



The Planning Inspectorate

Report to the Secretary of State for Environment, Food and Rural Affairs

by **G D Jones BSc(Hons) DipTP DMS MRTPI**

an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs

Date 3 May 2022

Marine and Coastal Access Act 2009

Objection by [redacted]

Regarding Coastal Access Proposals by Natural England

Relating to Mocketts, Isle of Harty (west) to Windmill Creek

Site visit made on 12 November 2021

File Ref: MCA/IOS/8/1

<https://www.gov.uk/planning-inspectorate>

Objection Reference: MCA/IOS/8/1

Little Bells Farm, Eastchurch

- On 22 January 2020 Natural England submitted Coastal Access Reports to the Secretary of State for Environment, Food and Rural Affairs setting out proposals for improved access to the coast on the Isle of Sheppey under section 51 of the National Parks and Access to the Countryside Act 1949 pursuant to its duty under section 296(1) of the Marine and Coastal Access Act 2009.
- An objection dated 16 March 2020 concerning Natural England's Report 8 for land between Mocketts, Isle of Harty (west) and Windmill Creek has been made by [redacted]. The land in the Report to which the objection relates is specifically route section IOS-8-SO05, as shown on Map 8b.
- The objection is made under paragraph 3(3)(a) of Schedule 1A to the 1949 Act on the grounds that the proposal fails to strike a fair balance in such respects as set out in the objection.

Summary of Recommendation: I recommend that the Secretary of State makes a determination that the proposals set out in the report do not fail to strike a fair balance.

Preliminary Matters

1. On 22 January 2020 Natural England (NE) submitted Coastal Access Reports to the Secretary of State setting out proposals for improved access to the coast on the Isle of Sheppey. The period for making formal representations and objections to the reports closed on 18 March 2020. I have been appointed to report to the Secretary of State on this objection.
2. There are other admissible objections to the Reports concerning improved access to the coast on the Isle of Sheppey. As these objections relate to other Reports in respect to different route sections they are considered separately in other reports to the Secretary of State.
3. I carried out a site inspection on 12 November 2021 accompanied by the objector and by representatives from NE and from Kent County Council (KCC).

Main Issues

4. The coastal access duty arises under section 296 of the Marine and Coastal Access Act 2009 (2009 Act) and requires NE and the Secretary of State to exercise their relevant functions to secure two objectives.
5. The first objective is to secure a route for the whole of the English coast which:
 - (a) consists of one or more long-distance routes along which the public are enabled to make recreational journeys on foot or by ferry, and
 - (b) (except for the extent that it is completed by ferry) passes over land which is accessible to the public.

This is referred to in the 2009 Act as the English coastal route, but for ease of reference is referred to as 'the trail' or 'the England Coast Path' in this report.

6. The second objective is that, in association with the England Coast Path, a margin of land along the length of the English coast is accessible to the public for the purposes of its enjoyment by them in conjunction with the coastal route or otherwise. This is referred to as the coastal margin.

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7. Section 297 of the 2009 Act provides that in discharging the coastal access duty NE and the Secretary of State must have regard to:
 - (a) The safety and convenience of those using the trail,
 - (b) The desirability of that route adhering to the periphery of the coast and providing views of the sea, and
 - (c) The desirability of ensuring that so far as reasonably practicable interruptions to that route are kept to a minimum.
 8. They must also aim to strike a fair balance between the interests of the public in having rights of access over land and the interests of any person with a relevant interest in the land.
 9. Section 300 of the 2009 Act provides that the coast includes the coast of any island other than an excluded island. An island is excluded if it is not accessible; that is, that it is not possible to walk to it from the mainland including by means of a bridge. In this case the Isle of Sheppey is connected to the main land via a bridge over The Swale estuary.
 10. Section 301 of the 2009 Act applies to river estuaries and states that NE may exercise its functions as if the references to the sea included the relevant upstream waters of a river.
 11. NE's Approved Scheme 2013, as approved by the Secretary of State on 9 July 2013, (the Scheme) is the methodology for implementation of the England Coast Path and associated coastal margin. It forms the basis of the proposals of NE within the Report. Section 7.16 of the Scheme concerns islands and states at 7.16.5 that the trail "will broadly follow the periphery of any island which it includes, following the same principles as for the mainland coast. People will normally be able to choose when they arrive at the bridge or causeway whether to use the trail to reach the island or to continue along the mainland coast."
 12. My role is to consider whether or not a fair balance has been struck. I shall make a recommendation to the Secretary of State accordingly.

