

Coastal Access – Isle of Wight 8: Thorness Bay to Gurnard Luck, and Isle of Wight 9: Gurnard Luck to West Cowes chain ferry



Representations and Natural England’s comments

February 2023

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1. Introduction

This document details representations Natural England have received on the proposals in length reports IOW 8 and IOW 9. It also sets out any Natural England comments on these representations.

Where representations were made that relate to the entire Isle of Wight stretch they are included here in so far they are relevant to lengths IOW 8 and IOW 9 only.

2. Background

Natural England’s compendium of reports setting out its proposals for improved access to the coast from Thorness Bay to Gurnard Luck and Gurnard Luck to West Cowes chain ferry was submitted to the Secretary of State on 18 March 2020. This began an eight-week period during which representations and objections about each constituent report could be made. Due to disruptions caused by COVID-19, the eight-week consultation period was extended to twelve weeks and ended on 9th June 2020.

In relation to the report for **IOW 8 Thorness Bay to Gurnard Luck**, Natural England received **11** representations, of which **5** were made by organisations or individuals whose representations must be sent in full to the Secretary of State in accordance with paragraph 8(1)(a) of Schedule 1A to the National Parks and Access to the Countryside Act 1949. These 'full' representations are reproduced in Section 3 of this document together with Natural England's comments where relevant.

In relation to the report for **IOW 9 Gurnard Luck to West Cowes chain ferry**, Natural England received **12** representations, of which **6** were made by organisations or individuals whose representations must be sent in full to the Secretary of State in accordance with paragraph 8(1)(a) of Schedule 1A to the National Parks and Access to the Countryside Act 1949. These 'full' representations are reproduced in Section 3 of this document together with Natural England's comments where relevant.

3 of the full representations made were submitted for both IOW 8 & 9 or for longer/ the full IOW stretch, therefore duplications have been removed and there are **8** full representations shown below.

As required by the legislation this document also summarises and, where relevant, comments on the **13** representations submitted by other individuals or organisations, referred to here as 'other' representations. Of those **13** 'other' representations, **5** are submitted for both IOW 8 & 9 or for the whole IOW stretch, so duplication has been removed.

Before making a determination in respect of a coastal access report, the Secretary of State must consider all 'full' representations and our summary of 'other' representations, together with Natural England's comments on each.

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

Representation number:	MCA/IOW8/R/1/IOW3854
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Organisation/ person making representation:	The Ramblers
Route section(s) specific to this representation:	IOW 8
Other reports within stretch to which this representation also relates:	N/A
Representation in full	
<p>Representations numbered 8.1 & 8.2 express support for the proposed route and highlight how and where national trail standards can be achieved. Representation 8.3 comments on the application of Section 25a along the shoreline.</p>	
Natural England’s comments	
<p>We welcome the positive engagement from The Ramblers during the development of our proposals, and the supportive comments made by the Ramblers in their representation document at 8.1 & 8.2.</p> <p><i>8.3 Section 25A direction to exclude access</i> <i>“The shingle beach of Thorness Bay is heavily used by both sailing -canoeing -windsurfing adventure activity groups as well as walkers. The scope of section 25a classifications need to be reviewed”</i></p> <p>The proposed Section 25A direction at this location does not include the shingle beach, rather it includes the area of mudflat slightly offshore that NE believes is unsuitable for access on foot. Therefore, NE doesn’t agree that the S25A direction needs to be reviewed.</p>	
Relevant appended documents (see section 5):	
Annex 1: Ramblers Supporting Document, IOW 8	

Representation number:	MCA/IOW8/R/2/IOW0145
Organisation/ person making representation:	The Isle of Wight Council
Route section(s) specific to this representation:	IOW-8-S003 to IOW-8-S013
Other reports within stretch to which this representation also relates:	N/A
Representation in full	
<p>On 5th June 2020 it was necessary for the Isle of Wight Council (Council) to close the above mentioned section of the route (existing public footpaths) due to multiple landslips along the route. The Council hopes to be able to move the path inland later this year by repositioning of fencing, but this will require landowner cooperation. If this occurs, then the Council will notify Natural England of the realignment. However, if reopening is not possible then Natural England will need to reassess this stretch and infrastructure works.</p>	
Natural England’s comments	
<p>The above section of footpath between Gurnard and Thorness was reopened in May 2021 (annex 2). At this time, the Council has not moved it inland. A small section of fence was realigned, and a bridge placed across the fall. This work was carried out by the IOW Council. We have updated our maps to incorporate the new infrastructure at this location as well as some existing infrastructure that had been unintentionally excluded (annex 3 and annex 4).</p>	

Relevant appended documents (see section 5):

Annex 2: Email from Isle of Wight Council confirming the path re-opening
 Annex 3: Email correspondence with the Isle of Wight Council regarding infrastructure improvements
 Annex 4: Updated infrastructure map

Representation number:	MCA/IOW Stretch/R/1/IOW3910
Organisation/ person making representation:	Redacted on behalf of Bird Aware Solent The Solent Recreation Mitigation Partnership, a partnership comprising of the fifteen Solent local authorities (some of whom are themselves in the “full” category as Access Authorities), Natural England, the Royal Society for the Protection of Birds, the Hampshire & Isle of Wight Wildlife Trust, and Chichester Harbour Conservancy. The Partnership for South Hampshire provide political governance for the Solent Recreation Mitigation Partnership. This response is submitted with their support and backing, as such we are treating it as a “full” representation.
Route section(s) specific to this representation:	Whole Stretch
Other reports within stretch to which this representation also relates:	All reports
Representation in full.	
<p>As representatives of the SRMP partnership, we welcome the concept of the England Coast Path as something of value to local people and residents, but we have some real concerns that we would like addressing.</p> <p>We recognise and thank you for your timely and inclusive approach to engaging with us during the development of a route for the ECP. As you are aware those parts of the Solent being identified as a potential route for the ECP are covered also by our mitigation programme, identified in our Strategy which was formally adopted by PUSH in December 2017 and replaces the interim Strategy we had been operating under since 2014.</p> <p>We acknowledge the ECP team have consulted with us and hope that the ECP team have benefitted from SRMP partners’ local knowledge and ecological expertise. We understand that this input has formed part of the evidence to define a route which does not lead to additional impacts on the Solent’s SPA birds and their habitats. We appreciate that the proposed ECP route will need to satisfy the Habitats Regulations and that avoidance and mitigation may be required for the chosen route. This is in the same way that SRMP is a response to allowing development to proceed in satisfaction of those same regulations.</p> <p>There are two specific areas of concern that have been expressed by partners that could potentially create conflict between the objectives of the two initiatives, outlined below.</p> <p>Increased Visitor Numbers</p> <p>Partners have expressed concerns that the ECP will lead to a rise in the number of visitors to sensitive parts of the coast. This will cause increased disturbance to the overwintering birds that journey to our SPAs, many of which are red and amber listed.</p>	

Whilst the SRMP is employing a range of measures to mitigate against disturbance from increasing housing numbers, it does not have the resources to deal with any further elevation in visitor numbers as a result of the ECP. Therefore there is a real concern of a conflict between these two initiatives. Any rise in visitor numbers as a result of ECP use has the potential to diminish the effectiveness of the SRMP measures. ECP will need to ensure that it provides its own mitigation package to protect against the impact of increased visitor numbers it will create.

Mapping of Spreading Zone

It is understood that in some areas of the ECP the spreading zone will be excepted for reasons of safety or nature conservation. Concern is raised about Ordnance Survey's plans for depicting the 'spreading zone' as a magenta wash and not making any exceptions for excepted areas.

As such, to an ECP user carrying an Ordnance Survey map it will appear that they are free/encouraged to walk on intertidal areas. In large parts of the SRMP area, these can be extremely large, support fragile habitats and be a huge food resource for birds and other species. Increased footfall through these areas would cause great damage to these fragile habitats and enormous disturbance to vulnerable wintering bird populations.

Whilst it is understood that exceptions to the spreading zone will be sign posted on the ground and listed on NE's website, enforcement of these would seem to fall to the landowner/occupier. If it is not possible to depict the spreading zone for the ECP accurately on Ordnance Survey maps, we would urge NE to reconsider its inclusion on the map entirely.

