

Coastal Access – Grain to Woolwich lengths GWO1, GWO2, GWO3 and GWO6



Representations with Natural England's comments

January 2020

1. Introduction

This document records the representations Natural England has received on the proposals in length reports GWO1, GWO2, GWO3 and GWO6 from persons or bodies. It also sets out any Natural England comments on these representations.

Where representations were made that relate to the entire stretch for Grain to Woolwich they are included here in so far as they are relevant to lengths GWO1, GWO2, GWO3 and GWO6.

2. Background

Natural England's compendium of reports setting out its proposals for improved access to the coast from Grain to Woolwich, comprising an overview and six separate length reports, was submitted to the Secretary of State on 5 June 2019. This began an eight-week period during which representations and objections about each constituent report could be made.

In total, Natural England received 13 representations pertaining to length reports GWO1, GWO2, GWO3 and GWO6, of which five were made by organisations or individuals whose representations must be sent in full to the Secretary of State in accordance with paragraph 8(1)(a) of Schedule 1A to the National Parks and Access to the Countryside Act 1949. These 'full' representations are reproduced in Section 3 in their entirety, together with Natural England's comments. Also included in Section 4 is a summary of the eight representations made by other individuals or organisations, referred to as 'other' representations. Section 5 contains the supporting documents referenced against the representations.

3. Record of 'full' representations and Natural England's comments on them

Representation number:	MCA/GWO Stretch/R/1/GWO0954
Organisation/ person making representation:	[Redacted], Ramblers
Route section(s) specific to this representation:	Whole stretch
Other reports within stretch to which this representation also relates:	GWO 2, GWO 3, GWO 4, GWO 5, GWO 6
Representation in full	
I am writing on behalf of the Ramblers to give our full support to the proposed route. As stakeholders, we have been involved and consulted throughout the process and are happy this is the best practical route.	
Natural England's comments	
We welcome the positive engagement from [the Ramblers] during the development of our proposals and the supportive comment made by the Ramblers.	

Representation number:	MCA/GWO Stretch/R/2/GWO1176
Organisation/ person making representation:	[Redacted], Historic England
Route section(s) specific to this representation:	Whole Stretch
Other reports within stretch to which this representation also relates:	GWO 2, GWO 3, GWO 4, GWO 5, GWO 6
Representation in full	
<p>We have no objections to the proposals. We note that the path runs slightly into or along the edge of just one Scheduled Monument (Cliffe Fort) however, as an existing path will be used in this area, there should be no ground disturbance or detrimental impact upon the scheduled site.</p> <p>We think that, given that most of the coastal path is to re-use existing footpaths, there is likely to be little new ground disturbance or harm to non-designated archaeological assets. However we recommend that you consult the county archaeologist with regards to impact upon non-designated assets.</p> <p>We would also like to stress that these comments relate only to the proposal within the county of Kent. The proposals which are relevant to London will be dealt with a separate team within Historic England and, if they have any comments, these will be submitted separately.</p>	
Natural England's comments	
<p>We welcome the positive engagement from Historic England during the development of our proposals – and their supportive comments. Throughout this process we have consulted with Historic England in both Kent and London, as well local officers regarding Historic Environment Records (in line with para 4.9.5 Coastal Access Scheme) to ensure that our proposals would not have a detrimental effect on designated and local heritage assets.</p> <p>We have not received any additional representations from Historic England in London or from local historic environment record managers.</p>	

Representation number:	MCA/GWO Stretch/R/4/GWO0095
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Organisation/ person making representation:	[Redacted], Environment Agency
Route section(s) specific to this representation:	Whole stretch
Other reports within stretch to which this representation also relates:	GWO 2, GWO 3, GWO 4, GWO 5, GWO 6

Representation in full

Flood Risk/ Defences

In principle, we accept the proposal but please review our response below regarding next steps to ensure the safety and integrity of the flood defences is not affected by the coastal path.

The Environment Agency have an operational responsibility for managing the risk of flooding from main rivers, reservoirs, estuaries and the sea, as well as being a coastal erosion risk management authority. Additionally, we have a statutory duty under the Water Resources Act 1991, Southern Region Land Drainage Byelaws 1976 and the Environmental Permitting Regulations of England and Wales 2016 to assess and review any works done within 8 metres of fluvial main river and 16 metres of tidal defence.

As the proposed structures fall within 16m of the tidal defences, a Flood Risk Activity Permit (FRAP) will be required before undertaking the establishment phase of the trail. Establishment works might include, resurfacing footpaths and excavations on embankments which could impact the integrity of the flood defence. Part of this application requires the submission of detailed designs and method statements for all of the proposed structures within this zone. This is to allow us to determine the distances of the proposed structures from the tidal defences and whether their implementation will impact the integrity of the defences or impede our access to undertake maintenance in the future. Consequently, we are unable to accept your proposals at this stage until we have received and approved the FRAP application.

The application will need to address our concerns with the proposed barriers and gates we reviewed in the consultations drawings. We will need to know what type of gate, how they will be installed and where they will be installed in relation to the tidal defences to ensure the proposals do not inhibit access for inspection, maintenance and repair of the tidal flood defences.

