

Coastal Access – Kingswear to Lyme Regis

Representations with Natural England’s comments



March 2021

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1. Introduction

This document records the representations Natural England has received on the proposals for Kingswear to Lyme Regis from persons or bodies. It also sets out any Natural England comments on these representations.

2. Background

Natural England’s report setting out its proposals for improved access to the coast from Kingswear to Lyme Regis, comprising an overview and nine chapters, was submitted to the Secretary of State on 30 March 2017. This began an eight-week period during which representations and objections about the report could be made.

In total, Natural England received 225 representations, of which six 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 219 representations made by other individuals or organisations, referred to as ‘other’ representations. Section 5 contains the supporting documents referenced against the representations.

3. Layout

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

4. Representations and Natural England's comments on them

Chapter 1

Full representations

Representation number

MCA\Kingswear to Lyme Regis\R\202\KLR1978

Organisation/ person making representation

Devon Countryside Access Forum (DCAF)

Report chapter

1 to 9

Route section(s)

N/A Generic comment

Representation in full *Record the representation here in full. Do not summarise.*

Concern was expressed by the Devon Countryside Access Forum that permissive sections of the existing South West Coast Path are being converted to permanent access. This could have a wideranging impact on the provision of permissive access more generally if landowners suspect a route is likely to become a public right of way. Natural England is requested to consider this as part of the requirement for there to be a fair balance.

Specialist input *Record the input received. It is not necessary to record the input in full. If no specialists were consulted or responded, leave the field blank.*

Natural England's comments *Enter Natural England's comments here with as much detail as possible.*

Natural England notes the concerns expressed by the DCAF in relation to permissive sections of the route.

Under the legislation existing permissive sections of the route would become subject to coastal access rights. However, no additional public rights of way will be created as part of the implementation of the England Coast Path and there are no wider implications for existing permissive access outside the coastal margin.

Representation number

MCA\Kingswear to Lyme Regis\R\224\KLR0004

Organisation/ person making representation

Country Land and Business Association (CLA)

Report chapter

Chapter 1

Route section(s)

KLR-1-S001 to KLR-1-S022 (Maps 1a and 1b)

Representation in full *Record the representation here in full. Do not summarise.*

1. CLA notes that the proposed coastal trail will largely follow the existing South West Coast Path. We are concerned to note that while landowners have been contacted about the proposals, the path and associated margin has not been walked with the landowners in areas where significant changes to access rights are proposed, contrary to the implementation process (stage 2) as set out in the Coastal Access Scheme (for example, for section KLR-1-S0005).
2. We also note that Natural England proposes to exercise its discretion to extend access up the Dart Estuary as far as the lower ferry. There is brief mention of this in Chapter 1, para. 1.1.10
("Estuary: The report proposes that the trail should extend upstream from the open coast a short distance as far as the ferry across the River Dart. See Part 3 of the Overview.") and at 1.3.1 ("Natural England proposes to exercise its functions as if the sea included the estuarial waters of the River Dart as far as the ferry between Dartmouth and Kingswear as indicated by the extent of the trail shown on map 1a."). However, neither in Part 3 of the Overview, nor elsewhere, is there any reasoning provided for its inclusion. There is no assessment of the impact on this inclusion on landowners, and no assessment in relation to the criteria set out at section 301 of the Marine and Coastal Access Act 2009.

Natural England is required, at Section 301(4)(e), to have regard to the extent to which the land bordering those waters would, if it were coastal margin, be excepted land. We cannot see that any such assessment has been made. There is a brief reference within the Sensitive Features Report which states that "The route mainly follows the coastline quite closely and maintains good views of the sea apart from through Kingswear where the path moves inland to avoid an area affected by erosion and the eastern area of Kingswear where the path is landward of private residences."

The consideration of these additional issues is an essential part of the wide consideration that parliament required Natural England to take account of in exercising the discretion for estuaries, and is why parliament insisted on additional considerations when determining whether it was appropriate for coastal access to continue up estuaries. Parliament was clear that there was no question of the desire for continuity of the path over-riding any other requirements, and that these additional statutory considerations (although statute does not limit the issues that Natural England should consider) must be taken into account when dealing with estuaries.

We note that Natural England has discretion to use the estuary discretion differently on each side of the estuary – doing this would allow proper consideration of the particular circumstances on each side. However, it appears to us that Natural England, in adopting the South West Coast Path as the coastal trail, has erred in not making a proper assessment of the need and impact that extending coastal access could have when deciding to exercise the discretion on the Kingswear side of the River Dart estuary. There appears to have been no assessment process contrary to legislation.

We question why Natural England did not stop coastal access at the mouth of river given that much of the margin is excepted from access rights. Designating the route as coastal trail through Kingswear raises unnecessary anxieties with landowners over the extent of access rights in relation to excepted land. If continuity was felt to be important, this could be maintained by designating a trail through Kingswear as an alternative route to meet with the ferry. This would better balance public and private concerns, in line with the duty to provide a fair balance.

3. We note the instability of much of the Kingswear coast, with recent landslips rendering land which would currently fall within the margin unstable and unsafe. We note that Natural England decided not to route the footpath along Beacon Road because of landslip and instability concerns. We question why a direction to exclude access for public safety reasons (section 25 Countryside and Rights of Way Act 2000) has not been proposed, in the light of the known dangers in this area. We note that Devon County Council has closed a footpath precisely because of safety concerns and the instability of the area.
4. We are concerned that the absence of direct discussion with landowners has resulted in the failure to provide a fair balance. In particular, there has been no assessment of the impacts that provision of access to margin will have on owners: there has been no evaluation of the difficulty of preventing the public from entering the curtilage of property (i.e. excepted land) in situations where no hard boundaries can be established; there has been no assessment of the impact on privacy and security, contrary to the provisions of the scheme; and no assessment of the impact that the provision of coastal access will have on property value and on such property's letting value, contrary to the requirements to ensure a fair balance and to ensure that the provision of coastal access rights does not place an undue burden on landowners. In addition, there has been no assessment of the impact of access on fauna sensitive to disturbance, and we suggest that such lack of assessment arises because of the failure to properly consider the impact that creation of margin would have in this location, and failure to discuss with the landowners.

In regard to this section of estuary Natural England should:

- Have made a full assessment of the impact of extending access up the estuary, given the amount of excepted land and significant public danger in having access to the margin;
- Considered implementing an alternative route to provide continuity of access around the estuary
- Should, if the discretion to extend access around the estuary was used, have made directions to exclude access to the margin on public safety grounds; or alternatively, should have made a direction to exclude access for land management reasons because the land is unsuitable for public access, impinges on privacy and creates a conflict as there are no clear boundaries to define garden and curtilage associated with the dwelling and other buildings, such that this would lead to an unfair balance, contrary to s.297 of the Marine and Coastal Access Act 2009.

Specialist input Record the input received. It is not necessary to record the input in full. If no specialists were consulted or responded, leave the field blank.

Natural England's comments Enter Natural England's comments here with as much detail as possible.

1. Landowner engagement

Natural England does not agree with the CLA's view that landowners were not effectively consulted and that affected land was not properly considered through site visits.

Natural England undertook a familiarisation visit to Kingswear on 12 April 2016 to look at areas of potential coastal margin in this area. Some of these areas including Lighthouse Beach and Mill Bay were viewed from adjacent land due to their current inaccessibility.

Paragraph 3.4.7 of the Coastal Access Scheme states that 'The precise permutation and sequence of these steps (in Stage 2) may vary according to key circumstances – for example whether it is an urban or rural area, whether there is an established national trail along the coast in question, and the extent to which any key sensitive features are present.'

In addition to sending personalised letters and maps to all affected landowners, Natural England met or talked to all key landowners with significant areas of coastal margin in the Kingswear area. Site visits were undertaken to the Warren House area on 25 July 2016, the Kingswear Castle area on 8 July 2016 and 11 October 2016, and one landowner chose to meet with us at our office in Exeter. Several landowners were content to discuss our proposals over the phone. We believe that we took all reasonable measures to discuss our proposals with affected landowners prior to publication of our report and this included meeting or holding discussions with all landowners who so requested.

2. Estuary discretion

Under the 2009 Act there is no requirement for the trail to extend up any estuary further than the seaward limit of the estuarial waters. However, Natural England has a discretion to propose that the trail should extend from the seaward limit as far as the first bridge over which, or tunnel through which, there is a public right of way, or a public right of access, by virtue of which the public are able to cross the river on foot, or any specified point in between.

The seaward limit of the transitional waters on the River Dart coincides with Combe Point to the west and Inner Froward Point to the east of the estuary. At this point the estuary is around 2km wide. On both sides of the estuary the land is largely rural towards the estuary mouth. Further upstream are the settlements of Dartmouth on the western bank and Kingswear to the east of the estuary. Both settlements have significant historic and maritime interest and are popular with visitors offering a variety of facilities and attractions. *See appendix A3 for a map showing the estuarial limit of the River Dart.*

Much of the eastern shore of the estuary in the Kingswear area is likely to be excepted land, consisting mostly of private houses and gardens. There are areas of foreshore which may become available to walkers under coastal access.

Options for alignment

The options considered are as follows:

Option 1 - Align the trail around the estuary. The additional local benefits of this option are potentially significant in linking up various settlements with the coast. A route around the estuary would measure around 40km and would require substantial additional cost and time to create this access. In addition the upper reaches of the estuary are no longer coastal in nature, and for these reasons this was not judged to be the best option.

Option 2 - Stop at the mouth of the estuary.

This alignment would provide no real benefit to the walker and would appear on the ground to be ending or beginning at an arbitrary point with no delineation or point of interest. It would also be at odds with the principles of ensuring continuity of the trail and of following the alignment of an existing national trail if the route is deemed appropriate in terms of the statutory criteria and guidelines set out in the Coastal Access Scheme (sections 4.4.1 and 4.7.1).

Option 3 - Align the trail as far as the lower ferry.

The lower ferry between Dartmouth and Kingswear is the first crossing point on the River Dart and falls just over 2km upstream from the seaward limit of the estuarial waters. The ferry operates regularly seven days a week all year, apart from Christmas Day. One of our key considerations in aligning the ECP is ensuring the continuity of the trail. Section 4.4.1 of the Coastal Access Scheme states: 'Having arrived at the coast, people should normally be able to walk in either direction for as long as they like around the open coast of England. This is in line with the principle in section 297(2) of the 2009 Act that so far as reasonably practicable, interruptions to the route around the English coast should be kept to a minimum.' Choosing this alignment for the ECP would fulfil this core objective in a simple and cost effective way. This alignment and the associated coastal margin would provide significant recreational benefit to the public in being able to access once more the areas of foreshore that were traditionally available to them.

The presence of an existing national trail (the South West Coast Path) which follows the route from the lower ferry through Kingswear also informed our decision to propose this alignment. Section 4.7.1 of the Scheme states: 'Where there is an existing national trail along the coast - or another clear walked line along the coast, whatever its status - we normally propose to adopt it as the line for the England Coast Path so long as it is safe and practicable for the public to use; it can be used at all times; and the alignment makes sense in terms of the other statutory criteria and principles set out in this Scheme.'

The CLA suggest designating a trail through Kingswear as an alternative route to meet with the ferry. It would not be legally possible under the Scheme to implement an alternative route for the ECP where there is no ordinary route - i.e. we would need a crossing point/ferry at the mouth of this estuary for this to be an option.

For the reasons above, option 3 - using the lower ferry as the first crossing point, is our preferred option and is proposed by our report as the route of the ECP. We believe that this alignment fulfils the principles of the Coastal Access Scheme and strikes a fair balance between public and private interests.

We agree with the CLA that our reports would be clearer if they contained this kind of fuller explanation of the rationale behind exercising the estuary discretion in a case like this. We will do this in future reports.

Public safety

Natural England notes the public safety concerns raised particularly in relation to recent landslips within the margin. Section 4.2.1 of the Scheme states: 'Most people already

understand that the coast can be a dangerous environment, and are aware of many of the inherent risks. Our key principle is that visitors should take primary responsibility for their own safety when visiting the coast and for the safety of any children or other people in their care, and should be able to decide for themselves the level of personal risk they wish to take.' We aim to minimise any safety measures that would be restrictive on public access or enjoyment, however, where there are specific safety concerns within the coastal margin Natural England may monitor these locations, usually through the Access Authority, and may deem it appropriate to erect signage warning of the dangers.

