an obstructed public footpath (ZF5: along the Creek by Faversham Reach) and creating a new creekside public footpath which would link The Front Brents and the open countryside to the north of Faversham. The opportunity to provide new access along this north-western bank of Faversham Creek as part of the England Coast Path proposals was fully explored and chapter 2 lays out Natural England's commitment to undertake a variation report to align the proposed trail to the creekside, if and when this public footpath is successfully established by Kent County Council.

- To improve safety on the east bank of Oare Creek, near Oare, where the current promoted route (the Saxon Shore Way) is on a private, industrial access road, with limited verge and no pavement. See chapter 3 of the proposals for the works identified to improve safety.

- To improve accessibility for people with reduced mobility along all the seawalls, through removal of existing metal kissing gates. Our proposals include the removal of one metal gate on the west bank of Conyer Creek (see chapter 3).

- Safety on the mudflats and salt marshes along this coast and localised flooding. This will be addressed by our proposal to exclude new coastal access rights from much of the intertidal saltmarsh and flat under section 25A of CROW (due to a lack of suitability for public access).

- Coastal erosion affecting access to the coast, particularly if any areas of managed realignment are identified in the Environment Agency's developing strategy for flood defences along the Swale Estuary (the Medway Estuary and Swale Flood and Coastal Risk Management Strategy 2015). The locations and design of future managed realignment is beyond the remit of this report, however our proposals do include the facility for the path to 'roll back' in places, in response to coastal change. Any future re-alignment of existing flood walls by the coastal management authorities would also need to consider existing public access rights.

- The potential for walkers to increase disturbance of the protected wildlife along the coast. This concern is addressed by our proposals (see (b) Protection of sensitive features below).

We have addressed some of the opportunities and issues which emerged from these discussions, in the report. However, widening the Faversham Swing Bridge is outside the scope of this report and improved wheelchair access along the seawalls will be considered as part of the ongoing maintenance, repair and replacement works on public rights of way.

b) Protection of sensitive features

Data relating to the natural environment was collated following discussions with the North Kent Environmental Planning Group, Kent Wildlife Trust, RSPB, Swale and Canterbury Councils and Kent County Council. This information was then assessed by officers from Natural England with a knowledge of the conservation objectives of the sites and features under consideration. We looked for evidence of any potential for our proposals to have a detrimental effect on protected sites and species. This included potential effects arising from the works that would be necessary to establish and/or maintain the proposed route and from people's use of the new access rights. The proposals have been thoroughly considered before being finalised and our initial ideas were modified during an iterative design process, with input from people with relevant expertise within Natural England and other organisations.

We paid particular regard to sites with certain key designations for their wildlife and/or geological interest (See Map C: Key statutory environmental designations - Whitstable to Iwade):

- European sites, including: The Swale Special Protection Area (SPA) and Ramsar site (see glossary for a fuller explanation of 'European sites');
- The Swale Estuary Marine Conservation Zone; and
- The Swale Site of Special Scientific Interest (SSSI).

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

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

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

In reaching this conclusion we took account of the proposed exclusion of new access rights across most of the mudflats and saltmarshes between Seasalter and Iwade, due to their unsuitability for access. We identified specific measures which would in our judgement be necessary in some places on the stretch to prevent any likely significant effect on The Swale's protected features which include internationally important populations of wintering as well

as breeding birds. Our proposals incorporating these measures have been included in the relevant chapters of the proposals. In summary, the measures include:

Chapter 1: Whitstable Harbour to Nagden

- The installation of information signs on South Swale Local Nature Reserve to explain the importance of these coastal habitats for wildlife, promote responsible dog behaviour and encourage people to stay on the trail to avoid increased disturbance to nearby bird breeding areas and winter roosts on Castle Coote (part of the South Swale Local Nature Reserve). Additional notices will be placed near the main access to the South Swale Nature Reserve, near the Sportman Inn, to further deter access to Castle Coote across the mudflats and saltmarsh.

- A direction to exclude the new access rights from the coastal margin at Castle Coote (part of the South Swale Local Nature Reserve), to prevent disturbance to breeding and over-wintering birds (see map G).

Chapter 3: Hollowshore to Little Murston

- The installation of signs at Oare Marshes Nature Reserve and on the eastern bank of the mouth of Conyer Creek, near a former brickworks site. The signs will explain the importance of these coastal habitats for wildlife, promote responsible dog behaviour and encourage people to stay on the trail to avoid increased disturbance in winter to nearby bird roosts.

- The signage at the mouth of Conyer Creek will be supplemented with some tree/scrub planting near the trail, to screen walkers from an area of saltmarsh important for winter roosting birds. This will reduce disturbance to the over-wintering birds and improve current access management measures.

The measures outlined above reflect and compliment some of the specific access management elements highlighted within the Thames, Medway and Swale Estuaries – Strategic Access Management and Monitoring Strategy (2013).

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

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

Please refer to the supporting **Access and Sensitive Features Appraisal**, for more information. This is available through the England Coast Path .gov.uk website, alongside this report.

c) Landscape

We collated data on sensitive landscape features. This included data about the presence of registered and historic parklands, registered parks and gardens and conservation areas on this stretch of coast, as well as specialist advice as to the potential vulnerability of the sites and features to access. The data was then assessed by Natural England in consultation with local authority officers from Swale Borough Council's Planning Department and Kent County Council. See Map C: Key statutory environmental designations - Whitstable to Iwade.

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

Our conclusion from this assessment is that our proposals would not undermine the landscape character or the sensitive features within the Whitstable Town Conservation Area, Whitstable Beach Article 4 direction or Faversham Conservation Area.

In reaching this conclusion we identified specific measures which would be necessary to reduce potential effects on the historical character of the Conservation Areas. These measures have been incorporated into the relevant chapters of the proposals and are also summarised below:

Chapter 2: Nagden to Hollowshore

- Use of local vernacular in the design and materials for signage within the Faversham Conservation Area

- Use of local vernacular when establishing a gap in a wall near Belvedere Road, on the south-eastern bank of Faversham Creek, Faversham, as this area is within the Faversham Conservation Area.

Once a route for the trail has been confirmed by the Secretary of State, we will hold further discussions with Swale Borough Council, Canterbury City Council and Kent County Council about any works on the ground that are necessary to prepare for commencement of the access rights.

d) Historic Environment

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

There are currently no Scheduled Monuments affected by the proposed trail between Whitstable Harbour and Ridham Docks, Iwade. See Map C: Key statutory environmental designations - Whitstable to Iwade.

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

e) Interests of owners and occupiers

In discharging our coastal access duty we must aim to strike a fair balance between the interests of the public in having rights of access over coastal land, and the interests of owners and occupiers of land over which any coastal access rights would apply. This was a key driver in the design of our proposals, which were discussed in detail with the owners and occupiers of the affected land during 'walking the course' and other processes, and are reflected in the chapters of the report insofar as they were relevant to the individual lengths of coast described.

Rural coast

The coast between Whitstable Harbour and Ridham Docks, Iwade consists predominantly of rural, farmed landscape and small urban settlements. Along the rural farmed land sections, the existing public access provisions (predominantly the Saxon Shore Way) mainly follow raised seawalls along the coast. In general along these stretches of open coast, access is already managed effectively. However, there were concerns raised by landowners such as the Kent Wildlife Trust and others about the potential impact the trail may have on designated and local wildlife sites. These concerns are addressed in section (b) Protection of sensitive features of this Overview document and in the relevant chapters of the report.

Urban areas

The towns and villages of Whitstable, Seasalter, Faversham, Oare and Conyer are predominantly urban in character, albeit generally with sea or creek views alongside areas of beach, foreshore and other coastal and estuarine land. The areas of Murston and the outskirts of Sittingbourne (chapter 4) are predominantly commercial in nature.

The issues raised by owners and occupiers on the urban parts of the stretch generally related mainly to the operational needs of businesses or the privacy of residents and their private use of the coast, for example private beaches, seawalls or creekside walkways. Some of these issues are 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. Land which becomes subject to development in the future will also become excepted from the coastal access rights if it is developed in these ways. Annex C: Excepted land categories sets out these provisions in more detail.

Concerns were raised by landowners in the following areas:

Chapter 1

Whitstable: Concerns were raised about formalising a right of access within the coastal margin, in regard to the ability of the landowner to carry out commercial oyster fishing operations on the intertidal and beach areas of Whitstable town. This includes the regular use and maintenance of oyster bags and 'trestles' (metal racks used to hold bags of growing oysters) and concerns over contamination and trampling of oysters sown and

collected directly from the intertidal foreshore. Following these concerns, discussions with Cefas and our assessment that the new right of access would not change levels or patterns of access across the margin significantly, we have made specific recommendations to address this issue. We propose to exclude the new coastal access rights from discrete areas of the foreshore where trestle structures that house oysters are grouped together, in order that their regular maintenance would not be interrupted.

