



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

by [redacted] BSc(Hons) DipTP DMS MA MRTPI

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

Date

Marine and Coastal Access Act 2009

Objections by:

[redacted], [redacted] (Lower Halstow Yacht Club), [redacted] (Lower Halstow Yacht Club), [redacted] and [redacted], [redacted], [redacted], [redacted], and [redacted]

Regarding Coastal Access Proposals by Natural England

Relating to Funton Brickworks to Lower Halstow

Site visit made on 11 November 2021

File Refs: MCA/IGR/4/1, MCA/IGR/4/3, MCA/IGR/4/4, MCA/IGR/4/5, MCA/IGR/4/6,
MCA/IGR/4/8, MCA/IGR/4/9, MCA/IGR/4/10 & MCA/IGR/4/11

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List of Main Abbreviations used in the Report

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| 2000 Act | Countryside and Rights of Way Act 2000 |
| 2009 Act | Marine and Coastal Access Act 2009 |
| AEoI | Adverse Effects on the Integrity |
| BWVK | Bird Wise North Kent |
| CASC | Community Amateur Sports Club |
| CLA | Country Land and Business Association |
| CSS | Countryside Stewardship Scheme |
| HRA | Habitats Regulations Assessment |
| KCC | Kent County Council |
| LHSC | Lower Halstow Sailing Club Ltd |
| LHYC | Lower Halstow Yacht Club |
| MCZ | Marine Conservation Zones |
| OS | Ordnance Survey |
| Ramsar | Medway Estuary and Marshes Ramsar site |
| NFU | National Farmers Union |
| NE | Natural England |
| Report | Report IGR 4: Funton Brickworks to Lower Halstow |
| SSSI | Site of Special Scientific Interest |
| SPA | Special Protection Area |

Objection References: MCA/IGR/4/1, MCA/IGR/4/3-6 & MCA/IGR/4/8-11**Funton Brickworks to Lower Halstow**

- On 15 January 2020 Natural England submitted Coastal Access Reports to the Secretary of State for Environment, Food and Rural Affairs setting out proposals for improved access to the coast between Iwade and Grain 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.
- The objections concern Natural England's Report IGR 4 for land between Funton Brickworks and Lower Halstow. Specifically, the land in the Report to which the objections variously relate is route sections IGR-4-S005 to IGR-4-S016, as shown on Map IGR 4b.
- The objections are made variously under paragraphs 3(3)(a), 3(3)(c), 3(3)(d), 3(3)(e) and 3(3)(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 objections.

Summary of Recommendation: I recommend that the Secretary of State makes a determination that the proposals do not fail to strike a fair balance in respect to the objections considered herein.

Preliminary Matters

1. On 15 January 2020 Natural England (NE) submitted Coastal Access Reports to the Secretary of State setting out proposals for improved access to the coast between Iwade and Grain. The period for making formal representations and objections to the Reports closed on 11 March 2020. I have been appointed to report to the Secretary of State on the objections.
2. There are other admissible objections to the Reports concerning improved access to the coast between Iwade and Grain. Although some of these other objections also relate to Report IGR 4, they concern different route sections and, as such I have considered it expedient to address them separately in other reports to the Secretary of State.
3. I conducted a site inspection on 11 November 2021. I was accompanied by the objectors, as well as by representatives from NE and from Kent County Council (KCC).

Main Issues

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

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

6. The second objective is that, in association with the England Coast Path, a margin of land along the length of the English coast is accessible to the public for

the purposes of its enjoyment by them in conjunction with the coastal route or otherwise. This is referred to as the coastal margin.

7. Section 297 of the 2009 Act provides that in discharging the coastal access duty NE and the Secretary of State must have regard to:
 - (a) The safety and convenience of those using the trail,
 - (b) The desirability of that route adhering to the periphery of the coast and providing views of the sea, and
 - (c) The desirability of ensuring that so far as reasonably practicable interruptions to that route are kept to a minimum.
8. They must also aim to strike a fair balance between the interests of the public in having rights of access over land and the interests of any person with a relevant interest in the land.
9. Section 301 of the 2009 Act applies to river estuaries and states that NE may exercise its functions as if the references to the sea included the relevant upstream waters of a river.
10. My role is to consider whether or not a fair balance has been struck. I shall make a recommendation to the Secretary of State accordingly.

The Coastal Route

11. Forming part of the England Coast Path between Iwade and Grain, the length of path under consideration is contained within Report IGR 4: Funton Brickworks to Lower Halstow (the Report) and includes two sections of path as shown on Maps IGR 4a and 4b. The objections relate variously to sections IGR-4-S005 to IGR-4-S016 inclusive, referred to as 'S005-S016' henceforth. For the sake of brevity, I have also used this abbreviated format to refer to the individual sections, so that, for instance, IGR-4-S014 is simply 'S014'.
12. Although the Funton Brickworks to Lower Halstow trail follows existing walked routes along part of this length, S005-S016 would largely be new paths. The exceptions are S005 which is public footpath and S007 which crosses public highway, Sheerness Road.
13. The Funton Brickworks to Lower Halstow trail would also include a significant inland diversion, including via Great Barksore, considered by NE to be necessary to avoid important and sensitive wildlife sites on Barksore Marshes. Consequently, along S004 to S012 the trail would provide mostly long distance views of Medway Estuary and involve the crossing to Sheerness Road close to its junction with Basser Hill. S014 to S016 would though follow the coastline closely with views of Halstow Creek.
14. The proposed trail here would be located to the south of the Medway Estuary and Marshes Special Protection Area (SPA), Medway Estuary and Marshes Ramsar site (Ramsar), the Medway Estuary and Marshes Site of Special Scientific Interest (SSSI), and the Medway Estuary Marine Conservation Zone.
15. As alluded to above, along S001 to S013 the trail is proposed to be aligned inland of Barksore Marshes and the coastline near Great Barksore Farm. This is intended to prevent disturbance, by recreational users, of breeding, wintering

and on passage birds which are found using the shoreline, grazing marsh and seawall at Barksore Marshes.

16. Moreover, access to the mudflats and saltmarshes in the coastal margin seaward of S001 to S024 is proposed to be excluded all year round by direction under Section 25A of the Countryside and Rights of Way Act 2000 (the 2000 Act) as this land is unsuitable for public access. The mudflat is soft and sinking, does not provide a safe walking surface and is subject to frequent tidal inundation.
17. Access would also be excluded at grazing marshes, channels and seawall at Barksore Marshes seaward of S003 to S008 and S009 and S012 by direction under Section 26(3)(a) of the 2000 Act, all year. This is to avoid disturbance to internationally important numbers of breeding, on passage and wintering birds, and of feeding, passage and wintering birds respectively.
18. Access would additionally be excluded to the Lower Halstow Yacht Club (LHYC) seaward of S013 by direction under Sections 24 and 25 of the 2000 Act, all year round. This would be for land management and public safety reasons, bearing in mind, for instance, that tractors tow boats to and from the slipway and across LHYC grounds. NE states that this would prevent disturbance to ongoing commercial activity and LHYC operations.
19. The foregoing directions would not prevent or affect any existing local use of the land by right, such use is not covered by coastal access rights; any other use people already make of the land locally by formal agreement with the landowner, or by informal permission or traditional toleration; or use of any registered rights of common or any rights at common law or by Royal Charter. Any such use would not be prohibited or limited by these arrangements.
20. Shooting activity occasionally takes place at Great Barksore Farm. During these times, which are usually at dawn and dusk, public access may be temporarily diverted away from the main trail alignment between S009 and S010 into adjacent fields. This arrangement would continue without any local restriction on new access rights to give effect to it formally.
21. The landward margin to S012 to S016 contains a coastal land type in the form of a bank, while the landward margin to the rest of S005-S016 contains no coastal land type. It is not proposed to align the landward boundary of the coastal margin on S005-S016 with any physical feature. No roll-back is proposed nor landward boundary of margin for any of the trail sections in question.

The Objections

22. [redacted] owns land and property at Harval on Sheerness Road that would be affected by the proposed trail. [redacted] states that security would be severely compromised by allowing the trail through the farm close to grain and machinery storage barns. [redacted] adds that the trail would also pass adjacent to his home and open garage, containing his and his wife's cars and garden tools, and the farm office. [redacted] also describes the proposed route here as erratic and zigzagging, adding that it is not necessary as the Saxon Shore Way already fulfils the needs and objectives of the England Coast Path.

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23. [redacted] of LHYC objects as a tenant and occupier. [redacted] advises that LHYC is a not for profit, Community Amateur Sports Club (CASC), that leases the land on an exclusive use basis. [redacted] states that LHYC believes that if the trail is established through its land, it would breach the security, privacy and safety members currently enjoy. [redacted] adds that NE has refused any assistance, other than a few signs, LHYC would be forced to invest heavily in further infrastructure to protect members and their property. [redacted] maintains that LHYC does not have the budget for new fencing, so the costs would have to be met directly by its members. [redacted] adds that this would be likely to breach HMRC rules on CASCs, leading LHYC being denied the benefits of CASC status. [redacted] adds that at a time when similar clubs are struggling to survive, this would seriously impact the financial position of LHYC, and queries how this could be a fair balance.
24. [redacted] raises a number of other points:
- There would be no public gain bearing in mind the ‘vast’ areas of excepted land where the public would not be permitted to access;
 - Jeopardising LHYC’s CASC status and the benefits it brings, could also lead to a loss of income to the landlord if LHYC were unable to meet its rent payments;
 - The proposed trail would run within a few metres of LHYC windows, through LHYC’s curtilage contrary to the Scheme, including its paras 5.4.1 to 5.4.3;
 - The trail would skirt the arable fields of Harval Farm that can be very muddy and follows the fence line along two sides of the garden of the adjoining house encroaching on their privacy; and
 - The proposed route is far from direct, heading a considerable distance north before returning to the road just a short distance from where it started, whereas the alternative Saxon Shore Way is direct and does not cross muddy arable fields;
25. [redacted] also makes comments regarding certain sections of the trail. Firstly, regarding S011, [redacted] queries where the trailers would go bearing in mind that this section would pass through the trailer storage area between LHYC’s main entrance gate and the start of seawall. [redacted] adds that the indicative coastal access proposals for land owned by ‘IGR2761’ April 2019 shows “Proposed new or changed infrastructure”, but these are not shown on the current plan. Regarding S012 [redacted] also says that although LHYC was offered a new vehicle access gate this was not included in the final plan.
26. Concern is expressed regarding the proximity of S013 to LHYC buildings and stored kayaks and canoes, the latter of which are lightweight, easily transportable and easily sold thus making them a target for thieves. [redacted] adds that they are currently out of sight behind a storage container whereas the proposed trail would make them open to view and vulnerable to theft. Its proximity to windows of LHYC house, including a shower, would encroach on members’ privacy.
27. S014 would run alongside a grassed picnic and barbeque area also used by members as a play area whilst their parents are preparing to use their boats and working on their boats during the winter. [redacted] considers that LHYC is currently a safe fenced area for children, whereas the routing of the trail here

would present considerable safeguarding issues for members' children, particularly as NE has refused to provide any additional fencing.

28. This section would, in his view, also become a popular dog walking route given its close proximity to Lower Halstow Village, forming an excellent circular route linking with the Saxon Shore Way. [redacted] is concerned that this would lead to dog fouling as currently occurs along the seawall to the west of Lower Halstow village, which he says would not be acceptable on LHYC land, including the grassed picnic and children's play area. [redacted] does not consider that signs would make any difference.
29. Also, in respect to S014 [redacted] states that during the summer, there is often a large group of youths that trespass on the adjoining land owned by Lower Halstow Sailing Limited, who can be very noisy and normally leave a large amount of litter. In [redacted] view the current boundary fence and locked gate keeps them out, but if access were to be opened up, [redacted] anticipates that they would move onto LHYC's land. [redacted] queries why LHYC should be responsible for clearing up after them.
30. Regarding S015 and S016 [redacted] states that at the boundary of LHYC's property there is a locked pedestrian gate alongside a locked vehicle access gate. [redacted] adds that during January 2018 LHYC was burgled and the vehicle access gate broken down, with LHYC equipment having been removed along the seawall on a wheeled trolley. [redacted] also says that NE had advised that a pedestrian only access would be provided that would block wheeled access, yet the current plan shows the "Existing Pedestrian Gate to be retained." [redacted] adds that if NE is not going to replace this as previously agreed to prevent wheeled access, LHYC would keep the gate locked shut. [redacted] also states that there is no mention how NE would protect this from interference by unauthorised persons.
31. [redacted] also says that there has been no mention how NE will protect LHYC's electricity supply, including a meter and isolator mounted in a box approximately 1.5m above ground level, delivered via a pole on the seawall which is located just inside the forementioned gate.
32. In respect to alternatives to the proposed trail route, [redacted] refers to the existing Saxon Shore Way located some 100m from LHYC, and states that it does not seem as though the short section along the road was given reasonable consideration in terms of ways of connecting it to the next trail section at Bassier Hill. [redacted] also refers to the Report stating that this part of the proposed trail "avoids the trail and coastal margin affecting additional businesses and properties, both inland of Sheerness Road and everything seaward of the road." [redacted] comments that this is irrelevant as the trail along S008 to S024 would have no public access, such that members of the public would have no justifiable reason to access land between these points.
33. [redacted], also of LHYC, raises similar concerns, points and objections to [redacted]. [redacted] also expressly states that the effect of the trail would be to interfere significantly with the operational needs of LHYC coastal businesses or organisations, such as sporting clubs, contrary to section 5.2.1 of the Scheme. [redacted] also refers to LHYC's location at the head of a creek and its usage, which is tied to times of high tides, and that as such the facilities could be in use

at almost any hour of the day, thus having an effect on privacy comparable to its effect on occupants of residential property. In addition to concerns regarding theft [redacted] expresses concern for the safety of users of the trail while at LHYC site including in respect to them potentially falling off boats and boats toppling over on to them. [redacted] is also concerned that such safety issues could lead to personal injury lawsuits and / or place a great financial burden on LHYC in terms of increased insurance.

34. Regarding the consideration of alternatives, [redacted] makes similar points to [redacted] including that insufficient consideration has been given to the use of the Saxon Shore Way rather than the proposed route. Additionally, [redacted] states that as LHYC is located at the head of Halstow Creek and is reached by the tide for only approximately 3 hours either side of high tide, the 'views of the sea' from this proposed stretch of the trail are limited. [redacted] also maintains that the section of proposed trail on land neighbouring the Club skirts Great Barksore Farm such that it would provide little view of the sea as it borders areas with no public access. [redacted] concludes that the suggested 'public gain' of this particular section of the trail over one which utilises the Saxon Shore Way clearly does not outweigh the cost.
35. [redacted] also queries the basis for highway safety concerns raised by the local highway authority which he considers have influenced the choice of the route. [redacted] does not rate any crossing point to be more dangerous than that proposed at S006 to S008 and adds that a crossing already exists for the Saxon Shore Way near the church at Lower Halstow and a similar link into the Saxon Shore Way at what is presumably S005 would provide a simpler solution and not miss much of the 'adhering to the periphery of the coast and providing views of the sea'.
36. [redacted] and [redacted] are tenants at Great Barksore Farm Cottage. They chose to live in this location many years ago due to security, privacy and a friendly environment which enhances well-being and satisfaction, and these have not altered since then. They say that as the farm gate is always kept locked their home is secure from the front, but that the trail proposal would allow access from the rear, which they see as being totally unacceptable. They consider that the general public having access to these fields next to their home would jeopardise those reasons for having moved to the location and illustrates the lack of fair balance. It seems to them that NE wants public access at all costs.
37. [redacted] and [redacted] are also critical of NE's proposals for when the proposed trail becomes unusable, describing the alternative proposed for when shooting takes place as ridiculous, and they query whether NE can take responsibility for the safety of the public. They state that [redacted] should have the right to shut the path on these occasions on public safety grounds. They add that walkers would then use the Saxon Shore Way, which in their view means there is no justification for this proposal in the first instance. They also say that there is no requirement in the Act for the path to extend up an Estuary, adding that the Medway already has a very comprehensive path, the Saxon Shore Way, and significantly large areas of restricted land, so there is almost no public gain. They believe that NE has not struck the correct balance with its proposals.

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38. [redacted] is a tenant at Great Barksore Farm Cottage. [redacted] says that [redacted] often walks from the farm along Sheerness Road to the Saxon Shore Way, both night and day to get to and from the village. At night [redacted] uses a torch and says that he has never had a problem with traffic on the road. [redacted] feels that the security of both the farm and the residents has been totally overlooked and would be of a concern. [redacted] also says that the privacy issues have also been overlooked, and adds that one of the reasons [redacted] moved onto the farm was for the privacy and security that it provides as [redacted] home is protected by the locked farm entrance gate, but with the proposed trail, the public would be able to access [redacted] and other residents' properties and the farmyard buildings. [redacted] considers that this is not a fair situation, which has not been taken into account.
39. [redacted] is also of the view that if the speed limit of Sheerness Road were to be reduced and repairs carried out then the trail could be joined with the Saxon Shore Way.
40. [redacted] of Lower Halstow Sailing Club Ltd (LHSC), states that LHSC has not been formally notified by or had discussions with NE regarding the trail. [redacted] adds that LHSC strongly objects to the trail route as, in [redacted] view, it would significantly harm use of LHSC's land.
41. [redacted] also considers that there are viable options available to NE which would satisfy its requirements. For instance, in [redacted] view road safety issues could be addressed by aligning the trail on the Saxon Shore Way for the 0.2 miles of the Sheerness Road and in so doing the path would make onward progress, would be pleasant and convenient to walk and would be safe. Alternatively, [redacted] adds, a new section of path could be created on land south of the Sheerness Road to meet the existing footpath ZR 50, a further new section could then be added through the redundant orchard linking ZR 50 to the existing Saxon Shore Way just south of the property called Woodpeckers. [redacted] considers that these options would not create any new negative impact on any person with a relevant interest in the land other than creating a small area of coastal margin and would be considerably cheaper.
42. [redacted] lives at Great Barksore Farm. [redacted] refers to objections submitted by [redacted], with which [redacted] agrees, including that [redacted] feels that the appropriate balance has not been struck. While [redacted] acknowledges the value of a walk in the countryside and spending time by the water, [redacted] contends that the destruction to habitat, the failure to meet key criteria within the Scheme and the presence of an existing path already used by the public leads [redacted] to conclude that this proposal should be removed.
43. [redacted] feels that the process has been daunting, at times overwhelming and confusing, has had a massive impact on well-being, and is difficult to deal with in the time given. In particular, with reference to the Habitats Assessment and Nature Conservation Reports, [redacted] is disappointed with the conclusions that have been drawn regarding the impact on their land. In [redacted] opinion the farm offers a significant refuge, shelter and corridor to wildlife and vegetation because of the lack of disturbance, as reflected in the presence of barn owls, short-eared owls, English and French partridges, gadwall, mallard, teal, water rail, coot, moorhen, osprey, heron, buzzard, turtle dove, egret, kestrel, sparrow

hawk, hen harrier, hoopoe and white throat – some breeding, some reside on the home farm.

44. [redacted] considers that the true impact, the level of destruction and disturbance that this proposal would cause has not been recognised and has significant concerns about the lack of protection afforded through legislation. In [redacted] view, there are no real methods to police and enforce the exclusion zones, which [redacted] considers would cause considerable problems, and adds that the scale of their farm, being reasonably small, means the impact of public access is massive, which she feels does not strike a fair balance.
45. [redacted] questions the public gain as there are limited views to the water, the terrain is very difficult, uneven and currently dangerous. [redacted] also says that the proposed trail route would take at least double the time to reach the village and as there are such large areas where the public are prohibited, they would have a sense of disappointment when they finally reach the same point as the Saxon Shore Way.
46. [redacted] refers to how farming is treated in the Scheme compared to other industry, such as docks, and states that any public access on a farm has a significant impact on land management, bio-security and personal safety. [redacted] feels that NE has correctly identified that activities at LHYC are not compatible with access on or through the site and yet [redacted] business does not get the same protection and refers to the proposed route crossing the busiest farm gate on site.
47. [redacted] states that an arable field is as important to the farmer as an author's notes to his next book, adding that it is simply wrong to look at a field and think it is okay to let the public wander through it. [redacted] states that the operations on the farm involve large machinery and pose a serious risk, including potential death. In [redacted] view, there is no justification for not using the same guidelines used at LHYC for their farm, such that the proposed route should be rejected and the alternatives adopted.
48. Regarding mental health and well-being, [redacted] says that the human condition when not stressed is referred to as 'Rest and Ingest', the normal state that the body and brain operates most of the time, and the state that we should be in for the majority of the day. [redacted] adds that the human brain has an innate mechanism called 'Fight and Flight', when the brain automatically shuts down certain responses and focusses entirely on survival, creating adrenalin and should be a short-lived episode. [redacted] also states that the impact on the body and brain during Fight and Flight is significant and draining. [redacted] considers that the proposed route has already and will continue to trigger a 'Fight and Flight' mechanism on a daily basis as [redacted] and others effected will have the stress and anxiety of finding the public on private farm, vandalism, trespass, litter and dogs running wild. The proposed route, in [redacted] view, would take away all safety, privacy and security, and cannot be fair.
49. [redacted] maintains that there are real and viable alternatives which should be used, including the Saxon Shore Way, which is well marked, is easy to use, the ground is firm and level, and the route direct. [redacted] adds that there are limited sea views, thus meeting some of the criteria of the Scheme, while its alignment would not cause any damage to habitats and wildlife, with no loss to

the landowner and the public purse would also be in a better situation as the infrastructure costs are minimal as would be the ongoing costs. In [redacted] view, it would be perfectly feasible for the following approach to be adopted: as S005 leaves the field the trail and its associated rights be suspended, and walkers advised to use the Saxon Shore Way or the trail should be overlaid on to the Saxon Shore Way.

50. [redacted] is also concerned that the proposed route could result in the loss of farm income, which the Scheme advises against. [redacted] also believes the route would affect the curtilage of [redacted] buildings and those of neighbours. [redacted] also points out that [redacted] sells homemade and home grown produce at her garden gate, which users of the Saxon Shore Way stop and buy, the income from which goes to the local church and gardening club. [redacted] states that it raises between £200 and £300 per season, and that [redacted] has donated about £5,000 to date. While [redacted] states that by encouraging walkers away from the Saxon Shore Way many people would miss out and the money raised compromised, [redacted] also says that she can almost guarantee that regular walkers will simply stick to the Saxon Shore Way in order to buy [redacted] produce. [redacted] adds that drivers constantly park alongside her garden verge to buy items, thus having a positive impact on traffic management.
51. With reference to the Scheme recommending that 'where there is a choice of options which would meet a local need, we will give priority to the option', [redacted] states that local need has been identified by KCC and so this should be given priority. [redacted] adds that in so doing 6.4.2 of the Scheme would also be address by providing a route 'which people will generally prefer' given that, of those [redacted] has discussed the matter with, including local residents, friends and passers-by, the vast majority would prefer to see the Saxon Shore Way adopted and any road safety issues addressed. [redacted] adds that once they have understood the nature of the ground and the lack of spreading room on the path through the farm, they are disappointed. [redacted] concludes, in the light of what [redacted] describes as the significant harm caused, putting protected areas at risk and failing to meet the aspirations of serious walkers, this proposal should be removed.
52. [redacted] adds that any road safety issues should be addressed and the trail aligned on the Saxon Shore Way. As appendices to her objection [redacted] also includes a number of quotes from newspaper articles and describes a scenario of a visitor to the area and their experience of using the Saxon Shore Way compared to the proposed trail route.
53. [redacted] makes two lengthy objections, the full detail of which, like all of the objections, can be found on the case file. Overall, [redacted] concludes that the proposed trail route fails to strike the appropriate balance between the interests of the public and the interests of the landowner.
54. [redacted] adds that there have been failings by NE in the preparation of the Report in terms of failing to:
 - (i) Engage fully with the landowner at the development stage, with issues presented in the published proposals that are being seen by the landowner for the first time, while concerns raised by the landowner, like the extent of the conservation assessment carried out, have not been addressed;

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- (ii) Consider alternative options that did not include Great Barksore Farm - whilst the Saxon Shore Way was considered, no consideration was given to improving that existing trail to address the concerns raised by KCC;
 - (iii) Take account of significant risk to habitats - the strained layout of the route increases the risk of trespass and this has not been properly considered in the assessment; and
 - (iv) Strike a fair balance between the interests of the public and the interests of the landowner, including failing to take account of the economic effect of these proposals and on the physical and mental health and well-being of the family.
55. [redacted] also states that there is limited public benefit in the proposed trail route, providing a route but in a most unsatisfactory way in that:
- (i) It would not get close to the coast due to the restrictions and/or exceptions and therefore does not increase access to the coast and provides only limited views of the estuary - it fails on this key objective;
 - (ii) It would provide no spreading room - it also fails on this key objective;
 - (iii) It would not include any features of significant interest to justify its alignment;
 - (iv) It would not be safe and convenient to walk; and
 - (v) It would follow a convoluted and confusing route that has no sense of direction or onward progress - all of which would lead to frustration for walkers and a sense of being lost.
56. [redacted] goes on to say that the trail would have a significant effect on the landowner in that there would be:
- (i) A clear potential for significant economic loss if Countryside Stewardship Scheme (CSS) grants are lost and/or LHYC terminates its lease as a result of a lack of security;
 - (ii) The associated loss of the conservation benefits of the CSS strip (S010). Details of the CSS are appended to [redacted]'s written comments;
 - (iii) A further economic loss if hay/straw cannot be sold due to contamination, due for instance to litter and dog faeces, or the perceived risk of contamination. These matters have already been raised by parties who have bought hay/straw from the farm in the past who have been assured that the risk of contamination is very low because there is no public access. Land let for grazing sheep would also be affected;
 - (iv) Increased, inevitable, damage to habitats that the family have worked to create and maintain for several decades and whose efforts have been recognised by its status as a Ramsar site and other conservation status. It would be a bitter personal, as well as environmental, blow if all of that hard work were lost for little gain; and
 - (v) Increased risk of Alabama Rot entering the farm, and the absence of public access has allowed the conservation work above to flourish and provides the necessary biosecurity.
57. [redacted] also disagrees with the NE's conclusion that the proposed trail route satisfies the criteria and principles of the Scheme and strikes a fair balance, which [redacted] considers are a result of construing desirable characteristics as absolute, overlooking the flexibility contained within the Guidance intended to

address a variety of situations. In [redacted] view there are far better options available which provide greater benefit to the public, satisfy the relevant criteria and strike a fairer balance between the interests of the public and the landowner.

58. [redacted] sets out four different alternatives to the proposed trail route from S006 to S024 each of which he considers would achieve the objectives of the Scheme and strike a fair balance between the interests of the public and private landowners. [redacted] adds that although one of the aims of the trail is to provide a boost to local economies, the proposed route here would keep walkers away from the village, in contrast to his suggested alternative. [redacted] also feels that, rather than follow the proposed trail route, some walkers approaching from the east would make their way along the Saxon Shore Way to the village, as it would feel like a more natural route to take.
59. [redacted] considers that each of his alternatives would provide a sense of onward progress in a safe and convenient way. [redacted] adds that where there are road safety concerns, they can be monitored and addressed, and are something that KCC should be considering in any event as the routes in question are well used. [redacted] also says that [redacted] understands that KCC has only done a preliminary assessment and asks that all proposals and modification proposals should be subject to detailed consideration and assessment.
60. The four alternatives proposed are the Yellow, Green, Blue and Purple routes. For ease of reference, in the following text concerning these alternatives, the points where S005 meets S006 is referred as 'the Junction' and where S024 terminates as 'Brickfield'. Please also note that they are presented as though travelling east to west.
61. The Yellow route equates to the Saxon Shore Way, which [redacted] considers to be the best option meeting the aims of the Scheme. [redacted] says it is convenient, safe and direct, is close to the coastline and has a clear sense of direction and onward progress, adding that it offers an interesting walk through orchards and across pony paddocks, on a good surface and with the estuary visible in part, as well as the masts of boats acting to remind walkers that they are in close proximity to the estuary. At the western end it passes the 11th century St Margaret of Antioch church, a historic feature that will be of interest to many walkers, which [redacted] maintains would be likely to be missed entirely if the proposed trail route were adopted. [redacted] also says that it has the benefit of following existing public rights of way and roads.
62. [redacted] also suggests that a further alternative to the Yellow route would be to interrupt the trail here to allow KCC to carry out a full review of the options available and the road safety features necessary. [redacted] refers to Department of Transport data showing that KCC's perception of the risk is greater than the reality. [redacted] also indicates that this does not mean that all measures to ensure safety should not be considered, and suggests that such measures could include, amongst other things, reducing the speed limit from 60mph, speed bumps, islands providing one-way priority and better signage.
63. The Green route is a variation of the Yellow route / Saxon Shore Way deviating from a section of Sheerness Road to the south of Little Barksore Farm. In summary, [redacted] sees it as having similar advantages to the Yellow route

while also offering the benefits of avoiding part of Sheerness Road, including those associated with highway safety.

64. The Blue route is a greater inland diversion, largely along footpaths R/50 and ZR/51, returning to the proposed trail to the west via Vicarage Lane. [redacted] does not consider this to be a significant detour in context and maintains that the estuary is out of sight relatively briefly along the route. [redacted] refers to Vicarage Road having a pavement for the majority of the route, and considers the Blue route at large to be safe and convenient for walkers, and capable of use at all times.
65. The Purple route is a further variation on the Yellow route, incorporating a section that runs parallel to Sheerness Road to the north within Great Barksore Farm. The benefits of this route identified by [redacted] are similar to those of the Yellow route and [redacted] also considers that safety and visibility are comparable to the Green route.

Representations

66. The Ramblers would prefer to see the wider route follow the sea wall around Barksore Marshes, but in the absence of a route along the sea wall, they fully support the proposed route to the north of Great Barksore Farm.
67. Historic England states that it does not have any objections to the Iwade - Grain proposal as it considers that it is in general a low impact proposal that would cause little to no harm to heritage significance. Reference is made to specific heritage assets, but none are in proximity to the trail sections considered herein. The grade II listed building Church of St. Margaret of Antioch, located to the east of the sections under consideration herein, is not specifically referred to by Historic England.
68. KCC Public Rights of Way and Access Service supports in broad terms the creation of the England Coast Path and recognises the benefits it will bring to the County. It says that although it is disappointing that the trail is not proposed to be aligned closer to the sea in places, it understands the reasons for the preferred route given the wildlife and environmental constraints of the existing landscape. It also says that it understands the difficulties that have been encountered when balancing public and private interests. KCC goes on to say that while the Saxon Shore Way provides extensive opportunities to explore the North Kent Coast, it does not always follow the principles of the Scheme. It adds that the Saxon Shore Way was limited to passing along public rights of way and highways when it was created in 1980.
69. KCC draws particular attention to the section of trail proposed on Map IGR 4b, where the Saxon Shore Way passes along the Sheerness Road. It notes that NE has acknowledged the advice from the Highway Authority and understood that the Sheerness Road is not suitable for a National Trail, with its expected levels of public use. KCC adds that the proposed trail alignment is welcomed as it would provide a safer off-road alternative to the Saxon Shore Way and adhere to the general principles of the Coastal Access Scheme.
70. The National Farmers Union's (NFU) comments relate mainly to land at Great Barksore Farm and Harval Farm, S008 and S009. Nonetheless, to mitigate

potential effects to the landowners on these sections, it suggests amendment to the trail between S001 and S010. It considers that the trail as proposed would impact on work at and residents of Great Barksore Farm. Reference is made to the alignment of S008 and S009 in close proximity to the main farm buildings and core farming areas used by the business. In the NFU's view the Scheme as proposed would have a disrupting impact on the landowners' business, failing to strike a fair balance between their needs and the wider needs of the public.

71. In summary, the NFU maintains that the proposal would be likely to affect the landowner as follows:

- Countryside stewardship – The current route option causes an immediate impact on existing agreements and may restrict eligibility from participating in similar work in future, thus having a direct financial impact on the farm as well as being a retrograde step for the environmental work they are committed to;
- Farming flexibility – The introduction of a new public footpath would create an additional duty of care to the public, which is likely to be more pronounced if certain breeds of livestock are introduced to the farm, thereby limiting the farming options available. This unit is relatively small and already has a limited number of viable options to support its commercial future. The proposed route would directly impact on the commercial options available, which could be avoided if a different route option is considered;
- Development and Diversification – A range of future options for the farm are currently being considered, involving the conversion of some existing buildings. There is a risk that alignment of the footpath would create an immediate constraint to these plans, which could be managed more sensitively if the alternative route is considered; and
- Security – Given the very close proximity of large urban centres, the designation would expose the Farm's residents and business to a personal level of risk, which has not been needed to be considered previously. This seems to be a great personal price to pay for general public recreation, especially within the circumstances where existing rights of way already provide nearby recreational access. This should also be seen within the context of the very close route that the path would take to the house and farm buildings.

72. Taken cumulatively the NFU believes the combination of issues represents a substantial risk to the farm business where the layers of additional management and restriction that the farm would be compelled to consider would be disproportionate to the level of public benefit achieved. In light of these cumulative, overlapping levels of disruption, it would be very keen to see a direction applied for the purposes of land management, under section 24 of the 2000 Act. In light of the fact that there is no requirement in the 2000 Act to enter estuaries, there seems to be no strict requirement for the route to deviate from the Saxon Shore Way. The NFU recognises the implications this would have for spreading room on the seaward side of the trail, such that it considers that this specific farm should be considered for an exclusion.

73. Country Land and Business Association (CLA) asks that the concerns landowners have in respect of S004 to S024 are taken into account and particularly draws attention to:

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- A contradiction in the Report, with respect to S009, between existing land management practices and proposals for designation of the coastal trail. Para 4.2.26 of the Report states that when shooting takes place at Great Barksore Farm public access may temporarily be diverted into adjacent fields, yet this land would not be publicly accessible due to a year-round s26(3)(a) direction. For public safety, at such times the alternative route should be the Saxon Shore Way; and
 - The proposed trail would follow a convoluted route at S006 to S011. While other options are said to have been considered in the Report, it would pass through primarily agricultural land, most of which is arable. Farmers raise concerns about the impact on their enterprises, especially as there are very limited measures to take account of the impact of the new access on a farming business. The balance has not been struck and as there is no legal requirement within the 2009 Act to enter an estuary, this alignment is unjustified.
74. The CLA add that between Basser Hill and Lower Halstow it would be more reasonable to use the Saxon Shore Way and Sheerness Road, thereby meeting a number of reasons mentioned in the Report, particularly the impact on associated wildlife but also farming practices. It acknowledges the comments of KCC Highways as set out in the Report regarding safety, despite it already being an existing route, but also notes that further east the proposed route would follow the Sheerness Road. It considers that a more consistent approach would benefit both the public and land managers.
75. Regarding the cost of tree removal along the Sheerness Road, the CLA questions whether this could be outweighed by the savings of using an existing route and lack of need therefore of new furniture and establishment works between S006 and S011. It adds that if the Saxon Shore Way were used, in accordance with section 296 of the 2009 Act, the second objective of securing a margin of land for the public to enjoy would be better met.
76. [redacted] comments that the Report only makes passing reference to cycling. Unlike other parts of the Thames and the Kent coast, there is no official cycling trail along the shoreline between Whitstable and Dartford. National Cycle Network 1 is mainly away from the shore, except in Riverside Country Park. The trail should be open to cycling, unless there is a good reason otherwise. Barriers should be removed along the trail and surfaces could be improved in the long term. [redacted] adds that making the trail better for cycling would make it better for disabled access.
77. The Disabled Ramblers are encouraged by the positive changes proposed to improve access for mobility vehicles and note why it is not possible to improve matters in certain places. They are also pleased to read of the inclusion of some step-free routes that will be signposted to get around some unavoidable barriers and thank NE for its hard work on this, and for helping to open up the opportunities available to those with limited mobility.
78. There are a number of other representations from individuals and businesses, some of which make the same or similar points, chiefly but not exclusively in respect to S005 to S024 at large. I have grouped similar points together in the

following paragraphs, such that the same people reappear in respect to numerous points.