We are therefore seeking assurance from you about these two concerns in particular, rather than the more general issues you are already aware of and will be incorporating into the Access & Sensitive Features Appraisal.

Natural England's comments

Increased visitor numbers

We understand the disturbance pressure affecting the Solent SPAs as a result of increasing demand for places to recreate from a growing population. Improving provision for walking, and particularly high quality, well maintained and promoted routes is one of a number of positive ways of managing demand.

Natural England maintains that over the course of developing our proposals for England Coast Path on the Isle of Wight we have thought carefully about possible impacts on the European sites and their associated designated features that could be affected. We have taken an iterative approach to developing and refining our access proposals, including thorough discussion with the SRMP and other organisations with relevant local knowledge, and are satisfied that sufficient measures are included to mitigate the risks. After careful consideration, we believe that the proposals we have made will not be likely to have a significant effect on a European sites that gives rise to the real risk of an adverse effect on its overall integrity. In reaching this conclusion, we have taken account of the relevant conservation objectives for the European sites involved and their ecological characteristics.

Our programme to establish the England Coast Path is complementary to the Partnership's strategy; it seeks to enable responsible access to the Solent coast and inform visitors about the ecological sensitivities. Through meetings and a series of workshops we have developed our proposals in close liaison with Bird Aware Solent and have fully considered the Bird Aware Solent evidence base and both the interim and definitive mitigation strategy. A key feature of the Bird Aware Solent strategy is the provision of coastal rangers to educate and inform coastal visitors about the wintering bird sensitivities and how to enjoy the site, whilst avoiding disturbing the feeding and roosting birds. Our proposals for the alignment and detailed design of the Coast Path complement the work of the rangers. The definitive strategy aims to widen the range of mitigation from the interim strategy through

providing on-the-ground access management projects specific to each site, including measures such as interpretation panels. Although a definitive list of these projects has yet to be finalised, Bird Aware Solent and Natural England colleagues have liaised to identify the likely projects that would be effective to reduce recreational disturbance in the Solent based on evidence.

Representatives of the ECP team have provided updates on the proposals to Bird Aware Solent meetings. These sessions have generated useful feedback which we have used in developing our proposals.

Mapping of Spreading Zone

How coastal margin is to be mapped on the OS maps does not form part of our proposals.

The decision as to how to depict on OS 1:25,000 maps the England Coast Path and the 'coastal margin' created on approved stretches by the Access to the Countryside (Coastal Margin) (England) Order 2010 resulted from detailed discussions with the Coastal Access National Stakeholder Group. This group, representing a balance of interests including user, conservation and land manager representative organisations, considered it imperative that the route of the England Coast Path and the coastal margin should both be depicted. This decision reflected the importance afforded by the stakeholder group to acknowledge the statutory duty to establish both a 'long distance walking route' around the coast of England and to identify a margin of land within which the public will also have access, subject to what follows.

Coastal margin will generally have, as a large component, land which is subject to coastal access rights but in some areas contains much land which is not subject to these rights. This may be because either it is excepted land, as set out in Schedule 1 of CROW, or because it is subject to statutory restriction.

It follows that, in contrast to the position with CROW 'open access land', the depiction of coastal margin on OS maps is not a depiction of 'access land' per se, but a depiction of the status of the land, rather as national park boundaries are depicted on the maps. This distinction was central to the decision to depict coastal margin distinctively on OS maps.

It was felt that because the existing open access 'yellow wash' is well-known by users and often perceived to mean that all areas within it are accessible, a different coloured wash and boundary to depict the coastal margin should be used in order to clearly reflect the different nature of this new designation. In deciding this, the stakeholder group concluded that to show the coastal margin boundary only would not achieve the desired effect. Also, where coastal access rights have superseded existing open access rights on the coast, showing the boundary only would mean removing the existing yellow access land wash in order to avoid confusion – but this might create the undesirable impression of a *loss* of public access rights. Because of OS operational needs, the colour chosen for depicting the coastal margin was magenta, (a 10% magenta wash) bounded on its landward edge by distinctive magenta semi-circles.

It was decided that the England Coast Path itself would be depicted by a green diamond (lozenge) symbol placed along the route and named England Coast Path with the National Trail acorn symbol placed alongside the name. Alternative routes will be shown by hollow version of the green diamond (lozenge) symbol.

The depiction of coastal margin on OS digital and paper products with a magenta wash comes with a clear, concise explanation in the key: "All land within the 'coastal margin' (where it already exists) is associated with the England Coast Path and is by default access land, but in some areas it contains land not subject to access rights - for example cropped land, buildings and their curtilage, gardens and land subject to local restrictions including many areas of saltmarsh and flat that are not suitable

for public access. The coastal margin is often steep, unstable and not readily accessible. Please take careful note of conditions and local signage on the ground”

The key also gives the link to the National Trails website <http://www.nationaltrail.co.uk/> which is the official source for information on the England Coast Path.

The new coastal access arrangements bring greater clarity on the ground about the rights of public access to coastal land.

It is in the interest of all parties that information regarding these new rights and about the new coastal margin designation is depicted accurately and consistently on OS maps, with appropriate explanation.

With regard to excepted land, the national stakeholder group acknowledged that it would not be feasible to remove the magenta wash from the myriad of excepted land parcels falling within the coastal margin. This was because even if it were practicable in a mapping sense, it would be impossible to identify all excepted land for consistent removal. As a result, taking this approach would be misleading as people would assume because some parts of the margin were magenta-shaded and some not, the shaded areas must have access rights. By having all the coastal margin depicted on OS maps with the magenta wash it is obvious that this is not the case.

A similar unintended consequence would result if single large areas of excepted land only were removed from the margin shown on OS maps. In addition, land use changes and as a result individual land parcels would move in or out of being excepted, often over a short period. For example, agricultural land in rotation may move from arable (excepted) to grass (not excepted) and vice versa.

This approach to depicting the England Coast Path and coastal margin on OS maps has been in use since 2014. Natural England is unaware of any issues that have resulted in practice from this approach. This is despite the inclusion of some very substantial areas of developed or other excepted land with the magenta wash – for example:

- On the Isle of Portland, because of the need for the approved route of the ECP to cut across the north east corner of the island, the mapped coastal margin includes Portland Port, the Verne prison, houses, other buildings and their curtilage.
- On the Tees estuary, the coastal margin comprises extensive areas of industry and business interspersed with brownfield sites and areas where access rights are excluded to protect wintering birds

In conclusion, we support the OS approach to identifying and explaining the status of the English Coastal Margin on their 1:25000 maps, and we are not aware of any practical problems that have arisen from it. We understand why initial concerns may arise about the approach in areas that are new to it – but the best place for site-specific messaging is on the ground, and these local messaging needs receive careful attention when we conduct our alignment and establishment phases on each stretch of coast.

Representation number:	MCA/IOW Stretch/R/8/IOW3902
Organisation/ person making representation:	Redacted on behalf of the Isle of Wight Local Access Forum
Route section(s) specific to this representation:	Whole stretch – Reports 2 to 10
Other reports within stretch to which this representation also relates:	As above
Representation in full	

The Isle of Wight Local Access Forum

Dear Colleagues,

Due to the Corvid 19 pandemic the I.W Local Access Forum were unable to hold its last Forum meeting to formulate an agreed response to the consultation process. In addition a number of key persons are currently in the shielding group (until end of June 2020) and as a consequence no site visits or consultations could take place in person.

As a National advisory body and constituted organisation the Chairman was therefore unable to agree or steer the Forum towards "a clear and agreed line" (para 5.2.4 LAF's in England).

However we have consistently been able to put our point across during the pre-consultation phase and have encouraged both individuals and organisations to comment at all stages.

sincerely, I.W LAF Chair.

