



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

by K R Seward Solicitor, MIPROW

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

Date:

Marine and Coastal Access Act 2009

Objection by [redacted]

Regarding Coastal Access Proposals by Natural England

Relating to Felixstowe Ferry to Bawdsey

Site visit made on 29 November 2022

File Ref: MCA/FFB/01

Objection Reference: MCA/FFB/01

Felixstowe Ferry to Sandy Lane, Waldringfield

- On 9 December 2020 Natural England submitted a series of Coastal Access Reports to the Secretary of State for Environment, Food and Rural Affairs 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 4 January 2021 to Report FFB 1: Felixstowe Ferry to Sandy Lane, Waldringfield has been made by [redacted]. The land in the Report to which the objection relates is route section ref. FFB-1-S044.
- The objection is made under paragraph 3(3)(a) of Schedule 1A to the 1949 Act on the ground that the proposals fail 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.

Procedural Matters

1. On 9 December 2020 Natural England (NE) submitted a series of linked but separate reports to the Secretary of State for Environment, Food and Rural Affairs ('the Secretary of State'), setting out proposals for improved access to the coast between Felixstowe Ferry and Bawdsey.
2. The period for making formal representations and objections to the reports closed at midnight on 3 February 2021. Seven objections were received within the specified timescale, five of which were determined to be admissible. I have been appointed to report to the Secretary of State on those five objections. This report relates to the objection reference MCA/FFB/01 to NE Report FFB 1 (FFB1). Objection references MCA/FFB/02,03,06 and 07 are the subject of separate reports.
3. As all sections of the route referred to in this report have the prefix FFB-01, I shall use the S0 number only for ease of reference.
4. Representations were also made to FFB1 but none concern the disputed section which is the subject of this Report.
5. I conducted a site inspection on 29 November 2022 when I was accompanied by the landowner and representatives from NE and Suffolk County Council.

Main Issues

6. The coastal access duty arises under section 296 of the Marine and Coastal Access Act 2009 (the Act) and requires NE and the Secretary of State to exercise their relevant functions to secure two objectives.
7. 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

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File Ref: MCA/FFB/02 & 03

- (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 Act as the English coastal route, but for ease of reference is referred to as 'the trail' in this report.

8. The second objective is that, in association with the trail, 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 trail or otherwise. This is referred to as 'the coastal margin'.
9. Section 297 of the 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.
10. 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.
11. Where, as in this case, it is proposed that the trail extends along a river estuary rather than the sea, section 301 of the Act applies. It states that NE may exercise its functions as if the references in the coastal access provisions to the sea included the relevant upstream waters of a river. The relevant upstream waters are the waters from the seaward limit of the estuarial waters of the river, upstream to the first public foot crossing or a specified point between the seaward limit and the first such crossing. Section 301(4) of the Act sets out additional statutory criteria (the Estuary Criteria) which must be taken into account when deciding whether, and if so how, to exercise the discretion to extend the trail along an estuary. The Estuary Criteria are:
 - (a) the nature of the land which would become part of the coast;
 - (b) the topography of the shoreline adjacent to those waters;
 - (c) the width of the river upstream to that limit;
 - (d) the recreational benefit to the public of the coastal access duty being extended to apply in relation to the coast adjacent to those waters;
 - (e) the extent to which the land bordering those waters would, if it were coastal margin, be excepted land; and
 - (f) whether it is desirable to continue the English coastal route to a particular physical feature or viewpoint; and
12. NE's Approved Scheme 2013 (the Approved Scheme) is a document, approved by the Secretary of State on 9 July 2013, setting out the approach NE must take when discharging the coastal access duty. It forms the basis of NE's proposals within each report.

13. I must determine whether the proposals set out in NE's report fail to strike a fair balance as a result of the matters specified in the objection and make a recommendation to the Secretary of State on the report accordingly.

The Coastal Route

14. NE proposes to align the trail around the Deben Estuary, which flows into the North Sea between Felixstowe Ferry and Bawdsey. At 20km in length, the estuary has over 40% of the remaining saltmarsh in Suffolk. The estuary is described in the Approved Scheme as relatively narrow and bound by shallow terrain, broad sloping, often wooded shores and soft easily eroded geology. Marshes flank the estuary throughout.
15. In relation to estuaries, the Approved Scheme states that careful consideration will always be given to the option of extending the trail as far as the first bridge or tunnel as that is in keeping with the duty to have regard to the desirability of ensuring, so far as reasonably practicable, that interruptions to the trail are kept to a minimum and the requirement to consider any other recreational benefits that would accrue. However, in all circumstances, consideration will be given to whether the cost of this would be proportionate to the extra public enjoyment of the coast that would result.
16. The Approved Scheme also notes, at section 10.4.1, that several of the Estuary Criteria relate to its overall character. It states that when considering an estuary in relation to those criteria, NE will look for particular stretches or features of the river or adjoining land that are more characteristic of the coast than of a river, and therefore more relevant to the Coastal Access Duty.
17. Most of the alignment proposed along FFB1 would follow existing walked routes, including public rights of way. The stretch is characterised by open coast between the settlements at Felixstowe and Waldringfield, apart from the small hamlet at Hemley. The trail would mainly follow the shoreline but at Hemley there would be an inland diversion between S028 to S053 to take the trail past a significant historic breach in the seawall. It is part of this diversion to which the objection relates along S044 as shown on Map FFB 1e, where the trail would pass through the objector's property at White Hall, Mill Road, Waldringfield. There would be no roll-back along S044 into the curtilage of the property. For clarity and cohesion, the landward boundary of the coastal margin is identified as the fence line.

The Objection

18. The objection by [redacted] concerns the position of part of the proposed trail along S044, which would follow an existing heavily used footpath running very close to his home. [redacted] is concerned that it would become used even more once the coast path was advertised.
19. A modification is proposed to re-route this section along S044 to a position around 20m into his paddocks so that walkers would be much further away from the house and garden. [redacted] considers that this would go some way to mitigate the loss of privacy currently experienced from existing walkers and anticipated increase from use of the coast path.
20. [redacted] also seeks measures to prevent the high number of cyclists already using the footpath continuing to do so should it become the England Coast Path.

21. Firstly, he requests additional signage to the bridleway on Mill Road to explain that the bridleway stops after 200m with similar signage at the other end of the footpath by the foreshore at Waldringfield.
22. Secondly, he seeks re-designation of the bridleway from Mill Road to a footpath.
23. Thirdly, a kissing gate is requested at both ends of the trail at White Hall so that cyclists must dismount or turn around whilst retaining access for walkers. [redacted] offers to bear the cost of gates/fencing.

Natural England's Response

24. The proposed route along S044 follows an existing walked route connecting a footpath and bridleway. This walked route is being used as if it was the public footpath which has fallen out of use and lies closer to, and possibly under part of the landowner's wall and hedge.
25. NE proposed this line in accordance with section 4.7.1 of the Approved Scheme which states: "*Where there is an existing national trail along the coast – or another clear walked line along the coast, whatever its status – we normally propose to adopt it as the line for the England Coast Path so long as: it is safe and practicable for the public to use; it can be used at all times; and the alignment makes sense in terms of the other statutory criteria and principles set out in this Scheme.*"
26. Whilst the modification sought is closer to the estuary, it is slightly less direct than the proposed route and therefore less convenient for the public. It would also create a second legal route parallel to the public footpath. NE felt that the public would be unlikely to use the modified route when a more direct route exists and is currently being used on the ground. NE therefore disagrees with the proposed modification.
27. If the landowner successfully applies to Suffolk County Council for a diversion of the public footpath, then NE would be happy to consider varying the trail onto the diverted footpath, post commencement.
28. NE acknowledges that use of the public footpath by cyclists is an existing issue. It considers that the introduction of the trail provides the opportunity to improve matters by better clarifying users' rights on the ground. In this regard, NE is happy to provide management signage to ensure users are aware of where the bridleway ends, and that cycling is not permitted on the footpath. NE has no authority to re-designate the bridleway as the objector requests.
29. The addition of kissing gates at either end of the objector's property are not proposed due to NE's duties under the Equality Act 2010 (including the Public Sector Equality Duty) and the Countryside and Rights of Way Act 2000. In delivering this duty, NE follows the principles within its publication called 'By All Reasonable Means' to make the trail as easy to use as it reasonably can for disabled people and others with reduced mobility. Gates would only be introduced where needed to retain livestock. Elsewhere, the addition of gates would, in NE's view, create an obstacle for users and not therefore be in line with its duty to increase accessibility to the coast.
30. NE disagrees with the proposed modification made on the grounds of privacy.

Discussion

31. The scenery from the proposed trail at White Hall offers expansive views across the paddocks towards the estuary. Although those views are quite distant, they are impressive nonetheless and undisturbed by built form.
32. A downgrade of the existing bridleway to a footpath or its diversion cannot be achieved through this process. That would be an entirely separate procedure involving application to the local authority under different legislation.
33. There is a recognised issue with cyclists continuing to ride along the existing footpath after the bridleway terminates. The situation has not been helped by the lack of adequate signage where the bridleway connects with Mill Road before turning into the track leading to White Hall past Plum Tree Cottage on the corner. The bridleway is signed at this juncture but gives no indication that the recorded bridleway ends abruptly at the end of the track within the objector's landholding.
34. The termination point is in a corner position outside of the objector's enclosed area of garden. Straight ahead, wooden gates lead into the paddocks. Users must turn 90 degrees to follow the current footpath beside the garden hedge and wall. A red and white 'no entry' sign, with the words 'No cycling', is attached to a wooden stake at the end of the bridleway. However, the sign is positioned where it could be obscured by foliage when the trees are in leaf. It is also capable of misinterpretation by those not expecting the bridleway to end. That is particularly so as the sign is positioned near to a field entry point. It could be mistaken as meaning 'no entry' by cycle straight ahead.
35. Continued unauthorised cycle use along the path would pose a risk of collision or incident with walkers using the trail. Walkers would not expect to encounter cyclists riding along the footpath. Those less mobile or with children or dogs could be more vulnerable, especially if cyclists approached them from behind.
36. Potential misuse and conflict between cyclists and walkers could be reduced by better and more prominent signage advising cyclists to dismount when using the path. NE agrees to erect management signage and this is a necessary step to safeguard users. In addition, signage is needed at the entry point off Mill Road to make plain that there is not a continuous bridleway. Consideration should also be given to similar signage at Waldringfield Road where cyclists may enter from the opposite end. The trail would be waymarked but there is merit in further signage to advise that there is no access to the seawall from either end of the objector's paddocks. This would help avoid confusion and deter walkers seeking to short circuit the route to the coast, which might otherwise occur.
37. The installation of kissing gates at each end of the path within the objector's property would not be a satisfactory approach in light of the accessibility issues such infrastructure would introduce.
38. The objector's concerns over privacy are understandable. The trail would run parallel with the high garden hedge/wall to one side of the house. Wide wooden gates inserted midway along between the hedge and wall provide access from the garden to the objector's paddocks and fields. At this gap, the house and side garden (with patio and stable buildings) are exposed to view. The trail would be quite close to

windows serving the dining room, kitchen and living room with an impact upon the occupier's privacy. However, the effect on privacy appears unlikely to be any or much worse than already exists. It may be anticipated that there would not be a dramatic increase in footfall if the trail is aligned along the existing path when it is already a well-used and popular route.

Alternative Route

39. The landowner suggests realigning the trail through his paddocks approximately 20m landward of the proposed route. The outcome would be the creation of a second legal route available to the public.
40. As set out at paragraph 4.7.6 of the Approved Scheme, the "*Creation of the England Coast Path does not remove any existing public rights of way that follow different alignments in the same vicinity*".
41. Establishing the trail elsewhere within the landholding would not extinguish public rights of way over the existing public footpath, albeit the legally recorded line is not currently used. Both routes could be used. NE confirms that if the public path were to be diverted then it could then consider re-aligning the trail along the diverted route.
42. It is of no consequence for the purposes of this report that the definitive line is recorded as straight whereas the trodden line is not, reflecting the uneven hedge-line. The trail would be aligned along the trodden path. As it is, the County Council's representative emphasised at the site visit that it is not concerned about the discrepancy between definitive and walked line. This matter should not have any implications for the establishment and maintenance of the trail.
43. The alternative alignment would not deliver the solution that the objector had hoped. It would serve no purpose in analysing this option further in the given circumstances.

Conclusions

44. The proposed trail would follow an existing walked line already in heavy use by walkers seeking to follow the public footpath. The objector requested another route. Even if a modification was made to establish the trail further away from the house, there would still be a public footpath next to the garden hedge and wall. Presented with a choice, walkers would be more likely to opt for the existing path which offers the most direct route. The objector had hoped the public path could be extinguished from its current line but that cannot happen as part of the coastal access process.
45. Aligning the trail along the walked line of the existing path would accord with section 4.7.1 of the Approved Scheme and provide the most appropriate approach. Should the public path be diverted at some future point then that would give NE cause to consider making a corresponding re-alignment of the trail also. Unless and until that occurs, the proposal offers the best option with users able to experience open and impressive views towards the estuary.

Overall Conclusion

46. Taking all of these matters into account I conclude that the proposals comply with the duty in Section 297 of the Act with the provision of signage as described above.

Recommendation

47. 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 relation to the objections, subject to the provision of signage as described in paragraph 38 above. The Secretary of State is recommended to make a determination to that effect.

K R Seward

APPOINTED PERSON

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

Habitats Regulation Assessment

1. This is to assist the Secretary of State, as the Competent Authority, in performing the duties under the Conservation of Habitats and Species Regulations 2017 (as amended) ('the Habitats Regulations').
2. The Competent Authority is required to make an Appropriate Assessment (AA) of the implications of a plan or project for the integrity of any European site in view of the site's conservation objectives. The appropriate nature conservation body must also be consulted, in this case Natural England (NE). If the AA concludes that an adverse effect on the integrity of a European site cannot be excluded beyond reasonable scientific doubt then consent for the plan or project can only be granted if: there are no alternative, less harmful, solutions; the plan or project must be carried out for imperative reasons of overriding public interest and compensatory measures will be provided which maintain the ecological coherence of the UK National Site Network.
3. NE has undertaken a 'shadow' Habitats Regulation Assessment (the HRA) for the whole of the Felixstowe Ferry to Bawdsey stretch of the England Coast Path. The HRA, signed off on 22 March 2020, is recorded separately in NE's suite of reports. It provides the information to inform the Competent Authority's AA in accordance with the assessment and review provisions of the Habitats Regulations and has been considered in making this recommendation. The HRA considered the potential impacts of the coastal access proposals (including likely significant effects) on the Deben Estuary Special Protection Area (the SPA) and the Deben Estuary Ramsar site (the Ramsar site), as designated European sites. The HRA is considered to have identified the relevant sites affected by the proposals. The proposals are not directly connected to or necessary to the management of the European sites', therefore a HRA is required.
4. The HRA screening exercise found that as the plan or project is not either directly connected or necessary to, the management of all of the European sites' qualifying features, and/or contains non-conservation elements, further HRA was required. In considering the need for further assessment, NE concluded that the plan or project alone is likely to have a significant effect on qualifying features, namely: avocet (non-breeding), dark bellied brent goose (non-breeding) and narrow-mouthed whorl snail. As the plan or project is likely to have significant effects (or may have significant effects) on some or all of the qualifying features of the European Sites alone, the overall Screening Decision found that further AA of the project alone was required. 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.
5. The scope of the AA is set out in Table 3 (pages 24 to 26) of the HRA and identifies the sites and qualifying features for which likely significant effects 'alone' or 'in combination' are likely or cannot be ruled out. Section D3 of the HRA sets out the assessment of AEol for the identified likely significant effects. It includes design features of the proposals to mitigate risk of disturbance, as summarised in Table 8 (pages 63 to 72) such as trail alignment away from the shore, new advisory and information signs, new dog proof fencing and directions to exclude the vast majority of saltmarsh and mudflat. The AA found the risks to achieving the conservation

objectives identified in Section D1 are effectively addressed by the proposals and no AEoI (taking into account incorporated mitigation measures) can be concluded in terms of:

- Disturbance of non-breeding avocet and non-breeding dark-bellied brent geese
 - Loss of abundance of the narrow-mouthed whorl snail through trampling
 - Trampling of supporting habitat of non-breeding avocet, non-breeding dark-bellied brent geese and narrow-mouth whorl snail
 - Loss of habitat through installation of access management infrastructure
6. In section D4 of the HRA, NE considered the need for further assessment of AEoI considering the project in combination with other plans or projects. NE states that in this case the potential for adverse effects from the plan or project has been wholly avoided by the incorporated or additional mitigation measures outlined in Section D3 of the HRA. It concluded that there are no residual and appreciable effects likely to arise from this project which have the potential to act in combination with those from other proposed plans or projects. As such, 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 SPA or Ramsar sites either alone or in combination with other plans or projects.
7. Part E of the HRA sets out that NE is satisfied that the proposals to improve access to the English coast between Felixstowe Ferry and Bawdsey 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 and the information in the HRA provided into account, reliance can be placed on the conclusions reached that the proposals would not adversely affect the integrity of the European sites assessed. It is noted that, if minded to modify the proposals, further assessment may be needed.