79. [redacted], [redacted], [redacted], [redacted], [redacted], [redacted], [redacted], [redacted], [redacted], [redacted], [redacted], [redacted] and [redacted], [redacted], [redacted] and [redacted] maintain that NE has failed to consider that some of the key criteria of the Scheme are that the trail should be convenient and safe, it should make onward progress, and it should reach the coast. In their view, S006 to S024 is a convoluted route and does not improve on the Saxon Shore Way.
80. They add that the proposed route is neither convenient nor safe, with one area full of rabbit holes / divots and another extremely muddy / flooded such that it is impassable for much of the winter. They also consider that the public would not benefit from access to the coast due to the sensitive wildlife areas.
81. [redacted], [redacted], [redacted], [redacted], [redacted], [redacted] and [redacted], [redacted] and A Love Ltd, [redacted] & [redacted] (WMH Leisure), [redacted] and [redacted], [redacted], [redacted], [redacted], [redacted], [redacted], [redacted], [redacted], [redacted] and [redacted] have also made comments regarding the impact of the proposals on the landowners of Great Barksore Farm. In summary these are:
- The trail would cross private land - a different route would be better;
 - How are the owners to police the proposed 'no public access to the water' due to sensitive wildlife areas? There would be no fair balance as the wildlife and the owners would face daily disruption;
 - The farm is a relatively small enterprise and the damage, disturbance and nuisance that public access would bring would be disproportionate;
 - The proposals "do not strike a fair balance between public gain and landowner's loss"; and
 - The owners must be currently suffering economic loss and stress, and if this route is adopted this would continue.
82. [redacted] adds that he knows the land at Great Barksore Farm very well as he has helped the owners with vermin control for the past 20 years. [redacted] believes the proposal is "appalling and totally unnecessary". In his view, the disturbance and destruction that would result from letting the public onto this land would be unjustified, adding that he has written to the owners to explain that he is not prepared to help them with vermin control because of the public safety issues around firearms.
83. [redacted] goes on to say that "As a farmer with multiple footpaths on my land, and suffering from continual disturbance and damage from walkers and their dogs, poachers, trespassers and criminal activity, he fully supports the fight to maintain the status quo, to keep the public off their land for the benefit of his farming enterprise. We should be free to close the path when we need to control vermin, in line with NE's request to do so. The public will then use the existing Saxon Shore Way footpath, which then negates the need for this proposal through his farm at any time."

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84. [redacted] and [redacted] add that as neighbouring tenants to the coastal path and a customer of hay from W H Mouland and Son, they object to the proposed route. They consider that the security of their property would be compromised, and the prospect of contamination of the hay by dog faeces is a strong possibility resulting in having to source feed from elsewhere.
85. In context of him having discussed with W H Mouland and Son the possibility of grazing in-lamb ewes on Great Barksore Farm, [redacted] adds that the proposed route would result in unacceptable disturbance of his flock and fouling of grass by dogs, and so prohibits any chance of this diversification proceeding. [redacted] states that he can see no reason for this proposal to be considered and adds that this is an attempt to create a new right of way only without any financial compensation being offered.
86. [redacted], [redacted], [redacted], [redacted], [redacted] and [redacted], [redacted], [redacted], [redacted], [redacted], [redacted], [redacted], [redacted] & [redacted] (WMH Leisure), [redacted], [redacted] and [redacted], [redacted], [redacted], [redacted] and [redacted], [redacted] and [redacted] have made comments regarding the effect of the proposed trail at S006-S016, Great Barksore Farm, on wildlife. In summary, these are:
- The route would provide easy access to Barksore Marshes and there is no way of preventing visitors from straying on to them. There is a desire among local people to access the marshes, thus leading to a detrimental effect on wintering waders and wildfowl;
 - The proposed route does not adequately mitigate the threat of access to sensitive areas and it would be preferable for the route to continue along the Saxon Shore Way;
 - There is no way of ensuring that dogs are kept on leads along this coastal strip;
 - Aligning the path beside the pond at Great Barksore Farm will cause disturbance to an area of national and international importance for migratory birds, which is located in the immediate vicinity of the pond;
 - Wildfowl are under intense shooting pressure along this area of coastline during the winter months and the bay to the east of Halstow Creek offers one of the few undisturbed refuges;
 - The public can already enjoy viewing the rich birdlife from the area locally known as The Brickfields in Lower Halstow. If access were allowed on Great Barksore Farm these birds would then move further away; and
 - Existing disturbance to creek wildlife near Brickfields will be exacerbated.
87. [redacted], [redacted], [redacted], [redacted], [redacted], [redacted], [redacted], [redacted], [redacted], [redacted], [redacted], [redacted], [redacted], [redacted], [redacted], [redacted], [redacted], [redacted] and [redacted], [redacted], [redacted], [redacted], [redacted], [redacted], [redacted], [redacted] and [redacted], P and A Love Ltd, [redacted], [redacted] & [redacted], [redacted], [redacted] and [redacted], [redacted], and [redacted] have also made comments regarding the use of the Saxon Shore Way rather than the proposed route via Great Barksore Farm. In summary, these are:

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- It had been thought that the England Coast Path would make use of existing promoted routes. As this short section of the Saxon Shore Way is used by pedestrians and cyclists, the England Coast Path should be aligned along it, with any road safety issues addressed to the benefit of all;
 - The proposed route would only be beneficial to walkers, as there could not be access for horse riders, cyclists nor people with disabilities. They would still have to use the stretch of road from Bassier Hill, along the Sheerness Road. The cost involved in introducing traffic calming measures along that stretch of road and through the village of Lower Halstow would be of greater long term benefit to the community than a path which does not add anything for the community itself;
 - KCC Highways is avoiding the issue of the traffic through the village from Bassier Hill onwards and should be investing money in ensuring a reduced speed limit through the village to allow for walkers, cyclists and horse riders;
 - NE should not spend public funds on work to improve things for a few people, when there are already paths that can be upgraded for a fraction of the cost. The cost involved in introducing traffic calming measures along that stretch of road and through the village of Lower Halstow would be of greater long term benefit to the community than a path which does not add anything for the community itself; and
 - This is a perfect opportunity to improve the situation for the villagers who run, cycle, walk as well as horse riders.
88. In respect to S008-S016 [redacted], [redacted] and [redacted] consider that anyone getting into difficulty, for instance after a fall, snake bite or getting stuck in mud, could remain undetected for a potentially fatal period of time. They add that it is also inaccessible to emergency vehicles due to gates being locked for protection purposes and in the event of a full blown catastrophe, the farmer could be working in fields further away and be unaware of a very serious situation.
89. [redacted], [redacted] and [redacted], [redacted], [redacted] and [redacted], [redacted] and [redacted] have made comments regarding the proposed route, S011-S016, via LHYC which in summary are:
- It is not right to put the trail through a private yacht club;
 - Thefts of property that have occurred in the past will only increase if the Club cannot keep their site secure; and
 - The proposed route passes through a boatyard.
90. [redacted] also raises concerns over privacy issues for LHYC members should any footpath be routed through the Club's land.
91. In respect to S011, [redacted] considers that routing the path beside Sheerness Road would be dangerous. [redacted] refers to the right-handed bend just west of the route and comments that traffic leaving Lower Halstow rounding this bend would immediately come upon walkers in a relatively narrow part of the road.
92. Regarding S005-S016, [redacted], one of the landowner's sons, makes a number of comments concerning what are described as shortcomings and

contradictions in the proposals, which are said to be contrary to the key principle of NE's statutory duty via the 2009 Act to 'improve access to the England coast', such that they are not fit for purpose:

- S004 to S010: the Report details that the natural coastal terrain of the proposed trail "is often challenging" given the nature of the land to which the trail encompasses, yet it makes no direct consideration to this, and instead focuses on improving accessibility at other sections of the proposed trail. The wet local climate and the current use of the land lead to "uneven grass" and mud. Therefore, the proposed trail would not be an improvement;
- The sheer number of exclusions as detailed in the Report indicate that the proposed trail is inherently unsuitable. These have led to a number of imperfect considerations and solutions to be proposed, all of which have an associated 'cost', but to which only some are explicitly detailed. For example, Part 4.2.19 and 4.2.20 detail access exclusions due to the "internationally important" number of protected bird species, yet the Report fails to detail how this would be 'policed' or maintained. As S009 starts / ends with a sharp change in direction, it would create a risk that users would not adhere to the proposed route, contrary to this exclusion. As such, 'policing' of the route will fall under the onus of the landowner, creating an economic and mental cost given the nature of the business to which the proposed route impacts. This fails to strike the balance that NE should strive for. A second example is detailed in Part 4.2.26 concerning land used for shooting. It is proposed that access "may be temporarily diverted away from the main trail". This diversion is not explicitly detailed, but given the location of S009 and S010, would contradict a number of access exclusions, including the one mentioned above (see Parts 4.2.16, 4.2.18 and 4.2.22 for other examples);
- The Report refers to potential 'roll-backs' to the proposed route, in the event that the proposed route is deemed inaccessible, yet the access exclusions make implementing these unfeasible. For example, the westerly field adjacent to S010 is used for crop growing, to which its westerly boarder aligns to a sensitive wildlife area, as shown on Map IGR 4B. As such, any adjustment to the route would be unfeasible, given it cannot go through the field - as this is used for crop growing and creates accessibility risks for users of the trail, and it cannot go around the field to the westerly boarder, as this would encroach on the sensitive wildlife area. Furthermore, the possibility of 'spreading room' via the coastal margin westerly of the path at S010 would create a risk that the westerly sensitive wildlife site would be disturbed. A similar access issue applies for S009 of the proposed trail, with a sensitive wildlife area north of the route;
- The Report fails to quantify how the costs of ensuring the implementation and the maintenance of the proposed route would be sustainably managed. Significant costs to the local council would be required to create the path, but the examples mentioned above (policing of the route to ensure users do not interfere with sensitive wildlife areas, the threat of trespassing into private land used by the business owner at Great Barksore Farm) have no such considerations. One should not assume that users of the proposed trail would fully understand its direction, given its convoluted nature. Table 1 in the Report is an example of that, and summarises how the Report fails to ensure users would stay on the path as required; and

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- Given its shortcomings and contradictions, the Report indicates that the proposed route is not fit for purpose. It fails to reach the coast, it fails to make onward progress, it is difficult to walk, it fails to afford sea views of note, it offers no coastal rights and fails to protect the wildlife sensitive areas. The proposed alignment should be removed and NE should adopt the existing Saxon Shore Way for the England Coast Path. In so doing NE would achieve more of its key criteria within the Scheme, critically balancing public gain with landowners' loss.
93. Another of the landowner's sons, [redacted], also considers that NE has failed to recognise the true implications of the proposed route, S006-S016 and surrounding land. [redacted] adds that the Secretary of State and NE should scrap the route of IGR 4, including S006-S016, and continue to use the Saxon Shore Way. [redacted] considers that, in spite of the objective to allow access to the coast, S007-S010 are not near the coast and when walking from Lower Halstow towards the Saxon Shore Way and Sheerness Road, users would be moving away from the coast. [redacted] goes on to say that during three-quarters of the year views of the coast would be compromised on S008-S009 due to vegetation, and that S008 would offer very limited views of the coast due to the trees, including evergreens.
94. [redacted] goes on to refer to sections of the proposed route that would cross LHYC's site and suggests that NE has given no guidance on how LHYC and its landlord would be able to protect their property, which has been private with no public rights of way and locked gates at all times to deter thieving activities taking place.
95. Regarding S010 and S011, [redacted] adds that the proposed route would be on a CSS which protects wildlife and the environment, leaving the area undisturbed for ground nesting birds and wildlife to thrive. Having the trail here would, in [redacted] view, deter any wildlife making this a habitat as it would be disrupted by general public access and dog access. [redacted] adds that NE is not allowed to access this section.
96. [redacted] goes on to say that there is a significant amount of vegetation along the proposed route and that harvest mice are known to be present with nests recorded with the Kent Mammals Trust. The area has been managed sensitively for over a decade and if the trail went ahead, it would prevent any wildlife from using this section. The clearance of vegetation, in his experience, is a major task and has been underestimated in NE's estimated capital costs.
97. [redacted] also states that the buildings along S009 are home to a pair of barn owls, which are covered by the legal protection afforded to most wild birds and also extra legal protection against disturbance when nesting, while the Wildlife & Countryside Act 1981 provides protection for Barn Owls and most other wild bird species in England. On this basis, in his view NE will have to scrap this route and use the Saxon Shore Way instead.
98. Additionally, [redacted] says that S006-S016 is impassable all year round, especially during October to April, for mobility scooters and wheelchairs / pushchairs as the uneven surface leaves the proposed route impassable, while excessive rain renders it impassable on foot at all times. [redacted] adds that

there is no true capital cost of these projects in the Report and the proposed route will need further funding.

99. In [redacted] view it makes complete sense to adopt the current Saxon Shore Way. [redacted] considers that the need to slow traffic down on Sheerness Road is minimal, but if needed, reducing the speed limit to 20mph would be sufficient, and many people would benefit. [redacted] adds that some signage warning drivers of residents' drives and road narrowing are already in place, which are effective as there are no statistics that imply there are road safety issues.
100. [redacted] adds that although the Report explains the 'Exclusion areas' it contains no guidance on how they will be policed nor comment on appropriate signage along the areas affected, which leads him to conclude that no balance has been struck. In [redacted] view, the proposed route is too close to these areas and because the Habitats Regulations Assessment (HRA) has concluded that access would have a significant effect on Barksore Marsh, the only real means of preventing this disturbance is to extend the exclusion to include the whole Farm with no public access, all year round.
101. [redacted] also considers that the Report is misleading at 4.2.26, regarding shooting activities, as this land is private and if pest control takes place, it can be when and wherever is safe to do so, as it has been done for many a decade. [redacted] also says that there is no indication of which are the 'adjacent' fields that are referred to, while to the northeast of S009 is a "Sensitive wildlife, Section 26(3)(a), No Public Access, Year round" and to the south is Great Barksore Farm. [redacted] adds that there is also no indication of how this would be implemented and policed, and in [redacted] view the public would not be kept safe were the proposal to proceed and in reality there are no temporary alternatives available, adding that "we must have the right to close the path to users when shooting takes place on the grounds of public safety."
102. [redacted] has made comments on all sections of the proposed route surrounding and crossing Great Barksore Farm. [redacted] considers that the Report has many problems, including with the surface in wet conditions and the views along these sections not offering acceptable views of the coast or the sea. In her view NE should replace the proposed route with the Saxon Shore Way.
103. [redacted] also considers that the amount of money that NE says this part of the route would cost is massively short of the true capital cost given that the works proposed include signage, kissing gates, field gates, pedestrian gates and a bridge over a drain. This, [redacted] adds, is without including making the surface safe for users, making the route and sections safe with overhanging trees safe for public access. In [redacted] opinion, the costs identified in the Report should be used to improve the safety of the 0.22 miles of newly tarmac road on the Saxon Shore Way, thereby helping it users who include walkers, horse riders, cyclists, and wheelchair, push chairs and mobility aid users.
104. [redacted] adds that NE and KCC Highways should enforce a 20mph speed limit on Sheerness Road from the bottom of Bassier Hill to Church Path or to Breach Lane in Lower Halstow to keep the rural community of Lower Halstow safe. [redacted] also states that there is already signage in place notifying road users that the road narrows as well as privately funded signage for residents of 1

and 2 Little Barksore Cottages safety. In [redacted] view, the absence of any recorded accidents shows these signs are effective.

105. [redacted] also feels that the proposed route would lead to avoidable, catastrophic destruction of undisturbed areas between and including S006 to S016, contrary to the conservation aspirations of NE. [redacted] adds that there would be much confusion amongst users of the route regarding where they can and cannot go. Signs would not be sufficient to stop them accessing areas which have been excluded from the England Coast Path, including Barksore Marshes, as NE recognizes 24% of people stray from the correct path.
106. Additionally, [redacted] says that LHYC has been granted no public access all year round due to commercial vehicle movements, yet Great Barksore Farm, a working farm has not, which she sees as being absurd. [redacted] adds that vehicle access, heavy machinery, including agricultural machinery is needed at all times to allow the Farm to continue everyday farming activities. In [redacted] view, NE has failed to recognise the safety implications the trail would have on its users regarding machinery movements. [redacted] adds that it is not good enough to say there are plenty of farms with public footpaths and goes on to say that this is a small scale farm and the risk to public safety and Farm workers' / occupiers' safety is totally without justification.
107. [redacted] also considers that NE has failed to protect the security of Great Barksore Farm along S005-S009 and that the England Coast Path would be within the curtilage of the working farm putting the landowner and families of the landowner's well-being unacceptably at huge risk. [redacted] goes on to say that there are no views of the coast on S008-S009 when walking towards Sheerness Road and that when walking away from Sheerness Road the view is limited on parts of the proposed route. In [redacted] view there have been many failings in the Report, which is why [redacted] calls on the Secretary of State and NE to adopt the Saxon Shore Way rather than the proposed route S007 to S016. [redacted] considers that the public gain would be minimal and that NE has not found a fair balance between landowner and public.
108. With reference to Report IGR 4 at large, [redacted], [redacted] and [redacted], and [redacted] state that it is disappointing that a large sum of money is being spent on this in the Medway Estuary, given the large areas of 'excepted land'. They consider that it would be better to suspend the England Coast Path and its associated rights between Iwade and Rochester Bridge and, instead, use the Saxon Shore Way.
109. [redacted] and [redacted] say, in respect to the proposed route from S013 to S024, that there is no indication of any alternative route, should there be any reason for the proposed route not to be available. They add that as there is no roll back plan, this route could potentially be lost, such that the Saxon Shore Way is a much safer and a more sensible plan.
110. [redacted], [redacted], [redacted], [redacted], [redacted], [redacted], [redacted], [redacted] and [redacted], and [redacted] consider, in respect to S006 to S024, that the Report is misleading on the basis that it is unclear what the white areas on the Map IGR 4a indicate as these are not identified in the key. They add that that Map does not clearly indicate the correct alignment of the existing footpath / Saxon Shore Way.

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111. [redacted], [redacted] and [redacted], [redacted], [redacted], [redacted], [redacted], and [redacted], regarding the whole of the Report IGR 4, state that they are disgusted to read the cost of putting in just two of the five kissing gates given that the Saxon Shore Way could be used instead.
112. Regarding the whole of the proposed route, [redacted], [redacted] and [redacted], and [redacted] state that sea views already accessible to the public are not significantly different to those that might be gained from the proposed trail.
113. [redacted] adds two further points to those set out above. The first reads “the original path via a traveller community has been deemed too dangerous by the local police and avoided - is this fair or acceptable. Surely one rule should apply to everyone”. Secondly, [redacted] adds that if the dangers of collisions between cars and walkers along the Saxon Shore Way section of Sheerness Road continue to be ignored NE would hold itself legally and financially accountable for any future accidents or compensation here.
114. [redacted] adds that the trail should not be aligned alongside the garden fences of three private dwellings and its alignment would be a breach of the farm owners’ privacy. [redacted] also adds that the proposal is not suitable as it does not offer anything new that cannot already be enjoyed from the Brickfields which is a large public open amenity space on the estuary; access to the water’s edge is possible at The Brickfields whereas it would not be at the farm.
115. [redacted] adds that part of the trail that would follow the coast in the area known as The Brickfields becomes saturated and impassable. In [redacted] view to rectify this would incur large costs to the public purse and an ongoing cost to the parish council to maintain. [redacted] adds that many walkers would get to the yacht club and join the road to get to Bassett Hill, thus endangering themselves and other road users. [redacted] also questions the consistency of NE’s approach to designating a “Sensitive Wildlife Area” yet proposing that the trail pass through such a designated area. [redacted] and [redacted] also query *whose responsibility it would be to oversee the well-being of walkers, wildlife and businesses – presumably not NE?*
116. [redacted] adds two further points to those set out above. The first is that the proposed route would also mean that the village pub would be by-passed and could have a detrimental effect on its survival and thus the community itself. The second reads, “as a retired teacher who has taught in this area of Kent and who in later years became very much involved in International Education, with an emphasis on maintaining our own culture and heritage, I am disappointed that English Coast Path “team” deem it necessary to submit a route which avoids part of the existing Saxon Shore Way. This is how our heritage is eroded and we should be fighting hard to maintain it.” In a similar vein [redacted] adds that aligning along the currently accessible Saxon Shore Way, instead of across Great Barksore Farm, would maintain some of the existing heritage of this part of the County.
117. [redacted] makes the additional point that, as someone who works in the care sector with vulnerable adults, [redacted] is disappointed that in spite of the proposed investment in the Medway Estuary associated with the trail, [redacted] service users will not be able to access the proposed path across Great

Barksore Farm. Instead, [redacted] adds, the opportunity should be used to improve the access around the Brickfields sea wall so that wheelchair users and those with mobility aids would be able to enjoy coastal views and birdlife. There is ample parking in [redacted] opinion at the end of Lapwing Drive for minibuses - [redacted] service users would then be able to access the seawall and enjoy the views down the estuary, which they currently are unable to do.

118. [redacted] adds that she has been surveying harvest mice nests, for a Wildwood / Kent Mammal Group funded lottery project and found one nest in January 2019 at S006 on the roadside. [redacted] was given permission to survey other areas at Great Barksore Farm, which resulted in the discovery of more nests at S008 and S010. [redacted] considers that these field margins along the proposed route to be undisturbed habitat, such that the trail would impact the species that live there.
119. [redacted] is also a Friend of the Lower Halstow Brickfields, which borders the seawall in Lower Halstow. This area has the Saxon Shore Way running along the sea wall. [redacted] has been working with Bumblebee Conservation Trust to improve the habitat for rare bumblebees and has recorded red shanked carder and Brown Banded carder bumblebees on the site. [redacted] states that these bumblebees would be foraging on the area of the proposed route on Great Barksore Farm. In [redacted] view, nature has not been given a high priority over people and their proposed spreading room and refers to the disturbance impacts this could have. [redacted] says that [redacted] deals with regular detrimental impact of humans on the Brickfields path on the sea wall, including litter, anti-social behaviour and dog faeces (often in trees). [redacted] adds that [redacted] regularly litter picks this area voluntarily.
120. Regarding S008-S016, Bumblebee Conservation Trust itself refers to Section 41 (of the Natural Environment and Rural Communities Act 2006: habitats and species of principal importance in England) bumblebee species present on adjacent land, such as the Brickfields site. It adds that due to lack of recording at Great Barksore Farm there are no current records of these bumblebees on this site. The Trust also states that the farm manages habitat for pollinators and other wildlife, and it is likely that Section 41 and other bumblebee species are using areas on the farm such as flower rich margins around field boundaries.
121. [redacted] recommends surveys prior to the route being finalised so important areas of flower rich forage or tussocky grassland nesting habitat is avoided or damage mitigated if rare and scarce species are present. [redacted] adds that bumblebees use flower rich field margins as corridors to travel across the environment, not just as a food source so are important to be kept in good condition in areas that support important pollinator populations.
122. [redacted] and [redacted] add that the proposals do not mention that the area is mainly mud flats with dangers to novice walkers. They add that the trail should not be aligned near the garden fences of three private dwellings, and that it would not improve access to the shoreline.
123. [redacted] adds that the proposed road crossing is unsafe. In [redacted] view a better and less disruptive option would be for the trail to remain to the south of Sheerness Road, thereby avoiding a dangerous road crossing and could be made to re-join the existing path in the village.

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124. [redacted] additionally considers there to be inconsistency in the proposals with reference to the routing being proposed to follow the Saxon Shore Way between Ham Green and Otterham Quay but not from Bassar Hill to Lower Halstow. [redacted] adds that a true coastal path between Ham Green to Otterham Quay should go along the seawall around the peninsula.
125. NE has provided comprehensive responses to each of the representations. These are set out in NE's *Representations on IGR 4: Funton Brickworks to Lower Halstow and Natural England's comments* document, March 2021.

Natural England's Response to the Objections

126. NE's response to the objections raised relating to S005 to S016 is set out under the themes and headings that it sees as having been raised by the various objectors. These are land use impacts; security, anti-social behaviour and safeguarding; commercial impacts; curtilage; impacts on privacy at Great Barksore Farm and LHYC; unsuitable alignment across Great Barksore Farm; impacts on wildlife; other route options; estuary discretion; NE's communications with relevant parties at Great Barksore Farm and LHYC; personal impacts from the Coastal Access programme; and NE's communications with LHSC. They are summarised in turn below.

Land Use Impacts - Great Barksore Farm

Excepted Arable Land

127. NE refers to [redacted]'s submission that as S009 would be aligned through an arable field, it should be excepted. It states that when developing the trail alignment, part of S009 was aligned along the edge of a grassland field, with part cutting across a short section to reach S010 and that a portion of this field has since been ploughed for arable use. NE's response includes an aerial photograph of land use within this field, at its Annex 1A. It goes on to say that land disturbed by ploughing or drilling is categorised as excepted land under Schedule 1 of the 2000 Act, but that the legislation also allows NE to recommend that the trail can cross this type of land on an 'access strip', in which case the strip itself is not excepted from coastal access rights.
128. Further to this NE comments that, in light of this change to cropped land, the proposed route would continue to utilise a grassed margin along the eastern edge of the field, while the western part would follow a 50m 'access strip' across the crops. It adds that the proposed alignment already follows the shortest crossing point of this field, "to minimise impacts on land use", and that it would still favour this route as it would form a trodden and visible path across the field, with minimal impact on operations or yield.
129. Nonetheless, NE advises that if it were considered more appropriate for S009 to avoid crossing any cropped land, an amended route around the northern edge of the ploughed area, which is shown in its Annex 1A aerial photo, would still provide a suitable trail. Finally on this matter NE states that the trail would need to be well signed on the ground.

Machinery and Farm Operations

130. A number of objections and representations relate to the exclusion from coastal access rights by direction for management reasons, including in respect to the use of heavy machines. NE states that operational use of heavy machinery is common to many farms, including those with public access. Section 8.13 of the Scheme describes how disruption to operations using vehicles and agricultural machinery and concerns over the safety of the public can largely be dealt with through careful alignment of the trail and informal management measures.
131. In NE's view, on the farm the proposed trail alignment would largely avoid areas with regular operations requiring heavy machinery. S008 and S010 are aligned along field edges, which NE states are currently separated from the adjacent arable land by rabbit fencing. It adds that S009 would follow the margin of a field, before crossing this field along a 50m route. As outlined above, this part of the proposed alignment now crosses cropped land. NE says that with the field under crops, the presence of farm machinery would be more frequent, yet with a clear trodden path / access strip established across the arable and along the field margin, it would not foresee risks relating to machinery or managing the crops as walkers would be aware of operations in this open field. It adds that visitors along the trail are unlikely to disrupt work intentionally and would avoid areas where work is taking place, as long as they can identify an obvious route around it.
132. NE advises that during a site visit, specific concerns were raised regarding where the path would cross a farm track, between S008 and S009, due to its regular use by farm machinery from the farm buildings to the south. In NE's view trail users may need to pause to let farm vehicles pass, and the vehicle drivers would need to be alert to the potential presence of walkers. However, it does not consider this would pose a significant risk to safety or work operations, as visitors are likely to hear / see approaching vehicles and are unlikely to intentionally disrupt vehicle movements. It adds that if further access management were required, the landowners could erect a simple notice alerting the walkers to the crossing point and request they stop to let vehicles by.
133. Regarding the potential use of a land management direction to exclude access for the farm, akin to the direction proposed at LHYC, NE states that the proposed LHYC exclusion covers a small area within the margin of the trail, where a range of activities that are incompatible with safe public access, such as boat movement/hoisting and maintenance, take place within a confined area. It adds that the open landscape of the farm, where the proposed path is aligned, is very different, with land management operations visible and excepted land (arable) a very obvious feature, easy for walkers to identify and avoid by following the proposed trail.
134. In this regard NE refers to 6.3 of the Scheme in terms of following the principle of the least restrictive option, adding that it must, therefore, deploy the least restrictive access management measures that meet the need. A farm-wide direction to exclude access would not be the least restrictive option at Barksore in NE's view, and informal management measures would be sufficient.

135. NE adds that much of the land in the seaward coastal margin of the proposed trail across the farm is excepted (arable land) or would be excluded by direction under Section 26(3)(a) of the 2000 Act, and that the trail would avoid much of the remaining farm land as it a path would be through the southern extremity of the farm. With signage and strategically placed notices / 'no access' signs along the route, in NE's opinion, the limits of coastal access rights would be clear and public presence off the trail is unlikely to impact on farm operations or provide a significant risk to public safety or warrant a farm wide exclusion of coastal access rights.

Impacts of Dogs

136. Regarding the potential contamination of hay crops as a consequence of dogs, NE states that during the development of its proposals, the land along S009 was grassland, and has since changed to arable. On this basis, it says that the proposed trail alignment between S005 and S010 does not pass directly adjacent to, or through, any fields currently used to grow hay.

137. It adds that if the land use were to change so that the alignment runs through or directly adjacent to any hay crops, the main potential impacts would be related to trampling by people / dogs or contamination of crops by dog faeces. In NE's opinion, people can usually see the crop and avoid walking on it, especially where a clear route is mown and signed. At Section 8.7 the Scheme recommends using informal management, such as explanatory signage to highlight the impacts of dog contamination. NE considers that these solutions are likely to be sufficient to avoid contamination of any hay crop. It adds that if circumstances do arise in the future, where additional measures are required, the landowner can contact it about directions, for instance, to keep dogs on leads where the trail runs through or next to hay fields.

138. NE considers that the risk of significant contamination of hay crops further away from the trail alignment would be low. It adds that the trail is located in the southern part of the farm, in an area largely bounded by hedges or fences. The trail's location, as well as the limited spreading room, seaward of the alignment, due to excepted arable land and directions, would it its view propel people along the path, keeping the risk of hay contamination low.

139. Regarding the objections raised in respect to the effect of dogs on grazing, NE states that with the current land use, the trail would not pass through or be directly adjacent to grazed land so far as it is aware. As outlined in the previous paragraph, the location of the proposed trail and extent of excepted and excluded land in the seaward margin would, in its view, propel people along the path, keeping the risk of interaction with stock low. NE adds that if land uses were to change with stock introduced along or adjacent to the trail, the vast majority of dog walkers would be aware of their responsibility to keep dogs to lead in the vicinity of livestock. It refers to Section 8.4 of the Scheme which highlights that stock and access are broadly compatible and states, for example, that sheep keep their distance from walkers and habituate well to access.

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140. NE also states that where there are concerns about disturbance from dogs, two national provisions assist:
- It is an offence under the Dogs (Protection of Livestock) Act 1953 to allow dogs to attack or chase livestock; and
 - On land with coastal access rights, people are required to keep dogs on short leads in the vicinity of livestock.
141. NE maintains, therefore, that the presence of dogs would not have a significant impact on the practicality of grazing on the farm, due to the trail alignment, general restrictions requiring dogs to be kept on leads in the presence of livestock and the use of signage. NE's comments on the indirect effect of dogs on farm finances are covered below under the *Commercial Loss* subheading.
142. In respect to dogs and biosecurity / spread of Alabama Rot, NE states that paragraph 8.6.11 of the Scheme highlights that intervention should not normally be necessary to control the spread of animal disease unless there is an outbreak of a notifiable disease. Nonetheless, paragraphs 8.6.12 and 8.6.16 acknowledges that special measures may be necessary if there is a local outbreak of Neosporosis in cattle or Sarcocystosis in sheep, and that in these cases signs should be used to encourage walkers to help control their spread.
143. NE adds that recent advice from the Animal and Plant Health Agency is that the overall likelihood that walkers' dogs may infect livestock with these diseases is very low, because the vast majority of pet dogs are fed commercial dog food, which is either processed or, if raw, produced to human standards of consumption.
144. In relation to Alabama Rot, NE says that this is a disease that affects dogs, and cases are low across the UK, with little known about its cause and method of spread except some indications of transmission through puddles and wet conditions. Wet ground is a common and expected occurrence on countryside walks, and responsible dog owners are likely to be aware of any necessary precautions they need to take in the case of any local outbreaks. It adds that precautionary advice is that owners wash mud off their dogs as soon as possible.

Access and Shooting

145. NE states that concerns regarding wildfowling day shoots were raised during the development of these proposals, but that these related to wildfowling at Barksore Marshes and to its knowledge no shoots occur along or in the vicinity of the proposed inland trail. It adds that any shooting at the Marshes would not be affected by the proposals, as this area is excluded from coastal access rights.
146. NE advises that it was, though, aware that duck shooting used to take place on the ponds east of S009, and that these 'flight ponds' may be restored in the future to allow shooting. It, perhaps prematurely, included reference to occasional shooting here alongside a view that the public could be informally diverted onto a different route to avoid safety and disturbance issues and ensure that this potential future activity could be compatible with access.

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147. NE states that the Scheme, at paragraph 8.11.17, notes that it is extremely rare for visitors to be injured as a result of shooting, as shoots take standard precautions to reduce risks to others. With reference to BASC guidance, NE adds that shoots at flight ponds are at times when walkers are less likely to be present, as they usually take place at dusk or dawn. If additional measures are required for safety, it states that informal techniques such as signs are an established and effective mechanism to alert visitors to shooting activities, as is the provision of a temporary diversion to avoid any danger areas and minimise disturbance before and during the shoot. NE goes on to say that, alternatively, lookouts are another effective means to alert visitors and prevent danger by asking walkers to wait at suitable locations, for the best moment to pass the shoot. In NE's view, all of these measures could be considered as part of any development of the pond near S009 as a flight pond.
148. Although the objections and representations suggest that a diversion from S009 would not be possible, if restoration of the flight pond does take place in the future, NE states that there is no aspect of the 2000 Act that would prevent a temporary route over arable land. It adds though that, to reduce trampling of crops during the duck shooting season (Sept – Jan inclusive), it would be reasonable to consider the use of field margins west and south of S009 for such a route. It adds that strips of uncultivated land are usually maintained, as standard good farming practice, around the edges of arable fields and these could provide a suitable, temporary diversion.
149. NE also states that where necessary, directions to exclude people from any future active shoot area, for safety, can also be considered. It adds that directions would normally be provided in conjunction with the provision of a temporary route. NE goes on to say that, in regard to discussing shooting and access management with the landowners, it was highlighted in a variety of communications, including the 'Barksore Route Options Considered' (Yellow option) document provided to the landowners and during a meeting on 16 April 2019. In this respect NE also refers to its Annex 1B. NE also states that it understands that if this shoot were to be developed at the creek / pond, access management would need to be planned into its design and timing, and in those circumstances, it could advise further on the suitability of directions, if and when more details become available.

