

**NOTICE BY THE APPOINTED PERSON UNDER PARAGRAPH 10 OF
SCHEDULE 1A TO THE NATIONAL PARKS AND ACCESS TO THE
COUNTRYSIDE ACT 1949: OBJECTION ABOUT A COASTAL ACCESS
REPORT**

On 25 July 2016 Natural England submitted a coastal access report to the Secretary of State for Environment, Food and Rural Affairs under section 51 of the National Parks and Access to the Countryside Act 1949 pursuant to its duty under section 296(1) of the Marine and Coastal Access Act 2009. The report relates to Gretna to Allonby.

A person has been appointed^(a) for the purpose of considering an objection which has been received in relation to the report. Details of that objection are given below.

The appointed person is minded to determine that the proposals in the report fail, in the respects specified in the objection, to strike a fair balance^(b) as a result of the matter or matters specified in that objection.

A. Land in the report to which the objection relates:

Beck Brow Marsh

B. Reference to the relevant section of the report to which the objection relates:

Chapter 3 of Natural England's report, Anthorn Marsh East to Beckbrow Cottage (Map 3h). GAL-3-S034, GAL-3-S035 and GAL-3-S036

C. Details of the objection, including details of:

(a) the matter(s) specified in the objection as the ground(s) on which that objection was made, and
(b) any modifications proposed by the objection:

The objection is made on the grounds set out in paragraph 3(3)(a) of Schedule 1A to the 1949 Act; that the proposals in the report fail to strike a fair balance as a result of the position of any part of the proposed route.

Summary of objection

1. The gate at GAL-3-S036 is the main access point to the marsh through which feed trailers are taken. The route then enters a narrow area, fenced on either side and used for holding stock and getting them to safety when there are high tides. The only water trough serving this field is located in this area and is on the only area of higher ground. It therefore cannot be relocated. Walkers would have to pass through congregating cattle which could be dangerous.
2. Stock are run on the marsh most of the year including young stock bulls, new calved cows and suckler cows with calves at foot. They would potentially attack walkers.
3. There is regular tidal flooding. Walkers would have no way back to safe ground as the tide would surround them. The only way to safety would be through an adjacent field where bulls are kept and which are likely to attack.
4. Dog attacks on animals are increasing. Dog mess has Neospora in it which is one of the main factors why cows abort. There is also a risk of walkers leaving gates open and bulls getting mixed which could result in major injury to animals.
5. No liability is accepted in relation to walkers on the land.
6. Migrating birds (in particular geese) come back to the marsh every year and would be disturbed. Photographs provided.
7. There is no objection to use of the alternative route via the road which should become the main route.

D. Details of Natural England's comments on the objection, including any relevant alternative modifications^(c):

1. GAL-3-SO34 is an area of registered common land with public access rights under CROW (although probably in effect an "access island", surrounded by land with no public access rights).
2. The size and shape of the fields together with the proposed alignment allows plenty of separation between walkers and cattle.
3. The frequency of walkers is unlikely to interfere with agricultural movements at the field gate. If problems did arise NE would discuss a range of management measures to resolve any issues.
4. NE notes the evidence of the occasional presence of geese in the fields. The Access and Sensitive Features Appraisal covers the possible impacts on migratory birds. It also represents NEs screening under the Habitats Directive, required to indicate a conclusion of "No Likely Significant Effect" before the project can proceed. This conclusion does not mean that there is no anticipated effect but that the impacts are not likely to be significant when viewed against the protected sites as a whole and the distribution of such species. The conclusion is based on the positioning of the route at the landward edge of the marsh together with NEs view that there will be little to no increase in levels of use across the marsh within the resultant coastal margin. This reflects NEs opinion that the considerable majority of walkers will choose to follow a clearly way-marked path and is reinforced by access exclusions in the area, which will limit new access rights to the trail itself. There is a considerable area of marsh available to birds, seaward of the trail in this area, allowing for plenty of separation between birds and walkers.
5. The conclusions of the Access and Sensitive Features Appraisal prevented NE from proposing what might otherwise have been the preferred option (a new path on land immediately adjacent to the top of the foreshore) as the intertidal area is an important roost and feeding site for a variety of bird species and would be highly susceptible to disturbance by walkers nearby.
6. NE agrees that the proposed main route will be periodically affected by floods. Appropriate signage will alert walkers to the potential dangers of walking on the saltmarsh and remind them to check tide timetables. The optional alternative route along the road will be clearly waymarked.
7. The Approved Scheme recognises the evidence of a link between dog faeces and diseases such as Neosporosis (section 8.6.12) Walkers will be required to keep dogs on leads and to follow the way marked trail all year. This will considerably reduce the potential for interaction between stock and dogs and signs will include advice about responsible dog control.
8. With regard to the proposed modification, this is the optional alternative route proposed by NE. It was discounted as the main route as it is not in close proximity to the sea or estuary and views towards the estuary are minimal, largely prevented by trees, hedgerows, buildings and slightly rising ground. Also alignment along the road would have led to all the land between the road and the estuary becoming coastal margin and it is by no means likely that NE would find adequate reasons to grant a direction to exclude access from this land.