Please further note that any future roll-back and/or amendments to the coastal path due to coastal erosion will require a FRAP to review the situation on whether the new paths will affect the integrity of the defences and/or our buffer zone for maintenance access.

For further information on how to apply for a Flood Risk Activity Permit, please visit <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> or contact our National Customer Contact Centre on 03702 422 549.

In summary you will need to provide us with the following:

1. 'About You' (Part A) <https://www.gov.uk/government/publications/application-for-an-environmental-permit-part-a-about-you>
2. 'Application for an environment permit (Part B10)' <https://www.gov.uk/government/publications/application-for-an-environmental-permit-part-b10-flood-risk-activities>
3. 'Charging and declarations' (Part F3) <https://www.gov.uk/government/publications/application-for-an-environmental-permit-part-f3-charging-for-flood-risk-activities-and-declarations>

Single activity applications incur a charge associated with the proposed activity category. Applications with multiple activities are calculated slightly differently. The highest category is charged at 100% and each additional activity incurs a charge of 25% of its associated

category. Please see attached guidance document for more information or visit: <https://www.gov.uk/government/publications/environmental-permitting-charging-scheme>

Once you have submitted your application we can determine what fee you will be required to pay

- 1) Site plan showing the location and extent of the works
- 2) A management system describing your method of work and what you will do to manage risk, including:
 - a. The method statement which should:
 - Describe in detail the individual operations you intend to carry out on site, including how, when, where and for how long you will conduct each part of the activity
 - Include the sequence steps that will be performed to complete the proposed activity
 - Include all temporary and permanent works, including 'enabling works' that will support the main activity
 - b. The risk assessment should demonstrate that:
 - Your proposals will not increase flood risk, impact on drainage or harm the environment
 - You have considered all the risks from your activity and you have put measures in place to prevent any adverse effect to the environment, people and property
- 3) Pre-works photos and any supporting information

Further guidance on how to complete a management system and risk assessment can be found here:

<https://www.gov.uk/guidance/develop-a-management-system-flood-risk-activity-for-environmental-permits>

<https://www.gov.uk/guidance/flood-risk-activity-risk-assessment-for-your-environmental-permits>

Fisheries, Biodiversity and Geomorphology

We agree with Option 3 as the preferred option.

Please ensure the alignment of all paths allows not just for roll back of the route as part of managed realignment schemes as part of the delivery of the Thames 2100 plan, but also ensure that redevelopment opportunities allow the setting back of paths where possible to allow more space for water and estuary habitats adjacent to the River Thames. This is only likely to be a few metres, but the alignment of the path must allow for this flexibility.

Groundwater and Contaminated Land

It is unlikely that the proposals will cause impacts on groundwater, given the low key works required to implement any footpath, but any structure such as footbridges may be required to undertake detailed assessments if any piling works are required as part of construction.

With regards to potential contamination from historic contamination along some sections of the route way, this should be discussed with the local Environmental Health Officer as appropriate. Some sections pass through old Forts, gunpowder works, industrial zones and landfill tip sites, so there needs to be appropriate signage and warnings related to possible contaminated materials, although suitable surfacing may cut off direct pathways of contact.

Natural England's comments

We welcome the positive engagement from the Environment Agency during the development of our proposals – and the supportive comment in the Representation.

Flood Defences and FRAPs

Natural England and the Access Authority (who carries out the establishment works) discussed the need for Flood Risk Activity Permits (FRAP) with local Environment Agency officers in 2018. As a consequence, we reduced the number of proposed items to be installed on sea defences, and obtained bespoke and positive pre-application advice on our amended proposals, which only includes installing new steps and interpretation panels near the seawall, replacing stiles with gates and installing signs to existing infrastructure.

The Access Authorities will ensure all the relevant consents and permits are in place prior to any establishment works. This would also be the case if roll back proposals were to result in new infrastructure being required in the future.

Fisheries, Biodiversity and Geomorphology

As stated in our report (GWO 1 and GWO 2, the details of any roll back will be subject to any necessary Habitats Regulations Assessment. Where we have proposed roll back to incorporate the EA's proposals for future Managed Realignment, we will work alongside the Environment Agency to ensure that the future route will not be detrimental to the adjacent habitats and species.

Any new developments that could allow the ECP to move closer to the Thames would be considered by the relevant Local Planning Authority, which looks to protect and enhance the England Coast Path and also conserve important habitats and species (under paragraphs 168 and 170 of the National Planning Policy Framework). Where the trail alignment is to be moved, Natural England will undertake a Variation Report.

Groundwater and contaminated land

We do not intend to carry out any works that will require piling.

In the development of our proposals (in line with para 8.26.4 Coastal Access Scheme), we have consulted with the local Environmental Health Officers where appropriate, and in particular on matters relating to creating new access on old landfills. Following on from their advice, we have subsequently agreed mitigation measures which have been included within our published proposals, particularly for GWO 4 – Map GWO 4a: Botany Marshes to Bell Wharf.