Land Use Impacts - LHYC

Operations and Safety

150. NE states that as the trail is proposed to run along the top of the raised seawall, which ends by the vehicle entrance gate to the club, it avoids the boat yard operations and any buildings, trailers or equipment stored landward of the trail. At the easternmost end of the seawall, at S011, the bank grades down and the trail crosses a narrow verge between the seawall and the Club's access track. NE states that no trailers were stored on this part of the verge during its visits to the site. The alignment across this verge would, in its view, require a space adequate for the easy passage of people, for example 2-4m wide. It adds that if this part of the verge were to be used for trailers in future, it does not consider that leaving this small gap for walkers would significantly limit the ability to continue to store equipment, such as trailers within the Club compound.

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151. NE advises that, during the development of the proposals, concerns were raised over safety, particularly around the boat storage area, due to use of heavy machinery. In light of this, NE proposed a direction to exclude coastal access rights to the boat storage area. For clarity, it also extended this direction area to cover other club land seaward of the trail. It considers this would provide a clear boundary to excluded land, to enable walkers to avoid the boat storage area where machinery and boats pose a level of safety and management risk.
152. Potential additional security fencing at the site is covered under the *Security, Anti-Social Behaviour and Safeguarding* subheading below.

Dogs Entering Land

153. NE does not consider that the presence of dogs would create significant impacts on the Club, as the vast majority of dog walkers are responsible and keep their dogs under effective control, especially where they see this type of activity taking place. It adds that LHYC could also use informal management measures, such as signs requesting that people keep dogs on a lead / out of the area, as these are often a successful way to help alert walkers to other land uses alongside the trail. NE also advises that it is creating some sign regarding the Countryside Code messages on effective control of dogs, which could be supplied for use at LHYC.

Security, Anti-Social Behaviour and Safeguarding - Great Barksore Farm and Harval

Security

154. NE states that it does not have evidence that a new path through farm fields would bring about the type of illegal and anti-social behaviour anticipated by objectors. It adds that the vast majority of walkers are law abiding and their presence may often be a deterrent against illegal activities. The proposed route would, it says, be aligned a distance away from the dwellings and from the farmyard buildings. These areas are not included in the coastal margin and, in NE's view, most walkers would instinctively keep clear of the farmyard buildings, minimising the likelihood of unintentional trespass. It adds that the trail would also be largely separated from nearby buildings, such as the garage / office at Harval, by hedgerows and field boundaries.
155. In terms of farm machinery, NE says that the farm would already be alert to potential security issues, even with the limited access at present, and undertake standard security measures in terms of storage of machines when not in use.

Antisocial Impacts of Increased Dog Walking

156. NE says that its Habitats Regulations Assessment report reviews the likely increase of walkers at the farm, predicting a significant increase ('medium') to this area, given that this would be new access in the vicinity of a village and carpark. The small car park near 'Brickfields', close to S024, provides access to Lower Halstow village and along the Saxon Shore Way. NE recognises that some of the regular dog walkers there would be likely to walk along the seawall from the car park to the new alignment at the farm.
157. NE, though, does not consider that the presence of dogs would create significant impacts on the farm, as the vast majority of dog walkers are

responsible and keep their dogs under effective control. It adds that there is increasing social awareness about bagging and binning 'dog mess' and that all waste bins take it, helping reduce the likelihood of excessive dog fouling. It also says that, while locations vary, most fouling takes place close to car arrival points and in this area a dog / litter bin is clearly visible at the car park.

158. NE is also creating some signage regarding the Countryside Code messages on effective control of dogs, which could be supplied for use here. It adds that the North Kent coast is popular with dog walkers, and it is discussing with Bird Wise North Kent (BWNK) and Bird Wise East Kent the potential for NE to help fund some of their specific engagement events with walkers between Ramsgate and Cliffe, prior to the opening of the England Coast Path. Establishing an awareness of the special wildlife of this coast with local dog walkers would, says NE, further help walkers understand the benefits of keeping effective control of their dogs and understanding local coastal access exclusions.

Litter

159. NE states that footpaths through farm fields are common, the vast majority of which exist without causing litter problems. It sees no particular reason why the path in this location would be any different. It adds that much of the land in the coastal margin on the farm would not have coastal access rights, and as the route is likely to be enjoyed by walkers passing through the farm, it would not anticipate the concentration of walkers sometimes associated with troublesome litter problems, such as at promoted visitor attractions.

Security, Anti-Social Behaviour and Safeguarding - LHYC

Security, Fencing and Gates

160. NE states that LHYC is one of a number of boat clubs along the Kent coast, with boats stored near the water and associated buildings and facilities nearby. It adds that the Scheme, at para 8.25.11, recognises that the trail would typically be close to the sea and therefore close to small boating facilities. NE also says that the Club currently has members entering on foot through a pedestrian gate, which is currently locked, on the seawall to the west of the Club at S016, and that vehicle access is limited by security gates close to the main road.
161. NE states that while it is aware that boat yards can suffer from theft, it does not have evidence that pedestrian footpaths increase this risk. It adds that more walkers may have a deterrent effect on such activities, by increasing the presence of law-abiding people in an area. NE is also of the view that boat clubs like LHYC are already alert to security and undertake basic security measures, such as securing loose equipment and kayaks and locking equipment on stored boats, as well as limiting easy vehicular access, where possible. It considers that its proposals limit new access into the Club to those on foot, through an existing, small, pedestrian gate on the seawall, at S016. This gate, it adds, is set away from the coast road and the proposals would not create any new vehicular access into the Club that might facilitate the illegal removal of equipment.
162. NE says that the proposed retention of the existing pedestrian gate at S016, is to allow less-able walkers to continue along the path, in contrast to a kissing gate. NE does not consider that a significant and new increase in security risk

would result from unlocking this gate, and that most trolleys / trailers of the kind suspected in the previous burglary would be wider than this opening.

163. NE occasionally installs stretches of new fencing to guide walkers along the trail or, in rare instances, to separate walkers from other land uses where significant impacts could arise as a result of new access. In this case, it does not consider the trail would lead to significant new risks to security if standard security measures are employed across the Club. NE adds that it offered LHYC a guide fence / gate near to S011, to help direct walkers across the access track, away from Club's facilities, but this was not taken.
164. Regarding [redacted]'s security concerns over a reference to keeping a gate open on the seawall for ease of access for less able visitors, NE states that this relates to a field gate west of the Club, between S017 and S018. It adds that while the existing pedestrian gate nearer to LHYC, S016, would need to be unlocked to allow pedestrian access, it would not need to be left open.
165. In respect to potential interference with an electricity meter and isolator, NE says that the health and safety issues around this equipment have already been assessed and addressed by the Club's risk assessments, given the existing use of the seawall here. NE does not believe it to be likely that the public access would result in damage to this infrastructure.
166. Concern that the Club's commercial viability would be in jeopardy as a result of the proposals is covered below under subheading *Commercial Loss*.

Safeguarding

167. NE recognises that child safeguarding is a serious issue, and in situations where sites are specifically designed and used to provide children with a 'safe' space to roam, it says it looks to align the coast path away from such areas or provide informal access management to prevent access when children are present. It adds, though, that this area is a yacht club, rather than focussed on children's activities, and responsible adults are present on site to oversee their children. NE also states that the proposed trail alignment is along a well-defined seawall and would be signed clearly.
168. NE adds that, additionally, 'no-access' roundels and direction notices, to be provided by NE, explaining the reasons for the exclusion would provide appropriate clarity to walkers as to where coastal access rights stop, seaward of the trail. NE considers that these access management measures would help direct walkers past the Club's buildings and picnic area. It adds that, in its view, no further safeguarding measures would be necessary as part of the proposals.

Litter and Dog Fouling

169. NE says that it sees no particular reason why path users here would create any significant litter problems. It adds that dog walkers are increasingly aware of the Countryside Code requirements to 'bag it and bin it' and a bin for dog waste is present near the Brickfield car park. NE goes on to say that LHYC could also put up signage to emphasise the area where coastal access does not apply. NE adds that informal management measures, such as signs to keep dogs out of the area or keep dogs on lead, can be a successful way of alerting people to an issue and ensure they are aware of other land use alongside the trail.

Commercial Impacts - Great Barksore Farm

Agri-Environment Scheme

170. Regarding the CSS, NE states that the proposed trail along S010 follows a some 440m strip of grass landward of an arable field, adding that this length of grass is enclosed between a hedge / fence and rabbit fencing separating it from the adjacent arable field. NE adds that it is part of a larger, roughly 2ha area of grassland, mainly located along the coastline, under the CSS Option GS2: permanent grassland with very low input. NE advises that the benefits of this Option are to provide a varied sward structure and more flowering grasses and wildflowers, in order to increase the habitat and food available for invertebrates, birds and other animals. It adds that the landowner would receive £992.55 on the some 2ha GS2 Option over the five year lifetime of the CSS agreement, ending in December 2023.
171. NE states that there is usually no direct conflict between agri-environment schemes and access, as set out in section 8.8 of the Scheme, and public rights of way are not uncommon on land under these schemes. It adds that there is also nothing within the eligibility criteria of the GS2 Option which prevents land with tracks, paths and public rights of way from entering the CSS, as long as requirements can still be met (see Annexes 3B & 3C of NE's submissions).
172. NE also advises that the GS2 Option requirements include, under Prescription P133, that the grass should be managed but that any hay cuts should be timed outside the main bird breeding season, mid-March to the end of June. Additionally, Prescription P441 states that the agreement holder should: 'only carry out mechanical operations or allow other activities' outside of the main bird breeding season. NE explains that compliance with such schemes is determined by the Rural Payments Agency, and landowners/agents can discuss potential conflicts on their existing or potential schemes directly with that Agency.
173. NE states that to aid compliance with these prescriptions, KCC would need to take account of the requirements around the main bird breeding season in any preparation works or grass cuts necessary to establish the route along S010, prior to opening, as well as in relation to ongoing maintenance of the trail. In many situations, NE adds, the footfall of walkers maintains an adequate trodden path that does not require regular cutting, and this situation would also reduce the risks of contravening Prescription P441 from mid-March to the end of June.
174. In relation to the Prescription that the agreement holder must not 'allow other activities' on the GS2 land during the bird breeding season, NE says that the presence of this new path and the walkers using it would be outside the owner's control – having been proposed, since their agreement started, as a part of the implementation of the 2009 Act. Accordingly, they would not be allowing this activity, rather it would be there by law. NE also states that a new path within the grassed corridor of S010 would not impact on the environmental benefits arising from this GS2 Option, and that the risk of penalties around Prescriptions P133, P441 and P456 is low.
175. Regarding the concerns over securing future agri-environment agreements, NE advises that it cannot say for certain what options will be available in 2024. It states though that most options currently available under the CSS do not

exclude land with rights of access. NE considers that the use of the proposed coast path, once open, is unlikely to create a significant barrier for the farm in entering a future scheme, given the wildlife interest that has been maintained in Barksore Marshes and elsewhere on the farm.

Loss of Graziers

176. NE refers to Section 8.4 of the Scheme which notes that sheep will keep their distance from walkers and habituate well to access, showing that stock and access are broadly compatible. Where there are concerns about disturbance to cattle or sheep, these usually relate to the presence of dogs. As outlined above, two national provisions help to address these concerns.
177. Section 8.4 of the Scheme goes on to suggest that the main concern will be dog disturbance to heavily pregnant ewes or lambs during the lambing season or spread of animal disease. A range of potential solutions include the alignment of the trail on the seaward edge of the grazed field or away from small fields where sheep are unable to move away from walkers.
178. NE says that S008 to S010 are aligned along the edge of or through arable fields, and that, to its knowledge, the trail is not aligned through fields currently used for grazing. It adds that much of the land further north of the proposed alignment, seaward of the trail, is excepted, arable fields, or excluded from coastal access rights. NE goes on to say that sheep grazing would be at a significant distance from the path, so that dogs would be unlikely to come into contact with them. It also says that as thousands of fields are grazed in the vicinity of paths and public access, it considers the proposals should not unduly deter graziers and affect the ability to rent land at the farm.
179. If the pattern of land use changes in the future, and a grazier wishes to graze fields close to or on the proposed alignment, NE says that the Scheme highlights that further directions could be sought to restrict access. Although in most instances NE considers that informal management will suffice, it has the power to consider whether directions to restrict access rights to the trail are necessary, where periodic sheep gathering takes place or where heavily pregnant ewes or ewes with lambs at foot are kept, on fields smaller than 15ha, such as these.

Loss of Income from Hay Crop Sales

180. On this matter, further to its comments under the *Land Use impacts* subheading, NE advises that the proposed trail alignment would be alongside and through arable fields in the southern portion of the farm, rather than fields used to grow hay. It adds that large areas of the farm, to the north of the trail are excepted land, on the basis that it is used for arable crops, or excluded from new coastal access rights. To its knowledge there are also no hay fields close to the proposed trail alignment that would be subject to the new coastal access rights. If land use changes and hay is grown close to the trail, NE considers that people can usually see the crop and would avoid walking on it, especially where a clear route is signed. Section 8.7 of the Scheme recommends using informal management, such as explanatory signage if any concerns arise, and NE says that it could also consider directions to require people using the trail to keep their dogs on leads where necessary, to prevent contamination of crops on land adjoining the trail.

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181. With hay crops away from the trail alignment, NE maintains that the risk of significant contamination would be low. Notwithstanding the suggestion that the presence of the trail may reduce sales of hay from the farm, NE says that the distance from the trail and/or the available measures that can be used to minimise contamination, can be explained to potential buyers.

Scale of Farm

182. Notwithstanding the submissions that the farm is small, NE states that the proposed new access is limited to the southern section of this farm, largely using field edges so as to minimise impacts on land management and farming practices, in line with alignment and informal management techniques within Chapter 8 of the Scheme.
183. NE maintains that the current land uses both along the trail and in the coastal margin are compatible with access. It adds that although access through smaller fields is sometimes a concern, particularly with livestock, these issues do not currently occur, and if the land use were to change in future, it says that it is confident that with management measures, access and farming can be compatible.

Loss of Income from Farm Gate Sales

184. NE maintains that the location on the road with passing car and cycle traffic as well as other regular local custom is such that sales are likely to continue, and that the proposed alignment across the farm may also offer alternative locations for sales for walkers using the trail.

Commercial Impacts - LHYC

185. NE refers to its comments under the subheading *Security, Antisocial Behaviour and Safeguarding* in terms of why it does not consider fencing to be essential to maintain the Club's security. It adds that, in its view, the Club would not lose membership due to new access given how many small boat / yacht clubs operate successfully with pedestrian access close or through them.

Curtilage

186. NE advises that Schedule 1 to the 2000 Act sets out the categories of land that are excepted from coastal access rights. The list of these categories includes 'land covered by buildings or the curtilage of such land'. It adds that Defra provided some supplementary guidance to NE to help determine curtilage:

The term "curtilage" is not defined, but it generally means a small area, forming part and parcel with the house or building to which it is attached. In most cases the extent of curtilage will be clear: typically, an enclosure around a dwelling containing a garden, garage and side passage; a walled enclosure outside a barn, or a collection of buildings grouped around a farm house and farm yard.

187. Regarding Great Barksore Farm, NE states that the proposed alignment along S008 and S010 would be separated from the main farmyard and house, and neighbour's property by hedgerows or fences. It adds that along S009 the alignment would pass through a field seaward of the main farmyard and farm house at a distance of more than 75m. NE also says that some disused, stand-alone, buildings are situated in the coastal margin of S009. These

buildings would clearly be considered excepted land, NE adds though that, as they stand in an open field, they do not comfortably meet the Defra definition of having any curtilage.

188. Regarding LHYC, NE states that it is required to take a view on the status of the land in question in order to align the proposed trail, and in its view the raised seawall on which the trail would be aligned, while close to some Club buildings, does not sit comfortably within the definition of curtilage set out above, as its function and placement is separate to the buildings of LHYC. NE adds that the trail would be aligned landward of all the Club buildings and facilities and separate from the area used by the club members. It considers that the seawall is, in part, currently used as a path to access the Club, along S013-S016, and is not obviously used for LHYC activities.
189. NE goes on to say that parts of the land LHYC occupies appears to fall into the excepted land category of buildings and their curtilage, such as the club house portacabin / buildings and the stored boats. As set out in the Scheme 8.25.3, NE says this general excepted land provision often addresses concerns regarding security and safety within maritime facilities. It adds though that, in this instance and in light of concerns from LHYC manager and owners of Great Barksore Farm during the development of the proposals, a direction to exclude access from land associated with boat club activities is also proposed.
190. NE explains that this exclusion would include some areas of land that would otherwise be excepted land under Schedule 1 to the 2000 Act, as well as other, non-excepted land, such as the slipway, the hardstanding area, part of the access track and an area close to the water with outdoor picnic tables. It adds that signage explaining the reasons for the exclusion would provide appropriate clarity to walkers as to where coastal access rights stop, seaward of the trail.
191. The *Challenge Fencing v Secretary of State for Housing Communities and Local Government* [2019] EWHC 553 (Admin) case, NE says, illustrates that each decision is taken on its individual merits. NE adds that, consequently in appropriate cases, it errs on the side of caution by offering a direction to exclude coastal access rights where it considers this necessary on one of the 2000 Act restriction grounds. NE did not do this on the basis that nothing in the direction affects any excepted land within the identified area.
192. NE maintains that the proposed alignment near LHYC would not pass through the curtilage of the boat club. It adds that it has sought to remove any ambiguity over this point by issuing the proposed direction.

Impacts on Privacy at Great Barksore Farm

193. NE acknowledges that if the proposals are approved, coastal access rights would result in significant change for the owners, occupiers, residents and their guests. It maintains, though, that the proposed alignment would avoid users coming into close proximity to the main cluster of residential buildings here.
194. S008-S010 would be aligned along the edge or through arable fields, seaward of and set away from the immediate vicinity of Great Barksore Farm house and farmyard. NE maintains that it would be largely hidden from these buildings by established hedgerows and separated by marked field boundaries. Where walkers would be visible from farm buildings, on S009, the closest point between

the path and buildings would be greater than 75m. NE adds that this part of the trail would be at a lower level than the farm buildings, thus avoiding intrusive views into residential properties.

195. In identifying the trail alignment, NE says that it was aware that the landowners were opposed to any new public access across the farm, especially in the field directly north of the farm buildings, where walkers would be more visible. It adds that while S009 would be aligned through this field, with these concerns in mind, the proposed alignment is set away from the farm buildings.
196. In NE's view, the trail would be located significantly seaward of the private residences, and the farm buildings are unaffected by the proposed coastal access rights. It considers that with the use of waymarks, the line of the proposed trail would develop into an obvious walked line, which in itself would direct people away from the farmyard, farm house and surrounding land. NE adds that it can provide 'no-access' roundels if landowners wish to further emphasise that landward areas are not accessible.

Impacts on Privacy at LHYC

197. NE says that the buildings at LHYC, including the block with a shower room, are clearly excepted land and are also covered by a proposed direction to exclude access. It maintains that concerns about the proximity of the shower room to the trail had not come up in its correspondence with the Club, although the general concerns about privacy, security and safety had.
198. Nonetheless, in light of the objection, NE says that it has considered the matter and concluded that the raised trail is sufficiently separate from the Club building, at some 7m apart, not to be immediately intrusive. It also refers to existing blinds and security panels at the back of the Club building nearest to the proposed trail, such that in its view the likelihood of intrusion is minimal. NE adds that if LHYC considers that the blind no longer serves the required purpose, it could supply an additional window treatment, such as a frosted panel or covering, as part of the establishment works.
199. NE adds that along the coast there are many instances where walkers pass by or through boat clubs without impacting on club activities. It maintains that while the proposals would introduce new access along the side of LHYC, users are likely to follow the trail, respect Club members and keep to the main path.

Unsuitable Alignment Across Great Barksore Farm

Onward Progression

200. NE advises that the Scheme, at para 4.3.2, states that the trail need not slavishly follow an indented shoreline in order to allow reasonable onward progress along the coast, while being, in general, close to the sea and offering sea views.
201. The proposed alignment across the farmland of Great Barksore Farm is part of the route between Bassier Hill, near S006, and St Margaret's Church, Lower Halstow, near S021, away from the existing Saxon Shore Way. NE states that the length of this part of the trail is some 1.5km. It adds that the alignment does not slavishly follow the shoreline and would add less than half a kilometre to the

Saxon Shore Way route. NE also says that between S006 and S013, the proposed alignment passes inland of the coastline for 1km, across the southern portion of the farm. Along part of this inland section, at S009-S010, NE says that the trail would follow the grain of the landscape along hedgerows and field margin. In its view, this would not be unreasonably indirect, as it would provide an enjoyable countryside walk, feel coastal and provide views of the coast.

202. NE acknowledges that the Saxon Shore Way offers a more direct route for onward progress along the coast at a distance of 1km. Nonetheless, NE considers it to be unsuitable for a national trail due to safety concerns, as explained in the proposals, is inland of the coast and has limited coast views. NE also maintains that the other options proposed by the objectors would create a longer walk, further from the coast, with limited views of the coast.

203. NE considers that the proposed trail would provide a safe, off-road route and offer direct sea views from the seawall trail, along S013-S020, and far reaching views of the estuary from the trail across the farm. In its view, the alignment offers reasonable progress along the coast.

Convoluting Route Away from Shoreline

204. NE says that the proposed alignment across the farm, along S008 to S010 mainly follows field edges and offers some coastal views from an inland, elevated route. NE maintains that while the trail is not a straight line and users would need to turn corners, these would be clearly signed, and it is not uncommon to have countryside paths that follow the boundaries of fields. It adds that notices, to be provided by NE, to explain why walkers are not permitted along or towards the shoreline north and east of the trail, would be placed at visible and strategic points to highlight the reasons for no entry to these areas. Once the trail is established, it adds, a trodden route would also be visible for walkers to follow.

205. The provision of such signage would, in NE's view, result in the vast majority of walkers keeping to the trail and avoid straying off the marked route. It also sees no reason why walkers would stray landward of the trail, where coastal access rights do not exist.

206. NE also says that the alignment of S009-S010 takes into account land use and concerns raised by landowners. S009 would be aligned along the margin and across a short section of this field, which NE says is to avoid creating a longer trail across the middle of the field further south, where it would have potential for greater impact on land use. NE goes on to say that while no option across the farm, north of Sheerness Road, was acceptable to the landowners, it understood that they had significant concerns over the trail being visible from or close to the farm buildings, located south of S009. NE says that the proposed alignment is, therefore, also located at a distance from these buildings.

207. NE states that a more direct route between S008 and the part of S010 north of Meophams, could have been considered along, or close to, a farm track on the southern edge of this field, as shown on Map IGR 4a as 'Tk' and on the aerial photos in its Annex 6A. It advises though that, given the owner's concerns, it did not pursue this option.

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208. Regarding concerns that the distant view of the coast at the junction of S007 and S008 would draw walkers away from the trail towards land excluded by direction, including Barksore Marshes, NE states that at the entrance to the arable field the direction of the trail would be clearly marked. NE would also provide direction notices explaining why areas of the Farm are excluded.
209. NE also explains that it has, on occasions, offered 'guide' fencing as part of its proposals, to help direct people along a specific route. As the landowner has particular concerns at this location, NE says that it would offer the installation of such fencing near the new access gate between 007 and S008 to further highlight the trail alignment to walkers. If installed, the landowner would be responsible for the maintenance of such fencing.

Lack of Views along the Trail

210. NE says that the Scheme, at 4.6.1 and 4.6.3, highlights that the trail should normally offer views of the sea, but it may also lose sight of the sea temporarily for safety, convenience or accommodating other land. NE maintains that along the proposed IGR 4 trail, there are distant views of the coast from S001-S005, direct sea views from along S013-S024 and elevated views of the coast from S010. NE adds that as the land dips down towards the coastline, there would be some distant views of the coast between S007 and S009, which may be partially obscured by vegetation in summer. Overall, it considers that the route offers good views of the estuary.

Lack of Shoreline Access

211. NE refers to 4.5.3 and 4.5.4 of the Scheme, which recognises that in some circumstances seaward spreading room will not always provide direct access to the sea due to practical considerations or other uses of the land, such as wildlife sensitivities. NE considers that the proposed route offers views and a coastal feel. It advises that the reasons for the limited access to the shoreline at the farm would be identified along the trail. It adds that the trail here also re-joins a shoreline path relatively quickly, at S013 near LHYC to the west and at S008 on Raspberry Hill Lane to the east.

OS Explorer Series Maps and Coastal Margin

212. Regarding the potential prospect of Ordnance Survey (OS) mapping of coastal margin drawing people onto the shoreline, despite the local directions, NE states that the 1:25,000 OS Explorer map range will show the England Coast Path and the 'coastal margin'. It adds that coastal margin will generally have, as a large component, land which is subject to coastal access rights but in some areas contains much land which is not subject to these rights. NE goes on to say that this may be either because it is excepted land, such as buildings or arable land, or because it is subject to statutory restriction. It says that it follows that the depiction of coastal margin on OS maps is not a depiction of 'access land' as such, but a depiction of the status of the land, much as national park boundaries are depicted on the maps.
213. Further to this NE advises that the depiction of coastal margin on OS digital and paper products comes with a clear, concise explanation in the key: "All land within the 'coastal margin' is associated with the England Coast Path and is by

default access land, but in some areas it contains land not subject to access rights – for example cropped land, buildings and their curtilage, gardens and land subject to local restrictions including many areas of saltmarsh and flat that are not suitable for public access. The coastal margin is often steep, unstable and not readily accessible. Please take careful note of conditions and local signage on the ground.” The key also gives the link to the National Trails website which is the official source for information on the England Coast Path.

214. NE explains that the depiction of the England Coast Path and coastal margin on OS maps has been in use since 2014 and adds that it is unaware of any issues that have resulted in practice from this approach. This, it says, is despite the inclusion of some very substantial areas of land with excepted land or areas protected for nature conservation.
215. NE states that it is not aware of any practical problems that have arisen from identifying the coastal margin on OS Explorer maps. It says that it understands why the objection would raise initial concerns about the approach in areas that are new to it. NE adds, though, that the best place for site-specific messaging is on the ground, and these local messaging needs receive careful attention when NE conducts its establishment phases on each stretch of coast.

Ground Conditions

216. NE refers to para 4.1.1 of the Scheme, which says that it should have regard to the safety of those using the route. In developing the alignment, NE says that it takes account of the local conditions and, where possible, identifies any significant works required to address any hazards. It does not believe that there is a need for any major surfacing works along the proposed trail.
217. NE says that the presence of uneven ground or scrub alongside a trail are intrinsic features of a countryside walk and one common on National Trails. NE expects walkers to take primary responsibility for their own safety and the level of risk they take where minor hazards, such as uneven ground and vegetation adjacent to the trail, are readily apparent. It adds that KCC, as Access Authority, will ensure the trail is open and passable prior to the new rights of access coming into force, and will also keep an overview of the condition of the open trail and may undertake works on parts of the trail where it needs improving.
218. NE says that the presence of rabbit holes in the vicinity of the trail alignment is not necessarily considered a significant hazard, but that the route alignment will be assessed by KCC prior to installing infrastructure and opening the trail in its approved form. If any additional surface preparation is required, works would be undertaken as part of establishment, in liaison with the landowners.
219. NE comments that mud is also a common occurrence on countryside walks and usually a temporary feature after heavy rain, with the summer months, which are the most popular for walkers, being drier. Nonetheless, NE acknowledges that the depth of standing water and mud along S009, as shown in the photographs submitted by [redacted], is significant. NE says that when developing the trail, the alignment of this section was through a grass field, but that the land use has changed and now follows along the edge of a ploughed field, where standing water has collected in plough furrows.

220. NE says that, as can be seen in the photographs, the ploughing has left an uncropped margin, typical of good farming practice around arable fields. It adds that the Scheme, at para 8.7.6, provides for the use of these uncropped field margins, and it considers that the uncropped margin here would be suitable to allow walkers to follow the firmer margin of this field. NE's preference would be for this margin to be left a bit wider, as the Scheme advocates a 4m strip. If the unploughed margin requires localised improvements as part of the establishment works, to address unacceptable muddy conditions, NE says that KCC would do so prior to opening the route, in discussion with the landowner.

Accessibility

221. With regard to the concerns raised over access for people with disabilities and reduced mobility, NE refers to para 4.3.8 of the Scheme which indicates that it should make the trail as easy to use as it reasonably can. NE says that it proposed accessible infrastructure, including cycle chicanes and a pedestrian gate, to aid access across the farm, but recognises that the uneven nature of the grass and bare paths may be a barrier to access to some.

222. NE also says that the Scheme states that after considering the key principles and interests of the landowners, where there is a choice of routes, it should favour the one which is most accessible to the widest range of people. NE adds that in this area, it considers this option provides a fair balance between public and private interests and offers good views, close to the sea. NE also states that the choice of routes options here is limited by safety concerns, as described under the subheading *Other Route Options*, while other options suggested in objections would it says would also contain uneven paths.

Impacts on Wildlife

223. NE says that the Medway Estuary and Marshes SPA, Ramsar and SSSI designation covers the intertidal area that surrounds the farm, supporting feeding birds and one occasionally used high tide roost, located some distance seaward of the proposed alignment. It adds that the designations also cover an area of land to the northeast of the farm, some distance from the proposed alignment: Barksore Marshes, an internationally important area of freshwater for wintering and breeding birds. NE also refers to Map 4 of the HRA: Design of the access proposals to address possible risks at Barksore Marshes.

224. NE sets out what it sees as the wildlife interests of the internationally designated sites in its HRA for Iwade to Grain. NE says that data was collated, including from local birders, to understand the use and inter-relation of feeding and roosting areas to inform its proposals. It adds that the potential impact of the England Coast Path and associated coastal margin at Great Barksore Farm was examined (see section D3.2C Barksore Marshes) to consider whether the predicted increase in public access in the area would have an adverse impact on any of the key sensitive features of the designated sites.

Straying off the Path

225. NE refers to the concerns raised that its HRA did not include predictions about walkers / dogs straying off the trail alignment to the detriment of the special interest of the designated site, in Barksore Marshes and along the shoreline of Halstow Creek. It says that the Scheme, paras 4.99 & 7.7.20, notes that across

grassland areas, such as those that would be used for S008 and S010, aligning the trail a suitable distance from areas of sensitivities will often manage the risk of disturbance. NE adds that walkers largely stay on well-marked paths, as is the case with most countryside public rights of way and National Trails. This, it maintains, is borne out by its experience of reviewing 2000 Act open access with landowners, where it says many initially had similar worries, but 5 years on did not see the need for restrictions to keep people to paths. NE also refers to its estate of National Nature Reserves which have been dedicated to open access, where the vast majority of walkers keep to well-marked paths.

226. Regarding the report that found a significant proportion of walkers stray from paths into areas of sensitivity as referred to by [redacted], NE states that, while it found that “23% of visitor routes strayed from the path network and crossed onto the intertidal areas”, this average figure disguises the variability of how visitors behave at different sites. NE says that the data does not take account of how the sites manage access locally, for example, it includes three sites where straying onto the intertidal zone was reported as routine, as is to be expected at the popular, sandy beaches found at those sites. NE goes on to say that five sites, including the Upchurch seawall and Cliffe, were also listed where 100% of walkers kept to the path, where the intertidal habitats are less appealing to walkers. NE maintains, therefore, that site characteristics, the history of access and promotion and the location of the path in relation to the shoreline are crucial in determining how people behave.
227. NE maintains that, in the main, the proposed trail at Great Barksore Farm would be aligned to separate walkers from the shore and other sensitive areas. It adds that existing hedge boundaries or fences would act to contain walkers and dogs into a defined area. NE says that by working with the grain of the farmed landscape to create an obvious route that separates walkers from the sensitive areas, it has minimised the impact on the internationally important wildlife of the area. It adds that it would also exclude access to the margin across Barksore Marshes and along most of the banks of Halstow Creek and that these directions would be appropriately signed on the ground, so that all users would be clear about where they can and cannot go.
228. The key area of sensitivity is, in NE’s view, Barksore Marshes to the northeast of the farm, where the land and intertidal habitats supports feeding and roosting during winter and passage birds and breeding birds in summer. It says that there would be no new access rights along the shoreline between the proposed trail and Barksore Marshes, as this land would be largely excepted arable fields or excluded through directions, and the marshes are also separated from the proposed route by at least 700m. With a well-signed route to follow, ‘no-access’ roundels and the proposed exclusions explained through notices, NE maintains that the risk of people making their way to the marshes area would be low.
229. NE states that there are also sensitivities relating to an occasional winter roost on the shoreline north of the farm, which gets used in winter months by birds during high spring tides, and winter feeding activity along the eastern intertidal areas of Halstow Creek. It adds that its proposals include directions to exclude access to land along this shoreline and that the proposed trail alignment along S009-S010 is intended to direct people away from entering these exclusion areas and getting too close to the sensitive wildlife along the shoreline or on the

mudflats. NE says that the proposed trail runs within fields largely fenced-off from the shoreline, away from the coast on higher land with views of the creek. It adds that direct access to the shoreline areas would be discouraged by the presence of good way-marking, existing field boundaries and / or cropped land that largely separates the trail from the shoreline, as well as the access exclusions placed on land adjacent to the feeding and roosting areas.

230. NE does not consider those using the inland trail would directly disturb birds on the intertidal habitat, as it would be mainly set landward of fences, crops and scrub. It adds that at points along S009 and S010, where the path is closest to sensitive habitats and exclusion areas, there would be clear waymarking alongside direction notices explaining the reasons for the access restrictions and for staying on the inland route. NE says that it would provide direction notices and ensure they are clearly visible from the trail. It considers that walkers would respond to this information and keep to the proposed alignment, and the winter bird interest along this shoreline would not be adversely affected.
231. NE maintains that it has worked closely with BWNK to identify sites where it would be necessary to increase signage and information to safeguard wildlife sensitivities. It advises that BWNK is an organisation that oversees an access management strategy of the Medway, specifically relating to recreational disturbance of the Medway Estuary and Marshes SPA birds from walkers and dogs. NE also says that BWNK has agreed to maintain a range of information panels associated with the Iwade to Grain and the Grain to Woolwich proposals, and to work with the Great Barksore Farm landowners, if any further information were needed across this site in the future, as set out in Annex 7A to NE's comments on the objections.
232. NE says that it will also work with BWNK to find a suitable location for some new Bird Wise signage near the car park at Lapwing Drive, Lower Halstow, to explain the importance and sensitivity of the creek's wildlife to local dog walkers.

Concerns of Birders

233. NE explains that its duty is to consider the potential impacts on designated sites and sensitive wildlife in light of the potential increase of use due to the coastal access proposals, as laid out within the published HRA and Nature Conservation Assessment. It advises that it worked with local birders to carefully identify areas of sensitivity and the use of this land by breeding, passage and wintering birds, and liaised with key wildlife organisations over its proposals. It adds that the main concerns raised include the presence of important birds close to the proposed trail and the perception that walkers will stray into the excluded areas both close and further from the proposed trail. NE restates that it does not consider that significant numbers of walkers, or their dogs, would stray into the key wildlife areas at times of sensitivity and cause an adverse impact on the features of the designated site, due to the positioning of the trail, the exclusions and the distance from the main area of sensitivities.

Other Wildlife

234. Regarding concerns that the full range of wildlife at Great Barksore Farm has not been taken account of in the HRA and Nature Conservation Assessment accompanying the proposals, NE states that the landowners raised a number of

concerns during the preparation of the proposals, including the potential impacts of the trail alignment on other, non-designated, wildlife such as bats in hedgerow trees near the Basser Hill junction, harvest mice along the trail and barn owls in disused buildings near the trail. It adds that it considered all the wildlife issues highlighted by the landowners when considering the options for the trail.