The Coastal Route

13. Although forming part of the England Coast Path for the Isle of Sheppey, the length of path under consideration here is between Mocketts, Isle of Harty (west) and Windmill Creek and includes three mapped sections of path along the seawall of Harty Marshes as shown on Maps IOS 8a, b and c. The objection relates to route section number IOS-8-S005 as shown on Map IOS 8b: Capel Fleet to Little Bells. For ease of reference, I shall refer to the section in question as 'IOS-8-S005' henceforth.
14. The sections of path from the northern end of IOS-8-S005, between Bells Creek and Windmill Creek as shown on Map IOS 8a, follow an existing public right of way to the west. IOS-8-S005 is part of an inland diversion, taking the trail around Bells Creek and the Bells Creek Pumping Station on the shoreline.
15. Access to the saltmarsh/flat in the coastal margin seaward of IOS-8-S005 is proposed to be excluded all year-round under s25A of the Countryside and Rights of Way Act 2000 (the 2000 Act) as it is considered by NE to be unsuitable for public access. The exclusion would not affect the route itself. By way of

context, NE has stated that the mudflat in this area is *soft and sinking, does not provide a safe walking surface and is subject to frequent tidal inundation*, and that *areas of saltmarsh have deep channels and creeks, some of which would not be readily apparent to walkers and can pose a significant risk*.

16. Dogs would also be required to be kept on a lead on route sections, including IOS-8-S005, by direction under section 26(3)(a) of the 2000 Act all year round to protect sensitive wildlife (breeding, passage and overwintering birds). This stretch of coast is part of The Swale Special Protection Area (SPA) and supports important numbers of breeding and roosting marsh harrier, breeding waders and overwintering waterfowl.

The Objection

17. The objector is the landowner of Little Bells Farm. The objections relate mainly to safety along the farm track, potential effects on biodiversity, access to the coast from the nearby prison, and the quality of communication from NE.
18. Regarding safety the concern relates to potential conflict between farm vehicles / machinery and pedestrians. Concern is also expressed that the proposed path alignment is adjacent to a steep bank and a deep ditch.
19. The objector also raises concerns regarding the effect of the proposals on wildlife/biodiversity. These include the suggestion that no wildlife survey was undertaken to inform the proposals and in respect to the effect of dogs associated with users of the path.
20. Another concern raised relates to the access to the farm, which is via the cluster of HM Prisons to the north. While there is an existing footpath through Little Bells and Great Bells Farm to Elmley Nature Reserve the objector does not want the entry to the farm via the Prisons to become the entry to the Coastal Path and the existing footpath, and considers that appropriate signage should be put in place to reflect this.
21. The objector also states that the communication from NE has been poor, with reference to only one meeting having been had at the time of the objection.
22. Additionally, he considers that the trail should go along the coast and states that when the plans were drawn up for a new pumping station at Bells Creek the Drainage Board should have taken account of the Coastal Path as part of the design given that it was aware of the Coastal Path project at that stage.