Nature Conservation Assessment

8. Although not forming part of the HRA, NE has also undertaken a Nature Conservation Assessment (NCA) to be read in conjunction with the HRA. The NCA covers matters relating to Sites of Scientific Interest (SSSI) and undesignated but locally important sites and features which are not already addressed in the HRA. There are no Marine Conservation Zones on or near to the Felixstowe to Bawdsey stretch of the proposed England Coast Path which would otherwise be addressed in a NCA.
9. The objection concerns the stretch from Felixstowe Ferry to Sandy Lane, and route section ref.FFB-1-S044 in particular. Chapter D1 of the NCA specifically assesses the potential nature conservation impacts of the proposals along this stretch which includes the County Wildlife Sites at Felixstowe Ferry, King's Fleet, Corporation Marshes, and The Mill River. The two most sensitive areas within this stretch are identified as the 3km of saltmarsh and associated mudflat between Kirton Creek and Waldringfield, and the 0.5km of saltmarsh and mudflat at Falkenham Creek. It is

proposed that public access to the majority of the saltmarsh be excluded under section 25A of the Countryside and Rights of Way Act 2000.

10. NE was satisfied that the proposals to improve access to the English coast between Felixstowe Ferry and Bawdsey, including the objected section, were fully compatible with its duty to further the conservation and enhancement of the notified features of the SSSI's and consistent with the proper exercise of its functions.
11. In respect of the relevant sites or features the appropriate balance has been struck between NE's conservation and access objectives, duties, and purposes.

-END-



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

by K R Saward Solicitor, MIPROW

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

Date:

Marine and Coastal Access Act 2009

Objections by [redacted] and [redacted]

Regarding Coastal Access Proposals by Natural England

Relating to Felixstowe Ferry to Bawdsey

Objection References: MCA/FFB/02 and MCA/FFB/03

Wilford Bridge to Ferry Cliff

- On 9 December 2020 Natural England submitted a Coastal Access Report to the Secretary of State for Environment, Food and Rural Affairs 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.
- Objection ref: MCA/FFB/02 made by [redacted] is dated 15 January 2021.
- Objection ref: MCA/FFB/03 made by [redacted] is dated 19 January 2021.
- The objections are made to Chapter 4 of the Report, Wilford Bridge to Ferry Cliff. The land in the Report to which both objections relate is route section ref. FFB-4-S001.
- The objections are made under paragraphs 3(3)(a) and (f) 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.

Procedural Matters

12. On 9 December 2020 Natural England (NE) submitted a compendium of six reports to the Secretary of State for Environment, Food and Rural Affairs ('the Secretary of State'), setting out proposals for improved access to the coast between Felixstowe and Bawdsey.
13. The period for making formal representations and objections to the reports closed at midnight on 3 February 2021 and seven objections were received within the specified timescale. Five of these were determined to be admissible and I have been appointed to report to the Secretary of State on those objections. This report relates to the objection references MCA/FFB/02 and 03 to NE Report FFB 4 (FFB4). Objection ref. MCA/FFB/01,06 and 07 are the subject of separate reports.
14. Various representations were also received and I address these below where they refer to the specific sections of trail before me.
15. I conducted a site inspection on 29 November 2022 when I was accompanied by the objectors and representatives from NE along with the East Area Rights of Way Manager from Suffolk County Council.
16. The proposed trail would follow The Lower Track between Wilford Bridge and Little Haugh along route sections FFB-4-S001 to S009. The track is owned by the National Trust. The objectors own land on either side of the track along S001 much of which is laid out as garden. The objectors' property, known as 'The Lodge', is located on the landward side of the track. At the time of the admissibility determination, the objections were accepted as admissible on the basis that their land might be within the coastal margin. The decision was made with the caveat that the position could change if further information emerged to show that the

Site visits made on 30 November 2022

File Ref: MCA/FFB/06 & 07

objectors' interest is not in 'affected land', as required, for the objections to be valid. At my site visit I saw that the objectors' landholding includes areas of woodland, reedbeds and saltmarsh rather than garden. That being so, I am satisfied that the objections fall for consideration.

17. As all sections of the route referred to in this report have the prefix FFB-4, I shall use the S0 number only for ease of reference.

Main Issues

18. The coastal access duty arises under section 296 of the Marine and Coastal Access Act 2009 (the Act) and requires NE and the Secretary of State to exercise their relevant functions to secure 2 objectives.
19. 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 Act as the English coastal route, but for ease of reference is referred to as 'the trail' in this Report.

20. The second objective is that, in association with the trail, 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 trail or otherwise. This is referred to as 'the coastal margin'.
21. Section 297 of the 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.
22. 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.
23. Where, as in this case, it is proposed that the trail extends along a river estuary rather than the sea, section 301 of the Act applies. It states that NE may exercise its functions as if the references in the coastal access provisions to the sea included the relevant upstream waters of a river. The relevant upstream waters are the waters from the seaward limit of the estuarial waters of the river, upstream to the first public foot crossing or a specified point between the seaward limit and the first such crossing. Section 301(4) of the Act sets out additional statutory criteria ('the Estuary Criteria') which must be taken into account when deciding whether, and if so how, to exercise the discretion to extend the trail along an estuary. The Estuary Criteria are:

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- (a) the nature of the land which would become part of the coast;
 - (b) the topography of the shoreline adjacent to those waters;
 - (c) the width of the river upstream to that limit;
 - (d) the recreational benefit to the public of the coastal access duty being extended to apply in relation to the coast adjacent to those waters;
 - (e) the extent to which the land bordering those waters would, if it were coastal margin, be excepted land;
 - (f) whether it is desirable to continue the English coastal route to a particular physical feature or viewpoint; and
 - (g) the existence of a ferry by which the public may cross the river.
24. NE's Approved Scheme 2013 (the Approved Scheme) is a document approved by the Secretary of State on 9 July 2013. It sets out the approach NE must take when discharging the coastal access duty and forms the basis of NE's proposals within each Report.
25. My role is to determine whether the proposals set out in NE's report fail to strike a fair balance as a result of the matters specified in the objection and to make a recommendation to the Secretary of State on the relevant report accordingly.

The Trail

26. NE proposes to align the trail around the Deben Estuary, which flows into the North Sea between Felixstowe Ferry and Bawdsey. The estuary is 20km in length. It is described in NE's report as relatively narrow and bound by shallow terrain, broad sloping, often wooded shores and soft, easily eroded geology. Marshes flank the estuary throughout which has over 40% of the remaining saltmarsh in Suffolk.
27. In relation to estuaries, the Approved Scheme states that careful consideration will always be given to the option of extending the trail as far as the first bridge or tunnel as that is in keeping with the duty to have regard to the desirability of ensuring, so far as reasonably practicable, that interruptions to the trail are kept to a minimum and the requirement to consider any other recreational benefits that would accrue. However, in all circumstances, consideration will be given to whether the cost of this would be proportionate to the extra public enjoyment of the coast that would result.
28. The Approved Scheme also notes (at section 10.4.1), that several of the Estuary Criteria relate to its overall character. It states that when considering an estuary in relation to those criteria, NE will look for particular stretches or features of the river or adjoining land that are more characteristic of the coast than of a river, and therefore more relevant to the Coastal Access Duty.
29. Whilst the proposed trail for FFB4 generally follows existing walked routes (including existing public rights of way), it includes seven sections of new path between Wilford Bridge and the public footpath near Garden Wood, Sutton Hoo. It is the establishment of a new section of trail along S001 which is the subject of the

objections where it passes in front of the objectors' home at The Lodge, located close to Wilford Bridge.

30. FFB4 covers the stretch of coast between Kyson Point and Wilford Bridge. There are designated sites affecting this length of coast being Deben Estuary SPA, Deben Estuary SSSI, Ferry Cliff SSSI and Deben Estuary RAMSAR.
31. Access to the saltmarsh and mudflat in the coastal margin would be excluded all year round seaward of route sections S001 to S034 under section 25A Countryside and Rights of Way Act 2000 on the grounds that the land is unsuitable for public access.
32. As this area of coastal margin would be excluded from public access, NE does not expect there to be any impact on nature conservation features from new coastal access rights. Should exclusion under section 25A become unnecessary at any time then NE states that it would consider restrictions or exclusions on coastal access rights under section 26(3)(a) to protect sensitive wildlife.
33. Section 26(3) would be used to exclude access to the margin all year adjacent to route sections S001 to S009 to protect narrow mouth whorl snails, being an internationally protected feature of the Deben Estuary.
34. Roll-back is proposed along S001 but the report notes that there are buildings and their curtilage and garden seaward of the proposed trail which would be excepted land. If it was not viable to find a route seaward of the trail because of the excepted land then NE states that it would choose a route landward of the trail following discussions with owners and occupiers.

Objections

35. Both objectors are residents of The Lodge, Wilford Bridge Road, Woodbridge. Separate forms of objection have been submitted. Where there is overlap, the same points are not duplicated in the summary below.

[redacted] – MCA/FFB/02

36. Objection is made on three principal grounds: (1) the effect on privacy (2) public safety, and (3) disturbance to protected species.
37. The adverse impacts have not, the objector says, been given sufficient weight by NE. The balance between the landowner's private interests and those of the public have not been properly assessed. Public safety has not been protected.
38. In relation to all three grounds, the extent of expected use by walkers must be understood to properly assess the issues. NE has significantly under-estimated the amount of public use, especially at busy times. The NE survey was done on a weekday and cannot be regarded as a measurement of peak time use. Based on counts carried out on a route on the other side of the river in Woodbridge, the objectors assess that there could be around 200 walkers per hour in a busy period rather than the 9 per hour estimated by NE. Even if the numbers were as low as 9 an hour (which is not accepted) it would mean an average of one user every 6 or 7 minutes passing along the route.

Privacy

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39. [redacted] considers that there has not been sensitive alignment of the route to address privacy concerns as provided by 8.18.2 of the Approved Scheme. The route bisects the objector's garden albeit that it is not on excepted land because the track itself is owned by the National Trust. The route would pass about 4m away from the front windows of the house. The front of the house is very open to view from The Lower Track and separated only by a low wall. There is no possibility of providing greater screening which would be visually attractive or desirable to the occupants. Any form of screen would obstruct light and the view.
 40. Part of the garden is on the opposite side of the track where the occupiers expect to be able to spend time without being seen at close quarters by people effectively walking through the garden. At present, this stretch of track is in private use only and mainly by vehicles. The National Trust erected signs at the junction to make it clear from the start that the track is private and does not provide access to Sutton Hoo.
 41. Walkers pass more slowly than vehicles and will have very significant opportunity to look into both the house and garden. From past experience, walkers frequently do look into the house. Consideration has been given to applying one-way film to the windows to mitigate the problem but the manufacturers advised it would not work.
 42. It is likely that groups will stop to check maps at the nearby junction or to assemble and they are likely to sit on the low garden wall of the house.

Safety of pedestrians

43. In its second safety assessment of 2 August 2019 Suffolk County Council advised the addition of a parallel path along the length of The Lower Track from S002 to S009 and halfway along S001. This cannot be achieved along S001 due to the presence of stones marking the edge of the track and inadequate room. The mitigation proposed by the Council along this stretch is to expect drivers to be aware of pedestrians, slow their speed and drive accordingly.
44. NE's proposals do not include the parallel width path from S002 to S009 recommended by the Council. The £1,000 set aside for gap creation would not suffice to provide parallel paths.
45. As the recommended mitigation of safety risks cannot be provided, The Lower Track should not be used. Photographs are supplied to illustrate some of the dangers faced by users. Neither NE nor Suffolk County Council carried out any proper assessment of likely levels of pedestrian and vehicular use of The Lower Track. The Council's assessment was undertaken over a period of less than 1 hour on a Friday morning in August 2019.
46. A safety assessment was commissioned by residents and undertaken in February 2019 by [redacted] Associates ('the Bullard report'), civil and traffic engineering consultants. They concluded that The Lower Track is not suitable for use as the coast path primarily due to the mixing of pedestrian and vehicular traffic. NE rejected the report and has not met the aim within paragraph 6.2.1 of the Approved Scheme 'to identify during the preparation of our initial proposals all foreseeable concerns'.

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47. It is plain that the use of The Lower Track would represent a significant danger to the public and an inconvenience and risk to those who are entitled to use it in vehicles. Many of the dangers are not immediately obvious to the public e.g., low winter sun shining directly into drivers' eyes. The principle at paragraph 4.2.1 of the Approved Scheme that walkers should take prime responsibility for their own safety cannot apply if dangers are not obvious to them. Paragraph 4.2.4 suggests that conflict with traffic should be avoided.
 48. There is no requirement under section 297 of the Act for the route to adhere to the coastline. A slight diversion for this short section would strike a better balance.

Protected species

49. There are active badger setts in the area. It is likely that this protected species would be disturbed or injured if increased numbers are permitted to use the track. Dogs are likely to pose a particular risk even if kept on a lead and inquisitive people generally may also interfere with the setts.

Alternative options

50. [redacted] submits that his objections can be overcome by using the Felixstowe to Bawdsey Ferry as the approved route. The ferry operates seasonally and takes only about 10 minutes to cross the narrow estuary mouth. It could be used at all times of the year if the service was extended. If that is unfeasible, the estuary could be designated as an alternative route when the ferry is not operating. Use of the ferry as the main route during the busy season would protect the sensitive habitats from disturbance and minimise loss of privacy and dangers to safety.
51. Whether or not the ferry is designated as the main route, the route should be re-aligned in the interests of privacy and safety.
52. NE rejected two other routes. One follows existing public rights of way without intruding upon private property. The other one aligns the route to the rear of the objectors' property and follows the roll-back route. It passes Sutton Hoo, which many users are likely to wish to visit. Whilst a little further from the coast than The Lower Track, that is only so for around 600m and there are views over the estuary from high points when the trees are not in leaf. Any loss of view is over-ridden by better access to Sutton Hoo and increased safety of the route.

[redacted] – MCA/FFB/03

53. The objection is made primarily on public safety and privacy grounds arising from the proposed alignment of the trail along The Lower Track, as above. In addition, [redacted] submits that there have been a number of near accidents with pedestrians walking along the track. The local highway authority was not given a copy of the residents' safety report until they supplied it. None of the several specific issues/concerns identified in that earlier report were therefore addressed by the authority's professional road traffic engineer. They remain unanswered.
54. On both occasions that NE was approached by the local MP's office over outstanding concerns, NE claimed that it had a satisfactory report and will implement it '*incorporating all the improvements the Highway Authority suggested*'.