Seasalter

Owners of houses along Admiralty Walk (map 1b) raised concerns about the proximity of the path to their beachside gardens and expressed fears that their ability to launch private boats would be hindered. The residents of Preston Parade were concerned that their continued private use of the surfaced sea defence and adjacent land within the residential estate would be adversely affected by the introduction of access rights. In response to the concerns raised, we make specific recommendations outlined in chapter 1, including improved signage to clarify the route below Admiralty Walk and Preston Parade and alert walkers to the potential presence of boating activities along this part of the coast.

Faversham Road, Seasalter

Residents on both the seaward and landward sides of Faversham Road, west of Seasalter, had concerns that relate to potential effects on their privacy due to the proximity of walkers to their houses and gardens. They also had concerns about potential erosion impacts on the beach and damage to local wildlife from any promoted route that is aligned away from the current Saxon Shore Way (which is routed on the busy Faversham Road). The alignment proposed is inland of both the beach and the coast road. To take account of the concerns raised by the residents along the south side of the road, whose gardens and houses are close to a raised flood defence embankment, we make specific recommendations outlined in chapter 1, including aligning the route away from the top of the embankment to protect their privacy and providing signage to re-enforce the route and alert walkers to the residential nature of the area.

Further concerns were raise by landowners such as the Kent Wildlife Trust regarding potential impacts of the trail on the designated wildlife sites and Nature Reserves along the Swale Estuary. These issues are addressed in section (b) Protection of sensitive features within this Overview.

Chapter 2

Faversham

Within Faversham, the existing Saxon Shore Way runs inland of the Creek in places, around quayside boat yard businesses and private estates with creek frontage.

The boat yards and quayside businesses around Iron Wharf, Standard Quay and at Faversham Reach (map 2b) vary in their use of the quayside. Concerns were raised about potential impacts on their operational use of quayside, with safety concerns relating to machine use and the proximity of the trail to the edge of the quay. To take account of concerns raised by these businesses, we make specific recommendations outlined in chapter 2, including signage

to alert walkers of temporary machine movements across the path and proposing a long term exclusion at a section of wharf at Iron Wharf, under s24 of the Countryside and Rights of Way Act (2000), for the purpose of prevention of disruption to ongoing commercial activity.

There are a number of private residential estates along Faversham Creek, with varying levels of existing public access – for example at Provender Walk on the south-east bank near Belvedere Road (map 2b), pedestrians can walk through the private estate onto and along the creekside walkway, but are not encouraged to do so. Further towards the Swing Bridge there is another residential estate where public access along the creekside walkway is promoted. See map 2b.

On the north-western bank, Faversham Reach private residential estate has an existing, albeit obstructed, public footpath which leads to the creekside, while in the neighbouring Waterside Close there has been some limited access through the estate onto the creekside walkway. See map 2b.

Most residents from these residential estates had concerns about a trail alignment along the existing creekside walkways, including safety, impacts on privacy and communal use of the walkways, the potential for antisocial behaviour and dog fouling, concerns over the future maintenance of the walkways and impacts on operational use of boat businesses that use moorings adjacent to the residential estates.

On the north-western bank (Faversham Creek and Waterside Close) the concerns raised reflect the objections that have been submitted to Kent County Council's consultation on creating a new public footpath (ZF43) along the entire length of the walkways of these two residential estates with the addition of two new ramps to connect the walkways with the adjacent paths.

Kent County Council's plans for this footpath are due to be submitted to the Secretary of State in 2017. Our proposals do not align the trail along the creekside walkways, but do include a commitment to move the approved route onto the walkways through a variation report, if and when this public footpath and the associated ramps are established.

Chapter 3

Oare

Concerns here related to the dangers posed to the public by heavy machinery in the commercial boatyards. There were also concerns about antisocial behaviour on or near the trail in these areas. The final proposals, outlined in chapter 3, make specific recommendations including aligning the route inland from the boat yard, on the raised seawall embankment and creating a direction to exclude coastal access rights from the creekside commercial area.

Chapter 4

Sittingbourne area

No specific concerns were raised in this area.

f) Coastal processes

The principal source of information regarding coastal processes on this stretch of coast are the Medway & Swale Estuary Shoreline Management Plan (2010) and the Isle of Grain to South Foreland Shoreline Management Plan (2008) (see Annex A: Bibliography), both of which are non-statutory policy documents for the management of flood risk and coastal erosion. In addition, the Environment Agency is developing a Medway Estuary and Swale Flood and Coastal Risk Management Strategy, as some areas around the Swale Estuary are low-lying and at real risk due to aging flood defences, rising sea levels and climate change. The strategy will cover how flood risk is managed over the next 100 years along this coast around Sittingbourne, Conyer and Faversham, and where the current sea defences may be realigned. The Medway Estuary and Swale Flood and Coastal Risk Management Strategy was in development during the consultation and publication of this report, with the final approved version due in 2017.

With reference to all these documents, and with advice from the Environment Agency and officers from relevant local authorities, we have identified the lengths of coast within this stretch which are particularly susceptible to coastal erosion, possible managed re-alignment or other geomorphological processes, such as landslips.

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

- on, or on the landward side of sea defences which would protect it;
- landward of the roads and railway which would be protected under the policies set out in the Shoreline Management Plan 2, and
- on areas of beach that we are advised will remain suitable for public access.

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).

Much of the low lying, rural coastline of the stretch between Whitstable and Iwade is defended by earth embankments, along which the trail is often aligned. These seawalls are maintained to varying standards, and both of the relevant Shoreline Management Plans and the developing Medway Estuary and Swale Flood and Coastal Risk Management Strategy highlight the possibility of some managed realignment within the Swale Estuary, although the exact locations are still being finalised by the Environment Agency. We have therefore proposed to recommend that the trail is able to rollback along a significant portion of the coastal seawalls. On these lengths of coast the trail would be 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 developed areas of Whitstable and Seasalter (chapter 1), Faversham (chapter 2), Conyer (chapter 3) and Murston (chapter 4) are largely fronted by hard defences and we are advised that they are unlikely to be affected significantly by coastal processes in the foreseeable future.

There are parts of these urban areas where the trail runs on the seaward side of the defences and may be subject to occasional closure during storm conditions, however, we are advised that in most of these areas, the trail will not be subject to significant longer term coastal changes and we have not made any specific proposals to enable the trail to adapt to coastal change on these sections of the coast.

In Faversham, new floodgates across the Front Bents, on the north-west side of Faversham Creek will control flooding during storm surges, but land to the north may be affected in the long term by coastal processes. We have therefore made a specific proposal in this area to allow the trail to adapt to coastal change (see chapter 2).