Representations

23. KCC Public Rights of Way and Access Service support the creation of the England Coast Path and recognise the benefits it will bring to the County. It says that although it is disappointing that the trail is not proposed to be aligned closer to the sea in places, it understands the reasons for the preferred route given the wildlife and environmental constraints of the existing landscape. It also says that the proposed trail alignment would be a welcome addition to the public right of way network, linking existing paths and improving connectivity across the Isle of Sheppey.
24. The Ramblers are very pleased to see this significant section of the south coast of Sheppey opened up to walkers. Nonetheless, they question the reasoning for

the inland diversion at Bells Creek. They state that the Pumping Station only opened in 2019 and that at the planning stage it must have been obvious to the Lower Medway Internal Drainage Board that it would obstruct the likely route of the Coast Path, such that provision should have been made for pedestrian access across Bells Creek at that time. The Ramblers add that although the diversion inland does not significantly add to the distance, it takes it away from the coast and they query whether the Board might be persuaded to 'correct their oversight'.

25. Historic England state that although ground disturbance associated with the proposal would appear to be minimal in general, it could potentially disturb non-designated archaeological remains, so recommend consultation with the Heritage Conservation Team at KCC. It adds that it does not think that the proposal is likely to cause much if any change to the setting of heritage assets, or to the historic landscape or town character along its course, but asks NE to consult the local Conservation Officers with regard to the proposal's potential impact upon the setting of Listed Buildings, and the character of historic landscape and conservation areas.
26. Disabled Ramblers are encouraged by the positive physical changes proposed to improve access for mobility vehicles.
27. While South Eastern Power Networks plc has no objection to the works, it insists on a dialogue to discuss working arrangements with them under HSE guidance and Energy Networks Association Technical Specifications, relating to work near underground cables and overhead wires, and on appropriate mitigation and guidance when working around electrical apparatus.
28. [Redacted] raises concerns relating to the importance of the area, including Little Bells Farm, for a range of bird life, including birds of prey, breeding waders and wildfowl, and nesting birds; potential disturbance associated with the proposals; the adequacy of mitigation proposed; and the adequacy of supporting evidence, including surveys and assessments. He considers that that area should remain undisturbed and access free, especially as there are alternative routes a path could take around, rather than through, this part of the island. [redacted] adds that Eastchurch and Harty marshes should be regarded as supporting habitat along the boundary of the SPA for feeding, breeding and roosting birds and therefore classed as functionally-linked land, and that thousands of birds use these fields in winter, which are necessary for maintaining the favourable conservation status of the SPA.

Natural England's Response to the Objection

29. Regarding safety, NE says that this section of farm track is around 3m wide, it maintains that farm traffic is infrequent along this part of the trail and use of this part of the trail by walkers will not be high. It adds that the landscape is flat and open so visitors would be able to see farm machinery approaching, and vice versa. NE also says that along the 950m length of this section, there is a passing place, where the path widens, every 100m or so, which would allow walkers to step aside if large vehicles take up the whole width of the track. NE considers that mixed use can be managed safely here with minimum disruption to farm operations.