The CLA suggest the use of a direction to exclude access to part of the coastal margin on public safety grounds. Under section 25(1)(b) of CROW public safety directions cannot be implemented to address dangers from natural features, for example eroding cliffs. Natural England has no separate powers to exclude access to such areas because of natural hazards occurring on the land. We do not have powers to exclude land because it is deemed unsuitable for access, except in relation specifically to salt marsh and flats. However the coastal access rights within the margin are of course subject to the excepted land categories listed in CROW Schedule 1.

In the example given of eroding cliffs under Beacon Road, (the former route of the South West Coast Path) we are aware that this route has been closed since December 2012 due to a landslide on the cliff directly below the highway. Devon County Council has identified an engineering solution for this area and plans have been drawn up to stabilise the cliff once funding has been agreed.

Impact of proposals on landowners and flora/fauna

As detailed under point 1 above Natural England considers that all reasonable measures were taken to discuss our proposals with landowners prior to publication of our report.

In relation to privacy, section 5.4.1 of the Coastal Access Scheme states: 'Coastal access rights become available to enjoy open-air recreation on some land which was previously only available for the enjoyment of the owner or occupier and invited guests. However, there are specific provisions under CROW intended to protect privacy in key respects: buildings and the area surrounding buildings (known as curtilage), and land used as a garden or park, are excepted from coastal access rights. These provisions afford appropriate protection against any impact on property value.

We acknowledge that it may be difficult for walkers to identify the extent of a property's curtilage and consequently where spreading room ends. It is for the landowner rather than Natural England to consider where they believe the curtilage of their property ends and this may be asserted by, for example, displaying appropriate signage (for example, 'private – garden'). This may also help to alleviate issues around privacy and security by providing the walker with a clear indication of the extent of their coastal access rights in the area.

Our published Access and Sensitive Features Appraisal records the conclusions of Natural England's assessment of any potential for environmental impacts from our proposals to establish the England Coast Path on this stretch of coast. On this basis it was concluded, using objective information, that there is no justification for any direction to exclude or restrict access to this area as a result of nature conservation concerns.

In summary, Natural England has followed the key principles of alignment and management as set out in the approved Coastal Access Scheme and believes that the proposed route in this area is both consistent with the approved Scheme and strikes a fair balance between private interests and the rights of walkers.

Representation number

MCA\Kingswear to Lyme Regis\R\195\KLR2373

Organisation/ person making representation

[Redacted], Devon County Council

Report chapter

Chapter 1

Route section(s)

KLR-1-S011 and KLR-1-S012 (Map 1a)

Representation in full *Record the representation here in full. Do not summarise.*

Within the proposed Coastal Margin are vehicular access tracks that connect at both ends with the proposed line of the trail (and the current line of the South West Coast Path). Some if not all are currently signed as Private.

As these tracks could offer walking routes, alternative to the trail, within the Coastal Margin, clarification is sought as to whether these tracks will become part of the 'spreading room' area once the proposals are formalised. Or, alternatively, whether they will meet the criteria for excluded or exempt land, and therefore not form part of the 'spreading room'.

If they are deemed to form part of the 'spreading room', clarification is also sought as to the legal implications, should the public be prevented from exercising their rights on them, either by the installation of new locked gates/locking of existing gates, or by verbal/physical discouragement by occupiers with land adjacent to these tracks.

Specialist input *Record the input received. It is not necessary to record the input in full. If no specialists were consulted or responded, leave the field blank.*

Natural England's comments *Enter Natural England's comments here with as much detail as possible.*

The main issue raised is whether vehicular access tracks within the margin that are not highways or public rights of way would be classed as excepted land under the Coastal Access Scheme.

The categories of land excepted from the coastal access rights are set out in Schedule 1 to the Countryside and Rights of Way Act 2000 (CROW). Vehicular access tracks of the type described are not specified as such in this list. If property owners along such tracks consider that the area near their house falls under another of the listed categories of 'excepted land', for example because they believe it to be part of the curtilage of their house, they may assert this by, for example, displaying appropriate signage.

Should misleading notices be erected or should gates be used to prevent public access into areas where coastal access rights do apply, the local access authority has powers to deal such situations in discussion with those concerned, using the powers at Chapter III of CROW Part 1b.

See appendix A1 for a map of the private drive

Representation number

MCA\Kingswear to Lyme Regis\R\196\KLR2373

Organisation/ person making representation

[Redacted], Devon County Council

Report chapter

Chapter 1

Route section(s)

KLR-1-S052 and KLR-1-S053 (Map 1e)

Representation in full *Record the representation here in full. Do not summarise.*

At the above location, at the western edge of the Sharkham Point access area, is a stone stile, with three steps on the western side and two steps on the eastern side.

As an officer for the Access Authority which manages the South West Coast Path National Trail west of this location, I have previously suggested, during the informal consultations, that this stile could be replaced with a more accessible structure, such as a kissing or pedestrian gate. There are no other stiles on the South West Coast Path west of this structure, through the whole of the South Hams District.

Such an improvement does not appear in the published proposals, and therefore I would recommend that further consideration is given to making such an access improvement at this location. *Photo provided see Appendix A2.*

Specialist input *Record the input received. It is not necessary to record the input in full. If no specialists were consulted or responded, leave the field blank.*

Natural England's comments *Enter Natural England's comments here with as much detail as possible.*

The stile referred to is on the boundary between National Trust (NT) land and a privately owned farm. Natural England have visited the site and consider that it would be desirable to install a more accessible structure at this location. In talks with the NT they stated that they would be reluctant to remove the existing structure due to its historic and cultural significance, however, it may be possible to create a gap in the field boundary slightly landward of the stile and therefore a suitable gate could be installed here.

Natural England will consult with the NT and the adjacent landowner to find an appropriate solution.

Other representations**Representation number:**

MCA\Kingswear to Lyme Regis\R\2\KLR2028

MCA\Kingswear to Lyme Regis\R\3\KLR1344

MCA\Kingswear to Lyme Regis\R\4\KLR0757

MCA\Kingswear to Lyme Regis\R\5\KLR2187

MCA\Kingswear to Lyme Regis\R\6\KLR1581

MCA\Kingswear to Lyme Regis\R\7\KLR1580

MCA\Kingswear to Lyme Regis\R\8\KLR2188

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MCA\Kingswear to Lyme Regis\R\131\KLR2312
MCA\Kingswear to Lyme Regis\R\132\KLR2314
MCA\Kingswear to Lyme Regis\R\133\KLR2315
MCA\Kingswear to Lyme Regis\R\134\KLR0231
MCA\Kingswear to Lyme Regis\R\135\KLR2316
MCA\Kingswear to Lyme Regis\R\136\KLR2317
MCA\Kingswear to Lyme Regis\R\137\KLR2318
MCA\Kingswear to Lyme Regis\R\138\KLR2319
MCA\Kingswear to Lyme Regis\R\139\KLR2320
MCA\Kingswear to Lyme Regis\R\140\KLR2321
MCA\Kingswear to Lyme Regis\R\141\KLR2322
MCA\Kingswear to Lyme Regis\R\142\KLR2323
MCA\Kingswear to Lyme Regis\R\143\KLR2324
MCA\Kingswear to Lyme Regis\R\144\KLR2325
MCA\Kingswear to Lyme Regis\R\145\KLR2326
MCA\Kingswear to Lyme Regis\R\147\KLR2328
MCA\Kingswear to Lyme Regis\R\148\KLR2329
MCA\Kingswear to Lyme Regis\R\149\KLR2331
MCA\Kingswear to Lyme Regis\R\151\KLR0772
MCA\Kingswear to Lyme Regis\R\152\KLR2332
MCA\Kingswear to Lyme Regis\R\153\KLR2333
MCA\Kingswear to Lyme Regis\R\154\KLR2334
MCA\Kingswear to Lyme Regis\R\155\KLR2335
MCA\Kingswear to Lyme Regis\R\156\KLR2336
MCA\Kingswear to Lyme Regis\R\157\KLR2337
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MCA\Kingswear to Lyme Regis\R\159\KLR2339
MCA\Kingswear to Lyme Regis\R\160\KLR2340
MCA\Kingswear to Lyme Regis\R\161\KLR2341
MCA\Kingswear to Lyme Regis\R\162\KLR2342
MCA\Kingswear to Lyme Regis\R\163\KLR2343
MCA\Kingswear to Lyme Regis\R\164\KLR2344
MCA\Kingswear to Lyme Regis\R\165\KLR2345
MCA\Kingswear to Lyme Regis\R\166\KLR2347
MCA\Kingswear to Lyme Regis\R\167\KLR2348
MCA\Kingswear to Lyme Regis\R\168\KLR2349
MCA\Kingswear to Lyme Regis\R\169\KLR2350
MCA\Kingswear to Lyme Regis\R\170\KLR2351
MCA\Kingswear to Lyme Regis\R\171\KLR2352
MCA\Kingswear to Lyme Regis\R\172\KLR2353
MCA\Kingswear to Lyme Regis\R\173\KLR2354

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MCA\Kingswear to Lyme Regis\R\185\KLR2366
MCA\Kingswear to Lyme Regis\R\186\KLR2367
MCA\Kingswear to Lyme Regis\R\187\KLR2368
MCA\Kingswear to Lyme Regis\R\188\KLR2369
MCA\Kingswear to Lyme Regis\R\194\KLR2372
MCA\Kingswear to Lyme Regis\R\198\KLR2375
MCA\Kingswear to Lyme Regis\R\199\KLR2376
MCA\Kingswear to Lyme Regis\R\203\KLR2377
MCA\Kingswear to Lyme Regis\R\204\KLR2378
MCA\Kingswear to Lyme Regis\R\205\KLR2379
MCA\Kingswear to Lyme Regis\R\206\KLR2380
MCA\Kingswear to Lyme Regis\R\207\KLR2381
MCA\Kingswear to Lyme Regis\R\208\KLR2382
MCA\Kingswear to Lyme Regis\R\209\KLR2383
MCA\Kingswear to Lyme Regis\R\210\KLR2384
MCA\Kingswear to Lyme Regis\R\211\KLR2385
MCA\Kingswear to Lyme Regis\R\213\KLR2387
MCA\Kingswear to Lyme Regis\R\214\KLR2388
MCA\Kingswear to Lyme Regis\R\215\KLR2389
MCA\Kingswear to Lyme Regis\R\216\KLR2390
MCA\Kingswear to Lyme Regis\R\227\KLR2392

Organisation/ person making representation:

Private individuals x 199

Route section(s):

KLR-1-S005

Summary of representation:

These representations all come from residents and visitors expressing the wish to access the only beach local to Kingswear to which access has been blocked by the landowner since 1999. They say that the public had access, by right, to Lighthouse Beach for over 100 years via the registered public right of way (no. 8 on the definitive map) until access off the path onto the beach was blocked by the owner. They claim that opening this beach will benefit the local community and visitors.

See Appendix A4 for further information and photos of Lighthouse Beach.

Natural England's comment:

Lighthouse Beach is an area of privately owned foreshore in Kingswear. A public right of way extends from Beacon Road to the edge of the foreshore down a set of steep steps. At the end of the steps access to the beach is now blocked by wire fencing and a locked metal gate. The landowner completed the construction of a large house on the east side of the beach in 2013.

Under the Coastal Access Scheme all areas of beach/foreshore seaward on or adjacent to the trail form part of the accessible coastal margin by default. Lighthouse Beach is seaward of the proposed line of the trail, so if our proposals are approved Lighthouse Beach would become subject to coastal access rights once the legislation comes into force on this stretch of coast. It would provide significant recreational benefit to the public if they were once more able to access this area of foreshore.

Devon County Council, as the local access authority, would have the power under Chapter III of CROW Part 1 to seek the landowner's agreement to the removal of the fencing and gate in question once the ECP proposals came into force, in order to enable the public to realise these benefits once more. In the absence of such agreement, they would have the power to give the landowner notice of intent to remove the obstruction in question, subject to any appeal by the landowner under CROW section 38.

Devon CC are aware of the significant local demand for access to the beach to be reinstated.

Representation number:

MCA\Kingswear to Lyme Regis\R\133\KLR2315

Organisation/ person making representation:

[Redacted]

Route section(s):

KLR-1-S005

Summary of representation:

The route should follow Beacon Road which is a particularly attractive, interesting and historic part of the Coast Path instead of going up Church Hill.

