

Coastal Access – Shotley Gate to Felixstowe Ferry (SGF)

Representations on SGF2, SGF4 and SGF5 and Natural England's comments

January 2021



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1. Introduction

This document records the representations Natural England has received on the proposals in length reports SGF2, SGF4 and SGF5 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 Shotley Gate to the Felixstowe Ferry they are included here in so far as they are relevant to lengths SGF2, SGF4 and SGF5 only.

2. Background

Natural England's compendium of reports setting out its proposals for improved access to the coast from Shotley Gate to the Felixstowe Ferry, comprising an overview and five separate length reports, was submitted to the Secretary of State on 15 January 2020. This began an eight-week period during which representations and objections about each constituent report could be made.

In total, Natural England received 16 representations pertaining to length reports SGF2, SGF4 and SGF5, of which 6 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 4 in their entirety, together with Natural England's comments. Also included in Section 4 is a summary of the 10 representations made by other individuals or organisations, referred to as 'other' representations.

3. Layout

The representations and Natural England's comments on them are separated below into the lengths against which they were submitted. Each length below contains the 'full' and 'other' representations submitted against it, together with Natural England's comments. Where representations refer to two or more lengths, they and Natural England's comments will appear in duplicate under each relevant length. Note that although a representation may appear within multiple lengths, Natural England's responses may include length-specific comments which are not duplicated across all lengths in which the representation appears.

4. Representations and Natural England's Comments on them

Length 2

Full Representations

Representation number:

MCA/SGF Stretch/R/3/SGF0004

Organisation/ person making representation:

CLA

Route section(s) specific to this representation:

Whole report

Other reports within stretch to which this representation also relates:

SGF 1, 3, 4 and 5

Representation in full

We ask the Secretary of State to take account of the concerns expressed by landowners in respect of the proposals for the Shotley Gate to Felixstowe Ferry coast stretch and the extension of access around the estuary.

We believe that:

- the reasons for using this discretion are misplaced,
- the use of the discretion adversely impacts landowners around the estuary, and
- a fair balance could have been better achieved if the Reports had proposed utilising the ferry crossing between Felixstowe, Harwich and Shotley, combined with an Alternative Route around the estuary.

Use of Estuary Discretion

The Overview states

"Section 296 of the 2009 Act places a legal duty (the Coastal Access Duty) on Natural England and the Secretary of State to secure a walking route around the whole of the open coast of England, together with an associated margin of land for the public to enjoy either in conjunction with their use of the route, or otherwise.

“Section 297 goes on to require both, in discharging this duty, to have regard among other things to the desirability of ensuring that so far as reasonably practicable, interruptions to this route are kept to a minimum. This is a key consideration for the whole of the national delivery programme for coastal access. The whole concept of the England Coast Path relies on delivering continuity of the route so far as reasonably practicable for the whole country. Although proposing a route around each estuary is a discretion rather than a legal duty, if the presence of an estuary would interrupt this continuity of access along the open coast then this will constitute a strong prima facie reason for the trail to serve the estuary too, at least to the extent necessary to enable users to continue their onward journey around the coast.”

This misinterprets the legislation, which – as we show below – requires Natural England to take account of a very wide range of factors in exercising its discretion. The focus on continuity of the path is not borne out in the legislation itself.

Section 297 of the Marine and Coastal Access Act 2009 does not say that the route must be continuous. It says:

- a) regard “must” be had to the safety and convenience of those using the route
- b) it is “desirable” that the route adheres to the periphery of the coast and provides views of the sea, and
- c) it is “desirable” (but not a requirement) that “so far as reasonably practicable interruptions to the route are kept to a minimum”.

Continuity is no more important than the need to adhere to the periphery of the coast or provide views of the sea.

There is, however, an over-riding criterion (section 297(3)) that the proposals must aim to strike a “fair balance”.

The legislation also treats estuaries differently from the main coast.

Section 301 provides Natural England with the discretion to extend access as far as the first public foot crossing, or, to any point between that and the seaward limit of the estuarial waters.

In exercising that discretion, Natural England is required to take account of additional criteria. These are:

- “(a) the nature of the land which would, for the purposes of this Part, become part of the coast of England if Natural England exercised the power in subsection (2) in respect of the relevant upstream waters for the limit under consideration;*
- (b) the topography of the shoreline adjacent to those waters;*
- (c) the width of the river upstream to that limit;*
- (d) the recreational benefit to the public of the coastal access duty being extended to apply in relation to the coast adjacent to those waters;*
- (e) the extent to which the land bordering those waters would, if it were coastal margin, be excepted land;*
- (f) whether it is desirable to continue the English coastal route to a particular physical feature (whether of the landscape or otherwise) or viewpoint;*
- (g) the existence of a ferry by which the public may cross the river.”*

Natural England may also take account of any other matter which may be relevant.

Parliament was clear that estuaries required additional and special criteria and could not simply be considered as part of the main coast.

It spent much time debating the matter.

The Environment Food and Rural Affairs Committee 9th Report of Session 2007-8 stated (in rejecting the initial proposals for estuaries contained within the Draft Marine Bill):

“The provisions about estuaries are very vague and leave excessive authority to Natural England. The Bill should include a clear specification about where the trail should cross estuaries”.

Lord Hunt of Kings Heath stated on behalf of the Government (10th and 11th Stages of Committee, House of Lords, 30 March 2009 and 21 April 2009) that:

We think it important that Natural England should have the flexibility to decide on the approach to estuaries on a case-by-case basis. [our emphasis]

....

“In deciding whether to make a recommendation to stop the route at any point between the mouth of the river and the first crossing point, Natural England must have regard to both the general considerations in Clause 287 and the additional matters in Clause 291(4), which include, among others, the nature of the land, the topography of the shoreline, the width of the river upstream to the first crossing point and the existence of a ferry by which the public may cross the river.”

He later added that:

“Natural England must not decide to continue the route up to the first crossing point solely on the basis of the desirability of the continuity of the route.”

If, as the Overview suggests, continuity is a “prima facie” reason to continue access up an estuary, then the additional criteria set out in the legislation would, plainly, be unnecessary.

That is clearly not the case.

Given that, much greater consideration should have been given to the other factors critical to a decision about the discretion. These include:

- the presence of an existing estuarial path (the Stour and Orwell Walk)
- the existence of a ferry,
- the extent of excepted land,
- the recreational benefit to the public, and
- the impact on owners and occupiers (the need for a fair balance)

amongst other matters.

We note that the Orwell is served by a seasonal ferry, which operates between Felixstowe, Harwich and Shotley Gate.

We also note that the legislation specifically allows the use of a seasonal or part-time ferry crossing (Section 296 Marine and Coastal Access Act 2009), stating that:

“For the purposes of the coastal access duty, a person is to be regarded as enabled to make a journey by ferry even if that journey can be made at certain times, or during certain periods, only.”

A seasonal or part-time ferry is sufficient to meet the coastal access duty.

The Coastal Access Scheme states that:

“even where a ferry is only seasonal or part-time, it may still in all the circumstances be a significant factor in deciding where the trail should end on the estuary.” (Coastal Access Scheme Section 10.3).

The report could, therefore, have proposed simply using the ferry service. This is especially the case as there is already an existing estuarial trail, the Stour and Orwell Walk, which extends around the entire estuary linking to the ferry, providing a current alternative for times when the ferry is not available.

The estuary has significant areas of excepted land. The Stour and Orwell Walk circumvents these and – in the absence of any agreement to go through excepted land – any route proposed under coastal access would also have to avoid these areas.

The recreational benefit to the public must be assessed in terms of any additional benefit, over and above that already available. The Overview notes the benefits of the existing access rights, and the numerous opportunities available to the public for recreation:

“The area is promoted widely and is popular for leisure and tourism”

“It is possible to walk around the estuary on the Stour and Orwell Walk”

“Bridge Wood Country Park...receives large numbers of visitors per annum”

“There are a number of marinas along the estuary and sailors enjoy the walks along the banks between villages and pubs”

“The historic hamlet of Pin Mill is popular with walkers, sailors and day trippers alike”

“There is a long history of informal access on the shores of the River Orwell”

There is no assessment of the additional recreational benefit that might arise from extending the main coastal trail around the estuary (as opposed to the recreational benefit that will already occur from existing access, or that might arise from other forms of access, such as an alternative route).

In addition, contrary to what might be expected, it appears that the purpose of aligning the main trail around the estuary is **not** to provide access over a wider area (the margin). On the contrary, the Overview states that a benefit of aligning the main trail around the estuary would be to *“reduce the pressures and impact of walkers on the SPA sensitive features by providing them with **a clear safe route to use on land**”* [our emphasis].

Despite it being an over-riding criterion, there is little assessment in the reports of the impact on owners and occupiers – the fair balance.

In deciding to align the main trail around the estuary, the proposals have:

- failed to take account of existing access,
- ignored the existing ferry,
- not considered the impact of excepted land or the extent of any additional recreational benefit that might arise from aligning the trail around the estuary, and
- have not considered the impact on owners and occupiers.

We believe that Natural England should not have proposed aligning the main trail around the estuary. Its proposals were based on a misinterpretation of the legislation, and there are no additional justifications identified under the estuary criteria that outweigh the substantial burden that aligning the trail places on owners and occupiers.

The public benefit of a route could have been equally achieved by utilising the ferry as the main route, coupled with an alternative route around the estuary (potentially using the route identified).

There are fair balance issues which arise from the implications of roll-back and the coastal margin associated with a main route. But these issues are resolved if the route were an alternative route.

There are some arguments for providing a route around the estuary – notably that it enables better management of access along sensitive areas of the estuary; it could improve access from the existing Stour and Orwell Walk; and it could provide a more coastal experience.

However, those benefits would all still be achieved if the route were an alternative route.

We strongly believe that by utilising the ferry for the main route and providing an Alternative Route around the estuary (along the currently proposed path), this would meet the aspirations for access, while providing less of a burden to affected owners. The combination of the ferry and an alternative route better meets the requirements for fair balance.

Proposed Modifications

The England Coast Path should use the ferry crossing. In addition, there should be an alternative route, along the route already identified in the reports. This would reduce the burden on owners and occupiers, while still providing improved access around the estuary.

This is a necessary change to meet the requirements for fair balance.

We urge the Secretary of State to modify the reports accordingly.

Natural England's comments

Natural England thank the CLA for their comments on our published reports for Shotley Gate to Felixstowe Ferry. We recognise that as an organisation they represent the interests of certain land owners and businesses along the stretch of coast in question. However apart from one land owning interest we received no further adverse comments on applying our discretion under section 301 to extend the trail further upstream beyond the seaward limit of the estuarial waters to the first bridge or tunnel with pedestrian access; and we received several representations in support of this proposal.