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30. In respect to the adjoining bank and ditch, NE states that most people understand that the coast can be a dangerous environment and are aware of inherent risks, that steep banks and 'borrowdyke' ditches are a common feature along seawalls, and that the potential risk would be evident. NE adds that the 3m width, plus passing places, mean that space is unlikely to be constrained in a way that would force walkers to step onto the steep bank.
 31. NE did consider the objector's preferred route option, following the coast and cross Bells Creek at the new pumping station, and discussed it with the Environment Agency (EA) and the Internal Drainage Board during the sluice's development. NE says that both organisations considered that providing for public access across this remote and unmanned facility would have had major implications on the infrastructure costs, significantly impacting the automated maintenance operations of the sluice. NE adds that significant risks for public safety were also raised regarding the proximity of hidden hazards to any walkway across the sluice, such as access to the sluice inlet pipes. NE says that the sluice, which is now in full operation, has significant security with boundary fencing close to the infrastructure, and in their view, it fits comfortably within the definition of excepted land.
 32. Regarding biodiversity, NE says that it received all available information regarding the wildlife using the banks and adjacent arable fields in this area, including breeding and wintering birds, from birders with local knowledge of the island such as bird movements, roosts and nest sites. A breeding marsh harrier survey was carried out in 2017, as requested by the RSPB, and NE commissioned further observations to clarify the status of these birds where new access is being proposed. This information helped inform its Habitat Regulations Assessment and Nature Conservation Assessment, which concluded that the proposals to introduce new access here would have no significant impact on sensitive features, including along the trail and for wildlife in the fields landward of the trail.
 33. NE also states in respect to the marsh harrier roost found in the fields to the east of IOS-8-S005, that the birds congregate here at dusk and that it is envisaged that very few walkers or birders will be near the roost site at this time, given its isolated location, and the fact that it is a 6km round trip from the nearest access point. NE adds that a far more convenient viewing point is provided by the RSPB off the Harty Ferry Road, to the north-east of this location. Consequently, NE does not believe that this marsh harriers roost is at significant risk from disturbance. NE also refers to other harrier roosts reported close to public rights of way, notably at the nearby Elmley and Swale National Nature Reserves, which in their view indicate that the birds landward of the farm track would not be significantly disturbed by the proposals.
 34. In response to the concern regarding dogs, NE states that the proposed signs at either end of this section of the trail would explain the wildlife sensitivities of the area, the reason for staying on the path and the requirement to keep dogs on leads at all times. NE maintains that access management measures are normally more successful when the reasons for them are clearly explained and that it has worked with Bird Wise North Kent (an organisation focussed on managing recreation to protect birdlife) to develop clear interpretation messages to encourage the responsible behaviour of visitors in areas of wildlife sensitivity. NE also considers that the majority of coast path walkers with dogs will

understand that this part of the coast supports important and sensitive birdlife and will respect the need to help protect wildlife by preventing dogs from running into land adjacent to the trail.

35. In respect to the concern that the proposals would lead to access from the Prisons via the farm to the coast path NE states that there would be no right of access along this access track, which is owned by the EA. NE adds that the prison is over a kilometre from Little Bells and separated by a closed field gate, which the EA already keep locked to deter access. NE says that it will offer 'no access' signage for this field to the EA and that the distance between the prison and the trail, along with the barriers to access, is likely to prevent this route becoming a means of access to the coast path.
36. NE states, regarding communication with the objector, that it first contacted U & Partners in February 2017 and met on site with its land manager in April 2017 when the concerns over the initial ideas for the route were discussed. NE says it explored the issues raised before sharing via email a mapped summary of its preferred proposals, with feedback regarding the concerns that had been raised and seeking any further views on 19 September 2018. NE recognises that the owner does not support proposals along the farm track, including as set out in subsequent correspondence in October 2018, but believe that it has met the requirements regarding liaison with the relevant interests, with reference to para 3.4.6 of the Scheme, and explored all the issues and options that were raised, before proposing this route.
37. NE has provided comprehensive responses to each of the representations. These are set out in NE's *Representations on IOS 3: Oak Lane, Minster to Hen's Brook, Eastchurch Gap and Natural England's comments* document, December 2020.

Analysis

Safety

38. The use of farm tracks by agricultural vehicles and equipment has the potential to cause conflict with users of footpaths to the detriment of safety. In this case there is also likely to be occasional vehicular traffic to and from the pumping station, and there are also the steep bank and deep ditch to take into account in terms of potential effects on safety.
39. Nonetheless, the number of vehicle movements is likely to be limited given the nature of the uses that the track serves, while the speed at which they travel is also likely to be limited along this section given the fairly uneven nature of the track and the presence of the bank and ditch. Moreover, this section of track is wide and supplemented by passing places. Intervisibility between pedestrians and drivers is also very good due to the reasonably flat, open landscape and fairly straight alignment of the track. Consequently, these users would be very likely to be able to reasonably adjust their speed and position well in advance of any potential conflict.
40. Consequently, there is no good reason to believe that the proposed IOS-8-S005 section of coastal path would have any significant effects on safety or on farming operations.