Map B: Existing access - Whitstable to Iwade
N
Existing access rights and routes:
Existing Public Rights of Way
Saxon Shore Way
Cycle route
Other access designations:
Village Green
Extent of proposals
A road
B road
Minor road
Railway & station
District Boundary
0
1.5 Kilometres
IWADE
Ridham Docks
Kemsley
Little Murston
Sittingbourne
Conyer
ISLE OF SHEPPY
Uplees
Oare Marshes
Oare
South Swale Local Nature Reserve
Nagden
Graveney
Faversham
Goodnestone
Dargate
Hernhill
Yorkletts
Seasalter
WHITSTABLE
The Swale
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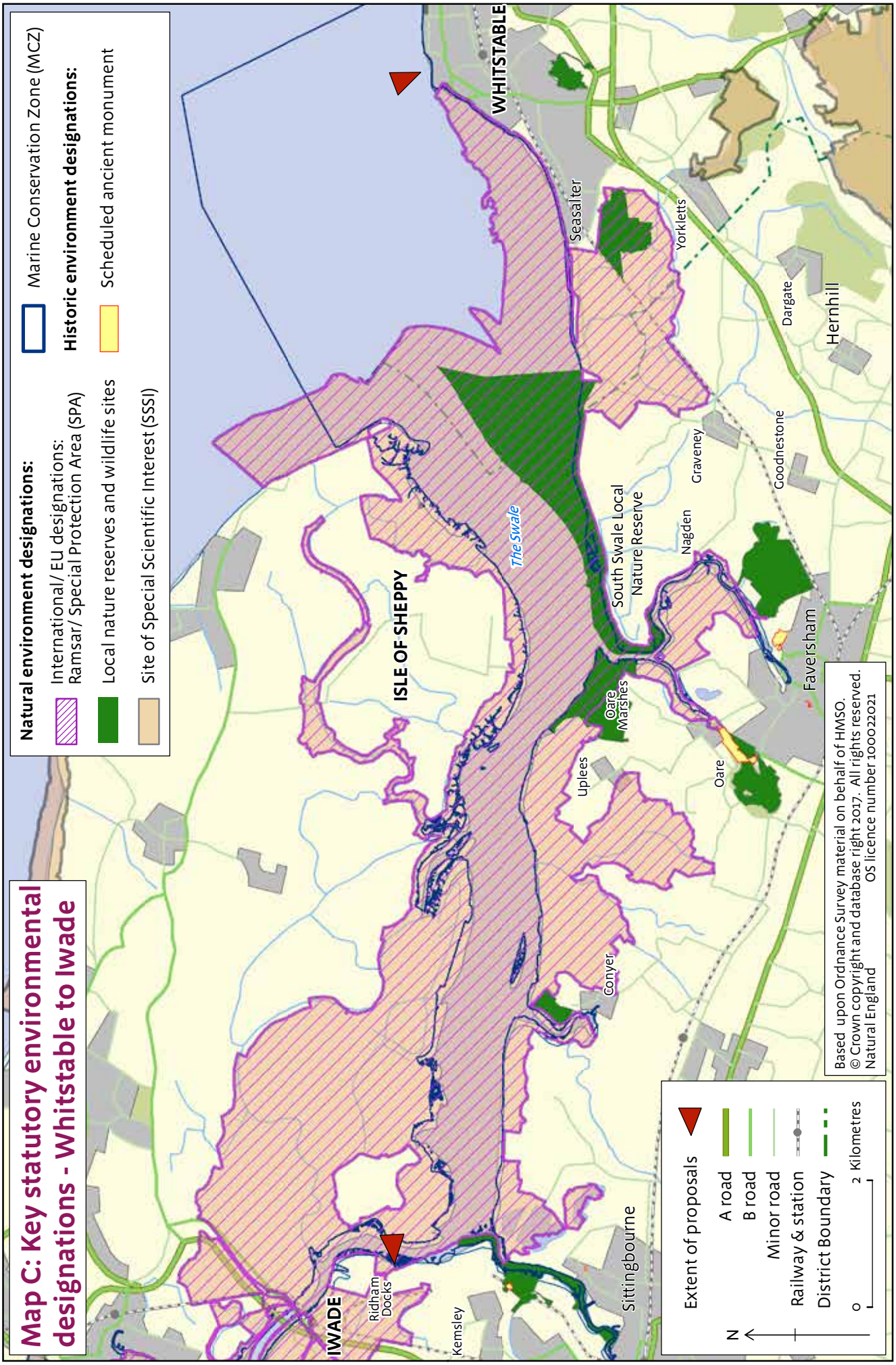
Map C: Key statutory environmental designations - Whitstable to Iwade
Natural environment designations:
International/ EU designations: Ramsar/ Special Protection Area (SPA)
Local nature reserves and wildlife sites
Site of Special Scientific Interest (SSSI)
Marine Conservation Zone (MCZ)
Historic environment designations:
Scheduled ancient monument
WHITSTABLE
Seasalter
Yorkletts
Dargate
Hernhill
Graveney
Goodnestone
Nagden
South Swale Local Nature Reserve
The Swale
ISLE OF SHEPPY
Oare Marshes
Uplees
Oare
Faversham
Conyer
Sittingbourne
Kemsley
Ridham Docks
IWADE
Extent of proposals
A road
B road
Minor road
Railway & station
District Boundary
N
0
2 Kilometres
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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 the existing route of the Saxon Shore Way, public rights of way and established informal paths and creekside walkways. Our estimate of the capital costs for physical establishment of the trail on the proposed route is £54932 and is informed by:

- information already held by the access authority, Kent County Council, in relation to the management of the existing Saxon Shore Way and public rights of way;
- estimates for interpretation and signage and the infrastructure requirements; 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 a number of main elements to the overall cost:

- A significant number of new signs would be needed on the trail, in particular on route sections where the proposed route differs from that of the existing Saxon Shore Way Path.
- Notices, information boards and other access management measures such as scrub planting associated with managing access to minimise impacts on internationally important wildlife interests;
- The surfaces and access furniture of existing paths and walkways on the proposed route are generally of a suitable standard for the trail, but there are some places where new and improved surfaces and infrastructure and the removal of obstructions would enhance the convenience of the trail. These are mentioned in the detailed descriptions for the relevant route sections in the proposals.
- Road improvement works at Oare (chapter 3) to provide refuge bays for walkers;

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

Table 1: Estimate of capital costs

Item	Cost	
Signs	£8357	
Wildlife management measures	£14015	
Surface, steps and other route improvements	£22880	
Road improvement works	£7000	
Project Management	£2680	
Total	**£54932**	**(Exclusive of any VAT payable)**

Once the Secretary of State's decision on our report has been notified, we, or Kent County Council 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 Whitstable and Iwade 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 £23,003 (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 to 4 of the proposals include proposals for the route to 'roll back' either:

- in direct response to coastal erosion or other geomorphological processes, or significant encroachment by the sea; or

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

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

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

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

- the local factors present at that time, including any views expressed by people with a relevant interest in affected land;

- the terms of the Coastal Access duty (see Annex B: Glossary of terms), including the requirement to aim to strike a fair balance between the interests of the public and the interests of any person with a relevant interest in the land; and

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

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

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

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

Whilst coastal change is inherently difficult to predict with any accuracy, this report identifies those parts of the stretch where we consider such powers are likely to be needed over time in order to ensure continuity of the trail. These are mostly along the low-lying rural coastline where the trail is aligned on top of the seawall that is subject to coastal erosion and the possibility of managed realignment as outlined in the Shoreline Management Plans for the area or as part of the developing Medway Estuary and Swale Flood and Coastal Risk Management Strategy. These areas include:

- land west of Seasalter (chapter 1, map 1b) to Abbey Fields on Faversham Creek (chapter 2, map 2a);
- land between the Front Brents in Faversham (chapter 2, map 2b) and Hollowshore (chapter 3, map 3a);
- land from the western bank of Oare Creek (chapter 3, map 3c) to the former brickworks at Conyer Creek (chapter 3, map 3f) and from the western side of Conyer Creek (chapter 3, map 3g) to the eastern bank of Milton Creek (chapter 4, map 4a), and
- land on the west bank of Milton Creek south of Kemsley Marshes (chapter 4, map 4a).

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 top of the 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 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 Whitstable to Iwade stretch are summarised below:

Chapter 1

- The Whitstable Oyster Company may continue to expand their oyster trestle operations on land seaward of the trail, off Whitstable's Reeves Beach (map 1a). If this takes place, we will review the extent of the current direction, which is detailed below in part 9.

- At Nagden House (map 1g) the definitive line of the public right of way has been obstructed and the coast path is aligned to an unofficial route adjacent to the blockage. If, in the future, the obstruction is removed and there is free passage along the definitive alignment of the public right of way, we would review the situation, and any resulting proposals to change the alignment of the trail would require the submission of a variation report to the Secretary of State.

Chapter 2

- At Oyster Bay House (map 2b, section WSI-2-S019) the definitive line of the public right of way has been obstructed and the coast path is aligned to an unofficial route adjacent to the blockage. If, in the future, the obstruction is removed and there is free passage along the definitive alignment of the public right of way, we would review the situation, and any resulting proposals to change the alignment of the trail would require the submission of a variation report to the Secretary of State.

- The implementation of the draft Faversham Creek Neighbourhood Plan may, through planning development agreements, provide opportunities for further access along the edge of Faversham Creek (map 2b). In such circumstances the alignment of the England Coast Path would be reviewed and any resulting proposals to change the alignment of the trail would require the submission of a variation report to the Secretary of State.

- In Faversham, Kent County Council is currently seeking to create a public footpath onto and along the creekside walkways within Faversham Reach and Waterside Close residential estates on the north-west bank of the creek (map 2b). The Orders for this new public footpath should be submitted in 2017 and if a new public footpath is established, we will then prepare and submit a variation report to the Secretary of State to realign the coast path along the creekside.

Chapter 3

- At the site of a former brickworks, on Conyer Creek (map 3f), there are developing plans for some housing, which may affect the route of the trail. In such circumstances the alignment of the England Coast Path would be reviewed and any resulting proposals to change the alignment of the trail would require the submission of a variation report to the Secretary of State.