235. NE maintains that its proposals avoid the removal of hedgerow trees around Basser Hill junction, and the trail alignment follows mainly field margins with rough grassland. In relation to harvest mice, it adds that the proposed alignment covers some 1km of field margin and is unlikely to significantly impact the local population given the availability of other suitable habitats across the farm and in the local area. In addition, while any such impact would be unlikely, it would avoid any impact on harvest mice nests by undertaking the installation of gates during the winter months, as set out on page 17 of the relevant Nature Conservation Assessment.
236. Regarding protected Barn Owls, NE says that it is aware they nest in the disused buildings near S009 and that disturbing these birds while nesting is illegal. It adds that the buildings here would be excepted from the right of access and as the birds are active at dusk / night, walkers would be less common. NE also says that, given that barn owls nest in busy farmyards and get used to regular passers-by, it does not consider it likely that walkers passing the building would result in nest abandonment. NE also says that, if the birds nest in one particular location / building, the landowner is also at liberty to fix an appropriate barrier / door to deter people from entering the building.
237. Regarding the variety of other species said to be found on the farm, NE considers that the proposed location of the trail around arable field edges and alongside hedgerows would only affect a limited area of the farm and is unlikely to have a direct or significant impact on populations of these species given the extent of suitable habitats nearby.

Other Route Options

238. NE says that it considered a wide range of alignment options near Great Barksore Farm on both the north and south sides of Sheerness Road, as set out in 4.3.2 Other options considered: Maps IGR 4a and IGR 4b – Funton Brickworks to Lower Halstow of the proposals. On balance, it maintains that the off-road route proposed best meets the Section 297 alignment criteria by providing a safe and continuous route, with views of the estuary while still striking a fair balance between public and private interests.

Align on All or Parts of the Saxon Shore Way along Sheerness Road

239. NE advises that the Saxon Shore Way is a long-established walking route of 163 miles, which follows the historic line of the coast between Hastings and Gravesend, which KCC state was set up in the 1980s. It follows existing rights of way, highways, permissive and de-facto paths. In this area, NE says that it follows the carriageway of Sheerness Road, west from the junction with Basser Hill, before turning onto a public footpath towards Lower Halstow, and then crossing Sheerness Road, and following a Church Path towards Halstow Creek.
240. NE advises that when considering aligning the route along or across a highway, it consults the relevant highway authority over safety and convenience,

to consider the likely level of visitors' familiarity with and expectations of the risks. In this instance, at NE's request, as the highway authority, KCC undertook a highway safety assessment. KCC advised that use of any part of the carriageway along Sheerness Road, west of Bassier Hill, would not be appropriate for a promoted National Trail with increased visitor use due to a combination of poor sightlines and the lack of verges and refuges for pedestrians. KCC's views are summarised at Annex 8A to NE's submissions on the objections.

241. Regarding the potential use of the eastern carriageway of Sheerness Road, between Bassier Hill and Little Barksore Farm, a point where another public footpath heads south from Sheerness Road, NE says that KCC has also advised that this section of the carriageway would be unsuitable due to restricted views. KCC's views on this matter are summarised at NE's Annex 8B.
242. NE comments that the Saxon Shore Way was set up decades ago and what once may have been considered safe is not necessarily still considered so, under modern standards. In several places along the North Kent Coast, NE says that it follows carriageways, and concerns were raised by KCC on its potential use of these for the England Coast Path (as highlighted in the Overview document, section 6a Recreational Issues). NE adds that, while there are no traffic accident reports along this stretch of the Saxon Shore Way, KCC has advised that it is an unsuitable route for a new National Trail, as encouraging more walkers may increase the risk of incidences.

Improve the Saxon Shore Way / Sheerness Road

243. Regarding potential improvements, such as reducing the speed limit, erecting signs or undertaking road repairs, to create a safer alignment for the trail and also benefit cyclists and horse riders, as well as walkers, NE says that when KCC provided advice about the use of Sheerness Road / Saxon Shore Way for the England Coast Path, no simple or cost effective mitigation measures were suggested to overcome their conclusion that the road was not suitable. NE adds that KCC's advice highlighted that if these potential options were to be further considered, detailed design work and cost estimates would be required.
244. NE states that KCC also advised that its observations were that this road is effectively a 'rat run' that becomes busy at rush hour periods. It adds that potential mitigation works, such as traffic calming 'build out' chicanes, traffic lights and single file carriageway, would have a severe impact on traffic flow and there would be no guarantee that such a scheme would obtain approval from the relevant KCC Transportation Board. If any road improvement works were to take place here, NE maintains that they would involve a significant and costly programme. NE adds that if works involved widening the verges to create refuge areas, significant landscape and wildlife considerations would also need to be taken into account as both verges of Sheerness Road are steep in places and well-vegetated.
245. NE adds that KCC did not highlight that a simple extension of Lower Halstow's village 30mph zone would solve the issues it had raised about Sheerness Road. NE also says that it did not investigate extending the limit of the village 30mph zone, some 900m plus, out along the rural roads to Bassier Hill. NE advises that KCC has since informed it that "a change in speed limit

alone does not affect speeds and there are a number of considerations that we must go through when deciding whether to embark on a consultation about a proposed change to a speed limit. The speed limit on a road should reflect the local environment, nature of the road and its use; not be manufactured to facilitate other demands,” and that “it is costly and time consuming and must have a valid road safety reason behind it”.

246. NE says that a full feasibility and design phase for any road improvement works here would likely cost over £10,000, prior to any highways approval or implementation costs. Further costly investigations into road improvements were, therefore, not considered appropriate by NE. In its view, the proposed trail alignment across Great Barksore Farm and along the seawall to Lower Halstow would provide a substantial improvement of the recreational experience in this area and better meet the alignment criteria by providing a low cost, off-road route close to the coast with good views of the estuary, without significant impacts on the private interests.

247. NE maintains that its proposed route does strike a fair balance between private and public interests, and would favour this route over other inland options, safety considerations aside.

Align along Saxon Shore Way to Pass Village Amenities

248. NE states that the proposed trail diverges from the Saxon Shore Way at the head of Halstow Creek, to follow the seawall, close to the shoreline. Trail users are, in its view, likely to seek out refreshments and amenities in coastal villages, such as Lower Halstow, and visit the local historical sites. With some additional promotion of these facilities, including local pubs and information about the church, on the National Trails website, NE believes that walkers would be more aware of what the local village has to offer and where to find them, which could increase the economic benefits arising from the proposed trail.

249. NE maintains that its proposals already include additional way-mark fingers on existing signposts near the head of the creek and where the Saxon Shore Way diverges from the proposed trail. In light of the concerns raised, it adds that additional fingers would be added to direct walkers towards the footpath into the village and the church entrance.

Align along Options Landward of the Saxon Shore Way

250. Regarding the green, blue and purple routes suggested by [redacted], they would use the carriageway of Sheerness Road to some extent. Consequently, they would be unsuitable for the trail in NE’s view given the foregoing pedestrian safety issues.

251. NE goes on to say that to avoid this section of Sheerness Road, an off-road route between Bassar Hill junction and Little Barksore Farm or Little Barksore Cottage would be required. It adds that it discounted the northern verge as this was narrow and densely vegetated, with the [redacted]’s house and garden, as excepted land, occupying part of the land seaward of the roadside hedge. On the south side, NE says, the verge is densely planted with mature trees, and consequently any alignment would need to pass through the land to the south of the road. NE states that it explored this option, as described in the final

paragraph of table 4.3.2 Other options considered: Maps IGR 4a and IGR 4b – Funton Brickworks to Lower Halstow.

252. In this regard, NE advises that between Basser Hill junction and Little Barksore Farm, an equestrian centre uses a some 4m wide fenced area as an exercise loop. New access through this field would, in NE's view, disrupt the use of the loop which is core to their equestrian livery business. In addition, NE says that KCC advised that the necessary new road crossing at Basser Hill would require significant tree clearance to provide adequate visibility standards for this crossing, impacting on the local landscape. NE states that it does not consider the benefits of an off-road route west from Basser Hill and through the equestrian exercise circuit would outweigh these land management issues, given that its proposed route through more open farmland, closer to the sea would, in its view, strike a fairer balance between public and private interests.
253. NE goes on to say, though, that if the Secretary of State were to prefer the option described above, the onward westerly alignment from Little Barksore Farm ([redacted]'s 'green' option), it would involve new access in the vicinity of the farm buildings and across the farm's orchards. In NE's opinion this alignment would be a more intrusive option than the proposed alignment, which would be set away from the yard and buildings of Great Barksore Farm. In addition, NE says, the coastal margin created by this 'green option' would bring new coastal access rights close to a number of properties along Sheerness Road, land close to Great Barksore Farm buildings and across some land north of Sheerness Road, near S011-S018. In its view the current land uses at these properties and locations do not appear to sit comfortably with the categories highlighted in Schedule 1 of the 2000 Act (excepted land).
254. NE says that the Scheme highlights, in paragraph 8.18.4, that wherever possible, the trail should be aligned on the seaward side of private residences, or that the trail may also pass on the landward side of residences and their curtilage if no suitable seaward route can be found. In NE's view, the proposed alignment offers a suitable, coastal alignment which creates minimal seaward spreading room and is located seaward of all the main buildings in the area.

Break the Proposed Trail at Sheerness Road

255. In respect to the suggestion that a gap in the England Coast Path could be created here so that use of Sheerness Road could be monitored to establish its safety and identify possible improvements, NE refers to Section 297(2) of the 2009 Act that regard must be had to the desirability of ensuring that as far as reasonably practicable interruptions to the route are kept to a minimum. In NE's opinion the proposed alignment would provide a continuous route, avoiding the road safety issues identified by KCC, and create a route close to the sea with views of the coast. Creating a short gap in the trail here would, in NE's view, result in more walkers using Sheerness Road to progress along the coast, equating to the promotion of this road as the England Coast Path, which KCC has stated is unsuitable in safety terms.
256. Regarding any suggestions that because the trail is around an estuary it could be aligned further inland, NE refers to Section 301 of the 2009 Act which specifies that if the estuary discretion is used by NE the same alignment criteria

will apply as they would on the open coast. Whether NE should have used the estuary discretion is covered under the following subheading.

Estuary Discretion

257. In considering the merits of extending the trail around the Medway Estuary, NE says that its proposals explain the decision to exercise its estuary discretion against each of the 2009 Act Section 301(4) estuary criteria, as set out in section 5 of the Overview document. NE adds that in August and November 2020 the Secretary of State approved the use of the estuary discretion for Reports IGR1-IGR3, IGR5 and IGR7-IGR12. The approval of the proposals for IGR 4, NE says, would complete the alignment around the Medway Estuary.

Communications with Great Barksore Farm and LHYC

Great Barksore Farm

258. NE says that it has been in discussions with the landowners or their agents since 2016. On direction from the owners, NE states that it largely communicated with them through their land agents, as well as visiting the farm, often with KCC, met and walked different routes with the owners and agents, and listened to the points raised by both.

259. NE maintains that it follows the Stage 2 steps detailed in the Scheme at para 3.4.6, which include visiting the land, sharing emerging thinking and final discussions with those with legal interests, prior to publication. NE adds that it shared its emerging thoughts regarding the alignment in March 2019 and discussed this with [redacted] and her agent in April 2019. A final iteration was shared, it says with [redacted] in November 2019 (the crossing point at S007) and a site visit was subsequently offered to discuss this. NE says that it understands the strength of feeling that the landowners have regarding any proposed new access to the farm, and that no routes are acceptable to them for the reasons set out in their objections. However, it asserts that it has maintained dialogue with them throughout the development process.

260. Regarding para 4.2.26 of the proposals, NE reiterates that the reference to shooting activity in the Report was premature as it related to a possible future opportunity at a flight pond. NE recognises that its reference was misleading, and it does not think it unreasonable to consider informal methods could be designed into the design/development of any future shooting activity.

261. Regarding concerns raised over wildlife, NE states that during the development of the proposals, the landowners provided views on the likely use of the farmland by walkers and information on the presence of species on the farm. NE says that these were considered in the development of its proposals, for example adjustments were made to the alignment to take account of hedgerow loss near Basser Hill. However, NE's conclusions over the likelihood of walkers straying into Barksore Marshes and having an adverse impact on the sensitive wildlife of this area and along the shoreline, differ from those of the landowners. NE's thinking is set out in the HRA and Nature Conservation Assessment, and its conclusions are made in light of available evidence about potential impacts on key sensitive feature.

262. NE believes it has made every effort to engage the landowners and seek the most appropriate alignment to secure a fair balance and public access that would not have a significant impact on their operational needs, income or privacy.

Lower Halstow Yacht Club

263. Regarding [redacted]'s submission that the proposal maps do not reflect items highlighted previously, including a new vehicle gate on the access track near S012, and a 'pedestrian only access gate that blocked wheeled access' at S016, NE says that both matters had been discussed in the years running up to the proposals. NE says that in April 2019 it sent a letter to LHYC, outlining its proposals for the site, highlighting that "we do not expect that any large scale infrastructure will be required in this location; however it may be necessary to way-mark the route by placing small signs on existing infrastructure on your land, e.g. fences, posts or gates". NE adds that the accompanying map showed the locations of these.

264. In subsequent correspondence between NE and LHYC, NE says it offered to provide a vehicle gate near S012. NE had, though, understood from the Club's correspondence (see Annex 2B, Theme: Security, anti-social behaviour and safeguarding) that this suggestion was not considered useful, such that it did not include it in the final proposals. In relation to the pedestrian only access gate at S016, NE says that its April 2019 correspondence only mentioned new signs in terms of new infrastructure. While NE recognises that there may have been some miscommunication over this gate, it is satisfied that this was remedied by its correspondence with the landowner's agent in August 2019, which detailed all the proposed infrastructure across Great Barksore Farm and LHYC.

265. In developing the proposals, NE says that it aimed to provide the least restrictive infrastructure along the trail, wherever possible, for instance preferring pedestrian gates to more restrictive gates. The existing pedestrian gate at S016 would, in NE's view, be suitable for less-able visitors. It adds, as outlined above, that it does not consider allowing access through this existing pedestrian gate would pose any additional security risk, compared to the current infrastructure.

266. NE concludes that, in line with the Scheme para 3.4.5, it engaged appropriately with LHYC and the landowner.

Personal Impacts from the Coastal Access Programme

267. NE says that it has been aware, throughout, of the depth of feeling and distress the landowners have sensed regarding the likelihood of any coastal access proposals. It adds that it has always sought to listen and develop proposals with landowners to look for a fair and balanced outcome. NE maintains that its proposed alignment is designed to limit impact on farm business and on the privacy of the farm residences, as described under the preceding subheadings. With these measures, it expects that walkers and farm business would be compatible and hopes that, like thousands of farms with rights of way, walkers would not be the cause of ongoing anxiety.

268. NE also says that it understands the significance of this change to the landowners, and that different views have persisted throughout the development of these proposals. It adds that the statutory process has provided the

opportunity for formal objections and representations to be made, and the Secretary of State will ultimately decide on the proposals.

Communications with LHSC

Contact with the Landowner

269. NE advises that it sourced land registry information on all the properties along this coast and wrote to landowners in 2016 introducing the concept of the England Coast Path and inviting them to contact NE to arrange a site visit. NE did not receive a 'return to sender' letter or any answer from LHSC.
270. NE adds that it posted Lower Halstow Sailing Limited a mapped summary of its proposals at their registered office address on Companies House in March 2019, and again did not receive any response. Notification of the publication and 8 week period available to object were sent to the same address in January 2020. NE comments that not all landowning companies respond to its enquiries about the coast path. Given the lack of any obvious land use on this site, NE did not pursue other methods to ensure a site visit.
271. NE states that it is sorry that the company was unaware of the proposals from 2016 to 2020. Given its use of Land Registry and Companies House information, NE considers that it took reasonable steps to inform the Lower Halstow Sailing Limited in line with the Scheme's recommendations for Stage 2, as per para 3.4.6, and gave them the opportunity to contact NE for a site visit, prior to the publication of the proposals.

Land Use

272. Regarding the concerns raised in respect to S017 and the 'significant harm' that is alleged would be caused, NE states that the proposed alignment runs along the top of a raised seawall for some 100m, following a path that is already used by pedestrians, particularly those accessing LHYC to the east. It adds that while a hard / slipway and a jetty are present seaward of the proposed trail, no boating activity has been noted here during several site visits to adjacent land parcels. NE advises that the only registered sailing club in the area is the neighbouring LHYC.
273. The jetty structure on site would, in NE's opinion, be considered excepted land under Schedule 1 of the 2000 Act, with no new access rights as a consequence of the proposals. NE states that boat facilities are common features along the Kent Coast, many of which have access nearby. The Scheme recognises, at para 8.25.9, that the trail will often pass close to the coast near quays and boat clubs. The proposed alignment follows a raised grassed seawall, with what NE describes as no evidence of a yard or facilities landward. NE maintains that, if boats are put in at this site, those involved could either ask the visitor to wait or halt the operation while walkers pass. An increase in walkers is, in its view, unlikely to jeopardise the use.
274. NE also states that the land here is not fully fenced, with no evidence that it is used for grazing, for instance. As part of the proposals, at para 4.2.10, NE identifies that the existing field gate between this land and that to the west, will be left open and unlocked to make it easier for all walkers to cross the seawall here. NE adds that it understands that there is a wish locally to reduce possible

vehicular access and states that that its proposals take this into account, retaining gates across the seawall, east and west of the land here.

Analysis

275. For ease of reference the themes and headings used by NE in its response to the objections are broadly employed in the analysis below.

Land Use Impacts - Great Barksore Farm

Arable Land

276. While S009 would be aligned through an arable field, as NE has identified, it is able to recommend that the trail crosses this type of land on an 'access strip', such that the strip itself would not be excepted from coastal access rights. Much of the proposed route here would use a grassed margin, with only a short section of some 50m length employing the proposed 'access strip' across crops. While this arrangement would have some impact on operations or yield, given the scale of the area concerned, any such affect would be likely to be very limited. Moreover, this sort of arrangement, where a public right of way follows the fringes of farm fields and in part crosses arable land, is a common feature of the countryside and I see no significant reasons why use of this section of the trail would be incompatible with farming activity.

277. NE advises that an amended route around the northern edge of the ploughed area could be put forward instead of the proposed trail alignment. However, for the foregoing reasons and on the basis that the proposed route were to be well signed on the ground, there is no overriding reason to do so.

Machinery and Farm Operations

278. As indicated above, rights of way crossing farmland are a common feature of the countryside and there is no good reason to believe that these uses of the land are incompatible as a matter of principle. As NE has identified, the operational use of heavy machinery is common to many farms, including those with public access. The Scheme anticipates and considers such concerns and describes how disruption to operations using vehicles and agricultural machinery and concerns over the safety of the public can largely be dealt with through careful alignment of the trail and informal management measures. The introduction of warning notices would nonetheless be a sensible measure.

279. Potential conflict between farming operations and use of the proposed trail would be limited given that the proposed alignment across the farm is largely along field edges / margins. Consequently, bearing in mind that the route is likely to be well-defined, through use and signage, lines of sight would be fairly open, and given that farmworkers would be likely to become familiar with the trail and its use, the risk of any significant conflict or detriment to farm-based operations would be very limited. For instance, as NE identifies, while trail users may need to pause to let farm vehicles pass, and the vehicle drivers would need to be alert to the potential presence of walkers. To assist, notices could be erected at likely crossing points to alert walkers to the potential danger.

280. For the foregoing reasons, therefore, a land management direction to exclude access for Great Barksore Farm, akin to the direction proposed at LHYC, would

not be warranted. Moreover, as NE has set out, given that the proposed LHYC exclusion covers a small area where a range of activities take place, it is not directly comparable to the more open, expansive nature of the farm. The Scheme also refers to following the principle of the least restrictive option.

281. There is also no good reason to disagree with NE's conclusion that, with mitigation, the limits of coastal access rights would be clear and public presence off the trail would not be likely to affect farm operations or cause a significant risk to public safety so as to justify a farm wide exclusion of coastal access rights.

Effects of Dogs

282. It appears that the proposed trail alignment between S005 and S010 would not affect fields currently used to grow hay, but of course that could change in the future. Nonetheless, users of rural paths are likely to understand and respect their context and respond appropriately, including in terms of taking care to avoid crops where they are present. This can be reasonably assisted via management measures including mowing and signage. Signage can include directional signage as well as information to explain the effects of dog contamination. Much of the proposed trail alignment would be bounded by hedges or fences, which would also help assist in this regard.

283. These considerations would also reasonably reduce any risks associated with dogs on grazing, while the significant majority of dog walkers likely to use the path would be aware of their responsibility to keep dogs on leads in the vicinity of livestock. There also appears to be reasonable space to enable livestock to distance themselves from trail users. Livestock are also likely to grow accustomed to access.

284. In view of NE's comments on the matter, the risks associated with dogs and biosecurity / spread of Alabama Rot would appear to be very low.

Access and Shooting

285. Shooting at the farm would have the potential to pose a risk to users of the trail. Nonetheless, such shooting activity should be well managed, following good practice and legislation. Moreover, if they were to occur, shoots at flight ponds would be likely to be at times when walkers are less likely to be present. If it proved necessary in the future, a temporary route over arable land could be employed using field margins. On this basis, any risk to users of the trail from any shooting at the farm would be very limited.

Land Use Impacts - LHYC

286. Notwithstanding LHYC's concerns, the proposed alignment of the trail would provide adequate space for users to safely cross the site away from the main areas of activity. If the Club were to use this part of the site for storage, the presence of the trail would not significantly limit the Club's ability to store equipment within the compound. The proposed direction would exclude coastal access rights from the more operationally and risk sensitive areas of the site. Consequently, the proposals would not pose a significant operational or safety risk to the Club.

287. As outlined above, users of the trail are likely to understand and respect their environment and respond appropriately, including in terms of taking care to stay on the trail and manage their dogs. This could be supported by informal management measures, such as signage, which would be likely to reasonably mitigate any potential impacts. Consequently, it is unlikely that dogs would have a significant effect on the Club.

Security, Anti-Social Behaviour and Safeguarding - Great Barksore Farm and Harval

288. While the introduction of access to the farm would represent change for the farm owners / operators as well as for residents, there is little evidence to suggest that the proposals would have a significant effect on security. Indeed, users of the trail would introduce greater surveillance, which might have a positive effect in this regard. The trail and associated access rights would be a considerable distance away from the dwellings in question as well as from the farmyard, such that there would be very little likelihood of increased trespass as a result of the proposals were they to be implemented. Accordingly, with reasonable management measures, such as secure storage of machinery and equipment, the trail would be unlikely to have a significant effect in terms of security, anti-social behaviour or safeguarding.

289. For the reasons outlined above, although the trail would be likely to attract dog walkers, it is unlikely this would have a significant effect on the farm, particularly given that the vast majority of dog walkers are likely to be responsible and keep their dogs under effective control, including clearing-up faeces. Again, this can be supported through management and communication, including signage regarding local coastal access exclusion areas, bagging faeces and wildlife protection, such as to reasonably mitigate any potential impacts.

290. As referred to above, rights of way are a common feature of the countryside including farmland, and most users understand their responsibilities, including regarding litter. There is no good reason to believe that use of this part of the proposed trail would be any different. Much of the land in the coastal margin here would have no coastal access rights, so users would be most likely to be focussed on making progress along the trail. Accordingly, the proposals would be unlikely to have a significant effect in terms of litter.

Security, Anti-Social Behaviour and Safeguarding - LHYC

291. By its very nature, it is inevitable that the trail will occasionally pass close to small boating facilities such as LHYC. The proposals would increase public access to the Club's site, albeit on foot only, such that they would have the potential to effect site security. Nonetheless, there is no compelling evidence before me that pedestrian footpaths increase the risk of theft. Indeed, the additional natural surveillance that seems likely would come with the trail, may have a beneficial effect in this regard. Moreover, it is clear that LHYC is alert to security issues and could, therefore, continue to take reasonable measures to support site security were the trail to go ahead as proposed.

292. No new vehicular access to the Club would be created. Although the gate at S016 would be unlocked, the width would be constrained. For these reasons, the proposals would be unlikely to facilitate the unwanted removal of material

from the site. Furthermore, notwithstanding the increased public access, for the foregoing reasons and with reference to NE's comments on the matter, it seems unlikely that the proposals would pose any significant risk to the existing electricity meter and isolator located close to the trail.

293. The trail and access arrangements here would be clear and direct, taking users away from Club facilities. Moreover, the Club is not specifically orientated to minors, and adults should be on hand to supervise children for whom they are responsible. For these reasons, therefore, it is not considered that the proposals would compromise child safeguarding.

294. For the reasons outlined above regarding Great Barksore Farm, including the likely behaviour of most users and reasonable management, notwithstanding the additional movements across the site by trail users and their dogs that would result, it is unlikely that the implementation of the proposals would have a significant effect on litter or dog fouling at the Club premises.

Commercial Impacts - Great Barksore Farm

295. This matter does not appear to raise any significant obstacle to the proposals, now or under any potential future arrangements, subject to appropriate management. I have come to this view having taken account of all of the submissions and note NE's advice on this matter, including that there is usually no direct conflict between options in agri-environment schemes and access; public rights of way are not uncommon on land under these schemes; and there is nothing in the eligibility criteria of the GS2 Option preventing land with public rights of way from entering the CSS provided requirements are met.

296. As outlined above, the general relationship between livestock and access that would result at the farm is a reasonably common feature of the countryside. Given that the two can coexist without significant consequences as a matter of principle and bearing in mind the matters outlined above regarding these particular proposals, the trail alignment, the likely conduct of users and local management arrangements, it appears unlikely that the proposals would have a significant impact in this regard. If, as NE has identified, the pattern of land use changes in the future, and a grazier wished to graze fields close to or on the proposed alignment, further directions could be sought to restrict access.

297. Given the proposed route and alignment of the trail, that the significant majority of users are likely to behave responsibly and with reasonable management and marketing, it seems unlikely that the proposals would have a significant effect on income from hay sales.

298. While the farm is reasonably small, the proposals would affect only a limited portion of it and would largely make use of field edges, thereby further limiting any effects. As outlined above, the likely good conduct of users and employment of reasonable management measures would be likely to further mitigate any impacts of the trail.

Farm Gate Sales

299. Even if the proposals were to be implemented, it seems likely that some pedestrians would opt to pass the current point of trade. Regular local customers are also likely to continue to be customers, while the introduction of the trail would offer the opportunity for new points of sale along its path.

Commercial Impacts - LHYC

300. Given my conclusions regarding 'land use impacts' and 'security, antisocial behaviour and safeguarding' as outlined above, it is unlikely that in practice the proposals would have a significant effect on the operation of the Club, such that it seems equally unlikely that it would negatively affect Club membership. Indeed, it may mean more people become aware of it and potentially look to get involved.

Curtilage

301. Given that curtilage generally means a small area forming part and parcel with the house or building to which it is attached, the proposed trail would very clearly be well removed from the main farm buildings and dwellings at Great Barksore Farm. While there are some buildings in the coastal margin, they would be considered excepted land and, in any event, would not meet the Defra definition of curtilage either given that they stand in an open field.
302. While less clearcut, for the reasons outlined by NE above, the proposed arrangements at LHYC would not sit comfortably within the Defra definition of curtilage. The trail's function and placement would be separate to Club buildings and that parts of the site appear to fall into the excepted land category of buildings and their curtilage.

Privacy at Great Barksore Farm

303. NE has advised that the proposed trail would be no closer than 75m to the main buildings at the farm. The introduction of public access to private land has the potential to effect the living conditions of any residents, for instance in terms of privacy. Nonetheless, given the distance of the dwellings from the trail and bearing in mind that publicly accessible paths that cross rural land are not uncommon and reasonably coexist with surrounding residential property, any potential effects on living conditions of occupants would be likely to be very limited. Remaining features including vegetation would also help screen users of the main trail from residents and vice versa.
304. As discussed above, it is also likely that users would be well-behaved, staying to permitted areas, which could be assisted through appropriate management measures, such as waymarking and mowing of the trail route. For these reasons, therefore, the proposals, would not have a significant effect on the living conditions of farm residents.

Privacy at LHYC

305. The trail would be located reasonably close to Club buildings, offering views across the wider site. Consequently, there would be a greater prospect of overlooking as a consequence of the proposals. Nonetheless, given the commercial / leisure use of the site, in contrast to residential, and the presence

of existing screening, which might be supplemented, and bearing in mind that most users of the trail are likely to be considerate and focussed on making progress along the route, it is unlikely that the proposals would have a significant effect on LHYC's members and users in terms of privacy.

Unsuitable Alignment Across Great Barksore Farm

Onward Progression and Relation to Shoreline

306. Although it would not follow the shoreline, the proposed trail route across the farm and nearby would take walkers close to the coast and provide views of the coastal landscape and estuary, while also being reasonably direct. Suitable waymarking, signage and other management measures, such as mowing, would also support good use of the trail. Users of the trail are also likely to be accustomed to the kind of arrangement proposed, including angles within its alignment, given that features of this ilk are not uncommon on rural rights of way. Accordingly, and having regard to the matters addressed by NE in respect to these topics, the proposals would offer suitable onward progression while providing a route that would not be convoluted, away from the shoreline.
307. Clearly, the existing Saxon Shore Way would be more direct and remain available for walkers as an alternative to the proposed route. Nonetheless, for highway safety reasons, it would not be suitable for a national trail, while it would also be further removed from the coast and, in my view, offer more limited views of the coast compared to the proposed route.

Views along the Trail

308. Having visited the area, including the line of the proposed trail across the farm and elsewhere as well as nearby parts of the Saxon Shore Way, I agree with NE's assessment that, overall, the proposals in this area would offer good views of the estuary.

Shoreline Access

309. Due to local circumstances, such as wildlife and their habitat, it is inevitable that along some sections of the trail direct access to the sea would not be possible, as would be the case here. Nonetheless, the proposed route would offer views of the estuary and also have a coastal feel. Opportunities to access the shoreline would nonetheless be available fairly nearby as users progress along the trail. Users would also be provided with information explaining why access would be limited along this part of the trail.

OS Explorer Series Maps and Coastal Margin

310. OS maps show coastal margin in terms of its status, much as they do with the status of other land, such as national park boundaries, rather than indicating that the land is necessarily accessible. They also include an explanation that in some areas the land is not subject to access rights. Consequently, there is no good reason to believe that OS mapping would lead to except land being accessed.
311. Indeed, NE has stated that although coastal margin has been shown on OS maps since 2014 it is unaware of any issues that have resulted even though

some very substantial areas of land with excepted land or areas protected for nature conservation have been included.

Ground Conditions

312. NE has advised that it does not believe that there is a need for any major surfacing works along the proposed trail and I have found no good reason to conclude otherwise. Uneven ground, vegetation, standing water and muddy conditions are part and parcel of rural walking routes, such that users of the trail are very likely to be prepared for and able to reasonably cope with these kinds of ground conditions. Moreover, in its role as Access Authority, KCC would ensure the trail would be passable prior to the new rights of access coming into force. It would also keep an overview of the condition of the trail, undertaking works as necessary. Consequently, ground conditions at the farm would not be incompatible with the proposals.

Accessibility

313. NE has proposed infrastructure to help facilitate access. Nonetheless, by its nature, the England Coast Path will feature conditions, such as those referred to in the preceding sub-section, which will be a barrier to some people who would like to use it, as is very likely to be the case at Great Barksore Farm. On balance though, the proposals here do appear to offer what would be a fair balance between the various interests and considerations at play, including those associated with people with limitations to their mobility.

Impacts on Wildlife

314. Regarding the report referred to by an objector, NE has provided a clear and convincing explanation of why such a high proportion of users at the sites studied strayed from the path. The reasons appear to be largely related to particular circumstances of those areas, which contrast with the situation at and in the vicinity of Great Barksore Farm. NE's review of the 2000 Act, which did not conclude there was a need for restrictions to keep people to paths, and its experience of managing National Nature Reserves indicate that the vast majority of walkers keep to well-marked paths.
315. The trail at the farm would, in my view, be aligned to help separate walkers from sensitive habitat, with existing features such as fences and hedges, helping to contain walkers and dogs. This would be supplemented by information regarding the protected areas, 'no-access' roundels and waymarking. Moreover, the proposed trail would be aligned so that it would be kept separate from sensitive areas, including Barksore Marshes.
316. NE appears to have gone to reasonable and appropriate lengths to engage with and respond to the feedback of local birders. For the reasons outlined above, it is not anticipated that significant numbers of walkers, or their dogs, would stray into sensitive wildlife areas.
317. NE has also provided a response to the wider concerns raised regarding the effect of the proposals on biodiversity at Great Barksore Farm. I have found no good reasons to disagree with any of its conclusions in this regard.

Other Route Options

318. Notwithstanding accident records, it is clear from the submissions of KCC as local highway authority, which I have considered in the context of my own observations while visiting the area, that the use of the Saxon Shore Way for the England Coast Path here rather than what is proposed, would be unsafe and inappropriate for a national trail. This is primarily due to the lack of verges, and limited intervisibility and pedestrian refuges along sections of carriageway where the Saxon Shore Way runs.
319. Interventions could potentially be made to mitigate the matters identified by KCC, such as reducing the speed limit, traffic calming, works to improve / widen the highway and the creation of a segregated footway. Such measures might also improve safety for all road users and help promote horse riding and cycling. Nonetheless, no simple or cost effective mitigation measures to this end have been identified by KCC that would indicate that its concerns could be reasonably overcome. Such measures also have the potential to have unintended detrimental consequences, for instance in respect to biodiversity and the character and appearance of the area.
320. The alignment of the trail would not deny users the opportunity of visiting the St Margaret's Church and they would be likely to seek out refreshments and amenities in coastal villages such as Lower Halstow. Consequently, it appears unlikely that tourist activity / revenue in the village would be diminished as a result of the proposed alignment. Indeed, it seems more likely that the trail would have a positive effect in this regard. I also note that NE proposes to add signs to direct walkers towards the footpath into the village and the church entrance.
321. Many of the alternatives suggested landward of the Saxon Shore Way would still involve use of the carriageway of Sheerness Road to some extent, such that they would be unsuitable due largely for the reasons outlined above, particularly regarding pedestrian safety. Other considerations, including the likely effect on an equestrian livery business, the creation of overly extensive areas with coastal access rights and taking the trail further from the coast, also militate against these suggested alternative routes.
322. In view of all of the foregoing points and bearing in mind the desirability of ensuring that as far as reasonably practicable interruptions to the route are kept to a minimum, there is no good basis to justify creating a short gap in the trail here as has been suggested. Indeed, if anything, it seems likely that to do so would result in more pedestrian use of Sheerness Road to the likely detriment of highway safety.
323. NE has clearly carefully considered a wide range of alignment options near Great Barksore Farm, including those put forward by interested parties, and reasonably concluded that, on balance, the off-road route proposed best meets the Section 297 alignment criteria by providing a safe and continuous route, with views of the estuary while still striking a fair balance between public and private interests.

Estuary Discretion

324. I can see no compelling justification for not extending the trail around the Medway Estuary. I also note that the Secretary of State has already approved the use of the estuary discretion for other sections of the England Coast Path around the Estuary.