Biodiversity

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41. There are sensitive habitats in this area, including the Swale SPA, the Swale Ramsar site, the Swale Estuary Site of Special Scientific Interest and the Swale Estuary Marine Conservation Zone. There is also the RSPB's Great Bells Farm Reserve to the west, which although lying outside the Swale SPA is land identified for new freshwater wetland habitat and is being created to provide further refuge for waders, wildfowl and other wetland bird species, where other habitats have been lost. As compensatory habitat, it is treated in the same way as current SPA land.
 42. The main wildlife interest of these areas in the vicinity of IOS-8-S005 are breeding waterbirds and non-breeding waterbirds. Breeding waterbirds require suitable nesting habitats and low disturbance levels to prevent egg abandonment, chilling and predation, plus safe areas for successful fledging. During the winter months, The Swale supports an internationally recognised population of non-breeding waterbirds. Its extensive areas of soft mud exposed at low tide, and grazing marshes are the main feeding areas for these birds, while at high tide they need suitable undisturbed places to roost.
 43. The saltmarsh and mudflats in the coastal margin would be excluded by direction from coastal access rights on safety grounds under s25A of the 2000 Act. Consequently, access along the IOS-8-S005 section would be limited to the route itself, thereby minimising any potential effects of this section of the coastal path on wildlife and their habitat. The seawall and existing track provide a highly legible route for walkers to follow. The track is also fairly flat and straight, so it is easy to use and there would be no functional incentive for walkers to deviate from the path. The bank and ditch alongside the seawall would also be likely to deter access to the inland wetland features, while multiple creeks would deter access to the saltmarsh.
 44. The dogs-on-lead direction along IOS-8-S005, under s26(3)(a) of the 2000 Act on nature conservation grounds, would also serve to protect wildlife and their habitat. The proposed signs at either end of this section would explain the wildlife sensitivities of the area, the reason for staying on the path and the requirement to keep dogs on leads. As outlined above, NE considers that access management measures are more successful when the reasons for them are clearly explained and that with Bird Wise North Kent it has developed interpretation messages to encourage responsible behaviour.
 45. As this dog-management mitigation is proposed on nature conservation grounds it cannot be taken into account as part of the Habitat Regulations Assessment screening stage. Without it there is at least some potential for the proposals for IOS-8-S005 to have a significant effect on the protected sites identified above. Accordingly, I have set out, at Annex A to this report, information to inform the Secretary of State's habitats regulations assessment. It concludes that there would be no adverse effect on the achievement of the conservation objectives of this area and reflects the conclusion of NE's *Assessment of England Coastal Path proposals for the Isle of Sheppey proposals under regulation 63 of the Habitats Regulations 2017*, 22 January 2020 (the HRA).
 46. With reference to the matters outlined in paras 32 to 34 above, the HRA and NE's *Assessment of England Coast Path proposals on the Isle of Sheppey on sites and features of nature conservation concern*, 2020, the potential effects of the proposed IOS-8-S005 section of path have been thoroughly assessed in

respect to nature conservation receptors. Having regard to these and the matters outlined above, and subject to the proposed mitigation, IOS-8-S005 would have no significant effect on biodiversity.

Access to the Coastal Path from the Prisons

47. There would be no right of access via the prisons along the access track that connects to the farm. Given the considerable distance concerned and that the access is gated, and the gate locked, it is very unlikely that the farm access from the prisons would be used as a means of accessing IOS-8-S005 and the wider trail.

Communication

48. Having regard to NE's comments as summarised at para 36 above, NE has gone to reasonable and adequate lengths to communicate and engage with the objector in respect to the coastal path proposals in line with the Scheme.

Alternative Route

49. NE has provided clear and well-founded justification, on safety and nature conservation grounds, why the trail should not follow the coast here. There also appear to be good reasons why the trail should not cross the pumping station site associated with its safe and efficient management.