Natural England's comment:

Beacon Road is a public road which has been closed since December 2012 due to a landslip on the cliff directly below the highway. Devon County Council has led on identifying solutions for this area and plans have been drawn up to stabilise the cliff. Natural England met with representatives of Devon CC on site in April 2016 to discuss the potential for Beacon Lane to reopen. Funding is yet to be confirmed for the significant engineering works required but contributions have been offered by Devon CC and two of the three landowners.

Beacon Road would better meet the objectives of the Coastal Access Scheme and would have been Natural England's preferred route for the England Coast Path due to the proximity to the sea and coast views. However, as the road is currently impassable with no agreed timescale for the works to allow the route to reopen we have not included this route in our proposals. This is reflected in our report in Table 1.2.3. Should Beacon Road reopen to walkers in the future Natural England would consider proposing a variation of the route of the ECP to follow this lower, more direct and scenic route.

Representation number:

MCA\Kingswear to Lyme Regis\R\191\KLR2371

MCA\Kingswear to Lyme Regis\R\192\KLR1678

MCA\Kingswear to Lyme Regis\R\193\KLR1001

Organisation/ person making representation:

[Redacted]

[Redacted]

[Redacted]

Route section(s):

KLR-1-S011

Summary of representation:

The proposed coastal margin includes the private drive which services Kingswear Court, Castle Cottage, Castle Lodge and Kingswear Castle and is by implication open to public access. The report does not specifically exclude the private drive from public access and neither does it confirm that it falls within the curtilage of these properties. Natural England has not addressed the definition of curtilage, which is pivotal to striking a fair balance between private and public interest.

No consideration has been given to the close proximity of the drive in relation to Castle Lodge and Castle Cottage which front directly onto the drive. Such access creates a gross invasion of privacy and serious diminution of the value and letting potential of the properties in question.

The coastal margin depicted on Map 1a - KLR-1-S011 should be amended to exclude the area comprising Castle Cottage, Castle Lodge, The White House and Kingswear Court, including the private drive to such premises. This should be done by shading such area or delineating in red to clearly indicate that this area is excluded from the coastal margin and is not subject to public access.

See Appendix A5 for photos of the properties and private road.

The landowners have also submitted objections on this matter using the same text as the representations – numbers MCA\Kingswear to Lyme Regis\O\1\KLR1678, MCA\Kingswear to Lyme Regis\O\2\KLR1001 and MCA\Kingswear to Lyme Regis\O\3\KLR2371.

Natural England's comment:

The representations are submitted by owners of property adjacent to a private road within the default coastal margin that would arise from our proposed route. All land seaward of an approved route is classified as coastal margin. Areas of excepted land are not separately depicted in our proposals or on the maps.

The owners of the private road (Kingswear Court and The Landmark Trust) have not submitted any objections or representations on this issue. Natural England met with the owners of Castle Cottage and Castle Lodge on 11 October 2016 to discuss our proposals and the implications for the private road. The main issue discussed during our visit was the question of excepted land in relation to the private road and in particular whether it would constitute 'curtilage' in relation to future coastal access rights.

The categories of land excepted from the coastal access rights are set out in Schedule 1 to the Countryside and Rights of Way Act 2000 (CROW). Vehicular access tracks of the type described are not specified as such in this list. If property owners along such tracks consider that the area near their house falls under another of the listed categories of 'excepted land', for example because they believe it to be part of the curtilage of their house, they may assert this by, for example, displaying appropriate signage.

Should misleading notices be erected or gates be used to prevent public access into areas where coastal access rights do apply, the local access authority has powers to deal such situations in discussion with those concerned, using the powers at Chapter III of CROW Part 1b.

In the light of the details above, Natural England informed the landowners that they could continue to manage the land in question as they do now i.e. as a private drive which is excepted from any public rights of access as in their opinion it forms part of the curtilage of each of their properties.

Representation number:

MCA\Kingswear to Lyme Regis\R\197\KLR2374

Organisation/ person making representation:

Dart Harbour Stakeholder Group

Route section(s):

All and KLR-9-S005

Summary of representation:

The Dart Harbour Stakeholder Group welcomes the work by Natural England on the coast path section from Kingswear to Lyme Regis. Our parishes benefit from footpath access to the coast path, so the Coastal Footpath will allow our parishioners to walk to the coast and then have good walking access along the coast path and to be able to return on a circular route. It will open up possibilities for longer walks and encourage local people to participate in walking as an exercise activity, thus improving physical and mental health.

The group fully supports the proposition of reopening the beach at Kingswear as part of the Coastal Access Plan. This will give the residents of that parish access to a beach without having to use transport. Historically, the beach has been a much appreciated community asset and the parishioners have valued being able to swim, meet up and enjoy themselves on the only local beach.

Natural England's comment:

We are grateful for this expression of support for our proposals.

If our proposals are approved Lighthouse Beach would become subject to coastal access rights once the legislation comes into force on this stretch of coast. We agree that this would provide significant recreational benefit to the local community.

Representation number

MCA\Kingswear to Lyme Regis\R\221\KLR0863 and MCA\Kingswear to Lyme Regis\R\218\KLR1679

Organisation/ person making representation:

[Redacted]

[Redacted]

Route section(s):

KLR-1-S005

Summary of representation:

Land, foreshore and garden, Beacon Lodge

The land and foreshore form part of private gardens within the curtilage of Beacon Lodge. Lighthouse Beach is a garden and as such has been used to collect seaweed for fertilizer and food, to store building materials i.e. stone excavated from the site at Inverdart Boathouse and heavy plant, scaffolding and materials used in its construction and has been planted with salt tolerant varieties of plant. Since the beach has been closed to the public there has been an increase in the wildlife seen in the area.

If the beach was included in these proposals it would have a serious negative effect on the privacy, security and associated enjoyment of one's home. Any potential rental opportunities would be drastically reduced and there would be serious diminution of the capital value of the Beacon Lodge. Natural England should have walked the area before they used their discretion to extend the trail further up the stream and should have inspected the land prior to issuing these proposals. The proposals have not struck a fair balance between private interest and public interest. When exercising power in 4f NE have failed to consider all matters in sect 301 (4) of the Act MCAA.

The coastal margin depicted on Map 1a should be amended to exclude the area comprising the private gardens and foreshore to mean low water springs by shading such area or delineating in red to clearly indicate that this area is excluded from the coastal margin and is not subject to public access.

For photos submitted with this representation see Appendix A6.

The landowners have also submitted objections on this matter using the same text as the representations – numbers MCA\Kingswear to MCA\Kingswear to Lyme Regis\O\4\KLR1679 and MCA\Kingswear to Lyme Regis\O\7\KLR0863.

Natural England's comment:

All land seaward of an approved route is classified as coastal margin. Land within the margin that is covered by buildings and the curtilage of such land are excepted from the coastal access rights under Schedule 1 to CROW. Defra's guidance on excepted land states that curtilage generally means a small area, forming part and parcel with the house or building to which it is attached. In most cases, says the guidance, the extent of curtilage will be clear: typically, an enclosure around a dwelling containing a garden, garage and side passage; a walled enclosure outside a barn, or a collection of buildings grouped around a farm house and farm yard. Areas of excepted land are not separately depicted in our proposals or on the maps.

Natural England does not consider that the foreshore in this case forms part of the curtilage of Beacon Lodge or Inverdart Boathouse, or that it is 'land used as a garden' for the purposes of the legislation. It therefore considers that this area would be subject to coastal access rights if this part of the proposed route were approved. We believe this would bring significant recreational benefit to the public in being able to access once more the areas of foreshore that were traditionally available to them.

The published Access and Sensitive Features Appraisal records the conclusions of Natural England's appraisal of any potential for environmental impacts from our proposals to establish the England Coast Path on this stretch of coast. The foreshore area at this point is not a designated site and we are not aware of the presence of any protected species in the vicinity. We see no justification for any direction to exclude or restrict access to this area as a result of nature conservation concerns.

Natural England visited the area on 12 April 2016, and although unable to access the beach due to the barriers installed by the landowner, we were able to view the area from Beacon Road above. We met with the owner of Beacon Lodge on 24 January 2017, to explain the proposals further and discuss the implications for his land. At his request this meeting took place in Exeter rather than on site. We also spoke to or met with all key landowners in the Kingswear area who would be affected by our proposals to discuss matters further.

Section 301 of the 2009 Act gives Natural England discretion to include trail proposals for the relevant part of an estuary if it interrupts the continuity of any part of the English coast. We exercised this discretion in proposing to extend the trail a short distance from the seaward limit of the Dart to the Lower Ferry at Kingswear, to allow continuity of the trail. We have set out in our response to the CLA (MCA\Kingswear to Lyme Regis\R\224\KLR0004 – ‘Full’ representation) our reasoning in exercising this discretion and why we consider doing so strikes a fair balance between public and private interests.

Representation number:

MCA\Kingswear to Lyme Regis\R\222\KLR0863 and MCA\Kingswear to Lyme Regis\R\219\KLR1679

Organisation/ person making representation:

[Redacted]

[Redacted]

Route section(s):

KLR-1-S005

Summary of representation:

Inverdart Boathouse and dock is constructed partly on the foreshore which is privately owned to mean low water. The beach is within the curtilage of this property. Behind are gardens leading to the road above, which are all terraced and planted. This is all excepted land to mean low water.

When planning permission was granted for Inverdart Boathouse no mention of these proposals was flagged up and had I been aware I would not have proceeded with the project. Clearly if these proposals are successful they would cause the diminution of not only the capital value but also the rental value.

The proposals have not struck a fair balance between private interest and public interest. When exercising power in 4f Natural England have failed to consider all matters in sect 301 (4) of the MCAA Act.

The coastal margin depicted on Map 1a should be amended to exclude the area comprising the private gardens and foreshore to mean low water by shading such area or delineating in red to clearly indicate that this area is excluded from the coastal margin and is not subject to public access.

For photos submitted with this representation see Appendix A6.

The landowners have also submitted objections on this matter using the same text as the representations – numbers MCA\Kingswear to MCA\Kingswear to Lyme Regis\O\5\KLR1679 and MCA\Kingswear to Lyme Regis\O\8\KLR0863.

Natural England's comment:

All land seaward of an approved route is classified as coastal margin. Land within the margin that is covered by buildings and the curtilage of such land are excepted from the coastal access rights under Schedule 1 to CROW. Defra's guidance on excepted land states that curtilage generally means a small area, forming part and parcel with the house or building to which it is attached. In most cases, says the guidance, the extent of curtilage will be clear: typically, an enclosure around a dwelling containing a garden, garage and side passage; a walled enclosure outside a barn, or a collection of buildings grouped around a farm house and farm yard. Areas of excepted land are not separately depicted in our proposals or on the maps.

Natural England does not consider that the foreshore in this case forms part of the curtilage of Inverdart Boathouse, or that it is 'land used as a garden' for the purposes of the legislation. It therefore considers that this area would be subject to coastal access rights if this part of the proposed route were approved. We believe this would bring significant recreational benefit to the public in being able to access once more the areas of foreshore that were traditionally available to them.

Section 301 of the 2009 Act gives Natural England discretion to include trail proposals for the relevant part of an estuary if it interrupts the continuity of any part of the English coast. We exercised this discretion in proposing to extend the trail a short distance from the seaward limit of the Dart to the Lower Ferry at Kingswear, to allow continuity of the trail.

Representation number:

MCA\Kingswear to Lyme Regis\R\223\KLR0863 and MCA\Kingswear to Lyme Regis\R\220\KLR1679

Organisation/ person making representation:

[Redacted]

[Redacted]

Route section(s):

KLR-1-S007

Summary of representation:

Brookhill Gardens

The seaward side of the coastal path is part of the famous Brookhill Estate Gardens and these grounds lead down to a private quay, boathouse and other buildings and form part of the Italian garden. It is quite clear that it is a private garden and as such excepted land.

There are a variety of bat species now present in the area where in the last fifteen or so years they have begun to roost as a result of the lack of disturbance by human and dog activity.

Any proposal for coastal access would seriously impact on the privacy of the gardens and would not strike a fair balance between private interest and public interest. When exercising power in 4f Natural England have failed to consider all matters in sect 301 (4) of the Act MCAA.