This is clearly not the case when a close examination of NE's report reveals a less than fully compliant plan is proposed and costed.

55. NE's safety report suggests that [the track] may be safe for 8 adults and 3 children as observed walking during the 55 minute survey, but it does not consider the safety of larger numbers. One vehicle was observed during that period and the report suggests that pedestrians can step aside. However, it does not take into account the numbers and types of vehicles that currently use the track nor does it indicate what level of vehicular use is considered safe. More recently, vehicular use has significantly increased as more home deliveries occur.
56. The track is 2.4m wide and designed as vehicular access for four properties without pedestrian provision. It does not meet with the Council's highway safety guidelines even as a 'quiet lane'. Nearly all drivers ignore the 15mph signage and commercial drivers under time pressure often travel at considerable speeds.
57. Pedestrians are at considerable risk when walking a short distance from the track entrance near to Wilford Bridge as they cannot be seen by drivers from the A1152 where a 60mph speed limit applies. Drivers entering the track from either direction do so quickly. An accident was avoided when a pedestrian was able to jump out of the way of a van into the entrance of The Lodge (because the gates were open). In autumn, leaves gather near the entrance of the track and on a wet day a vehicle from the A1152 was observed to skid. Drivers reversing from the grounds of The Lodge on either side of the track are relatively blind to the surroundings.
58. Emergency services have expressed grave concerns that the time taken to reach casualty locations would be extended considerably. No consideration has been given to reversing lorries, emergency vehicles, vehicles meeting with errant dogs or dogs on long leads, wheelchair users or groups of children in the middle of the track. Even where there is a separate path for pedestrians, the existing signage directing walkers to use the path is often ignored. Some walkers are unwilling to move aside for vehicular traffic.
59. There are four fundamental inaccuracies within NE's safety report. Firstly, the section of track passing in front of The Lodge is 95m long. For approximately 55m, NE recommends the provision of a parallel path but this section contains trees, hedging and wicket gates within the garden belonging to The Lodge which is exempt land. Secondly, there is insufficient room for a vehicle to pass any pedestrian throughout the 95m length in front of The Lodge. Thirdly, there is insufficient room for a wheelchair user, carer with pram or mobility scooter user to 'step aside' for even a normal sized car. Fourthly, the reduced visibility to motorists from November to February at certain times of day due to sunlight shining into a driver's eyes. If the tree canopy is reduced as requested by NE it will increase dazzle making it more dangerous for drivers and walkers rather than less so.
60. [redacted] similarly proposes a modified route either utilising the ferry service or existing public rights of way.

Natural England's response to the objections

61. NE points out that there are no details of the proposed modifications in [redacted] objection, as indicated. However, five alternative alignments were included within the Bullard report to which NE responds.

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62. In terms of privacy, NE states that the objectors bought their property in the full knowledge that their land was bisected by the track. They have understandably chosen to maintain an open aspect from their house across to the estuary to maximise the views. Inevitably this means people currently walking or driving past have views into their home and garden. Some loss of privacy already occurs although NE accepts this would increase.
 63. The [redacted] home and garden are excepted land and so no rights would be established across their property. Nevertheless, NE accepts that there would be 'some limited impact' from an increase in walkers along the track in consequence of the proposals. Measures were discussed with the objectors to alleviate the impact. They declined further planting to screen their property, preferring to maintain their view of the estuary. It transpired that one-way vision film for their windows would not be effective due to the orientation of the property.
 64. The objectors would be free to erect signage if they feel it necessary to clarify that people do not have the right to sit on their garden wall.
 65. Turning to safety. The Bullard report commissioned by residents is based upon a route aligned on The Lower Track for the entirety of its length. NE emphasises that is not the route proposed. NE apologises that due to the scale of its maps, it was not made clear that the majority of the alignment would be adjacent to, and not on, The Lower Track. The trail would follow the grass verge parallel to the track all bar crossing points and the section along S001.
 66. Larger scale versions of the maps are appended to the response (and to this Report). NE also accepts that the illustration in Suffolk County Council's Road Safety Report (Figure 11) of where paths could be created parallel to the track is misleading and not as proposed. It is further acknowledged that the distance of 40m referenced in the Road Safety Report is not the entire frontage of The Lodge but the length that the house and garden are visible from the track.
 67. NE points out that the quality standards for national trails are not those in Suffolk County Council's Design Guide for new development as applied in the Bullard report but those given in NE's publication titled: 'The New Deal: Management of National Trails in England from April 2013'.
 68. In selecting the proposed route, specialist advice was sought from the Principal Highways Engineer at Suffolk County Council. He confirmed that The Lower Track would be safe for walkers because traffic volume is low and there is adequate room along most of its length for walkers to step aside from passing vehicles. The track is at its narrowest point in front of The Lodge. The Principal Highways Engineer advised that it was reasonable to expect drivers to be aware of pedestrians and to slow their speed. His recommendations for improvements were adopted in the final proposals.
 69. These measures include aligning the trail on the roadside verge where available, cutting back vegetation and lifting tree canopy to improve visibility for walkers and drivers and installing signage to make drivers and walkers aware of each other's presence. A photograph in the Road Safety Report illustrates where tree canopy can be raised to improve visibility. Should drivers encounter bright sunlight anywhere along the track, there is an expectation, as with any hazard, that they

would slow down to a safe speed to give themselves the benefit of increased reaction times.

70. In addition to implementing the above measures, NE offers to investigate installing speed bumps in four locations along The Lower Track to ensure drivers maintain a slow speed. This would be subject to the National Trust establishing if local residents are in favour and there being no issue for emergency services. This would add £2,000 to the estimated establishment costs based upon NE and the National Trust equally sharing the installation cost. Actual costs would be established once the Secretary of State has determined the proposals.
71. The track outside the objectors' home is straight with very good sight lines. NE disputes the assertion that no assessment of likely levels of pedestrian or vehicles was undertaken. The conclusions of its access assessment were published in section D5 of the Nature Conservation Assessment. The observations made in the Suffolk County Council Road Safety Assessment of people witnessed using the track one morning was not an assessment of likely future use. NE agrees that there would potentially be a large increase in the number of walkers on this part of the proposed trail in comparison to the current low level of use.
72. There is no reference to the emergency services having been consulted and so the assertions of life-threatening delays raised in objection appear to be purely conjecture. NE believes that the improvements proposed along The Lower Track will improve access for emergency vehicles and not extend response times.

Natural England's comments on the proposed modifications

73. NE found the alignment of the trail between Wilford Bridge and Sutton Hoo to be particularly complex due to multiple issues. Investigations focussed on four main options (see table 4.3.2 of the proposals) which overlap with the modifications proposed by the objectors. NE still considers the proposal to be the best option.
74. Modification 1 is the use of Felixstowe Ferry to Bawdsey Quay. Where an estuary is served by a full-time ferry service, NE's usual practice is to propose that it should be used. However, the Deben only has a seasonal service. An additional dial-a-ride service was trialled through winter and early spring of 2017/18 to supplement the seasonal ferry but uptake was limited and funding was not found to sustain the service. The proposed alignment connects to both sides of the ferry crossing allowing users to cross the estuary by ferry when it is running if they so wish.
75. The ferry was not classified as an alternative route because it is seasonal only. There is only a weekend service in April and October and no ferry service between November and March. When the service is unavailable, walkers would have an interrupted journey along the trail leaving them to determine their own route.
76. Modification 2 would align the trail along the pavement beside the A1152 and B1083 from Wilford Bridge to the main entrance of the National Trust site at Sutton Hoo. NE dismissed this option as neither pleasant nor convenient for walkers because it involves a detour from the shoreline of approximately 700 metres, includes a steep hill and offers no views of the estuary. Walkers would be placed adjacent to very busy roads on a pavement, which is narrow in places, and where it would be difficult for users to pass. Those with pushchairs or wheelchairs may be

forced into the road in this situation. Minor improvements could be made to the footway by trimming vegetation but this would not suffice to create sufficient space. There were 25 representations opposing this alignment on the grounds that it was dangerous and unpleasant for walkers.

77. NE considers that Modification 2 runs contrary to key principles of alignment within the Approved Scheme. It fails to meet the criterion within section 4.3.1 that “for the route to be convenient, it should be reasonably direct and pleasant to walk along.”
78. The National Trust opposed an alignment along Modification 2 as much of its estate would fall into the seaward coastal margin enabling people entry to Sutton Hoo without payment. This would not only undermine the financial viability of Sutton Hoo but other properties within its portfolio in Suffolk and Essex which the income underpins. Unpaid access to the attraction could not be overcome by informal management or a direction given the scale and open nature of the Sutton Hoo site.
79. NE draws attention to section 8.17.8 of the Approved Scheme which states that “the trial will normally avoid passing through a visitor attraction which the public pay to enter- typically by skirting round it on the seaward side.” Under Modification 2, The Lower Track would fall seaward of the route become part of the accessible coastal margin giving the public the right to walk along it. NE suspects that the public would choose The Lower Track in preference to the modified route. Signage to direct walkers away from The Lower Track could only be erected with the consent of the National Trust whose preference is for The Lower Track to be used.
80. Modification 3 would place the trail along the boundary between the objectors and their neighbour’s land. It would be accessed 30 metres from the entrance to The Lower Track. The objectors indicated their willingness to dedicate land across their garden for this purpose. After investigation, NE concluded that the slope involved would be too steep to make it accessible even for able bodied walkers requiring the installation of a significant run of steps. Expense aside, new steps would form a significant barrier to access for less able bodied users/ walkers with pushchairs.
81. NE also considered an alignment through the western part of the objectors’ garden but this would involve significant engineering works and installing a new pedestrian bridge. The cost of the works was not considered proportionate to the benefits they would bring trail users.
82. Modification 4 would utilise a short section of The Lower Track and then follow an existing public right of way through Sutton Hoo to the National Trust visitor centre. NE says it is less direct and therefore less convenient for walkers. When consulted, the National Trust raised the same concerns as per Modification 2. The Lower Track would similarly fall within the coastal margin giving the public the right to walk it.
83. All the same issues arise for Modifications 5 and 6 to which the National Trust strongly objects. Modification 5 leaves The Lower Track at Dairy Farm Cottage and follows an existing public right of way before turning up a slope, past woods, and the burial mounds at Sutton Hoo to the National Trust visitor centre. Modification 6 starts on The Lower Track at Dairy Farm Cottage, goes up a slope and onto a National Trust path going through an open part of the Sutton Hoo site. NE

describes both options as less direct and thus less convenient to walkers than the route proposed. In addition, the slope involved for each option could be difficult for less able-bodied walkers to negotiate and those with pushchairs.

84. NE observes that a key aim of the proposed modified routes assumes that most coastal path walkers will want to take the shortest possible route to the National Trust visitor centre. In doing so, this fails to address the key principle in section 4.5 of the Approved Scheme that: “The route should normally be close to the sea otherwise it would fail in its primary purpose to enable people to enjoy the coast of England.” Two important criteria overlooked in the modifications are firstly, that landowners should not suffer “significant loss of income from the introduction of coastal access rights (section 5.3.3). Secondly, where there is a choice of routes (after taking into account all the key principles in chapters 4 and 5 of the Scheme) NE will favour the one that is accessible to the widest range of people or most easily adapted for that purpose (section 4.3.8).

Representations

85. Suffolk County Council supports the proposed alignment from S001 to S009. For much of its length, the trail would be adjacent to the track that is a National Trust promoted circular walk and vehicle access to a small number of properties in Little Haugh. The Council understands there is a public desire for this route. In 2016 members of the public applied to add the track to the Definitive Map as a public footpath based on user evidence. The application was unsuccessful at the time as the National Trust had granted permissive use of the land thereby preventing presumed dedication.
86. The Suffolk Area Ramblers commend in general the whole of FFB4 as an ideal way of keeping walkers away from two busy main roads, the A1152 and B1083. However, a number of members expressed concern that the route would follow a thin metalled track which is used by motor vehicles, vans, and delivery trucks on a regular basis. Some drive at speeds too fast for safety on such a narrow track with few opportunities for walkers to step off. One suggestion would be to move the trail slightly inland of the metalled track – the most dangerous and obscured bend is around S009, where there is already an off road walked route. Alternatively, large warning signs might suffice.
87. Around 25 individuals have endorsed S001 to S034. A further 23 representations also support the proposal and comment that the lack of access to The Lower Track at Wilford Bridge means walkers must use the narrow pavement uphill to Sutton Hoo public entrance along a busy main road, which is dangerous and feels unsafe due to the speed and volume of traffic. One person additionally comments in relation to S001 that because of the proximity to Melton Rail Station to Wilford Bridge, visiting walkers will have the option of accessing this part of the trail by regular public transport.
88. [redacted] comments that he has lived close by The Lower Track for 35 years and used it without hindrance until 2012. Along with others, he submitted a public rights of way user evidence form to the County Council to try to establish it as a public right of way. He strongly supports the creation of access rights over the track.

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89. [redacted] opposes use of The Lower Track, and the section between S001 to S009 in particular, on the grounds that safety has been seriously under-estimated and some wildlife matters missed or ignored. He submits that the expected number of walkers needs to be carefully assessed so that a meaningful risk assessment can be undertaken using reliable information. [redacted] is concerned that NE has not understood or taken into account the full implications of the Safety Report from Suffolk County Council or the Bullard report. He considers that NE has refused to consider alternatives for very trivial or spurious reasons.
 90. [redacted] reports that in 2020, summer visiting Turtle Doves were present on part of the proposed trail between S001 to S050(inc), as were Cuckoos and Nightingales during their breeding seasons and Bullfinches, Marsh Harriers, Barn Owls, and Tawny Owls all year round. There are also numerous badger setts in the area. Use of The Lower Track would cause disturbance to wildlife.
 91. East Suffolk Community Rail Partnership says that it has a published and waymarked circular walk from Melton station to Sutton Hoo. It includes a very narrow pavement for half a mile beside the B1083 road from Wilford Bridge, which is extremely busy at times and has a very steep gradient. The Partnership supports the proposal to establish a section of trail from S001 which would provide a much more pleasant and safer off-road route for pedestrians. If established, the Partnership intends to modify its route to use the new section.
 92. The Disabled Ramblers comment that a significant number of people with reduced mobility now use all-terrain mobility vehicles to travel on access routes in the open countryside, including challenging and rugged terrain. Users have the same access rights as walkers. NE is requested to address man-made structures that present a barrier to those who use mobility vehicles. NE should also ensure that existing and proposed structures are suitable for large mobility vehicles and also comply with British Standards. There should be compliance with the Equality Act 2010 and Countryside and Rights of Way Act 2000 and adherence to advice from Disabled Ramblers in the document titled 'Man-made Barriers and Least Restrictive Access'.
 93. [redacted] own land crossed by S011 and section S010 abuts another side of their property. They have unrestricted rights of way over S001 to S010 and are concerned that NE has not prepared its proposals in a fair and balanced way. They consider that S001 to S004 is dangerous for all users, irrespective of numbers. There would be an increase in user numbers, including vulnerable users, and in busy times it would inevitably result in blockages of the right of way. There would be a knock-on effect on S005 to S009 which would become unsafe and potentially dangerous particularly for vulnerable users. [redacted] elaborate on these points raising the same issues expressed by the objectors.
 94. Objection is similarly raised by [redacted] of Little Sutton Hoo who has a legal right of way over The Lower Track, which serves her property and four others.
 95. [redacted] of Dairy Farm Cottage also oppose S001 to S012 on road safety grounds. They highlight, with photographs, the narrow width of The Lower Track particularly near to The Lodge. They provide detailed comments explaining their own personal circumstances and fear they may need to move house if they cannot retain their son's school minibus service and his care due to road safety issues.