Conclusions

50. The Isle of Sheppey is not an excluded island under Section 300 of the 2009 Act as it is accessible via the existing bridge over The Swale.

51. For the reasons outlined above, the proposed section IOS-8-S005 of the England Coast Path would not have any significant effects on safety or biodiversity subject to the proposed mitigation, nor would it be likely to result in additional public access to the objector's land via the prisons. NE has also gone to reasonable and adequate lengths to communicate and engage with the objector in accordance with the Scheme. There are also very well-founded reasons why the alternative route referred to by the objector has been rejected. None of the matters raised would lead me to the conclusion that access should be restricted otherwise than as proposed in the report.

Recommendation

52. Having regard to these and to all other matters raised, I conclude that the proposals do not fail to strike a fair balance as a result of the matters raised in the objection. I therefore recommend that the Secretary of State makes a determination to this effect.

G D Jones

APPOINTED PERSON

ANNEX A: INFORMATION TO INFORM THE SECRETARY OF STATE'S HABITATS REGULATIONS ASSESSMENT

Introduction

1. The Conservation of Habitats and Species Regulations 2017 (as amended) requires that where a plan or project is likely to have a significant effect on a European site, such as the Swale Special Protection Area (SPA), either alone or in combination with other plans or projects, and where the plan or project is not directly connected with or necessary to the management of the European site, a competent authority (the Secretary of State in this instance) is required to make an appropriate assessment of the implications of that plan or project on the integrity of the European site in view of the site's conservation objectives.

Project Location

2. The proposed section of path is Capel Fleet to Little Bells, number IOS 8-S005 as shown on Map IOS 8b. It forms part of the section of path between Mocketts, Isle of Harty (west) and Windmill Creek for the Isle of Sheppey, which in turn forms part of the England Coast Path. For ease of reference, the section in question is referred to as 'IOS 8-S005' henceforth.
3. IOS 8-S005 is in proximity to the Swale SPA, the Swale Ramsar site, and the RSPB's Great Bells Farm Reserve (the Reserve). The Reserve is a new freshwater wetland habitat created to provide further refuge for waders, wildfowl and other wetland bird species, where other habitats have been lost. As compensatory habitat, it is treated in the same way as SPA land.
4. The main wildlife interest of these sites in the vicinity of IOS 8-S005 are breeding waterbirds and non-breeding water birds. Breeding waterbirds require suitable nesting habitats and low disturbance levels to prevent egg abandonment, chilling and predation, plus safe areas for successful fledging. During the winter months, The Swale estuary supports an internationally recognised population of non-breeding waterbirds. Its extensive areas of soft mud exposed at low tide, and grazing marshes are the main feeding areas for non-breeding waterbirds, while at high tide these birds need suitable undisturbed places to roost.

Habitats Regulations Assessment Implications of the Project

5. IOS 8-S005, as part of the England Coast Path on the Isle of Sheppey, would increase access to this area by walkers, including those accompanied by dogs, whose presence have the potential to affect the Swale SPA, the Swale Ramsar site, and the Reserve. In the vicinity of IOS 8-S005 the qualifying features of these designated sites are Dark-bellied brent geese, Common shelduck, Ringed plover, Grey plover, Dunlin, Common Redshank, Curlew, Oystercatcher, Teal, Wigeon, Waterbird assemblage and Breeding bird assemblage. Other than breeding bird assemblage, these are all non-breeding.
6. Natural England (NE) has undertaken a Habitats Regulation Assessment for the whole of the Isle of Sheppey section of the England Coast Path, dated 22 January 2020 (the HRA). It provides the information to inform the Competent Authority's appropriate assessment, in accordance with the assessment and review provisions of the Habitats Regulations. The HRA is recorded separately in the suite of reports. It considered the potential impacts of the coastal access

proposals on the designated sites identified above as well as others which are distant from IOS 8-S005, including likely significant effects.