The coastal margin depicted on Map 1 should be amended to exclude the area comprising the private gardens and foreshore to mean high water by shading such area or delineating in red to clearly indicate that this area is excluded from the coastal margin and is not subject to public access.

For photos submitted with this representation see Appendix A6.

The landowners have also submitted objections on this matter using the same text as the representations – numbers MCA\Kingswear to Lyme Regis\O\6\KLR1679 and MCA\Kingswear to Lyme Regis\O\9\KLR0863.

Natural England's comment:

Natural England agrees that Brookhill Gardens would appear to fall within the excepted land category of 'land used as a garden' and therefore would not become subject to coastal access rights. Therefore our proposals would not impact on the privacy of this area. Areas of excepted land are not separately depicted in our proposals or on the maps.

The published Access and Sensitive Features Appraisal records the conclusions of Natural England's appraisal of any potential for environmental impacts from our proposals to establish the England Coast Path on this stretch of coast. The foreshore area at this point is not a designated site and we are not aware of the presence of any protected species in the vicinity. We see no justification for any direction to exclude or restrict access to this area as a result of nature conservation concerns.

Section 301 of the 2009 Act gives Natural England discretion to include trail proposals for the relevant part of an estuary if it interrupts the continuity of any part of the English coast. We exercised this discretion in proposing to extend the trail a short distance from the seaward limit of the Dart to the Lower Ferry at Kingswear, to allow continuity of the trail.

Representation number:

MCA\Kingswear to Lyme Regis\R\226\KLR0863 and MCA\Kingswear to Lyme Regis\R\225\KLR1679

Organisation/ person making representation:

[Redacted]
[Redacted]

Route section(s):

KLR-1-S005

Summary of representation:

There have been numerous and substantial landslides on the cliff face and the grounds behind the new lighthouse on Lighthouse Beach. There is a danger of further future slippage which would affect anyone using the beach.

Natural England's comment:

Both Natural England and the access authority have powers to erect signs along the trail warning of potential dangers. These powers are generally used sparingly to warn or protect people from dangers they could not reasonably anticipate. Natural England will consider whether signage is required to warn visitors of any potential safety issues in the Lighthouse Beach area.

At a meeting on 24 January 2017 Natural England provided the landowner with details of the reduced occupiers' liability provided under Coastal Access.

Chapter 2

Full representations

Representation number

MCA\Kingswear to Lyme Regis\R\202\KLR1978

Organisation/ person making representation

Devon Countryside Access Forum (DCAF)

Report chapter

1 to 9

Route section(s)

N/A Generic comment

Representation in full *Record the representation here in full. Do not summarise.*

Concern was expressed by the Devon Countryside Access Forum that permissive sections of the existing South West Coast Path are being converted to permanent access. This could have a wideranging impact on the provision of permissive access more generally if landowners suspect a route is likely to become a public right of way. Natural England is requested to consider this as part of the requirement for there to be a fair balance.

Specialist input *Record the input received. It is not necessary to record the input in full. If no specialists were consulted or responded, leave the field blank.*

Natural England's comments *Enter Natural England's comments here with as much detail as possible.*

Natural England notes the concerns expressed by the DCAF in relation to permissive sections of the route.

Under the legislation existing permissive sections of the route would become subject to coastal access rights. However, no additional public rights of way will be created as part of the implementation of the England Coast Path and there are no wider implications for existing permissive access outside the coastal margin.

Other representations

Representation number:

MCA\Kingswear to Lyme Regis\R\190\KLR2370

Organisation/ person making representation:

South West Coast Path Association (SWCPA)

Route section(s):

KLR-2-S032 to KLR-2-S034

Summary of representation:

NE has overlooked that the proposed route across the beach at Fishcombe Cove (sections KLR-2S033 and KLR-2-S034) is impassable at high tides, and so we do not consider it suitable to be used as the England Coast Path, without an alternative route being made available.

Instead we suggest constructing a short section of new path through the woodland (owned by Torbay Council) on the east side of the cove from the steps to the beach to re-join the route beside the public toilets. Most of this path currently exists but was partially severed by a cliff fall a few years ago, and it would be relatively simple to construct a new path through the wide strip of adjacent and relatively flat woodland.

Natural England's comment:

We are grateful to the SWCPA for drawing our attention to this matter.

This issue was not raised in the detailed discussions held with the access authority (Torbay Council) or by the user groups consulted as part of the process of formulating our proposals. However, Natural England have now visited the site at high tide to assess the period of time that the steps are inaccessible due to tides. The beach at the base of the steps was covered by water for approximately 1 hour during an average high tide. During this time people were able to easily step across from the foreshore to the steps by using rocks, however we acknowledge that this could be difficult for some and that during very high tides these rocks may be submerged. The existing option for continuing the route at high tide is to follow a path south through Battery Gardens for approximately 250 metres and re-join the coast path at the top of the hill above the beach on Fishcombe Road.

The SWCPA association suggest reinstating an optional alternative route through the woodland to a point up the slope landward of the beach and café building. This route was investigated and would be fairly straightforward to create with some clearance works and minor infrastructure, however we feel that there is another potential solution which will maintain continuity of the trail. We will explore the options with Torbay Council to adapt the existing concrete steps to create a wider landing strip to the landward side and change the orientation of the handrail to allow easier access to and from the steps when the tide is high. (See Appendix A7 for a photo).

Chapter 3

Full representations

Representation number

MCA\Kingswear to Lyme Regis\R\202\KLR1978

Organisation/ person making representation

Devon Countryside Access Forum (DCAF)

Report chapter

1 to 9

Route section(s)

N/A Generic comment

Representation in full *Record the representation here in full. Do not summarise.*

Concern was expressed by the Devon Countryside Access Forum that permissive sections of the existing South West Coast Path are being converted to permanent access. This could have a wideranging impact on the provision of permissive access more generally if landowners suspect a route is likely to become a public right of way. Natural England is requested to consider this as part of the requirement for there to be a fair balance.

Specialist input *Record the input received. It is not necessary to record the input in full. If no specialists were consulted or responded, leave the field blank.*

Natural England's comments *Enter Natural England's comments here with as much detail as possible.*

Natural England notes the concerns expressed by the DCAF in relation to permissive sections of the route.

Under the legislation existing permissive sections of the route would become subject to coastal access rights. However, no additional public rights of way will be created as part of the implementation of the England Coast Path and there are no wider implications for existing permissive access outside the coastal margin.

Other representations

No 'other' representations were submitted against the proposals in Chapter 3

Chapter 4

Full representations

Representation number

MCA\Kingswear to Lyme Regis\R\202\KLR1978

Organisation/ person making representation

Devon Countryside Access Forum (DCAF)

Report chapter

1 to 9

Route section(s)

N/A Generic comment

Representation in full *Record the representation here in full. Do not summarise.*

Concern was expressed by the Devon Countryside Access Forum that permissive sections of the existing South West Coast Path are being converted to permanent access. This could have a wideranging impact on the provision of permissive access more generally if landowners suspect a route is likely to become a public right of way. Natural England is requested to consider this as part of the requirement for there to be a fair balance.

Specialist input *Record the input received. It is not necessary to record the input in full. If no specialists were consulted or responded, leave the field blank.*

Natural England's comments *Enter Natural England's comments here with as much detail as possible.*

Natural England notes the concerns expressed by the DCAF in relation to permissive sections of the route. Under the legislation existing permissive sections of the route would become subject to coastal access rights. However, no additional public rights of way will be created as part of the implementation of the England Coast Path and there are no wider implications for existing permissive access outside the coastal margin.

Other representations

Representation number

MCA\Kingswear to Lyme Regis\R\150\KLR0113

Organisation/ person making representation:

Network Rail

Route section(s):

1. KLR-4-S022 and KLR-5-S008 to KLR-5-S014
2. KLR-5-S020, KLR-5-S029, KLR-5-A013 and KLR-5-A064

Summary of representation:

1. Coastal resilience works may require the temporary closure and rerouting of the coast path particularly between Teignmouth and Dawlish where major engineering works are proposed.
2. Network Rail is concerned about increased usage of rail crossings. The East Devon Way long distance path crosses the Exmouth branch at two passive level crossings and feeds into the coastal path. Our Route Level Crossing Manager would have concerns that the council take care not to increase the risk significantly at these level crossings by doing anything to “promote” further use of the East Devon Way as part of the coastal path access improvements. We also have footpath crossings at Powderham Castle, Starcross and Cockwood and would be concerned if the usage was to increase due to the access improvements.

Natural England’s comment:

The Coastal Access Scheme allows for temporary re-routing of the trail for operational reasons such as maintenance works.

1. It is unclear whether our proposals will result in increased usage of the footpath crossings at Powderham Castle, Starcross and Cockwood. There are no level crossings on the proposed route of the England Coast Path however Natural England will advise Devon County Council of Network Rail’s concerns.

Chapter 5

Full representations

Representation number

MCA\Kingswear to Lyme Regis\R\202\KLR1978

Organisation/ person making representation

Devon Countryside Access Forum (DCAF)

Report chapter

1 to 9

Route section(s)

N/A Generic comment

Representation in full *Record the representation here in full. Do not summarise.*

Concern was expressed by the Devon Countryside Access Forum that permissive sections of the existing South West Coast Path are being converted to permanent access. This could have a wideranging impact on the provision of permissive access more generally if landowners suspect a route is likely to become a public right of way. Natural England is requested to consider this as part of the requirement for there to be a fair balance.

Specialist input *Record the input received. It is not necessary to record the input in full. If no specialists were consulted or responded, leave the field blank.***Natural England's comments** *Enter Natural England's comments here with as much detail as possible.*

Natural England notes the concerns expressed by the DCAF in relation to permissive sections of the route.

Under the legislation existing permissive sections of the route would become subject to coastal access rights. However, no additional public rights of way will be created as part of the implementation of the England Coast Path and there are no wider implications for existing permissive access outside the coastal margin.

Representation number

MCA\Kingswear to Lyme Regis\R\200\KLR1978

Organisation/ person making representation

Devon Countryside Access Forum (DCAF)

Report chapter

Chapter 5

Route section(s)

KLR-5-S016 to KLR-5-S021 (Map 5d)

KLR-5-A057 to KLR-5-A067 (Maps 5p and 5q)

Representation in full *Record the representation here in full. Do not summarise.*

Area of land between Dawlish and Cockwood subject to coastal access exclusion to protect sensitive feeding waterbirds. Exe Estuary land adjacent to the alternative route from Starcross to Exmouth.

1. It is vitally important that there is consistency in the provision of information about the exclusion of access between Dawlish Warren and Cockwood. There is currently a byelaw excluding dogs all year round, put in place by Teignbridge District Council. This would imply you could walk in that area without a dog. The DCAF recognises the need for an exclusion on nature conservation grounds but, if this is to be effective, members of the public will need to understand the reasons for a coastal access restriction.
2. Similarly, on the Exmouth side of the Exe Estuary there are proposals, as yet undetermined, from the Exe Estuary Management Partnership for a voluntary exclusion which would include dog walkers and walkers as well as many other types of water and

land-based uses. This is to protect bird species under the Habitats Regulations. The area in question is beach and foreshore which is well-used for recreational purposes. Again there is the risk of lack of clarity during times when the alternative route along the Exe Estuary will be used as the seasonal ferry is not running, even though the coastal margin is not included for alternative routes.

Specialist input *Record the input received. It is not necessary to record the input in full. If no specialists were consulted or responded, leave the field blank.*

Natural England's comments *Enter Natural England's comments here with as much detail as possible.*

1. The direction under s26(3)(a) of the CROW Act to exclude access year round between Dawlish Warren and Cockwood Harbour has been proposed to protect sensitive bird assemblages on the River Exe. The Exe Estuary Management Partnership is proposing to establish a voluntary exclusion zone on this part of the Exe and through close working with the Partnership and examination of various data we decided to mirror this zone in our proposals. Existing byelaws in this area will remain and will prevail over coastal access rights. We will continue to work with the Partnership to ensure that clarity is provided for walkers and signage in the area clearly reflects the rights afforded to them under coastal access in relation to the excluded area.
 2. There is no coastal margin associated with alternative routes and therefore the land seaward of the trail on the Exmouth side of the Exe Estuary will not be subject to coastal access rights. We acknowledge the need for clarity in this area in relation to the rights of walkers and will co-operate the Partnership over local messaging for users of the route.
-

Representation number

MCA\Kingswear to Lyme Regis\R\201\KLR1978

Organisation/ person making representation

Devon Countryside Access Forum (DCAF)

Report chapter

Chapter 5

Route section(s)

KLR-5-S031 (Map 5e)

Representation in full *Record the representation here in full. Do not summarise.*

The DCAF is aware that the crossing from Starcross to Exmouth, using the railway bridge and ferry, which is proposed as the designated route is not suitable for those with limited mobility. Although there is an alternative route along the Exe Estuary this is considerably longer. The DCAF advises that improvements at Starcross would widen access on this section of the England Coast Path.