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

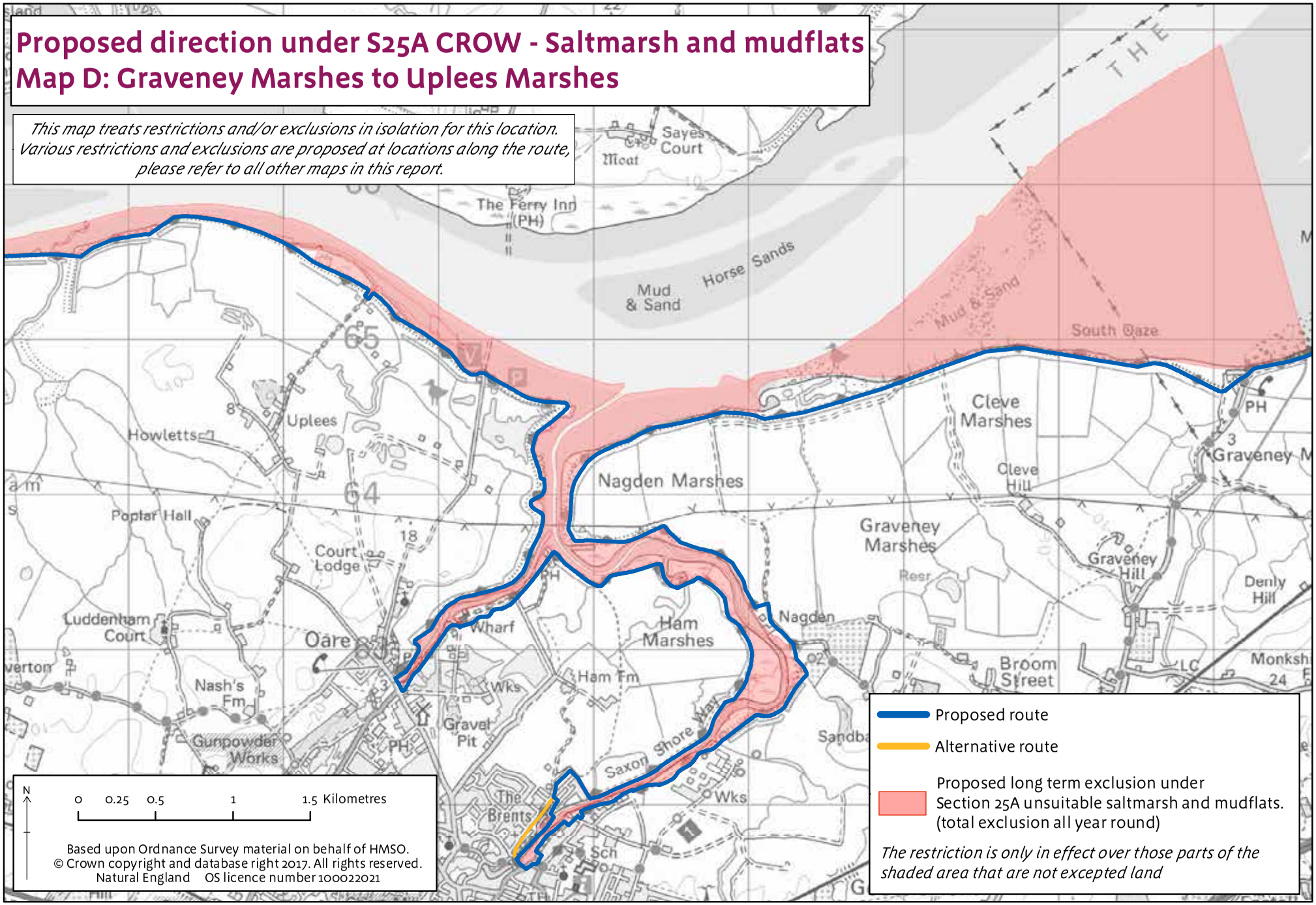
Below, we provide the details and explain the practical effects of any directions to exclude or restrict coastal access rights proposed by this report.

Refer to Part 6.7 and Figure19 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
1	Whitstable: part of the intertidal area of the beach - Reeves Beach (map F).	No public access	Commercial activities	Land management 24	All year round
1	The mudflats and saltmarsh between Seasalter (WSI-1-S051) and Nagden (map D)	No public access	Unsuitable for public access	Salt marsh and flat 25A	All year round
1	Castle Coote, part of South Swale Local Nature Reserve (map G)	No public access	Sensitive wildlife	Nature conservation 26(3)(a)	All year round
2	Iron Wharf, Faversham Creek (map H)	No public access	Commercial activities	Land management 24	All year round
2	The mudflats and saltmarsh between Nagden and Hollowshore (map D)	No public access	Unsuitable for public access	Salt marsh and flat 25A	All year round
3	Oare Creek boatyard (map I)	No public access	Commercial activities	Land management 24	All year round
3	The mudflats and saltmarsh between Hollowshore and Little Murston (maps D and E)	No public access	Unsuitable for public access	Salt marsh and flat 25A	All year round
4	The mudflats and saltmarsh between Little Murston and Ridahm Docks, Iwade (map E)	No public access	Unsuitable for public access	Salt marsh and flat 25A	All year round

Proposed direction under S25A CROW - Saltmarsh and mudflats
Map D: Graveney Marshes to Uplees Marshes

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



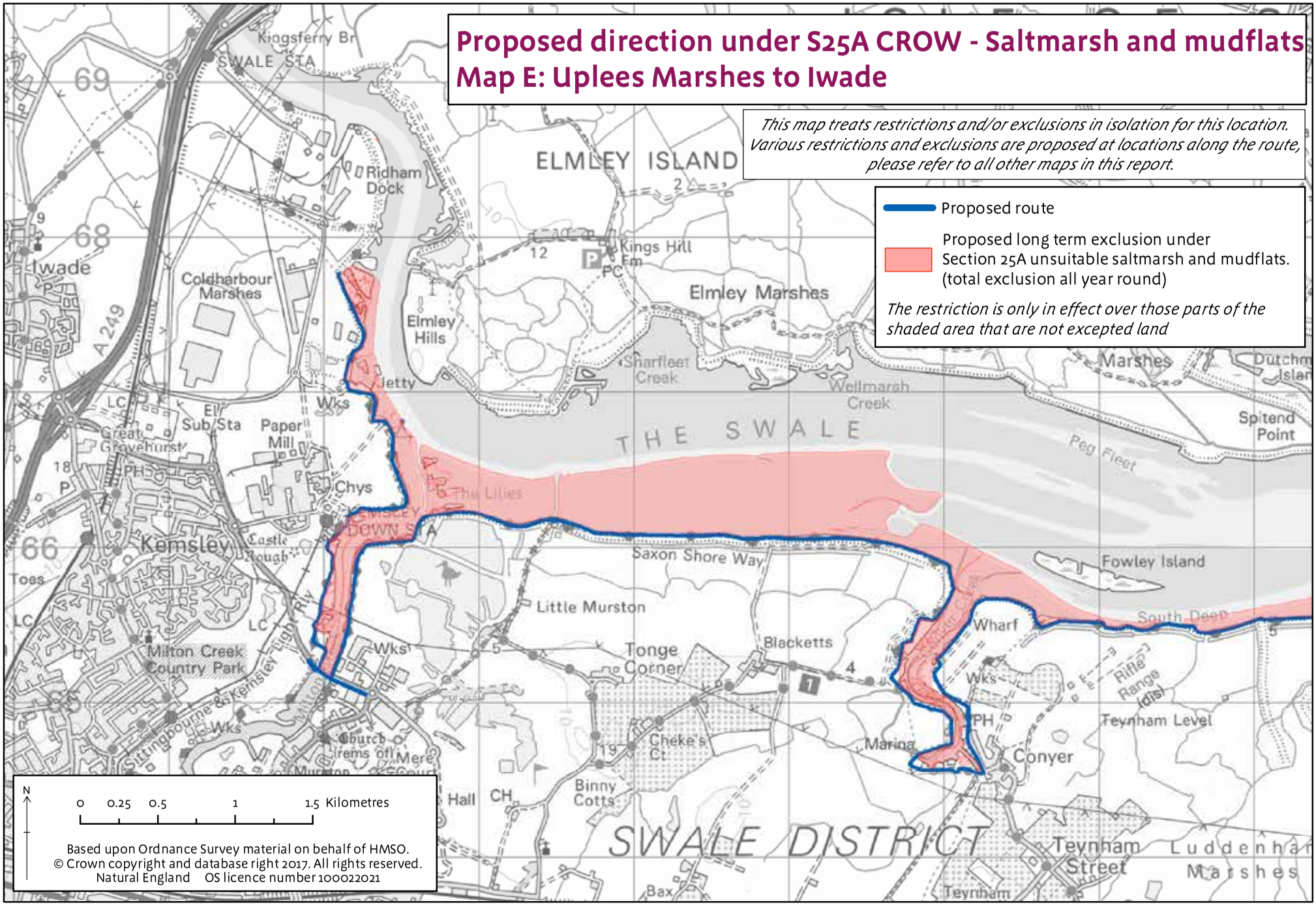
Proposed direction under S25A CROW - Saltmarsh and mudflats
Map E: Uplees Marshes to Iwade