Much of the CLA's representation is concerned with whether Natural England places too much emphasis on the importance of continuity of the route when considering whether to exercise the estuary discretion. Nevertheless they conclude in this case that NE is right to propose a new estuary route, that it will bring significant benefits, and that it should indeed follow the line we have proposed to the Secretary of State. We thank the CLA for this welcome support and endorsement of our proposal.

Where the CLA do take issue with our route proposal is with the status of the route. NE has proposed that the ordinary route should serve the estuary, while calling at the ferry points to enable path users to take the ferry if they wish to, at the times when it is running. But the CLA want the new estuary path only to be available during those months, or at those times of day, when the ferry is not running. Whenever the ferry is running, presumably, the CLA's plan is that the estuary path would be unavailable for public use, except insofar as it is based on existing public rights of way or access rights.

Natural England considered this potential to use the ferry as the main route and propose the estuary alignment as an alternative route. We decided to propose the route as we have the ordinary route instead for several reasons.

1. Once created, the alignment we propose would exist on the ground. It would need maintenance, such as cutting and establishing. So even as an alternative route, the alignment would still physically exist, even at the times of day or months of the year when it is not open to the public because the ferry is running. For those parts on a right of way this is no change, but for the new sections, owners and occupiers would have the line of the trail visibly on their land even when the path was not open for public use. We would expect that situation to cause confusion, and potential for greater conflict and disagreement than would apply if the route were clearly available all year round, and everyone knew where they stood.
2. It may be helpful to tease out in a little more detail why an alternative route approach would be impracticable in the circumstances of this estuary. The ferry service is seasonal and for the year 2020, for example, will only run between Felixstowe and Shotley Gate five times a day, from 10.30 until 15.30; and from Shotley Gate to Felixstowe six times a day, from 10:00 to 16:00. (<https://www.harwichharbourferry.com/timetables>). Outside of these operating times, an alternative route would be available for users. Therefore it would be open during the summer months in the evenings, through the night until mid morning. This would create the risk of conflict between users and land owners or trail owners on a daily basis, as to when and why the route is available, or not available, for use. This would be particularly so for an alternative route as long as this, where users could be many miles into the route when the ferry became available and the alternative route suddenly wasn't. In effect the public would become stranded partway around the estuary, having run out of legal rights because the ferry had begun running again. This does not in NE's view make any practical sense: it is unworkable, and presents clear potential for conflict on the ground.
3. Classifying the estuary path as an alternative route would also prevent local users from enjoying shorter strolls on the England Coast Path closer to home at any time of the day or year, and would fail to secure their rights to use the local beaches, grasslands and hardstanding areas within what would become spreading room under our published proposals. This failure would represent a poor fit with the underlying policy of securing the wider margin for access rights except when it is excepted or excluded, in line with the Coastal Access Duty at section 296 of the 2009 Act.
4. At times when the alternative route was legally unavailable, users wishing to walk the estuary might instead use the existing Stour and Orwell walk. This would involve using some country lanes that the professional road safety assessment commissioned for the alignment of the England Coast Path deemed unsafe for walkers of the national trail. In effect, calling the estuary route an alternative route would be putting these users at significant personal risk at the times when it is unavailable for public use.

We think these facts present between them a convincing case for making our CLA-endorsed estuary path the ordinary route of the trail, rather than an alternative route. As noted above, the ordinary route we propose would still service the ferry points so that people are enabled to get on with their onward journey around the coast in the most direct way at the times when the ferry is running.

Turning to the other matters referred to by the CLA's representation:

Fair balance

The alignment we have proposed utilises large sections of existing access and would have limited impact on the owners or occupiers of this land. This fact contributed significantly to our decision to propose an estuary route. Presumably it also explains the CLA's welcome endorsement of our route proposal. We disagree with the earlier assertion that it would impose a substantial burden on owners and occupiers.

In terms of the wider margin that would be created by default under our proposals, there is already informal public access to many areas of the foreshore around the estuary. Some areas are more sensitive to wildlife disturbance than others and some present a risk to those unfamiliar with the soft mud on parts of this coastline. Our proposals would formalise access to the harder, beach like areas, securing a right of access to these areas for the first time, while excluding access where this is necessary for safety or nature conservation reasons.

The alignment is generally close to the water's edge and so creates limited spreading room over farmed land. Many of the small inland deviations are to pass around excepted land categories (typically buildings, curtilage and parkland), as we are obliged to do. The trail as proposed only moves back to the inland edge of one parkland as Natural England has been offered an access dedication on the coastal edge of another.

With the proposed route as the ordinary route, and clear access rights being created over appropriate areas of margin, affected occupiers will benefit from the uniquely reduced liability regime that applies wherever coastal access rights are in force. Currently the duty of care owed by occupiers to those 'helping themselves' to estuary land operates at a much higher level than this new regime will provide for.

'Recreational benefit must be additional'

We dispute the CLA's argument that the recreational benefits around an estuary are irrelevant to our decision as to whether to use the statutory discretion unless there is no public access at present. One of the key policy drivers for the national Coastal Access programme has always been to provide clear, secure, well signed and well managed public access instead of intermittent, low quality or uncertain informal access provision. Even in a case like this where there are significant current access rights, there is also a 'stop/go' quality to the estuary access which our proposals will resolve, leaving locals and the wider public alike with clear, confident, quality access to this lovely estuary for the first time.

'NE ignored the statutory estuary criteria'

We reject the implication that on the Orwell NE was solely concerned with the continuity of the route, and ignored the statutory criteria that must be taken into account when dealing with estuaries. We closely followed the guidance set out in Chapter 10 of the Approved Scheme 2013 in relation to estuaries, which makes clear that we always give careful consideration to extending the trail as far as the first public bridge.

The Chapter goes on to interpret and clarify, with the approval of the Secretary of State, how we apply the statutory estuary criteria set out in section 301 of the 2009 Act, and quoted by the CLA's representation. The single Overview to our proposals reports explains at section 5 the

position on this estuary in relation to each of these criteria groupings, in line with what the Scheme says about them. As a result we concluded it was right for the path to engage with this estuary, and we are grateful to the CLA for supporting this conclusion.

Representation number:

MCA/SGF Stretch/R/4/SGF1810

Organisation/ person making representation:

Suffolk County Council (access authority)

Route section(s) specific to this representation:

Whole report

Other reports within stretch to which this representation also relates:

SGF 1, 3 4 and 5

Representation in full

Suffolk County Council welcomes Natural England's use of the estuary discretion to enable a continuous coastal path along the Orwell estuary to the first permanent crossing point at the Orwell Bridge.

The County Council support the inclusion of the Orwell Bridge (SGF-2-S003) as the first crossing point. The existing Stour & Orwell Walk is promoted across the bridge and the continuing use will maintain the quality and integrity of the trail.

The use of roll back on many of the sections is also welcomed, as this will enable the continued existence and use of the trail in conjunction with coastal processes, without reliance on public rights of way that have fixed positions.

Although much of the proposed trail will still use existing public rights of way, currently promoted by Suffolk County Council as the Stour & Orwell Walk, there has been a significant gap which the proposals will resolve. The County Council particularly welcomes and supports the proposal for a dedicated access strip through the Orwell Park Estate (route sections SGF-3-S012 to SGF-3-S019). This will be a significant improvement to the route that is currently promoted along the verge of the Ipswich Road.

The County Council is concerned as to the future of the maintenance funding for National Trails. The County Council is concerned that works proposed as mitigation in order to fulfil the objectives of the Habitat Regulations, are not included in the National Trail maintenance funding formula.

The County Council is concerned that the National Trail maintenance funding does not include an uplift for those sections of the trail that run immediately adjacent to Sites of Special Scientific Interest (SSSIs). The uplift only applies for parts of the trail that run directly within a SSSI. However, a significant length of the proposed trail runs immediately adjacent to the Orwell SSSI (also the Stour & Orwell Estuaries SPA and Ramsar), for which mitigation works are proposed, but this will not be recognised in the maintenance funding. The mitigation works will include information signs and approximately 150m of vegetation screening at Colton Creek (SGF-1-S019 and SGF-1-S020). As a public body the County Council must have regard to the purpose of conserving biodiversity (NERC Act 2006), so this will result in disproportionate pressure on the use of the maintenance funding for this stretch.

The County Council believes that the maintenance funding should include the uplift for those parts of the trail immediately adjacent to a SSSI where mitigation works have been proposed. Overall, the County Council believes that the proposals for improving coastal access on this stretch of the coast strikes the appropriate balance between public and private interests and recreational and environmental objectives as required by the approved coastal access scheme.

Natural England's comments

Natural England welcomes Suffolk County Council's supportive comments in relation to the proposed alignment of the England Coast Path in the compendium of reports that make up the stretch from Shotley Gate to Felixstowe Ferry.

In relation to the comments regarding maintenance funding, NE note that this is not a representation specific to the proposed alignment as identified in the published reports. We do however recognise the concerns raised by Suffolk County Council regarding the future funding available for the ongoing maintenance of the whole of the National Trail family and will maintain constructive discussion regarding this issue.

Representation number:

MCA/SGF Stretch/R/1/SGF1255

Organisation/ person making representation:

Ramblers Association (Suffolk Branch)

Route section(s) specific to this representation:

Whole report

Other reports within stretch to which this representation also relates:

SGF 1, 3, 4 and 5

Representation in full

Full representation made on each stretch

This representation is made on behalf of Suffolk Area Ramblers, and are attached to the general representation form for the whole section, annotated number 1.

All of the Suffolk section was surveyed by members of Suffolk Area Ramblers in the winter of 2017 – 2018 and meetings were held with the relevant Suffolk County Council Rights of Way Officers.

Following further discussion with interested members of the Ramblers in the area, maps of the Ramblers suggested route, together with a detailed report of why we were recommending this route, and what works we considered to be necessary, were then submitted to Natural England in April 2018.

Subsequently I have been in regular contact with the Natural England representatives for this section and have made some further visits to the proposed section of path as changes in the situation occur. Also, I have been appraised regularly of the differences between our initial suggestions and the Natural England preferred routes, all of which changes have been explained and the reasons for alternative routes discussed.

Finally, the Report published on Wednesday 15th January 2020 has been made available to all interested parties in the Ramblers Ipswich area group, and the maps of the Suffolk section were on display at the Suffolk Area Ramblers AGM on 1st February 2020. The responses from those consulted have been generally favourable, although 2 comments I have felt worthwhile in passing on to you for consideration, on the representation forms annotated 2 and 3 [SGF4 and SGF5]

I would therefore, on behalf of Suffolk Area Ramblers, like to comment the proposed route for this section of the England Coast Path, and we look forward eagerly to the path being made available on the ground along the full length and open to public use.

[REDACTED]

Natural England's comments

Natural England thank the Suffolk branch of the Ramblers Association for their help in developing the proposals and their ongoing support.