Natural England’s comments

Natural England thanks the Isle of Wight LAF for its constructive engagement with the Programme during the development of these proposals

Representation ID:	MCA/IOW Stretch/R/6/IOW0016
Organisation/ person making representation:	Open Spaces Society
Name of site:	IOW 2 - 10
Report map reference:	all
Route sections on or adjacent to the land:	all
Other reports within stretch to which this representation also relates	all

Summary of representation:

The Open Spaces Society has considered the representations being submitted by The Ramblers’ Association. They wish fully to support all those representations as follows:

Isle of Wight Report 2 –Overall
 Key Issue paper 2a Quarr Abbey
 Key Issue 2b Ryde House
 Key Issue 2c Bembridge Lagoons
 Key Issue 2d Bembridge Coast
 Isle of Wight Report 3 Overall, with mention of Haddons Pit
 Isle of Wight Report 4 Overall
 Isle of Wight Report 5 Overall
 Item 5.2 Freshwater Bay
 Item 5.5 Needles Viewpoint
 Item 5.7 Needles Park

<p>Isle of Wight Report 6 Overall Key Issue Paper 6A - Colwell to Linstone Chine Key Issue Paper 6F – Hamstead Gully Copse Isle of Wight Report 7 Overall Key Issue Paper 7C - Corfe Fields Key Issue Paper 7F – Newtown Ranges Isle of Wight Report 8 Overall Isle of Wight Report 9 Overall Report 10 Overall Item 10.3 Linking Northwood to the river Item 10.6 Riverside Field Item 10.13 Folly Works Item 10.14 Whippingham riverside Item 10.16 North of power station Item 10.17 Britannia way riverside development</p>
<p>Natural England’s comment:</p> <p>The Open Spaces Society and the Ramblers’ representation contains points relating to the whole stretch. In this document we have responded to the parts of it that are relevant to the IOW 8 report.</p> <p>For our comments, please see our response above to the Ramblers’ representation: MCA/IOW8/R/1/IOW3854 above.</p>
<p>Relevant appended documents (see Section 5):</p> <p>Annex 1: Ramblers Supporting Document, IOW 8</p>

Representation number:	MCA/IOW9/R/2/IOW3889
Organisation/ person making representation:	The Ramblers
Route section(s) specific to this representation:	IOW 9 whole report, IOW-9-S001 to IOW-9-S052
Other reports within stretch to which this representation also relates:	N/A
Representation in full	
<p>We wish to support this proposal, and we are pleased to see new access created in item 9.3. Item 9.1 follows the seaward PROW. We know that this path floods at high tide and can become dangerous. We suggest that an optional route is created along the road.</p>	
Natural England’s comments	
<p>We welcome the positive engagement from The Ramblers during the development of our proposals and the supportive comments.</p> <p>9.1 <i>“The narrow concrete path floods at high tide and in stormy conditions. Clearly this can be a danger in these conditions. We would prefer that an alternative high tide route is created to signify the importance of vigilance”</i></p> <p>Natural England is aware that the public footpath aligned on the seawall at IOW-9-S004 to IOW-9-S009 inundates in stormy conditions and on particular tides e.g., a spring tide. Natural England feel the route</p>	

is adequate as it's useable in most conditions and there are advisory signs displayed at both ends of the path to inform the public that the path is narrow and on some tides may not be passable (annex 2). The public can either wait for the tidal conditions to recede or choose to walk on the Isle of Wight Coast Path along Marsh Road which runs parallel with the seawall. The Isle of Wight Council will be installing 'pedestrian in road' signs along Marsh Road.

9.3 *“Steep and slippery through woodland. Care needed with the design of infrastructure. IOW Ramblers are pleased to support this new route.”*

Natural England welcomes The Ramblers support for our proposals at Spencer Wood. We have since reviewed and amended our proposed route (IOW-9-S013 to IOW-9-S022) in response to Gurnard Parish Council's representation (MCA/IOW9/R/1/IOW4195). In light of this, Natural England emailed the Ramblers to make them aware and they are still very happy with this proposed route (annex 3). For further detail on the amendment in Spencer Wood, please refer to our comments in representation MCA/IOW9/R/1/IOW4195.

In relation to the Ramblers comments about the design of infrastructure through the woods as the route is 'steep and slippery', we are proposing to improve the route here by replacing existing steps and putting in new steps in other locations where the trail steepens. Natural England will also be required to undertake surfacing works due to the ground contamination (further detail provided in representation MCA/IOW9/R/1/IOW4195).

Relevant appended documents (see section 5):

- Annex 1: Ramblers Supporting Document, IOW 9
- Annex 2: Picture of the advisory sign displayed before accessing the seawall along IOW-9-S004 to IOW-9-S009
- Annex 3: Email correspondence with the Ramblers to make them aware of the alignment change at Spencer Wood and their agreement of this amendment

Representation number:	MCA/IOW9/R/1/IOW4195
Organisation/ person making representation:	Gurnard Parish Council
Route section(s) specific to this representation:	IOW-9-S013 to IOW-9-S022
Other reports within stretch to which this representation also relates:	N/A

Representation in full

Gurnard Parish Council are disappointed that the proposed new path follows a steep direct route to the beach, rather than an existing well used 'de facto route' through the woods used for 20 plus years (see attached document 1), and contradicts the indicative coastal access proposal from March 2019 (attached document 2).

Though starting and finishing in the original place for the purpose of step re-construction, the proposed new path would need to be newly formed through woods, it would be far steeper and so less publicly accessible than the current one, and we would lose considerable access to the Copse.

The original path meandering through Spencers Wood has been enjoyed by residents well beyond 20 years, and indeed the copse was originally bought by **redacted** in 1985 in order to conserve the land for residents. Given the whole area was once a Council waste site, this newly proposed route would appear no safer than the original.

We have significant concerns about losing access to the Copse altogether. There is a private garden immediately to the west (63 Worsley road) which gives no coastal margin through the copse to the beach on the west side, and there would be little or no Coastal Margin to the east either as the newly

sold part of Spencers Copse is landlocked by private chalets along Shore Path, and no right of entry exists through Coastal Margin without beach access.

Gurnard Parish Council wish to make a formal representation for the original 'de facto' path through the woods to be used instead of, or in addition to, the proposed new trail, and have resolved to recommence the process for a 20 year claim on the original 'de facto route' through Spencers Wood as a Public Right of Way on the Definitive map to safeguard the copse for years to come.

Natural England's comments

After discussions with Gurnard Parish Council last year, we decided to commission a contaminated land assessment in conjunction with the Isle of Wight Council. This was to further investigate the condition of our proposed route as well as the route favoured by the Parish Council. Natural England's initial proposals originally avoided the existing walked route due to the presence of asbestos and other historically dumped material. The results of the contaminated land assessment found that both routes had the same level of contamination and would require surfacing works to reduce the risk to the public (annex 6).

With this new information, Natural England approached the new landowner to discuss alignment on the Parish Council's preferred route. The Isle of Wight Council were also involved in these discussions as a result of the potential Public Right of Way (PRoW) claims in Spencer Wood. The landowner consented to the ECP being aligned on the land along the Parish Council's preferred route and, in parallel, has decided to dedicate the route as a PRoW (annex 7). In light of this, Natural England emailed Gurnard Parish Council to inform them of the amendment and they were very happy with this decision (annex 8). On balance we believe that the modified route is best as it is already an existing well walked popular route, reduces the likelihood of multiple paths being formed in the woodland and it will be easier and cheaper to establish.

We ask the Secretary of State to approve the modified route as set out on the map included in annex 9. Accompanying this map, we have also included a revised entry for table 9.3.1.