Specialist input *Record the input received. It is not necessary to record the input in full. If no specialists were consulted or responded, leave the field blank.*

Natural England's comments *Enter Natural England's comments here with as much detail as possible.*

Natural England's intention is that the trail should be as easy to use as possible for disabled people and others with reduced mobility (paragraph 4.3.8 of the Scheme). However we also accept that such opportunities will be constrained by practical limitations.

In determining the alignment of the ECP Natural England considered potential improvements to the accessibility of the route. The route to the Starcross Ferry utilises a large metal railway bridge with steps on either side and is inaccessible to anyone with limited mobility. There is no other means of crossing the railway in this area and we were unable to identify suitable improvements that could be made to facilitate access.

The alternative route between Starcross and Exmouth follows the existing Exe Estuary Trail. This is a multiuse trail suitable for users with limited mobility. We acknowledge that is a significant additional distance for anyone wanting to continue their journey.

During initial consultations interested parties were invited to identify sites where accessibility could be improved and this piece of infrastructure was not raised as an issue.

Representation number

MCA\Kingswear to Lyme Regis\R\150\KLR0113

Organisation/ person making representation:

Network Rail

Route section(s):

1. KLR-4-S022 and KLR-5-S008 to KLR-5-S014
2. KLR-5-S020, KLR-5-S029, KLR-5-A013 and KLR-5-A064

Summary of representation:

1. Coastal resilience works may require the temporary closure and rerouting of the coast path particularly between Teignmouth and Dawlish where major engineering works are proposed.
2. Network Rail is concerned about increased usage of rail crossings. The East Devon Way long distance path crosses the Exmouth branch at two passive level crossings and feeds into the coastal path. Our Route Level Crossing Manager would have concerns that the council take care not to increase the risk significantly at these level crossings by doing anything to "promote" further use of the East Devon Way as part of the coastal path access improvements. We also have footpath crossings at Powderham Castle, Starcross and Cockwood and would be concerned if the usage was to increase due to the access improvements.

Natural England's comment:

1. The Coastal Access Scheme allows for temporary re-routing of the trail for operational reasons such as maintenance works.
2. It is unclear whether our proposals will result in increased usage of the footpath crossings at Powderham Castle, Starcross and Cockwood. There are no level crossings on the proposed route of the England Coast Path however Natural England will advise Devon County Council of Network Rail's concerns.

Other representations

Representation number

MCA\Kingswear to Lyme Regis\R\217\KLR2391

Organisation/ person making representation:

National Grid

Route section(s):

KLR-5-A015 and KLR-5-A047

Summary of representation:

1. National Grid supports the vision for a 'right to walk' uninterrupted around coastal areas, however, the practicalities need to be balanced with the need to protect existing energy infrastructure and to enable the development of both onshore and offshore energy development in coastal areas in the future.
2. The path proposed will cross over the High Pressure Feeder main twice. We would request that our infrastructure be recognised and taken into consideration by Natural England in proposing the coastal path stretch on between Kingswear and Lyme Regis.
3. From time to time we may need to access our infrastructure for inspection, maintenance, upgrading, etc. It would also be preferable for the designations to make reference to potential construction and maintenance activities and provide a mechanism for National Grid or other infrastructure provider to seek temporary closures or diversions of the coastal access areas where necessary.

Natural England's comment:

1. We are grateful for this expression of support.
2. Natural England has developed a protocol with National Grid to ensure that National Grid's interests are fully considered and taken into account during all stages of the coastal access implementation process.
3. The Coastal Access Scheme allows for temporary re-routing of the trail for operational reasons such as maintenance works.

Representation number:

MCA\Kingswear to Lyme Regis\R\212\KLR2386

Organisation/ person making representation:

[Redacted]

Route section(s):

KLR-5-S016 and KLR-5-S017

Summary of representation:

1. The Dawlish Warren to Cockwood exclusion should be extended to include fields seaward of route section KLR-5-S017 as this area is used by birds.
2. This land should not be included in the coastal margin as it does not provide any views of the estuary or access to the foreshore due to the railway embankment.

Natural England's comment:

1. The Exe Estuary Management Partnership is proposing to establish a voluntary exclusion zone on this part of the Exe and through close working with the Partnership and examination of various data we propose to mirror this zone by implementing a direction

under s26(3)(a) of the CROW Act to exclude access year round to protect sensitive bird assemblages. Further information of our reasoning and data reviewed in coming to this conclusion can be found in the Access and Sensitive Features Appraisal.

2. The land referred to is seaward of the ordinary route of the ECP and therefore under the coastal access legislation automatically becomes coastal margin. Natural England met the farmer in June 2016 to discuss the proposals and implications of the coastal margin and spreading room. At the time the field referred to was used for grazing sheep and would therefore not be excepted from coastal access rights. An email was received from the farmer on 3 January 2017 stating that he had drilled the field with a crop of winter oats. As a result the field would become excepted land under the Coastal Access Scheme while continuing in arable use.

Chapter 6

Full representations

Representation number

MCA\Kingswear to Lyme Regis\R\202\KLR1978

Organisation/ person making representation

Devon Countryside Access Forum (DCAF)

Report chapter

1 to 9

Route section(s)

N/A Generic comment

Representation in full *Record the representation here in full. Do not summarise.*

Concern was expressed by the Devon Countryside Access Forum that permissive sections of the existing South West Coast Path are being converted to permanent access. This could have a wideranging impact on the provision of permissive access more generally if landowners suspect a route is likely to become a public right of way. Natural England is requested to consider this as part of the requirement for there to be a fair balance.

Specialist input *Record the input received. It is not necessary to record the input in full. If no specialists were consulted or responded, leave the field blank.*

Natural England's comments *Enter Natural England's comments here with as much detail as possible.*

Natural England notes the concerns expressed by the DCAF in relation to permissive sections of the route.

Under the legislation existing permissive sections of the route would become subject to coastal access rights. However, no additional public rights of way will be created as part of the implementation of the England Coast Path and there are no wider implications for existing permissive access outside the coastal margin.

Other representations

No 'other' representations were submitted against the proposals in Chapter 6

Chapter 7

Full representations

Representation number

MCA\Kingswear to Lyme Regis\R\202\KLR1978

Organisation/ person making representation

Devon Countryside Access Forum (DCAF)

Report chapter

1 to 9

Route section(s)

N/A Generic comment

Representation in full *Record the representation here in full. Do not summarise.*

Concern was expressed by the Devon Countryside Access Forum that permissive sections of the existing South West Coast Path are being converted to permanent access. This could have a wideranging impact on the provision of permissive access more generally if landowners suspect a route is likely to become a public right of way. Natural England is requested to consider this as part of the requirement for there to be a fair balance.

Specialist input *Record the input received. It is not necessary to record the input in full. If no specialists were consulted or responded, leave the field blank.*

Natural England's comments *Enter Natural England's comments here with as much detail as possible.*

Natural England notes the concerns expressed by the DCAF in relation to permissive sections of the route.

Under the legislation existing permissive sections of the route would become subject to coastal access rights. However, no additional public rights of way will be created as part of the implementation of the England Coast Path and there are no wider implications for existing permissive access outside the coastal margin.

Other representations

No 'other' representations were submitted against the proposals in Chapter 7

Chapter 8

Full representations

Representation number

MCA\Kingswear to Lyme Regis\R\202\KLR1978

Organisation/ person making representation

Devon Countryside Access Forum (DCAF)

Report chapter

1 to 9

Route section(s)

N/A Generic comment

Representation in full *Record the representation here in full. Do not summarise.*

Concern was expressed by the Devon Countryside Access Forum that permissive sections of the existing South West Coast Path are being converted to permanent access. This could have a wideranging impact on the provision of permissive access more generally if landowners suspect a route is likely to become a public right of way. Natural England is requested to consider this as part of the requirement for there to be a fair balance.

Specialist input *Record the input received. It is not necessary to record the input in full. If no specialists were consulted or responded, leave the field blank.*

Natural England's comments *Enter Natural England's comments here with as much detail as possible.*

Natural England notes the concerns expressed by the DCAF in relation to permissive sections of the route.

Under the legislation existing permissive sections of the route would become subject to coastal access rights. However, no additional public rights of way will be created as part of the implementation of the England Coast Path and there are no wider implications for existing permissive access outside the coastal margin.

Other representations

Representation number:

MCA\Kingswear to Lyme Regis\R\22\KLR1542

Organisation/ person making representation:

[Redacted]

Route section(s):

KLR-8-S072

Summary of representation:

Livestock present in a field within the coastal margin. Owner would like clarification of liability if a walker is injured.

Natural England's comment:

The proposed route of the ECP does not pass through the field in question and we would not expect significant public use of it to result from the introduction of coastal access rights.

Section 4.2.2 of the Coastal Access Scheme states that ‘land subject to coastal access rights benefits from the lowest level of occupiers’ liability known under English law – considerably lower than the duty of care owed towards trespassers on private land, and this applies to both natural and man-made features. This makes it extremely unlikely in normal circumstances that an occupier could successfully be sued in relation to injury on land with coastal access rights.’ Natural England will contact the landowner to provide details of the reduced occupiers’ liability under Coastal Access.

The Countryside Code provides relevant guidance to dog owners about responsibilities and safety around livestock. This includes keeping dogs on a short lead in the vicinity of stock within the coastal margin, and keeping them under effective control in other situations.

Chapter 9

Full representations

Representation number

MCA\Kingswear to Lyme Regis\R\202\KLR1978

Organisation/ person making representation

Devon Countryside Access Forum (DCAF)

Report chapter

1 to 9

Route section(s)

N/A Generic comment

Representation in full *Record the representation here in full. Do not summarise.*

Concern was expressed by the Devon Countryside Access Forum that permissive sections of the existing South West Coast Path are being converted to permanent access. This could have a wideranging impact on the provision of permissive access more generally if landowners suspect a route is likely to become a public right of way. Natural England is requested to consider this as part of the requirement for there to be a fair balance.

Specialist input *Record the input received. It is not necessary to record the input in full. If no specialists were consulted or responded, leave the field blank.***Natural England’s comments** *Enter Natural England’s comments here with as much detail as possible.*

Natural England notes the concerns expressed by the DCAF in relation to permissive sections of the route.

Under the legislation existing permissive sections of the route would become subject to coastal access rights. However, no additional public rights of way will be created as part of the implementation of the England Coast Path and there are no wider implications for existing permissive access outside the coastal margin.

Other representations

Representation number:

MCA\Kingswear to Lyme Regis\R\189\KLR2370

Organisation/ person making representation:

South West Coast Path Association (SWCPA)

Route section(s):

KLR-9-S001 to KLR-9-S014

Summary of representation:

NE has not struck the right balance in terms of the criteria of the Coastal Access Scheme in these sections. Given the opportunity that the legislation behind the England Coast Path provides, the proposed route in these sections is disappointing.

The proposed route for the ECP at the western end of the Axmouth to Lyme Regis National Nature Reserve (KLR-9S001 to KLR-9-S014) is not coastal and relies on the use of a golf course, a road used by traffic and enclosed, hedged lanes and so we consider it to offer a poor walking experience.

Instead our request is that in addition to the existing route of the SWCP an alternative more seaward path (either could be the primary route) is constructed along Axmouth Harbour quayside and then from the WWII pillbox into the NNR and then to re-join the proposed route in the vicinity of KLR-9-S011. This would provide a more challenging, but also more scenic alternative to the current proposal. Almost any alternatives investigated to the proposed route would have their benefits.

We note the considerations NE have made in the report (Table 9.2.2) about the route options but disagree with their conclusions.