Representation number:

MCA/SGF Stretch/R/2/SGF1838

Organisation/ person making representation:

Suffolk Local Access Forum

Route section(s) specific to this representation:

Whole report

Other reports within stretch to which this representation also relates:

SGF 1, 3, 4 and 5

Representation in full

Thank you for consulting the Suffolk Local Access Forum on the three recently released reports on sections of the England Coast Path in Suffolk. A sub-group of SLAF have examined these reports and are generally pleased with the routes that have been put forward and would like to thank all those involved including Natural England staff, SCC rights of way officers and landowners who have been working together on this project.

We have examined the reports and have set our comments below.

Shotley Gate to Felixstowe Ferry

SLAF is happy with the route around the Orwell Estuary, particularly with the work that has been done with landowners resulting in a new stretch of path through Orwell Country Park and Orwell Park to link up with public right of way at Shore Lane, Nacton.

Natural England's comments

Natural England thank the Suffolk Local Access Forum for their support and comments.

Other Representations

Representation ID:

MCA/SGF2/R/1/SGF0545

Organisation/ person making representation:

Orwell Park

Name of site:

Full stretch

Report map reference:

Route sections on or adjacent to the land:

Full stretch

Other reports within stretch to which this representation also relates

Summary of representation:

Orwell Park have raised objections in respect of Report SGF3, noting that if these objections are upheld, this will have a consequent effect on this report. They therefore ask that this report is not approved until the objections relating to SGF3 have first been determined.

Natural England's comment:

Rather than publishing (as previously) a single report setting out its proposals for each stretch of coast, Natural England now publishes a compendium of reports that between them set out its proposals for the entire stretch. As each length report makes clear, it is legally free-standing in its own right, and therefore capable of independent determination by the Secretary of State under section 52 of the 1949 Act.

The reason for now publishing our reports in this way is to ensure that where our proposals for a length are uncontentious, the Secretary of State is able to get on and approve them so that establishment works can be undertaken much sooner than would originally have been the case. This is in support of the Government's aim to get as much of the England Coast Path open by 2021 as practicable, despite the unavoidable delays caused by events of recent times including the People over Wind judgment and the Covid-19 lockdown.

It cannot be correct that the views of one objector, occupying a small proportion of the coast on just one of the constituent lengths on a stretch, should be able in effect to veto the approval by the Secretary of State of all the other lengths, being lengths on which the objector has no legal interest, and in relation to which none of the actual owners and occupiers of the estuarine land have thought it appropriate to object. We hope the Secretary of State will now proceed to determine the uncontested lengths on this stretch, in line with section 52.

Representation ID:

MCA/SGF2/R/2/SGF1844

Organisation/ person making representation:

Woodland Trust

Name of site:

Report map reference:

Route sections on or adjacent to the land:

SGF-2-S017 and SGF-2-S025 (Within Bridge Wood LNR)

Other reports within stretch to which this representation also relates

none

Summary of representation:

The Woodland Trust ask that care is taken to protect the ancient woodland when undertaking establishment works, such as infrastructure items and to limit any increase in the width of existing paths that may be upgraded.

Natural England's comment:

Natural England thank the Woodland Trust for their comments. As an environmental agency, we recognise and support the concerns raised and will work closely with Suffolk County Council at establishment to ensure the impacts from the England Coast Path on the ancient woodland interests are minimised or where unavoidable consider mitigation measures.

Representation ID:

MCA/SGF2/R/3/SGF0072

Organisation/ person making representation:

Ipswich Borough Council

Name of site:

Report map reference:

Map SGF 2a: Pond Hall Farm, Ipswich, IP3 0LZ

Map SGF 2b: Bridge Wood, IP3 OPG

Route sections on or adjacent to the land:

Other reports within stretch to which this representation also relates

Summary of representation:

Ipswich Council have reviewed the coast path proposals in light of the work we have already produced regarding this section of the coastline with a view to addressing the issue of disturbance to European sites. In principle, we have no objection to the proposal of an accessible route along this section of the coastline. We support the restriction of access to the salt marsh and mud flats under the CROW act. We welcome the proposal to set back the path from the foreshore at Pond Hall Farm in order to draw visitors away from the Estuary.

The Orwell Estuary is already subject to recreational pressures as recognised in the Habitats Regulations Assessment (HRA) for the Adopted Ipswich Local Plan (February 2017) and the Council has produced a Suffolk Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) to avoid and mitigate the recreational impact of new residential development in combination with other plans and projects along the Suffolk Coast. These plans contain proposed measures that are designed to draw visitors away from the foreshore and one of these measures includes a woodland buffer to be planted along the foreshore to screen visitors and reduce possible bird disturbance.

Ipswich Council welcomes the opportunity to work with Natural England in further developing the coast path route to ensure a joint approach to mitigation. We note that we have not had discussion with the coast path team to date.

Natural England's comment:

Natural England thank Ipswich Borough Council for their support in principal and their work to date in helping to reduce the impact visitors to this stretch of coastline could have on the wintering bird population.

We recognised that Bridge Wood and Pond Hall Farm are attractive visitor destinations close to Ipswich. Natural England notes the interaction between the wildlife interest and the public in our Nature Conservation Assessment that accompanied our proposals for the alignment of the England Coast Path in this location

“Bridge Wood is part of the popular visitor destination of Orwell Country Park, and currently receives significant visitor numbers with many path and route options, good car parking and public transport links. The England Coast Path alignment and small area of land as coastal spreading room will not significantly increase the user numbers on this site – trail improvements may have a positive impact of encouraging users away from the more sensitive wildlife of the foreshore. Therefore no impact is expected from the alignment of the England Coast Path.”

Our own Habitats Regulation Assessment that also accompanied our published alignment proposals considered the potential for impact on the internationally important bird populations along this coastline. Likewise we considered the existing pressures and interactions to determine whether the England Coast Path would create detriment to the wildlife interests and concluded it would not do so in this location.

Natural England has undertaken a number of site visits at Bridge Wood and Pond Hall Farm with various staff members from Ipswich Borough Council over the last 2 years and discussed a number of route options. We shared a potential route with the Borough Council which was then amended at Pond Hall Farm at the Council's request by moving the route inland.

In early April 2019 we met with a number of Ipswich Borough Council staff members to share our conclusions regarding our intended route proposal, based on the evidence we had collected over the previous 2 years from landowners and stakeholders, and no concerns were raised at

that time. We also shared thinking about restrictions on saltmarsh and mudflat. Our more recent communication with the Council has been copied to at least 9 council colleagues.

Representation ID:

MCA/SGF2/R/4/SGF0008

Organisation/ person making representation:

Disabled Ramblers

Name of site:

Report map reference:

1. Report SGF 2: All route sections generally.
2. Map SGF 2b: Route sections SGF-2-S025 to SGF-2-S036

Route sections on or adjacent to the land:

1. Report SGF 2: All route sections generally.
2. Map SGF 2b: Route sections SGF-2-S025 to SGF-2-S036

Other reports within stretch to which this representation also relates

Summary of representation:

The Disabled Ramblers noted that Natural England should ensure that, unless the natural terrain itself prevents access, any existing or new infrastructure along the Coast Path does not present a barrier to their ability to progress along the Coast Path.

In relation to MAP SGF 2b, Route sections SGF-2-S025 to SGF-2-S036 the Disabled Ramblers note that there are 4 existing footbridges and one planned through the proposed England Coast Path. They raise that the existing bridges are only about 70cm wide, which is not sufficient to allow all-terrain mobility vehicles to pass over. Disabled Ramblers considers that the terrain along these sections is suitable for users of all-terrain mobility vehicles, especially in drier weather, so the infrastructure should not be a barrier to progress for this group of people. Disabled Ramblers requests that all of these footbridges should be widened, and the steps at either end of the bridge be replaced with slopes to safely carry all-terrain mobility vehicles and pushchairs.

Natural England's comment:

Natural England welcome the Disabled Ramblers comments regarding infrastructure that may present as a barrier to many users of the England Coast Path and will work with Suffolk County Council as the access authority who have responsibility for establishing and maintaining the trail to ensure all users are considered and structures and surfacing meets all necessary legislation, including that designed to protect wildlife.

The trail at this location generally follows an existing public right of way and an existing walked route (as the public right of way status does not continue along the coastline). This section of alignment is within the boundary of the Orwell Estuary Site of Scientific Interest and also an

area recognised through European legislation as a Special Protection Area. The saltmarsh habitat the public right of way and England Coast Path trail aligns along is a threatened and decreasing habitat around the English coastline. These will be critical consideration for any path improvements in this location and there will be a need to balance the requirements from various elements of legislation regarding accessibility and the international wildlife interests of the area.

Length 4

Full Representations

Representation number:

MCA/SGF Stretch/R/3/SGF0004

Organisation/ person making representation:

CLA

Route section(s) specific to this representation:

Whole report

Other reports within stretch to which this representation also relates:

SGF 1, 3, 4 and 5

Representation in full

We ask the Secretary of State to take account of the concerns expressed by landowners in respect of the proposals for the Shotley Gate to Felixstowe Ferry coast stretch and the extension of access around the estuary.

We believe that:

- the reasons for using this discretion are misplaced,
- the use of the discretion adversely impacts landowners around the estuary, and
- a fair balance could have been better achieved if the Reports had proposed utilising the ferry crossing between Felixstowe, Harwich and Shotley, combined with an Alternative Route around the estuary.

Use of Estuary Discretion

The Overview states

“Section 296 of the 2009 Act places a legal duty (the Coastal Access Duty) on Natural England and the Secretary of State to secure a walking route around the whole of the open coast of England, together with an associated margin of land for the public to enjoy either in conjunction with their use of the route, or otherwise.

“Section 297 goes on to require both, in discharging this duty, to have regard among other things to the desirability of ensuring that so far as reasonably practicable, interruptions to this route are kept to a minimum. This is a key consideration for the whole of the national delivery programme for coastal access. The whole concept of the England Coast Path relies on delivering continuity of the route so far as reasonably practicable for the whole country. Although proposing a route around each estuary is a discretion rather than a legal duty, if the presence of an estuary would

interrupt this continuity of access along the open coast then this will constitute a strong prima facie reason for the trail to serve the estuary too, at least to the extent necessary to enable users to continue their onward journey around the coast.”

This misinterprets the legislation, which – as we show below – requires Natural England to take account of a very wide range of factors in exercising its discretion. The focus on continuity of the path is not borne out in the legislation itself.

Section 297 of the Marine and Coastal Access Act 2009 does not say that the route must be continuous. It says:

- a) regard “must” be had to the safety and convenience of those using the route
- b) it is “desirable” that the route adheres to the periphery of the coast and provides views of the sea, and
- c) it is “desirable” (but not a requirement) that “so far as reasonably practicable interruptions to the route are kept to a minimum”.

Continuity is no more important than the need to adhere to the periphery of the coast or provide views of the sea.

There is, however, an over-riding criterion (section 297(3)) that the proposals must aim to strike a “fair balance”.

The legislation also treats estuaries differently from the main coast.