Relevant appended documents (see section 5):

- Annex 4: Document 1 map of land to which representation relates
- Annex 5: Document 2 Natural England's indicative coastal access proposals for Gurnard March 2019
- Annex 6: Contaminated land assessment for Spencer Wood
- Annex 7: Email correspondence with landowner of Spencer Wood agreeing to route
- Annex 8: Email correspondence with Gurnard Parish Council to make them aware of the alignment change at Spencer Wood
- Annex 9: Map of new route at Spencer Wood and revised attribute table 9.3.1

Representation number:	MCA/IOW9/R/3/IOW0145
Organisation/ person making representation:	The Isle of Wight Council
Route section(s) specific to this representation:	IOW-9-S013 to IOW-9-S031
Other reports within stretch to which this representation also relates:	N/A
Representation in full	

<p>Positive Representation: The Isle of Wight Council (Council) fully supports this route.</p> <p>The route fully complies with section 297(2) of the Marine and Coastal Access Act 2009 requiring that the route of the trail adheres to the periphery of the coast and provides views of the seas.</p> <p>The route will also achieve new public access.</p> <p>Although a relatively short section, the route here is one of the highlights of the coastal access scheme on the Isle of Wight.</p> <p>The Council also fully supports the exact alignment of the trail through the wooded area and the proposed associated infrastructure works. It fully agrees with natural England’s reason for avoiding an area of potentially contaminated land to the east. The proposed trail is also the most direct from Worsley Road to the shore.</p>
<p>Natural England’s comments</p> <p>Natural England welcomes the positive engagement from the Council during the development of our proposals and the supportive comments. We have since reviewed and amended our proposed route (IOW-9-S013 to IOW-9-S022) in response to the Gurnard Parish Council representation (MCA/IOW9/R/1/IOW4195). The Isle of Wight Council worked very closely with Natural England to achieve this new alignment.</p>

4. Summary of any similar or identical points within ‘other’ representations, and Natural England’s comments on them

Representation ID:	MCA/IOW Stretch/R/5/IOW4210
Organisation/ person making representation:	The Disabled Ramblers
Name of site:	IOW 2 - 10
Report map reference:	all
Route sections on or adjacent to the land:	all
Other reports within stretch to which this representation also relates	all
<p>Summary of representation:</p> <p>Modern mobility vehicles can be very large, and many man-made barriers that will allow a manual wheelchair through are not large enough for all-terrain mobility vehicles, or for ‘pavement’ scooters and prevent legitimate access even though users of mobility vehicles have the same rights of access that walkers do. Man-made structures along the England Coast Path on the Isle of Wight should not be a barrier to access for users of mobility vehicles.</p>	

Disabled Ramblers notes that Natural England proposes to help fulfil the Isle of Wight ROWIP ambitions with regard to replacing all stiles with gates. This is a positive step.

Natural England states, in the *Overview* document to this stretch that they *have considered interrelationships between their proposals and the Isle of Wight Rights of Way Improvement Plan (IOW ROWIP)*. The Isle of Wight ROWIP was published in 2006, then reassessed and reviewed in 2016 and the findings published in 2018. *Policy C: Creating New Access* of this review states an objective is to make improvements to the network which benefit as wide a range of users as possible, and which address issues of accessibility for people with mobility difficulties.

Disabled Ramblers requests that Natural England goes further than just replacing stiles with gates and considers all types of structure along the England Coast Path on the Isle of Wight. All new structures should allow convenient access to mobility vehicle riders as standard and should comply with British Standard BS5709: 2018 Gaps Gates and Stiles which places the emphasis on Least Restrictive Access. (NB this new standard postdates the ROWIP review, so would not have been available at the time to inform the review.)

Disabled Ramblers also request that, as part of the preparation of the England Coast Path, all existing structures are removed and replaced if they prevent access to users of mobility vehicles.

Suitability of all structures should always be considered on the assumption that a person with reduced mobility will be going out without more-mobile helpers, so will need to operate the structure on their own, seated on their mobility vehicle.

Disabled Ramblers requests:

that installation of new structures should be suitable for those who use large mobility vehicles, and that comply with British Standard BS5709: 2018 Gaps Gates and Stiles.

that existing man-made structures that are a barrier to those who use mobility vehicles, should be reviewed, and where necessary removed and replaced with suitable structures to allow access to these people

compliance with the Equality Act 2010 (and the Public Sector Equality Duty within this act)

compliance with the Countryside Rights of Way Act 2000

adherence to the advice from Disabled Ramblers as set in the attached document *Man-made Barriers and Least Restrictive Access*.

Natural England's comment:

Natural England acknowledges its duties under the Equality Act 2010 and the Countryside and Rights of Way Act 2000, and the extra responsibilities conferred by the Public Sector Equality Duty, under the former. An important element of equality law is that the needs of those with constrained or restricted mobility are taken into account throughout the planning, design and implementation processes, and that they are not simply treated as an 'add on'. We have endeavoured to achieve this as we have developed our proposals for the Isle of Wight, and, if our proposals are approved, will continue to do so through the implementation phase, working alongside Isle of Wight County Council, which shares the same responsibilities and duties.

We also recognise the importance of satisfying the relevant British Standards, and the desirability of complying with the advice contained in the *Disabled Ramblers Notes on Manmade Barriers* and will also be focusing on these documents as we work with the access authorities. We have limited the use of kissing gates or stiles and where possible removed barriers to access e.g. at Thorness Bay we have chosen to follow the existing footpaths rather than walk along the shingle beach below the low cliff line.

We also note the Disabled Ramblers' pertinent advice regarding the larger/ all-terrain mobility vehicles, however much of the alignment covered by Report IOW 8, does not lend itself to use by such vehicles due to the narrow cliff top paths that are used. There is no scope for the widening of these paths due to land use and erosion.

Section 4.3 of the Scheme – ‘Adjustments for disabled people and others with reduced mobility’ guides our approach to aligning the trail to ensure that it is as inclusive as possible.

”4.3.8 We follow the principles set out in our publication “By All Reasonable Means” to make the trail as easy to use as we reasonably can for disabled people and others with reduced mobility, whilst accepting that such opportunities will often be constrained by practical limitations, such as the rugged nature of the terrain or the availability of visitor transport and facilities (see section below). Where there is a choice of routes (after taking into account all the key principles in chapters 4 and 5 of the Scheme), we favour the one that is accessible to the widest range of people or most easily adapted for that purpose.

4.3.9 Throughout the trail, we avoid creating any unnecessary new barriers to access by choosing the least restrictive infrastructure that is practical in the circumstances. For example, where we install infrastructure in preparation for the introduction of the rights (or replace existing infrastructure, once it has reached the end of its useful life) we normally use:

- *gaps to cross field boundaries where livestock control is not an issue;*
- *gates rather than stiles where livestock will be present, designed to enable access by people with wheelchairs; and*
- *graded slopes rather than steps if practicable.*

4.3.10 Where appropriate, our proposals include further targeted adjustments to make the trail more accessible for people with reduced mobility. This may include improvements to the information available about those lengths of trail that are already accessible to a wide range of people. We also ask local representatives to help us identify, prioritise and design suitable and affordable physical improvements to the trail according to their local needs and the available budget. They might typically identify:

- *particular sections of trail that are well-served by public transport and visitor facilities, but have physical barriers to access for people with reduced mobility which could realistically be removed; or*
- *sections with potential to provide key strategic links through adjustments that are readily achievable.*

4.3.11 In all this, we will have regard to any concerns about making it easier in practice for people to enter land unlawfully with vehicles; the importance of conserving cultural heritage features and landscape character in the design of the trail and infrastructure; land management needs, for example the need for crossing points to be designed to prevent livestock from escaping; the costs involved; and the need for crossing points between fields to facilitate access for horse riding or cycling where there are existing rights or permissions for these activities.”