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

Proposed route

Proposed long term exclusion under Section 25A unsuitable saltmarsh and mudflats. (total exclusion all year round)

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



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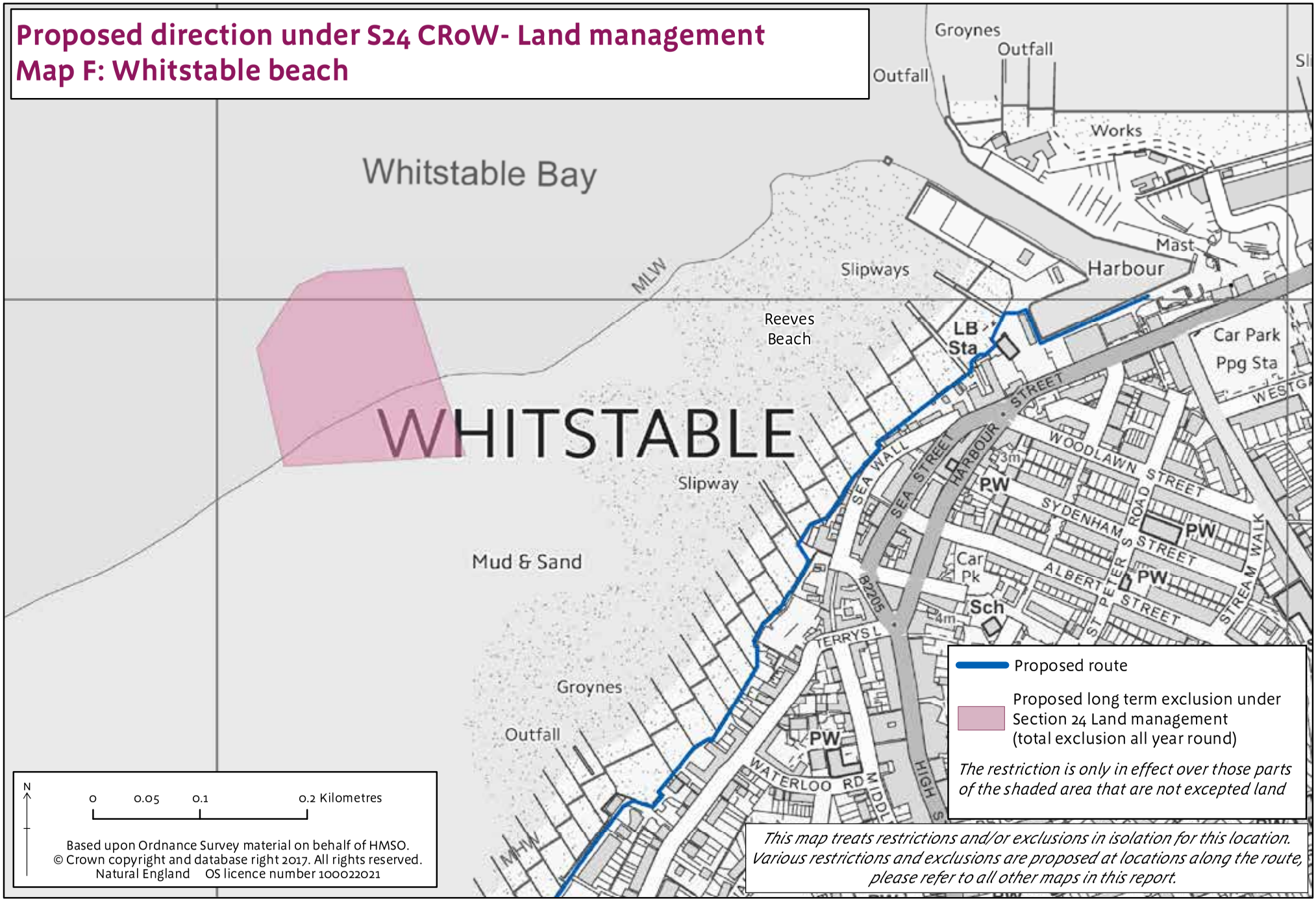
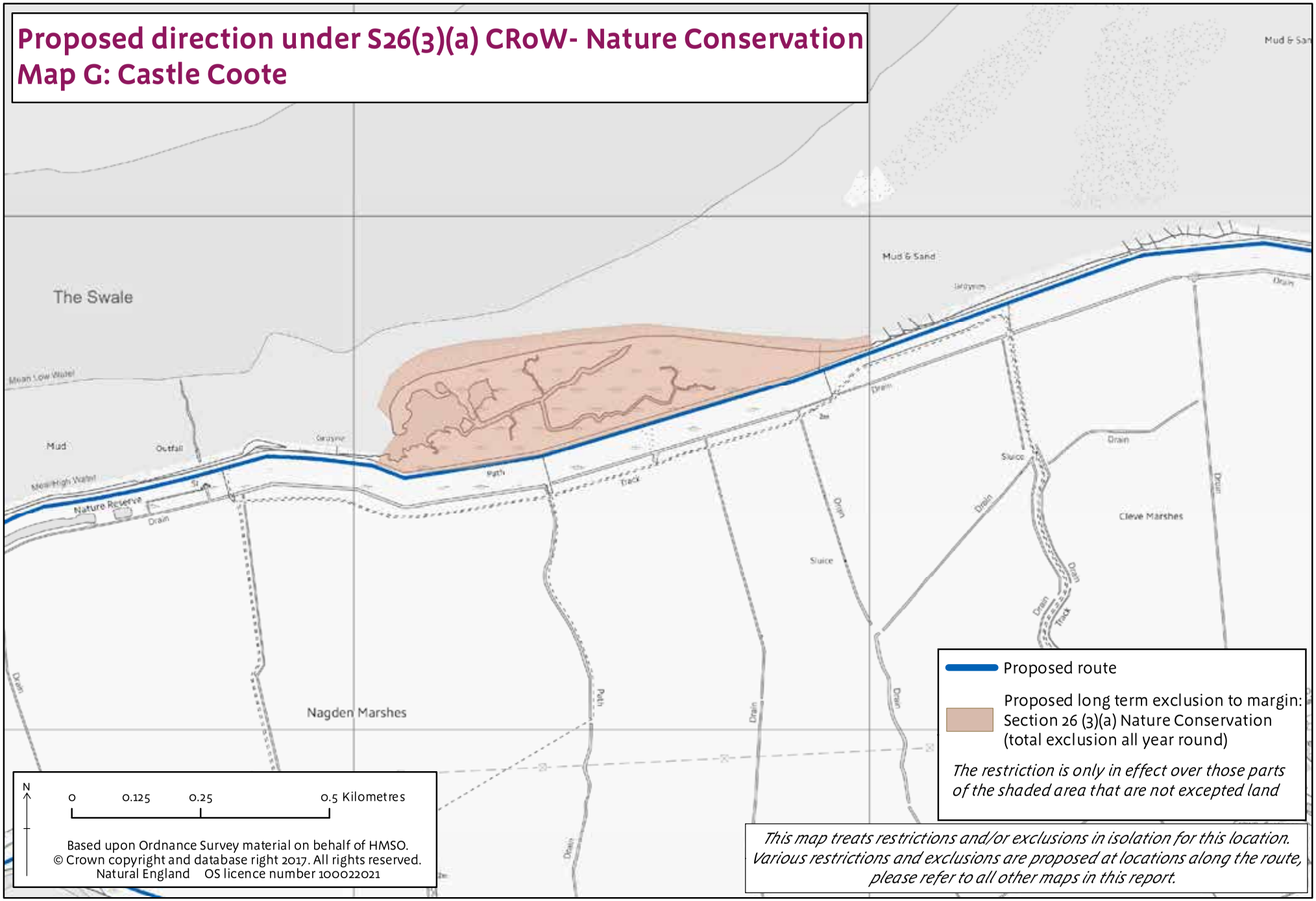
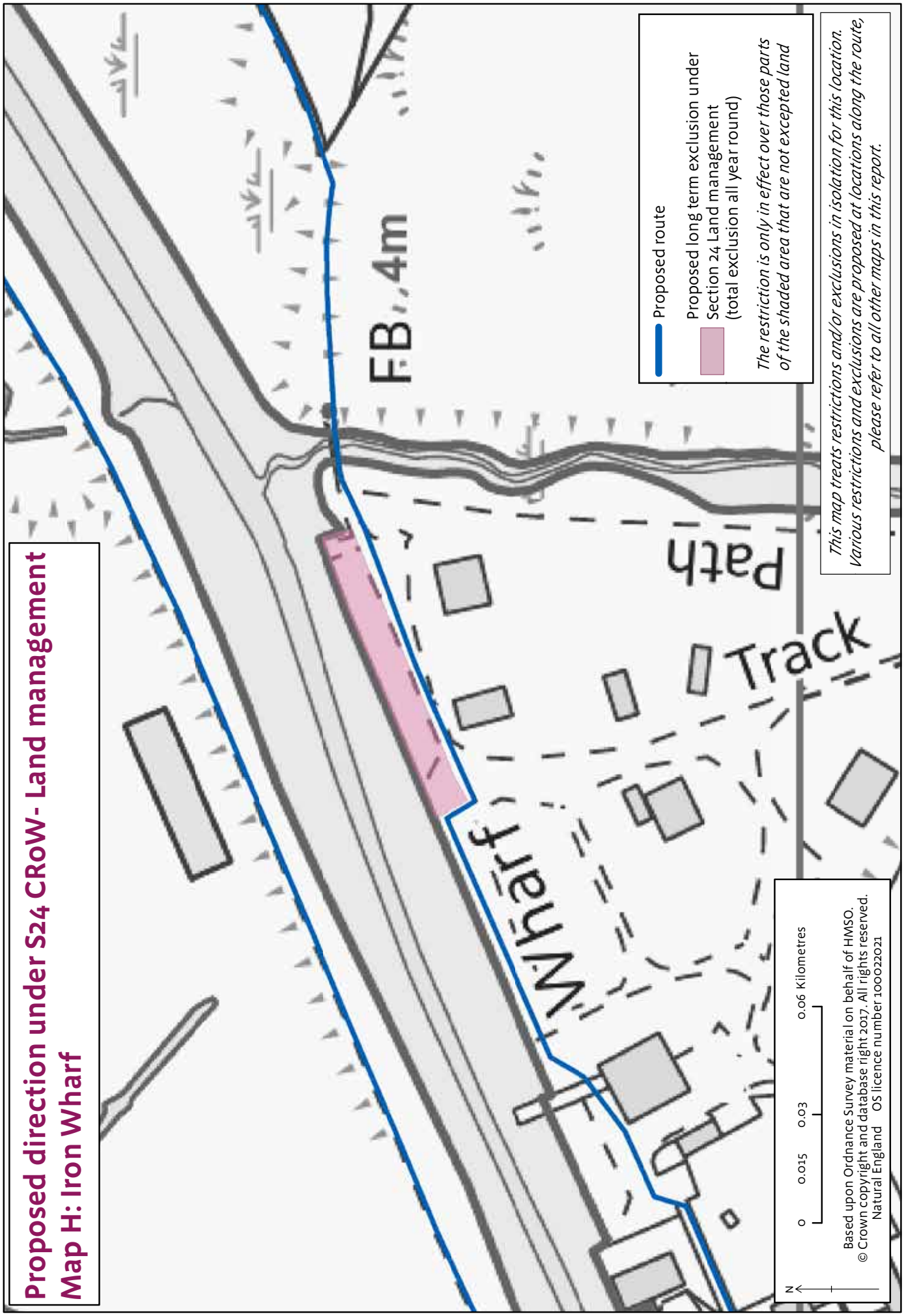
Proposed direction under S24 CRoW- Land management
Map F: Whitstable beach