Section 301 provides Natural England with the discretion to extend access as far as the first public foot crossing, or, to any point between that and the seaward limit of the estuarial waters.

In exercising that discretion, Natural England is required to take account of additional criteria. These are:

- “(a) the nature of the land which would, for the purposes of this Part, become part of the coast of England if Natural England exercised the power in subsection (2) in respect of the relevant upstream waters for the limit under consideration;*
- (b) the topography of the shoreline adjacent to those waters;*
- (c) the width of the river upstream to that limit;*
- (d) the recreational benefit to the public of the coastal access duty being extended to apply in relation to the coast adjacent to those waters;*
- (e) the extent to which the land bordering those waters would, if it were coastal margin, be excepted land;*
- (f) whether it is desirable to continue the English coastal route to a particular physical feature (whether of the landscape or otherwise) or viewpoint;*
- (g) the existence of a ferry by which the public may cross the river.”*

Natural England may also take account of any other matter which may be relevant.

Parliament was clear that estuaries required additional and special criteria and could not simply be considered as part of the main coast.

It spent much time debating the matter.

The Environment Food and Rural Affairs Committee 9th Report of Session 2007-8 stated (in rejecting the initial proposals for estuaries contained within the Draft Marine Bill):

“The provisions about estuaries are very vague and leave excessive authority to Natural England. The Bill should include a clear specification about where the trail should cross estuaries”.

Lord Hunt of Kings Heath stated on behalf of the Government (10th and 11th Stages of Committee, House of Lords, 30 March 2009 and 21 April 2009) that:

We think it important that Natural England should have the flexibility to decide on the approach to estuaries on a case-by-case basis. [our emphasis]

....

“In deciding whether to make a recommendation to stop the route at any point between the mouth of the river and the first crossing point, Natural England must have regard to both the general considerations in Clause 287 and the additional matters in Clause 291(4), which include, among others, the nature of the land, the topography of the shoreline, the width of the river upstream to the first crossing point and the existence of a ferry by which the public may cross the river.”

He later added that:

“Natural England must not decide to continue the route up to the first crossing point solely on the basis of the desirability of the continuity of the route.”

If, as the Overview suggests, continuity is a “prima facie” reason to continue access up an estuary, then the additional criteria set out in the legislation would, plainly, be unnecessary.

That is clearly not the case.

Given that, much greater consideration should have been given to the other factors critical to a decision about the discretion. These include:

- the presence of an existing estuarial path (the Stour and Orwell Walk)
- the existence of a ferry,
- the extent of excepted land,
- the recreational benefit to the public, and
- the impact on owners and occupiers (the need for a fair balance)

amongst other matters.

We note that the Orwell is served by a seasonal ferry, which operates between Felixstowe, Harwich and Shotley Gate.

We also note that the legislation specifically allows the use of a seasonal or part-time ferry crossing (Section 296 Marine and Coastal Access Act 2009), stating that:

“For the purposes of the coastal access duty, a person is to be regarded as enabled to make a journey by ferry even if that journey can be made at certain times, or during certain periods, only.”

A seasonal or part-time ferry is sufficient to meet the coastal access duty.

The Coastal Access Scheme states that:

“even where a ferry is only seasonal or part-time, it may still in all the circumstances be a significant factor in deciding where the trail should end on the estuary.” (Coastal Access Scheme Section 10.3).

The report could, therefore, have proposed simply using the ferry service. This is especially the case as there is already an existing estuarial trail, the Stour and Orwell Walk, which extends

around the entire estuary linking to the ferry, providing a current alternative for times when the ferry is not available.

The estuary has significant areas of excepted land. The Stour and Orwell Walk circumvents these and – in the absence of any agreement to go through excepted land – any route proposed under coastal access would also have to avoid these areas.

The recreational benefit to the public must be assessed in terms of any additional benefit, over and above that already available. The Overview notes the benefits of the existing access rights, and the numerous opportunities available to the public for recreation:

“The area is promoted widely and is popular for leisure and tourism”

“It is possible to walk around the estuary on the Stour and Orwell Walk”

“Bridge Wood Country Park...receives large numbers of visitors per annum”

“There are a number of marinas along the estuary and sailors enjoy the walks along the banks between villages and pubs”

“The historic hamlet of Pin Mill is popular with walkers, sailors and day trippers alike”

“There is a long history of informal access on the shores of the River Orwell”

There is no assessment of the additional recreational benefit that might arise from extending the main coastal trail around the estuary (as opposed to the recreational benefit that will already occur from existing access, or that might arise from other forms of access, such as an alternative route).

In addition, contrary to what might be expected, it appears that the purpose of aligning the main trail around the estuary is **not** to provide access over a wider area (the margin). On the contrary, the Overview states that a benefit of aligning the main trail around the estuary would be to *“reduce the pressures and impact of walkers on the SPA sensitive features by providing them with a clear safe route to use on land”* [our emphasis].

Despite it being an over-riding criterion, there is little assessment in the reports of the impact on owners and occupiers – the fair balance.

In deciding to align the main trail around the estuary, the proposals have:

- failed to take account of existing access,
- ignored the existing ferry,
- not considered the impact of excepted land or the extent of any additional recreational benefit that might arise from aligning the trail around the estuary, and
- have not considered the impact on owners and occupiers.

We believe that Natural England should not have proposed aligning the main trail around the estuary. Its proposals were based on a misinterpretation of the legislation, and there are no additional justifications identified under the estuary criteria that outweigh the substantial burden that aligning the trail places on owners and occupiers.

The public benefit of a route could have been equally achieved by utilising the ferry as the main route, coupled with an alternative route around the estuary (potentially using the route identified).

There are fair balance issues which arise from the implications of roll-back and the coastal margin associated with a main route. But these issues are resolved if the route were an alternative route.

There are some arguments for providing a route around the estuary – notably that it enables better management of access along sensitive areas of the estuary; it could improve access from the existing Stour and Orwell Walk; and it could provide a more coastal experience.

However, those benefits would all still be achieved if the route were an alternative route.

We strongly believe that by utilising the ferry for the main route and providing an Alternative Route around the estuary (along the currently proposed path), this would meet the aspirations for access, while providing less of a burden to affected owners. The combination of the ferry and an alternative route better meets the requirements for fair balance.

Proposed Modifications

The England Coast Path should use the ferry crossing. In addition, there should be an alternative route, along the route already identified in the reports. This would reduce the burden on owners and occupiers, while still providing improved access around the estuary.

This is a necessary change to meet the requirements for fair balance.

We urge the Secretary of State to modify the reports accordingly.

Natural England's comments

Natural England thank the CLA for their comments on our published reports for Shotley Gate to Felixstowe Ferry. We recognise that as an organisation they represent the interests of certain land owners and businesses along the stretch of coast in question. However apart from one land owning interest we received no further adverse comments on applying our discretion under section 301 to extend the trail further upstream beyond the seaward limit of the estuarial waters to the first bridge or tunnel with pedestrian access; and we received several representations in support of this proposal.

Much of the CLA's representation is concerned with whether Natural England places too much emphasis on the importance of continuity of the route when considering whether to exercise the estuary discretion. Nevertheless they conclude in this case that NE is right to propose a new estuary route, that it will bring significant benefits, and that it should indeed follow the line we have proposed to the Secretary of State. We thank the CLA for this welcome support and endorsement of our proposal.

Where the CLA do take issue with our route proposal is with the status of the route. NE has proposed that the ordinary route should serve the estuary, while calling at the ferry points to enable path users to take the ferry if they wish to, at the times when it is running. But the CLA want the new estuary path only to be available during those months, or at those times of day, when the ferry is not running. Whenever the ferry is running, presumably, the CLA's plan is that the estuary path would be unavailable for public use, except insofar as it is based on existing public rights of way or access rights.

Natural England considered this potential to use the ferry as the main route and propose the estuary alignment as an alternative route. We decided to propose the route as we have the ordinary route instead for several reasons.

1. Once created, the alignment we propose would exist on the ground. It would need maintenance, such as cutting and establishing. So even as an alternative route, the

alignment would still physically exist, even at the times of day or months of the year when it is not open to the public because the ferry is running. For those parts on a right of way this is no change, but for the new sections, owners and occupiers would have the line of the trail visibly on their land even when the path was not open for public use. We would expect that situation to cause confusion, and potential for greater conflict and disagreement than would apply if the route were clearly available all year round, and everyone knew where they stood.

2. It may be helpful to tease out in a little more detail why an alternative route approach would be impracticable in the circumstances of this estuary. The ferry service is seasonal and for the year 2020, for example, will only run between Felixstowe and Shotley Gate five times a day, from 10.30 until 15.30; and from Shotley Gate to Felixstowe six times a day, from 10:00 to 16:00. (<https://www.harwichharbourferry.com/timetables>). Outside of these operating times, an alternative route would be available for users. Therefore it would be open during the summer months in the evenings, through the night until mid morning. This would create the risk of conflict between users and land owners or trail owners on a daily basis, as to when and why the route is available, or not available, for use. This would be particularly so for an alternative route as long as this, where users could be many miles into the route when the ferry became available and the alternative route suddenly wasn't. In effect the public would become stranded partway around the estuary, having run out of legal rights because the ferry had begun running again. This does not in NE's view make any practical sense: it is unworkable, and presents clear potential for conflict on the ground.
3. Classifying the estuary path as an alternative route would also prevent local users from enjoying shorter strolls on the England Coast Path closer to home at any time of the day or year, and would fail to secure their rights to use the local beaches, grasslands and hardstanding areas within what would become spreading room under our published proposals. This failure would represent a poor fit with the underlying policy of securing the wider margin for access rights except when it is excepted or excluded, in line with the Coastal Access Duty at section 296 of the 2009 Act.
4. At times when the alternative route was legally unavailable, users wishing to walk the estuary might instead use the existing Stour and Orwell walk. This would involve using some country lanes that the professional road safety assessment commissioned for the alignment of the England Coast Path deemed unsafe for walkers of the national trail. In effect, calling the estuary route an alternative route would be putting these users at significant personal risk at the times when it is unavailable for public use.

We think these facts present between them a convincing case for making our CLA-endorsed estuary path the ordinary route of the trail, rather than an alternative route. As noted above, the ordinary route we propose would still service the ferry points so that people are enabled to get on with their onward journey around the coast in the most direct way at the times when the ferry is running.

Turning to the other matters referred to by the CLA's representation:

Fair balance

The alignment we have proposed utilises large sections of existing access and would have limited impact on the owners or occupiers of this land. This fact contributed significantly to our decision to propose an estuary route. Presumably it also explains the CLA's welcome endorsement of our route proposal. We disagree with the earlier assertion that it would impose a substantial burden on owners and occupiers.