Relevant appended documents (see Section 5):

Annex 5: Disabled Ramblers Document: *Man-made Barriers and Least Restrictive Access*

Representation ID:	MCA/IOW Stretch/R/3/IOW4199
Organisation/ person making representation:	Redacted on behalf of Isle of Wight Area of Outstanding Natural Beauty Steering Committee
Name of site:	Stretch wide
Report map reference:	All
Route sections on or adjacent to the land:	All

<p>Other reports within stretch to which this representation also relates</p>	<p>All</p>
<p>Summary of representation:</p> <p>The Isle of Wight portion of the England Coast Path (National Trail) has the potential to provide both positive and negative impacts on the designated area and the communities that live and work within the designation. The IW AONB Steering Committee therefore believe there is sufficient reason to comment on the proposed route of the path as it impacts the purposes of the designation to conserve and enhance natural beauty</p> <p>The Isle of Wight AONB Partnership welcomes the establishment of the England Coast Path on the coast of the Isle of Wight and recognise and applaud the work of the Isle of Wight Council’s Rights of Way team in their long-term promotion and maintenance of the existing Isle of Wight coastal path. The extra resources being made available to the local authority to maintain the path are particularly welcomed in the light of the reduction in funding to local authorities in recent years. They acknowledge the difficult task that Natural England faced given the coastal erosion issues, the environmental constraints and the often-conflicting issues of land-use and public access. They also recognise that, in the light of these constraints, the vast majority of the England Coast Path National Trail makes use of existing rights of way.</p> <p>Expressions of disappointment and satisfaction were discussed regarding the details of the route. It was felt that opportunities had been missed for better access to the coast notably at Norton Spit and the woodland around Quarr. It was felt that photography would have both improved the interpretation and illustrated the issues that were highlighted in the report. Recommend a fixed-point photography scheme is established as an aid for subsequent monitoring of the effects of the proposed mitigation on the coastal environment and landscape.</p> <p>With regard to the Isle of Wight AONB designation there are two specific comments for Natural England to consider:</p> <p>Firstly, the apparent conflict between the provisions of the Conservation of Habitats and Species Regulations (CHSR)2017 with regard to the establishment of Solent Recreation and Mitigation Project (SRMP) and the provisions of the Marine and Coastal Access Act (MCA) 2009 and the promotion of the new England Coast Path. In the light of the Sandford principle, they would be grateful if Natural England would clarify the hierarchy of legislation that seeks to allow increased recreational pressure to Natura 2000 sites under MCA2009 whilst seeking to reduce it under CHSR2017. Natural England, in their response to the evidence used to establish the SRMP agreed that signage was inadequate to mitigate the adverse impacts to the internationally designated sites by the potential disturbance to foraging and roosting overwintering birds by people and dogs. Natural England agreed with the conclusion that the SRMP wardens would be far more effective in this regard. The representation asks therefore if Natural England’s opinion has changed regarding the effectiveness of this form of mitigation and would be grateful for clarity on this issue. In any case, they recommend that, due the national importance of the AONB designation, Natural England commission an evaluation programme to determine the success of the mitigation measures outlined in the reports.</p> <p>Secondly, the IWAONB, in pursuance of its objectives seek a reduction in the amount of signage and other clutter that detracts from the scenic beauty which the Coastal Path is enabling people to enjoy. In the light of the reports on the efficacy of signage noted above, we would ask that the level of required signage and associated infrastructure is reviewed.</p> <p>In conclusion the provisions of the Marine and Coastal Act 2009 seem to have been satisfactorily addressed by the proposed route, given the constraints and having to consider the needs and aspirations of all parties concerned and are grateful to Natural England for the opportunity to consider and remark on the report</p>	
<p>Natural England’s comment:</p>	

Natural England thanks the Isle of Wight AONB Steering Committee for its constructive engagement with the Programme during the development of these proposals. We note their conclusion that the provisions of the Marine and Coastal Act 2009 seem to have been satisfactorily addressed by the proposed route, given the constraints and having to consider the needs and aspirations of all parties concerned. We also note the Committee's feeling that opportunities were missed for better access at certain locations, such as at Quarr (IOW2) and Norton Spit (IOW6). During consultation we explained in detail the rationale for our proposals and the final report details what options were also considered.

Conflicting legal duties

The Committee suggests there is a conflict between the work of Bird Aware Solent (established as a strategic approach to mitigate possible impacts of increased demand for outdoor recreation on European sites as a consequence of planned development of over 60,000 new homes across the Solent area) and the coastal access duty (Part 9 of the Marine and Coastal Access Act 2009).

Natural England disagrees with the implication that implementing coastal access and initiatives like Bird Aware Solent are necessarily at odds with one another. The coastal access legislation recognises there are multiple interests at the coast and provides safeguards for avoiding conflicts where necessary. The 2009 Act doesn't alter the requirements of the Habitats Regulations, nor in any way prevent Natural England from fulfilling obligations to protect, conserve and restore European sites. Access management interventions delivered through the coastal access programme, will often be beneficial for conservation and help to manage existing pressures in the Solent area. The Coastal Access Scheme explains how Natural England will implement coastal access and the formal and informal access management measures available to Natural England to avoid or reduce possible impacts as necessary, for example by aligning new sections of trail away from sensitive areas, or by using the opportunity of delivering coastal access to help manage existing pressures.

The Committee cite the Sandford Principle in their representation. The Sandford Principle can be summarised as where a National Park Authority (or AONB Conservation Board) is not able to reconcile its two statutory purposes concerning public enjoyment and conservation by skilful management, conservation should come first. This principle is given effect in s11A(2) of the Environment Act 1995, and we don't believe this specific provision is directly relevant to implementation of coastal access on the Isle of Wight. So far as the general principle is concerned, as explained above, we suggest that the 2009 Act includes adequate provisions to enable reconciliation of any conflicts with nature conservation that might arise from the coastal access duty.

We further note that ways in which building houses might lead to impacts on populations of wintering birds in the Solent area are somewhat different from those that might arise from implementing coastal access. The mechanism by which development might impact is by increasing demand for local greenspace at coastal sites in the vicinity of where development is planned. Natural England believes it is necessary for developers to contribute to improving access management at sensitive locations within easy travelling distance of new developments, and that the Bird Aware Solent initiative is an appropriate means of achieving this.

Coastal access on the other hand, is directly concerned with how access is provided. The provision of good quality, well maintained paths, designed and installed with nature conservation goals in mind, will often be a positive contribution to site management. In practice, in the Solent area, the proposed route for the Coast Path mainly follows existing paths. Where new connecting sections of route are proposed, significant impacts are usually avoided by routing away from more sensitive areas.

Efficacy of access management techniques

The Committee goes on to ask Natural England to clarify our views on different access management techniques, and particularly installing notices compared with employing wardens. Natural England believes that both signs and wardens can be effective access management measures. We note that the effectiveness of techniques can be enhanced by having suitable strategies for their deployment. It has been shown, for example, that the effectiveness of leaflets used to promote responsible recreation in the Thames Basin and Solent areas can be enhanced by their design. We don't think it is a case of one or the other – quite the opposite, we believe that both signs and wardens can play a role in

delivering effective access management, and further that they should ideally be used in combination with other techniques including manipulation of the physical environment to make certain routes more or less attractive. Recent findings about the impact of wardens in the Solent area support this view, that strategies using a mix of techniques, including signs, are likely to be more effective in achieving the best outcome overall.

Bird Aware Solent is funded through financial contributions from developers and we fully support the focus on using the resources generated to provide wardens. With coastal access on the other hand, interventions are mainly associated with improvements to paths and their associated infrastructure, including directional signage, awareness raising notices, physical barriers and screening. Through our consultation during the design stage of implementing coastal access, we make sure our proposals fit with Bird Aware Solent’s site-specific projects. Also, we assess our impacts in combination with the development pressure. We believe that interventions delivered by coastal access and Bird Aware Solent may be beneficially combined with access management done by local authorities, Environment Agency, wildlife organisations and others. We hope this provides some clarification about Natural England’s views on access management.

Evaluation

The Committee further recommends that Natural England evaluates the impacts of access management interventions delivered through coastal access. We agree with this and hope that our programme evaluation will contribute to the wider evidence base concerning effective visitor management strategies. Note also that the quality standards for National Trails include ongoing monitoring of path condition and Natural England will be regularly reviewing any formal restrictions and exclusions on coastal access rights in the margin.

The Committee recommends using fixed point photography for monitoring future changes. We will bear this in mind as a possible method to use as part of evaluation. We note also that this might be something a future trail partnership would consider supporting.

Signage:

The management of the trail and its associated infrastructure and signs will conform to the published standards for other National Trails. These standards consider the overall convenience of the trail within a design framework that uses natural surfaces such as grass wherever possible and otherwise favours the use of natural or carefully chosen artificial materials and local designs that blend well with their setting. We pay particular attention to the location, design and installation of access infrastructure on sites of conservation value (where clearance, digging and drainage works would have the potential to damage features of interest) and in other areas where specific consents are required from other authorities. As such NE has worked closely with the Council and other bodies to ensure signage is kept to a minimum but not to the detriment of users following the trail.