The complete representation is very detailed and can be found in Appendix A8.

Natural England's comment:

There are powers under the 1949 Act to provide alternative routes or temporary routes for the ECP, at times when access to the ordinary route is unavailable. However, the SWCPA suggest that an alternative route is constructed in addition to the current South West Coast Path (SWCP) and proposed ECP route. As the proposed ECP route would be available at all times we are not able to consider an alternative route as defined in the Coastal Access Scheme. Therefore, for the purpose of this response we will evaluate the suggested options as potential alignments for the ordinary route of ECP.

Natural England considered a number of options for the route of the ECP in the Axmouth area and undertook several site visits to explore various options.

The route up the cliff is exceptionally steep and would require significant works to install suitable steps. When this option was looked at a few years ago in relation to the South West Coast Path route it was concluded by an engineer at the time that there would be significant issues around the stability of any structure on such a steep slope and would also raise significant maintenance issues in relation to the erodible nature of this area of coast. The steps constructed would be extremely steep, requiring several landing points for resting and passing, and would be potentially very dangerous in wet weather.

The second option of passing behind the harbour cottages along the seaward edge of the field raised issues of privacy for the properties on the harbour being overlooked from above and the rear. We explored the option of aligning the route on the cliff top seaward of the golf course. The proximity to playing areas combined with the narrow and erodible strip of land available to walk on led us to conclude that this was not a viable route.

For both the above alignments the onward route through the Undercliffs from near the top of the cliff would take walkers through an unstable area where there have been recent landslips resulting in a 'boulder field' area where it is necessary to negotiate your way through and over large rocks.

Natural England considers that while the above routes are closer to the sea and offer some sea views, these views are still limited. Indeed the entire Axmouth to Lyme Regis Undercliffs National Nature Reserve through which the route passes for 7 miles has limited opportunities for sea views due to the unique nature of this area of active coastal landslip.

We also explored various opportunities to align the route through or around the edge of the golf course. Taking into account the layout of the course and proximity to playing areas as well as the narrow and erodible strip of land available to walk on the cliff edge we concluded that these options were not viable.

All options suggested by the SWCPA would remain in the coastal margin and therefore be accessible to the intrepid walker.

A photo of the boulder field can be found at Appendix A9

Representation number:

MCA\Kingswear to Lyme Regis\R\199\KLR2376

Organisation/ person making representation:

[Redacted]

Route section(s):

KLR-9-S001 to KLR-9-S086

Summary of representation:

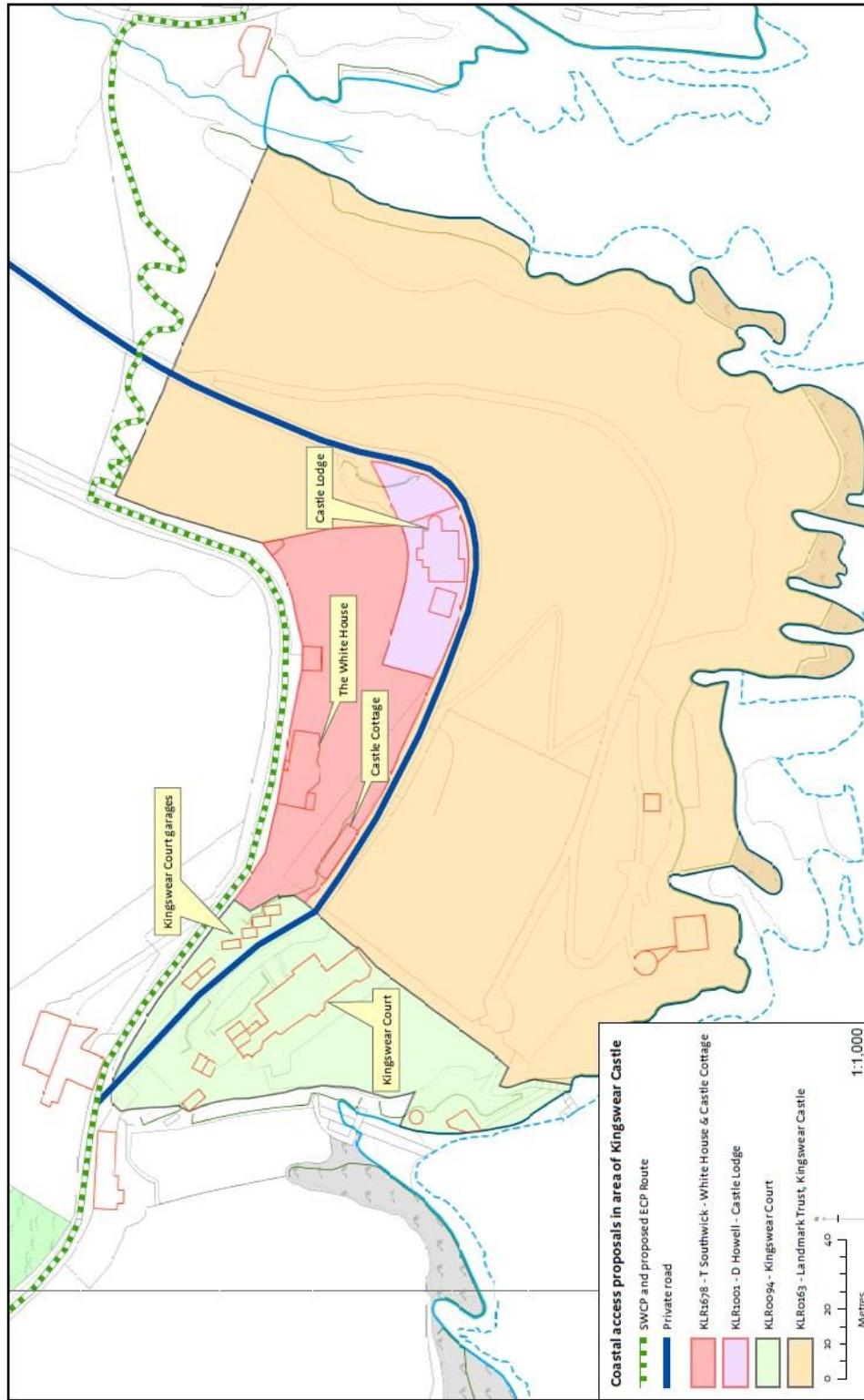
1. There is an opportunity to improve the proposed section of the path between route sections KLR-9-S001 and KLR-9-S011 (in the area of Axmouth Golf Course) by accessing the cliff edge much earlier south of Axmouth bridge, up through the woodland and thence onward to the cliff top through the golf course edge before meeting the route at KLR-9-S011.
2. Agreement with 'roll back' proposal for the length of the route (route sections KLR-9-S009 to KLR-9-S086).
3. The landward margin between route sections KLR-9-S014 and KLR-9-S018 should be altered as the fence line is close to the clifftop and the path in this area may require roll back in near future.
4. Natural England should agree potential new routes to be brought into play when an erosion event occurs or establish an entire cliff top alternative route between Axmouth and Lyme as area is susceptible to erosion.

Natural England's comment:

1. Natural England considered a number of alignments for the ECP in the Axmouth area and undertook several of site visits. In order to reach the top of the cliff seaward of the golf course the route would either need to negotiate the steep cliff or pass close behind the harbour cottages. The route up the cliff is exceptionally steep and would require significant works to install suitable steps. When this option was looked at a few years ago in relation to the South West Coast Path route it was concluded by an engineer at the time that there would be significant issues around the stability of any structure on such a steep slope and would also raise significant maintenance issues in relation to the erodible nature of this area of coast. The steps constructed would be extremely steep, requiring several landing points for resting and passing, and would be potentially very dangerous in wet weather. The second option of passing behind the harbour cottages along the seaward edge of the field raised issues of privacy for the properties on the harbour being overlooked from above and the rear. We explored the option of aligning the route on the cliff top seaward of the golf course. The proximity to playing areas combined with the narrow and erodible strip of land available to walk on led us to conclude that this was not a viable route.
 2. We appreciate the support for our rollback proposals in this area.
 3. At the time of writing the fence line is the most appropriate landward boundary for the coastal margin as it is a recognisable physical feature close to the line of the route. However, we acknowledge that changes to the route and therefore the landward boundary of the coastal margin may occur in the future. This is reflected in the rollback proposal for this area.
 4. As part of our proposals we make an assessment of whether rollback is likely to be straightforward ('normal') or 'complex'. This takes into account a number of factors including the presence of excepted land in the vicinity of the potential area of erosion. Natural England is not required to identify the line of the future route of the ECP as a result of expected erosion events but we do speak to interested owners and occupiers about our thinking for the future, should they wish to know more about this.
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5. Supporting documents

Appendix A1 – Representation MCA\Kingswear to Lyme Regis\195\KLR2373. Map of private road, Kingswear (provided by Natural England)



Appendix A2 - Representation MCA\Kingswear to Lyme Regis\R\196\KLR2373. Photo of steps and stile near Sharkham Point (provided by [redacted], Devon County Council)



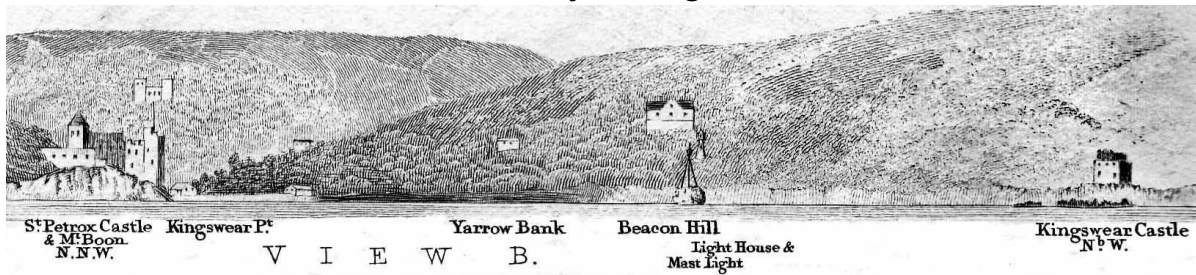
Appendix A3 – Representation MCA\Kingswear to Lyme Regis\RI224\KLR0004. Map showing the estuarial limit of the River Dart (provided by Natural England)



Appendix A4 – Representation MCA\Kingswear to Lyme Regis\RI2\KLR2028 (plus 198 others). Information and photos relating to Lighthouse Beach, Kingswear (provided by representors)

- A1a - History of Lighthouse Beach

The history of Lighthouse Beach



The above picture is from an Admiralty chart of 1853 and shows the house “The Beacon” which Arthur Holdsworth, the last Governor of Dartmouth Castle, built after he bought the land in 1845. There is a lighthouse, or beacon, and a mast light below the house which possibly gave the house its name.

The Kingswear Parish Council was formed in 1894 following the Local Government Act of 1894 and its minutes exist from that time. The first mention of Lighthouse Beach in the business of the Council appears in the minutes of the 12th August 1897:

the Clerk to write and inform Col. Daubeney that the Parish claim a right of way down the zig-zag path leading to Lighthouse Beach on the grounds that the path has been used by the public for a period of over forty years unopposed and without interruption”. and then on the 31 August 1897 it is minuted that the owner of the land writes that I concede to the Parish that right. But it must clearly be understood that the existent path is strictly adhered to and I have no wish to debar the parishioners and others from the enjoyment of Lighthouse Cove.

On the 11th August 1904 Col. Daubeney sold the land to Mr Home William Popham and the conveyance included the following condition:

reserving to Nathaniel Baker or other the owner of owners for the time being of the land then or lately his property and lying adjacent to the said premises thirdly hereinbefore described a right of footway for foot passengers only through over and along the footpath or zig-zag way leading from the said public highway across the piece of land thirdly herein described down to the beach and also the right to land and embark at the said beach at all times and subject also to the existing public right of way to the beach.

The original conveyance is lost but the above is contained in a subsequent sale of the 19th December 1949 and quotes that it is copied from the conveyance of 1904.

The Council minutes continue to record the Council’s management of the beach and the path to it. Early on there were reports of “bathing without bathing drawers on” and “men bathing was indecent and a great nuisance to females”. The Council dispatched a police constable to the beach to catch and prosecute offenders, but it is not reported that any were caught. There are 94 references in the Council minutes during the 105 year period up to 1999. The Council were mainly concerned with the maintenance of the path and the steps to the beach. In 1931 the Council purchased a life buoy and one is still evident in more recent photographs.