Proposed direction under S26(3)(a) CRoW- Nature Conservation
Map G: Castle Coote




Proposed direction under S24 CRoW- Land management
Map H: Iron Wharf
Wharf
Track
Path
FB
4m
Proposed route
Proposed long term exclusion under Section 24 Land management (total exclusion all year round)
The restriction is only in effect over those parts of the shaded area that are not excepted land
This map treats restrictions and/or exclusions in isolation for this location. Various restrictions and exclusions are proposed at locations along the route, please refer to all other maps in this report.
N
0
0.015
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0.06 Kilometres
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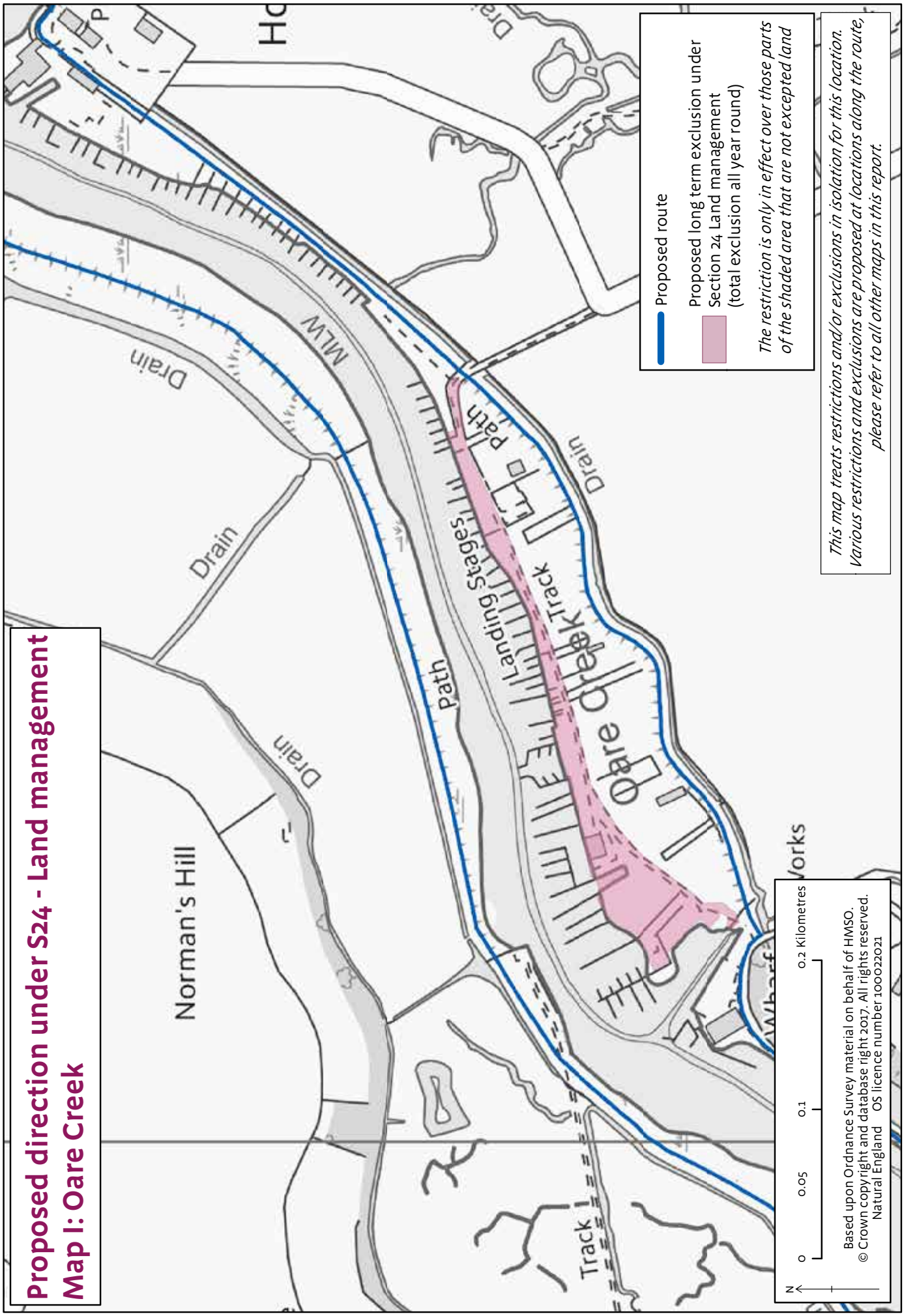
Proposed direction under S24 - Land management
Map I: Oare Creek
Norman's Hill
Drain
Drain
Drain
Drain
MLW
Path
Path
Landing Stages
Track
Oare Creek
Track
Works
Proposed route
Proposed long term exclusion under Section 24 Land management (total exclusion all year round)
The restriction is only in effect over those parts of the shaded area that are not excepted land
This map treats restrictions and/or exclusions in isolation for this location. Various restrictions and exclusions are proposed at locations along the route, please refer to all other maps in this report.
N
0
0.05
0.1
0.2 Kilometres
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10. The Swale Estuary