Representation number:	MCA/GWO6/R/1/GWO1198
Organisation/ person making representation:	[Redacted], London Borough of Bexley
Route section(s) specific to this representation:	Map Reference: GWO 6a Erith Saltings to Erith Report GWO 6: Erith Saltings to Woolwich Foot Tunnel
Other reports within stretch to which this representation also relates:	N/A
Representation in full	
<p>London Borough of Bexley aspires to work with Natural England on delivering legible signposting through Erith Town centre, we currently have plans to consolidate signage and are looking at upgrading Erith town centre. As per of the Erith Regeneration programme, we have plans to deliver landscaping, furniture, art and wayfinding interspersed along the route to create a 'linear park' to further enhance the site and reinforce its identity as a new open space which together with the other public realm projects will create a connected green quarter in Erith. There are also plans to create open space for markets and special events, legible signage would improve and encourage river and town centre connection usage.</p> <p>As part of the wider Erith Regeneration programme, London Borough of Bexley will continue the transformation of the town centre including the Riverside Gardens and the Pier to improve connections to the river. There are also plans to introduce improved pedestrian and cycle friendly routes around Erith Town Centre that would provide better connectivity to the town Centre, Riverside Gardens and</p>	

the Erith Pier. We are currently undertaking Erith Pier investigation works and at concept design stage for Pier Road, planned works include strengthening the visual and physical link to Erith Pier and surrounding streets.

The London Borough of Bexley is currently delivering a project to renovate and refurbish the Riverside Gardens in Erith, including the beds along the river walk. One of the key outcomes of this project is to improve access to and use of riverside walkway and adjoining open space and so we would support this project to improve wayfinding and encourage more people to enjoy the town's riverside assets.

Natural England's comments

Natural England welcomes and congratulates the London Borough of Bexley's plans to improve the local environment and riverside area in Erith.

The London Borough of Bexley have not indicated that the Erith Regeneration programme will affect the alignment of the England Coast Path. In accordance with paras 5.5.4 - 5.5.7 of the Coastal Access Scheme, coastal access rights do not prevent any land from being developed or redeveloped in the future. Natural England will work constructively with London Borough of Bexley seeking to ensure so far as possible that future changes take account of our coastal access objectives in this area.

Representation number:	MCA/GWO6/R/2/GWO0973
Organisation/ person making representation:	[Redacted], London Borough of Bexley
Route section(s) specific to this representation:	Map GWO 6a and GWO 6b The land to which this representation relates to extends from the south-eastern end of the 'Alternative Route' highlighted on Map GWO 6b in a south-eastern direction to the south-eastern limit of the Riverside Gardens on Map GWO 6a (i.e. at the junction point of trail reference GWO-6-S012 FW & GWO-6-S013)
Other reports within stretch to which this representation also relates:	N/A
Representation in full	
<p>As already discussed verbally and on site with Natural England, it has come to light after the 'Optional Alternative Route' to avoid tidal flooding of the coast path was previously agreed, that the tidal flooding of the path extends further to the south-east than we were previously aware of and as far as the area in front of the Riverside Gardens, Erith.</p> <p>Consequently, it is suggested that to ensure that the Optional Alternative Route is suitable in scope to avoid the whole of the potential area of tidal flooding, it be altered to extend further along Erith High Street from its junction with MacArthur Close through to the south-eastern limit of the Riverside Gardens (i.e. to the junction point of trail reference GWO-6-S012 FW & GWO-6-S013).</p> <p>In association with this alteration the currently highlighted part of the Optional Alternative Route linking back from Erith High Street to the coast path via MacArthur Close would no longer be required.</p> <p>This issue was discovered during investigations by another team at Bexley Council who are currently considering the regeneration of parts of Erith town centre including the Riverside Gardens area and has also subsequently been discussed and confirmed with the Authority's Flood Risk and Development Manager.</p>	
Natural England's comments	

Natural England welcomes the clarification provided by London Borough of Bexley and agrees that amending the Optional Alternative Route (OAR), as suggested, would fully avoid areas prone to flood. Amending the proposed route as shown on Maps GWO 6a v1.1 and GWO 6b v1.1 would allow for the continuity of the trail during occasional tidal flooding at Riverside Gardens in accordance with section 4.4 of the Coastal Access Scheme.

The new sections of OAR are entirely on Highways land, which is owned and managed by London Borough of Bexley. Therefore the proposed amendment will not affect any other landowners as no additional coastal margin will be created and the land in question consists of pavements in the centre of the town of Erith.

We recommend that the Secretary of State should approve the proposal with the modification shown on amended Maps GWO 6a v1.1 and GWO 6b v1.1, as shown on document 5A; and with the additional text shown below inserted into proposal table GWO 6.3.2.

GWO 6.3.2 Optional alternative route details – Map GWO 6a v1.1: Erith Saltings to Erith and Map GWO 6b v1.1: Erith to Belvedere Industrial Estate

1	2	3	4	5a	5b	6
Map(s)	Route section number(s)	Current status of route section(s)	Roll-back proposed? (See Part 7 of Overview)	Proposal to specify seaward boundary of alternative route strip	Proposal to specify landward boundary of alternative route strip	Explanatory notes
GWO 6a v1.1	GWO-6-OA001	Public footway (pavement)	No	Pavement edge	Pavement edge	
GWO 6a v1.1	GWO-6-OA002	Public footway (pavement)	No	Pavement edge	Pavement edge	
GWO 6a v1.1 and GWO 6b v1.1	GWO-6-OA003	Public footway (pavement)	No	Pavement edge	Pavement edge	
GWO 6b v1.1	GWO-6-OA004	Public footway (pavement)	No	Pavement edge	Pavement edge	
GWO 6b v1.1	GWO-6-OA005	Cycle track (pedestrian)	No	Path edge	Path edge	

Relevant appended documents (see section 5):

5A: Map GWO 6a v1.1 and Map GWO 6b v1.1 with proposed amendment to the Optional Alternative Route in Erith.