In terms of the wider margin that would be created by default under our proposals, there is already informal public access to many areas of the foreshore around the estuary. Some areas are more sensitive to wildlife disturbance than others and some present a risk to those unfamiliar with the soft mud on parts of this coastline. Our proposals would formalise access to the harder, beach like areas, securing a right of access to these areas for the first time, while excluding access where this is necessary for safety or nature conservation reasons.

The alignment is generally close to the water's edge and so creates limited spreading room over farmed land. Many of the small inland deviations are to pass around excepted land categories (typically buildings, curtilage and parkland), as we are obliged to do. The trail as proposed only moves back to the inland edge of one parkland as Natural England has been offered an access dedication on the coastal edge of another.

With the proposed route as the ordinary route, and clear access rights being created over appropriate areas of margin, affected occupiers will benefit from the uniquely reduced liability regime that applies wherever coastal access rights are in force. Currently the duty of care owed by occupiers to those 'helping themselves' to estuary land operates at a much higher level than this new regime will provide for.

'Recreational benefit must be additional'

We dispute the CLA's argument that the recreational benefits around an estuary are irrelevant to our decision as to whether to use the statutory discretion unless there is no public access at present. One of the key policy drivers for the national Coastal Access programme has always been to provide clear, secure, well signed and well managed public access instead of intermittent, low quality or uncertain informal access provision. Even in a case like this where there are significant current access rights, there is also a 'stop/go' quality to the estuary access which our proposals will resolve, leaving locals and the wider public alike with clear, confident, quality access to this lovely estuary for the first time.

'NE ignored the statutory estuary criteria'

We reject the implication that on the Orwell NE was solely concerned with the continuity of the route, and ignored the statutory criteria that must be taken into account when dealing with estuaries. We closely followed the guidance set out in Chapter 10 of the Approved Scheme 2013 in relation to estuaries, which makes clear that we always give careful consideration to extending the trail as far as the first public bridge.

The Chapter goes on to interpret and clarify, with the approval of the Secretary of State, how we apply the statutory estuary criteria set out in section 301 of the 2009 Act, and quoted by the CLA's representation. The single Overview to our proposals reports explains at section 5 the position on this estuary in relation to each of these criteria groupings, in line with what the Scheme says about them. As a result we concluded it was right for the path to engage with this estuary, and we are grateful to the CLA for supporting this conclusion.

Representation number:

MCA/SGF Stretch/R/4/SGF1810

Organisation/ person making representation:

Suffolk County Council (access authority)

Route section(s) specific to this representation:

Whole report

Other reports within stretch to which this representation also relates:

SGF 1, 3 4 and 5

Representation in full

Suffolk County Council welcomes Natural England's use of the estuary discretion to enable a continuous coastal path along the Orwell estuary to the first permanent crossing point at the Orwell Bridge.

The County Council support the inclusion of the Orwell Bridge (SGF-2-S003) as the first crossing point. The existing Stour & Orwell Walk is promoted across the bridge and the continuing use will maintain the quality and integrity of the trail.

The use of roll back on many of the sections is also welcomed, as this will enable the continued existence and use of the trail in conjunction with coastal processes, without reliance on public rights of way that have fixed positions.

Although much of the proposed trail will still use existing public rights of way, currently promoted by Suffolk County Council as the Stour & Orwell Walk, there has been a significant gap which the proposals will resolve. The County Council particularly welcomes and supports the proposal for a dedicated access strip through the Orwell Park Estate (route sections SGF-3-S012 to SGF-3-S019). This will be a significant improvement to the route that is currently promoted along the verge of the Ipswich Road.

The County Council is concerned as to the future of the maintenance funding for National Trails. The County Council is concerned that works proposed as mitigation in order to fulfil the objectives of the Habitat Regulations, are not included in the National Trail maintenance funding formula.

The County Council is concerned that the National Trail maintenance funding does not include an uplift for those sections of the trail that run immediately adjacent to Sites of Special Scientific Interest (SSSIs). The uplift only applies for parts of the trail that run directly within a SSSI. However, a significant length of the proposed trail runs immediately adjacent to the Orwell SSSI (also the Stour & Orwell Estuaries SPA and Ramsar), for which mitigation works are proposed, but this will not be recognised in the maintenance funding. The mitigation works will include information signs and approximately 150m of vegetation screening at Colton Creek (SGF-1-S019 and SGF-1-S020). As a public body the County Council must have regard to the purpose of conserving biodiversity (NERC Act 2006), so this will result in disproportionate pressure on the use of the maintenance funding for this stretch.

The County Council believes that the maintenance funding should include the uplift for those parts of the trail immediately adjacent to a SSSI where mitigation works have been proposed. Overall, the County Council believes that the proposals for improving coastal access on this stretch of the coast strikes the appropriate balance between public and private interests and recreational and environmental objectives as required by the approved coastal access scheme.

Natural England's comments

Natural England welcomes Suffolk County Council's supportive comments in relation to the proposed alignment of the England Coast Path in the compendium of reports that make up the stretch from Shotley Gate to Felixstowe Ferry.

In relation to the comments regarding maintenance funding, NE note that this is not a representation specific to the proposed alignment as identified in the published reports. We do however recognise the concerns raised by Suffolk County Council regarding the future funding available for the ongoing maintenance of the whole of the National Trail family and will maintain constructive discussion regarding this issue.

Representation number:

MCA/SGF Stretch/R/1/SGF1255

Organisation/ person making representation:

Ramblers Association (Suffolk Branch)

Route section(s) specific to this representation:

Whole report

Other reports within stretch to which this representation also relates:

SGF 1, 3, 4 and 5

Representation in full

Full representation made on each stretch

This representation is made on behalf of Suffolk Area Ramblers, and are attached to the general representation form for the whole section, annotated number 1.

All of the Suffolk section was surveyed by members of Suffolk Area Ramblers in the winter of 2017 – 2018 and meetings were held with the relevant Suffolk County Council Rights of Way Officers.

Following further discussion with interested members of the Ramblers in the area, maps of the Ramblers suggested route, together with a detailed report of why we were recommending this route, and what works we considered to be necessary, were then submitted to Natural England in April 2018.

Subsequently I have been in regular contact with the Natural England representatives for this section and have made some further visits to the proposed section of path as changes in the situation occur. Also, I have been appraised regularly of the differences between our initial suggestions and the Natural England preferred routes, all of which changes have been explained and the reasons for alternative routes discussed.

Finally, the Report published on Wednesday 15th January 2020 has been made available to all interested parties in the Ramblers Ipswich area group, and the maps of the Suffolk section were on display at the Suffolk Area Ramblers AGM on 1st February 2020. The responses from those consulted have been generally favourable, although 2 comments I have felt worthwhile in

passing on to you for consideration, on the representation forms annotated 2 and 3 [SGF4 and SGF5]

I would therefore, on behalf of Suffolk Area Ramblers, like to comment the proposed route for this section of the England Coast Path, and we look forward eagerly to the path being made available on the ground along the full length and open to public use.

[REDACTED]

Natural England's comments

Natural England thank the Suffolk branch of the Ramblers Association for their help in developing the proposals and their ongoing support.

Representation number:

MCA/SGF Stretch/R/2/SGF1838

Organisation/ person making representation:

Suffolk Local Access Forum

Route section(s) specific to this representation:

Whole report

Other reports within stretch to which this representation also relates:

SGF 1, 3, 4 and 5

Representation in full

Thank you for consulting the Suffolk Local Access Forum on the three recently released reports on sections of the England Coast Path in Suffolk. A sub-group of SLAF have examined these reports and are generally pleased with the routes that have been put forward and would like to thank all those involved including Natural England staff, SCC rights of way officers and landowners who have been working together on this project.

We have examined the reports and have set our comments below.

Shotley Gate to Felixstowe Ferry

SLAF is happy with the route around the Orwell Estuary, particularly with the work that has been done with landowners resulting in a new stretch of path through Orwell Country Park and Orwell Park to link up with public right of way at Shore Lane, Nacton.

Natural England's comments

Natural England thank the Suffolk Local Access Forum for their support and comments.

Other Representations

Representation ID:

MCA/SGF2/R/1/SGF0545

Organisation/ person making representation:

Orwell Park

Name of site:

Full stretch

Report map reference:

Route sections on or adjacent to the land:

Full stretch

Other reports within stretch to which this representation also relates

Summary of representation:

Orwell Park have raised objections in respect of Report SGF3, noting that if these objections are upheld, this will have a consequent effect on this report. They therefore ask that this report is not approved until the objections relating to SGF3 have first been determined.

Natural England's comment:

Rather than publishing (as previously) a single report setting out its proposals for each stretch of coast, Natural England now publishes a compendium of reports that between them set out its proposals for the entire stretch. As each length report makes clear, it is legally free-standing in its own right, and therefore capable of independent determination by the Secretary of State under section 52 of the 1949 Act.

The reason for now publishing our reports in this way is to ensure that where our proposals for a length are uncontentious, the Secretary of State is able to get on and approve them so that establishment works can be undertaken much sooner than would originally have been the case. This is in support of the Government's aim to get as much of the England Coast Path open by 2021 as practicable, despite the unavoidable delays caused by events of recent times including the People over Wind judgment and the Covid-19 lockdown.

It cannot be correct that the views of one objector, occupying a small proportion of the coast on just one of the constituent lengths on a stretch, should be able in effect to veto the approval by the Secretary of State of all the other lengths, being lengths on which the objector has no legal interest, and in relation to which none of the actual owners and occupiers of the estuarine land have thought it appropriate to object. We hope the Secretary of State will now proceed to determine the uncontested lengths on this stretch, in line with section 52.

Representation ID:

MCA/SGF4/R/7/SGF1845

Organisation/ person making representation:

M & G Real Estate

Name of site:

Report map reference:

SGF 4C, 4E and 4F

Route sections on or adjacent to the land:

Other reports within stretch to which this representation also relates

none

Summary of representation:

Any proposals must acknowledge the use to which these areas are put and as such ensure that all appropriate health and safety provisions are in place.

Natural England's comment:

Natural England thank M&G Real Estate for their comments and note that the protection of the public, visitors and employees under Health and Safety legislation remains the responsibility of land owners and tenants. The low level of liability afforded by the England Coast Path applies to users of the trail and the spreading room undertaking their right of access of foot but this recognises that the protection of the public, visitors and employees under Health and Safety legislation remains the responsibility of land owners and tenants.

Representation ID:

MCA/SGF4/R/6/SGF1783

Organisation/ person making representation:

Levington and Stratton Hall Parish Council

Name of site:

SGF 4, Shore Lane Nacton to Sea Road Felixstowe

Report map reference:

Route sections on or adjacent to the land:

Other reports within stretch to which this representation also relates

Summary of representation:

The Parish Council welcomes the designation of the relevant paths in our area as part of the National Trail and is proud to have the National Trail running through our beautiful area.

Levington and Stratton Parish Council note that SGF-4-S004 has been impassable due to thick mud and flooding.