The proposed Whitstable to Iwade stretch sits almost entirely within the Swale's estuarial waters. Under the 2009 Act there is no requirement for the trail to extend up any estuary further than the seaward limit of the estuarial waters (see 'geographical limits of our discretion' below). However, Natural England has a discretion to propose that the trail should extend from this seaward limit as far as the first bridge or tunnel with pedestrian access, or any specified point in between. In exercising its discretion, Natural England must have regard to the criteria described in Part B[1] and Chapter 10[2] of the Coastal Access Scheme. This part of the Overview:

- Describes the geographical limits of our discretion to align the trail along the Swale estuary;
- Analyses the estuary in terms of the alignment criteria for estuaries in chapter 10 of the Scheme;
- Sets out the options for trail alignment which we have identified from this analysis, and
- Explains how we propose to use our discretion to extend the trail upstream of the seaward limit of the estuary.

Geographical limits of our discretion

Map J shows the Swale Estuary. It is the strip of water separating 'mainland' Kent from the Isle of Sheppey and has a number of small tributary creeks flowing into it, including Faversham and Oare Creeks, Conyer Creek and Milton Creek. The seaward limit of its transitional waters runs between a point near Seasalter and a point west of Kingsferry Bridge, where the Swale empties into the Medway Estuary. This is shown on map J.

In relation to each of the tributary estuaries that merge with the Swale, we have identified the first bridge or crossing with pedestrian access, upstream of which our further discretion to propose a route would not apply.

- Faversham Creek: the Swing Bridge (see chapter 2, map 2b)
- Oare Creek: The Street (see chapter 3, map 3b)
- Conyer Creek: near Swale Marina (see chapter 3, map 3g)
- Milton Creek: River Swale Bridge (see chapter 4, map 4a)

1 Chapter 4 describes the considerations that Natural England is required by section 297(2) of the 2009 Act to have specific regard to in relation to the trail.
2 10.2.2 summarises the additional statutory criteria ('the estuary criteria') described by S301(4) of the 2009 Act, which we must take into account when deciding whether, and if so how to exercise our discretion to extend the trail along an estuary.

Alignment criteria for estuaries

Ferry Services

There are no ferry services across or along The Swale or any of its constituent estuaries west of Seasalter.

Character of the estuary

Estuary width

The Swale forms the channel between the north Kent coast and the Isle of Sheppey. It varies in width along its length, with a wide expanse of open water at the eastern end of The Swale, near Seasalter, which gives a sense of walking along the 'open coast'. The estuary narrows significantly west of Faversham and Oare creeks, with a very narrow section west of Milton Creek. The tributary creeks vary in width, from the relatively narrow channels in Faversham, Oare and Conyer to the wider channel of Milton Creek.

Nature of the land

Along this stretch the access user will be acutely aware that they are walking along a tidal estuary, with its associated saltmarsh and mudflats directly adjacent to the seawall on which the trail is often located. In addition to its tidal nature, estuarial habitats and associated coastal wildlife, the waterborne traffic reflects the coast and open waters of the Thames Estuary and the English Channel beyond– and walkers can enjoy close-up views of Thames sailing barges, yachts and industrial cargo ships.

The estuary is set in a very low lying rural landscape, and when viewed from a distance, the tidal waters are often hidden by the raised seawalls. Once on top of the seawalls, the unique views across and along the estuary and creeks provide for a strong coastal feel.

Features of interest

The Swale and its creeks are renowned for their internationally important wintering wildfowl that utilise the salt marsh and the expanses of mud that are exposed at low tide. The area holds great cultural interest focussed around the historic town of Faversham, with its boat building heritage and the annual oyster and nautical festivals. There are also views across the Swale and out to the Thames that capture how important the north Kent coastline has been over the ages, from the Sea Forts off Whitstable to the vast windfarms of today.

Recreational Benefit

The England Coast Path will create a permanent right of access along the Swale Estuary and its tributary creeks, which in the future will link the north Kent coast to the Isle of Sheppey (subject to Secretary of State approval). A legal right of access will be secured over those

sections of the Saxon Shore Way coastal path that currently rely on permissive rights only. Some sections of the tidal creek of Faversham that are not to date accessible to the public by right will become subject to the new access rights and the safety of the coastal path within some of the estuary's more industrial areas will be improved.

Excepted land

There is a relatively small amount of excepted land within the coastal margin of the estuary, in the creekside towns such as Faversham, Oare and Conyer, where industrial and commercial compounds as well as houses with gardens are located seaward of the trail.

Options

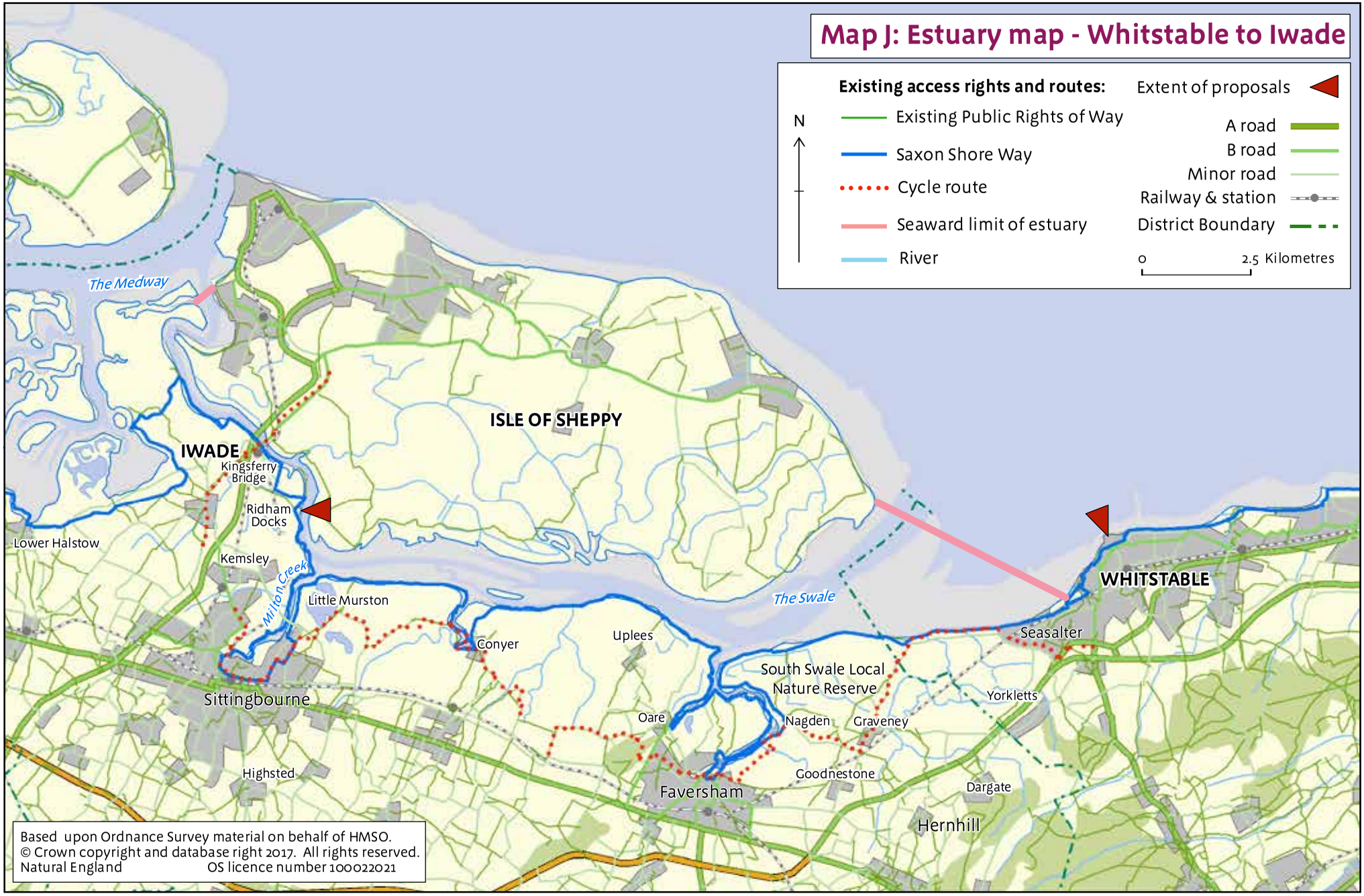
Option 1 - End the trail on the north Kent coast at the estuarial limit, near Seasalter. We would lose a valuable opportunity to secure and improve the existing coastal route along the north Kent coast; coastal walkers would not be able to enjoy the improvements brought by the England Coast Path and no continuous route would become available onto the Isle of Sheppey.