4. Summary of 'other' representations and Natural England's comments on them

Representation ID:	MCA/GWO1/R/1/GWO1200
Organisation/ person making representation:	[Redacted], Bourne Leisure Limited
Name of site:	Allhallows Leisure Park
Report map reference:	Report GWO 1, Map GWO 1e
Route sections on or adjacent to the land:	GWO-1-SO27 FP GWO-1-SO26 FP GWO-1-SO25 FP
Other reports within stretch to which this representation also relates	
<p>Summary of representation: Route: Further to our discussions with Natural England on behalf of Bourne Leisure during the drafting of the Coast Path proposals, we can confirm that Bourne Leisure finds the proposed Coast Path route at GWO-1-SO25 FP, GWO-1-SO26 FP and GWO-1-SO27 FP to be acceptable.</p> <p>Rollback (Table 1.3.3): We support the inclusion of the statement in the Report and emphasise again that Natural England should consult with Bourne Leisure if any roll back is proposed. This will be important in order to ensure that Bourne Leisure is able to continue to provide a high quality experience for its guests at Allhallows and to attract visitors that will bring expenditure to the local area.</p>	
<p>Natural England's comment: We welcome the supportive comment made by the representatives of Bourne Leisure Ltd, and confirm that Natural England will consult with Bourne Leisure Ltd prior to implementing any roll back.</p>	

Representation ID:	MCA/GWO1/R/2/GWO0025
Organisation/ person making representation:	BP Oil UK Ltd – [Redacted] (agent)
Name of site:	Land known as the BP Oil Terminal, Isle of Grain.
Report map reference:	GWO 1 (Maps GWO 1a and 1e)
Route sections on or adjacent to the land:	
Other reports within stretch to which this representation also relates	
<p>Summary of representation: I confirm on behalf of BP Oil UK limited that there are concerns over the proposed coastal access improvements and my client reserves the right to make further representations in relation to the scheme.</p> <p>Whilst my client does not object in principal to the proposals to create coastal access paths, it does need to ensure that such proposals have no adverse effect on the operation, safety and security of its property.</p>	

In the circumstances, my client would welcome detailed dialogue in respect of the proposals and reserves the right to make further representations.
We would be grateful if we could be contacted to discuss the proposals moving forward.

Natural England's comment:

Natural England has spoken to BP Oil Ltd since they submitted this representation to discuss their concerns. BP's agent confirmed that their interest is not the published proposals for the Grain to Woolwich stretch, but relates to the developing proposals for coastal access between Iwade and Grain, and specifically to their BP Oil Terminal to the south of Grain village.

Natural England has already agreed a route near this Terminal with another representative of BP Oil Ltd, and we will continue to discuss our proposals for the Iwade to Grain stretch with BP Oil Ltd prior to publication in November 2019.

Representation ID:	MCA/GWO Stretch/R/3/GWO1196
Organisation/ person making representation:	Private individual
Name of site:	Whole stretch
Report map reference:	
Route sections on or adjacent to the land:	
Other reports within stretch to which this representation also relates	GWO 2, GWO 3, GWO 4, GWO 5, GWO 6
Summary of representation:	
[Redacted] is a member of the public and a walker. She highlights that:	
<ul style="list-style-type: none"> • It would be a very positive step to improve access in this way, enabling people to understand and enjoy the estuarine Thames as it meets the sea. • The Thames Path finishes at the Thames Barrier so the Coastal Path would enable people to properly follow the Thames to the sea. • She is in favour of the proposal. 	
Natural England's comment:	
Natural England welcomes the private individual's supportive comment, as it recognises the additional recreational benefit of the Grain to Woolwich proposals to connect to the existing Thames Path National Trail and ensure there is a Source to Sea trail along the River Thames (see Overview Report Chapter 5(e) (iii) on recreational benefit).	

Representation ID:	MCA/GWO Stretch/R/5/GWO0195
Organisation/ person making representation:	[Redacted], Port of London Authority
Name of site:	Whole stretch