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96. [redacted] is a local resident who regularly uses S001, being a volunteer at Sutton Hoo. He states that the current alternative walking route to the National Trust site is unpleasant and leads steeply uphill very close to a busy road. Although there are very occasional vehicles that drive along S001, [redacted] says they move slowly and present no danger to pedestrians.
97. [redacted] comments that he and others enjoy walking in this area but access to the public rights of way is difficult at this point i.e., S001.

Natural England's comments on the representations

98. In response to the Ramblers' comments, NE explains that route section S004 to S0010 forms part of the National Trust promoted trail. The first 300m or so of The Lower Track from The Lodge south is not currently promoted although it is used informally by some visitors with permission from The National Trust. It reiterates that NE does not propose the coast path follows the metalled track except for S001, where there is not scope for a verge alignment, and crossing points.
99. NE agrees that Melton Rail Station will enable walkers to access the trail by train and hope that users will make good use of this option instead of arriving by car thereby decreasing traffic congestion and greenhouse gas emissions.
100. In response to the representations from local residents who oppose use of The Lower Track on safety grounds, NE provides comprehensive comments repeating points made elsewhere in this Report. NE acknowledges that there is a badger sett not specifically mentioned in its Nature Conservation Assessment but remarks that badgers and public access happily co-exist throughout the countryside. As a protected species under Schedule 6 to the Wildlife and Countryside Act 1981, Suffolk County Council would need to apply for a licence if establishing or managing the trail where likely to lead to any disturbance directly to badger setts.
101. NE recognises its duties under the Equality Act 2010 and CROWA, and also the extra responsibilities conferred by the Public Sector Equality Duty within the former. The Approved Scheme outlines the principles followed to make the trail as easy to use for disabled people and those with reduced mobility. NE has endeavoured to meet those needs throughout the planning and design processes and would continue to do so through the implementation stage working alongside Suffolk County Council, which shares the same responsibilities and duties. The importance of satisfying the relevant British Standards is recognised as well as the desirability of complying with relevant advice. NE notes the advice regarding larger mobility vehicles and will ensure this is considered.

Discussion

102. The objections and representations raise a number of common themes and I shall therefore consider them together.

Privacy

103. The objectors suggest that their privacy is not unduly intruded upon at present as the track is only used privately by five properties and vehicles pass quite quickly. As National Trust staff also use the track, some pedestrian use does not appear to have presented a problem to the objectors.

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104. As NE acknowledges, footfall would increase from the establishment of the trail as public rights would be created where none currently exist on the Definitive Map. Aside from walkers following the England Coast Path, it may be presumed that visitors to Sutton Hoo arriving by rail or on foot would also use it as a convenient route avoiding the 'A' roads. With increased footfall, it may be anticipated there would be some impact upon privacy to the occupiers of The Lodge as a result.
105. It is understandable that the objectors would be concerned about passers-by being able to see inside their home. From my own observations, the views into the lounge/dining room and kitchen are limited only but exist all the same and the sense of intrusion is not to be diminished. Of course, it is within the objectors' gift to protect their own privacy by measures, such as window blinds and/or planting. I appreciate that would forego or limit the enjoyment they currently experience from unobstructed views towards the river.
106. In many ways, the situation is no different from homes fronting a highway where the public have rights on foot. As the objectors do not own the track that subdivides their property, it was always a possibility that it could be used in a way not to their liking irrespective of the proposed trail and that pedestrian use could rise.
107. I do not discount the possibility of some people congregating outside the objectors' home although it may be more likely they would meet at the wider entrance of the track. Should people congregate, there is no reason to suppose this would be a frequent occurrence. It may be expected that people would be far more inclined to admire the appealing views over the river towards Woodbridge than look into the house. I realise that this vista includes land used as garden (also described by the objectors as a 'harbour' where they keep their boat). However, it is an open area separated from the house where there can be less expectation of privacy.
108. If there are concerns about people sitting on the front garden wall, then there are options such as signs or planting as a preventative measure.

Safety

109. The Lower Track is a narrow hard surfaced track accessed off the busy A1152. Criticism is levied at the scope of the safety report relied upon by NE which the objectors say has been misrepresented. During my site visit, several vehicles of varying type entered the track. Many were commercial vehicles. The Principal Highways Engineer considers the junction not to be any different to numerous junctions elsewhere in the county and suitable for alignment of the trail.
110. The objectors pointed out to me a broken sign at the entrance to the track apparently caused by a commercial vehicle. I do not know the full circumstances and have no reason to disagree with the Highways Engineer. Undoubtedly, it is a narrow track which presents difficulty for two oncoming vehicles to pass necessitating one reversing. Logically, there are associated road safety implications but that does not mean the track is unsuitable for use as the trail.
111. The objectors have double gates on either side of the track for their own vehicular access. Given the close proximity of the gates to the junction, vigilance would be needed in manoeuvring any vehicle out onto the track whilst also being alert to the possible presence of pedestrians. That would not change by increased pedestrian

use of the track although the occasions when pedestrians are encountered may well be more frequent.

112. Concern is expressed that the report implies there is space to 'step aside' which is not an accurate statement. This comment refers to photographs of people standing aside for a passing lorry along S009 and S004-005. The report observes that the track is narrowest outside The Lodge for a short section of around 40m.
113. When stood outside the objectors' property I did step aside for a smaller vehicle although not all users would be able to do so and there was not much room. Motorists would need to wait until the walker/s had moved to reach a point where there was enough space to safely overtake. This may inconvenience motorists but it would not be a new situation and is only the case for a relatively short stretch.
114. Importantly, the trail would not follow the hard surfaced track for its entirety. Indeed, it would only be the initial section along S001 where the track passes between the objectors' property. The remainder would either be created along the grass verge or use the existing permissive path parallel to the track which is already waymarked and signed by the National Trust to direct walkers to use it. I daresay that there would be times and places where groups of people walking together would spread onto the track within the coastal margin.
115. NE suggests the possibility of speed bumps near to The Lodge and further along where the track curves. I gather that the National Trust supports this idea but there would need to be consultation including with emergency services. The objectors indicate opposition to the introduction of such traffic calming measures.
116. The objectors were keen to show me where leylandii trees overhang the track. As the trees do not belong to the National Trust, they maintain that the canopy could not be cut back as recommended by the Principal Highways Engineer. In places, the higher canopy from trees either side meet above the full width of the track. Unless the trees are protected (and there is no indication that they are) then overhanging branches can be cut back to the boundary line. Lower level branches had already been trimmed back although there was some overhang of the surfaced track which could be removed to marginally improve the width. Visibility could also be improved at the entrance where the trees overhang.
117. The objectors suggest that the overhanging trees afford protection from low winter sun which can dazzle drivers. Any driver would reasonably be expected to adjust their speed and driving to reflect the conditions.
118. It is understandable that residents with private rights along the track would resist increased pedestrian traffic. Clearly, more walkers on the track would impact upon the ease of vehicular passage along the track. However, it is significant that there is space for the trail to be established beside the track for much of its length. Where the track is narrowest in front of The Lodge, drivers would need to be patient. As National Trust estate workers and volunteers already walk along the track, it is not a case of introducing walkers along a track solely in vehicular use.
119. At my site visit the objectors pointed out a short section of 'ornamental fencing' along their trackside boundary where their boat is kept in the estuary below. The fencing comprises a single rope line strung between timber posts. As a safety

barrier it is very weak and presents a fall hazard into the estuary. NE indicated that it would happily provide stronger fencing and warning signs.

Biodiversity

120. Badgers are not a European protected species although they are protected in the UK as a named species within Schedule 6 of The Wildlife and Countryside Act 1981 and under the Protection of Badgers Act 1992. Section 3 of the 1992 Act makes it a criminal offence to interfere with a badger sett or disturb a badger occupying a sett. Thus, if there is any badger sett in the vicinity then the law offers protection against disturbance which includes allowing dogs entering a sett.
121. Neither piece of legislation above imposes a general duty of the kind set out in the Conservation of Habitats and Species Regulations 2017. However, section 40 of the Natural Environment and Rural Communities Act 2006 requires that every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity. This duty is similar in scope to those under the Habitats Regulations.
122. In furtherance of this duty, I shall take into account any effect on this species in arriving at a recommendation. This issue is also addressed further in the Nature Conservation Assessment forming part of the Annex to this Report.

Alternative options

123. The existence of a ferry service available to the public to cross the river, as per Modification 1, must be taken into account under section 301(4) of the Act as part of the Estuary Criteria. The Bullard Report argues that every aspect of the ferry crossing between Felixstowe and Bawdsey meets the criteria laid down within the Act.
124. The first objective of the coastal access duty under section 296(2) allows for the English Coast path to be on foot or by ferry. Under section 296(7), a person is to be regarded as enabled to make a journey by ferry even if that journey can be made at certain times, or during certain periods, only.
125. Passengers between Felixstowe and Bawdsey are ferried across the short stretch of water in a small open boat. It operates daily from 10am to 5pm between 1 April to 30 September and weekends only in October. There is no proposal to extend the service all year round as the objectors suggest or any indication that this could be funded as a proportionate expense or is otherwise viable.
126. Whilst the ferry service is very limited, it cannot be disregarded simply because of its operational constraints. However, in discharging the coastal access duty, regard must also be had to the desirability of ensuring that so far as reasonably practicable interruptions to that route are kept to a minimum (section 297(c)). In effect, the trail would be interrupted for several months per year as the ferry only operates seasonally. When not in use, walkers would be left to find their own route using public paths and highway. This may suit some walkers depending on their destination. For others wishing to use the coast path, there would be long spells without a continuous route available for the recreational benefit of the public.

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127. The Bullard Report suggests that it is perverse that people would take a 38km detour along the proposed trail when a 250m ferry crossing is available. That may be so for people wishing to solely connect between Felixstowe and Bawdsey or to carry further directly along the coast. Many others will want to walk between any number of places around the estuary and to experience its different features. For some, the type of ferry may not be accessible.
 128. Paragraph 10.3.2 of the Approved Scheme makes plain that even if a regular, year-round ferry service is available, it does not rule out taking the trail up to the first public crossing point.
 129. Potentially, the seasonal ferry could be used in combination with a walked trail when the ferry is not operational. This would have the benefit of restricting impact upon affected landowners and alleviate any potential wildlife concerns during periods of most sensitivity. However, it would not address the objectors' concerns over privacy or road safety. Furthermore, it would have wider ramifications in failing to deliver a continuous trail around the estuary when the ferry operated.
 130. During my site visit it was not possible to walk all of the suggested alternative routes without landowner consent. Nevertheless, I was able to experience the objectors' two suggested alternatives avoiding The Lower Track. One of those routes (Modification 2 – see paragraph 65 above) follows the walked route between Melton railway station and Sutton Hoo visitor centre. It involves use of the footway beside the A1152 and B1083 roads including the roundabout at the intersection.
 131. Both roads are busy and noisy with vehicular traffic. The footway is narrow. Whilst there is grass verge along the A1152 allowing users to pass, that is not the case along the B1083 where the footway extends beside a steep bank. Walkers passing in opposite directions must step out into the road. This is unsatisfactory and may be particularly so for those with disabilities, children, or pushchairs. This alternative route is also on an incline which would not be easy going for all. There are no coastal views. It cannot be described as a pleasant experience.
 132. The objectors' favoured alternative (Modification 3 – see paragraph 69 above) involves continuing a short distance further along the A1152 footway instead of turning into The Lower Track. At a point near to the roundabout, a gap would be created to enter the end of the long rear garden of The Lodge, currently covered in scrub. The trail would proceed up a steep slope. Whilst earthworks may be possible to reduce the gradient and the land resurfaced, there would still be a slope, possibly requiring some form of steps. Besides the additional costs, such a route would not be accessible to all.
 133. The Bullard Report suggests the views are equal to, or better than those from the proposed trail. Towards the top of the slope, I could see glimpses of the river through the tree canopy on a winter day. Such views were more distant than those from the route proposed. From the slope, the objector's suggested route would cross into the neighbour's land before entering National Trust property leading to Sutton Hoo visitor centre. This proposal does not have the support of the affected neighbouring landowners. Moreover, it would entail significant additional fencing to be provided at public expense to prevent unpaid entry to the Sutton Hoo site.

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134. Beyond the visitor centre, the objectors suggest use of existing public footpaths within National Trust property to link with the trail, as proposed, at Dairy Farm.
 135. Both of these suggested alternatives avoid the privacy and public safety concerns expressed in the objections but they introduce other issues. Moreover, they are further away from the river than the proposed trail. Neither offers a reasonable or suitable solution.
 136. There are other options involving National Trust land. Whilst I did not enter third party land, this was not necessary to gauge whether the proposals affecting the objectors' property strikes a fair balance. Having seen the area and the mapped routes, none of the alternatives appear to satisfy the coastal access requirements as well as the route proposed in terms of convenience, proximity to the coast and accessibility for the widest group of public.

Conclusions

137. Misunderstanding has arisen over the precise alignment of the proposed trail along The Lower Track due to the small scale maps used by NE in drawing up its proposals. NE has confirmed that only S001 would be aligned along the hard surfaced track which passes in front of the objectors' home at The Lodge.
138. Regard must be had under section 297(2)(a) to the safety and convenience of those using the trail. It is by no means ideal for a narrow space to be shared between walkers and vehicles without suitable refuge points. It follows that there must be some risks to the safety of users. Extra care would be needed by drivers entitled to use the track and trail users alike. The same is true of many countryside walks where it is not uncommon for walkers and vehicles to co-exist without difficulty. In this case, it is not so far before verge is available, which would be utilised to establish the trail. This does not appear to have been appreciated at the time of objection and when the Bullard report was commissioned.
139. Signage would warn drivers of the possible presence of pedestrians. Sight lines are good along this straight narrow section passing by the premises at The Lodge. There is additional width at the track entrance for vehicles turning off the A1152. Concerns are expressed over drivers travelling too fast along the track which objectors say is already a current issue. Although the addition of traffic calming measures may help slow traffic, it is not a recommendation of the Principal Highways Engineer from Suffolk Highways. I see no basis to recommend that such measures be pursued in the absence of professional advice that this would be a necessary step to make the proposals acceptable.
140. There would be some adverse impact upon the privacy of the occupiers of The Lodge from increased use of the track. Mitigation measures could be taken at the behest of the objectors to improve their own privacy if they so wished.
141. Similarly, more walkers along S001 would be liable to cause the objectors and other users with private vehicular rights of way some inconvenience when required to wait until walkers reach a suitable passing point. As the objectors' property lies close to the junction with the A1152, it may be anticipated that waiting times and inconvenience would be limited.

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142. Ultimately, use of the track is beyond the control of the objectors as they do not own it. Therefore, pedestrian use could be increased regardless of the trail, depending on the intentions of the National Trust as the landowner.
143. Legislation exists to protect certain wildlife species, including badgers, as addressed more specifically under 'Nature Conservation Assessment' in the Annex to this Report. In summary, it is unknown if there are active badger setts in the vicinity. In a rural location, badgers might come and go. There is no cause to conclude that the siting of the trail along an established track already used by people and vehicles (albeit exercising private rights) would give rise to increased risk to protected species such that the trail should be located elsewhere.
144. From The Lower Track there are far reaching views over the objector's land across the River Deben. Further along the track, coastal views are obscured by woodland. The glimpses of the river through the trees would not be available all year round when more trees are in leaf. Where the view opens up, the scenery is expansive and dramatic with Woodbridge tide mill drawing the eye across the water and boats also visible. There is an estuarine feel rather than characteristically coastal.
145. The aim is 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. As landowners, the National Trust has not objected to use of The Lower Track. The public would benefit from use of a continuous trail with some estuarine views. Enjoyment of the section along S001 may be impeded at times by the presence of vehicular traffic to which the public would need to be alert. On balance, the limited detriment to the objectors is outweighed by the public interest.
146. No suitable alternatives that provide a better all round option have been identified.