Communications with Great Barksore Farm, LHYC and LHSC

325. Having regard to the comments of NE and the associated correspondence, it is evident that the necessary consultations were undertaken, and that NE took time and effort to liaise and communicate with the relevant parties and landowners. This process has also led to the multiple submissions / objections from residents of Great Barksore Farm and from LHYC and LHSC as well as wider representations regarding these sections of the proposals, as outlined above. Accordingly, interested parties have had reasonable opportunity to comment on the proposals. Their submissions have been reasonably taken into account by NE and they are considered herein.

Effects on LHSC

326. The proposed trail alignment would follow the top of the seawall here, along an existing path used by pedestrians, including those accessing LHYC to the east. I have found no good reason to disagree with NE that the existing jetty structure would be excepted land under Schedule 1 of the 2000 Act, with no new access rights as a consequence of the proposals. As referred to above regarding LHYC, boat facilities including public access are not uncommon and need not be incompatible. Similar to the neighbouring LHYC premises and use, subject to appropriate management, there is no compelling reason to believe that the proposals would have a significant effect on LHSC.

Personal Impacts from the Coastal Access Programme

327. I too recognise the depth and strength of feeling expressed by those who have made submissions regarding this section of the proposed trail. I do not treat them lightly and recognise that if implemented the proposals would represent an important change for those affected. Nonetheless, for the reasons outlined above, subject to appropriate management, it is not anticipated that, in practice, the England Coast Path as proposed here would have the impacts that are feared locally and, as such, need not be a source of ongoing anxiety.

Conclusion

328. For the reasons set out above, the proposed sections of the England Coast Path here would be unlikely to have any significant detrimental effects in respect to any of the various matters that have been raised by landowners and other interested parties subject to the waymarking, signage and other measures referred to by NE in its comments that are not expressly included in the report. Potential alternatives have been considered, however, none were found to be more appropriate than the sections in question here, particularly having regard to highway safety.

Recommendation

329. Having regard to these and to all other matters raised, I conclude that the proposals, including the additional waymarking, signage and other measures referred to by NE in its comments, do not fail to strike a fair balance as a result of the matters raised in the objections. I therefore recommend that the Secretary of State makes a determination to this effect.

[redacted]

APPOINTED PERSON

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

Introduction

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

Project Location

2. The proposed section of path in question forms part of the England Coast Path between Iwade and Grain. In terms of the objections considered here, IGR-4-S005 to IGR-4-S016, inclusive, are the relevant sections. They are referred to henceforth as 'S005-S016', as shown on Maps IGR 4a and IGR 4b.
3. S005-S016 are in proximity to the SPA and the Medway Estuary and Marshes Ramsar site (the Ramsar site). The SPA and Ramsar site have a complex arrangement of tidal channels, which drain around large islands of salt marsh and peninsulas of grazing marsh, with large areas of mudflat that have high densities of invertebrates providing a good food source for wading birds. Grazing marsh can also be found landward of some sea walls in the area. The complex and diverse mixes of coastal habitats support important numbers of waterbirds throughout the year. In summer, the estuary supports breeding waders and terns, whilst in winter it holds important numbers of geese, ducks, grebes and waders. The middle and outer parts of the estuary represent the most important areas for the birds.

Habitats Regulations Assessment Implications of the Project

4. S005-S016, as part of the England Coast Path between Iwade and Grain, would increase access to this area by walkers, including those accompanied by dogs, whose presence have the potential to affect the SPA and the Ramsar site. In the vicinity of S005-S016 the qualifying features of these designated sites are:
 - Non-breeding waterbirds (dark-bellied brent goose; common shelduck; hen harrier; northern pintail; avocet; ringed plover; grey plover; red knot; dunlin; redshank; black-tailed godwit; curlew; great-crested grebe; greenshank; oystercatcher; shoveler; spotted redshank; teal; wigeon; waterbird assemblage);
 - Breeding waterbirds (avocet; little tern; breeding bird assemblage); and
 - Wetland plant and invertebrate assemblages.
5. In 2020 Natural England (NE) undertook a shadow Habitats Regulation Assessment (sHRA) for the Iwade to Grain length of the England Coast Path. It provides the information to inform the Competent Authority's appropriate assessment, in accordance with the assessment and review provisions of the Habitats Regulations. The sHRA is recorded separately in the suite of reports. It

considered the potential impacts of the coastal access proposals on the designated sites identified above as well as others which are distant from S005-S016, including likely significant effects.

6. Initial screening set out that as the plan or project is not either directly connected or necessary to the management of all of the European sites' qualifying features, an Habitats Regulation Assessment was required. The overall Screening Decision found that the plan or project at large would be likely to, or may, have significant effects on some or all of the qualifying features of the European Sites alone in the absence of mitigation measures. Accordingly, the sHRA considered the potential for the project to give rise to Adverse Effects on the Integrity (AEol) of the designated sites.
7. The scope of the assessment is set out in Table 6 of the sHRA (pages 25 & 26) and identifies the sites and qualifying features for which significant effects, 'alone' or 'in combination', would be likely or could not be excluded beyond reasonable scientific doubt. The relevant information for S005-S016 is identified in the third row of Table 7 of the sHRA (page 36) and discussed in D3.2C Barksore Marshes (pages 45 to 49); note that this covers the entirety of this part of the coastal path, not just S005-S016.
8. The assessment of AEol for the project alone takes account of measures to avoid or reduce effects incorporated into the design of the access proposal as set out in sub-section D3.3, including Table 8. The assessment, which covers the entire length of the England Coast Path between Iwade and Grain, not just S005-S016, identifies that the measures incorporated into the design of the scheme are sufficient to ensure no AEol in light of the sites' conservation. Those where there is some residual risk of insignificant impacts are:
 - Disturbance to foraging or resting non-breeding waterbirds;
 - Disturbance to breeding waterbirds; and
 - Trampling of sensitive vegetation.
9. In section D4 of the sHRA, NE considered the appreciable effects that are not themselves considered to be adverse alone to determine whether they could give rise to an AEol in combination with other plans or projects. Insignificant and combinable effects likely to arise, and with the potential to act in-combination with the access proposals, were identified in relation to the implementation of coastal access both from Grain to Woolwich and from Whitstable to Iwade. Nonetheless, as set out in Table 10 of the sHRA (pages 72 to 73) assessing the risk of in-combination effects, NE concluded that, in view of site conservation objectives, the access proposal (taking into account any incorporated avoidance and mitigation measures) would not have an adverse effect on the integrity of the relevant designated sites either alone or in combination with other plans and projects.
10. Part E of the sHRA sets out that NE is satisfied that the proposals to improve access to the English coast between Iwade and Grain, including S005-S016, are fully compatible with the relevant European site conservation objectives. NE's general approach to ensuring the protection of sensitive nature conservation features is set out in section 4.9 of the Scheme. To ensure appropriate separation of duties within NE, the assessment conclusions are certified by both the person developing the access proposal and the person responsible for

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

Nature Conservation Assessment

11. Although not forming part of the sHRA, NE has also undertaken a Nature Conservation Assessment, which should be read alongside the sHRA. The Nature Conservation Assessment covers matters relating to Sites of Special Scientific Interest (SSSI) Marine Conservation Zones (MCZ) and undesignated but locally important sites and features, which are not already addressed in the HRA. Relevant to S005-S016 are the Medway Estuary and Marshes SSSI, the Medway Estuary MCZ and other features, including ground nesting birds, bats, common dormice, harvest mice and breeding nightingale.
12. NE was satisfied that the proposals to improve access to the English coast between Iwade and Grain, including to S005-S016, were fully compatible with its duty to further the conservation and enhancement of the relevant notified features, including Medway Estuary and Marshes SSSI, consistent with the proper exercise of their functions.
13. In respect of any duties that may arise under section 125 of the Marine and Coastal Access Act 2009, NE also concluded for the Medway Estuary MCZ that the access proposal (including any mitigation measures specified) is one that, consistently with the proper exercise of its functions under section 296 of the same Act, is least likely to hinder the achievement of the conservation objectives for the MCZ such that it may proceed.
14. In respect of important features, including at Great Barksore Farm, NE was satisfied that in developing the new access proposals the appropriate balance has been struck between NE's conservation and access objectives, duties and purposes.



Determination of admissibility of objection

by [redacted] BA(Hons) MIPROW

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

Date:

Objection Ref: MCA/IGR/4/11

Objection by [redacted]

Coastal Access – Funton Brickworks to Lower Halstow

- On 15 January 2020, Natural England submitted reports to the Secretary of State setting out the proposals for improved access to the coast between Iwade and Grain under section 51 of the National Parks and Access to the Countryside Act 1949 (the 1949 Act).
 - Natural England submitted the reports in accordance with its duty under the Marine and Coastal Access Act 2009 (the 2009 Act) to improve access to the English Coast.
 - The objection, made on 5 March 2020, concerns Natural England's Report 4 for land between Funton Brickworks and Lower Halstow, specifically route section IGR-4-SO10, as shown on map 4b.
-

Determination

15. The objection is not admissible.

Preliminary Matters

16. I am required by paragraph 5 of schedule 1A of the 1949 Act to determine whether an objection is admissible and to give notice of that determination, together with the reasons for it.
17. For an objection to be valid it must be made by a person who has a relevant interest in affected land, be within the appropriate timeframe, be on the prescribed form, and satisfy the conditions set out in paragraph 3 subparagraphs (3) and (4) of schedule 1A of the 1949 Act¹.

Reasons

18. The objector made her objection on the prescribed form and within the required period i.e. by 11 March 2020.
19. The objection is made on the grounds set out in paragraphs 3(3)(a), (c) and (f), namely:
- the position of any part of the proposed route (paragraph 3(3)(a));
 - the inclusion of, or failure to include, proposals under section 55C(2) for an alternative route, or the position of such a route or any part of it (paragraph 3(3)(c)); and

-
- the exercise of a discretion conferred by section 301(2) or (3) of the 2009 Act, or the failure to exercise a discretion conferred by section 301(3) of that Act, in relation to a river (paragraph 3(3)(f)).
20. The objection specifies the reasons why the objector is of the opinion that a fair balance is not struck.
21. The objector is the occupier of the property known as 'Meophams'. For an objection to be valid it must be made by the owner, tenant or occupier of the affected land. However, a plan provided shows the proposed route of the trail and the landward margin of the trail located outside of the registered title of the Meophams plot. For this reason I am not satisfied that the objection is admissible.

[redacted]

INSPECTOR

¹ Paragraph 3 of schedule 1A of the 1949 Act reads:-

- (1) Any person who has a relevant interest in affected land may make an objection to Natural England about a coastal access report.
- (2) For the purposes of this Schedule an objection is not an admissible objection unless it—
 - (a) satisfies the conditions in sub-paragraphs (3) and (4), and
 - (b) is made in accordance with any requirements imposed by regulations under sub-paragraph (7)(b).
- (3) The first condition is that the objection is made on the ground that the proposals in the report, in such respects as are specified in the objection, fail to strike a fair balance as a result of one or more of the following—
 - (a) the position of any part of the proposed route;
 - (b) the inclusion of proposals under subsection (2) of section 55B or the nature of any proposal under that subsection;
 - (c) the inclusion of, or failure to include, an alternative route under section 55C(2) or the position of any such alternative route or any part of such a route;
 - (d) the inclusion of, or failure to include, proposals under one or more of paragraphs (a) to (c) of section 55D(2) or the nature of any proposal made under such a paragraph;
 - (e) the inclusion of, or failure to include, a proposal under section 55D(5) or the terms of any such proposal;
 - (f) the exercise of a discretion conferred by section 301(2) or (3) of the Marine and Coastal Access Act 2009, or failure to exercise a discretion conferred by section 301(3) of that Act, in relation to a river.
- (4) The second condition is that the objection specifies the reasons why the person making the objection is of the opinion that a fair balance is not struck as a result of the matter or matters within sub-paragraph (3)(a) to (f).

-
- (5) An objection under this paragraph may propose modifications of the proposals in the report if the person making the objection considers—
 - (a) that those modifications would remedy, or mitigate the effects of, the failure to strike a fair balance to which the objection relates, and
 - (b) that the proposals as so modified would satisfy the requirements of sub-paragraph (6).
 - (6) Modified proposals satisfy the requirements of this sub-paragraph if what they propose—
 - (a) is practicable,
 - (b) takes account of the matters mentioned in section 297(2), and (where appropriate) section 301(4), of the Marine and Coastal Access Act 2009 (matters to which Natural England and the Secretary of State must have regard when discharging the coastal access duty), and
 - (c) is in accordance with the scheme approved under section 298 of that Act (the scheme in accordance with which Natural England must act when discharging the coastal access duty) or, where that scheme has been revised, the revised scheme.
 - (7) The Secretary of State may by regulations make provision about—
 - (a) the steps to be taken by Natural England to make persons with an interest in affected land aware of their entitlement to make objections under this paragraph;
 - (b) the form and manner in which, and period within which, objections are to be made.



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

by [redacted] BSc(Hons) DipTP DMS MA MRTPI

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

Date

Marine and Coastal Access Act 2009

Objections by:
[redacted]

Regarding Coastal Access Proposals by Natural England

Relating to Funton Brickworks to Lower Halstow

Objection References: MCA/IGR/4/2

Funton Brickworks to Lower Halstow

- On 15 January 2020 Natural England submitted Coastal Access Reports to the Secretary of State for Environment, Food and Rural Affairs setting out proposals for improved access to the coast between Iwade and Grain 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.
- The objections concern Natural England's Report IGR 4 for land between Funton Brickworks and Lower Halstow. The land in the Report to which the objections relate is specifically route sections IGR-4-S019, S020 and S024, as shown on Map IGR 4b.
- The objections are made under paragraphs 3(3)(a), 3(3)(b), 3(3)(c) and 3(3)(d) 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 objections.

Summary of Recommendation: I recommend that the Secretary of State makes a determination that the proposals set out in Report IGR 4, in respect to the trail sections IGR-4-S019, IGR-4-S020 and IGR-4-S024, do not fail to strike a fair balance in respect to the objections considered herein.

Preliminary Matters

22. On 15 January 2020 Natural England (NE) submitted Coastal Access Reports to the Secretary of State setting out proposals for improved access to the coast between Iwade and Grain. The period for making formal representations and objections to the reports closed on 11 March 2020. I have been appointed to report to the Secretary of State on the objections.
23. There are other admissible objections to the Reports concerning improved access to the coast between Iwade and Grain. Although some of these other objections also relate to Report IGR 4, they concern different route sections and, as such I have considered it expedient to address them separately in other reports to the Secretary of State.
24. I carried out a site inspection on 11 November 2021. I was accompanied by the objector, as well as by representatives from NE and from Kent County Council (KCC).

Main Issues

25. The coastal access duty arises under section 296 of the Marine and Coastal Access Act 2009 (2009 Act) and requires NE and the Secretary of State to exercise their relevant functions to secure two objectives.
26. 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 2009 Act as the English coastal route, but for ease of reference is referred to as 'the trail' or 'the England Coast Path' in this report.

27. The second objective is that, in association with the England Coast Path, a margin of land along the length of the English coast is accessible to the public for

the purposes of its enjoyment by them in conjunction with the coastal route or otherwise. This is referred to as the coastal margin.

28. Section 297 of the 2009 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.
29. 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.
30. Section 301 of the 2009 Act applies to river estuaries and states that NE may exercise its functions as if the references to the sea included the relevant upstream waters of a river.
31. My role is to consider whether or not a fair balance has been struck. I shall make a recommendation to the Secretary of State accordingly.

The Coastal Route

32. Forming part of the England Coast Path between Iwade and Grain, the length of path under consideration is contained within Report IGR 4: Funton Brickworks to Lower Halstow and includes two sections of path as shown on Maps IGR 4a and 4b. The objection relates to routes IGR-4-S019, IGR-4-S020 and IGR-4-S024, referred to as 'S019', 'S020' and 'S024' henceforth.
33. Funton Brickworks to Lower Halstow follows existing walked routes, including public rights of way, along part of this length. Between sections IGR-4-S014 to IGR-4-S024 it follows the coastline closely with views of Halstow Creek. S019, S020 and S024 are described in the IGR 4 Report as other existing walked routes, although none are recorded public rights of way.
34. The proposed trail here would run to the south of the Medway Estuary and Marshes Special Protection Area, Medway Estuary and Marshes Ramsar site, the Medway Estuary and Marshes Site of Special Scientific Interest, and the Medway Estuary Marine Conservation Zone.
35. Access to the mudflats and saltmarshes in the coastal margin seaward of trail sections IGR-4-S001 to IGR-4-S024 is proposed to be excluded all year round by direction under Section 25A of the Countryside and Rights of Way Act 2000 as this land is unsuitable for public access. The mudflat is soft and sinking, does not provide a safe walking surface and is subject to frequent tidal inundation. The exclusion would not affect the trail itself here, nor would it have legal effect on land where coastal access rights do not apply.
36. The landward margin to S019 contains a coastal land type in the form of a bank, while the landward margin to S020 and S024 contains no coastal land type. For S020 only the fence line here would be the landward boundary of margin for

clarity and cohesion. No roll-back is proposed for any of the three trail sections in question.

The Objections

37. The objector is the owner of the land. [redacted] states that the proposed trail is very close to his and other people's homes, such that its use would be likely to harm residents' living conditions, including as a result of disturbance and loss of privacy. [redacted] also considers that, due to nearby free and convenient parking, recreational users of the trail here would find it easy to picnic, camp, hold parties, play music, leave litter, and cause damage and disturbance, including during evenings and at night-time. [redacted] adds that opening this land to the public would result in bottle-digging, collection of important flora, fauna and artefacts from the low-tide area as well as the foreshore, causing harm, damage and erosion.
38. The objector also maintains that the proposed alignment of the trail would lead users to the rear of St Margaret's Church, an important Heritage Asset, denying them its front access in contrast to the route of the Saxon Shore Way which runs to the south of the Church. [redacted] adds that, whereas users of the Saxon Shore Way are, in his view, naturally led towards the village centre, users of the proposed trail would be likely to miss the short route leading to the village centre, Three Tuns Public House and village shop by being kept on the sea wall. This he believes would result in lost tourism revenues for the village.

Representations

39. The Ramblers have made comments regarding other parts of the proposed trail between Iwade and Grain, they have not directly commented on S019, S020 and S024 though. It is, nonetheless, inferred that they do not object to the trail along the sections under consideration herein.
40. Historic England states that it does not have any objections to the Iwade - Grain proposal as it considers that it is in general a low impact proposal that would cause little to no harm to heritage significance. Reference is made to specific heritage assets, but none are in proximity to the trail sections considered herein. The grade II listed building Church of St. Margaret of Antioch, located to the south and east of the sections under consideration herein, is not specifically referred to by Historic England.
41. KCC Public Rights of Way and Access Service supports in broad terms the creation of the England Coast Path and recognises the benefits it will bring to the County. It says that although it is disappointing that the trail is not proposed to be aligned closer to the sea in places, it understands the reasons for the preferred route given the wildlife and environmental constraints of the existing landscape. It also says that it understands the difficulties that have been encountered when balancing public and private interests. KCC goes on to say that while the Saxon Shore Way provides extensive opportunities to explore the North Kent Coast, it does not always follow the principles of the Scheme. It adds that the Saxon Shore Way was limited to passing along public rights of way and highways when it was created in 1980.

42. KCC draws particular attention to the section of trail proposed on Map IGR 4b, where the Saxon Shore Way passes along the Sheerness Road and notes that NE has acknowledged the advice from the Local Highway Authority and understood that the Sheerness Road is not suitable for a National Trail, with its expected levels of public use. KCC adds that the proposed trail alignment is welcomed as it would provide a safer off-road alternative to the existing Saxon Shore Way and adhere to the general principles of the Coastal Access Scheme.
43. [redacted] comments that the report only makes passing reference to cycling. Unlike other parts of the Thames and the Kent coast, there is no official cycling trail along the shoreline between Whitstable and Dartford. National Cycle Network 1 is mainly away from the shore, except in Riverside Country Park. The trail should be open to cycling, unless there is a good reason otherwise. Barriers should be removed along the trail and surfaces could be improved in the long term. [redacted] adds that making the trail better for cycling would make it better for disabled access.
44. Disabled Ramblers are encouraged by the positive changes proposed to improve access for mobility vehicles and note why it is not possible to improve matters in certain places. They are also pleased to read of the inclusion of some step-free routes that will be signposted to get around some unavoidable barriers and thank NE for its hard work on this, and for helping to open up the opportunities available to those with limited mobility.
45. Country Land and Business Association asks that concerns landowners have in respect of sections IGR-4-S004 to IGR-4-S024 are taken into account. Although there are no specific comments in respect to S019, S020 and S024, it is suggested that it would be far more reasonable if use were made of the existing Saxon Shore Way and Sheerness Road rather than the proposed route.
46. There are a number of other representations from individuals, some of which make the same or similar points, chiefly but not exclusively in respect to sections IGR-4-S006 to IGR-4-S024 (S006 to S024) at large. I have grouped similar points together in the following paragraphs, such that the same people reappear in respect to numerous points.
47. [redacted], [redacted], [redacted], [redacted], [redacted] and [redacted], [redacted], [redacted], [redacted], [redacted], [redacted], [redacted], [redacted] and [redacted], [redacted], [redacted] and [redacted] maintain NE has failed to consider that some of the key criteria of the scheme are that the trail should be convenient and safe, it should make onward progress, and it should reach the coast. In their view, S006 to S024 is a convoluted route and does not improve on the existing Saxon Shore Way.
48. They add that the proposed route is neither convenient nor safe, with one area full of rabbit holes/divots and another extremely muddy / flooded such that it is impassable for much of the winter. They also consider that the public would not benefit from access to the coast as they are not allowed down to the water because of the sensitive wildlife areas.
49. With reference to Report IGR4 at large, [redacted], [redacted] and [redacted], and [redacted] state that it is disappointing that a large sum of money is being spent on this in the Medway Estuary, given the large areas of 'excepted land'.

They consider that it would be better to suspend the England Coast Path and its associated rights between Iwade and Rochester Bridge and, instead, use the Saxon Shore Way.

50. [redacted] and [redacted] say, in respect to the proposed route from IGR-4-S013 to IGR-4-S024 at large, that there is no indication of any alternative route, should there be any reason for the proposed route not to be available. They add that as there is no roll back plan, this route could potentially be lost, such that the Saxon Shore Way is a much safer and a more sensible plan.
51. [redacted], [redacted], [redacted], [redacted], [redacted], [redacted], [redacted], [redacted] and [redacted], and [redacted] consider, in respect to S006 to S024 at large, that the report is misleading on the basis that it is unclear what the white areas on the Map IGR 4a indicate as these are not identified in the key. They add that that Map does not clearly indicate the correct alignment of the existing footpath / Saxon Shore Way.
52. [redacted], [redacted] and [redacted], [redacted], [redacted], [redacted], [redacted], and [redacted], regarding the whole of the Report IGR 4, state that they are disgusted to read the cost of putting in just two of the five kissing gates given that the Saxon Shore Way could be used instead.
53. Regarding the whole of the proposed route, [redacted], [redacted] and [redacted], and [redacted] state that existing publicly accessible sea views are not significantly different to those that might be gained by the proposed route.
54. [redacted] adds two further points to those set out above. The first reads “the original path via a traveller community has been deemed too dangerous by the local police and avoided - is this fair or acceptable. Surely one rule should apply to everyone”. Secondly, they add that if the dangers of collisions between cars and walkers along the Saxon Shore Way section of Sheerness Road continue to be ignored NE would hold itself legally and financially accountable for any future accidents or compensation here.
55. [redacted] adds that the trail should not be aligned alongside the garden fences of three private dwellings and its alignment would be a breach of the farm owners’ privacy. [redacted] also adds that the proposal is not suitable as it does not offer anything new that cannot already be enjoyed from the Brickfields which is a large public open amenity space on the estuary; access to the water’s edge is possible at The Brickfields but it is not at Great Barksore due to the sensitive wildlife areas.
56. [redacted] adds that part of the trail that would follow the coast in the area known as “The Brickfields” becomes saturated and impassable. In [redacted] view to rectify this would incur large costs to the public purse and an ongoing cost to the parish council to maintain. [redacted] adds that many walkers would get to the yacht club, which is some way to the east of S019 to S24, and join the road to get to Bassar Hill, thus endangering themselves and other road users. [redacted] also questions the consistency of NE’s approach to designating a “Sensitive Wildlife Area” yet proposing that the trail pass through such a designated area.

57. [redacted] and [redacted] also query *whose responsibility it would be to oversee the well-being of walkers, wildlife and businesses – presumably not NE?*
58. [redacted] adds two further points to those set out above. The first is that the proposed route would also mean that the village pub would be by-passed and could have a detrimental effect on its survival and thus the community itself. The second reads, “as a retired teacher who has taught in this area of Kent and who in later years became very much involved in International Education, with an emphasis on maintaining our own culture and heritage, I am disappointed that English Coast Path “team” deem it necessary to submit a route which avoids part of the existing Saxon Shore Way. This is how our heritage is eroded and we should be fighting hard to maintain it.” In a similar vein Gillian Evans adds that aligning along the currently accessible Saxon Shore Way, instead of across Great Barksore Farm, would maintain some of the existing heritage of this part of the county.
59. [redacted] makes the additional point that, as someone who works in the care sector with vulnerable adults, [redacted] is disappointed that in spite of the proposed investment in the Medway Estuary associated with the trail, [redacted] service users will not be able to access the proposed path across Great Barksore Farm. Instead, [redacted] adds, the opportunity should be used to improve the access around the Brickfields sea wall so that wheelchair users and those with mobility aids would be able to enjoy the coastal views and the birdlife. There is ample parking in [redacted] opinion at the end of Lapwing Drive for minibuses - her service users would then be able to access the seawall and enjoy the views down the estuary, which they currently are unable to do.
60. [redacted] adds that she has been surveying harvest mice nests, for a Wildwood/Kent Mammal Group funded lottery project and found one nest in January 2019 at IGR-4-S006 on the roadside. [redacted] was given permission to survey other areas at Great Barksore Farm, which resulted in the discovery of more nests at IGR-4-S008 and IGR-4-S010. [redacted] considers that these field margins along the proposed route to be undisturbed habitat, such that the trail would impact the species that live there.
61. [redacted] is also a Friend of the Lower Halstow Brickfields, which borders the seawall in Lower Halstow. This area has the Saxon Shore Way running along the sea wall. [redacted] has been working with Bumblebee Conservation Trust to improve the habitat for rare bumblebees and has recorded red shanked carder and Brown Banded carder bumblebees on the site. [redacted] states that these bumblebees would be foraging on the area of the proposed route on Great Barksore Farm. In [redacted] view, nature has not been given a high priority over people and their proposed spreading room with the disturbance impacts this could have. [redacted] says that [redacted] deals with regular detrimental impact of humans on the Brickfields path on the sea wall, including litter, anti-social behaviour and dog faeces (often in trees). [redacted] adds that [redacted] regularly litter picks this area voluntarily.
62. [redacted] and [redacted] add that the proposals do not mention that the area is mainly mud flats with dangers to novice walkers. They add that the trail should not be aligned near the garden fences of three private dwellings, and that it would not improve access to the shoreline.

63. [redacted] adds that the proposed road crossing is unsafe. In [redacted] view a better and less disruptive option would be for the trail to remain to the south of Sheerness Road, thereby avoiding a dangerous road crossing and could be made to re-join the existing path in the village.
64. [redacted] additionally considers there to be inconsistency in the proposals with reference to the routing being proposed to follow the Saxon Shore Way between Ham Green and Otterham Quay but not from Bassier Hill to Lower Halstow. [redacted] adds that a true coastal path between Ham Green to Otterham Quay should go along the seawall around the peninsula.
65. NE has provided comprehensive responses to each of the representations. These are set out in NE's *Representations on IGR 4: Funton Brickworks to Lower Halstow and Natural England's comments* document, March 2021.

Natural England's Response to the Objections

66. In respect to illegal and anti-social activities, such as bottle digging, wild plant collection, parties and littering, NE does not see any reason why the trail would lead to significant increases in such activities. It adds that the proposed route through S019 and S020 is already well trodden, and if it were to be aligned inland of the coast in this location, the seawall would also become part of the coastal margin of the trail, with new access rights.
67. Regarding amenity and living conditions, NE refers again to the proposed route alignment along an existing well-trodden path on top of a raised flood defence bund which is close to the estuary shoreline. It adds that to the landward side of the trail bramble, scrub and trees make the path well screened from the buildings that are located inland, which include [redacted]'s home. NE maintains that due to these existing circumstances, it does not consider there is a likelihood of any new visual intrusion into the properties landward of the trail that would affect privacy.
68. NE acknowledges, though, that there would be an increase in walkers along this section of the trail, which might result in some transient noise. It adds, nonetheless, that in its view there is no reason to consider that walkers along the trail would cause noise disturbance to the neighbouring properties, which are generally set back from the seawall. NE also maintains that users of long distance trails normally act in a responsible way, passing along the path or visiting the shoreline – and any disturbance is likely to be fleeting. Consequently, it concludes that any noise is unlikely to have a significant impact on the privacy and amenity of residents and landowners in the homes and gardens landward of the seawall.
69. NE also recognises that the Saxon Shore Way passes to the south of St Margaret's Church near to S019, S019 and S024, leading to the centre of Lower Halstow village, whereas the proposed route would not. NE adds, though, that the proposed route would diverge from the Saxon Shore Way at the head of Halstow Creek, to follow the seawall, close to the shoreline. In its view, trail walkers would be likely to seek out refreshments and amenities in coastal villages such as Lower Halstow, and visit the local historical sites, such as the Church. It adds that with some additional promotion of these facilities, including local pubs and information about the Church, on the National Trails website,

walkers would be more aware of what the local village has to offer and where to find what is available, which might increase the economic benefits arising from the proposed national trail.

70. NE also states that its proposals already include additional way-mark fingers on existing signposts near the head of the creek and where the Saxon Shore Way diverges from the proposed trail. In light of the concerns raised NE advises that additional signs will be added to direct walkers towards the footpath into the village and the church entrance.

Analysis

71. The section of the proposed trail from S019 to S024 is an existing walked route, which given its coastal location within a village, seems likely to be well used already. Consequently, it seems unlikely that the proposal would result in a very marked increase in the use of this existing section of path. The nearest dwellings are positioned some way distant from these sections of the proposed trail or are located to the south of the existing Saxon Shore Way. Residential property in this area to the north of Saxon Shore Way, is also largely screened by existing vegetation to the landward side of the trail, thereby limiting potential overlooking. For all of these reasons, therefore, it is unlikely that the proposals here would have any significant effect on the living conditions of neighbours, including those of [redacted]'s household.
72. It is also reasonable to assume that users of the trail, as a long distance path, would normally act in a responsible way. Even if there were to be any disturbance it seems likely that it would be fleeting as users come and go. Given this section of the proposed trail is already a path that seems well-used and bearing in mind its village location, I also do not see any reason why the proposals here would lead to significant increases in the kinds of illegal and anti-social activities that have been suggested. I am also mindful that if the trail were to be re-aligned inland of the coast, for instance to follow the route of the nearby section of the Saxon Shore Way, the seawall would become part of the coastal margin of the trail, with new access rights. Views from the proposed route and its closer proximity to the coast would also accord with the coastal access duty in s297(2)(b).
73. The alignment of the trail to the north of St Margaret's Church would not deny users of the trail the opportunity of experiencing the Church. The Church is readily visible from this part of the proposed trail and would remain accessible from it via a short detour. Consequently, anyone using the trail here with an interest in this heritage asset could still visit it and appreciate its historic and architectural significance as they can now.
74. As NE has noted, it also seems likely that users of the trail would seek out refreshments and amenities in coastal villages such as Lower Halstow. Consequently, it appears unlikely that tourist activity / revenue in the village would be diminished as a result of the proposed alignment. Indeed, it seems more likely that the trail would have a positive effect in this regard. I also note that NE proposes to add signs to direct walkers towards the footpath into the village and the church entrance.

75. Regarding safety and convenience as raised in the representations, the Local Highway Authority will be responsible for maintaining the route once established. Many coastal paths may be prone at times to become wet and muddy. There is no reason to suppose that the condition of the trail along these sections would become so poor to render it unsuitable for public use.

Conclusion

76. For the reasons outlined above, the proposed sections of the England Coast Path here would be unlikely to have any significant detrimental effects in respect to landowners or occupants' living conditions, nor have a significant effect on anti-social or illegal activity along the lines suggested by the objector. Potential alternatives have been considered, including use of the Saxon Shore Way along Church Path, but none were found to fulfil the coastal access objectives within s297(2). Moreover, the proposed section in question here would follow the coast, providing views of the sea. There is also no good reason to believe that the proposed trail here would have a significant negative effect in terms of the visitors to or appreciation of St Margaret's Church nor on tourism and economic activity in the village.

Recommendation

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

[redacted]

APPOINTED PERSON

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

Introduction

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

Project Location

79. The proposed section of path in question forms part of the England Coast Path between Iwade and Grain. In terms of the objections considered here, IGR-4-S019, IGR-4-S020 and IGR-4-S024 are the relevant sections. They are referred to henceforth as 'S019', 'S020' and 'S024', as shown on Map IGR 4b.
80. S019, S020 and S024 are in proximity to the SPA and the Medway Estuary and Marshes Ramsar site (the Ramsar site). The SPA and Ramsar site have a complex arrangement of tidal channels, which drain around large islands of salt marsh and peninsulas of grazing marsh, with large areas of mudflat that have high densities of invertebrates providing a good food source for wading birds. Grazing marsh can also be found landward of some sea walls in the area. The complex and diverse mixes of coastal habitats support important numbers of waterbirds throughout the year. In summer, the estuary supports breeding waders and terns, whilst in winter it holds important numbers of geese, ducks, grebes and waders. The middle and outer parts of the estuary represent the most important areas for the birds.

Habitats Regulations Assessment Implications of the Project

81. S019, S020 and S024, as part of the England Coast Path between Iwade and Grain, would increase access to this area by walkers, including those accompanied by dogs, whose presence have the potential to affect the SPA and the Ramsar site. In the vicinity of S019, S020 and S024 the qualifying features of these designated sites are:
- non-breeding waterbirds (dark-bellied brent goose; common shelduck; hen harrier; northern pintail; avocet; ringed plover; grey plover; red knot; dunlin; redshank; black-tailed godwit; curlew; great-crested grebe; greenshank; oystercatcher; shoveler; spotted redshank; teal; wigeon; waterbird assemblage);
 - breeding waterbirds (avocet; little tern; breeding bird assemblage); and
 - wetland plant and invertebrate assemblages.
82. In 2020 Natural England (NE) undertook a shadow Habitats Regulation Assessment for the Iwade to Grain length of the England Coast Path (the sHRA). It provides the information to inform the Competent Authority's appropriate assessment, in accordance with the assessment and review provisions of the

Habitats Regulations. The sHRA is recorded separately in the suite of reports. It considered the potential impacts of the coastal access proposals on the designated sites identified above as well as others which are distant from S019, S020 and S024, including likely significant effects.