They suggest that on SGF-4-S004 that rollback as defined in table 4.3 is impossible were this seawall to be abandoned and no longer repaired by the landowner and ask that the seawall is raised in height to avoid a future breach.

Furthermore SGF-4-S006 and SGF-4-S007 cannot roll back as the path is backed by a stream and marshland that would be flooded

The Council believe the fence to the landward side of SGF-4-S010 and S011 is unnecessary and unsightly.

Natural England's comment:

Natural England note the comments raised by the Parish Council. Recent weather has made the surface of many paths more difficult to walk than normal. However these are countryside routes and a degree of surface water and mud would be expected during the winter months. With the 4 m width of the Trail and the landward spreading room over certain coastal land forms such as the rear of the seawall in these locations it will be legitimate for users to find an alternative route if the surface is too difficult to walk. If the landowner wished to raise the level of their seawall this would be their decision and not one to be influenced by the England Coast Path, or the current right of way that is aligned along the seawall.

The roll-back described for these sections is determined to be normal rollback, as it does not fall into the category for complex rollback, as there is no excepted land or sensitive site designation immediately inland from these locations. Therefore normal rollback can apply, however in this location a gradual creep of the path inland would perhaps be less suitable, requiring instead a re-alignment to the other side of a field or feature.

The fencing to the landward side is existing fencing and used as a landward boundary marker for the definition of landward spreading room in this location. The England Coast Path cannot make any proposal to impact on this fence.

Representation ID:

MCA/SGF4/R/4/SGF1766

Organisation/ person making representation:

Felixstowe Town Council

Name of site:

SGF 4 whole of report

Report map reference:

SGF 4 whole of report

Route sections on or adjacent to the land:

SGF 4 whole of report

Other reports within stretch to which this representation also relates

SGF 5

Summary of representation:

Felixstowe Town Council welcomes and supports Natural England's proposed coastal path route within the parish of Felixstowe.

Natural England's comment:

Natural England thank Felixstowe Town Council for their support.

Representation ID:

MCA/SGF4/R/1/SGF0131

Organisation/ person making representation:

Suffolk Wildlife Trust

Name of site:**Report map reference:**

Report SGF 4: Shore Lane, Nacton to Sea Road, Felixstowe Map SGF 4b: Levington Creek to Stratton Cliff

Route sections on or adjacent to the land:**Other reports within stretch to which this representation also relates****Summary of representation:**

The saltmarsh to the western side of Levington Creek is a key high tide roost for waders and wildfowl and acknowledged in the Habitat Regulations Assessment, but Suffolk Wildlife Trust believe contrary to the findings of the HRA that this section of the coastal path will be well used. They ask for screening to minimise disturbance and to deter encroachment off the path by dogs and walkers.

Natural England's comment:

Natural England recognise that this is an important area for wildfowl and have considered the balance of existing use of the public rights of way at this Suffolk Wildlife Trust managed nature reserve that promotes visits to the seawall to view the wildlife, the small 5 vehicle car park and the locally promoted Suffolk Coast and Heaths long distance path that passes along the same alignment of the England Coast Path. We concluded that the creation of the England Coast Path in this location will bring few extra visitors over and above the current promoted site levels. Natural England also considered the likely interaction between users of the trail at the point in time to coincide with the twice daily high tide, one of which is most likely during night-time hours and the therefore reduced potential for public interaction with the roost during the winter season. Therefore Natural England considered the interaction from limited new visitors with the wildlife interests at the key times and states of the tide required no specific measures to minimise disturbance.

Representation ID:

MCA/SGF4/R/8/SGF0008

Organisation/ person making representation:

Disabled Ramblers

Name of site:

Report map reference:

Route sections on or adjacent to the land:

1. Report SGF 4: All route sections generally.
2. Map SGF 4b SGF-4-S007
3. Map SGF 4b Steps at sections SGF-4-S007 to SGF-4-S014
4. Map SGF 4e section SCF-4-S037 Railway Crossing
5. Map SGF 4f sections SCF-4-S038 SCF-4-S040 Road crossing

Other reports within stretch to which this representation also relates

Summary of representation:

The Disabled Ramblers noted that Natural England should ensure that, unless the natural terrain itself prevents access, any existing or new infrastructure along the Coast Path does not present a barrier to their ability to progress along the Coast Path.

The Disabled Ramblers also comment in relation to a car park near SGF-4-S007 and SGF-4-S008 that there is a gate that is not on the Trail alignment that may prevent access to the trail from the car park for disabled users.

At SGF-4-S007 to SGF-4-S014 there are two sets of steps within these sections, accessing a fairly low sea wall which is suitable terrain for use by all-terrain mobility vehicles and pushchairs. Both sets of steps should be replaced with, or supplemented at the side by, a gentle slope or ramp.

At SGF-4-S037 on the railway crossing, the route surface is unsuitable for disabled users. The gates to the railway cross are large and heavy and the phone on site to contact control to release the locked gates may be out of reach of users in a wheelchair.

The disabled ramblers raised concerns regarding road infrastructure for the series of crossings relating to SGF-4-S038 to SGF-4-S040, requesting dropped curbs and that on road 'give way' markings are moved further back into the junction.

Natural England's comment:

Natural England welcome the Disabled Ramblers comments regarding infrastructure that may present as a barrier to many users of the England Coast Path and will work with Suffolk County Council as the access authority who have responsibility for establishing and maintaining the trail to ensure all users are considered and structures and surfacing meets all necessary legislation, including that designed to protect wildlife.

Natural England note the comments regarding the car park that is landward of the trail. The England Coast Path has no influence over structures not on the trail.

In relation to the steps on the seawall, the seawall has a singular primary function to protect the land in the local area from flooding. It is a precise designed and engineered structure and infrastructure that affects this needs to be compatible with the primary function. Natural England will work with Suffolk County Council and the land owner to review the structures proposed.

The England Coast Path follows the public right of way across the railway line. This railway line is gated with controlled security gates as it is within the bounds of the port of Felixstowe and as such a range of other legislation applies (for instance the Port Security Regulations 2009 plus Railway and Health and Safety at Work Acts) requiring the electronically controlled gates. The surface is part of the design feature of the crossing in this location. However, the Equality Act equally applies to the land owners and Suffolk County Council are aware of issues relating to this right of way.

The alignment between SGF-4-S038 and SGF-4-S040 was developed with a road safety engineer and Suffolk County Council as access authority. Natural England will pass the comments relating to the dropped curbs to the County Council for further consideration when establishing the coast path. The issue of vehicles waiting to exit the junction is a temporary issue at every road junction the England Coast Path crosses and the situation at this location warrants no special action.

Representation ID:

MCA/SGF4/R/3/SGF0133

Organisation/ person making representation:

Suffolk Yacht Harbour

Name of site:

Suffolk Yacht Harbour

Report map reference:

SGF 4b and SGF 4c

Route sections on or adjacent to the land:

SGF-4-S018 to SGF-4-S021

Other reports within stretch to which this representation also relates

Summary of representation:

Suffolk Yacht Harbour seek assurance that signage is installed as related to the restriction.

Natural England's comment:

Natural England will work with Suffolk County Council, as the access authority who have responsibility for establishing and maintaining the trail to ensure appropriate signage is installed.

Length 5

Full Representations

Representation number:

MCA/SGF Stretch/R/3/SGF0004

Organisation/ person making representation:

CLA

Route section(s) specific to this representation:

Whole report

Other reports within stretch to which this representation also relates:

SGF 1, 3, 4 and 5

Representation in full

We ask the Secretary of State to take account of the concerns expressed by landowners in respect of the proposals for the Shotley Gate to Felixstowe Ferry coast stretch and the extension of access around the estuary.

We believe that:

- the reasons for using this discretion are misplaced,
- the use of the discretion adversely impacts landowners around the estuary, and
- a fair balance could have been better achieved if the Reports had proposed utilising the ferry crossing between Felixstowe, Harwich and Shotley, combined with an Alternative Route around the estuary.

Use of Estuary Discretion

The Overview states

“Section 296 of the 2009 Act places a legal duty (the Coastal Access Duty) on Natural England and the Secretary of State to secure a walking route around the whole of the open coast of England, together with an associated margin of land for the public to enjoy either in conjunction with their use of the route, or otherwise.

“Section 297 goes on to require both, in discharging this duty, to have regard among other things to the desirability of ensuring that so far as reasonably practicable, interruptions to this route are kept to a minimum. This is a key consideration for the whole of the national delivery programme for coastal access. The whole concept of the England Coast Path relies on delivering continuity of the route so far as reasonably practicable for the whole country. Although proposing a route around each estuary is a discretion rather than a legal duty, if the presence of an estuary would interrupt this continuity of access along the open coast then this will constitute a strong prima facie reason for the trail to serve the estuary too, at least to the extent necessary to enable users to continue their onward journey around the coast.”

This misinterprets the legislation, which – as we show below – requires Natural England to take account of a very wide range of factors in exercising its discretion. The focus on continuity of the path is not borne out in the legislation itself.

Section 297 of the Marine and Coastal Access Act 2009 does not say that the route must be continuous. It says:

- a) regard “must” be had to the safety and convenience of those using the route
- b) it is “desirable” that the route adheres to the periphery of the coast and provides views of the sea, and
- c) it is “desirable” (but not a requirement) that “so far as reasonably practicable interruptions to the route are kept to a minimum”.

Continuity is no more important than the need to adhere to the periphery of the coast or provide views of the sea.

There is, however, an over-riding criterion (section 297(3)) that the proposals must aim to strike a “fair balance”.

The legislation also treats estuaries differently from the main coast.

Section 301 provides Natural England with the discretion to extend access as far as the first public foot crossing, or, to any point between that and the seaward limit of the estuarial waters.

In exercising that discretion, Natural England is required to take account of additional criteria. These are:

- “(a) the nature of the land which would, for the purposes of this Part, become part of the coast of England if Natural England exercised the power in subsection (2) in respect of the relevant upstream waters for the limit under consideration;*
- (b) the topography of the shoreline adjacent to those waters;*
- (c) the width of the river upstream to that limit;*
- (d) the recreational benefit to the public of the coastal access duty being extended to apply in relation to the coast adjacent to those waters;*
- (e) the extent to which the land bordering those waters would, if it were coastal margin, be excepted land;*
- (f) whether it is desirable to continue the English coastal route to a particular physical feature (whether of the landscape or otherwise) or viewpoint;*
- (g) the existence of a ferry by which the public may cross the river.”*

Natural England may also take account of any other matter which may be relevant.

Parliament was clear that estuaries required additional and special criteria and could not simply be considered as part of the main coast.

It spent much time debating the matter.

The Environment Food and Rural Affairs Committee 9th Report of Session 2007-8 stated (in rejecting the initial proposals for estuaries contained within the Draft Marine Bill):

“The provisions about estuaries are very vague and leave excessive authority to Natural England. The Bill should include a clear specification about where the trail should cross estuaries”.