Representation ID:	MCA/IOW Stretch/R/2/IOW0259
Organisation/ person making representation:	Southern Gas
Name of site:	Stretch wide
Report map reference:	All
Route sections on or adjacent to the land:	Specified within the supporting documentation

Other reports within stretch to which this representation also relates	All
Summary of representation: NE should be aware that ground works that take place in the vicinity of gas infrastructure could result in personal injury or damage to the gas infrastructure. As such NE will be expected to consult with Southern Gas in relation to said points of interaction and any ground works that might be required. Southern Gas has provided a bundle of plans that show the locations of the relevant infrastructure on the IOW which is situated either on the route of in close proximity (50m).	
Natural England’s comment: Natural England and the Isle of Wight Council (who will undertake the establishment works) will consult with Southern Gas as necessary during the establishment phase.	
Relevant appended documents (see Section 5): There are a significant number of documents that were provided to help NE locate gas infrastructure. These have not been attached but can be provided if necessary.	

Representation ID:	MCA/IOW8/R/3/IOW4145
Organisation/ person making representation:	Redacted on behalf of The Solent Protection Society
Name of site:	Thorness Bay
Report map reference:	Map IOW 8a & 8b
Route sections on or adjacent to the land:	IOW-8-S001 to IOW-8-S014
Other reports within stretch to which this representation also relates	
Summary of representation: This section of path has fine views of the Solent but does become almost impassable in winter due to the muddy clay conditions. The proposed surfacing works will be a big improvement. The roll back proposals are essential as the cliff is prone to frequent erosion. In at least one section of S011 steps will be required cut into the path. Just before S014 we would ask that a spur is created and steps provided to the beach in lieu of the path reverting to the old route even though the path would not then go behind Marsh Cottage and would use the present permissive path	
Natural England’s comment: For our comments on the infrastructure requirements and erosion along this section, please see our response to the representation from the Isle of Wight Council: MCA/IOW8/R/2/IOW0145 above (Annex 3 provides further detail on the infrastructure improvements required). In response to the request of steps being provided to the beach, please see 8.3.2 ‘Other options considered’ in the IOW 8 report, which explains our reasoning for not aligning along the beach.	

Representation ID:	MCA/IOW8/R/4/IOW3215
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Organisation/ person making representation:	Redacted- individuals
Name of site:	IOW 8
Report map reference:	Map IOW8b
Route sections on or adjacent to the land:	IOW-8-S013, IOW-8-S014, IOW-8-S015
Other reports within stretch to which this representation also relates	IOW-9-S001, IOW-9-S002
<p>Summary of representation: We are the owners of the above property (redacted). We own the land and garden on which the closed public right of way is located.</p> <p>We wish to support your proposals for the above section of the England Coast Path for reasons as detailed below.</p> <p>Part of the existing closed footpath runs through and around our garden. We have owned the property for 24 years and over that time erosion to the cliff and garden has been steady. However, over the last 7 years we have suffered severe erosion and lost over 1.5metres of cliff. As a result, parts of the footpath have been lost to the sea. From our beach chalet to the cliff edge is now less than 5 metres.</p> <p>The Isle of Wight Council closed the path in 2014 for safety reasons and it remains closed. The path was not re-positioned into our garden due to the proximity to our chalet. We would add as a point of information that there have never been rights over our property to gain access from the path to the beach and any access gained by people has been without permission or right.</p> <p>Also coastal protection policy for our land is 'do nothing' and allow natural erosion. Any structures or reinforcements to the cliff face are not permitted. We were allowed limited works to repair existing sea defences only.</p> <p>Even so, the erosion sadly continues and so we were relieved to learn that the proposed route will not pass over our small (and getting smaller) garden given that the cliff is very unstable, also that gardens are excepted land and that there would be a privacy issue.</p> <p>Therefore taking into account all the above, we support the proposed Coast Path route for this section; being along the permissive path 50 metres south of our property. This permissive path has become very well used and accepted over the last 5 years that it has been open and is enjoyed by both locals and visitors alike. It takes away any confusion as to where walkers can access the path. Also, more and more people are now using the beach at all tide conditions, gaining access either at low tide around the point at Marsh Cottage or from the new permissive path.</p> <p>It is regrettable that the path through our property has now been lost to the sea but the proposed route of the England Coast Path is fair and sustainable, following a now well accepted and safe route along the permissive path which provides lovely sea views. Furthermore we fully support the resurfacing works planned, making this more accessible to less physically able people.</p> <p>Finally we wish to thank you for all the information you have provided and hard work that has gone into these proposals for the England Coast Path.</p>	
<p>Natural England's comment: We thank the individuals for their supportive comments.</p>	

Representation ID:	MCA/IOW Stretch/R/7/IOW4218
Organisation/ person making representation:	Redacted
Name of site:	Stretch Wide
Report map reference:	All
Route sections on or adjacent to the land:	All
Other reports within stretch to which this representation also relates	IOW 2, 6, 7, 8, 9 & 10 (This representation also relates to the report titled Habitats Regulations Assessment of England Coastal Path proposals between Wotton Bridge and East Cowes ferry terminal)
Summary of representation:	
<p>The individual’s representation is set out in detail in his letter of 5th June 2020 as sent to the England Coast Path Delivery Team in Eastleigh (attached at Annex 6).</p> <p>In summary the representation is an objection to the alignment of the path and the identification and management of spreading room as the individual believes, in general, it does not properly consider the nature conservation issues and, specifically, it is incompatible with statutory obligations under the Habitats Regulations. The representation includes a formal complaint as to the adequacy of the Habitats Regulation Assessment and the process by which it was drafted.</p>	
Naturals England’s comment	
<p>The supporting representation letter is attached to the bottom of this representation form (Annex 6). For ease of reference each point is included in Natural England’s comments, alongside an extract from [REDACTED] document.</p> <p><u>HRA</u></p> <p><i>Habitats Regulations Assessment is faulty in a number of regards; including The lack of analysis as to whether the data available to the authors was adequate, which in turn results in a failure to identify and address any significant deficiencies in data.</i></p> <p><i>Through my professional background I am all too familiar with the inadequacy of data relating to high water wader roosts within and outside the boundary of statutory sites around the Solent together with the inadequacy of data on the character and condition of intertidal habitats that will be included in the ‘spreading room’, particularly higher upper-saltmarsh transitions into freshwater grasslands and estuarine woods. This is material as we know from more accessible coasts that these internationally important habitats are vulnerable to abrasion from even modest levels of recreational use.</i></p> <p>Our response In order to address the comments made in response to the consultation on the proposals for the ECP from Wootton Bridge to East Cowes, Natural England has revised and updated the Habitats Regulations Assessment (HRA). As part of the revised HRA, additional data has been sought, including from the Solent Wader and Brent Goose Strategy, British Trust for Ornithology, Bird Aware Solent and the National Trust (a full list of additional sources and references can be found in the HRA). These data give a good picture of the use of the area by wintering waterbirds, including foraging and roosting areas within and outside the Solent and Southampton Water Special Protection Area (the SPA).</p>	

In addition to the bird data, Natural England sought the advice of an independent expert on managing walkers and their dogs. Steve Jenkinson provided informal advice on the proposals for Western Haven and Shalfleet, and a formal report on the proposals for Western Haven and Clamerkin (parts of Newtown Harbour). This advice aided our understanding of how dog walkers are likely to use the ECP and the mitigation measures that are necessary to minimise impacts on designated nature conservation sites.

The new ornithological evidence, and advice on managing dog walkers, was fundamental to the revision of the HRA. The re-assessment of the proposals has not resulted in any changes to the published alignment of the trail, but it has led to the inclusion of some additional mitigation measures. For example, data collected by the Solent Wader and Brent Goose Strategy provided the evidence for an additional exclusion covering a terrestrial field used by wintering waterbirds near Hamstead (see section D3.2D of the HRA). Steve Jenkinson's advice led to additional measures including a restriction to require dogs to be kept on leads in the woodland at Clamerkin.

Natural England recognises the importance of the transitions from intertidal to terrestrial habitats, found particularly in Newtown Harbour, and their vulnerability to erosion from trampling. We have aligned the trail away from vulnerable areas and included mitigation measures such as fencing to keep people on the trail where necessary, e.g., at Western Haven (see section D3.2E of the HRA). An exclusion to upper saltmarsh at Walter's Copse and Clamerkin (see section D3.2H of the HRA) has also been added to address risks to saltmarsh from trampling.