Recommendation

147. 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 relation to the objections.

K R Seward

APPOINTED PERSON

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

Habitats Regulation Assessment

148. This is to assist the Secretary of State, as the Competent Authority, in performing the duties under the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations).
149. The Competent Authority is required to make an Appropriate Assessment (AA) of the implications of a plan or project for the integrity of any European site in view of the site's conservation objectives. The appropriate nature conservation body must also be consulted, in this case NE. If the AA concludes that an adverse effect on the integrity of a European site cannot be excluded beyond reasonable scientific doubt then consent for the plan or project can only be granted if: there are no alternative, less harmful, solutions; the plan or project must be carried out for imperative reasons of overriding public interest and compensatory measures will be provided which maintain the ecological coherence of the UK National Site Network.
150. NE has undertaken a 'shadow' Habitats Regulation Assessment (the HRA) for the whole of the Felixstowe Ferry to Bawdsey stretch of the England Coast Path. The HRA, signed off on 22 March 2020, is recorded separately in NE's suite of reports. It provides the information to inform the Competent Authority's AA in accordance with the assessment and review provisions of the Habitats Regulations and has been considered in making this recommendation. The HRA considered the potential impacts of the coastal access proposals (including likely significant effects) on the Deben Estuary Special Protection Area (the SPA) and the Deben Estuary Ramsar site (the Ramsar site), as designated European sites. The HRA is considered to have identified the relevant sites affected by the proposals. The proposals are not directly connected to or necessary to the management of the European sites', therefore a HRA is required.
151. The HRA screening exercise found that as the plan or project is not either directly connected or necessary to, the management of all of the European sites' qualifying features, and/or contains non-conservation elements, further HRA was required. In considering the need for further assessment, NE concluded that the plan or project alone is likely to have a significant effect on qualifying features, namely: avocet (non-breeding), dark bellied brent goose (non-breeding) and narrow-mouthed whorl snail. As the plan or project is likely to have significant effects (or may have significant effects) on some or all of the qualifying features of the European Sites alone, the overall Screening Decision found that further AA of the project alone was required. On this basis, the HRA considered the potential for the project to give rise to adverse effects on the integrity (AEoI) of the designated sites.
152. The scope of the AA is set out in Table 3 (pages 24 to 26) of the HRA and identifies the sites and qualifying features for which likely significant effects 'alone' or 'in

combination' are likely or cannot be ruled out. Section D3 of the HRA sets out the assessment of AEol for the identified likely significant effects. It includes design features of the proposals to mitigate risk of disturbance, as summarised in Table 8 (pages 63 to 72) such as trail alignment away from the shore, new advisory and information signs, new dog proof fencing and directions to exclude the vast majority of saltmarsh and mudflat. The AA found the risks to achieving the conservation objectives identified in Section D1 are effectively addressed by the proposals and no AEol (taking into account incorporated mitigation measures) can be concluded in terms of:

- Disturbance of non-breeding avocet and non-breeding dark-bellied brent geese
- Loss of abundance of the narrow-mouthed whorl snail through trampling
- Trampling of supporting habitat of non-breeding avocet, non-breeding dark-bellied brent geese and narrow-mouth whorl snail
- Loss of habitat through installation of access management infrastructure

153. In section D4 of the HRA, NE considered the need for further assessment of AEol considering the project in combination with other plans or projects. NE states that in this case the potential for adverse effects from the plan or project has been wholly avoided by the incorporated or additional mitigation measures outlined in Section D3 of the HRA. It concluded that there are no residual and appreciable effects likely to arise from this project which have the potential to act in combination with those from other proposed plans or projects. As such, 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 SPA or Ramsar sites either alone or in combination with other plans or projects.

154. Part E of the HRA sets out that NE is satisfied that the proposals to improve access to the English coast between Felixstowe Ferry and Bawdsey 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 and the information in the HRA provided into account, reliance can be placed on the conclusions reached that the proposals would not adversely affect the integrity of the European sites assessed. It is noted that, if minded to modify the proposals, further assessment may be needed.

Nature Conservation Assessment

155. Although not forming part of the HRA, NE has also undertaken a Nature Conservation Assessment (NCA) to be read in conjunction with the HRA. The NCA covers matters relating to Sites of Special Scientific Interest (SSSI) and undesignated but locally important sites and features which are not already addressed in the HRA. The Deben Estuary SSSI covers the whole estuary. There are no Marine Conservation Zones on or near to the Felixstowe to Bawdsey stretch of the proposed England Coast Path which would otherwise be addressed in a NCA.

156. The objections concern the proposed stretch of coast path from Wilford Bridge to Ferry Cliff, and route section ref. FFB-4-S001 in particular. Chapter D5 of the NCA specifically assesses the potential nature conservation impacts of the proposals along the 1.2km (or thereabouts) section between Wilford Bridge and Little Haugh covering FFB-4-S001 to S009. There are no county wildlife sites within this route section. The proposed route would pass through an area of grassland and woodland forming part of the National Trust's Sutton Hoo estate. The adjacent area includes a broad area of saltmarsh and intertidal mud.

157. The NRA identifies the saltmarsh and mud as particularly important for a range of wintering and migratory waterbirds. No new public access rights to saltmarsh and mudflat would be established within this route section which would be excluded by direction on public safety grounds under section 25A of the Countryside and Rights of Way Act 2000. In addition, it is proposed that land seaward of the trail be excluded on nature conservation grounds (to avoid impacts on narrow-mouthed whorl snail) under section 26(3)(a). Other species of note recorded to be present are otters, which would benefit from the routing of the trail inland, and less common plants.

158. Objection is raised to the proposals due to the proximity of the trail to a badger sett. Badgers are not a European protected species although they are protected domestically as a named species within Schedule 6 of The Wildlife and Countryside Act 1981 and under the Protection of Badgers Act 1992. Badgers are not identified as a potentially affected species within the NRA. The Wildlife and Countryside Act 1981 and the Protection of Badgers Act 1992 do not impose a general duty of the kind set out in the Habitats Regulations,

159. Taking into account a range of species, NE feels that the proposed route alignment strikes an appropriate balance between coastal access and wildlife legislation.

160. NE was satisfied that the proposals to improve access to the English coast between Felixstowe Ferry and Bawdsey, including the objected section, were fully compatible with its duty to further the conservation and enhancement of the notified features of the SSSI and consistent with the proper exercise of its functions.

161. There is no contrary evidence to give rise to the conclusion that, in respect of the relevant sites or features, the appropriate balance has not been struck between NE's conservation and access objectives, duties and purposes.

-END-



The Planning Inspectorate

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

by K R Seward Solicitor, MIPROW

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

Date: 4 May 2023

Marine and Coastal Access Act 2009
Objections by [redacted] and [redacted]
Regarding Coastal Access Proposals by Natural England
Relating to Felixstowe Ferry to Bawdsey

Objection Reference: MCA/FFB/06

Ferry Cliff to Ramsholt and Ramsholt to Bawdsey Quay

- On 9 December 2020 Natural England submitted a series of Coastal Access Reports to the Secretary of State for Environment, Food and Rural Affairs 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 20 January 2021 has been made by [redacted] to route section refs. FFB-5-S039 and FFB-5-S044 to S055 within Report FFB 5: Ferry Cliff to Ramsholt and to route section ref. FFB-6-S001 to S006 within Report FFB 6: Ramsholt to Bawdsey Quay.
- The objection is made under paragraph 3(3)(a),(c) and (f) of Schedule 1A to the 1949 Act on the ground that the proposal fails to strike a fair balance in such respects as set out in the objection.

Summary of Recommendation: The proposals set out in Report FFB5 do not fail to strike a fair balance. I recommend that the Secretary of State makes a determination to that effect. See recommendation below for Report FFB6.

Objection Reference: MCA/FFB/07

Ramsholt to Bawdsey Quay

- On 9 December 2020 Natural England submitted a series of Coastal Access Reports to the Secretary of State for Environment, Food and Rural Affairs 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 2 February 2021 to Report FFB 6: Ramsholt to Bawdsey Quay has been made by [redacted]. The land in the Report to which the objection relates is route section ref. FFB-6-S005 to FFB-6-S009.
- The objection is made under paragraphs 3(3)(a) and (c) of Schedule 1A to the 1949 Act on the ground that the proposal fails to strike a fair balance in such respects as set out in the objection.

Summary of Recommendation: Before a conclusion is reached, I recommend that a specific assessment is undertaken on the potential effect on the marsh harrier, as a protected species. Subject to that, I further recommend that route section S008 to S009 is modified, as proposed by the objector.

Procedural Matters

162. On 9 December 2020 Natural England (NE) submitted a series of linked but separate reports to the Secretary of State for Environment, Food and Rural Affairs (the Secretary of State), setting out proposals for improved access to the coast between Felixstowe Ferry and Bawdsey.
163. The period for making formal representations and objections to the reports closed at midnight on 3 February 2021. Seven objections were received within the specified timescale, five of which were determined to be admissible. I have been appointed to report to the Secretary of State on those five objections. This report relates to the objection reference MCA/FFB/06 to NE Reports FFB 5 (FFB5) and FFB 6 (FFB6) along with objection reference MCA/FFB/07 to NE Report FFB6. As

both objections concern FFB6 and raise similar issues, they are considered together within this single report along with the objections raised to the contiguous area of affected land along FFB5. Objection references MCA/FFB/01,02 and 03 are the subject of separate reports.

164. As all sections of the route referred to in this report have the prefix FFB-5 or FFB-6 (depending on whether they concern reports FFB5 or FFB6), I shall use the S0 number only for ease of reference.
165. Various representations were also received, and I address these below where they refer to the specific sections of trail before me.
166. I conducted site inspections on 30 November 2022 when I was accompanied by representatives of the respective landowners, NE and Suffolk County Council.
167. When the objections were found to be admissible, this was subject to any further clarification on land ownership. At the time of the determination, it was not entirely clear whether the Trustees had a legal interest in the relevant land that would be affected by the proposed coast path. It was confirmed by the Trustees agent at the site visit that the Trustees are [redacted] and [redacted], the registered proprietors. [redacted] also confirmed that he owns and farms land along FFB6. That being so, I am content that no issues over admissibility arise.

Main Issues

168. The coastal access duty arises under section 296 of the Marine and Coastal Access Act 2009 (the Act) and requires NE and the Secretary of State to exercise their relevant functions to secure two objectives.

169. The first objective is to secure a route for the whole of the English coast which:

- (c) consists of one or more long-distance routes along which the public are enabled to make recreational journeys on foot or by ferry, and
- (d) (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 Act as 'the English coastal route', but for ease of reference is referred to as 'the trail' in this report.

170. The second objective is that, in association with the trail, 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 trail or otherwise. This is referred to as 'the coastal margin'.

171. Section 297 of the Act provides that in discharging the coastal access duty NE and the Secretary of State must have regard to:

- (d) the safety and convenience of those using the trail,
- (e) the desirability of that route adhering to the periphery of the coast and providing views of the sea, and
- (f) the desirability of ensuring that so far as reasonably practicable interruptions to that route are kept to a minimum.

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172. 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.
173. Where, as in this case, it is proposed that the trail extends along a river estuary rather than the sea, section 301 of the Act applies. It states that NE may exercise its functions as if the references in the coastal access provisions to the sea included the relevant upstream waters of a river. The relevant upstream waters are the waters from the seaward limit of the estuarial waters of the river, upstream to the first public foot crossing or a specified point between the seaward limit and the first such crossing. Section 301(4) of the Act sets out additional statutory criteria (the Estuary Criteria) which must be taken into account when deciding whether, and if so how, to exercise the discretion to extend the trail along an estuary. The Estuary Criteria are:
- (g) the nature of the land which would become part of the coast;
 - (h) the topography of the shoreline adjacent to those waters;
 - (i) the width of the river upstream to that limit;
 - (j) the recreational benefit to the public of the coastal access duty being extended to apply in relation to the coast adjacent to those waters;
 - (k) the extent to which the land bordering those waters would, if it were coastal margin, be excepted land;
 - (l) whether it is desirable to continue the English coastal route to a particular physical feature or viewpoint; and
 - (m) the existence of a ferry by which the public may cross the river.
174. NE's Approved Scheme 2013 (the Approved Scheme) is a document approved by the Secretary of State on 9 July 2013 setting out the approach NE must take when discharging the coastal access duty. It forms the basis of NE's proposals within each Report.
175. I must determine whether the proposals set out in NE's reports fail to strike a fair balance as a result of the matters specified in the objection and make recommendations to the Secretary of State on each Report accordingly.

The Coastal Route

176. NE proposes to align the trail around the Deben Estuary, which flows into the North Sea between Felixstowe Ferry and Bawdsey. The estuary is 20km in length and has over 40% of the remaining saltmarsh in Suffolk. NE's report describes the estuary as relatively narrow and bound by shallow terrain, broad sloping, often wooded shores and soft, easily eroded geology. Marshes flank the estuary throughout.
177. The areas of saltmarsh on the River Deben are described by NE as subject to regular tidal inundation, generally uneven and wet underfoot, incised with creeks and channels. The areas of flat are predominately soft mud at low tide that is difficult to walk on and which becomes inundated when the tide rises.

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178. In relation to estuaries, the Approved Scheme states that careful consideration will always be given to the option of extending the trail as far as the first bridge or tunnel as that is in keeping with the duty to have regard to the desirability of ensuring, so far as reasonably practicable, that interruptions to the trail are kept to a minimum and the requirement to consider any other recreational benefits that would accrue. However, in all circumstances, consideration will be given to whether the cost of this would be proportionate to the extra public enjoyment of the coast that would result.
179. The Approved Scheme also notes at section 10.4.1 that several of the Estuary Criteria relate to its overall character. It states that when considering an estuary in relation to those criteria, NE will look for particular stretches or features of the river or adjoining land that are more characteristic of the coast than of a river, and therefore more relevant to the Coastal Access Duty.

FFB5

180. Along most of FFB5, the trail would generally follow existing walked routes, including public rights of way. There would be a new section of path at Ramsholt along the disputed section of S055. The remainder of the disputed section is either an existing walked route (sections S044,47,48,49,54), a public footpath (S045,46,50) or a public bridleway (S051,52,53).
181. The length of coast along FFB5 has several designated sites; Deben Estuary SPA, Deben Estuary SSSI, Deben Estuary RAMSAR, Cliff Farm Meadows and Nettle Hill Wood Country Wildlife Site, Shottisham Creek County Wildlife Site and Ramsholt Marshes and Lodge Plantation County Wildlife Site.
182. Access to the saltmarsh and mudflat in the coastal margin would be excluded all year round seaward of route sections S001 to S055 under section 25A Countryside and Rights of Way Act 2000 on the grounds that the land is unsuitable for public access.
183. No roll-back is proposed between S054 or S055. Normal roll-back would apply between S044 to S046 (inclusive).
184. More complex roll-back would apply between S047 and S053 where there is excepted land i.e., buildings, curtilage, homes and gardens, landward of the proposed route. If it was not possible to find a viable route seaward of the excepted land then NE would choose a route landward of it following discussions with landowners and occupiers.