83. Initial screening set out that as the plan or project is not either directly connected or necessary to the management of all of the European sites' qualifying features, a Habitats Regulation Assessment was required. The overall Screening Decision found that the plan or project at large would be likely to, or may, have significant effects on some or all of the qualifying features of the European Sites alone in the absence of mitigation measures. Accordingly, the sHRA considered the potential for the project to give rise to Adverse Effects on the Integrity (AEol) of the designated sites.
84. The scope of the assessment is set out in Table 6 of the sHRA (pages 25 & 26) and identifies the sites and qualifying features for which significant effects, 'alone' or 'in combination', would be likely or could not be excluded beyond reasonable scientific doubt. The relevant information for S019, S020 and S024 is identified in the third row of Table 7 of the sHRA (page 36) and discussed in D3.2C Barksore Marshes (pages 45 to 49); note that this covers the entirety of this part of the coastal path, not just S019, S020 and S024.
85. The assessment of AEol for the project alone takes account of measures to avoid or reduce effects incorporated into the design of the access proposal as set out in sub-section D3.3, including Table 8. The assessment, which covers the entire length of the England Coast Path between Iwade and Grain, not just S019, S020 and S024, identifies that the measures incorporated into the design of the scheme are sufficient to ensure no AEol in light of the sites' conservation. Those where there is some residual risk of insignificant impacts are:
 - Disturbance to foraging or resting non-breeding waterbirds;
 - Disturbance to breeding waterbirds; and
 - Trampling of sensitive vegetation.
86. In section D4 of the sHRA, NE considered the appreciable effects that are not themselves considered to be adverse alone to determine whether they could give rise to an AEol in combination with other plans or projects. Insignificant and combinable effects likely to arise, and with the potential to act in-combination with the access proposals, were identified in relation to the implementation of coastal access both from Grain to Woolwich and from Whitstable to Iwade. Nonetheless, as set out in Table 10 of the sHRA (pages 72 to 73) assessing the risk of in-combination effects, NE concluded that, in view of site conservation objectives, the access proposal (taking into account any incorporated avoidance and mitigation measures) would not have an adverse effect on the integrity of the relevant designated sites either alone or in combination with other plans and projects.
87. Part E of the sHRA sets out that NE is satisfied that the proposals to improve access to the English coast between Iwade and Grain, including S019, S020 and S024, are fully compatible with the relevant European site conservation objectives. NE's general approach to ensuring the protection of sensitive nature conservation features is set out in section 4.9 of the Scheme. To ensure appropriate separation of duties within NE, the assessment conclusions are

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

Nature Conservation Assessment

88. Although not forming part of the sHRA, NE has also undertaken a Nature Conservation Assessment, which should be read alongside the sHRA. The Nature Conservation Assessment covers matters relating to Sites of Special Scientific Interest (SSSI) Marine Conservation Zones (MCZ) and undesignated but locally important sites and features, which are not already addressed in the sHRA. Relevant to S019, S020 and S024 are the Medway Estuary and Marshes SSSI, the Medway Estuary MCZ and other features, including breeding nightingale.
89. NE was satisfied that the proposals to improve access to the English coast between Iwade and Grain, including to S019, S020 and S024, were fully compatible with its duty to further the conservation and enhancement of the notified features of The Swale SSSI, Medway Estuary and Marshes SSSI, Tower Hill to Cockham Wood SSSI and South Thames Estuary and Marshes SSSI consistent with the proper exercise of their functions.
90. Although concerns have been raised in the representations over harvest mice and other species living in field margins, there is no cause to believe any protected species would be adversely affected.
91. In respect of the relevant sites or features the appropriate balance has been struck between NE's conservation and access objectives, duties and purposes.

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

by [redacted] BSc(Hons) DipTP DMS MRTPI

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

Date 10 June 2022

Marine and Coastal Access Act 2009

Objections by:

[redacted] for the Haulfryn Group Ltd, [redacted], [redacted] and [redacted],
[redacted], [redacted] and [redacted], [redacted], [redacted], [redacted], [redacted]
and [redacted], and [redacted]

Regarding Coastal Access Proposals by Natural England

Relating to Shoregate Creek to Otterham Quay

Objection References: MCA/IGR/6/2-11

Shoregate Creek to Otterham Quay

- On 15 January 2020 Natural England submitted Coastal Access Reports to the Secretary of State for Environment, Food and Rural Affairs setting out proposals for improved access to the coast between Iwade and Grain 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.
- The objections concern Natural England's Report IGR 6 for land between Shoregate Creek and Otterham Quay. The land in the Report to which the objections relate is specifically route sections IGR-6-SO23 to IGR-6-SO25 inclusive, as shown on Map IGR 6b.
- The objections are made variously under paragraphs 3(3)(a), 3(3)(b), 3(3)(c), 3(3)(d), 3(3)(e) and 3(3)(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 objections.

Summary of Recommendation: I recommend that the Secretary of State makes a determination that the proposals set out in Report IGR 6 as proposed to be modified by Natural England, specifically in respect to the trail sections IGR-6-SO23 to IGR-6-SO25 inclusive, do not fail to strike a fair balance in respect to the objections considered herein.

Preliminary Matters

92. On 15 January 2020 Natural England (NE) submitted Coastal Access Reports to the Secretary of State setting out proposals for improved access to the coast between Iwade and Grain. The period for making formal representations and objections to the reports closed on 11 March 2020. I have been appointed to report to the Secretary of State on the objections.
93. There are other admissible objections to the Reports concerning improved access to the coast between Iwade and Grain. Although some of these other objections also relate to Report IGR 6, they concern different route sections and, as such I have considered it expedient to address them separately in other reports to the Secretary of State. Nonetheless, I have considered these ten sets of objections here together on the basis that they all relate to a common section of the proposed trail.
94. I carried out a site inspection on 11 November 2021. I was accompanied by the objectors and other residents of Beckenham Park, as well as by representatives from NE and from Kent County Council (KCC).

Main Issues

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

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

97. The second objective is that, in association with the England Coast Path, a margin of land along the length of the English coast is accessible to the public for the purposes of its enjoyment by them in conjunction with the coastal route or otherwise. This is referred to as the coastal margin.
98. Section 297 of the 2009 Act provides that in discharging the coastal access duty NE and the Secretary of State must have regard to:
 - (g) The safety and convenience of those using the trail,
 - (h) The desirability of that route adhering to the periphery of the coast and providing views of the sea, and
 - (i) The desirability of ensuring that so far as reasonably practicable interruptions to that route are kept to a minimum.
99. 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.
100. Section 301 of the 2009 Act applies to river estuaries and states that NE may exercise its functions as if the references to the sea included the relevant upstream waters of a river.
101. My role is to consider whether or not a fair balance has been struck. I shall make a recommendation to the Secretary of State accordingly.

The Coastal Route

102. Although forming part of the England Coast Path between Iwade and Grain, the length of path under consideration is contained within Report IGR 6: Shoregate Creek to Otterham Quay and includes two sections of path as shown on Maps IGR 6a and 6b. While some of the objections do not make specific reference to numbered sections of the proposed trail, those that do refer to sections IGR-6 S023 to IGR-6-S025 inclusive, as shown on Map IGR 6b: Upchurch to Otterham Quay. All of the objections expressly refer to Beckenham Park, a mobile home park, which would be crossed by section IGR-6 S024. For ease of reference, I shall refer to the sections in question as 'S023', 'S024' and 'S025' henceforth.
103. Shoregate Creek to Otterham Quay includes a significant inland diversion, which NE sees as being necessary to take the trail past sensitive and important wildlife sites around the coastline north of Ham Green and west of Upchurch and also at Bayford and Horsham Marshes. S023 to S025 would mark the start of this inland diversion and follow a new route that is not currently available to be walked by the public.
104. Although meandering somewhat, in broad terms the trail would follow a roughly north-south alignment. From south to north, S025 would briefly follow Otterham Quay Lane before turning on to and following a private access road that serves a number of businesses, including Beckenham Mobile Home Park (Beckenham Park). S024 would continue the trail northward, through

Beckenham Park along an existing access road to its northern boundary. S023 would leave Beckenham Park to the north taking a somewhat zigzagging alignment following the field boundary before joining S022 to the north.

105. The proposed trail here would run a little to the east of the Medway Estuary and Marshes Special Protection Area (the SPA), Medway Estuary and Marshes Ramsar site (the Ramsar site), and the Medway Estuary and Marshes Site of Special Scientific Interest (the SSSI). A little further to the north/west lies the Medway Estuary Marine Conservation Zone.
106. Access to the mudflats and saltmarshes in the coastal margin seaward of route sections IGR-6-S001 to IGR-6-S027 is proposed to be excluded all year round by direction under Section 25A of the Countryside and Rights of Way Act 2000 (the 2000 Act) as this land is unsuitable for public access due to the hidden dangers associated with such land. These mudflats and saltmarshes lie a little to the west and north of S023 to S025.
107. Notwithstanding the contents of Report IGR 6, in light of two other objections, which are the subject of a separate report to the Secretary of State, (Objection References: MCA/IGR/6/1 and MCA/IGR/6/12), NE now proposes to modify the Report. Consequently, an all-year direction would apply to land that lies between the proposed trail and the mudflats and saltmarshes referred to above. Accordingly, access would be excluded on the seawall and coastal grazing marshes / fields around Upchurch peninsula, including Horsham and Bayford Marshes, seaward of route sections IGR-6-S001 and IGR-6-S022 by direction under Section 26(3)(a) of the 2000 Act, all year to avoid disturbance to internationally important numbers of breeding, on passage and wintering birds.
108. The foregoing exclusions would not affect the route itself. Nor would they have any legal effect on land where coastal access rights do not apply.
109. Dogs would be kept to leads all year-round at Beckenham Park on S024 and at the hay field south of Woodgers Wharf, adjacent to Otterham Creek, thus applying to S023 and to the immediate coastal margin through which it passes. Both directions would have effect under s24 of the 2000 Act for ongoing land management reasons.
110. Beckenham Park residents are not permitted to keep a dog on site and visitors' dogs must be kept on a lead at all times, such that the restriction would reflect existing land management practices. These directions would not prevent or affect:
 - Any existing local use of the land by right: such use is not covered by coastal access rights;
 - Any other use people already make of the land locally by formal agreement with the landowner, or by informal permission or traditional toleration; or
 - use of any registered rights of common or any rights at common law or by Royal Charter etc.
111. Regarding S023, the trail here would pass through a reasonably small field with a high yield hay crop. The purpose of the direction is to minimise contamination of the crop. The restriction would have no legal effect on land where coastal access rights do not apply.

112. The landward margin to S023 to S025 contains no coastal land type. For S024 and S025 the landward edge of the access roads here would be the landward boundary of margin for clarity and cohesion.
113. In respect to roll-back, 'buildings, roads' and 'commercial or orchards, caravan site' are identified as features potentially affected along all of the sections considered here. Stretches of coast here have been identified for future 'no active intervention' within the Medway Estuary and Swale Flood and Coastal Erosion Risk Strategy.
114. Regarding 'buildings, roads' roll-back, if the trail becomes unsuitable as a walking route in future, and it is no longer possible to find a viable route seaward of buildings or any other excepted land such as homes and gardens, NE would choose a route that passes landward of them, following discussions with owners and occupiers and relevant experts. In reaching this judgement NE indicates that it would have full regard to the need to seek a fair balance between the interests of potentially affected owners and occupiers and those of the public.
115. In respect to 'commercial or orchards, caravan site' roll-back, if it is no longer possible to find a viable seaward route, NE would choose a new route after detailed discussions with all relevant interests, either to pass through the orchard or caravan site, or if this is not practicable, to pass somewhere on the landward side of it. Again in reaching this judgement NE would have full regard to the need to seek a fair balance between the interests of potentially affected owners and occupiers and those of the public.

The Objections

116. [redacted] for the Haulfryn Group Ltd (HGL), owners of Beckenham Park at the time of the objection, objects under para 3(3)(a) of Sch 1A to the 1949 Act. [redacted] advises that Beckenham Park has a residents association representing home owners which is consulted prior to changes on the Park. [redacted] adds that there are 74 residential homes that are all owner occupied where residents have bought into a retirement / semi-retirement lifestyle. The Park is a private estate with a single lane access road for residents and their visitors only with no footpath. [redacted] explains that as the Park is open plan, without fences, residents are concerned that there is nothing to stop walkers entering their private gardens. There are two private car parks solely for residents / visitors, and [redacted] says that concerns have been raised that walkers might leave their vehicles. Residents are also highly concerned dogs might escape their leash causing a nuisance and possibly foul the Park. [redacted] adds that residents are only allowed cats as pets. [redacted] considers that Option 5 should be progressed in preference to the proposed route.
117. [redacted], a tenant of Beckenham Park, objects under para 3(3)(a). [redacted] states that the path would go through a private residential park where there are elderly residents who value their privacy and seclusion. [redacted] adds that walkers would bring dogs through, fouling the pathways and that there are no waste bins for dog mess / litter. [redacted] is also concerned that the residents car park would be used by walkers leaving residents with nowhere to park and that the trail could entice unsavoury individuals onto the park for criminal activity.

118. [redacted] & [redacted] indicate that they are owners at Beckenham Park. In addition to para 3(3)(a), they also object under paras 3(3)(c), 3(3)(d) and 3(3)(e). They say that it is a private residential park and would want it to stay as such, not a right of way for everyone.
119. [redacted] is an occupier of Beckenham Park and objects under para 3(3)(a). [redacted] says that [redacted] objects to the proposed route through the Park as it passes directly through a quiet residential area where no dogs are allowed. [redacted] adds that [redacted] can foresee lots of dogs off the lead and resulting dog mess being left behind. [redacted] also refers to the site's no dog policy and to the roll-back proposed to pass inland of the Park along the boundary of the commercial orchards. In [redacted] opinion the views of the individual home owners should be considered rather than those of Beckenham Park's land owners, who [redacted] says would not have to live with the mess and noise. [redacted] adds that the trail could follow the Saxon Shore Way, an existing long distance walking route. [redacted] acknowledges that the Saxon Shore Way includes part of a busy road but adds that it would be likely to be more economical and less disruptive to improve safety of the existing footpath than to use the proposed route.
120. [redacted] & [redacted] indicate that they are owners at Beckenham Park and object under para 3(3)(a). They say that they live on a private Park and do not want walkers / strangers walking through, past residents' homes, especially as they are not allowed fencing / hedging to give greater privacy. They also refer to a public right of way to the east of the Park from which walkers can see the Estuary quite clearly.
121. [redacted] indicates that [redacted] is an owner at Beckenham Park and objects under para 3(3)(a)-(f) inclusive. [redacted] questions where the walkers will park their cars and whether walkers have been informed of the Park's no dogs policy. [redacted] adds that [redacted] moved to the Park in around 2017 for its peacefulness and tranquillity. [redacted] feels that the trail would affect wildlife in the Park, cleanliness due to dogs with walkers, and the privacy of residents. [redacted] also queries whether there would be stiles and states that the area is very boggy at certain times of the year, which could be dangerous for walkers and bring debris on to the Park endangering elderly residents. Additionally, [redacted] says that bringing the trail through the Park could invite crime.
122. [redacted] states that [redacted] is a resident of Beckenham Park but has not indicated expressly under which parts of para 3(3) his objection is made. [redacted] objects to the trail through Beckenham Park and considers that an alternative route should be used instead, as shown in the IGR 6 Report. [redacted] adds that to suggest that trees along the alternative route would obstruct a walker's view is no different from the obstruction caused by workshop units and the boatyard at the entrance to the road through the site.
123. [redacted], a tenant of Beckenham Park, also has not indicated expressly under which parts of para 3(3) [redacted] objection is made. [redacted] expresses concerns regarding people parking cars associated with use of the trail and adds that there is only enough room in the car park for residents.

[redacted] also says that the Park is kept in a very good, clean and tidy condition, and that walkers would bring dogs onto the site causing more mess.

124. [redacted] and [redacted] are tenants of Beckenham Park, who object under para 3(3)(a). They explain that they are walkers and support the 'Kent Coastal Path', but have objections to the specific issues they consider would impact them. They add that while they are tenants in respect to the land, they own their home. They make a number of specific objections/points:

- The site is designated as private property, with access for residents and visitors only;
- It is not like a normal housing estate and is completely open plan. Fences are not allowed between or around the properties;
- Although most walkers are responsible, there would be no way of ensuring that dogs are on a lead and children stay on the path. Not all owners clean up after their dogs, so fouling could easily occur on gardens and on the path;
- During warmer weather, many residents leave their doors open during the day, as mobile homes are warmer than houses. There would be nothing to stop walkers and dogs from straying inside or onto gardens;
- While there is a residents only car park, there would be nothing preventing non-resident users of the trail from using it for free, and there are limited spaces. Residents must be 50 years old or over and many are much older, and some have mobility issues or have carers visiting. If they could not park, it would cause significant difficulties as there is nowhere nearby to park; and
- There is an alternative route which would work well and avoid the potential disruption/intrusion from the proposed trail alignment. It is noted that the trail alignment from Upchurch to the Park does not follow the shoreline as it might, for instance, disrupt nesting birds. The alternative route would only mean a short diversion away from the creek and avoid a lot of potential disruption.

125. [redacted] is a tenant of Beckenham Park, who objects under para 3(3)(a). The points [redacted] raises in [redacted] objection are very similar to those set out in the preceding paragraph as raised by [redacted] and [redacted].

Representations

126. The Ramblers prefer trail Option 1, which would follow the periphery of Upchurch peninsula. While recognising and supporting the need to avoid disturbance to birds, they are not convinced that the number of walkers who would use this area would cause a serious problem. They understand that there was public access along the sea wall until the 1950s, and while some improvements have been made by the landowners to the environment for birds, it is understood that this was to improve shooting.

127. The Ramblers have a national campaign to get lost footpaths reinstated and, should it be successful in this case, it would ask NE to apply for a variation order. They also note that there is no mention in the Report or Habitats Regulations Assessment associated with the trail proposals for Iwade to Grain (the HRA) of the disturbance to birds of the wildfowling and shooting that takes place in this area. They maintain that several sections of the trail in Kent follow the sea wall across or adjacent to SPA, Ramsar and SSSI sites without significant problem. Nonetheless, the Ramblers add that they have been fully consulted throughout

the preparation of the Report and had every opportunity to put their case. Having made the point, if Option 1 is not reconsidered, they fully support the new off road route to the north of Horsham Farm and through the Caravan Park.

128. Historic England state that it does not have any objections to the Iwade - Grain proposal as it considers that it is in general a low impact proposal that would cause little to no harm to heritage significance. Reference is made to specific heritage assets, but none are in proximity to the trail sections considered herein.
129. KCC Public Rights of Way and Access Service supports in broad terms the creation of the England Coast Path and recognises the benefits it will bring to the County. It says that although it is disappointing that the trail is not proposed to be aligned closer to the sea in places, it understands the reasons for the preferred route given the wildlife and environmental constraints of the existing landscape. It also says that it understands the difficulties that have been encountered when balancing public and private interests. KCC goes on to say that while the Saxon Shore Way provides extensive opportunities to explore the North Kent Coast, it does not always follow the principles of the Scheme. It adds that the Saxon Shore Way was limited to passing along public rights of way and highways when it was created in 1980. KCC is pleased to note therefore that the opportunity has been taken to create new public access and provide alternatives to the existing on road sections of the Saxon Shore Way.
130. [redacted] and [redacted], [redacted], [redacted], [redacted], [redacted], [redacted], [redacted] and [redacted] and [redacted] expressed concerns about security across Beckenham Park, with fears that people may stray from the path and enter residents' plots. As caravans are often left unlocked, they fear that the trail might bring with it an increase in criminal activity. Some also cited the fact that most of the residents were elderly and the presence of path users may put them at risk from the public. In addition to these security fears, some residents objected to visual intrusion into caravan homes as well as to the increase in noise from path users affecting the tranquillity of the Park. Two of these representations propose that the trail follows Option 5 as set out in the IGR 6 Report rather than the proposed route, which they consider has no worse views than the published route.
131. [redacted], [redacted] and [redacted] and [redacted] are also concerned that trail users would park in the two car parks within Beckenham Park, which are for residents and their visitors only. This, they consider, could lead to insufficient space for the intended users.
132. [redacted], [redacted], [redacted], and [redacted] and [redacted] additionally consider that the trail would allow dogs on to Beckenham Park and into their private gardens, contravening the Park Rules as residents are not allowed dogs. They are also concerned that the dogs would foul the site and that their owners would not clear up after them. They add that some residents are scared of dogs and that the proposals are impractical as it would be difficult to monitor and control the dogs. [redacted] and [redacted] and [redacted] also express concern that the Park's Residents' Association was not consulted by the landowners, HGL, about the proposals.

133. [redacted] comments that the report only makes passing reference to cycling. Unlike other parts of the Thames and the Kent coast, there is no official cycling trail along the shoreline between Whitstable and Dartford. National Cycle Network 1 is mainly away from the shore, except in Riverside Country Park. The England Coast Path route should be open to cycling, unless there is a good reason otherwise. Barriers should be removed along the route and surfaces could be improved in the long term. [redacted] adds that making the route better for cycling would make it better for disabled access.
134. Disabled Ramblers are encouraged by the positive changes proposed to improve access for mobility vehicles and note why it is not possible to improve matters in certain places. They are also pleased to read of the inclusion of some step-free routes that will be signposted to get around some unavoidable barriers and thank NE for its hard work on this, and for helping to open up the opportunities available to those with limited mobility.
135. [redacted] is pleased at the care taken to ensure that the trail would be safe for walkers and that it would be closer to the shore than existing public footpaths at Upchurch, and in particular, that it is not aligned on a dangerous section of road at Horsham Lane, as is currently promoted by the Saxon Shore Way. [redacted] considers the safety of the path to be an important factor to take into account when developing the trail proposals, especially as [redacted] now considers Horsham Lane to be unusable for walkers. However, [redacted] is disappointed and unclear as to why the trail is not aligned closer to the coast along the seawall, especially north of Ham Green.
136. NE has provided comprehensive responses to each of the representations. These are set out in NE's *Representations on IGR 6: Shoregate Creek to Otterham Quay and Natural England's comments* document, March 2021.

Natural England's Response to the Objections

137. NE's response to the objections and representations raised relating to S023 to S025 is set out under the themes that it sees as having been raised by the various objectors. The themes are privacy, tranquillity and security; Beckenham Park's Dog Policy, dog fouling and littering; use of residents' facilities, such as the car parks; consultation with the Residents' Association; Route Option 5; and mud causing a hazard to walkers and residents. These are summarised in turn below, followed by NE's views on the objector's comments on potential modifications.

Privacy, Tranquillity & Security

138. NE considers that there are many examples around the country where caravan parks function perfectly well even though they are subject to some kind of public access. It acknowledges, nonetheless, that concerns may arise at the prospect of aligning the route through sites where there is currently no public access or where the site has long term tenancies, as set out in para 8.19.4 of the Scheme. NE adds that, in accordance with Scheme para 8.19.7, where it is not possible to pass on the seaward side of a site, it aims to seek agreement from the site manager to align the trail through part of the site using existing access tracks and avoiding other excepted land, such as gardens or 'curtilage' around a caravan.

139. In this case, NE says that it has been able to comply with para 8.19.7 as the proposed alignment follows the some 4m wide access road through a section of Beckenham Park, passing the main site office. The proposed coastal access rights would be limited to the road and avoid the 'curtilage' of any individual caravan. NE adds that the caravans are also typically raised, thereby reducing direct views into people's homes.
140. NE explains that the route was developed in consultation with the landowner, HGL, who it says was supportive of the proposals at the time of publication. This support was in light of its positive experience of the Wales Coast Path on one of its other sites.
141. NE adds that the trail along S024 would be direct, well signposted and easy to follow on the ground, such that it is unlikely that walkers would stray off the road. It would also expect the great majority of long-distance walkers to be responsible and respectful of residents' privacy and the tranquil environment and their attention would likely be focused on the views of the estuary and progressing along the trail. In NE's opinion, people walking through mobile home parks normally do their best to stay clear of caravans, where other space is available. NE also advises that it is not aware of any evidence where the use of the England Coast Path produces any significant effects on incidents of anti-social behaviour.
142. With reference to see section 4.6 of the Scheme, NE says that it does not agree that any new impact on privacy would be significant or outweigh the desirability of affording views of the sea referred to in the coastal access legislation.

Dogs & Littering

143. NE says that during the development of the proposals HGL agreed to the proposal for a direction to restrict coastal access rights within the Park to dogs on leads in keeping with the Residential Rules regarding dogs. In relation to this matter NE has provided a copy of an email from [redacted] dated 10 May 2018, which reads "Yes I agree the 'dogs on leads restriction' would work best on the section of the path that crosses Beckenham Park".
144. NE has also provided a copy of the Residential Park Rules for Beckenham Park. Rule 2 states, "Only one cat per household is permitted at Beckenham Park. Dogs are not permitted to reside here. However, you may accept visitors dogs between the hours of 7.00am and 11.00pm but a visitors dog is not permitted to stay overnight. Visitors dogs must be kept on leads at all times, must not be allowed to cause a nuisance and fouling must be cleared immediately and disposed of accordingly. Additionally, if an assistance dog is required to support your disability and Assistance Dogs UK or any successor body has issued you with an Identification Book or any other appropriate evidence, your dog is welcome to reside on the Park with you."
145. NE states that the proposals include new signs to inform visitors of the dogs on lead policy at both ends of the site. In its view, as most dog walkers naturally put their dog on a lead when walking on a road or near to a road due to the risk from traffic, it is unlikely to be difficult to enforce, especially as the trail passes the main office of Beckenham Park.

146. The Residents Association raised concerns about dog fouling and lack of dog bins on site in April 2019, as part of the consultation. NE liaised with Swale Borough Council which agreed to look into options for installing new waste bins that can also accommodate dog waste along the England Coast Path, either on or near Beckenham Park, once the proposals have been approved.
147. Regardless of whether new waste bins can be installed, NE would expect the great majority of long-distance walkers to be responsible and respectful of Beckenham Park and its residents, ensuring that any waste or litter is deposited in a suitable place or at home. NE does not consider the presence of dogs on this road would significantly affect resident's amenity and enjoyment of the site.

Residents' Facilities

148. In NE's view the two car parks associated with Beckenham Park are located well within the boundaries of the site and it is clear that these facilities are provided for residents and their visitors only. NE adds that the larger car park is directly adjacent to the Park Office and there is a manager on site most days. Given these circumstances, NE does not consider that the alignment of the trail here would affect the resident's use of their facilities. Nonetheless, NE is willing, if requested by the landowner/park manager, to include information about the existing parking restrictions on the new signage at the entrance to the site.

Consultation

149. NE says that it appears that [redacted] of HGL makes this objection on behalf of the residents of the Park. Attached to the objection form is a letter from Beckenham Park Association to HGL which includes the complaint that "We residents were not consulted by HGL regarding your approval of the coastal Path" and "it is disappointing that the residents were not consulted prior to the pathway given the go ahead". The letter goes on to say, "We would urge you to reconsider HGL's position on this and submit an objection to the proposal".
150. NE considers these points to be complaints about communication between HGL and the Beckenham Park Association; specifically that HGL lent its support to the proposals without the agreement of the Residents' Association. In terms of the steps it took to keep both parties informed during the development of the proposals NE says that it liaised with the Operations Manager of HGL, [redacted], and Park Manager, [redacted], from 2016, who supported the proposals. NE met the Residents Association, with HGL, in April 2019 to understand their concerns and resolve any issues. The meeting triggered a formal 28-day consultation between the Residents and the owner – with HGL then passing the Residents Association's concerns on to NE. NE responded to the issues raised in June 2019 and received no further correspondence prior to publication, from either the Residents Association or HGL.
151. Throughout the development of the proposals, NE says that HGL has been in agreement with its plans. On that basis NE is disappointed to have received the objection, albeit that it understands that the Ms Smith will have felt obligated to pass on the residents' concerns.

Option 5

152. In contrast to the objections, NE considers that the coastal views of the proposed route are better than the views from Route Option 5. It adds that the proposed trail would have near continuous views of Otterham Creek from S023 to S024, as there are gaps between the mobile homes, and the car parks would offer open views. Whilst NE acknowledges that most of S025 would not provide views, the route here passes a boatyard which is a coastal feature. S023 would also offer direct access to the Otterham Creek coastline that falls within the coastal margin.
153. NE accepts that Route Option 5 would follow higher land and provide some limited elevated views nearby Plantation Bungalow. However, for the majority of this option, NE considers that the dense tree line seaward of the route provides very limited coastal views, particularly from late spring to early autumn when the trees are in full leaf. It adds that a walker following Route Option 5 would predominantly experience the character and feel of a commercial orchard, and not a coastal environment.

Mud

154. The field to the north of Beckenham Park, where S023 would pass, is permanent grassland, which NE says would be separated from the Park road by a gate and wide verge. The proposed field route is aligned on higher land, so in NE's opinion it is unlikely to get overly muddy. Therefore, NE does not consider that the road through the Park would be affected by excessive mud from the adjacent field or pose a significant safety risk to either the residents or walkers.
155. NE adds that most walkers already understand that the coast can be a dangerous environment, and are aware of many of the inherent risks. Its key principle is that visitors should take primary responsibility for their own safety when visiting the coast and should be able to decide for themselves the level of personal risk they wish to take, as per para 4.2.1 of the Scheme. NE also expects walkers to wear appropriate footwear and any areas that may be wet would be obvious so they can take steps to manage that.

Modifications

156. The objectors have suggested possible modifications to the route. As set out in Report IGR 6, NE considers that the published route follows the alignment principles set out in the Scheme, specifically adhering to the periphery of the coast, affording the best views to visitors as well as providing a safe and convenient route for those using it, as per para 4.1.1 of the Scheme.
157. In developing the proposals here NE says that it looked at a series of route options in this area, as set out in Table 6.3.3: Other options considered, and Map IGR 6 Route Options Considered of the IGR 6 Report. It rejected the inland options near Beckenham Park in favour of the published route as it is safer, has better views of the estuary and had landowner support. The inland options were therefore not further explored with other landowners.
158. Further to the publication of the IGR 6 Report, in light of the objections received for this area, NE has identified and assessed a further route option, Option 6. This additional Option would bypass Beckenham Park by linking S023 to Option 3. NE has produced a Map and text identifying and explaining Option

6 and setting out why it still supports the proposed route rather than this alternative route. These are contained in Annexes 1 and 2 to NE's 'comments about objections on a Coastal Access Report that contain similar or identical points – IGR 6: Shoregate Creek to Otterham Quay' document.

Analysis

159. For ease of reference the theme's used by NE in its response to the objections are employed in the analysis below. Nonetheless, to limit repetition, modifications are considered together with Route Option 5.

Privacy, Tranquillity & Security

160. The introduction of a right of way through Beckenham Park would represent a significant change for occupants of the Park, at least in a perceptual sense, bearing in mind that it is currently privately owned and somewhat removed from publicly accessible land. Nonetheless, publicly accessible paths that cross mobile home parks and residential areas are not uncommon elsewhere and can reasonably coexist.
161. The trail route would run fairly close to a number of the mobile homes that line the proposed route. Nonetheless, the proposed coastal access rights would be limited to the access road, such that the relationship between the road and the mobile homes would be comparable to the kind of arrangement that can be found in many residential areas where a footway runs in front of houses, separated by a front or side garden. In contrast, here, there would be no opportunity for residents to erect boundary treatment to maintain a greater sense of separation or to screen to limit potential overlooking.
162. However, the mobile homes here are typically raised well-above ground level. Moreover, the trail here would be direct and easy to follow, such that walkers would be unlikely to stray off the road. Walkers are also likely to be primarily focussed on views of the coast and / or on progressing along the trail. Consequently, in practice, there is unlikely to be a significant effect on residents' privacy.
163. It is also reasonable to anticipate that users of the trail will be responsible walkers who respect residents' privacy and who would enjoy and wish to maintain the tranquillity that is found along this section of the coast. The nearby position of the site office relative to the proposed trail and the substantial amount of natural surveillance offered by residents of the Park, suggest that if any anti-social or criminal activity were to take place it would be quickly identified, the relevant authorities notified and appropriate action taken. In any event, there is no good reason to believe that the trail would have a significant effect on anti-social or criminal activity.

Dogs & Littering

164. The proposed new signs to inform visitors of the dogs on lead policy at both ends of the site would make the dogs on leads direction clear for users of the trail here. In any event, it is also reasonable to anticipate that most dog walkers would put their dog on a lead when walking on a road or near to a road due to the risk from traffic. Moreover, they are also likely to be responsible and respectful of their surroundings, including nearby residents, and to manage their

dogs accordingly, including in terms of removing any dog waste, and to dispose of any litter responsibly away from the Park.

Residents' Facilities

165. The car parks at Beckenham Park are evidently for residents and their visitors use only and are also well-removed from the public highway, such that it seems very unlikely that they would be used by third parties as a result of the introduction of the trail. In the event that either were to be misused in this way it would no doubt be monitored by the site management and residents and appropriate action taken. NE has also indicated that it would be willing to include information about the existing parking restrictions on the new signage at the entrance to the site.

Consultation

166. Having regard to the comments of NE and the associated correspondence, it is evident that the necessary consultation was undertaken and that NE took time and effort to liaise with the landowner. This process has also led to the multiple submissions / objections from residents of Beckenham Park and representations as outlined above. Accordingly, interested parties have had reasonable opportunity to comment on the proposals. Their submissions have been taken into account by NE and they are considered herein.

Option 5 and Other Modifications

167. NE has considered a range of alternative options, including Options 5 and 6. In view of its assessment, as set out in the IGR 6 Report, as supplemented within its comments on the objections, I agree with NE's conclusion that the published route follows the alignment principles set out in the Scheme, specifically adhering to the periphery of the coast, affording the best views to visitors as well as providing a safe and convenient route for those using it, as per para 4.1.1 of the Scheme.
168. Although Route Options 5 and 6 would follow higher land and provide some elevated views, NE's conclusion that the coastal views of the proposed route are better appears reasonable given that the proposed trail would have near continuous views of Otterham Creek from S023 to S024, as there are gaps between the mobile homes, and there would be fairly open views over the car parks. S023 would also offer direct access to the Otterham Creek coastline that falls within the coastal margin. I also agree that, whilst most of S025 would not provide views of the coast, the adjoining boatyard provides a coastal feature.

Mud

169. There is a possibility that mud might be transferred from the land to the north of Beckenham Park into the Park by walkers. However, as the field is permanent grassland and given that the trail would follow high ground through the field, the transfer of mud into the Park resulting from walkers using the trail is unlikely to be significant such that any potential risk to residents or walkers would be very limited.

Conclusion

170. For the reasons outlined above, the proposed sections of the England Coast Path here would be unlikely to have any significant detrimental effects in respect to residents' privacy, tranquillity, site security, mud and dogs accompanying walkers. A range of potential options have been thoroughly assessed and no more appropriate alternatives have been identified. There is no good reason to believe that site facilities, particularly the car parks, would be used by third parties and the necessary consultation over the proposals has been undertaken.

Recommendation

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

[redacted]

APPOINTED PERSON

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

Introduction

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

Project Location

173. The proposed section of path in question forms part of the England Coast Path between Iwade and Grain. In terms of the objections considered here, IGR-6-S023 to IGR-6-S025 inclusive are the relevant sections. They are referred to henceforth as 'S023', 'S024' and 'S025' respectively, as shown on Map IGR 6b.

174. S023 to S025 inclusive are in proximity to the SPA and the Medway Estuary and Marshes Ramsar site (the Ramsar site). The SPA and Ramsar sites have a complex arrangement of tidal channels, which drain around large islands of salt marsh and peninsulas of grazing marsh, with large areas of mudflat that have high densities of invertebrates providing a good food source for wading birds. Grazing marsh can also be found landward of some sea walls in the area. The complex and diverse mixes of coastal habitats support important numbers of waterbirds throughout the year. In summer, the estuary supports breeding waders and terns, whilst in winter it holds important numbers of geese, ducks, grebes and waders. The middle and outer parts of the estuary represent the most important areas for the birds.