Report map reference:	
Route sections on or adjacent to the land:	PLA Land within Grain and Allhallows, and Foreshore up –to mean high water (which affects coastal margins) for the full stretch of the Grain to Woolwich route
Other reports within stretch to which this representation also relates	GWO 2, GWO 3, GWO 4, GWO 5, GWO 6
<p>Summary of representation:</p> <p>The PLA supports the proposed Grain to Woolwich England Coast Path stretch. The PLA shares Natural England’s ambition to create a national trail by the River Thames from its source out to sea, at Grain and supports joining the Thames Path with the Coastal Path in order to achieve this. This is one of the PLA’s aims as set out within its Thames Vision (2016).</p> <p>Directions within the coastal margin</p> <p>The PLA is pleased to note that the majority of the foreshore that is unsuitable for public access has been restricted from access under S25A. They also note that restrictions under S25A are reviewed every 5 years and would like reassurances that that the foreshore would remain restricted from public access after 5 years and that the PLA would be consulted on any changes.</p> <p>Public Right of Way (GWO 1 and Cliffe)</p> <p>A query is raised as to whether Natural England will establish a right of way in this area, and what preparations would be made.</p> <p>Access preparation period</p> <p>The PLA is concerned that they would not benefit from reduced occupier liability until the end of the access preparation period. Clarity is requested regarding the period of preparation for coastal access rights, in order to address PLA’s concerns over occupiers’ liability during this time.</p> <p>Fencing and notices at Cliffe and Allhallows</p> <p>The PLA have asked for fencing and notices at Cliffe and notices at Allhallows to protect livestock, prevent people straying off the path and keep dogs to leads.</p> <p>Indemnity, risk assessments and signage (a number of legal points have been raised by the PLA over these issues, so the representation text is written out in full below, rather than summarised. Key points have been put in bold)</p> <p>In terms of signage, and in line with section 305 of the Maritime and Coastal Access Act 2009, there is a restriction on the duty of care owned by Natural England, particularly under s.305(1)(b) – i.e. the failure to erect signs and notices warning of obstacles or hazards, under para 6, Schedule 20 of the Act. This is of concern to the PLA as they are subject to a new public right of access over their property under the Coastal Margin and the exception under section 305 appears to heavily reduce Natural England’s responsibility with regards to their own scheme. For Natural England to impose such a charge over landowners yet contemporaneously seek to absolve itself of a duty of care to such landowner is of concern. More clarity is needed on this point.</p> <p>The PLA is concerned about the onerous task of being required to carry out extensive risk assessments over its property to erect signs and notices. As it seems to be discretionary for Natural England to erect signs or notices, and when they do there is no duty of care, the PLA would have the burden of ensuring any signs or notices are properly installed and furthermore they are installed where necessary. Considering the extent of the proposed coastal margin over the PLA’s property this is no small task. If Natural England wishes to move forward with this proposal the PLA will need an assurance that notices and signs will be erected by Natural England in accordance with the PLA’s requirements and if costs are incurred by the PLA, Natural England will contribute towards such expenditure.</p>	

The PLA could also receive a claim in respect of an accident involving a defect on the path, which did not have any signs erected. Whilst it is accepted that Natural England can seek refuge under Section 305 of the MCAA 2009, the PLA would simply be arguing a reduced/ nominal duty of care. In light of this, **the PLA considers that it will be necessary to enter into an arrangement with Natural England in relation to the erection/maintenance of notices and signs.**

Reduced liability (a number of legal points have been raised by the PLA over these issues, so the representation text is written out in full below, rather than summarised. Key points have been put in bold)

The points raised within Natural England's previous submissions in relation to liability are noted. There have also been a number of discussions between Natural England and the PLA on this matter.

In principle, it is the PLA's view that occupier's liability will be reduced pursuant to the Countryside and Rights of Way (CROW) and Marine and Coastal Access (MCA) Act. The caveat to that is that the PLA doesn't know the full extent until there is a claim. **The PLA can interpret the statute as best it can, however this does not always offer the protection that is necessary, and can often be misinterpreted.** For example, there are objects on PLA land which may or may not fall into the category of 'any physical feature'. We also note the CLA guidance states "*So whether a physical feature is man-made or natural, there is normally no liability for a risk resulting from its existence while coastal access rights are in force on the land in question*". Our emphasis on 'normally'.

Furthermore it is not guaranteed that the PLA would be completely absolved of any wrong doing if there was a significant safety risk on PLA land (whether the PLA knew or not) if the person involved/injured was using that feature (e.g. gate or stile) by its proper use. The reduced liability does not apply if the PLA is seen as being reckless, which in our view can be a particularly subjective term. Coupled with the issues surrounding signs and notices as mentioned above **there is a significant concern over the PLA's liability.**

Therefore, despite continuous dialogue with Natural England, it still stands that the PLA will have an increased amount of pedestrian traffic on its land and there is no guarantee that the PLA would be covered by the acts mentioned above. There will almost certainly have to be an increased amount of governance/risk assessment with regards to the areas included in the Coastal Margin. It is of note that if any pedestrian strays outside the coastal margin, the full force of occupier's liability will apply; the risk involved is members of the public will have access to PLA private property where they would not otherwise have if the Coastal Margin were not in existence **The PLA will require more protection against public access on its private property than an arbitrary boundary on a map; it will need to be made abundantly clear that the public are not allowed access to any PLA property outside the coastal margin.** This should also apply to any hazardous areas along the route. The PLA is particularly conscious that if there is any suggestion of an invitation to any member of public they would be classed as a visitor and the PLA will be subject to a higher duty of care.

Rollback proposals

The proposals are understood, and the PLA seeks early discussion over any implementation of rollback on their land.