- *There is a lack of data on the management regimes upon which the features of interest depend; this is material as coastal access is associated with impacts on the ability of the landowners to manage their sites, particularly relating to livestock, with unintended adverse consequences of site abandonment or the 'fencing off' of vulnerable sites.*

Our response

Natural England disagrees that there is a lack of data on the management regimes on which the features of interest depend. We have developed proposals for the ECP in consultation with landowners, which has included consideration of potential impacts on the management of that land. This is a crucial factor in meeting our duty to aim to strike a fair balance between the interests of the public in having rights of access over coastal land and the interests of the owners and occupiers of any land over which the coastal rights would be conferred.

As set out in the Coastal Access Scheme, when using the trail or associated margin, a person with a dog must keep it on a short lead in the vicinity of livestock, to prevent dogs from approaching the animals. Signage will ensure people are aware of this requirement.

Where there are grassed fields within or outside the SPA used by wintering waterbirds, management can be used to ensure a short sward that is suitable for foraging birds. This tends to be achieved by grazing. Potential impacts on this management have been considered in developing the ECP proposals, and in consultation with landowners, as follows:

Hamstead, Newtown Harbour (IOW-7-S004): route runs through the SPA but follows the existing Isle of Wight Coast Path (IOWCP). Therefore, the trail is not likely to change any management decisions regarding grazing. (See HRA D3.2D)

Hamstead, Newtown Harbour (IOW-7-S005): route runs through SPA, following existing IOWCP. The field seaward of the trail is used by wintering brent geese and waders so will be excluded from the margin. The landowner and manager did not consider that fencing was necessary to support the exclusion. (See HRA D3.2D)

Western Haven, Newtown Harbour (IOW-7-S029): trail follows landward edge of the field, which is part of Newtown Estuary SSSI (but outside of the SPA). This route is closed between 1 August and 1 March to avoid significant disturbance to wintering birds. The landowner has not raised any concerns with the alignment or impacts on grazing management. (See HRA D3.2E)

Western Haven, Newtown Harbour (IOW-7-S032): the trail (closed in winter) runs along the edge of two fields within the Newtown Estuary SSSI (but outside the SPA). These fields are not used by notified bird features and the landowner has not raised any concerns over the alignment or impacts on grazing management. (See HRA D3.2E)

Shalfleet, Newtown Harbour (IOW-7-S048 to S051): the trail runs through grazed fields, some currently with no access, and some with permissive access. The fields are outside the designated sites and not used by SPA/SSSI birds. The trail will be fenced on the seaward side. The landowner does not consider that the proposals will lead to a change in management, and in any case would not affect designated site features. (See HRA3.2E & F)

Newtown (IOW-7-S071, S080, S085): the trail runs through grazed fields within the SPA, following existing well-walked routes, including the current IOWCP. Therefore, the landowner has not raised any concerns and the trail is not likely to change any management decisions regarding grazing. (See HRA D3.2G)

Clamerkin, Newtown Harbour (IOW-7-S095 to S097). Trail runs through grazed fields outside the designated sites, and not used by SPA/SSSI birds. Part of the route is new access and part currently has permissive access. The implications of this route have been discussed extensively with the landowners. Therefore, changes in management are unlikely, and in any case would not affect designated site features. (See HRA D3.2H)

Thorness Bay (IOW-8-S003): the trail runs through a pasture field that is outside the SPA but is used on occasion by waders. The route follows an existing PRoW, and therefore, the presence of the ECP is unlikely to prompt any change in grazing management that might affect the field's use by waders. (See HRA D2.3I)

The trail does not pass through any other SSSIs where the habitat requires management that could potentially be affected by changes in access provisions.

- *There is an absence of analysis of features included in the Annexes of the 'Birds' and 'Habitats' Directives that were not recognised at the time of designation but are present at the time of assessment. Article 6 of the Directive requires these features to be included in the assessment, as was recently clarified in the Judgement on the Holohan Case (ECJ: C 461/17).*

Our response

The CJEU judgment (Holohan and Others (C 461/17)) handed down in November 2018 stated that *'Article 6(3) of the Habitats Directive must be interpreted as meaning that an 'appropriate assessment' must, on the one hand, catalogue the entirety of habitat types and species for which a site is protected, and, on the other, identify and examine both the implications of the proposed project for the species present on that site, and for which that site has not been listed, and the implications for habitat types and species to be found outside the boundaries of that site, provided that those implications are liable to affect the conservation objectives of the site'* (paragraph 40).

This does not mean that all species or habitats listed on the Annexes of the Birds and Habitats Directives and present on or near the European sites should be included in the assessment alongside the qualifying features, only where there are implications for the Conservation Objectives of the site.

Natural England's approach to identifying the typical species supported by Special Area of Conservation (SAC) habitats is summarised in the Supplementary Advice for each SAC Conservation Objective ('the SACO'). This advice identifies 'key structural, influential or distinctive species' for each feature and sub-feature on the basis of scientific evidence regarding their role in underpinning the structure or function of the habitat feature concerned. The revision of the HRA pays particular attention to the SACOs for the Isle of Wight SACs. Where the ECP may impact species within the SAC, and where this would have implications for the Conservation Objectives of the site, these impacts are assessed. However, the finding of the HRA is that the assessment of the likely effects on the habitats covered any likely effects on individual species or group of species using those habitats.

Similarly, the important attributes of habitats supporting the bird features of the Isle of Wight SPAs are set out in the SACOs for those sites. Where there are potential impacts on supporting habitats, which may affect the Conservation Objectives for the SPA, these are assessed, and any adverse impacts are appropriately mitigated.

For further detail, see sections B1 and D1 of the HRA.

- *The failure to identify options for the route and spreading room whereby mitigation is not required.*

Our response

Natural England has followed the approach in the Coastal Access Scheme (see Chapter 6), which sets out how we will determine the need for intervention (for example in relation to concerns regarding nature conservation interests) and the principle of the least restrictive option, where intervention is needed. It also describes the solutions available where interventions are necessary: alignment of the trail; and/or management techniques; and/or directions to restrict or exclude access.

The extent of the spreading room is defined nationally in the Coastal Access Scheme. In areas where informal management measures are not likely to work, Natural England has then used directions to exclude access to parts of the coastal margin, where necessary, to avoid impacts on designated nature conservation sites.

In drawing up the proposals for the ECP many different alignment options are often considered, particularly where new access is being proposed. These are discussed in detail with the landowners involved. Some of the options considered are included in the published stretch reports: [England Coast Path on the Isle of Wight: comment on proposals - GOV.UK \(www.gov.uk\)](#).

- Having failed to adequately describe or quantify the issues to be addressed, the Habitats Regulation Assessment then sets out mitigation works that are vague in intent and naïve in application in that they appear to rely on exhortations to the public to behave responsibly, combined with an expectation that there will be little, if any, increase in the recreational use of vulnerable places such as the Western Haven of Newtown Harbour. There is no baseline data offered on the current level of adverse impacts, nor a reasoned quantitative prediction as to likely changes with or without mitigation. Without such data it is not possible to assess whether the mitigation is effective. Such baseline data is essential to enable the impacts to be monitored and if necessary, to trigger further mitigation or the modification or closure of the path. It is usual in Habitats Regulation Assessments for mitigation works to be precise in their proposals, confident in their efficacy and binding in their delivery. What is proposed on the Island's estuarine coast falls far short of the obligations that Natural England, quite reasonably, places on other proposers of 'Plans and Projects'.*

Our response

As noted above, Natural England has revised and updated the HRA of the proposals for IOW2-10 in the light of additional information. This has resulted in a more detailed explanation in the HRA of the current ecological importance of parts of the island affected by the trail and coastal margin. We have used information from land managers, Bird Aware Solent, and others to design detailed proposals for each section of coast that improve the way access is provided without adding to the current pressure on designated sites that is derived from housing development.

Whilst baseline visitor survey data is not available for all sites, Natural England does not agree this is necessary to be able to design and assess mitigation measures. We consider it is quite possible using available information, site visits and input from local access managers to form a sufficiently comprehensive understanding of the current distribution, intensity and types of recreational activity currently taking place around the Isle of Wight.