FFB6

185. The length of coast along FFB6 is affected by three designated sites; Deben Estuary SPA, Deben Estuary SSSI, and Deben Estuary RAMSAR.
186. The proposal is for an entirely new path available to the public between S001 to S009 along FFB6 where there is no existing walked route. Between S003 to S007, the landward boundary would be the ditch. No roll-back is proposed.
187. The intention would be to exclude access to the seawall adjacent to the trail in the coastal margin all year round between S003 to S009. This would be done in exercise of powers under section 26(3)(a) of the Countryside and Rights of Way

Act 2000 (CROWA) for the purpose of protecting birds using the adjacent saltmarsh and intertidal area from disturbance.

188. Access to the saltmarsh and mudflat in the coastal margin would also be excluded all year round seaward of route sections S001 to S019 under section 25A CROWA on the basis that the land is unsuitable for public access.

The Objections

Objection by [redacted]

189. Objection is raised against route sections FFB5 and FFB6 as a whole. Given the length of those submissions, this Report provides only an overview of the objection. Clearly, the full content of the objection has been considered.
190. [redacted] object to the proposals for coastal access across their land for several reasons. They consider there is no justification for proposing a route across previously undisturbed land as other more suitable and fairer options are available.
191. NE's Access Statement states that a 'large increase' in access is predicted across Ramsholt Marshes. The undisturbed grouping of hinterland, borrow dyke/river wall and saltmarsh represents a 'very rare' interconnection which has allowed huge numbers of waders and waterfowl to thrive. This undisturbed grouping would be lost if the coast path were placed at the bottom of the sea wall.
192. The compensatory measures indicated in the Habitats Conservation and Nature Conservation Assessments for a direction to exclude access, assumes public compliance which cannot be relied upon.
193. The trail, it is submitted, should have followed the existing Suffolk Coast Path and made use of the ferry crossing. Based on the results of the trial that took place, NE could have proposed an enhanced ferry service or considered an alternative route in combination with the ferry. An alternative route inland around Ramsholt Marshes could have better avoided currently undisturbed important and significant wildlife areas with minimal impact upon the public.
194. Elsewhere along the coast the option of an alternative route has been used when a ferry service is not operational. In any event, there are other options e.g., following existing highways or the alternative being made available for set periods of time.
195. There are no views of the river from the proposed path and therefore no coastal experience.
196. The proposals do not appear to have taken account of the need for a fair balance. NE decided to extend the trail around the estuary prior to the habitats assessments.
197. The approach should have been to firstly ask whether the ferry provides access and, secondly, if that is sufficient. [redacted] believe that the answer is 'yes' to both questions. That being so, the existing route of the Suffolk Coast Path and crossing the river by ferry is legitimate and meets the coastal access duty. Even if the ferry crossing did not suffice, there are other options such as making the ferry service more accessible or the creation of alternative routes.

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198. There is no requirement for the trail to extend up any estuary further than the seaward limits of the estuarial waters. The Deben estuary already has public access along at least 80% of its length which will remain available regardless of any coastal access proposals. Any additional access should be assessed in terms of the additional benefit provided by the extra 20%. At least half of the additional access will be on the landward side of the flood bank on Ramsholt Marshes with no views of the river. The first bridge is extremely far from the sea necessitating an inland diversion of 40km. A ferry already provides a convenient crossing point.
199. The trial winter service for the ferry cost £7,000. A longer summer service may well be possible and options could be explored for a winter service. If there is demand for ferry services over a longer period then NE could assist with funding.
200. The proposals appear to have been approached from a presumption that a continuous route must be available at all times and opportunities taken to extend coastal access as far inland as possible. This is not the case. It was intended to allow a flexible approach to enable locally aligned solutions taking account of local factors, such as ferry services, important tranquil places, and nationally important environments.
201. The most convenient route is by way of ferry rather than a 40km inland diversion. The objectors propose modifications so that the trail uses the Felixstowe to Bawdsey ferry. They argue that there is no need to use the estuary discretion beyond these points under sections 296(2)(a) and 296(7) of the 2009 Act. NE should fund additional ferry services e.g., over the winter. An alternative route could be provided around the River Deben either while the ferry is not available or for a specified period of time (e.g., October to April). Under this option the proposed route through Ramsholt Marshes (FFB-6-S001 to FFB 5-S006) should be relocated to existing public rights of way.

Legislation

202. It is submitted that the current proposals would provide two trails between Bawdsey and Felixstowe, which is contrary to the legislation and Coastal Access Scheme. One trail would use the ferry. The second trail is proposed around the estuary. The coastal access duty makes clear that there will be 'a' route for the English coast and not multiple routes. The route may enable the public to make journeys on foot 'or' by ferry. There is no provision for there to be both.
203. Section 301 of the Act includes a requirement to consider the existence of a ferry. There is no provision within the Act or the Approved Scheme to indicate that an estuarial route would be in addition to a main route across the river. If there is a need to provide an additional route around the estuary then this can only be by way of identifying an 'alternative route'.

Conservation

204. The land between Ramsholt and Bawdsey is currently completely undisturbed by public access. The Nature Conservation Assessment explains that the absence of any significant land-based sources of disturbance has enabled a high level of conservation value to establish on this route. It is primarily focussed on around 4.4km of saltmarsh but also to extensive low-lying farmland reaching over 3km from the shore and bisected by numerous wet channels.

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205. [redacted] find it baffling that NE, a body charged with protecting the environment, is proposing to allow the public and their dogs through this extraordinarily important site.
206. The Habitats Assessment does not assess the likely levels of use of the new access rights. It concludes that dark bellied geese and avocet are at risk of a likely significant effect from a variety of possible sources including disturbance from people using the path, damage to or loss of supporting habitat and damage to functionally linked land. It appears there may be no minimum level for such possible disturbance.
207. [redacted] say that the Habitats Assessment is incorrect to suggest little impact on breeding marsh harriers from the designation of the route in this area and that these birds have not been present due to Scottish Power's cable route works. Scottish Power have had to stop work from April-August in each year along certain sections when ecologists identified nesting marsh harriers for the last 2-3 years. To evidence this, a letter dated 16 April 2020 is produced requesting landowner permission to establish an alternative access because of the 400m marsh harrier exclusion zone around the nest. The Ecological Mitigation Plan for the Deben Estuary SPA notes the presence of active marsh harrier nests. It advises that where ecological surveys show active nests, works in the area must halt and an exclusion zone be established.
208. The objectors are concerned that this information provided to NE has not been taken into account in the Nature Conservation Assessment. Concerns were also raised by Suffolk Wildlife Trust on the impact on protected species.
209. There is a proposal for fencing adjacent to the sea wall to prevent people spreading, but gates would need to be installed to enable the land to continue to be grazed and access for land management. It is highly likely that some people will spread from the proposed path to the seawall causing substantial disturbance.
210. Neither the Habitats nor Nature Conservation Assessments appear to consider the totality of the unusually biodiverse nature of the estuary, the very rare inter-connection of undisturbed grouping of hinterland, borrow dyke/river and saltmarsh or the sheer numbers of waders and wildfowl in consequence of very low levels of human and canine activity. The Assessments also do not appear to consider how the sky-lining effect of just one person can cause disturbance and the likelihood that the mere presence of a significant increase in numbers of people and dogs will itself cause disturbance.
211. The compensatory measures of fencing, signage, a direction to exclude access and locating the path on the landward side of the bank all assume public compliance which cannot be relied upon.

Objection by [redacted]

212. The objection is made to the position of part of the proposed route across land farmed by [redacted] along FFB5.

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213. A modification is proposed using the existing route of the Suffolk Coast Path crossing the river by ferry to continue the trail with an alternative winter route. The objector recognises that the ferry route will have difficulties, mainly from the ferry operating a seasonal service due to cost, lack of demand and weather conditions over the winter months. Therefore, it is proposed that from May to September the ferry is the only route taken. When the ferry is not always available from October to April, an alternative route should be provided around the River Deben to provide coastal access throughout the year.
214. The alternative route should follow the landward base of the sea wall. A stock proof fence, erected and maintained by NE, would be needed to avoid disturbance to livestock and to keep walkers within a well-defined area that prevents access to the salt marsh and mud flats. To avoid further disturbance to livestock, the access to the path should be at the north end of the first grass field and follow the ditch line to the pump house. This option would encourage walkers to use the ferry over the summer months whilst allowing the unique area of the Deben Estuary to go undisturbed by walkers and dogs.
215. It is completely incorrect that there are no marsh harriers present in the area. In fact, during Scottish Power's work to install a new cable route in the area, work was stopped between April and August each year due to marsh harriers nesting. Allowing walkers through such a delicate area would be hugely detrimental to the tranquil and undisturbed environment and is totally unnecessary when there is already a well-established route via the ferry.
216. If modified as proposed there would be minimal disturbance inflicted on this extraordinary environment whilst allowing the public access required.

Natural England's response to the objections

Choice of route

217. At the seawall, the trail would be aligned landward side along the flat base (the folding). Although the trail would be on the objectors' land, the public would need to keep to the folding for the clear reasons set out in NE's report. This part of the trail would connect with others benefitting from spectacular estuary views unavailable from the objector's preferred options. People will appreciate the proximity of the estuary not least because of the sounds and smells of the coast.
218. In terms of the proposed modifications, NE confirms that where an estuary is served by a full-time ferry service, the usual practice is to propose that it be used and not to propose any route between the ferry points via the first public foot crossing. This would be so even where such an additional route would deliver extra public benefit. However, the Deben has only a seasonal ferry service. The legislation allows for the trail to make use of a ferry service even if it only operates at certain times. It would be unusual for NE to propose use of a part-time ferry service because it clearly would not deliver the best outcome for trail users.
219. The decision whether or not to exercise the discretion within section 301 of the Act is informed by the additional statutory criteria within section 301(4). Chapter 10 of the Approved Scheme explains how these criteria will be interpreted and applied. Importantly, it begins by saying that NE will always give careful consideration to its option to extend the trail as far as the first bridge or tunnel with

pedestrian access. This is in keeping with the duty under the Act to have regard to the desirability of ensuring, as far as is reasonably practicable, that interruptions to the trail are kept to a minimum.

220. Section 5 of the Overview document outlines the three options considered and explains why NE did not choose the other options.
221. An additional dial-a-ride service was trialled through winter and early spring of 2017/18 to supplement the seasonal ferry but uptake was limited and funding was not found to sustain the service. Any proposals to extend the service would require agreement of the local highway authority, as holder of the necessary powers to provide or operate a ferry service. The highway authority supports NE's proposals.
222. Where an alternative route was proposed for the Yealm estuary making use of existing inland public rights of way, it was driven by particular and unusual circumstances. Its shoreline is characterised by steep gradients and dense tree and shrub coverage. The lack of existing access and convoluted 'crow's foot' nature of the shoreline and difficult wooded terrain made the establishment of a waterside trail challenging and costly.
223. By contrast, the Deben estuary is fairly uniform in shape and wide with sizeable areas of saltmarsh and mudflat which all contribute to its coastal character. The estuary valley sides are broad and gently sloping. Whilst wooded in places, the estuary has a generally open aspect. There is existing shoreline public access in large part and on extensive areas of excepted land requiring significant detours inland with associated loss of coastal feel. For those reasons NE proposed a continuous walking route.
224. NE's report sets out that the ferry was not chosen or classified as an alternative route because it is seasonal only. There is only a weekend service in April and October and no ferry service between November and March. The proposed alignment deliberately connects to both sides of the ferry crossing allowing users to cross the estuary by ferry when it is running, if they so wish. When the service is unavailable, walkers would have an interrupted journey along the trail leaving them to determine their own route. East Suffolk Council was regularly consulted during the planning stage to ensure they were happy with NE's proposal.
225. NE dismisses the suggestion that an alternative route could be provided around the River Deben using existing public rights. It says this is impossible as many existing public paths do not connect in order to provide a continuous route. Even if they did connect (which they do not), the route would be indirect and, in places, a great distance from the water. No land has been dedicated on this stretch and there was no reason to suppose that the relevant landowners would be willing to provide linking routes voluntarily in this way.

Disturbance to habitats and wildlife

226. The stretch between Ramsholt and Bawdsey has no established visitor facilities and no intersecting public footpaths. There is a pub and car park at Ramsholt and

a public car park and public toilets at Bawdsey, as well as a seasonal ferry to Felixstowe Ferry (April-October). Some additional walkers may leave a car at each and walk this section, but this is not at this stage thought to be significant.

227. The overall lack of attractors, combined with the length and remote nature of much of this section, means it would likely be a lightly walked part of the trail. On the opposite bank at Felixstowe and Waldringfield, visitor numbers were found to be quite high but most people tend to stay within the vicinity of both locations.
228. Although NE expects the objector's land to experience a large increase in public use relative to its current baseline of zero, the visitor numbers are not expected to be substantial in absolute terms.
229. NE submits that a full assessment of any potential impacts of the proposals on wildlife and habitats was undertaken and the findings published within the Nature Conservation Assessment and Habitats Regulations Assessment ('HRA') for the Felixstowe Ferry to Bawdsey stretch.
230. The route was designed to minimise any disturbance, and to include appropriate mitigation. For instance, the trail would follow a new access route almost entirely at a low level along the seawall folding, and adjacent to the borrowdyke. The only exception is the first few hundred metres at Ramsholt which is on the seaward edge of an elevated arable field. No spreading room is proposed or accessible areas landward of the trail. The trail would be tightly constrained between the borrowdyke and new fence all the way between Ramsholt and Bawdsey. Management signage would be erected raising awareness of the area's conservation importance and the sensitivity of wildlife to disturbance, asking that dogs are kept under effective control at all times.
231. The marsh harrier was taken into account in making the proposals (see section D.7 of the Nature Conservation Assessment). Cabling works were stopped for certain months and a 400m exclusion zone applied for the marsh harrier due to the high levels of disturbance caused by the use of heavy machinery. The distance required is determined by the type of work and the season. Nothing in law requires a marsh harrier exclusion zone more widely.
232. In NE's experience, people do not like conflict with landowners and it is expected that the vast majority using coastal access rights would stick to the line of the trail. Careful positioning of way-marker arrows at key locations would greatly help walkers stay on the path. In addition, NE proposes a combination of stock fencing, lockable gates and information signs detailing the importance of the site and why it is imperative to stay on the path and control dogs.

Estuary discretion

233. NE disputes the assertion that it had decided from the outset that there must be a route around the Deben. Its deliberations were strongly guided by the Approved Scheme. The Scheme does not say that NE will do a cost benefit before deciding whether, and to what extent, to engage with an estuary. While the legislation contemplates that there may be some breaks in the trail nationally, section 297(2)(c) makes clear that, 'so far as reasonably practicable', these must be kept to a minimum.

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234. NE cites the Court of Appeal judgment in *Edwards v National Coal Board* [1949] 1 All ER 743 (a safety at work case) where the term ‘reasonably practicable’ was considered. NE interprets section 297(2)(c) as a duty to avoid the estuary causing a break in the open coast route unless the cost, time and trouble of securing a viable route around the estuary is grossly disproportionate to the benefit to the public of doing so. At present, NE submits that is clearly not the case.
235. The land along the folding would remain owned and available for use by the objector. The new fence seaward of it is intended to reinforce the need for walkers to avoid walking along the crest of the bank. Lockable gates in the fence would ensure the objector can continue to use and manage the bank. NE is happy to discuss the number and location of gates for this purpose. Signage at the gates would relay the message to the public about not walking along the top of the bank. Implementation of the trail would have no impact upon the landowner’s ability to claim basic farm payments.
236. Ongoing management and maintenance of the trail and infrastructure associated with it, including the proposed mitigation measures, would be undertaken by Suffolk County Council as the local Access Authority.