Wharves and operational activities

- The PLA seeks to ensure that development around 'protected wharves' does not adversely affect them, and supports the proposed inland route in the vicinity of Northfleet Wharf, Old Sun Wharf, Lion Wharf and Johnson's Wharf.
- They consider it essential that appropriate fencing and signage is erected adjacent to the Clubbs Marine Terminal to advise of the industrial nature of the area to ensure public safety.
- There are a number of other operational activities, which are not safeguarded but that could be disrupted by the proposed route; the coastal margin should not interfere with the operational needs of any landowner. The PLA agrees that in these instances other arrangements should be made.

Public transport opportunities

There is an opportunity to promote the use of the River for passenger transport, close to Woolwich ferry and passenger piers. There may also be opportunities to promote other river transport in the future, for example the Thames Clipper between Gravesend and central London.

Natural England's comment:

We welcome the positive engagement from the Port of London Authority during the development of our proposals and their supportive comments.

Directions within the coastal margin

The mudflats and saltmarsh along the Thames are largely excluded from coastal access rights, particularly as the RNLi and Coastguard indicated that people have had to be rescued from these areas. Although we cannot pre-empt the future consideration that will be given to this issue at the time of the statutory review of directions, it would seem unlikely that these intertidal areas would become more suitable for public access over time.

As with any statutory review of directions, the Local Access Forum will be consulted at the time.

Public Right of Way (GWO 1 and Cliffe)

Natural England proposals secure a route around the English coast, which is a mapped trail line rather than a traditional 'public right of way'. Coastal access rights along the trail and within the associated coastal margin of the Grain to Woolwich reports will only come into force after each report has been approved by the Secretary of State (SoS) and the new access rights brought into effect by a commencement order on a date decided by the SoS.

Access preparation period

The Access Preparation Period is the period between approval of NE's proposals by the SoS and the coming into force of coastal access rights over the trail and margin. The period exists so that any necessary establishment works can be undertaken on the trail, and any other necessary preparations made, before any new rights come into effect. That being so, the occupier's liability regime remains unchanged during the Access Preparation Period.

It would not have made sense for the modification of the reduced occupiers' liability to have been triggered before the related access rights apply. It is clear from section 1(6A) of the Occupiers Liability Act 1984 that the modified liability applies 'at any time when the right conferred by section 2(1) of the Countryside and Rights of Way Act 2000 is exercisable'.

Fencing / notices at Cliffe and Allhallows

The trail crosses PLA owned land at both Allhallows and Cliffe. In both of these areas, the trail follows the existing coastal public footpath. Along parts of this route, the trail is along the top of the seawall and the coastal margin extends landward to the base of the bank – where a distinct water-filled borrow dyke separates the inland grazing marshes from the trail. In our view, new fencing alongside the trail is not appropriate as walkers will continue to utilise the path in much the same way as they do now and generally not stray inland off the promoted route, with its sea views. The public are also familiar with encountering livestock along existing public footpaths in the countryside and the Countryside Code's advice to keep dogs on a lead around farm animals. Given the existing use and status of the public right of way we do not consider additional signage is required along these parts of the route.

Indemnity, risk assessments and signage

The indemnity at section 305 of the Marine and Coastal Access Act was enacted by Parliament when the 2009 Act was being passed. Safety was a key consideration during the passage of the Act and is also highlighted within The Scheme (section 4.2), where a key principle is that visitors should take primary responsibility for their own safety when visiting the coast and for the safety of any children or other people in their care, and should be able to decide for themselves the level of personal risk they wish to take. In line with this principle, our approach to risk management is light touch, aiming to

minimise any safety measures that would be restrictive on public enjoyment and instead align the trail carefully, with safety and convenience in mind. Our powers to erect fences, notices etc are used very sparingly, to warn or protect people from dangers that could not reasonably be foreseen. Limited use of signs along the trail and in the margin maximises their impact and effectiveness and reduces their aesthetic impact on the natural environment.

The courts are alert to the need to avoid burdening landowners with the need for signage, fencing etc, particularly in view of section 1A of the Occupiers Liability Act 1984, which says:

'In determining whether any, and if so what, duty is owed by virtue of section 1 by an occupier of land at any time when the right conferred by section 2(1) of the Countryside and Rights of Way Act 2000 is exercisable in relation to the land, regard is to be had, in particular, to —

- (a) the fact that the existence of that right ought not to place an undue burden (whether financial or otherwise) on the occupier,
- (b) the importance of maintaining the character of the countryside, including features of historic, traditional or archaeological interest, and
- (c) any relevant guidance given under section 20 of that Act.'

The 'relevant guidance' in c) refers to the Countryside Code, part of which says:

- You're responsible for your own safety and for others in your care – especially children - so be prepared for natural hazards, changes in weather and other events.
- Wild animals, farm animals and horses can behave unpredictably if you get too close, especially if they're with their young - so give them plenty of space.
- Check weather forecasts before you leave. Conditions can change rapidly especially on mountains and along the coast, so don't be afraid to turn back.
- When visiting the coast check for tide times on EasyTide - don't risk getting cut off by rising tides and take care on slippery rocks and seaweed.

In light of this, we do not consider that new notices are necessary along the stretches of existing public right of way (already the promoted Saxon Shore Way) that the trail will follow across PLA land. The Acts and Countryside Code guidance should reassure the PLA that coastal access rights should not create an additional burden on them, as a landowner.