Mr Popham died in April 1935. The Council minutes of the 13th December 1935 reported that:

In view of the serious land slide that has taken place at the Public Path leading to Light House Beach.....that a letter be written to Mrs Popham the owner ...to consider a deviation.

and then again on the 9th April 1936:

The Chairman reported having with Mr Turner met Mrs Popham regarding the right of way to Light House Beach. Mrs Popham gave assurance that the Right of Way should be maintained and that

the Surveyor had kindly promised to prepare a plan of the proposed route, she would sign it and the respective solicitors would draw up the agreement.



The agreement has not been found but the minute of the 8th April 1938 reported that work was about to start and a year later access to the beach was apparently open again as it is recorded that another life buoy was placed on the beach, a gate to the path provisioned and a refuse basket requested. By this time the country was at war.

In 1941 the Women's Institute wrote to the Council about the life saving equipment at Lighthouse Beach but this time the Council claimed that it had no jurisdiction over the beach only the right of way over it. There was also concern about misconduct, trespass and damage to property. Notices were posted, a letter sent to the school, rewards offered for catching offenders and even a threat to close the beach.

Mrs Constance Popham and her daughter Betty continued to live at The Beacon until she died on the 30th March 1943 and her daughter on the 29th July the following year. The Council were convinced that Mrs Popham would leave the land, including Lighthouse Beach, to the Council but when the will was read there was no mention. It transpired that the land was owned by a trust and was not Mrs Popham's to give. The Popham estate, which included The Beacon and much of the surrounding land, was sold by the trust to Mrs Elizabeth Bankart who was then living at the house Eastney.

Between July 1947 and June 1949 the minutes claim that the path was a Registered Right of Way with Totnes Rural District Council.

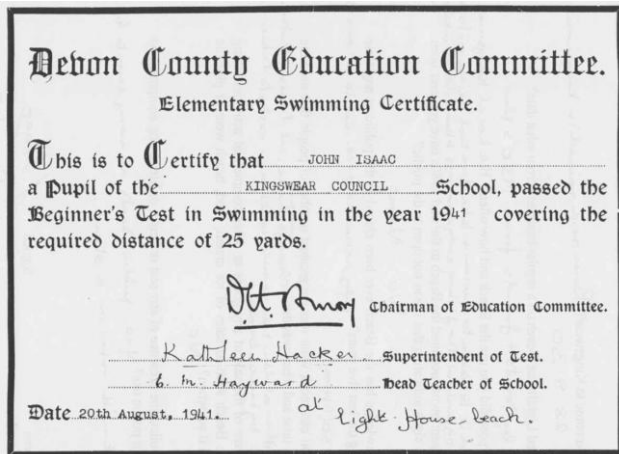
On the 19th December 1949 Mrs Bankart sold the estate to Charles Fitch-Northern.

In January 1950 there was concern of: *possible danger to people on Lighthouse Beach due to subsistence of the land above.* and in February it is minuted that:

The landowner, Mr C Fitch-Northern, is to erect warning notices on his land at both ends of the public right of way to the beach regarding the danger to the public.

On the 5th May:

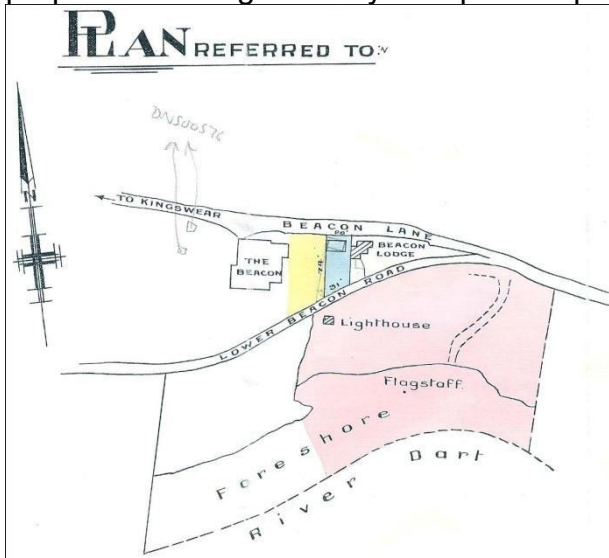
A letter was read from Miss E M Hayward, Head mistress of Kingswear Primary School stating that she was distressed at the prospect of this delightful beach being closed and requesting immediate steps to be taken to render it safe for the enjoyment of the public.



During the war the two beaches on the Dartmouth side, Castle Beach and Sugary Cove, were closed to the public due to fears of invasion and a submarine net was placed across the entrance to the river. Lighthouse Beach on the Kingswear side was the only clean and safe beach available to both the inhabitants of Kingswear and Dartmouth.

The school had used it for swimming lessons and shown here is a swimming certificate awarded at that time.

On the 16th September 1950 the Council applied to register the path to the beach. The application was endorsed by the Totnes Rural District Council on the 2nd November 1950 with the remark that it was already registered as Public Right of Way No. 1 under the 1932 Act. A draft Definitive Map was published in January 1956, a Modification Map in November 1958, a Provisional Map in November 1959 and the final Definitive Map in March 1960 on which the path is no. 8. At each stage the process was advertised and comments from the public invited but none are recorded. There were no objections from the owner of the land over which the path ran or the owner of Lighthouse Beach (same person). The official entry describes the footpath as starting at "the unclassified County Road, Beacon Road at an iron gate and proceeds down a flight of steep concrete steps to a landing, continuing in a series of small flights of steps and zig-zag paths and a further flight of steps on to the beach". The word 'on' may be significant. The only purpose of the right of way is to provide public access to Lighthouse Beach.



During this period most of the minutes refer to the state of the path to the beach with claims that the District or County Councils should pay for repairs and notice boards. This was successful and the minute of the 29th April 1958 states that:

the County Council had promised to carry out temporary repairs to enable the right of way to be re-opened before the summer season.

and the following month it is minuted that:

the County Council had now completed the erection of the new ladder leading to the foreshore.

On the 14th December 1961 Mr Charles Fitch-Northen sold Lighthouse Beach to [redacted] and the accompanying map above shows the land conveyed.

The same condition of the sale, first registered in the conveyance of 1904 was included, namely the requirement to respect that there is a public right of way down to the beach.

Mr Fitch-Northen still resided in The Beacon and does not seem to have lost interest in Lighthouse Beach as on the 30th May 1961:

A letter was read from Mr C H Fitch-Northen, dated 4th May 1961, referring to the damage recently caused to the lifebelt and lifeline at the above property. RESOLVED That the Clerk make representations to the District Council for the lifebelt and lifeline to be replaced as soon as possible in the interests of public safety.

the response was:

A reply dated 6th June 1961 was read from the Clerk to the Rural District Council stating that it had been ascertained that the present lifebelt is beyond repair. In consequence a new one had been ordered from The Bosun's Locker, Dartmouth.

Two years later Mr Fitch-Northen writes again and the minutes of the 26th February 1963 reports:

Photo redacted due to containing personal information

The Clerk read a letter from Mr Fitch-Northen asking that the Council should consider the possible damage to the amenities of Lighthouse Beach in the matter of the appearance of a new tower proposed for the support of the light on the small rock off shore at this point.

It is interesting that Mr Fitch-Northen wrote to the Parish Council, as guardians of the public interest, and not apparently to the owner of the beach.

The next nine mentions of Lighthouse Beach in the Council minutes relate to the condition of the path or the equipment on the beach culminating in the County Council agreeing to spend £400 on the path with the Parish Council also making a contribution. However the public continued to use the beach. This photograph is of the writer's two sons in 1970.

The 28th February 1978 saw a challenge to the public right of access to the foreshore in apparent contradiction to the conditions of the sale of the land. The minutes quote from a letter received:

The owner of the land has given permission for the repairs to be carried out subject to the reinstatement of the fencing to keep trespassers out of his land. The minutes also quoted from a letter sent by the owner's solicitor to the County Council which stated that: their client had asked for it to be made quite clear that such Public Right of Way, as there might be, does not include the foreshore between High and Low Tides, and does not include landing from the sea or the storage of boats of any kind.

and on 28th March 1978:

"[Redacted] has stated that he was not preventing the public, particularly the residents of Kingswear, from using the Beach, but had requested the County Council to make good the demarcation fence to keep trespassers out of his land, and to the reerection of a sign requiring the public to stay on the path. [Redacted] also stated that boats were being left moored at the beach for long periods.

This resulted the minutes of the 25th April 1978 reporting:

Resolved: "That an approach be made to [Redacted] to consider the sale of the beach to the Council".

On the 12th June 1981 the Harbour Master wrote to [redacted], son of the owner:

I regret to inform you that there has been a further sizable landslip at Lighthouse Cove. Tons of rock and two trees have fallen on to the beach below and I think it would be prudent if you placed a sign warning the public of the danger that exists if they use the beach.

A report in the Dartmouth Chronicle the following week connected the rock fall with the demolition of the old lighthouse by the Harbour Authority and a dispute with the County Council as to whose responsibility it was as the old lighthouse was held to be part of the support of the adjacent Beacon Road. There is no mention of any effect on the public footpath to the beach or of the beach being closed which might explain why there is also no mention of the incident in the Parish Council minutes of the 30th June.

On the 28th April 1987 the Council received a letter of complaint from a member of the public that the path to the beach was closed and again at the meeting on the 29th March 1988 there was a further complaint about the: *continued closure of public right of way to the beach at Beacon Steps.*

However to was further noted at the meeting that:

the gate seemed now to be open again.

A year later on the 26th April 1988 it is again recorded that:

Public right of way to the beach at Beacon Steps still remains closed and barred to the public. The Clerk should write to [redacted] pointing out that the path was a public right of way and that it must be reopened.



[Redacted] died in May 1988 and ownership passed to his wife [redacted].

Photo redacted due to containing personal information

The path remained open until the Council meeting on the 16th June 1998 which minutes refer to access to the beach being closed. Since the obstruction was attached to County property the Council reported the matter to the County Council solicitor and

it was opened again. However June 1999 saw it closed once more and the access from the path on to the beach and foreshore has been obstructed ever since. The Herald Express newspaper reported the closure of the beach on the 24th June 1999 and said that Mr Southwick had been advised to close the beach on safety grounds due to his building work on the next beach at Bakers Cove. It was alleged that a four year old child had wandered on to Bakers Cove and could have been killed.

The wording of the notice refers separately to beach and foreshore although they are usually regarded as the same. Legally the foreshore is defined as the portion of land lying between the high and low water mark at ordinary tides. Ordinary tides being the medium between spring and neap tides. There is also a fine legal point that as the public has acquired rights of access to the beach going back many years then they are authorised.

The Kingswear Parish Council decided to fight the closure and in March 2000 placed forms in the local shops and public houses asking who had used the beach. 199 people signed.

Questionnaires were sent to those who had given addresses and 173 replied, covering a span of 80 years, that they had used the beach without opposition and without needing permission from the land owner. Over 100 people contributed a fighting fund to meet legal costs.

The barrier from the path to the beach was removed from time to time by persons unknown and people continued to use the beach albeit in defiance of the closure notice. The two photographs above were taken in August 2003 when access was possible for a period.

[Redacted] took ownership of the beach when his mother, [redacted], transferred it to him on the 18th December 2007. In the transfer document specific mention is made of the covenant on the land dating from 1904.

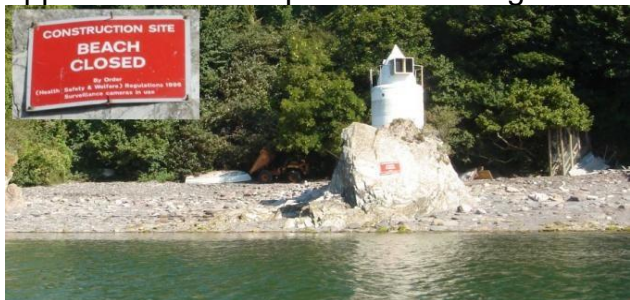
The building in neighbouring Bakers Cove had an impact on Lighthouse Beach as in building a small harbour the site ran out of ground on which to park the excavating machinery clear of the tide. The solution was to park them when not being used on Lighthouse Beach. In 2004



retrospective permission was given to raise part of the level of the beach using stone from Bakers Cove. The passage of the vehicles and other movements of stone have further confused the situation and what is not now clear is where the original height of the beach was although the tide and wind have moved and weathered the deposited material.