Habitats Regulations Assessment Implications of the Project

175. S023 to S025, as part of the England Coast Path between Iwade and Grain, would increase access to this area by walkers, including those accompanied by dogs, whose presence have the potential to affect the SPA and the Ramsar site. In the vicinity of S023 to S025 the qualifying features of these designated sites are:

- non-breeding waterbirds (dark-bellied brent goose; common shelduck; hen harrier; northern pintail; avocet; ringed plover; grey plover; red knot; dunlin; redshank; black-tailed godwit; curlew; great-crested grebe; greenshank; oystercatcher; shoveler; spotted redshank; teal; wigeon; waterbird assemblage;
- breeding waterbirds (avocet; little tern; breeding bird assemblage); and
- wetland plant and invertebrate assemblages.

176. In 2020 Natural England (NE) undertook a Habitats Regulation Assessment for the Iwade to Grain length of the England Coast Path (the HRA). It provides the information to inform the Competent Authority's appropriate assessment, in

accordance with the assessment and review provisions of the Habitats Regulations. The HRA is recorded separately in the suite of reports. It considered the potential impacts of the coastal access proposals on the designated sites identified above as well as others which are distant from S023 to S025, including likely significant effects.

177. Initial screening set out that as the plan or project is not either directly connected or necessary to the management of all of the European sites' qualifying features, an HRA was required. The overall Screening Decision found that the plan or project at large would be likely to, or may, have significant effects on some or all of the qualifying features of the European Sites alone in the absence of mitigation measures. On this basis, the HRA considered the potential for the project to give rise to Adverse Effects on the Integrity (AEol) of the designated sites.
178. The scope of the assessment is set out in Table 6 of the HRA (pages 25 & 26) and identifies the sites and qualifying features for which significant effects, 'alone' or 'in combination', would be likely or could not be excluded beyond reasonable scientific doubt. The relevant information for S023 to S025 is identified in the fourth row of Table 7 of the HRA (page 36) and discussed in D3.2D Upchurch peninsula (Horsham Marsh, Bayford Marshes, Hamgreen Saltings, and Otterham Creek) (pages 49 to 54); note that this covers the entirety of this part of the coastal path, not just S023 to S025.
179. The assessment of AEol for the project alone takes account of measures to avoid or reduce effects incorporated into the design of the access proposal as set out in sub-section D3.3, including Table 8. The assessment, which covers the entire length of the England Coast Path between Iwade and Grain, not just S023 to S025, identifies that the measures incorporated into the design of the scheme are sufficient to ensure no AEol in light of the sites' conservation. Those where there is some residual risk of insignificant impacts are:
- Disturbance to foraging or resting non-breeding waterbirds;
 - Disturbance to breeding waterbirds; and
 - Trampling of sensitive vegetation.
180. In section D4 of the HRA, NE considered the appreciable effects that are not themselves considered to be adverse alone to determine whether they could give rise to an AEol in combination with other plans or projects. Insignificant and combinable effects likely to arise, and with the potential to act in-combination with the access proposals, were identified in relation to the implementation of coastal access both from Grain to Woolwich and from Whitstable to Iwade. Nonetheless, as set out in Table 10 of the HRA (pages 72 to 73) assessing the risk of in-combination effects, NE concluded that, in view of site conservation objectives, the access proposal (taking into account any incorporated avoidance and mitigation measures) would not have an adverse effect on the integrity of the relevant designated sites either alone or in combination with other plans and projects.
181. Part E of the HRA sets out that NE is satisfied that the proposals to improve access to the English coast between Iwade and Grain, including S023 to S025, 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.

182. Nonetheless, since the HRA was published, NE has amended its proposals to adjust the access direction in respect to access associated with trail sections IGR-6-S010 to IGR-6-S012 inclusive, as shown on Maps IGR 6a and 6b. This modification would prevent access all-year, rather than just during the winter, on much of the seaward affected land to the west of the trail in that location. In light of the objections raised and representations made in respect to that part of the proposed trail, this proposed modification would be necessary to avoid disturbance to internationally important numbers of breeding, on passage and wintering birds.
183. Taking all of these matters into account, subject to the proposed modification outlined in the previous paragraph, reliance can be placed on the conclusions reached in the HRA that the proposals would not adversely affect the integrity of the relevant European sites. It is noted that the HRA states that, if minded to modify the proposals, further assessment may be needed. However, given the nature of the proposed modification and the evidently positive effect it would have in terms of avoiding disturbance to birds, this would not be necessary in this instance.

Nature Conservation Assessment

184. Although not forming part of the HRA, NE has also undertaken a Nature Conservation Assessment (NCA), which should be read alongside the HRA. The NCA covers matters relating to Sites of Special Scientific Interest (SSSI) Marine Conservation Zones (MCZ) and undesignated but locally important sites and features, which are not already addressed in the HRA. Relevant to S023 to S025 are the Medway Estuary and Marshes SSSI, the Medway Estuary MCZ and other features about which concern has been expressed, which include Water voles, Great crested newts, Bats, and Grey Partridge.
185. NE was satisfied that the proposals to improve access to the English coast between Iwade and Grain, including S023 to S025, were fully compatible with its duty to further the conservation and enhancement of the notified features of The Swale SSSI, Medway Estuary and Marshes SSSI, Tower Hill to Cockham Wood SSSI and South Thames Estuary and Marshes SSSI. NE was also satisfied that in developing these new access proposals the appropriate balance has been struck between its conservation and access objectives, duties and purposes in respect of important features at Horsham Marsh.
186. In respect of the relevant sites or features, subject to the access direction modification outlined above, the appropriate balance has been struck between NE's conservation and access objectives, duties and purposes.



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

by [redacted] BSc(Hons) DipTP DMS MRTPI

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

Date 10 June 2022

Marine and Coastal Access Act 2009

Objections by:

A) [redacted]

B) [redacted] on behalf of Upchurch River Valley Golf Course Ltd

Regarding Coastal Access Proposals by Natural England

Relating to Shoregate Creek to Otterham Quay

Objection Reference: MCA/IGR/6/1

Shoregate Creek to Otterham Quay

- On 15 January 2020 Natural England submitted Coastal Access Reports to the Secretary of State for Environment, Food and Rural Affairs setting out proposals for improved access to the coast between Iwade and Grain 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, made on 26 January 2020 concerning Natural England's Report IGR 6 for land between Shoregate Creek and Otterham Quay has been made by [redacted]. The land in the Report to which the objection relates is specifically route section IGR-6-S010, as shown on Map IGR 6a.
- The objection is made under paragraph 3(3)(e) 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.

Objection Reference: MCA/IGR/6/1/12

Shoregate Creek to Otterham Quay

- On 15 January 2020 Natural England submitted Coastal Access Reports to the Secretary of State for Environment, Food and Rural Affairs setting out proposals for improved access to the coast between Iwade and Grain 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, made on 9 March 2020 concerning Natural England's Report IGR 6 for land between Shoregate Creek and Otterham Quay has been made by [redacted] on behalf of Upchurch River Valley Golf Course Ltd. The land in the Report to which the objection relates is specifically route sections IGR-6-S010 to IGR-6-S012, as shown on Maps IGR 6a and 6b.
- The objection is made under paragraphs 3(3)(e) 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 Report IGR 6 as proposed to be modified by Natural England, specifically in respect to the trail sections IGR-6-S010 to IGR-6-S012 inclusive, do not fail to strike a fair balance in respect to the objections considered herein.

Preliminary Matters

187. On 15 January 2020 Natural England (NE) submitted Coastal Access Reports to the Secretary of State setting out proposals for improved access to the coast between Iwade and Grain. The period for making formal representations and objections to the reports closed on 11 March 2020. I have been appointed to report to the Secretary of State on these objections.

188. There are other admissible objections to the Reports concerning improved access to the coast between Iwade and Grain. Although some of these other objections also relate to Report IGR 6, they concern different route sections and, as such I have considered it expedient to address them separately in other reports to the Secretary of State. Nonetheless, I have considered these two sets of objections here together on the basis that they both relate to a common section of the proposed trail.

189. I carried out a site inspection on 11 November 2021. In respect to objection reference MCA/IGR/6/1 (Objection A) [redacted] attended briefly to advise that [redacted] was unable to attend. I was accompanied by [redacted] and [redacted] regarding objection reference MCA/IGR/6/1/12 (Objection B). I was also accompanied on site by representatives from NE and from Kent County Council (KCC) in respect to both objections.

Main Issues

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

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

- (g) consists of one or more long-distance routes along which the public are enabled to make recreational journeys on foot or by ferry, and
- (h) (except for the extent that it is completed by ferry) passes over land which is accessible to the public.

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

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

193. Section 297 of the 2009 Act provides that in discharging the coastal access duty NE and the Secretary of State must have regard to:

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

194. 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.

195. Section 301 of the 2009 Act applies to river estuaries and states that NE may exercise its functions as if the references to the sea included the relevant upstream waters of a river.

196. My role is to consider whether or not a fair balance has been struck. I shall make a recommendation to the Secretary of State accordingly.

The Coastal Route

197. Forming part of the England Coast Path between Iwade and Grain, the length of path under consideration is contained within Report IGR 6: Shoregate Creek to Otterham Quay, as shown on Maps IGR 6a and 6b. The objections relate to the three route sections IGR-6-S010, IGR-6-S011 and IGR-6-S012, henceforth

referred to as 'S010', 'S011' and 'S012' respectively. S010 and S011 are on Map IGR 6a: Shoregate Creek to Upchurch, while S012 is on Map IGR 6b: Upchurch to Otterham Quay. Objection A concerns S010 only, whereas Objection B relates to all three sections, S010 to S012 inclusive.

198. From north to south, S010 would follow a length of existing public road, Poot Lane, that forms part of the Saxon Shore Way long distance walking route. At S011 the trail would then leave Poot Lane roughly south westward, across country, forming a new right of way along an existing track which Report IGR 6 indicates is an existing walking route. There is an existing public footpath to the southeast that joins the proposed trail at each end of S011, which takes an arced, less direct path than S011 would between S010 and S012. At the southern end of S011 the trail would continue roughly south-eastward along S012, which would run along an existing public right of way that also forms part of the Saxon Shore Way.
199. Parts of the proposed trail here adjoin the Medway Estuary and Marshes Special Protection Area (SPA), Medway Estuary and Marshes Ramsar site (the Ramsar site), and the Medway Estuary and Marshes Site of Special Scientific Interest (SSSI), all roughly to the west. A little further to the north/west lies the Medway Estuary Marine Conservation Zone.
200. Access to mudflats and saltmarshes in the coastal margin seaward of route sections IGR-6-S001 to IGR-6-S027 is proposed to be excluded all year round by direction under Section 25A of the Countryside and Rights of Way Act 2000 (the 2000 Act) as this land is unsuitable for public access. These mudflats and saltmarshes lie some distance to the west of S010 to S012. Two other directions were proposed in Report IGR 6 to protect wildlife that would affect intervening land. The first would apply all-year whereas the second would have been during the winter only.
201. However, in light of Objections A and B, NE now proposes to modify the Report so that the all-year direction would apply throughout. Accordingly, access would be excluded on the seawall and coastal grazing marshes / fields around Upchurch peninsula, including Horsham and Bayford Marshes, seaward of route sections IGR-6-S001 and IGR-6-S022 by direction under Section 26(3)(a) of the 2000 Act, all year to avoid disturbance to internationally important numbers of breeding, on passage and wintering birds.
202. To reflect this modification, NE proposes changes to paras 6.2.17 and 6.2.18 of Report IGR 6 and the deletion of paras 6.2.19 and 6.2.20, along with replacement direction maps. Associated amendments are also proposed to the Overview Report for Iwade to Grain. These are set out in NE's document responding to the objections and contained within Annex B to this report. I have assessed the objections on the basis that the access proposals are modified as set out in that document and Annex B hereto, as summarised above.
203. None of these exclusions would affect the route itself. Nor would they have any legal effect on land where coastal access rights do not apply.
204. Regarding coastal margins, along all three sections of the trail under consideration here, the landward margin contains no coastal land type. In respect to S010 and S012 only, for purposes of clarity and cohesion, the

landward edge of the road in the case of S010 and track in the case of S012 would be the specified boundary of margin.

205. In respect to roll-back, 'buildings, roads' are identified as features potentially affected along S011 to S012 inclusive. Stretches of coast here have been identified for future 'no active intervention' within the Medway Estuary and Swale Flood and Coastal Erosion Risk Strategy. If the trail becomes unsuitable as a walking route in future, and it is no longer possible to find a viable route seaward of buildings or any other excepted land such as homes and gardens, NE would choose a route that passes landward of them, following discussions with owners and occupiers and relevant experts. In reaching this judgement NE indicate that it would have full regard to the need to seek a fair balance between the interests of potentially affected owners and occupiers and those of the public.

The Objections

[redacted]

206. The objector is the owner of land effected by S010. [redacted] says that [redacted] cannot agree to any public access on his land for the reasons:
- 1) The land is not only a SSSI but also has Ramsar status;
 - 2) It is stock fenced, is regularly grazed by livestock and there is an annual hay cut;
 - 3) It has seen virtually unchanged farming practices for 50 years;
 - 4) There has been a NE stewardship agreement running continuously since 1984;
 - 5) [redacted] found his first Snipe's nest on the land 50 years ago and he would be very concerned about the impact of public access;
 - 6) The gate to this land is kept permanently locked;
 - 7) NE has failed in its duties to safeguard the natural habitat of Horsham Marshes as Horsham Fishing Lake has adversely effected the area. [redacted] says that [redacted] observed a digger on part of the Ramsar site and when he challenged what was going on [redacted] was told they were installing a drainage facility to take all the service water from a housing construction site. [redacted] informed NE, but felt that NE 'turned a blind eye to it'. In [redacted] view it cannot be right to drain service water from a large housing estate in to a Ramsar site;
 - 8) It seems inconsistent that [redacted] land is proposed for some public access when land adjacent on both sides have been excluded; and
 - 9) It also seems inconsistent that the land in question is not directly within proximity of the actual coastal path.

207. The objector states that the modification to remedy this 'inconsistency' is to remove any public access as proposed to [redacted] land. [redacted] adds that the fair balance is illustrated by the adjacent land not being included for public access.

[redacted] *on behalf of Upchurch River Valley Golf Course Ltd*

208. The objection is made on behalf of the Upchurch River Valley Golf Course, which is stated to be the owner of the relevant land. The objector states

[redacted] had neither appreciated, nor acknowledged coastal access restrictions were under consideration. [redacted] adds that after 25 June 2018 coastal access was not discussed in any of the NE site meetings, even though [redacted] had made clear he understood 'path only, no access rights' in respect of Horsham marsh SPA.

209. [redacted] also says that within this particular field complex the ditches support up to three pairs of Pochard, pairs of Shoveler, Gadwall and Water Rail. [redacted] adds that the fields have breeding Grey Partridge, and Barn Owl breeds regularly. There is, in [redacted] view, also a sizeable Water Vole population in the ditches.
210. [redacted] maintains that NE has been supporting improvements to encourage Snipe to breed, and recent work led to displaying Lapwing and Redshank in 2019. The added draw of existing wet meadow orchids will, in [redacted] opinion, see high footfall during breeding season. Opening these fields to public in the summer months would, in [redacted] view, impact on the existing breeding assemblage there. The objector requests that coastal access restrictions be extended from winter only to year round exclusion, to protect existing breeding wildfowl and wader assemblage on this part of Horsham Marsh SPA.

Representations

211. The Ramblers prefer trail Option 1, which would follow the periphery of Upchurch peninsula. While recognising and supporting the need to avoid disturbance to birds, they are not convinced that the number of walkers who would use this area would cause a serious problem. They understand that there was public access along the sea wall until the 1950s, and while some improvements have been made by the landowners to the environment for birds, it is understood that this was to improve shooting.
212. The Ramblers have a national campaign to get lost footpaths reinstated and, should it be successful in this case, it would ask NE to apply for a variation order. They also note that there is no mention in the Report or Habitats Regulations Assessment of the disturbance to birds of the wildfowling and shooting that takes place in this area. They maintain that several sections of the trail in Kent follow the sea wall across or adjacent to SPA, Ramsar and SSSI sites without significant problem. Nonetheless, the Ramblers add that they have been fully consulted throughout the preparation of the Report and had every opportunity to put their case. Having made the point, if Option 1 is not reconsidered, they fully support the new off road route to the north of Horsham Farm and through the Caravan Park.
213. Historic England state that it does not have any objections to the Iwade - Grain proposal as it considers that it is in general a low impact proposal that would cause little to no harm to heritage significance. Reference is made to specific heritage assets, but none are in proximity to the trail sections considered herein.
214. KCC Public Rights of Way and Access Service supports in broad terms the creation of the England Coast Path and recognises the benefits it will bring to the County. It says that although it is disappointing that the trail is not proposed to

be aligned closer to the sea in places, it understands the reasons for the preferred route given the wildlife and environmental constraints of the existing landscape. It also says that it understands the difficulties that have been encountered when balancing public and private interests. KCC goes on to say that while the Saxon Shore Way provides extensive opportunities to explore the North Kent Coast, it does not always follow the principles of the Scheme. It adds that the Saxon Shore Way was limited to passing along public rights of way and highways when it was created in 1980. KCC is pleased to note therefore that the opportunity has been taken to create new public access and provide alternatives to the existing on road sections of the Saxon Shore Way.

215. [redacted], a local bird recorder who provided evidence for the Habitats Regulation Assessment, commented specifically in respect to sections IGR-6-S010 to IGR-6-S013. [redacted] believes this part of the proposed trail would increase disturbance impacts on the breeding waterbird assemblage (qualifying feature of the SPA) that use those fields. [redacted] adds that the landowner, [redacted], has confirmed that there is breeding pochard, shoveler, gadwall, lapwing and redshank in these fields and this reflects his own observations.
216. [redacted] comments that the report only makes passing reference to cycling. Unlike other parts of the Thames and the Kent coast, there is no official cycling trail along the shoreline between Whitstable and Dartford. National Cycle Network 1 is mainly away from the shore, except in Riverside Country Park. The England Coast Path route should be open to cycling, unless there is a good reason otherwise. Barriers should be removed along the route and surfaces could be improved in the long term. [redacted] adds that making the route better for cycling would make it better for disabled access.
217. Disabled Ramblers are encouraged by the positive changes proposed to improve access for mobility vehicles and note why it is not possible to improve matters in certain places. They are also pleased to read of the inclusion of some step-free routes that will be signposted to get around some unavoidable barriers and thank NE for its hard work on this, and for helping to open up the opportunities available to those with limited mobility.
218. [redacted] is pleased at the care taken to ensure that the trail would be safe for walkers and that it would be closer to the shore than existing public footpaths at Upchurch, and in particular, that it is not aligned on a dangerous section of road at Horsham Lane, as is currently promoted by the Saxon Shore Way. [redacted] considers the safety of the path to be an important factor to take into account when developing the trail proposals, especially as [redacted] now considers Horsham Lane to be unusable for walkers. However, [redacted] is disappointed and unclear as to why the trail is not aligned closer to the coast along the seawall, especially north of Ham Green.
219. NE has provided comprehensive responses to each of the representations. These are set out in NE's *Representations on IGR 6: Shoregate Creek to Otterham Quay and Natural England's comments* document, March 2021.

Natural England's Response to the Objections

220. Regarding the non-inclusion of directions to exclude a right of access to the SPA, Ramsar site and SSSI, NE states that all of the fields where concerns have been raised fall within the coastal margin as they are seaward of the proposed trail. It has reviewed the nature conservation issues raised by both objectors, and agrees with the need to extend the direction to exclude access all year on the relevant landholdings. As outlined above at paras 14-16, NE proposes to modify the directions accordingly. The modification does not affect the proposed route.
221. When developing the proposals and assessing impacts on wildlife here, NE says that it was aware of the use of this area by wintering birds (features of the designated site), and the intention of the proposed exclusions was to minimise access to these fields to protect this wildlife during periods of sensitivity (as recommended in the Habitats Regulations Assessment). However, it was not clear at that time that summer breeding bird assemblage interest features were also found across these fields.
222. With this new information on [redacted]'s fields, confirmed by a local birder, as outlined in para 28 above, NE recognises that this area is now increasingly being used by some of the breeding birds associated with the special interest of the designated site, such as pochard, gadwall, lapwing and redshank. In light of this, it considers an all year round exclusion to be appropriate on wildlife grounds to reduce disturbance both in summer and winter.
223. NE adds that whilst [redacted] has not provided any additional breeding information for his field, other than referring to breeding snipe 50 years ago, this field does form part of the North Kent Breeding Wader Project and he has been advised as part of this project and Countryside Stewardship to manage the field by keeping the vegetation short to provide valuable foraging resource for breeding waders nearby. By proposing to extend the all-year Horsham Marsh exclusion to both objectors' fields, in NE's view, it would also help provide clarity for both the landowners and public regarding access to this large block of fields near Horsham Marsh.
224. Regarding its other duties under the Wildlife and Countryside Act 1981 (as amended) in relation to the SSSI at Horsham Marsh, NE states that [redacted]'s comments regarding the assessment of planning applications or other consents, fall outside the scope of this objection process. Consequently, it does not consider it appropriate to provide a response as part of this process. Nonetheless, NE advise that it has passed on the concerns to the appropriate team within NE to liaise directly with [redacted]. It adds that while [redacted] has also raised other concerns relating to summer access on his field, these should be resolved by the proposed modification to exclude access all-year round.

Analysis and Conclusion

225. NE's proposed amendment to Report IGR 6 to extend the direction to exclude access all-year on the seawall and coastal grazing marshes / fields around Upchurch peninsula, including Horsham and Bayford Marshes, would be necessary to avoid disturbance to internationally important numbers of breeding, on passage and wintering birds. While this amendment would be necessary in its own right, in my view it would also serve to address the concerns raised in both sets of objections.

Recommendation

226. Having regard to these and to all other matters raised, and subject to the identified modification to Report IGR 6, as shown in Annex B, I conclude that the proposals, as proposed to be modified by NE, do not fail to strike a fair balance as a result of the matters raised in either set of objections considered herein. I, therefore, recommend that the Secretary of State makes a determination to this effect.

[redacted]

APPOINTED PERSON

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

Introduction

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

Project Location

228. The proposed section of path in question forms part of the England Coast Path between Iwade and Grain. In terms of the objections considered here, there are three trail sections, IGR-6-S010, IGR-6-S011 to IGR-6-S012, henceforth referred to as 'S010', 'S011' and 'S012' respectively, as shown on Maps IGR 6a and 6b.

229. S010, S011 and S012 are in proximity to the SPA and the Medway Estuary and Marshes Ramsar site (the Ramsar site). The SPA and Ramsar sites have a complex arrangement of tidal channels, which drain around large islands of salt marsh and peninsulas of grazing marsh, with large areas of mudflat that have high densities of invertebrates providing a good food source for wading birds. Grazing marsh can also be found landward of some sea walls in the area. The complex and diverse mixes of coastal habitats support important numbers of waterbirds throughout the year. In summer, the estuary supports breeding waders and terns, whilst in winter it holds important numbers of geese, ducks, grebes and waders. The middle and outer parts of the estuary represent the most important areas for the birds.

Habitats Regulations Assessment Implications of the Project

230. S010 to S012, as part of the England Coast Path between Iwade and Grain, would increase access to this area by walkers, including those accompanied by dogs, whose presence have the potential to affect the SPA and the Ramsar site. In the vicinity of S010-S012 the qualifying features of these designated sites are:

- non-breeding waterbirds (dark-bellied brent goose; common shelduck; hen harrier; northern pintail; avocet; ringed plover; grey plover; red knot; dunlin; redshank; black-tailed godwit; curlew; great-crested grebe; greenshank; oystercatcher; shoveler; spotted redshank; teal; wigeon; waterbird assemblage;
- breeding waterbirds (avocet; little tern; breeding bird assemblage); and
- wetland plant and invertebrate assemblages.

231. In 2020 Natural England (NE) undertook a Habitats Regulation Assessment for the Iwade to Grain length of the England Coast Path (the HRA). It provides the information to inform the Competent Authority's appropriate assessment, in accordance with the assessment and review provisions of the Habitats

Regulations. The HRA is recorded separately in the suite of reports. It considered the potential impacts of the coastal access proposals on the designated sites identified above as well as others which are distant from S010-S012, including likely significant effects.

232. Initial screening set out that as the plan or project is not either directly connected or necessary to the management of all of the European sites' qualifying features, an HRA was required. The overall Screening Decision found that the plan or project at large would be likely to, or may, have significant effects on some or all of the qualifying features of the European Sites alone in the absence of mitigation measures. On this basis, the HRA considered the potential for the project to give rise to Adverse Effects on the Integrity (AEol) of the designated sites.
233. The scope of the assessment is set out in Table 6 of the HRA (pages 25 & 26) and identifies the sites and qualifying features for which significant effects, 'alone' or 'in combination', would be likely or could not be excluded beyond reasonable scientific doubt. The relevant information for S010-S012 is identified in the fourth row of Table 7 of the HRA (page 36) and discussed in D3.2D Upchurch peninsula (Horsham Marsh, Bayford Marshes, Hamgreen Saltings, and Otterham Creek) (pages 49 to 54); note that this covers the entirety of this part of the coastal path, not just S010-S012.
234. The assessment of AEol for the project alone takes account of measures to avoid or reduce effects incorporated into the design of the access proposal as set out in sub-section D3.3, including Table 8. The assessment, which covers the entire length of the England Coast Path between Iwade and Grain, not just S010-S012, identifies that the measures incorporated into the design of the scheme are sufficient to ensure no AEol in light of the sites' conservation. Those where there is some residual risk of insignificant impacts are:
- Disturbance to foraging or resting non-breeding waterbirds;
 - Disturbance to breeding waterbirds; and
 - Trampling of sensitive vegetation.
235. In section D4 of the HRA, NE considered the appreciable effects that are not themselves considered to be adverse alone to determine whether they could give rise to an AEol in combination with other plans or projects. Insignificant and combinable effects likely to arise, and with the potential to act in-combination with the access proposals, were identified in relation to the implementation of coastal access both from Grain to Woolwich and from Whitstable to Iwade. Nonetheless, as set out in Table 10 of the HRA (pages 72 to 73) assessing the risk of in-combination effects, NE concluded that, in view of site conservation objectives, the access proposal (taking into account any incorporated avoidance and mitigation measures) would not have an adverse effect on the integrity of the relevant designated sites either alone or in combination with other plans and projects.
236. Part E of the HRA sets out that NE is satisfied that the proposals to improve access to the English coast between Iwade and Grain, including S010-S012, 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.

237. Nonetheless, since the HRA was published, NE has amended its proposals to adjust the access direction associated with S010-S012. This modification would prevent access all-year, rather than just during the winter, on some of the affected land to the west of the trail. In light of the objections raised and representations made, this proposed modification would be necessary to avoid disturbance to internationally important numbers of breeding, on passage and wintering birds.
238. Taking all of these matters into account, subject to the proposed modification outlined in the previous paragraph, reliance can be placed on the conclusions reached in the HRA that the proposals would not adversely affect the integrity of the relevant European sites. It is noted that the HRA states that, if minded to modify the proposals, further assessment may be needed. However, given the nature of the proposed modification and the evidently positive effect it would have in terms of avoiding disturbance to birds, this would not be necessary in this instance.

Nature Conservation Assessment

239. Although not forming part of the HRA, NE has also undertaken a Nature Conservation Assessment (NCA), which should be read alongside the HRA. The NCA covers matters relating to Sites of Special Scientific Interest (SSSI) Marine Conservation Zones (MCZ) and undesignated but locally important sites and features, which are not already addressed in the HRA. Relevant to S010-S012 are the Medway Estuary and Marshes SSSI and the Medway Estuary MCZ and other features about which concern has been expressed, which include Water voles, Great crested newts, Bats, and Grey Partridge.
240. NE was satisfied that the proposals to improve access to the English coast between Iwade and Grain, including S010-S012, were fully compatible with its duty to further the conservation and enhancement of the notified features of The Swale SSSI, Medway Estuary and Marshes SSSI, Tower Hill to Cockham Wood SSSI and South Thames Estuary and Marshes SSSI. NE was also satisfied that in developing these new access proposals the appropriate balance has been struck between its conservation and access objectives, duties and purposes in respect of important features at Horsham Marsh.
241. In respect of the relevant sites or features, subject to the access direction modification outlined above, the appropriate balance has been struck between NE's conservation and access objectives, duties and purposes.

ANNEX B: MODIFICATION TO WORDING OF RESTRICTIONS/EXCLUSIONS TO REPORT IGR 6 AND OVERVIEW REPORT PROPOSED BY NATURAL ENGLAND

Report IGR 6, paras 6.2.17 to 6.2.20 - replace paragraphs 6.2.17 and 6.2.18 with the following revision and remove paragraphs 6.2.19 and 6.2.20:

Exclusion of access to the seawall and coastal grazing marshes / fields around Upchurch peninsula

6.2.17 Access is to be excluded on the seawall and coastal grazing marshes / fields around Upchurch peninsula, including Horsham and Bayford Marshes, seaward of route sections IGR-6-S001 and IGR-6-S022 by direction under Section 26(3)(a) of the Countryside and Rights of Way Act (2000), all year to avoid disturbance to internationally important numbers of breeding, on passage and wintering birds. The exclusion does not affect the route itself and will have no legal effect on land where coastal access rights do not apply. See Directions Maps IGR 6A, IGR 6B, IGR 6C, and IGR 6D.

6.2.18 Protected bird species use the seawall and coastal grazing marshes / fields around Upchurch peninsula, including Horsham and Bayford Marshes, year round. These sites are favoured by curlew, lapwing, shelduck, black-tailed godwit, oystercatchers, redshank, and dark-bellied brent geese in the winter months. In addition, there are breeding avocet, oystercatcher, lapwing, ringed plover, redshank, *shelduck*, *pochard*, gadwall, and curlew. The previously published Habitats Regulation Assessment (HRA) for the site concluded that allowing access would cause a significant effect by disturbing the internationally-protected bird species using the site. The revised HRA v1.1 (in light of these changes to directions) will be published alongside this report.

~~*Exclusion of access to fields between Poot Lane and Horsham Fishing Lakes, Upchurch*~~

~~6.2.19 Access is to be excluded to the wet grassland fields at Upchurch, between Poot Lane and Horsham Fishing Lakes, seaward of route sections IGR-6-S007 and IGR-6-S014 by direction under Section 26 (3) (a) of the Countryside and Rights of Way Act (2000) for the winter only (October to March inclusive). This is to avoid disturbance to internationally important numbers of wintering birds. The exclusion does not affect the route itself and will have no legal effect on land where coastal access rights do not apply. See Directions Maps IGR 6C and IGR 6D.~~

~~6.2.20 Protected bird species use these fields between Poot Lane and Horsham Fishing Lakes. These sites are favoured by wintering curlew, dark bellied brent geese and snipe. The Habitats Regulation Assessment for the site concluded that allowing access would cause a significant effect by disturbing the internationally protected bird species using the site. The Assessment will be published alongside this report.~~

Replace Directions Maps IGR 6A, IGR 6C and IGR 6D with:

IGR 6A v1.1

IGR 6C v1.1

IGR 6D v1.1

These maps are included on the following three pages

Coastal Access - Iwade to Grain - Natural England's Proposals
Report IGR 6 Shoregate Creek to Otterham Quay
Directions Map IGR 6A v1.1

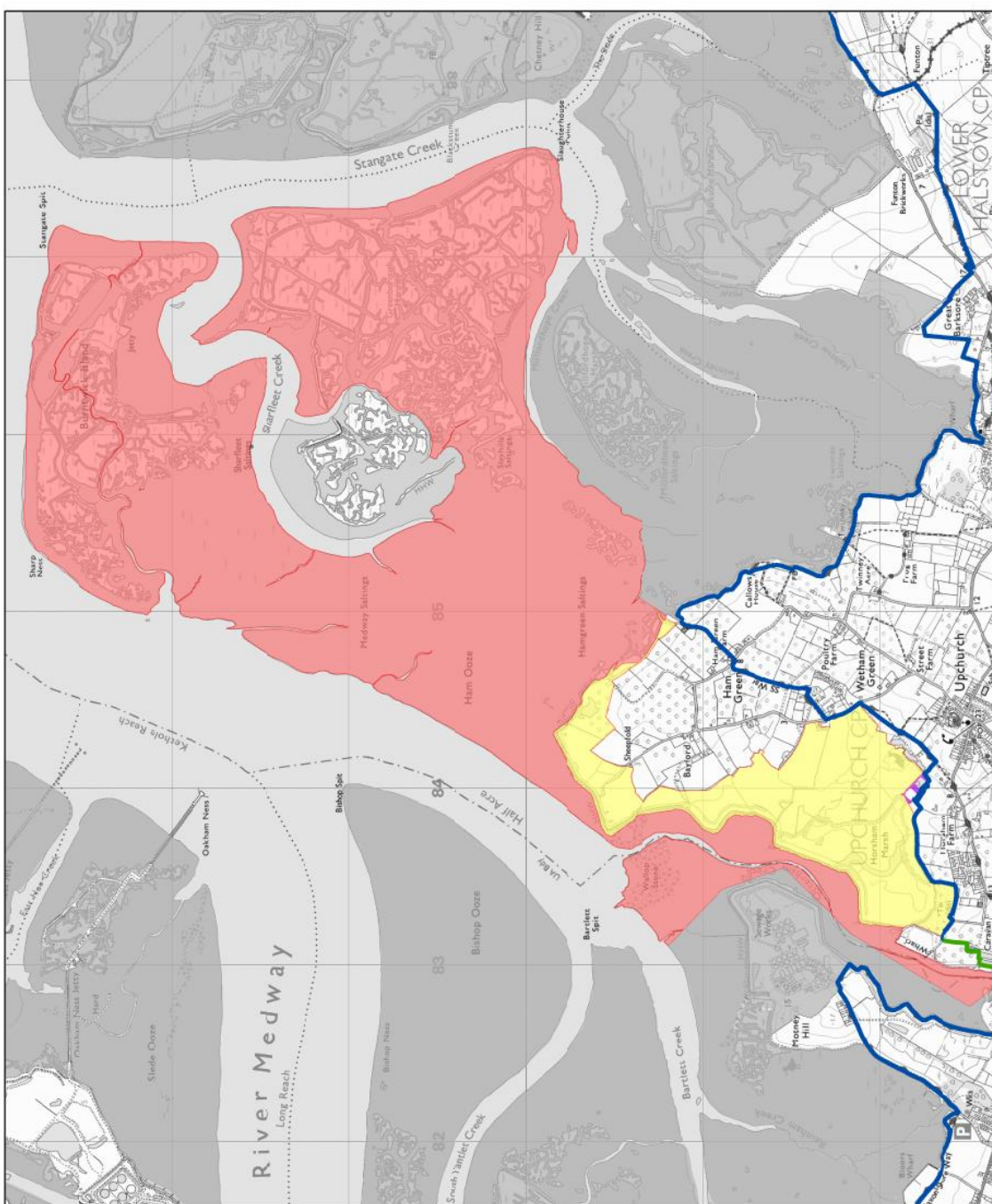
These directions only affect land where coastal access rights apply and will not affect existing rights of access, such as on public rights of way.