7. Initial screening set out that as the plan or project is not either directly connected or necessary to the management of all of the European sites' qualifying features, an HRA was required. The overall Screening Decision found that the plan or project at large would be likely to, or may, have significant effects on some or all of the qualifying features of the European Sites alone in the absence of mitigation measures. On this basis, the HRA considered the potential for the project to give rise to Adverse Effects on the Integrity (AEol) of the designated sites.
8. The scope of the assessment is set out in Table 6 of the HRA (pages 24 & 25) and identifies the sites and qualifying features for which significant effects, 'alone' or 'in combination', would be likely or could not be excluded beyond reasonable scientific doubt. The relevant information for section IOS 8-S005 is identified in the fifth row of Table 11 of the HRA (page 39) and discussed in D3.2E Great Bells – Capel Fleet (pages 47 to 49); note that this covers the entirety of this part of the coastal path, not just IOS 8-S005.
9. The assessment of AEol for the project alone takes account of measures to avoid or reduce effects incorporated into the design of the access proposal as set out in sub-section D3.3, including Table 11. The assessment, which covers the entire Isle of Sheppey section of the England Coast Path, not just IOS 8-S005, identifies that the measures incorporated into the design of the scheme are sufficient to ensure no AEol in light of the sites' conservation. Those where there is some residual risk of insignificant impacts are:
 - Disturbance to foraging or resting non-breeding waterbirds;
 - Disturbance to breeding waterbirds;
 - Loss of habitat that supports qualifying features; and
 - Trampling of sensitive vegetation.
10. In section D4 of the HRA, NE considered the appreciable effects that are not themselves considered to be adverse alone to determine whether they could give rise to an AEol in combination with other plans or projects. Insignificant and combinable effects likely to arise, and with the potential to act in-combination with the access proposals, were identified in relation to the implementation of coastal access both from Iwade to Grain and from Whitstable to Iwade. Nonetheless, as set out in Table 14 of the HRA (pages 68 to 70) assessing the risk of in-combination effects, NE concluded that, in view of site conservation objectives, the access proposal (taking into account any incorporated avoidance and mitigation measures) would not have an adverse effect on the integrity of the relevant designated sites either alone or in combination with other plans and projects.
11. Part E of the HRA sets out that NE is satisfied that the proposals to improve access to the English coast for the Isle of Sheppey, including section IOS 8-S005, are fully compatible with the relevant European site conservation objectives. NE's general approach to ensuring the protection of sensitive nature conservation features is set out in section 4.9 of the Scheme. To ensure appropriate separation of duties within NE, the assessment conclusions are certified by both the person developing the access proposal and the person

responsible for considering any environmental impacts. Taking these matters into account, reliance can be placed on the conclusions reached in the HRA that the proposals would not adversely affect the integrity of the relevant European sites. It is noted that, if minded to modify the proposals, further assessment may be needed.

Nature Conservation Assessment

12. Although not forming part of the HRA, NE has also undertaken a Nature Conservation Assessment (NCA), which should be read alongside the HRA. The NCA covers matters relating to Sites of Special Scientific Interest (SSSI) Marine Conservation Zones (MCZ) and undesignated but locally important sites and features, which are not already addressed in the HRA, albeit that it also addresses the Reserve. Relevant to IOS 8-S005 are the Swale Estuary SSSI, the Swale Estuary MCZ and other features about which concern has been expressed, which include Water voles, Grey and Harbour Seals, Migrant birds, Breeding Waders, and Short-eared owl.
13. NE was satisfied that the proposals to improve access to the English coast around the Isle of Sheppey, including section IOS 8 S005, were fully compatible with its duty to further the conservation and enhancement of the notified features of The Swale SSSI, Sheppey Cliffs and Foreshore SSSI, the Swale and Medway MCZs, and the Medway Estuary and Marshes SSSI, consistent with the proper exercise of their functions.
14. In respect of the relevant sites or features the appropriate balance has been struck between NE's conservation and access objectives,