While access to the beach from the public footpath was blocked in 1999 access from the river was not prohibited until July 2006.

It has been a frustrating time. Action was first delayed as a case known as “Trap Grounds” appeared to offer a precedent for Lighthouse Beach to be registered under the old Commons



Registration Act 1965 – only for that case to be

overturned on appeal. It was taken to the House of Lords which reversed the appeal but their ruling proved unhelpful to the Kingswear situation. Meanwhile the new Commons Act was held up awaiting the Lords outcome and when that was eventually enacted legal advice suggested that the proposed Marine and Coastal Access Act would be better; however it transpired that consideration to matters in Devon, which already has a coastal path, would be delayed for many years. So it was back to applying to register Lighthouse Beach as a village green under the Commons Act 2006.

Devon County Council, as the registering authority, asked the Planning Inspectorate to consider the application as it had previously been involved in the dispute. The inspector held a pre-inquiry meeting in Kingswear Village Hall on Wednesday 11th July 2012 at which he outlined the procedure that he intended to adopt for the full inquiry set for early November 2012.

At the pre-inquiry the Parish Council's counsel, [redacted], announced that there was a further appeal over the case of West Beach in Newhaven at which, amongst other matters, the ability to register a tidal beach as a 'village green' would be challenged. If it were ruled that beaches could not be registered then any decision over Lighthouse Beach could be made void and the legal costs involved in the November full inquiry would have been wasted. He asked that the date of the full inquiry be deferred until the result of the Newhaven appeal was known. The postponement was granted. The counsel for the landowner, [redacted], [redacted], suggested that the two sides should attempt to reach an agreement outside the hearing. This was agreed and endorsed by the Inspector.

The Parish Council proposed an agreement under the Commons Right of Way Act 2000.

[Redacted] would grant the public right of access in return certain rights in return. This was refused. A meeting with [redacted] on the 23rd July 2013 brought forward a counter offer of a three year trial period when he would open the beach by 'permission' contrary to the Council's claim that access is 'by right'. Details have still to be worked out, including what area of beach would be open, any costs to be born by the Council and details of access. The expectation of an agreement acceptable to both parties is not high. In the mean time no date has been set for delayed inquiry into the registration under the 2006 Commons Act.

The result of the Newhaven appeal was announced on the 27th March 2013 and ruled, for the third time, that beaches could be registered although, as in that case, the beach was totally covered by the tide at times.

The residents of Kingswear have enjoyed the right of access to Lighthouse beach without needing the owner's permission for over 150 years since the time it was owned by the Duchy of Cornwall. This right is recorded in a covenant included in every conveyance since 1904 and in the Land Registry entry. The only purpose of the registered public right of way, footpath no. 8 on the definitive map, is to provide public access on to the beach or foreshore.

[Redacted],
July 2012

Extract from the Dartmouth Chronicle

The renewal lease from the Duchy, dated 25th May, 1792. The case before mentioned, as submitted to Mr. Montague Smith, touching the rights to the foreshore, within the Borough, and concerning the Office of Water Bailiff of the Port of Dartmouth, and his opinion and advice thereon. A case submitted to the Attorney General of the Duchy of Cornwall, by the Corporation, in 1776, (wherein it is stated by them that the soil is part of the Water Bailiwick). The correspondence, that has taken place between the Town Council and the Duchy, since the opinion of Mr. Montague Smith, was produced, and a letter from Mr. Rees to the Mayor and Council. The Committee having read and fully considered the same, and having the important facts before them that since the termination of the lease to the Corporation the various landowners on the river, that is the Dartmouth and Torbay Railway Company, the Harbor Authorities, Mr. Lutterell or his assigns, Sir H. P. Seale, Mr. Harvey, Mr. Studdy, and others, have submitted to the claims and purchased the foreshores opposite their respective properties, do submit to the Town Council as follows:—That in accordance with the advice of Counsel to the effect, that although on the statement furnished to him by the Corporation, yet he cannot say the question is free from doubt; and having regard to the great expense of a contest with the Duchy, it is expedient for the Corporation to compromise their claim if it can be done on reasonable terms. The Committee are assured and satisfied that whether the soil belongs to the Crown, the Duchy, or the Corporation of Dartmouth, the right of the public to use the quays and public landing places, subject to the accustomed quayage and groundage dues, could not be interfered with, no power but an Act of Parliament could exclude the public where the public have rights of landing, passage, thoroughfare, &c., or in other words, what is now open to the public, must always remain so, without any hindrance or toll other than the accustomed toll, viz.—groundage.

At one time the Duchy of Cornwall owned all the foreshore of the river Dart. The rights to the foreshore were leased to local land owners whose land bordered the river. This included Mr Lutterell of Kingswear who owned the land next to Lighthouse Beach.

In 1863 the Duchy terminated the leases and offered the foreshore for sale. The extract on the right [above] is a report in the Dartmouth Chronicle of December 1863 of the deliberations of the Corporation of Dartmouth which had leased a substantial part of the foreshore on the Dartmouth side. Over the centuries much of the Dartmouth foreshore had been reclaimed and had been built upon and the debate concerned the claim by the Duchy to own all the reclaimed land and the property upon it. The final sentence is of possible importance to Lighthouse Beach.

The sale document to Mr Lutterell does not mention any public rights to the foreshore but that these still existed is inferred by a letter received from Jean Delbos, dated 23 September 1901 to the Chairman of the Parish Council reads:

"Having been informed by the Secretary of the Duchy of Cornwall office that persons who have bought portions of the foreshore on the Eastern Side of the River Dart have no right whatsoever to exclude anyone from the said foreshore. I naturally came to the conclusion that an umbrella tent could be used on the shore"

"I was strengthened in that idea by the knowledge of the fact that, so long as the foreshore remains unenclosed, the public have the same rights over it after being sold by the Duchy as before and that any interference with public bathing from such foreshore is in no way countenanced by the Duchy."

"Notwithstanding this, the gentleman who owns the foreshore of the lighthouse cove thought proper to object to my umbrella tent ..."

"If the law allows bathing on those portions of the foreshore – and it does allow it – why should not bathers be allowed to use a tent merely for the purpose of undressing and dressing up again?"

I am, Sir, Yours respectfully,

Jean Delbos

- A1b - Geotechnical Assessment of Lighthouse Beach

Report redacted due to copyright

Appendix A5 – Representations MCA\Kingswear to Lyme Regis\R\191\KLR2371, MCA\Kingswear to Lyme Regis\R\192\KLR1678 and MCA\Kingswear to Lyme Regis\R\193\KLR1001. Photos of properties along the private road provided by [redacted], [redacted] and [redacted]

The six submitted photographs have been redacted because they show private dwellings

Appendix A6 – Representations MCA\Kingswear to Lyme Regis\R\221\KLR0863 and MCA\Kingswear to Lyme Regis\R\218\KLR1679. Photos provided by [redacted] and [redacted] (Beacon Lodge, Inverdart Boathouse and Brookhill Gardens, Kingswear)









Appendix A7 – Representation MCA\Kingswear to Lyme Regis\R\190\KLR2370. Photo of steps at Fishcombe Cove at high tide (provided by Natural England)



Appendix A8 – Representation MCA\Kingswear to Lyme Regis\R\189\KLR2370. South West Coast Path Association representation relating to Axmouth route.

I am making a representation because after careful consideration the South West Coast Path Association considers that NE has not struck the right balance in terms of the criteria of the Coastal Access scheme in these sections. Given the opportunity that the legislation behind the England Coast Path provides, the proposed route in these sections is disappointing.

The proposed route for the ECP at the western end of the Axmouth to Lyme Regis National Nature Reserve (KLR9S001 to KLR-9-S014) is not coastal and relies on the use of a golf course, a road used by traffic and enclosed, hedged lanes and so we consider it to offer a poor walking experience.

Instead our request is that in addition to the existing route of the SWCP an alternative more seaward path (either could be the primary route) is constructed along Axmouth Harbour quayside and then from the WWII pillbox into the NNR and then to re-join the proposed route in the vicinity of KLR-9 S011. This would provide a more challenging, but also more scenic alternative to the current proposal. Almost any alternatives investigated to the proposed route would have their benefits.

This suggested alternative would provide many benefits:

- Provide a more scenic alternative for those walkers who enjoy an attractive, challenging and, importantly, coastal route.
- create a circular route which would appeal to those people who want to experience the geological wonders (a key feature of the Jurassic World Heritage Site) of the Undercliff National Nature Reserve but do not have the time to walk all the way through to Lyme Regis. We would envisage this would be promoted as a walk from the recently opened Jurassic Coast visitor centre in Axmouth,

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- generate economic benefits to the town by encouraging visitors to stay longer, and in particular the 2 cafes (golf course and harbourside) that would be along this walk.

We note the considerations NE have made in the report (Table 9.2.2) about the route options but disagree with their conclusions and have the following comments.

Steepness

It is acknowledged that the path from the elevation of the quayside into the NNR in the proximity of the WWII pillbox would be steep. However, it is considered possible to create a path that might incorporate a zig-zag could be devised so as to provide a safe route. Steepness in itself is not a reason for disregarding a location, particularly when it is clearly more coastal than the proposed route. Given the overall nature of the SWCP, the steepness here is unusual but not “exceptional.” If this section is deemed too steep, then the second option considered by Natural England (aligning the trail behind Axmouth Harbour and through the woodland and then dropping down into the Undercliffs NNR) would resolve this and still be significantly better than the current proposal. Alternatively an obvious route that doesn’t appear to have been considered is to access the Undercliff via the field adjacent to the Public Footpath to the harbour.

The current route through the Axmouth to Lyme Regis NNR, is one of the few sections of the entire 630 mile South West Coast Path that has warning signs at each end about the difficulty of the route. As such, adding a steep flight of step at one end is unlikely to restrict users (who would in any case still have the option of the existing inland route). As part of our proposal we would recommend that these warning signs are updated and provide users with an explanation about the varying difficulties of each route.

Stability in the area of the proposed steps

The presence of the former WWII pillbox at the foot of the cliff protects the foot of the cliffs from erosion and so this section of the coastal slope appears to be relatively stable. The roof of the pillbox has good pedestrian access and has been enhanced recently to promote the Jurassic Coast World Heritage Site so adding interest for walkers and visitors.

Active land-slippage and overall risk

The quality and interest of the landscape in this area is enhanced by the geological activity and has resulted in the recognition of this area as being of global importance as a World Heritage Site. The England Coast Path could enhance access to it. Instability of the cliff remains relatively infrequent and is a long-term characteristic of management of the South West Coast Path (SWCP) in the east Devon and west Dorset area. Any instability tends to be restricted to the winter months and following wet weather when the use of the path is less and so the risk reduced. A path along the wide ‘ledge’ midway up the Undercliff could be routed away from the higher cliff, and so ensure rocks would not fall directly onto any walkers using the path, and so walkers would have a chance to take evasive action if they were unfortunate enough to be there at the precise time and location of rockfall. The current route also has its own inherent and inescapable risk associated with vehicle traffic on the narrow and steep road that is used to access the golf club car park, and then walking across a golf course with the risk of being struck by balls.

Existing public right of way along Axmouth Harbour quayside

The proposed route fails to take account of the added interest that incorporating the quayside at Axmouth would add. The quayside also supports a local café facility and an angling/water sports business that would benefit from increased passing footfall which our alternative route would provide. The proposed route directs walkers away from the quayside, its fishing interest and businesses.

Sea Views

A key factor in choice of route of the ECP scheme methodology is proximity to the coast and sea views. Sea views from the majority of the proposed route follows enclosed lanes and crosses a golf course and has with infrequent and distant views of the coast along its length. In comparison, our proposed route from the pillbox into the NNR would provide the opportunity for the walker to experience excellent coastal views, which could be enhanced further by selective clearance of vegetation. As this section of the NNR suffers from invasive species, this could aid its ecological management. The alternative route through the woodland considered by Natural England would also in our opinion offer better views than the proposed route.

Appendix A9 – Representation MCA\Kingswear to Lyme Regis\R1189\KLR2370. Photo of boulder field in the Axmouth to Lyme Regis Undercliffs NNR (photo provided by Natural England)