Lord Hunt of Kings Heath stated on behalf of the Government (10th and 11th Stages of Committee, House of Lords, 30 March 2009 and 21 April 2009) that:

We think it important that Natural England should have the flexibility to decide on the approach to estuaries on a case-by-case basis. [our emphasis]

....

“In deciding whether to make a recommendation to stop the route at any point between the mouth of the river and the first crossing point, Natural England must have regard to both the general considerations in Clause 287 and the additional matters in Clause 291(4), which include, among others, the nature of the land, the topography of the shoreline, the width of the river upstream to the first crossing point and the existence of a ferry by which the public may cross the river.”

He later added that:

“Natural England must not decide to continue the route up to the first crossing point solely on the basis of the desirability of the continuity of the route.”

If, as the Overview suggests, continuity is a “prima facie” reason to continue access up an estuary, then the additional criteria set out in the legislation would, plainly, be unnecessary.

That is clearly not the case.

Given that, much greater consideration should have been given to the other factors critical to a decision about the discretion. These include:

- the presence of an existing estuarial path (the Stour and Orwell Walk)
- the existence of a ferry,
- the extent of excepted land,
- the recreational benefit to the public, and
- the impact on owners and occupiers (the need for a fair balance)

amongst other matters.

We note that the Orwell is served by a seasonal ferry, which operates between Felixstowe, Harwich and Shotley Gate.

We also note that the legislation specifically allows the use of a seasonal or part-time ferry crossing (Section 296 Marine and Coastal Access Act 2009), stating that:

“For the purposes of the coastal access duty, a person is to be regarded as enabled to make a journey by ferry even if that journey can be made at certain times, or during certain periods, only.”

A seasonal or part-time ferry is sufficient to meet the coastal access duty.

The Coastal Access Scheme states that:

“even where a ferry is only seasonal or part-time, it may still in all the circumstances be a significant factor in deciding where the trail should end on the estuary.” (Coastal Access Scheme Section 10.3).

The report could, therefore, have proposed simply using the ferry service. This is especially the case as there is already an existing estuarial trail, the Stour and Orwell Walk, which extends around the entire estuary linking to the ferry, providing a current alternative for times when the ferry is not available.

The estuary has significant areas of excepted land. The Stour and Orwell Walk circumvents these and – in the absence of any agreement to go through excepted land – any route proposed under coastal access would also have to avoid these areas.

The recreational benefit to the public must be assessed in terms of any additional benefit, over and above that already available. The Overview notes the benefits of the existing access rights, and the numerous opportunities available to the public for recreation:

“The area is promoted widely and is popular for leisure and tourism”

“It is possible to walk around the estuary on the Stour and Orwell Walk”

“Bridge Wood Country Park...receives large numbers of visitors per annum”

“There are a number of marinas along the estuary and sailors enjoy the walks along the banks between villages and pubs”

“The historic hamlet of Pin Mill is popular with walkers, sailors and day trippers alike”

“There is a long history of informal access on the shores of the River Orwell”

There is no assessment of the additional recreational benefit that might arise from extending the main coastal trail around the estuary (as opposed to the recreational benefit that will already occur from existing access, or that might arise from other forms of access, such as an alternative route).

In addition, contrary to what might be expected, it appears that the purpose of aligning the main trail around the estuary is **not** to provide access over a wider area (the margin). On the contrary, the Overview states that a benefit of aligning the main trail around the estuary would be to *“reduce the pressures and impact of walkers on the SPA sensitive features by providing them with a clear safe route to use on land”* [our emphasis].

Despite it being an over-riding criterion, there is little assessment in the reports of the impact on owners and occupiers – the fair balance.

In deciding to align the main trail around the estuary, the proposals have:

- failed to take account of existing access,
- ignored the existing ferry,
- not considered the impact of excepted land or the extent of any additional recreational benefit that might arise from aligning the trail around the estuary, and
- have not considered the impact on owners and occupiers.

We believe that Natural England should not have proposed aligning the main trail around the estuary. Its proposals were based on a misinterpretation of the legislation, and there are no additional justifications identified under the estuary criteria that outweigh the substantial burden that aligning the trail places on owners and occupiers.

The public benefit of a route could have been equally achieved by utilising the ferry as the main route, coupled with an alternative route around the estuary (potentially using the route identified).

There are fair balance issues which arise from the implications of roll-back and the coastal margin associated with a main route. But these issues are resolved if the route were an alternative route.

There are some arguments for providing a route around the estuary – notably that it enables better management of access along sensitive areas of the estuary; it could improve access from the existing Stour and Orwell Walk; and it could provide a more coastal experience.

However, those benefits would all still be achieved if the route were an alternative route.

We strongly believe that by utilising the ferry for the main route and providing an Alternative Route around the estuary (along the currently proposed path), this would meet the aspirations for access, while providing less of a burden to affected owners. The combination of the ferry and an alternative route better meets the requirements for fair balance.

Proposed Modifications

The England Coast Path should use the ferry crossing. In addition, there should be an alternative route, along the route already identified in the reports. This would reduce the burden on owners and occupiers, while still providing improved access around the estuary.

This is a necessary change to meet the requirements for fair balance.

We urge the Secretary of State to modify the reports accordingly.

Natural England's comments

Natural England thank the CLA for their comments on our published reports for Shotley Gate to Felixstowe Ferry. We recognise that as an organisation they represent the interests of certain land owners and businesses along the stretch of coast in question. However apart from one land owning interest we received no further adverse comments on applying our discretion under section 301 to extend the trail further upstream beyond the seaward limit of the estuarial waters to the first bridge or tunnel with pedestrian access; and we received several representations in support of this proposal.

Much of the CLA's representation is concerned with whether Natural England places too much emphasis on the importance of continuity of the route when considering whether to exercise the estuary discretion. Nevertheless they conclude in this case that NE is right to propose a new estuary route, that it will bring significant benefits, and that it should indeed follow the line we have proposed to the Secretary of State. We thank the CLA for this welcome support and endorsement of our proposal.

Where the CLA do take issue with our route proposal is with the status of the route. NE has proposed that the ordinary route should serve the estuary, while calling at the ferry points to enable path users to take the ferry if they wish to, at the times when it is running. But the CLA want the new estuary path only to be available during those months, or at those times of day, when the ferry is not running. Whenever the ferry is running, presumably, the CLA's plan is that the estuary path would be unavailable for public use, except insofar as it is based on existing public rights of way or access rights.

Natural England considered this potential to use the ferry as the main route and propose the estuary alignment as an alternative route. We decided to propose the route as we have the ordinary route instead for several reasons.

1. Once created, the alignment we propose would exist on the ground. It would need maintenance, such as cutting and establishing. So even as an alternative route, the alignment would still physically exist, even at the times of day or months of the year when it is not open to the public because the ferry is running. For those parts on a right of way this is no change, but for the new sections, owners and occupiers would have the line of the trail visibly on their land even when the path was not open for public use. We would expect that situation to cause confusion, and potential for greater conflict and disagreement than would apply if the route were clearly available all year round, and everyone knew where they stood.
2. It may be helpful to tease out in a little more detail why an alternative route approach would be impracticable in the circumstances of this estuary. The ferry service is seasonal and for the year 2020, for example, will only run between Felixstowe and Shotley Gate five times a day, from 10.30 until 15.30; and from Shotley Gate to Felixstowe six times a day, from 10:00 to 16:00. (<https://www.harwichharbourferry.com/timetables>). Outside of these operating times, an alternative route would be available for users. Therefore it would be open during the summer months in the evenings, through the night until mid morning. This would create the risk of conflict between users and land owners or trail

owners on a daily basis, as to when and why the route is available, or not available, for use. This would be particularly so for an alternative route as long as this, where users could be many miles into the route when the ferry became available and the alternative route suddenly wasn't. In effect the public would become stranded partway around the estuary, having run out of legal rights because the ferry had begun running again. This does not in NE's view make any practical sense: it is unworkable, and presents clear potential for conflict on the ground.

3. Classifying the estuary path as an alternative route would also prevent local users from enjoying shorter strolls on the England Coast Path closer to home at any time of the day or year, and would fail to secure their rights to use the local beaches, grasslands and hardstanding areas within what would become spreading room under our published proposals. This failure would represent a poor fit with the underlying policy of securing the wider margin for access rights except when it is excepted or excluded, in line with the Coastal Access Duty at section 296 of the 2009 Act.
4. At times when the alternative route was legally unavailable, users wishing to walk the estuary might instead use the existing Stour and Orwell walk. This would involve using some country lanes that the professional road safety assessment commissioned for the alignment of the England Coast Path deemed unsafe for walkers of the national trail. In effect, calling the estuary route an alternative route would be putting these users at significant personal risk at the times when it is unavailable for public use.

We think these facts present between them a convincing case for making our CLA-endorsed estuary path the ordinary route of the trail, rather than an alternative route. As noted above, the ordinary route we propose would still service the ferry points so that people are enabled to get on with their onward journey around the coast in the most direct way at the times when the ferry is running.

Turning to the other matters referred to by the CLA's representation:

Fair balance

The alignment we have proposed utilises large sections of existing access and would have limited impact on the owners or occupiers of this land. This fact contributed significantly to our decision to propose an estuary route. Presumably it also explains the CLA's welcome endorsement of our route proposal. We disagree with the earlier assertion that it would impose a substantial burden on owners and occupiers.

In terms of the wider margin that would be created by default under our proposals, there is already informal public access to many areas of the foreshore around the estuary. Some areas are more sensitive to wildlife disturbance than others and some present a risk to those unfamiliar with the soft mud on parts of this coastline. Our proposals would formalise access to the harder, beach like areas, securing a right of access to these areas for the first time, while excluding access where this is necessary for safety or nature conservation reasons.

The alignment is generally close to the water's edge and so creates limited spreading room over farmed land. Many of the small inland deviations are to pass around excepted land categories (typically buildings, curtilage and parkland), as we are obliged to do. The trail as proposed only moves back to the inland edge of one parkland as Natural England has been offered an access dedication on the coastal edge of another.

With the proposed route as the ordinary route, and clear access rights being created over appropriate areas of margin, affected occupiers will benefit from the uniquely reduced liability regime that applies wherever coastal access rights are in force. Currently the duty of care owed by occupiers to those 'helping themselves' to estuary land operates at a much higher level than this new regime will provide for.

'Recreational benefit must be additional'

We dispute the CLA's argument that the recreational benefits around an estuary are irrelevant to our decision as to whether to use the statutory discretion unless there is no public access at present. One of the key policy drivers for the national Coastal Access programme has always been to provide clear, secure, well signed and well managed public access instead of intermittent, low quality or uncertain informal access provision. Even in a case like this where there are significant current access rights, there is also a 'stop/go' quality to the estuary access which our proposals will resolve, leaving locals and the wider public alike with clear, confident, quality access to this lovely estuary for the first time.