Representations

237. The Disabled Ramblers comment in relation to both FFB5 and FFB6 that a significant number of people with reduced mobility now use all-terrain mobility vehicles to travel on access routes in the open countryside, including challenging and rugged terrain. Users have the same access rights as walkers. NE is requested to address man-made structures that present a barrier to those who use mobility vehicles. NE should also ensure that existing and proposed structures are suitable for large mobility vehicles and also comply with British Standards. There should be compliance with the Equality Act 2010 and Countryside and Rights of Way Act 2000 and adherence to advice from Disabled Ramblers in the document titled ‘Man-made Barriers and Least Restrictive Access’.
238. [redacted] considers there are some wildlife matters NE appears to have missed or ignored. He reports that in 2020, summer visiting Turtle Doves were present on part of the proposed trail between FFB5 S001 to S050 (inclusive) as were Cuckoos and Nightingales during their breeding seasons and Bullfinches, Marsh Harriers, Barn Owls and Tawny Owls all year round. There are also numerous badger setts in the area. [redacted] there is no excuse for ignoring these animal and bird’s needs for protection, some critically or seriously endangered species.
239. The Royal Society for the Protection of Birds (‘RSPB’) provided comments on FFB6 only. It points out that FFB6 would open up approximately a 3 mile stretch of the Deben Estuary not previously accessible by the public. The saltmarsh west of the seawall is the location of the estuary’s key avocet roost which is a feature of the Deben Estuary SPA. This stretch is also a stronghold for saltmarsh breeding redshank (amber listed), which are increasingly rare on the Suffolk coast and undoubtedly benefited from lack of disturbance. The fields landward of the borrowdyke support up to 10,000 lapwing (red listed) and golden plover, 50+ curlew (red listed) at high tide as well as breeding marsh harrier (amber listed).

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240. The RSPB is very reluctant about opening up this stretch of coast to public access. It is particularly concerned that either side of the estuary, at Bawdsey picnic area and Ramsholt pub, are hotspots for human activity. It is plausible that this relatively short stretch could become a hotspot for recreational use. The RSPB understands that NE has had productive conversations with Suffolk Wildlife Trust, relocating the trail from the sea wall. It is also appreciated that alternative routes inland could cause greater disturbance to birds or would need to use narrow roads unsafe for walkers. Although the RSPB would prefer the stretch not to be opened for public access at all, it acknowledges the considerations and strongly recommends various measures.
241. The entire stretch of FFB6 should have a 'dogs on leads all year round to protect sensitive wildlife' as part of the Section 26(3)(a) exclusion. The fencing type and material used to prevent access to the sea wall should be designed to prevent people climbing over it. Considerable effort and funding should be provided to work with Suffolk Coast and Heaths Area of Outstanding Natural Beauty and Suffolk Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) to provide rangers at key times i.e., at weekends. Monitoring should also be undertaken to understand the change in recreational use in the area so that further actions to protect wildlife can be taken quickly and efficiently.
242. Suffolk Wildlife Trust has provided comments on FFB6 which reflect those made by the RSPB. They express concerns over the high risk of potential disturbance to qualifying species of the Deben Estuary SPA and Ramsar site as well as other important bird species. They repeat the request for mitigation measures.
243. [redacted] suggests an alternative route landward side of the seawall in order to cause less disturbance to birds, especially in winter.
244. Suffolk County Council supports the proposed alignment for Ramsholt to Bawdsey Quay (FFB6) but would like to see works proposed as mitigation measures, including 15 gates, 2 interpretative panels and a stock fence of approximately 1000 metres for controlling dogs and walkers. Additionally, the Council would like to see the section of trail adjacent to the SSSI for FFB6 (between S002 to S010) included in the uplift for funding.
245. [redacted] and [redacted] write in support of the proposals for FFB6.
246. [redacted] comments that the estuary itself cannot be seen along the proposed route for FFB6 and he was expecting some viewing platforms to be incorporated to be able to study birds with a telescope.
247. [redacted] raises concerns (in respect of FFB5 and FFB6) over the influx of cars to this area at weekends following recent publicity leading to the car park at Ramsholt being full and cars parking on the roadside verge impeding access. Increasing numbers of walkers have caused the paths on two sections of the river wall becoming extremely muddy and eroded as a result. The trail can only add to such problems. [redacted] says this once idyllic area would be spoilt forever.

Natural England's comments on the representations

248. NE recognises its duties under the Equality Act 2010 and CROWA, including the extra responsibilities conferred by the Public Sector Equality Duty within the

former. The Approved Scheme outlines the principles followed to make the trail as easy to use for disabled people and those with reduced mobility. NE has endeavoured to meet those needs throughout the planning and design processes and would continue to do so through the implementation stage working alongside Suffolk County Council, which shares the same responsibilities and duties. The importance of satisfying the relevant British Standards is recognised as well as the desirability of complying with relevant advice. NE notes the advice regarding larger mobility vehicles and will ensure this is considered.

249. NE thanks [redacted] for the bird information but confirms that the designated SPA/SSSI species have been fully considered in the Habitats Regulation Assessment and Nature Conservation Assessment. Some of the other species mentioned, such as cuckoo and barn owl would be very unlikely to be directly affected or disturbed by the trail. The Nature Conservation Assessment acknowledges the presence of badgers and explains that where badgers, and particular badger setts, are most likely to be found NE proposes that the trail sticks to existing public rights of way or nearby walked routes. This combined with the small, anticipated increase in human activity and the badgers' largely nocturnal habits, mean that NE does not expect the proposals to have a measurable effect on them.
250. NE states that in respect of local and national sites of nature conservation concern, the Assessment of Coastal Access Proposals and HRA found that in developing new access proposals, the appropriate balance has been struck between NE's conservation and access objectives, duties and purposes. The Assessment also found the proposals to be fully compatible with the relevant European conservation objectives and taking account of incorporated avoidance and mitigation measures, will not have an adverse effect on their integrity.
251. Aside from the measures set out in section 6.2.4 of its report for FFB6, NE also proposes to exclude access to the mudflat and saltmarsh. The Assessments did not require introduction of special measures such as a ranger. Sometimes specific monitoring conditions are attached to NE's proposals, but NE sees no need when coastal access rights will be excluded from the saltmarsh and flood wall.
252. NE points out that under coastal access legislation, a person who brings a dog with them must keep it under 'effective control'. In addition, a stock proof fence would be introduced along FFB6 between the trail and flood defence wall along S003 to S008. As a physical barrier to people and dogs would be erected, it is not considered a 'dogs on leads' restriction would be necessary.
253. NE explains that it funds all costs associated with the establishment of the trail and any identified associated mitigation works. Thereafter, a regular contribution is made to ongoing management and maintenance in accordance with national funding arrangements in place at the time. NE acknowledges the concerns of Suffolk County Council over financial uplift. The current funding formula is due to be reviewed to coincide with completion of the England Coast Path establishment.
254. Viewing platforms were considered very early in the planning process but were not appropriate as they would lead to sky-lining and bird disturbance which would have a negative impact on the designated features of the site.

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255. NE is aware that walking in the folding is not the perfect solution for walkers because it does not enable them to enjoy views across the estuary. However, NE considers this route provides the best fair balance. The position in the folding is to limit bird disturbance. Various other inland routes for FFB6 were considered but were deemed unsuitable for reasons also applying to [redacted] suggestion e.g., passing over and creating spreading room over important arable land for overwintering dark bellied brent geese and being further away from the sea.
256. In relation to [redacted] comments, NE states that the stretch from Ferry Cliff to Ramsholt would be along existing public rights of way. There would be only one small section of roughly 150m where new rights would be created for more direct access. NE understands that the flood walls becoming muddy in winter is a normal consequence which was taken into consideration. NE could not predict an increase in visitor numbers due to publicity and refers to section 4.3.12 of the Approved Scheme which provides that NE is not required to consider additional facilities, such as car parks.

Discussion

FFB5

257. The only new section of path for FFB5 would be through a wooded area at the edge of the public car park in Ramsholt. From there, FFB5 would follow the existing public bridleway over the road leading to the quay and along the foreshore in front of the public house. At S050, the bridleway becomes a public footpath which continues along the remainder of the disputed section past S044 to S039. The trail would follow the existing walked line rather than the definitive line.
258. FFB5 offers wide, picturesque views across the saltmarsh and estuary. At S049 there are also impressive views landside of Ramsholt Church set behind reedbeds and the waterlogged marshland. This setting was pointed out to me by the Trustees representative as a 'special area' used by nesting and wintering birds.
259. At the time of my winter visit, the walked line became very muddy and more difficult to walk from around S049. Surface dressing has been added by Suffolk County Council along one section around S048 to improve walking conditions.
260. No specific alternative route using the existing public path network has been proposed by [redacted] for the disputed section of FFB5. During my site visit the County Council's representative showed me a plan on which all recorded public paths are plotted. The network of alternative public paths that [redacted] agent had in mind are much further inland than the proposed route. This would defeat the aim of delivering a coast path and would be unlikely to be used as such by the public when a path beside the estuary is already in public use along FFB5. I also gather that no other public paths would connect with the trail to provide the necessary links.
261. There is already a very well used path along most of FFB5. There is unlikely to be a marked increase in walkers and dogs to give rise to any significant concerns over disturbance to wildlife, habituated to a level of public access.

FFB6

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262. Whereas FFB5 follows an existing walked line, FFB6 is farmed marshland that is currently completely undisturbed by the public. There is no existing alternative network of public paths that could be utilised instead. The RSPB considers that an inland route would cause greater disturbance to birds. The road network in the area comprises narrow lanes, which would give rise to road safety implications and not provide a coastal experience. As proposed, the alignment is close to the estuary whilst avoiding the saltmarsh and flat which is unsuitable for public access.
263. The trail for S001 would be established along the field edge. At the top corner, there are some fairly distant views of the estuary through the bare trees which disappear from view upon proceeding downhill towards the estuary. Those views may not be available year round when trees are in leaf. At S002 there is a large ditch over which a bridge would be built.
264. Upon reaching S003, the bank of the flood defence wall would block any coastal views. Stock proof fencing would be erected between the folding and seawall to prevent people and dogs disturbing breeding and roosting birds. Lockable gates would be inserted providing landowner access to the seawall with agricultural vehicles and machinery. NE accepts that two gates would not suffice for these purposes and is happy to add more in consultation with the landowner. The adjacent borrowdyke would provide a natural barrier on the opposite side of the trail. Gaps in the borrowdyke would be closed by fencing or gates.
265. In addition, public information boards would be erected at access points at each end in Ramsey and Bawdsey informing the public of the nature conservation sensitivities on the landward side. Dog proof gates would also be installed across bridges and culverts to prevent access to arable fields landward of the trail.
266. Effects on wildlife are considered within the Annex to this Report. In summary, no adverse effects have been identified on the integrity of the protected European sites having regard to avoidance and mitigation measures. In the Nature Conservation Assessment, NE concludes that it is satisfied that in developing new access proposals an appropriate balance has been struck between NE's conservation and access objectives, duties and purposes.
267. NE has responded to concerns by moving the proposed trail to the base of the seawall between S003 to S008 in recognition of wildlife sensitivities and birds in particular. Access to the seawall would be excluded all year to avoid disturbance to nesting and roosting birds.
268. The RSPB would prefer nonetheless for FFB6 not to be used. Objections are also raised on nature conservation grounds and the adequacy of the Habitats and Nature Conservation Assessments. These are considered more fully in Annex A to this report. NE is the statutory body and the Assessments are counter-signed by NE's senior officer responsible for protected sites. Their findings therefore carry considerable weight but they are not beyond scrutiny.
269. The Habitats Regulation Assessment (HRA) identified avocet and dark-bellied brent geese as qualifying features of the European sites. If reliance was placed on signage alone to control people and dogs then this would not suffice as a mitigation strategy because compliance could not be guaranteed. Disturbance to birds could arise in one of two ways: either by visual or physical disturbance. As

the seawall would not be accessible due to the erection of fencing between S003 to S008 along FFB6, this should mitigate risks of visual and physical disturbance on the seaward side of the trail. For much of the stretch there is borrowdyke landward side of the proposed trail which would be a natural deterrent.

270. A ranger would not be present at all times to prevent any disturbance and so this appears unlikely to be an efficient additional mitigation measure.
271. The marsh harrier is not a qualifying feature of the European sites to be addressed in the HRA but all harriers are a Schedule 1 protected species under the Wildlife and Countryside Act 1981, as amended. The Nature Conservation Assessment (NCA) produced by NE in relation to the proposal, recognises the presence of marsh harrier on the River Deben where they have nested for over 25 years. The NCA notes that harriers and short-eared owls roosting close to the trail could be adversely affected by trail users.
272. The NCA says that: *“Some evidence appears to indicate that the species [marsh harrier] isn’t particularly sensitive to the existence of recreational routes when selecting nesting sites.”* An example is given of marsh harrier occasionally nesting on a seawall that is a public right of way on the Suffolk/Essex border. The NCA accepts that the examples *“may not necessarily be typical, and that extra caution is needed in light of the birds’ status as a Schedule 1 species, but nonetheless feel justified in anticipating that the [mitigating] factors should combine to mean our proposals will not have a measurable adverse impact on this species.”*
273. The NCA also records that marsh harriers sometimes breed in smaller reed-beds, where they are more vulnerable to disturbance by humans and dogs and they may also breed in cereal fields increasing their vulnerability to disturbance by uncontrolled dogs. Nevertheless, the NCA considers that harriers are more likely to favour denser cover such as areas of reeds which, to a large extent, are separated from the proposed trail by borrowdyke.
274. The NCA relies upon a survey from 2018. It says there would normally be two marsh harrier nest sites between Ramsholt and Bawdsey in a typical season. As landowners farming the land throughout the year, the objectors are well placed to know if marsh harrier are present. They confirm recent nesting sites.
275. As there has been no up-to-date or specific assessment on the marsh harrier along FFB6 it is difficult to gauge whether and how they might be affected by the proposed trail. In the absence of further analysis, the impacts are simply unknown. The need for caution is recognised in the NCA but the conclusions rely upon examples elsewhere and are based upon generalised likelihood rather than focussed data or information.
276. Without a more focussed assessment, including known nesting areas, there is cause for real concern that the impact upon protected species has not been sufficiently considered as the risks simply cannot be known.

Estuary discretion

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277. [redacted] challenge the legal scope to establish a walked route around the estuary given the availability of a ferry service between Felixstowe and Bawdsey. Reliance is placed on the first objective of the coastal access duty within section 296(2) of the Act being for 'a route' (singular) for the whole English coast. They say there cannot be a walked route when a ferry exists. I do not find this a compelling argument. Section 296(2)(a) goes on to say that the objective is for a route which 'consists of one or more long-distance routes along which the public are enabled to make recreational journeys on foot or by ferry, and...'. It allows for the trail to be by foot or ferry. Plainly, the trail can consist of more than one route. Nothing in the wording operates as a constraint on establishing a walked route because of the operation of a ferry.
278. However, in cases such as this where the continuity of part of the coast is interrupted by a river then regard must be had to the existence of a ferry service available to the public to cross the river under section 301(4) of the Act.