Option 2 - Align the trail along the entire southern side of the Swale Estuary, between the transitional water limit near Seasalter and the end of the stretch at Ridham Docks, Iwade.

Proposed route for the trail

We have proposed Option 2. In our view, this option offers the greatest scope for improvement to public access on this part of the coast by:

- Creating a continuous way-marked route along the southern side of the Swale Estuary, west of Whitstable.
- Reducing interruptions to the route around the English coast. In the future, we plan to propose to the Secretary of State in a separate report that the England Coast Path should continue westwards along The Swale Estuary towards the Medway Estuary and also across the Kingsferry Bridge to the Isle of Sheppey.
- Improving the existing promoted coast path and securing creekside access to a new section of the Swale's tributary estuaries.
- Facilitating sustainable access to the wonderful natural and historic heritage of this area.


Map J: Estuary map - Whitstable to Iwade
Existing access rights and routes:
Existing Public Rights of Way
Saxon Shore Way
Cycle route
Seaward limit of estuary
River
Extent of proposals
A road
B road
Minor road
Railway & station
District Boundary
N
0
2.5 Kilometres
The Medway
ISLE OF SHEPPY
IWADE
Kingsferry Bridge
Ridham Docks
Lower Halstow
Kemsley
Milton Creek
Little Murston
Conyer
Uplees
The Swale
WHITSTABLE
Seasalter
South Swale Local Nature Reserve
Yorkletts
Sittingbourne
Oare
Nagden
Graveney
Highsted
Goodnestone
Faversham
Dargate
Hernhill
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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:

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The Coastal Access Reports (Consideration and Modification Procedure) (England) Regulations 2010
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Environmental legislation referred to in the report

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(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)
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Kent Ramblers – Kent Coastal Access
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www.kentramblers.org.uk/coastal/survey/Swale.pdf

Making the most of Kent's Countryside and Coast, Countryside and Coastal Access Improvement Plan 2013-17
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Annex B: Glossary of terms

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

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

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

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

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

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

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

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

appropriate assessment means, for the purposes of the Scheme, an assessment of the implications of a plan or project for a **European site** in view of the site's conservation objectives, made in accordance with Article 6.3 of the **Habitats Directive**. Natural England is required to conduct an appropriate assessment where it concludes that the introduction of **coastal access rights** in the form proposed is likely to have a significant effect on the conservation objectives for a European site. Our proposals to the Secretary of State include as necessary any local measures designed to prevent such a likely significant effect arising from improved access. Section 4.9 of the Scheme explains in more detail how we fulfil this requirement where it is relevant.

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

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

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

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

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

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

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

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

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

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

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

European site means a site:

- classified as a Special Protection Area (SPA) for birds under the **Birds Directive**; or
- designated as a Special Area of Conservation (SAC) under the **Habitats Directive**; or

- proposed to the European Commission as a site eligible for designation as a SAC for the purposes of Article 4.4 of the Habitats Directive (a candidate SAC).

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

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

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

excepted land – see Annex C of the Overview.

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

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

gate is used in several ways in the report:

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

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

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

the **legislation** is the term the report uses to describe four pieces of legislation which include provisions relevant to the implementation of our proposals: the **2009 Act**, the **1949 Act**, **CROW** and the **Order**. There

are separate entries in the glossary which describe each of these in more detail.

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

national restrictions – see Annex D of the Overview.

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

objection means an objection by a person with a relevant interest in affected land to Natural England about a proposal in the report. An objection must be made on certain specified grounds, in accordance with the provisions in Schedule 1A of the **1949 Act** (as inserted by Schedule 19 of the **2009 Act**). Stage 3 of the implementation process described in chapter 3 of the Coastal Access Scheme provides an overview of the procedures for considering objections.

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

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

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

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

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

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

restrict/restriction – see "exclude/exclusion".

Roll-back is the term the Scheme uses to describe arrangements made under the provisions of section 55B of the **1949 Act**, whereby we may propose to the **Secretary of State** in a **coastal access report** that the route of a specified part of the **trail** which is subject to significant erosion or other coastal processes, or

which links to such a section of trail, should be capable of being repositioned later in accordance with the proposals in our report, without further confirmation by the Secretary of State. Section 4.10 of the Scheme explains in more detail how this works.

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

Scheduled Monument means a site or monument of national importance given legal protection by virtue of being listed on the Schedule of Monuments under section 1 of the Ancient Monuments and Archaeological Areas Act 1979.

section 15 land means land with public access rights under:

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

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

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

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

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

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

roads or public rights of way cross spreading room, they remain subject to the existing highway rights rather than becoming subject to coastal access rights.

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

strategic environmental assessment means the overall requirements of European Community Council Directive 2001/42/EC. Sections 4.9.9 and 4.9.10 of the Scheme describe the circumstances in which we would conduct a strategic environmental assessment.

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

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

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

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

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

Annex C: Excepted land categories

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

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

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

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

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

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

Annex D: National restrictions

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

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

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

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

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

- permanently (i.e. on behalf of himself and future owners of the land), by dedicating such rights under section 16 of the Countryside and Rights of Way Act 2000 (CROW); or

- until further notice, by agreeing that we should give a direction under CROW Schedule 2 paragraph 7 to this effect.

We can provide more information about these options on request.

Countryside and Rights of Way Act 2000

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

General restrictions

1 (1) Subject to sub-paragraph (2), section 2(1) does not entitle a person to be on any land if, in or on that land, he –

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

(2) Nothing in sub-paragraph (1)(f) or (j) affects a person's entitlement by virtue of section 2(1) to be on any land which is coastal margin if the person's conduct (to the extent that it falls within sub-paragraph (1)(f) or (j)) is limited to permitted fishing-related conduct.

(3) In sub-paragraph (2) the reference to permitted fishing-related conduct is a reference to the person –

(a) having a fishing rod or line, or
(b) engaging in any activities which –
  (i) are connected with, or ancillary to, fishing with a rod and line, or with a line

only, in the exercise of a right to fish, and

(ii) take place on land other than land used for grazing or other agricultural purposes.

2 (1) In paragraph 1(k), "metal detector" means any device designed or adapted for detecting or locating any metal or mineral in the ground.

(2) For the purposes of paragraph 1(q) and (r), activity on any occasion on the part of a person or persons on land is "lawful" if he or they may engage in the activity on the land on that occasion without committing an offence or trespassing on the land.

3 Regulations may amend paragraphs 1 and 2.

4 (1) During the period beginning with 1st March and ending with 31st July in each year, section 2(1) does not entitle a person to be on any land if he takes, or allows to enter or remain, any dog which is not on a short lead.

(2) Sub-paragraph (1) does not apply in relation to land which is coastal margin.

5 Whatever the time of year, section 2(1) does not entitle a person to be on any land if he takes, or allows to enter or remain, any dog which is not on a short lead and which is in the vicinity of livestock.

6 In paragraphs 4 and 5, "short lead" means a lead of fixed length and of not more than two metres.

6A (1) Whatever the time of year, section 2(1) does not entitle a person to be on any land which is coastal margin at any time if –

(a) that person has taken onto the land, or allowed to enter or remain on the land, any dog, and

(b) at that time, the dog is not under the effective control of that person or another person.

(2) For this purpose a dog is under the effective control of a person if the following conditions are met.

(3) The first condition is that – (a) the dog is on a lead, or

(b) the dog is within sight of the person and the person remains aware of the dog's actions and has reason to be confident that the dog will return to the person reliably and promptly on the person's command.

(4) The second condition is that the dog remains – (a) on access land, or

(b) on other land to which that person has a right of access.

(5) For the purposes of sub-paragraph (4), a dog which is in tidal waters is to be regarded as remaining on access land.

6B (1) Section 2(1) does not entitle a person to be on any land which is coastal margin if, onthat 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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Oare Creek
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