For the purposes of assessing potential impacts of the access proposals, it is necessary to predict how interventions designed-in to the access proposals are likely to impact on the distribution, intensity and types of recreational activity undertaken. Our general approach to assessing the patterns and levels of public access locally is outlined in the Coastal Access Scheme, in Figure 16 on page 46.

When developing our proposals, Natural England carried out access assessments to determine how the distribution and frequency of people's use is likely to be affected by the ECP, considering factors such as existing use, terrain, physical barriers, access points, car parks, proximity to settlements and size of population, alternative sites, legal limitations, and other factors. We also have a good understanding of the relative use of different sections of the coastline from modelling work undertaken for Bird Aware Solent. We then compare this with the specific interventions proposed, such as the position of the path, any improvements to the path, other physical interventions, legal status of the path, and creation of

coastal access rights, to assess the changes that might occur. These assessments at each sensitive location are described in the Appropriate Assessment section of the HRA (see section D3.2A-J). In addition, as noted above, we commissioned advice from an independent expert on walkers with dogs to help us understand how people might use the new access at Western Haven and Clamerkin, which was used to refine the mitigation proposals (see section D3.2E, F & H).

Therefore, we consider that there is generally a good evidential basis on which to make predictions about the impact of interventions, noting that there will be some variation in the degree of certainty depending on the circumstances.

As noted, the main way in which the ECP avoids adverse effects on designated sites is by alignment of the trail away from sensitive features. In addition, Natural England can design in a range of access management measures to proposals including:

- manipulation of the physical environment (e.g., improving the surface of a path or installing barriers);
- limiting access rights with local restrictions or exclusions where necessary; and
- signs directing people to behave in particular ways.

Details of any specific measures proposed are considered in the relevant section of the HRA. These are tried and tested methods of managing access on nature reserves, in Open Access areas, and in the wider countryside¹.

The proposals reports and HRA clearly set out the infrastructure necessary to mitigate potential adverse effects. Given the evidence as to compliance with interventions elsewhere, we are confident of the efficacy of the measures in the context in which they are intended to be used.

Natural England is working very closely with the Isle of Wight Council, as access authority, to ensure effective implementation. Arrangements for the long-term delivery of the ECP and associated access management are secured through ongoing management and funding of the route as a designated National Trail and associated statutory duties and powers. Natural England has a statutory responsibility to review directions every five years, which gives additional certainty over the long-term efficacy of measures, as there is a process by which directions can be modified to take account of any changes in circumstance.

Complaint

The individual's complaint correspondence is attached to the bottom of this representation form (Annex 7).

In summary the HRA;

1 fails to establish the necessary evidence base relating to the distribution and condition of the habitats and species concerned,

2 fails to assess the implications of the plan or project on the conservation objectives – most importantly, it makes an inadequate assessment of the impact of the 'spreading room' created within the designated Coastal Margin,

3 reaches a conclusion of no adverse effect based on un-tested and inadequate mitigation measures.

Our response

In response to representations made during the consultation on the published ECP proposals, including the representation made by ██████████, Natural England has reviewed and revised the HRA. We have updated the ecological evidence base in the light of additional data supplied by stakeholders, reviewed the assessments of current access patterns, and sought external advice where new access in potentially sensitive areas is proposed. This additional information has been used to review the implications of the ECP for the Conservation Objectives of the European sites.

As a result of this work, Natural England's view is that the revised HRA is more robust in its conclusions than the original, particularly in relation to the impact of the introduction of the coastal margin. As noted

above, there have been no alignment changes, but the revised HRA has recommended additional directions to exclude or restrict access to the coastal margin. Some additional infrastructure has also been added to support the trail alignment and directions. A summary of the mitigation measures, with changes highlighted, is set out at table 2 of the HRA. The conclusion of the HRA is that there will be no adverse effect on the European sites from the trail and associated margin. This is the same conclusion as the original HRA, however, we have added some mitigation measures. These include directions and informal management measures to reduce the likelihood of people and dogs adding significant disturbance pressure to sites. These can be found in table 2 and section D3.2A to J of the updated HRA.

Relevant appended documents (see Section 5):
 Annex 6: Supporting representation letter
 Annex 7: Complaint correspondence

Representation ID:	MCA/IOW9/R/4/IOW4145
Organisation/ person making representation:	Redacted on behalf of The Solent Protection Society
Name of site:	Spencer Wood
Report map reference:	Map IOW 9a
Route sections on or adjacent to the land:	IOW-9-S014 to IOW-9-S021
Other reports within stretch to which this representation also relates	

Summary of representation:
 IOW-9-S014 to S021 Spencers Wood. Map 9a

SPS supports the proposal to take the ECP down through Spencers Wood. Replacement steps will be required at S014 and new steps by the slipway to allow safer access to the beach at S022.

Natural England’s comment:

Natural England welcomes the Solent Protection Society’s support for our proposals at Spencer Wood. We have since reviewed and amended our proposed route (IOW-9-S013 to IOW-9-S022) in response to Gurnard Parish Council’s representation (MCA/IOW9/R/1/IOW4195). In light of this, Natural England emailed ██████████ to make him aware and he is still very happy with this proposed route (annex 11). For further detail on the amendment in Spencer Wood, please refer to our comments in representation MCA/IOW9/R/1/IOW4195.

In relation to the Solent Protection Society’s comments about infrastructure at the start and end of the woods, we are proposing to improve the route here by replacing existing steps and putting in new steps in other locations where the trail steepens.

Relevant appended documents (see section 5):
 Annex 11: Email correspondence with (The Solent Protection Society) to make them aware of the alignment change at Spencer Wood and his agreement of this amendment

Representation ID:	MCA/IOW9/R5/IOW4219
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Organisation/ person making representation:	Redacted
Name of site:	Spencer Wood
Report map reference:	Map IOW 9a
Route sections on or adjacent to the land:	IOW-9-S014 to IOW-9-S022
Other reports within stretch to which this representation also relates	
Summary of representation:	
<p><i>Redacted</i> supports the proposal to take the ECP down the west side through Spencer Wood. The steps at the top need to be rebuilt and there may also be a need to improve the access onto the beach which is slippery on the slipway and the old piles on the side are not steady</p>	
Natural England’s comment:	
<p>Natural England welcomes <i>redacted’s</i> support for our proposals at Spencer Wood. We have since reviewed and amended our proposed route (IOW-9-S013 to IOW-9-S022) in response to Gurnard Parish Council’s representation (MCA/IOW9/R/1/IOW4195). In light of this, Natural England emailed ██████████ ██████████ to make her aware and she is still very happy with this proposed route (annex 12). For further detail on the amendment in Spencer Wood, please refer to our comments in representation MCA/IOW9/R/1/IOW4195.</p> <p>In relation to <i>redacted’s</i> comments about infrastructure at the start and end of the woods, we are proposing to improve the route here by replacing existing steps and putting in new steps in other locations where the trail steepens. Natural England are also planning to replace the wooden boardwalk (the piles mentioned hold this up) which leads onto the slipway.</p>	
Relevant appended documents (see section 5):	
<p>Annex 12: Email correspondence with <i>redacted</i> to make her aware of the alignment change at Spencer Wood and her agreement of this amendment</p>	

5. Supporting documents

Supporting Document	Description and reference number
Annex 1	MCA/IOW8/R/1/IOW3854 Ramblers Supporting Document, IOW 8
Annex 2	MCA/IOW8/R/2/IOW0145 Email from Isle of Wight Council confirming the path re-opening
Annex 3	MCA/IOW8/R/2/IOW0145 Email correspondence with the Isle of Wight Council regarding infrastructure improvements
Annex 4	MCA/IOW8/R/2/IOW0145 Updated infrastructure map
Annex 5	MCA/IOW Stretch/R/5/IOW4210 Disabled Ramblers Document: <i>Man-made Barriers and Least Restrictive Access</i>
Annex 6	MCA/IOW Stretch/R/7/IOW4218 Supporting representation letter
Annex 7	MCA/IOW Stretch/R/7/IOW4218 Complaint correspondence