Reduced liability

See our earlier comments under Indemnity, risk assessments and signage. Natural England considers that the CLA guidance quoted from here (which it and Defra commented on in draft while it was being prepared) represents a good overall summary of the legal effects where the special liability deal applies. Natural England has a stock of 'End of Access Land' symbols should the PLA require some of these to help avoid any public confusion as to the extent of the publicly accessible land within its land holdings.

Rollback proposals

If and when rollback is required, Natural England with the Access Authority, will choose a new route following discussions with landowners. Where rollback is foreseeable, early discussions with the PLA would be welcome.

Wharves and operational activities

Natural England worked with Wharf owners, including Clubb's to agree the proposals, as outlined in the report. Clubb's landholdings are already fenced and the proposed trail follows a well-used public footpath which is already a promoted long distance footpath – the Saxon Shore Way.

Public transport opportunities

The existing and future river transport opportunities the PLA mentioned may be of great interest to walkers of the England Coast Path National Trail. One way the PLA could promote these opportunities is through the National Trails website, which is visited by in excess of 1.3 million people per year, so it's the perfect place to advertise recreational opportunities along the both the new England Coast Path – and the existing Thames Path National Trail. Anyone can easily add information to this free website.

Relevant appended documents:

The PLA have referenced these documents which can be found online but were not sent as an appendix:

The PLA's [The Vision for the Tidal Thames](#) (2016)
[Countryside and Rights of Way Act 2000](#)
[Occupiers Liability 1984 Act](#)
[Marine and Coastal Access Act 2009](#)

Representation ID:	MCA/GWO Stretch/R/6/GWO1199
Organisation/ person making representation:	[Redacted], The Inland Waterways Association (Kent and Sussex Branch)
Name of site:	Whole stretch
Report map reference:	
Route sections on or adjacent to the land:	
Other reports within stretch to which this representation also relates	GWO 2, GWO 3, GWO 4, GWO 5, GWO 6
Summary of representation:	
<p>Navigation The Inland Waterways Association (Kent and Sussex Branch) supports the proposals in principle. However, the Overview report should include a statement that its proposals would not in any way restrict or harm commercial or recreational navigation and boating nor would it affect rights of access to the water, including moorings, wharfs and slipways.</p> <p>Thames & Medway Canal We support the proposed route (including the 'alleyway') in GWO 3. There are proposals to restore the Thames and Medway Canal from the Canal Basin to Higham and, in due course the proposed trail might form a 'towpath' between the Canal Basin and Mark Lane.</p>	
Natural England's comment:	
<p>Natural England welcomes support for the Proposals.</p> <p>Much of the land used for commercial or recreational navigation and boating would be excepted from new coastal access rights, if covered by buildings or their curtilage (or any of the other categories of land listed in Figure 1 of the Coastal Access Scheme). These provisions generally address concerns about the introduction of coastal access at particular sites. Our discussions with landowners and stakeholders (such as the Port of London Authority) during the preparation of the proposals, did not identify the need for any more specific interventions to manage access around boating facilities.</p> <p>The proposals would not affect other existing rights of access to water, wharfs and slipways. Where coastal access rights apply in the coastal margin, such as on slipways, this will be in addition to any other existing right of access or activity permitted by the landowner (para 2.4.13 Coastal Access Scheme). The new rights do not affect navigation rights or moorings in open water and we are not proposing any infrastructure which may obstruct navigation, or rights of access to the water, along the Thames or its tributaries.</p> <p>We did not consider it necessary to specifically note navigation and boating within the Overview, as we have taken full account of this alongside many other types of land use along the Thames.</p>	

Thames & Medway Canal

In accordance with paras 5.5.4 - 5.5.7 of the Coastal Access Scheme, coastal access rights do not prevent any land from being developed or redeveloped in the future. We recognise that Gravesham Borough Council has allocated the Canal Basin area for redevelopment (GWO 3 para 3.2.20). As part of that redevelopment, there is an opportunity to consider realigning the Coast Path closer to the River Thames. Natural England will work constructively with planners and developers with the aim of ensuring that planning proposals take account of our coastal access objectives in this area – and encourage planning authorities to include provision for the trail on the seaward side, wherever practicable.

Representation ID:	MCA/GWO2/R/1/GWO1200
Organisation/ person making representation:	[Redacted], Bourne Leisure Limited
Name of site:	Allhallows Leisure Park
Report map reference:	GWO 2a
Route sections on or adjacent to the land:	GWO-2-S002
Other reports within stretch to which this representation also relates	N/A
Summary of representation: <u>Route:</u> Further to our discussions with Natural England on behalf of Bourne Leisure during the drafting of the Coast Path proposals, we can confirm that Bourne Leisure finds the proposed Coast Path route at GWO-2-S002 to be acceptable. <u>Rollback</u> (Table 2.3.3): We support the inclusion of the statement in the Report and emphasise again that Natural England should consult with Bourne Leisure if any roll back is proposed. This will be important in order to ensure that Bourne Leisure is able to continue to provide a high quality experience for its guests at Allhallows and to attract visitors that will bring expenditure to the local area.	
Natural England's comment: We welcome the supportive comment made by the representatives of Bourne Leisure Ltd, and confirm that Natural England will consult with Bourne Leisure Ltd prior to implementing any roll back.	
Representation ID:	MCA/GWO3/R/1/GWO0149
Organisation/ person making representation:	David Lock Associates on behalf of Tarmac, Cement and Lime Ltd
Name of site:	Land at former Northfleet Cement Works (The Shore)
Report map reference:	GWO 3c: Rosherville to Northfleet
Route sections on or adjacent to the land:	GWO-3-S059, GWO-3-S061

Other reports within stretch to which this representation also relates	N/A
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Summary of representation:

Operational Requirements and access to coastal margin
Tarmac notes that in Report GWO 3, Natural England recognises the existence of the works operation and frequent HGV traffic at the former Northfleet Cement Works, and therefore has proposed to exclude public access in the coastal margin, as the route is aligned through the middle of an active industrial site.