The Ferry

279. Both objectors primarily promote use of the ferry service between Felixstowe and Bawdsey instead of a walked trail around the estuary.
280. Under section 296(7), a person is to be regarded as enabled to make a journey by ferry even if that journey can be made at certain times, or during certain periods, only. Passengers between Felixstowe and Bawdsey are ferried across the short stretch of water in a small open boat. It operates daily from 10am to 5pm between 1 April to 30 September and weekends only in October. There is no proposal to extend the service all year round as the objectors suggest or any indication that this could be viable or funded.
281. The ferry service should not be disregarded simply because of its operational time constraints. However, whilst the ferry is said to accommodate disabled passengers, it is unclear just how accessible it would be for a wide range of people with differing levels of mobility or varying disability. Furthermore, in discharging the coastal access duty, regard must also be had to the desirability of ensuring that so far as reasonably practicable interruptions to the route are kept to a minimum (section 297(c)).
282. In effect, if reliance was placed solely upon the ferry, then the trail would be interrupted for several months per year as the ferry only operates seasonally. When not in use, the public would be left to find their own route using public paths and highway. This may suit some people depending on their destination. For others wishing to use the coast path, there would be long spells without a continuous route available for the recreational benefit of the public.
283. [redacted] acknowledges the restrictions of the seasonal ferry service and suggests that the trail only be available to walkers between October to March. NE resist this idea. This suggested approach may reduce any potential concerns over disturbance of nesting birds, but it would not be a solution if there is disturbance, for over wintering and migratory waterbirds. In this regard, the HRA flags the importance of avocet, which roost estuary side, and dark-bellied brent geese that feed and roost on the landward side.

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284. Notably, section 297(2) imposes a duty upon NE and the Secretary of State to 'have regard to' the desirability of ensuring that so far as reasonably practicable interruptions are kept to a minimum. It is a matter that must be considered but does not require rigid application. Case law cited by NE on the meaning of the words 'reasonably practicable' is not specific to the coastal access legislation. The key point is that having considered the factors in section 297(2), NE and the Secretary of State must aim to strike a fair balance between the public interest in having rights over the land and the interests of the landowner/occupier under section 297(3).
285. Of course, those wishing to use the ferry service could do so regardless of the trail.

Proposed modification to FFB6

286. Unless the ferry is used as the trail, [redacted] seeks a modification to the route through his land between S008 and S009. As proposed, the trail would lead through the picnic site and car park at Bawdsey. At the car park entrance/exit, the trail would cross over the road to enter [redacted] field via a gate to proceed along a track at the base of the seawall and continue to S005 and beyond into the Trustee's land. This section would also be fenced with stock proof fencing and gated to allow the owner/occupier access.
287. [redacted] advocates the trail continuing a short distance further along the road to enter the field at a newly created point where the trail could follow the ditch line before connecting with the base of the seawall by the pumphouse. This would enable sheep to be grazed over the grassed seawall and limit impact upon farming operations. [redacted] is unperturbed by the need for a 4m wide margin from the ditch line in order to secure a 2.5m width on the flat.
288. The modification would be further away from the coastline. As there are no coastal views from the base of the seawall, I do not consider that this particularly matters. The modification would be less direct but the adjoining section through the picnic site does not follow the most direct line either. In many ways it would be a preferable experience walking beside the reeds with open views across the field to the seawall rather than along the base of the bank. The additional length of road walking would utilise a short section within the proposals for Bawdsey to Aldeburgh which connect with FFB6. As a route along the road is already within other proposals, road safety analysis will already have been undertaken and found to be acceptable.
289. Extra works would be needed to establish the gap and trail through the dense grass. More length of fencing would also be required to keep people separated from livestock. Following my site visit, Suffolk County Council secured cost estimates to establish stock-proof fencing if [redacted] suggested route was adopted between S008 and S009. The estimated cost is £3,700 for 360m of standard stock fencing with plain wire. For comparison purposes, an updated estimate was supplied to fence the section of seawall as proposed, which amounts to £2,472 for 196m. These costs include a new pedestrian gate at roadside for the proposed route and a field gate for the modified route.
290. All things considered, the increased cost of £1,228 for the modification is not excessive. Whilst longer and less direct for members of the public, the distance

involved is not appreciable and offers a better overall experience. That said, my role is to consider whether the proposed route strikes a fair balance. Even though I consider a better option exists for S008 to S009 as per the proposed modification, I do not go so far as to say that the original proposal between these points fails to strike a fair balance by reason of the matters raised in objection to this short section when weighing up the level of interference on agricultural operations with public benefit.

Conclusions

291. Since the majority of FFB5 is already in public use, there is no sound basis to conclude that it should not be adopted as part of the trail.
292. The position with FFB6 is more complex because this stretch between Ramsholt and Bawdsey has no existing public access. It is currently undisturbed farmland along an extensive stretch of sensitive coastline with internationally important designations.
293. The location of the trail within the folding would prevent coastal views along most of FFB6. The coastal experience would thus be limited to possible sounds and smells of the estuary. With that in mind, the recreational benefit to the public would be limited. That is particularly so when NE expects this section to be lightly used. Such use could nonetheless have significant impacts for nature conservation.
294. The introduction of people and dogs to a stretch previously undisturbed by land-based human and canine activity gives rise to the potential for significant adverse impact upon wildlife and birds in particular. In bringing forward the proposals, steps have been taken to address disturbance to birds as more particularly described in the HRA. I consider that the HRA satisfactorily addresses impacts on qualifying features of the European sites. However, nature conservation concerns remain from the objectors, the RSPB and Suffolk Wildlife Trust.
295. Specific concern is raised by objectors and others over the impact upon marsh harrier known to nest along FFB6. Whilst not a qualifying feature of the European sites for the purposes of HRA, all species of harriers are statutorily protected. Whether and how the species might be affected by opening up FFB6 to the public cannot be gauged in the absence of up-to-date or specific assessment. Similarly, it is uncertain whether the mitigation measures suffice for their preservation. Without more information, the worst case scenario must be assumed.
296. In terms of alternatives, the seasonal restrictions on the ferry service do not make it a suitable option as the main trail. The aim of achieving a route for the whole of the English coast would not be achieved as there would be no link between Felixstowe and Bawdsey for several months of the year. There is no up-to-date assessment to indicate that the ferry service could be viable to warrant public funding for an improved all-year round service that also meets accessibility criteria.

Recommendations

FFB5

297. I conclude that the proposals for FFB5 do not fail to strike a fair balance as a result of the matters raised in relation to the objections. I recommend that the Secretary of State makes a determination to that effect.

FFB6

298. In terms of FFB6, I recommend that the Secretary of States requires an up-to-date and specific assessment of the extent to which marsh harrier may be affected before considering the proposals further. Without such an assessment the risks to a protected species are unknown and there is uncertainty over whether the intended mitigation suffices. In consequence, I am unable to properly weigh up whether or not the proposals strike a fair balance.

299. Subject to the above, or if minded to approve the proposals in any event, then I recommend that the Secretary of State does so with a modification to route section S008 to S009 of FFB6 along the alignment proposed by [redacted] over his own land, as indicated by a green line on the map at Annex B of this report. This would deliver a better solution than the proposal, to the benefit of both owner/occupier and the public, albeit at some higher cost to the public purse in establishment and future maintenance of a longer stretch of fencing.

300. Should the Secretary of State find in favour of such recommendation then modifications would be required to the route shown on map FFB 6c – Ramsholt Marshes to Bawdsey Quay as per Annex B. The third bullet point of Table 6.2.4 would need to record that the stock proof fence on the folding between the trail and flood defence wall would be between sections FFB-6-S003 to FFB-6-S007, not S008. Underneath, a new bullet point would need insertion to record a stock proof fence along S008 between the trail and field, installed 4m seaward side of the ditch line, as a physical barrier to people and dogs. No changes would be needed to the proposals table at paragraph 6.3

K R Seward

APPOINTED PERSON

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

Habitats Regulation Assessment

301. This is to assist the Secretary of State, as the Competent Authority, in performing the duties under the Conservation of Habitats and Species Regulations 2017 (as amended) ('the Habitats Regulations').
302. The Competent Authority is required to make an Appropriate Assessment (AA) of the implications of a plan or project for the integrity of any European site in view of the site's conservation objectives. The appropriate nature conservation body must also be consulted, in this case NE. If the AA concludes that an adverse effect on the integrity of a European site cannot be excluded beyond reasonable scientific doubt then consent for the plan or project can only be granted if: there are no alternative, less harmful, solutions; the plan or project must be carried out for imperative reasons of overriding public interest and compensatory measures will be provided, which maintain the ecological coherence of the UK National Site Network.
303. NE has undertaken a 'shadow' Habitats Regulation Assessment (the HRA) for the whole of the Felixstowe Ferry to Bawdsey stretch of the England Coast Path. The HRA, signed off on 22 March 2020, is recorded separately in NE's suite of reports. It provides the information to inform the Competent Authority's AA in accordance with the assessment and review provisions of the Habitats Regulations and has been considered in making this recommendation. The HRA considered the potential impacts of the coastal access proposals (including likely significant effects) on the Deben Estuary Special Protection Area (the SPA) and the Deben Estuary Ramsar site (the Ramsar site), as designated European sites. The HRA is considered to have identified the relevant sites affected by the proposals. The proposals are not directly connected to or necessary to the management of the European sites', therefore a HRA is required.
304. The HRA screening exercise found that as the plan or project is not either directly connected or necessary to, the management of all of the European sites' qualifying features, and/or contains non-conservation elements, further HRA was required. In considering the need for further assessment, NE concluded that the plan or project alone is likely to have a significant effect on qualifying features, namely: avocet (non-breeding), dark bellied brent goose (non-breeding) and narrow-mouthed whorl snail. As the plan or project is likely to have significant effects (or may have significant effects) on some or all of the qualifying features of the European Sites alone, the overall Screening Decision found that further AA of the project alone was required. 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.
305. The scope of the AA is set out in Table 3 (pages 24 to 26) of the HRA and identifies the sites and qualifying features for which likely significant effects 'alone' or 'in combination' are likely or cannot be ruled out. Section D3 of the HRA sets out the assessment of AEol for the identified likely significant effects. It includes design

features of the proposals to mitigate risk of disturbance, as summarised in Table 8 (pages 63 to 72) such as trail alignment away from the shore, new advisory and information signs, new dog proof fencing and directions to exclude the vast majority of saltmarsh and mudflat. The AA found the risks to achieving the conservation objectives identified in Section D1 are effectively addressed by the proposals and no AEoI (taking into account incorporated mitigation measures) can be concluded in terms of:

- Disturbance of non-breeding avocet and non-breeding dark-bellied brent geese
- Loss of abundance of the narrow-mouthed whorl snail through trampling
- Trampling of supporting habitat of non-breeding avocet, non-breeding dark-bellied brent geese and narrow-mouth whorl snail
- Loss of habitat through installation of access management infrastructure

306. In section D4 of the HRA, NE considered the need for further assessment of AEoI considering the project in combination with other plans or projects. NE states that in this case the potential for adverse effects from the plan or project has been wholly avoided by the incorporated or additional mitigation measures outlined in Section D3 of the HRA. It concluded that there are no residual and appreciable effects likely to arise from this project which have the potential to act in combination with those from other proposed plans or projects. As such, 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 SPA or Ramsar sites either alone or in combination with other plans or projects.
307. Whilst noting these measures, the RSPB is uneasy about opening up a previously undisturbed stretch of coast to public access and the risks of disturbance to birds. Objectors also challenge the accuracy of information over the presence of marsh harrier which they say have continued to breed along FFB6 necessitating cabling works to cease for some months. Concerns are also expressed at the failure to assess the likely levels of use of the new access rights and there may be no minimum level before the possibility of substantial disturbance occurs. All these concerns have been considered in coming to a view on the HRA conclusions.
308. Part E of the HRA sets out that NE is satisfied that the proposals to improve access to the English coast between Felixstowe Ferry and Bawdsey 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 and the information in the HRA provided into account, reliance can be placed on the conclusions reached that the proposals would not adversely affect the integrity of the European sites assessed. It is noted that, if minded to modify the proposals, further assessment may be needed.

Nature Conservation Assessment

309. Although not forming part of the HRA, NE has also undertaken a Nature Conservation Assessment (NCA), which should be read in conjunction with the HRA.

The NCA covers matters relating to Sites of Special Scientific Interest (SSSI) and undesignated but locally important sites and features which are not already addressed in the HRA which are not already addressed in the HRA. The Deben Estuary SSSI covers the whole estuary. There are no Marine Conservation Zones on or near to the Felixstowe to Bawdsey stretch of the proposed England Coast Path which would otherwise be addressed in a NCA.

310. The objections concern the proposals for the stretches of coast between Ferry Cliff to Ramsholt (Report FFB5) and Ramsholt to Bawdsey Quay (FFB6). There are no county wildlife sites along these stretches. In terms of the SSSI, the NCA notes that assent would be needed for certain works including the installation of 4.6km of fencing between the folding and the seawall from Ramsholt to Bawdsey in order to prevent access to the seawall and part of the folding. The erection of associated signage to explain to walkers why access was being prevented would also require assent. In addition, assent would be needed to install fingerposts and waymarkers in multiple locations, most of which would be outside the SSSI boundary.
311. Chapter D7 of the NCA assesses the potential nature conservation impacts of the proposals for the 5km (approximately) between Ramsholt and Ferry Road, Bawdsey. No assessment of potential impacts is attempted for the adjoining stretch between Ferry Road, Bawdsey and Bawdsey Quay because the area is already so busy with human activity that any effects resulting in establishment of the England Coast Path are expected to be negligible and public access would be excluded from any potentially sensitive habitats within the coastal margin.
312. There are no existing public rights of way along the stretch between Ramsholt and Ferry Road, Bawdsey which is primarily saltmarsh hosting a wide range of waterbirds. One of the most important species found here is avocet whose favoured roost site on the estuary is saltmarsh. Other notable species are brent geese. Whimbrel have also been recorded. NE considers that its proposals are unlikely to have a detrimental effect on wintering and migratory waterbirds for several reasons:
- The location of the trail at low level on the folding rather than on the seawall
 - The absence of spreading room/accessible areas landward of the trail
 - The extent of landward habitats should enable birds to locate themselves far enough away from the proposed route to avoid disturbance
 - Fencing of the tightly constrained trail all the way between Ramsholt-Bawdsey
 - The length of the trail (without a circular route) would be likely to limit the number of walkers and mean they would pass through relatively quickly.
313. Aside from waterbirds, the NCA notes the presence of marsh harriers, short-eared owls and hen harriers. The NCA explains that marsh harriers are present on the Deben all year round and have nested here for 25 years. Marsh harriers are listed under Schedule 1 of the Wildlife and Countryside Act 1981. The NCA recognises the additional protection conveyed to marsh harriers when nesting and that harriers and short-eared owls roosting close to the trail could be adversely affected by trail users. Nevertheless, it is considered that harriers are more likely to favour denser cover such as areas of reeds which, to a large extent, are separated from the proposed trail by borrowdyke. Given the mitigating factors identified above, the NCA considers it unlikely that levels of disturbance will have a substantial impact on these species.

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314. Records identify various other breeding birds in the locality and other species of note include common lizards and water voles. Taking into account a range of other species, NE feels that the proposed route alignment strikes an appropriate balance between coastal access and wildlife legislation.
315. Apart from a small area north of Bawdsey, it is proposed that public access to the majority of saltmarsh be excluded under section 25A of the Countryside and Rights of Way Act 2000.
316. NE was satisfied that the proposals to improve access to the English coast between Felixstowe Ferry and Bawdsey, including the objected sections, were fully compatible with its duty to further the conservation and enhancement of the notified features of the SSSI and consistent with the proper exercise of its functions.
317. In respect of breeding marsh harriers and the local wildlife sites along this stretch of coast, NE is satisfied that in developing new access proposals an appropriate balance has been struck between NE's conservation and access objectives, duties and purposes.
318. However, there has been no specific assessment of the marsh harrier which is known to be present along this stretch of coast, added to which local people report of nesting sites in recent times. Without specific assessment, there is uncertainty over whether the mitigation suffices to reduce any potential significant effects. Therefore, I find that there is currently insufficient evidence to give rise to the conclusion that, in respect of the relevant sites or features, the appropriate balance has been struck between NE's conservation and access objectives, duties and purposes.

-END-

ANNEX B