'NE ignored the statutory estuary criteria'

We reject the implication that on the Orwell NE was solely concerned with the continuity of the route, and ignored the statutory criteria that must be taken into account when dealing with estuaries. We closely followed the guidance set out in Chapter 10 of the Approved Scheme 2013 in relation to estuaries, which makes clear that we always give careful consideration to extending the trail as far as the first public bridge.

The Chapter goes on to interpret and clarify, with the approval of the Secretary of State, how we apply the statutory estuary criteria set out in section 301 of the 2009 Act, and quoted by the CLA's representation. The single Overview to our proposals reports explains at section 5 the position on this estuary in relation to each of these criteria groupings, in line with what the Scheme says about them. As a result we concluded it was right for the path to engage with this estuary, and we are grateful to the CLA for supporting this conclusion.

Representation number:

MCA/SGF Stretch/R/4/SGF1810

Organisation/ person making representation:

Suffolk County Council (access authority)

Route section(s) specific to this representation:

Whole report

Other reports within stretch to which this representation also relates:

SGF 1, 3 4 and 5

Representation in full

Suffolk County Council welcomes Natural England's use of the estuary discretion to enable a continuous coastal path along the Orwell estuary to the first permanent crossing point at the Orwell Bridge.

The County Council support the inclusion of the Orwell Bridge (SGF-2-S003) as the first crossing point. The existing Stour & Orwell Walk is promoted across the bridge and the continuing use will maintain the quality and integrity of the trail.

The use of roll back on many of the sections is also welcomed, as this will enable the continued existence and use of the trail in conjunction with coastal processes, without reliance on public rights of way that have fixed positions.

Although much of the proposed trail will still use existing public rights of way, currently promoted by Suffolk County Council as the Stour & Orwell Walk, there has been a significant gap which the proposals will resolve. The County Council particularly welcomes and supports the proposal for a dedicated access strip through the Orwell Park Estate (route sections SGF-3-S012 to SGF-3-S019). This will be a significant improvement to the route that is currently promoted along the verge of the Ipswich Road.

The County Council is concerned as to the future of the maintenance funding for National Trails. The County Council is concerned that works proposed as mitigation in order to fulfil the objectives of the Habitat Regulations, are not included in the National Trail maintenance funding formula.

The County Council is concerned that the National Trail maintenance funding does not include an uplift for those sections of the trail that run immediately adjacent to Sites of Special Scientific Interest (SSSIs). The uplift only applies for parts of the trail that run directly within a SSSI. However, a significant length of the proposed trail runs immediately adjacent to the Orwell SSSI (also the Stour & Orwell Estuaries SPA and Ramsar), for which mitigation works are proposed, but this will not be recognised in the maintenance funding. The mitigation works will include information signs and approximately 150m of vegetation screening at Colton Creek (SGF-1-S019 and SGF-1-S020). As a public body the County Council must have regard to the purpose of conserving biodiversity (NERC Act 2006), so this will result in disproportionate pressure on the use of the maintenance funding for this stretch.

The County Council believes that the maintenance funding should include the uplift for those parts of the trail immediately adjacent to a SSSI where mitigation works have been proposed. Overall, the County Council believes that the proposals for improving coastal access on this stretch of the coast strikes the appropriate balance between public and private interests and recreational and environmental objectives as required by the approved coastal access scheme.

Natural England's comments

Natural England welcomes Suffolk County Council's supportive comments in relation to the proposed alignment of the England Coast Path in the compendium of reports that make up the stretch from Shotley Gate to Felixstowe Ferry.

In relation to the comments regarding maintenance funding, NE note that this is not a representation specific to the proposed alignment as identified in the published reports. We do however recognise the concerns raised by Suffolk County Council regarding the future funding available for the ongoing maintenance of the whole of the National Trail family and will maintain constructive discussion regarding this issue.

Representation number:

MCA/SGF Stretch/R/1/SGF1255

Organisation/ person making representation:

Ramblers Association (Suffolk Branch)

Route section(s) specific to this representation:

Whole report

Other reports within stretch to which this representation also relates:

SGF 1, 3, 4 and 5

Representation in full

Full representation made on each stretch

This representation is made on behalf of Suffolk Area Ramblers, and are attached to the general representation form for the whole section, annotated number 1.

All of the Suffolk section was surveyed by members of Suffolk Area Ramblers in the winter of 2017 – 2018 and meetings were held with the relevant Suffolk County Council Rights of Way Officers.

Following further discussion with interested members of the Ramblers in the area, maps of the Ramblers suggested route, together with a detailed report of why we were recommending this route, and what works we considered to be necessary, were then submitted to Natural England in April 2018.

Subsequently I have been in regular contact with the Natural England representatives for this section and have made some further visits to the proposed section of path as changes in the situation occur. Also, I have been appraised regularly of the differences between our initial suggestions and the Natural England preferred routes, all of which changes have been explained and the reasons for alternative routes discussed.

Finally, the Report published on Wednesday 15th January 2020 has been made available to all interested parties in the Ramblers Ipswich area group, and the maps of the Suffolk section were on display at the Suffolk Area Ramblers AGM on 1st February 2020. The responses from those consulted have been generally favourable, although 2 comments I have felt worthwhile in passing on to you for consideration, on the representation forms annotated 2 and 3 [SGF4 and SGF5]

I would therefore, on behalf of Suffolk Area Ramblers, like to comment the proposed route for this section of the England Coast Path, and we look forward eagerly to the path being made available on the ground along the full length and open to public use.

[REDACTED]

Natural England's comments

Natural England thank the Suffolk branch of the Ramblers Association for their help in developing the proposals and their ongoing support.

Representation number:

MCA/SGF Stretch/R/2/SGF1838

Organisation/ person making representation:

Suffolk Local Access Forum

Route section(s) specific to this representation:

Whole report

Other reports within stretch to which this representation also relates:

SGF 1, 3, 4 and 5

Representation in full

Thank you for consulting the Suffolk Local Access Forum on the three recently released reports on sections of the England Coast Path in Suffolk. A sub-group of SLAF have examined these reports and are generally pleased with the routes that have been put forward and would like to thank all those involved including Natural England staff, SCC rights of way officers and landowners who have been working together on this project.

We have examined the reports and have set our comments below.

Shotley Gate to Felixstowe Ferry

SLAF is happy with the route around the Orwell Estuary, particularly with the work that has been done with landowners resulting in a new stretch of path through Orwell Country Park and Orwell Park to link up with public right of way at Shore Lane, Nacton.

Natural England's comments

Natural England thank the Suffolk Local Access Forum for their support and comments.

Other Representations

Representation ID:

MCA/SGF2/R/1/SGF0545

Organisation/ person making representation:

Orwell Park

Name of site:

Full stretch

Report map reference:

Route sections on or adjacent to the land:

Full stretch

Other reports within stretch to which this representation also relates

Summary of representation:

Orwell Park have raised objections in respect of Report SGF3, noting that if these objections are upheld, this will have a consequent effect on this report. They therefore ask that this report is not approved until the objections relating to SGF3 have first been determined.

Natural England's comment:

Rather than publishing (as previously) a single report setting out its proposals for each stretch of coast, Natural England now publishes a compendium of reports that between them set out its proposals for the entire stretch. As each length report makes clear, it is legally free-standing in its own right, and therefore capable of independent determination by the Secretary of State under section 52 of the 1949 Act.

The reason for now publishing our reports in this way is to ensure that where our proposals for a length are uncontroversial, the Secretary of State is able to get on and approve them so that establishment works can be undertaken much sooner than would originally have been the case. This is in support of the Government's aim to get as much of the England Coast Path open by 2021 as practicable, despite the unavoidable delays caused by events of recent times including the People over Wind judgment and the Covid-19 lockdown.

It cannot be correct that the views of one objector, occupying a small proportion of the coast on just one of the constituent lengths on a stretch, should be able in effect to veto the approval by the Secretary of State of all the other lengths, being lengths on which the objector has no legal interest, and in relation to which none of the actual owners and occupiers of the estuarine land have thought it appropriate to object. We hope the Secretary of State will now proceed to determine the uncontested lengths on this stretch, in line with section 52.

Representation ID:

MCA/SGF5/R/2/SGF1766

Organisation/ person making representation:

Felixstowe Town Council

Name of site:

SGF 5 whole report

Report map reference:

SGF 5 whole report

Route sections on or adjacent to the land:

SGF 5 whole report

Other reports within stretch to which this representation also relates

SGF 4

Summary of representation:

Felixstowe Town Council welcomes and supports Natural England's proposed coastal path route within the parish of Felixstowe.

Natural England's comment:

Natural England thank Felixstowe Town Council for their support.

Representation ID:

MCA/SGF5/R/4/SGF0008

Organisation/ person making representation:

Disabled Ramblers

Name of site:

Report map reference:

Route sections on or adjacent to the land:

1. Map SGF 5b SGF-5-S0013 Concrete 'U' shaped ramp over sea wall
2. Map SGF 5d: SGF-5-S0028 lower end of zig-zag
3. Map SGF 5e: Sections SGF-5-S030- SGF-5-S035 Sea defence

Other reports within stretch to which this representation also relates

Summary of representation:

Comment 1. Map SGF 5b SGF-5-S0013 Concrete 'U' shaped ramp over sea wall. The Disabled Ramblers request that the top of the 'U' is enlarged to provide an appropriately large turning area for all mobility vehicles.

Comment 2. Map SGF 5d: SGF-5-S0028 lower end of zig-zag. The upper parts of the zig-zag are suitable for users of mobility vehicles, however there is not sufficient turning space for large mobility vehicles to get around the turns in the lower sections of the zig-zag.

Comment 3. Map SGF 5e: Sections SGF-5-S030- SGF-5-S035 Sea defence. Although narrow, there is enough room to allow the user of a mobility vehicle to use this part of the route. However there would be problems if two users of mobility vehicles met each other coming from opposite directions, or if one user wished to turn around. Disabled Ramblers requests that suitable signage is clearly provided at all entrances to this sea defence to warn of the issues, and to inform of the distance along this stretch of sea defence to the nearest passing and turning area.

Natural England's comment:

Comment 1, relating to the Concrete U shaped ramp over the seawall. Natural England and Suffolk County Council are aware of the wooden ramp over the seawall. The England Coast Path does not propose to align over this ramp, utilising the gaps with flood gates in the seawall at this location.

Comment 2, relating to SGF-5-S028 follows an existing well established pathway that snakes on the steep slope at this location. It currently provides access from the town and public

highways and car parks to the beach huts and seafront. Natural England will pass the concerns raised by the Disabled ramblers on to the local authority for further consideration.

Comment 3, relating to SGF-5-S030 to SGF-5-S035. NE note that the flood defence structure would appear for much of its length to have a wide surfaced path on its broad crest, but will pass these comments and request for signage on to Suffolk County Council for further consideration as the trail is established.