Route alignment amendment
Given the situation described above, the proposed alignment between GWO-3-S059 and GWO-3-S060 should exactly follow the clearly demarcated route on the ground, given the interaction with an internal site access road. Any deviation (or duplication) of this route would significantly and unacceptably impede operations.

Similarly, the ability to make small changes to the demarcated route along this access road must be recognised and retained. A recent temporary planning permission was granted to Tarmac in April 2018 which included a minor diversion to the footpath NU42 to minimise disruption of activities upon the PROW. Any coastal path access must be consistent with this.

Tarmac therefore requests that the above if picked up in the Chapter 7: future changes section in the Overview and would suggest that this flexibility should be incorporated into the Coastal Path route, if possible, to avoid future variations having to be consulted, submitted and agreed with the Secretary of State.

Natural England's comment:

Natural England has had many discussions with Tarmac about their current and future operational requirements as part of the development of the England Coast Path proposals at Northfleet. Natural England is of the opinion that the published route accurately reflects the route that is demarcated on the ground at present, which has been designed to minimise disruptions to the site's activities. Natural England has sent Tarmac more detailed maps to satisfy them of this point. They have subsequently advised that the route we proposed in GWO 4 follows the demarcated route on the route and they do not require Natural England to amend the route.

The Overview (Chapter 7) and the Report GWO 3 (para 3.2.21) both reference the planning permissions that Tarmac has highlighted in their representation and the likely changes to route alignment due in the future. As the timescale for these developments is still unclear, we are unable to propose any amendments to the route alignment at the moment. In accordance with paras 5.5.4 - 5.5.7 of the Coastal Access Scheme, coastal access rights do not prevent any land from being developed or redeveloped in the future. Natural England will work constructively with planners and Tarmac, seeking to ensure so far as possible that future changes take account of our coastal access objectives in this area.

For shorter term changes to the route as a result of this temporary planning permissions (for example the temporary change to footpath NU42), we have suggested that Tarmac consults with Natural England's Open Access Team regarding a temporary diversion of the trail, when their plans for implementing the changes becomes clear. Tarmac have subsequently advised that this option gives them the flexibility they need for implementing this temporary planning permission.

Representation ID:	MCA/GWO3/R/2/GWO0184
Organisation/ person making representation:	David Lock Associates on behalf of Northfleet Development LLP
Name of site:	Land at former Northfleet Cement Works (The Shore)

Report map reference:	GWO 3d: Northfleet to Botany Marshes
Route sections on or adjacent to the land:	GWO-3-S062 to GWO-3-S063
Other reports within stretch to which this representation also relates	N/A
Summary of representation:	
<p>NPLLP supports the principle of encouraging public access to the coast and this is demonstrated by the approved proposal to re-develop this site into a mixed use development (Northfleet Embankment West) with a new riverside promenade which will introduce new access to the River Thames at this site. NPLLP also notes the correspondence and liaison that has been held with Natural England in relation to the proposed path. NPLLP does not therefore object to the current route, and supports para 3.2.21 which identified potential future changes to the access provisions for the forthcoming Northfleet Embankment West development. The flexibility to amend and adjust the path, if required as part of the development, must be retained under the designation of the England Coast Path. This flexibility has the benefit of providing for the potential (as part of the detailed design of the development) for a more advantageous route for access alongside the river and improvements to the general environment which encourages use of paths and access.</p> <p>NPLLP supports the proposed route, however NPLLP has noted that part of GWO-3-S063 is not a designated public footpath as indicated in Map GWO 3d, and therefore the section that is not a public footpath has no status beyond a walked route across private land. NPLLP requests that Natural England refers to Kent County Council's Definitive Map to confirm this position.</p>	
Natural England's comment:	
<p>In accordance with paras 5.5.4 - 5.5.7 of the Coastal Access Scheme, coastal access rights do not prevent any land from being developed or redeveloped in the future. We support the proposals for a new riverside promenade and look forward to working constructively with planners and developers with the aim of ensuring that that planning proposals take account of our coastal access objectives in this area.</p> <p>Natural England has contacted Kent County Council following on from NPLLP's request. Kent County Council has confirmed that NPLLP are correct in that part of GWO-3-S063 is an existing walked route rather than a public footpath. This does not affect the proposed alignment, which will create new coastal access rights (but not a public right of way as such) along this section of the trail. Natural England also agrees with NPLLP that on matters pertaining to the status of routes, reference should be made to the Definitive Map in preference to the England Coast Path report maps.</p>	