E. If applicable, any observations of the appointed person on any relevant alternative modifications or any modifications proposed by the objection:

The AP notes the representation from the RSPB supporting use of the alternative route as the main route. This is on the basis that in its opinion the proposed route risks causing unacceptable levels of disturbance to SPA/SSSI birds species through the introduction of access onto a site that currently has no access. The RSPB considers that the limited access restrictions and exclusions do not constitute adequate mitigation and that in the absence of sufficient data to inform or contradict the risk the precautionary principle should be followed. The RSPB states that GAL-3-SO33 and GAL-3-SO34 sees large aggregations of feeding geese (anecdotal reports of over 1500 individual pink-footed geese) at all states of tide and that on spring tides the area of available marsh for feeding geese is restricted to the upper sections, often within 50m of the proposed route which

may result in significant disturbance and displacement effects.

The RSPB also states that it is accepted that the increased area of coastal margin which would result from adopting the alternative route as the primary route is not ideal. However, in its view, the linear nature of a route along a lane combined with signage denoting the access restrictions on the marsh as well as a pro-active approach to access management being taken by landowners will likely result in increased compliance from users of the route.

A copy of the report and a map of the area indicating the proposed line of the route and (if applicable) the boundaries of the associated coastal margin which is the subject of the objection above are available at <https://www.gov.uk/government/consultations/england-coast-path-from-gretna-to-allonby-comment-on-proposals> or may be viewed free of charge at

Location	Address	Contact number
Campfield Marsh visitor centre	RSPB Campfield Marsh, North Plain Farm, Bowness on Solway CA7 5AG	01697 351330
Carlisle Library	11 Globe Lane, Carlisle CA3 8NX	01228 227310
The Library, Silloth Discovery Centre	Solway Coast Discovery Centre, Liddell Street, Silloth-on-Solway, CA7 4DD	01697 333055
Kirkbride post office	Kirkbride, Wigton CA7 5JH	01697 351231
Longtown Library	Lochinvar Centre, Longtown, CA6 5UG	01228 791638

and at the Natural England offices at Murley Moss Business Village, Oxenholme Road, Kendal, Cumbria LA9 7RL

This notice invites any person to make representations to the appointed person in connection with the above objection.

Representations may be made about any of the following matters:

- (a) the objection (including any modifications proposed by the objection) (see box C above);
- (b) any relevant alternative modifications in relation to that objection (see box D above); or
- (c) any observations of the appointed person on any relevant alternative modifications or any modifications proposed by the objection (see box E above).

Any representations must be received by the appointed person no later than 17 July 2017.

Any representations must be made on the appropriate form which may be obtained from the appointed person at: The Planning Inspectorate, Rights of Way Section, Room 3G, Hawk Wing, Temple Quay House, 2 The Square, Bristol BS1 6PN

or from <https://www.gov.uk/government/collections/england-coast-path-gretna-to-allonby>

Representations should be sent to the appointed person at the above postal address, or to RightsofWay2@pins.gsi.gov.uk

22 May 2017

- (a) See paragraph 4(2) of Schedule 1A to the National Parks and Access to the Countryside Act 1949.
- (b) A fair balance means a fair balance between the interests of the public in having rights of access over land, and the interests of any person with a relevant interest in the land (see paragraph 1(b) of Schedule 1A to the National Parks and Access to the Countryside Act 1949 and section 297(3) of the Marine and Coastal Access Act 2009).
- (c) See paragraph 6(3) of Schedule 1A to the National Parks and Access to the Countryside Act 1949 for the meaning of "relevant alternative modifications".