Directions Map IGR 6A v1.1



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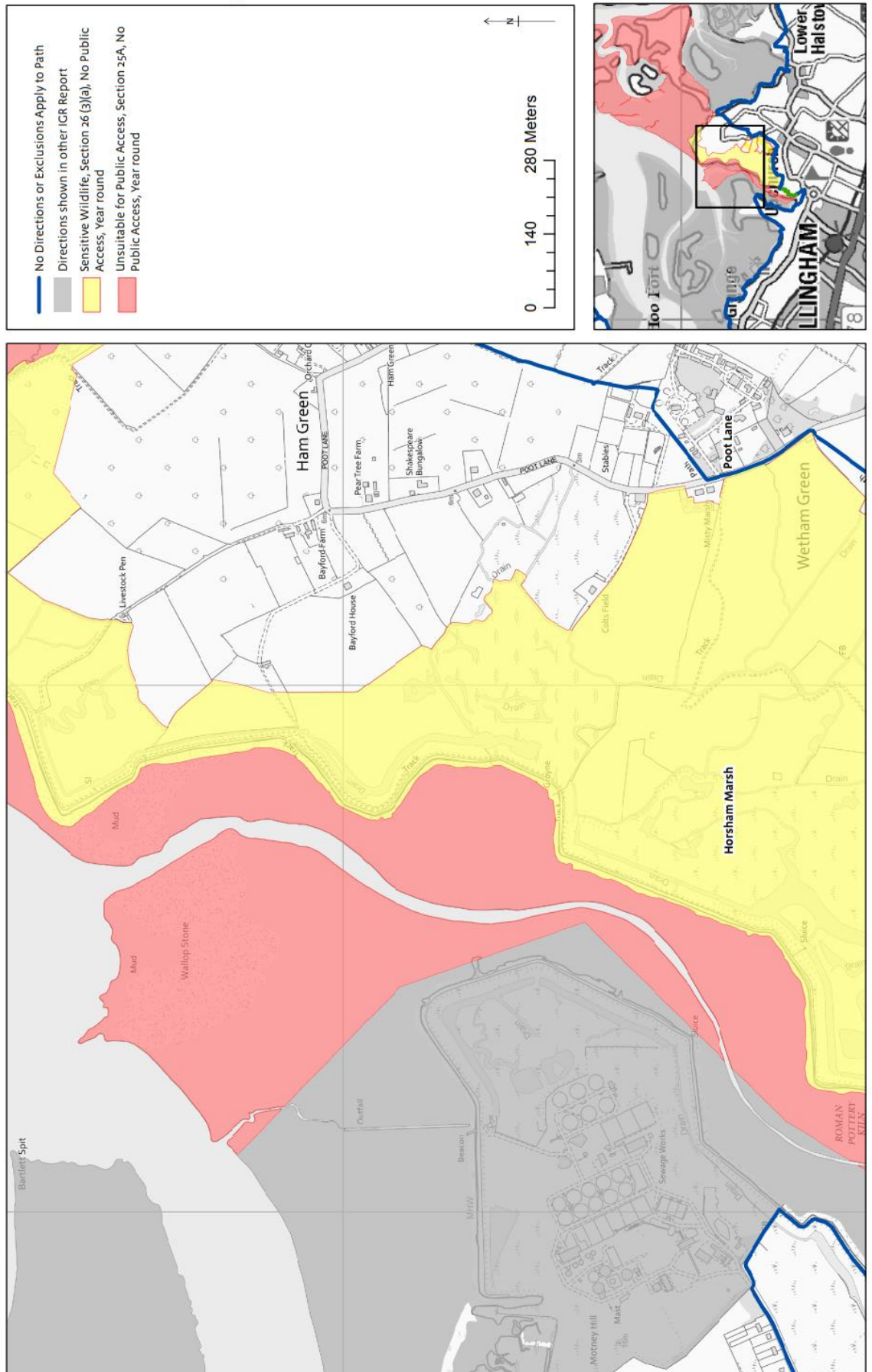
Coastal Access - Iwade to Grain - Natural England's Proposals
Report IGR 6 Shoregate Creek to Otterham Quay
Directions Map IGR 6C v1.1



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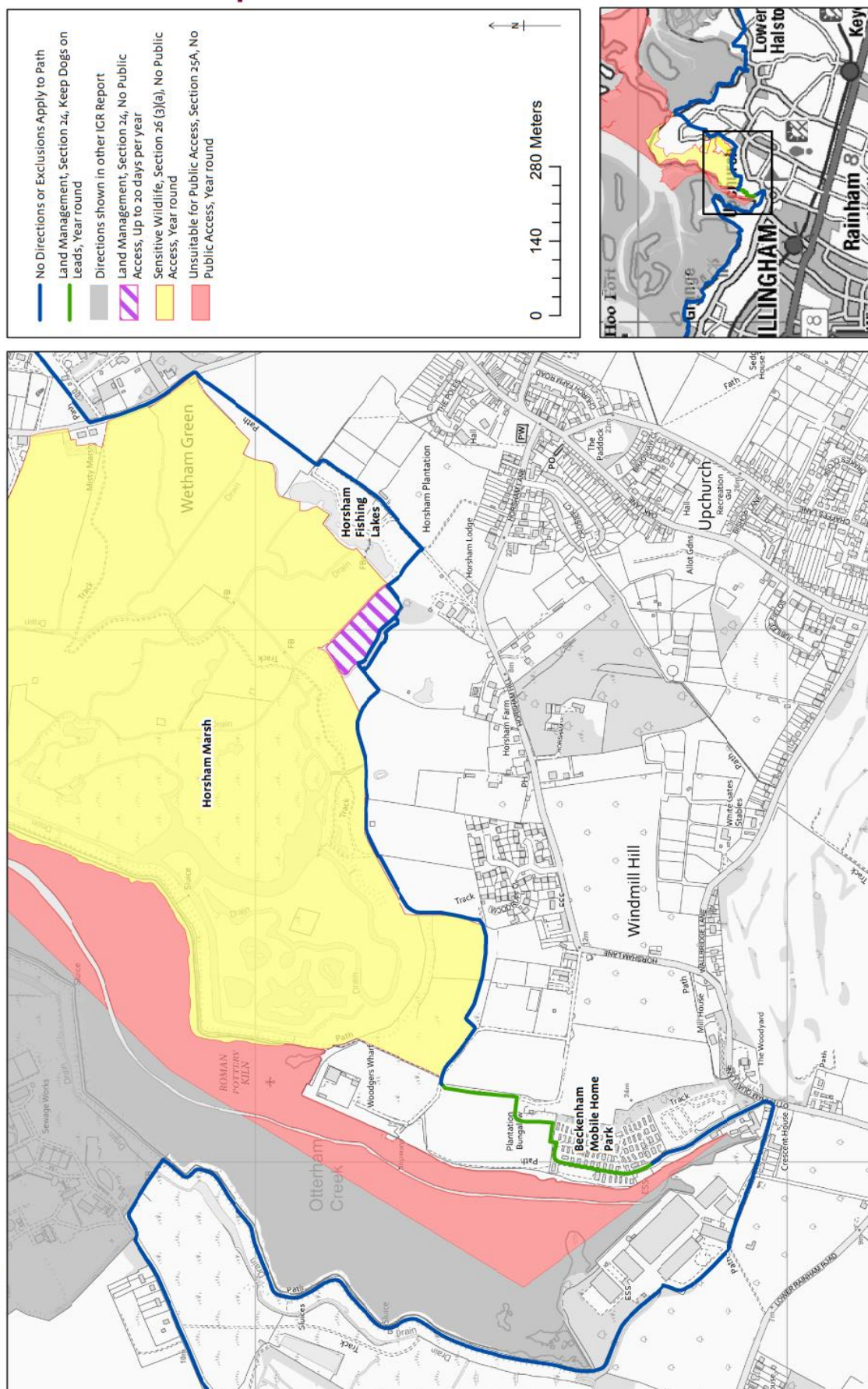
Coastal Access - Iwade to Grain - Natural England's Proposals
Report IGR 6 Shoregate Creek to Otterham Quay
Directions Map IGR 6D v1.1



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Overview Report: Chapter 8 Restrictions and exclusions table - replace row as follows:

| | | | | | |
|-------|---|-----------|--|-------------------------------|---|
| IGR 6 | Ham Green Grazing Marsh, Horsham Marsh and Upchurch Seawall. Coastal margin seaward of route sections IGR-6-S001 and IGR-6-S022. See Map E and the directions maps in report IGR 6. | Exclusion | Sensitive wildlife (breeding, passage & wintering birds) | Nature conservation S26(3)(a) | All year |
| IGR 6 | Wet grassland at Upchurch adjacent to Poot Lane and Horsham Fishing Lakes. Coastal margin seaward of route sections IGR-6-S007 and IGR-6-S014. See Map E and the directions maps in report IGR 6. | Exclusion | Sensitive wildlife (passage & wintering birds) | Nature conservation S26(3)(a) | 1 st October to 31 st March each year |

Replace Overview Map E: Extent of Directions with:

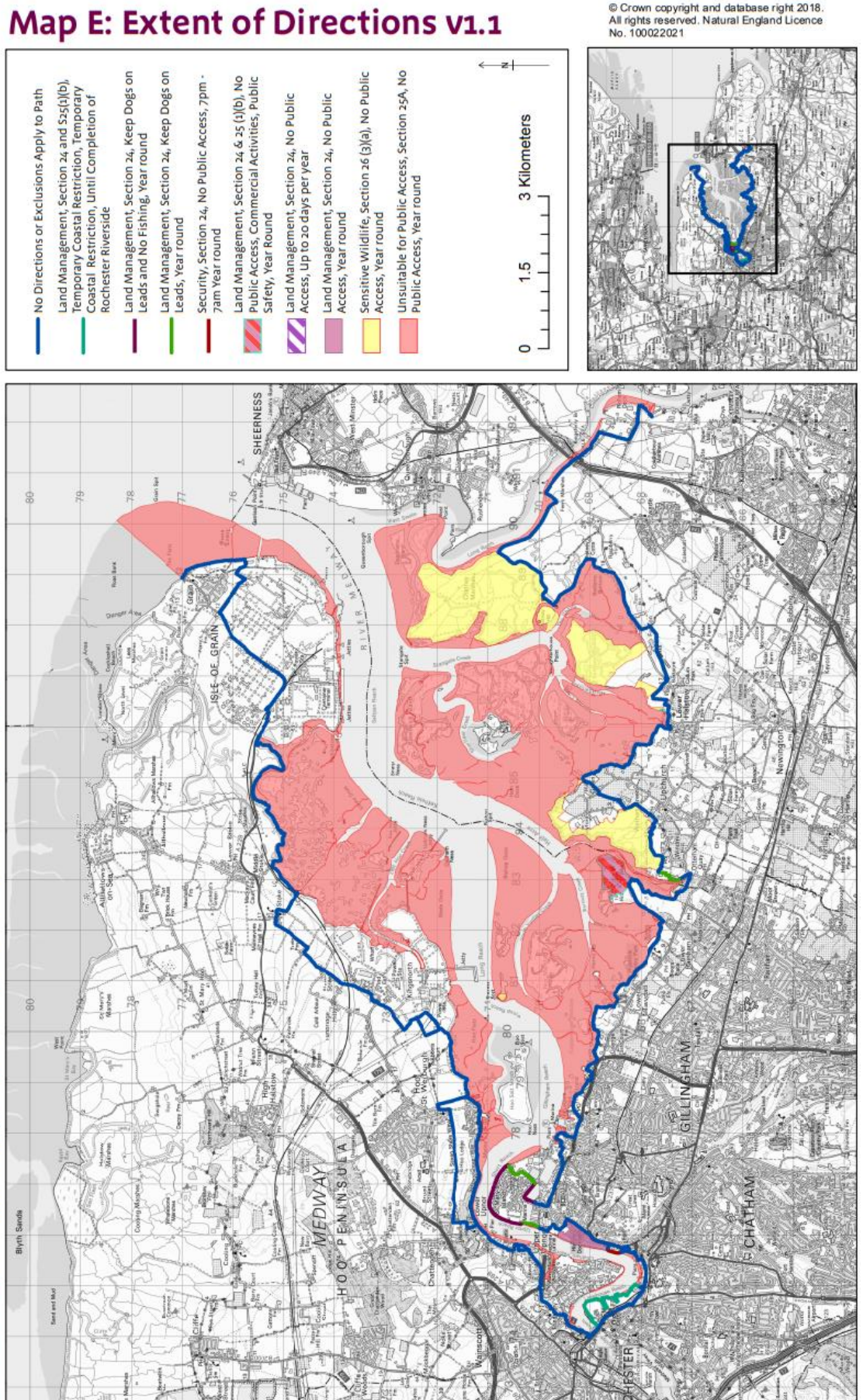
Map E: Extent of Directions v1.1

This map is included on the following page

Coastal Access - Iwade to Grain - Natural England's Proposals

Map E: Extent of Directions v1.1

These directions only affect land where coastal access rights apply and will not affect existing rights of access, such as on public rights of way. Please refer to Reports IGR 1 to IGR 12 for more detailed directions maps



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

by [redacted] BSc(Hons) DipTP DMS MRTPI

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

Date 10 June 2022

Marine and Coastal Access Act 2009

Objections by:
[redacted]

Regarding Coastal Access Proposals by Natural England

Relating to Shoregate Creek to Otterham Quay

Objection Reference: MCA/IGR/6/13

Shoregate Creek to Otterham Quay

- On 15 January 2020 Natural England submitted Coastal Access Reports to the Secretary of State for Environment, Food and Rural Affairs setting out proposals for improved access to the coast between Iwade and Grain 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, made on 11 March 2020 concerning Natural England's Report IGR 6 for land between Shoregate Creek and Otterham Quay has been made by [redacted]. The land in the Report to which the objection relates is specifically the sections of the route that cross land at Horsham Farm, as shown on Map IGR 6b.
- The objection is made under paragraphs 3(3)(a) and 3(3)(c) 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 Report IGR 6 as proposed to be modified by Natural England, specifically in respect to the trail sections IGR-6-S015 to IGR-6-S018 inclusive, including IGR-6-A001, do not fail to strike a fair balance in respect to the objection considered herein.

Preliminary Matters

242. On 15 January 2020 Natural England (NE) submitted Coastal Access Reports to the Secretary of State setting out proposals for improved access to the coast between Iwade and Grain. The period for making formal representations and objections to the reports closed on 11 March 2020. I have been appointed to report to the Secretary of State on the objection.
243. There are other admissible objections to the Reports concerning improved access to the coast between Iwade and Grain. Although some of these objections relate to Report IGR 6, they concern different route sections and, as such, are considered separately in other reports to the Secretary of State.
244. I carried out a site inspection on 11 November 2021. I was accompanied by [redacted] and his assistant, as well as by representatives from NE and from Kent County Council (KCC).

Main Issues

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

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

247. The second objective is that, in association with the England Coast Path, a margin of land along the length of the English coast is accessible to the public for the purposes of its enjoyment by them in conjunction with the coastal route or otherwise. This is referred to as the coastal margin.
248. Section 297 of the 2009 Act provides that in discharging the coastal access duty NE and the Secretary of State must have regard to:
- (m) The safety and convenience of those using the trail,
 - (n) The desirability of that route adhering to the periphery of the coast and providing views of the sea, and
 - (o) The desirability of ensuring that so far as reasonably practicable interruptions to that route are kept to a minimum.
249. 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.
250. Section 301 of the 2009 Act applies to river estuaries and states that NE may exercise its functions as if the references to the sea included the relevant upstream waters of a river.
251. My role is to consider whether or not a fair balance has been struck. I shall make a recommendation to the Secretary of State accordingly.

The Coastal Route

252. Although forming part of the England Coast Path between Iwade and Grain, the length of path under consideration is contained within Report IGR 6: Shoregate Creek to Otterham Quay and includes two sections of path as shown on Maps IGR 6a and 6b. While the objection does not make specific reference to numbered sections of the proposed trail, those that come into contact with Horsham Farm are IGR-6-S015 to IGR-6-S018 inclusive, including IGR-6-A001 as shown on Map IGR 6b: Upchurch to Otterham Quay. For ease of reference, I shall refer to the sections in question as 'S015', 'S016', 'S017', 'S018' and 'A001' henceforth.
253. S015 to S018 and A001 would form part of a significant inland diversion, which NE sees as being necessary to take the trail past sensitive and important wildlife sites around the coastline north of Ham Green and west of Upchurch and also at Bayford and Horsham Marshes. S015 to S018 and A001 are not an existing walking route.
254. The trail would take a somewhat zigzagging course across the northern portion of Horsham Farm. From west to east, S018 would arrive on a roughly south-eastward alignment. Where it would meet S017, the trail would turn north-eastward before turning south-east again along S016. It would then turn north-eastward again from S015 before leaving Horsham Farm at trail section IGR-6-S014 to the east. A001 is an alternative trail route that would run parallel to S016, to the south.
255. The proposed trail here would run through the eastern fringe of the Medway Estuary and Marshes Special Protection Area (the SPA), Medway Estuary and

Marshes Ramsar site (the Ramsar site), and the Medway Estuary and Marshes Site of Special Scientific Interest (the SSSI). A little further to the north/west lies the Medway Estuary Marine Conservation Zone.

256. Access to the mudflats and saltmarshes in the coastal margin seaward of route sections IGR-6-S001 to IGR-6-S027 is proposed to be excluded all year round by direction under Section 25A of the Countryside and Rights of Way Act 2000 (the 2000 Act) as this land it is unsuitable for public access due to the hidden dangers associated with such land. These mudflats and saltmarshes lie some distance to the northwest of S015 to S018 and A001.
257. Notwithstanding the contents of Report IGR 6, in light of two other objections, which are the subject of a separate report to the Secretary of State, (Objection References: MCA/IGR/6/1 and MCA/IGR/6/12), NE now proposes to modify the Report. Consequently, an all-year direction would apply to land that lies between the proposed trail and the mudflats and saltmarshes referred to above. Accordingly, access would be excluded on the seawall and coastal grazing marshes / fields around Upchurch peninsula, including Horsham and Bayford Marshes, seaward of route sections IGR-6-S001 and IGR-6-S022 by direction under Section 26(3)(a) of the 2000 Act, all year to avoid disturbance to internationally important numbers of breeding, on passage and wintering birds.
258. These exclusions would not affect the route itself. Nor would they have any legal effect on land where coastal access rights do not apply.
259. Access is also to be excluded to Horsham Farm on S016 and in the coastal margin seaward of S015 and S016 under Sections 24 of the Countryside and Rights of Way Act (2000). This will apply for up to 20 days per year when signs are displayed for land management reasons associated with child safeguarding as Horsham Farm hosts scout camps for up to three times per year. Public access into the camping field would present child safeguarding risks. The exclusion does not apply to any land that could be considered to be excepted land.
260. The landward margin to S015 to S018 contains no coastal land type. In respect to roll-back, 'buildings, roads' are identified as features potentially affected along all of the sections considered here. Stretches of coast here have been identified for future 'no active intervention' within the Medway Estuary and Swale Flood and Coastal Erosion Risk Strategy. If the trail becomes unsuitable as a walking route in future, and it is no longer possible to find a viable route seaward of buildings or any other excepted land such as homes and gardens, NE would choose a route that passes landward of them, following discussions with owners and occupiers and relevant experts. In reaching this judgement NE indicates that it would have full regard to the need to seek a fair balance between the interests of potentially affected owners and occupiers and those of the public.

The Objection

261. Bearing in mind that the trail is supposed to be coastal, [redacted] considers that it should be aligned to the coast following Otterham Creek Seawall. Alternatively, [redacted] is of the opinion that it should follow the existing Saxon Shore Way, a long distance walking route.

262. [redacted] is concerned that the trail would pass through his garden affecting residents' living conditions, including privacy, and human rights. [redacted] refers to the time, effort and expense [redacted] has invested since 1985 in sympathetically restoring the Grade II listed building at Horsham Farm, as well as into the surrounding land, which he says constitutes [redacted] garden. This involved planting thousands of hedge plants and some 1200 trees. [redacted] adds that [redacted] has spent a lifetime trying to help tackle wildlife loss and air pollution. [redacted] has also dredged a small lake and renovated the drainage ditches.
263. [redacted] refers to actively keeping rabbit populations down, including all year round shooting. Shooting takes place during the day and at night with lamping. [redacted] also advises that a scout group uses his land to camp four times a year. Concerns are expressed regarding the safeguarding of the visiting scouts and of his grandchildren as a result of strangers walking across his land.
264. [redacted] adds that shell ducks fly in May / June and refers to the presence of a range of wildlife, including Kingfishers, Mallards, Swans, Crested Newts, Water Voles, Hares, Badgers, Stoats, and Weasels, which [redacted] considers would be disturbed as a result of the trail. [redacted] also raises concerns over liability associated with the trail, including in respect to accidents on the land.

Representations

265. The Ramblers prefer trail Option 1, which would follow the periphery of Upchurch peninsula. While recognising and supporting the need to avoid disturbance to birds, they are not convinced that the number of walkers who would use this area would cause a serious problem. They understand that there was public access along the sea wall until the 1950s, and while some improvements have been made by the landowners to the environment for birds, it is understood that this was to improve shooting.
266. The Ramblers have a national campaign to get lost footpaths reinstated and, should it be successful in this case, it would ask NE to apply for a variation order. They also note that there is no mention in the Report or Habitats Regulations Assessment associated with the trail proposals for Iwade to Grain (the HRA) of the disturbance to birds of the wildfowling and shooting that takes place in this area. They maintain that several sections of the trail in Kent follow the sea wall across or adjacent to SPA, Ramsar and SSSI sites without significant problem. Nonetheless, the Ramblers add that they have been fully consulted throughout the preparation of the Report and had every opportunity to put their case. Having made the point, if Option 1 is not reconsidered, they fully support the new off road route to the north of Horsham Farm and through the Caravan Park.
267. Historic England state that it does not have any objections to the Iwade - Grain proposal as it considers that it is in general a low impact proposal that would cause little to no harm to heritage significance. Reference is made to specific heritage assets, but none are in proximity to the trail sections considered herein.
268. KCC Public Rights of Way and Access Service supports in broad terms the creation of the England Coast Path and recognises the benefits it will bring to the County. It says that although it is disappointing that the trail is not proposed to

be aligned closer to the sea in places, it understands the reasons for the preferred route given the wildlife and environmental constraints of the existing landscape. It also says that it understands the difficulties that have been encountered when balancing public and private interests. KCC goes on to say that while the Saxon Shore Way provides extensive opportunities to explore the North Kent Coast, it does not always follow the principles of the Scheme. It adds that the Saxon Shore Way was limited to passing along public rights of way and highways when it was created in 1980. KCC is pleased to note therefore that the opportunity has been taken to create new public access and provide alternatives to the existing on road sections of the Saxon Shore Way.

269. [redacted] comments that the report only makes passing reference to cycling. Unlike other parts of the Thames and the Kent coast, there is no official cycling trail along the shoreline between Whitstable and Dartford. National Cycle Network 1 is mainly away from the shore, except in Riverside Country Park. The England Coast Path route should be open to cycling, unless there is a good reason otherwise. Barriers should be removed along the route and surfaces could be improved in the long term. [redacted] adds that making the route better for cycling would make it better for disabled access.
270. Disabled Ramblers are encouraged by the positive changes proposed to improve access for mobility vehicles and note why it is not possible to improve matters in certain places. They are also pleased to read of the inclusion of some step-free routes that will be signposted to get around some unavoidable barriers and thank NE for its hard work on this, and for helping to open up the opportunities available to those with limited mobility.
271. [redacted] is pleased at the care taken to ensure that the trail would be safe for walkers and that it would be closer to the shore than existing public footpaths at Upchurch, and in particular, that it is not aligned on a dangerous section of road at Horsham Lane, as is currently promoted by the Saxon Shore Way. [redacted] considers the safety of the path to be an important factor to take into account when developing the trail proposals, especially as [redacted] now considers Horsham Lane to be unusable for walkers. However, [redacted] is disappointed and unclear as to why the trail is not aligned closer to the coast along the seawall, especially north of Ham Green.
272. NE has provided comprehensive responses to each of the representations. These are set out in NE's *Representations on IGR 6: Shoregate Creek to Otterham Quay and Natural England's comments* document, March 2021.

Natural England's Response to the Objection

273. NE advises that it considered a number of options as set out in Table 6.3.2 Other Options Considered and Map IGR 6 Route Options Considered of Report IGR 6. These included those suggested by [redacted]. NE accepts that [redacted] preferred option, via the seawall, would bring public benefits, as it is close to the coast and has continuous sea views. However, access was discounted here due to the potential impacts on wildlife. The sites along or adjacent to the seawall such as Horsham Marsh, Bayford Marshes, and Hamgreen Saltings have been identified as important breeding and/or wintering bird sites in the southern Medway Estuary and form a crucial part of the network of high tide roost sites.

274. In the HRA, NE concluded that new access around the Upchurch peninsula would result in disturbance to the important bird populations at all times of year, by affecting the birds' ability to feed or rest effectively on intertidal areas and roost sites in the winter, spring and autumn, with nesting affected in spring and summer on land adjacent to the seawall. Consequently, new access was discounted as NE could not conclude that there would be no adverse impact on the bird populations of the SPA and Ramsar site. The precautionary principle applies in such cases, if a possible adverse effect cannot be ruled out, NE maintains that the proposal cannot go ahead.
275. In respect to the Saxon Shore Way, NE states that KCC advised against aligning the trail along that section of Horsham Lane due to safety concerns. The Saxon Shore Way was originally created in 1980 and was limited to passing along public rights of way and public highways. Horsham Lane is a 60mph, narrow road and NE says that it now has a lot of traffic. It adds that there are limited pavements, verges or step-off points along this stretch of the road. KCC concluded that it was not suitable for a National Trail, given the high level of promotion that they normally receive.
276. NE says that it has looked into and discounted an option to create a new footway directly alongside Horsham Lane as there are no viable options adjacent to the road that would avoid excepted land, such as gardens, or within the highway itself, due to its width. It adds that there are no other obvious existing routes to avoid this area, without going a significant distance inland which would create an unacceptably large area of coastal margin that would create new access rights across multiple landholdings. Given the available options in this area, NE maintains that KCC is fully supportive of the proposed trail alignment as it would provide a safer off-road alternative to the existing Saxon Shore Way and adheres to the general principles of the Coastal Access Scheme.
277. NE goes on to say that it has also considered many other options in the Upchurch peninsula as set out in Report IGR 6. Options 1, 2 and 3 would have aligned the trail closer to the coast and avoided both aligning across [redacted]'s land or brought all of his landholding into coastal margin. However, it adds that, these options were all discounted for reasons of nature conservation or road safety concerns raised by KCC.
278. Regarding the suggestion that the trail would cross [redacted]'s garden and affect living conditions, NE is of the view that the land here does not sit comfortably with the Scheme's description of a garden (i.e. excepted land) at Figure 22 of the Scheme. It reads, at (e), *"A garden is usually enclosed land near a building. It typically includes areas of lawn, flower borders and other cultivated plants." In practice on the coast there may be some very large areas of enclosed land associated with a dwelling and consisting of areas of lawn, flower borders or other cultivated plants, or similar garden-like cover such as ornamental plantings, garden furniture or vegetable plots.*
279. NE maintains that the proposed main route is at a significant distance from the main buildings, through two fields that are composed of rough grassland, with planted trees that are maintained by occasional topping. These fields are also within the SPA and SSSI, such that it is NE's opinion that they cannot have been intended to be designed for garden use, such as being set to lawn, flower

beds or used regularly for recreation. NW adds that A001 would be over 190m from the main buildings, and follows the seaward boundary of a large field, which is made up of a similar rough grassland, which NE also considers does not reflect land used as a garden.

280. NE does not consider that the public using the trail here for quiet recreation would significantly affect privacy, as the route is aligned near the seaward edge of [redacted]'s property, between some 200m and 260m from the main house. The main proposed route would be either behind a dense hedge or other tall vegetation. Consequently, in NE's opinion, it should not lead to any significant visual or physical intrusion as walkers would scarcely be visible from [redacted]'s house. NE adds that during the consultation, it proposed to align the route along the most seaward edge of his landholdings, but that [redacted] stated that if a route across [redacted] land was proposed, [redacted] would prefer the public to make use of existing desire lines in these fields. NE therefore adopted these desire lines.
281. NE considers that the proposed Alternative Route, A001, which comes slightly inland, would also be unlikely to have a significant effect on privacy. Walkers may be marginally more visible on this infrequently used route, but it is also a significant distance from the main house. This route would only be used approximately two or three times per year, up to 9 days, by the public during periods when other visitors were on the land, such as scout groups.
282. In addition to rabbit shooting, NE states that it is also informed that clay pigeon shooting is carried out and that all shooting is non-commercial. NE refers to para 8.12 of the Scheme regarding the danger to the public from shooting and the disruption from shooting. In NE's view, it is extremely rare for countryside visitors to be injured as a result of shooting activities, as in most cases the primary responsibility for preventing injury lies with the person using the weapon. It adds that the use of firearms is also licensed under the Firearms Acts and is guided by well observed codes of practice.
283. NE states that shooters normally have to assume that members of the public may be present and take all necessary precautions, even at times when they are unlikely to encounter visitors. During clay pigeon shooting, participants should, in its view, be able to see the whole area where there is a risk of injury from their shot and from falling clays and must not shoot if anyone enters that 'safety zone'.
284. While the main trail is aligned seaward of the circa 3ha field used for clay pigeon shooting, NE recognises that that it may lie in the 'safety zone', depending on the direction of shot. Although NE predicts that there would be a medium increase in visitors in this area, given the new access route, it adds that as there is a lack of public parking and an absence of large residential areas nearby, continuous use of the trail is very unlikely. Therefore, in NE's opinion, if shooting cannot be arranged to avoid the trail or carried out at a time when visitors are unlikely, [redacted] may need to use signage or lookouts to ask walkers to wait for a suitable moment to pass. Given the infrequency of [redacted]'s clay pigeon shooting, NE does not anticipate that new public access would significantly interrupt or detract from the enjoyment of this activity.
285. With regard to rabbit shooting, NE understands that the majority of pest control is at night and does not believe that lamping here would be significantly

disrupted, given the infrequency of night walkers and due to the normal safety precautions employed during this practice, including pausing while the public passed through on designated paths. If shooting takes place during the day, NE considers it would not be unreasonable to informally manage access around this activity including arranging this for a time when walkers are unlikely to be on the land, to employ signage and for the shooters to pause while people pass. Signs at the two entrance points to [redacted]'s land could also alert people to shooting and request that dogs are kept on leads. NE adds that if, in the future, [redacted] were to need more formal access management measures, these could be applied for.

286. Regarding the occasional camp use, NE agrees that youth organisations require a greater degree of privacy and security than normal, so it liaised with both [redacted] and the scout leader concerned. During the 2-3 times per year that the scouts camp at Horsham Farm, NE has proposed a direction to exclude coastal access rights from that field on land management grounds for up to 20 days per year. It also proposes A001 as an alternative route to be used during these times to provide separation between the trail and the camp area. Additionally, NE has agreed with the scout leader to provide them with post and rope fencing and signs, which the scout group would erect to ensure the alternative route is clearly marked and signed on the ground.
287. NE believes that the above measures are sufficient to provide the scout group with the privacy they require while camping at Horsham Farm. Regarding other safeguarding issues raised in relation to family members, NE considers that the alignment of the trail, far from the house, would provide appropriate separation of public and private spaces.
288. The most seaward fields here form part of the SPA and SSSI and the impacts on wildlife here are considered within the published Nature Conservation Assessment (NCA) and HRA for the Iwade to Grain length of the trail. NE states that [redacted]'s land does not support the breeding and wintering birds associated with other areas of Horsham Marsh as this area has been partially planted with trees and is not currently managed to create the suitable open, wet grassland required by the birds. NE maintains, therefore, that the trail alignment here would not adversely affect the designated site.
289. The other wildlife that [redacted] has helped conserve, such as mallard, swans and kingfishers are, NE says, relatively tolerant of public access particularly as they are sheltered from most disturbance by the ditch reed vegetation. NE was aware of the great crested newts and water voles on site and as such they were considered in the NCA. NE states that the badger sett is in the corner of a field and covered by dense vegetation and that it does not propose to install any access infrastructure there so the sett itself would not be affected. It also maintains that it is unlikely that the very low numbers of walkers who may access this site at night would significantly disturb the badgers when they are active.
290. Regarding liability and accidents, NE contends that most people already understand that the coast can be a dangerous environment, and are aware of many of the inherent risks. Its key principle is that visitors should take primary responsibility for their own safety when visiting the coast and should be able to

decide for themselves the level of personal risk they wish to take. In line with this principle, NE states that land subject to coastal access rights benefits from the lowest level of occupier's liability known under English law, albeit that liability still applies in relation to reckless or deliberate acts or omissions by the occupier.

291. The proposed main trail alignment here runs through fields which are normally subject to coastal access rights, with the associated reduced liability. NE also states that the fields are separated from the rest of [redacted]'s land by a hedgerow and fence, and considers that with the well-marked trail, walkers are likely to keep to the path. NE adds that the alternative route, A001, would also be covered by coastal access rights and the associated reduced liability.

Analysis

292. The proposed alignment here would form part of an undoubtedly substantial inland detour away from the coast. As set out in Report IGR 6, NE has identified and assessed a range of potential alternative routes in this area. A route closer to the coast would, of course, be preferable as a matter of principle, such as along the seawall. However, due to the unchallenged biodiversity sensitivity of the land between the proposed trail alignment here and the coast, that approach has rightly been discounted by NE. The reasons for this are summarised in paras 31 to 32 above, and set out in detail within Report IGR 6, the HRA and the NCA.
293. Regarding the possibility of using the Saxon Shore Way rather than the proposed alignment, the section of Horsham Lane over which the trail would pass is clearly unsuitable for the England Coast Path. This is primarily due to highway safety considerations given its constrained width, the limited footway, verge and refuge for walkers, and the speeds at which vehicles are likely to travel.
294. NE has advised that the proposed alignment would be no closer than 190m in the case of either A001 or the main proposed trail here to [redacted]'s house. The introduction of public access to private land has the potential to effect the living conditions of any residents, for instance in terms of privacy. Nonetheless, given the distance of the main house from the trail and bearing in mind that publicly accessible paths that cross rural land are not uncommon and reasonably coexist with surrounding residential property, any potential effects on living conditions of occupants would be likely to be very limited. Remaining vegetation would also help screen users of the main trail from residents of the property and vice versa. Moreover, for the reasons identified by NE, the land in question is not garden or exempted land in the terms of the Scheme.
295. The objector also refers to human rights. The development of the 2009 Act and the resulting Scheme have taken compliance with human rights into account. The creation of public access rights over private land represents a control of its use for human rights purposes, rather than an appropriation of the land itself. The land would remain in the same ownership and could continue to be used as it was before, subject to the availability of new public rights. As per s297(3) of the 2009 Act, the duty to be considered and determined, in this case, is whether or not a fair balance has been struck 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.

296. The shooting that takes place at [redacted]'s property has the potential to pose a risk to users of the trail. Nonetheless, as it is not done on a commercial basis, the level of activity is likely to be reasonably modest. NE has also advised that it is extremely rare for countryside visitors to be injured as a result of shooting activities, and the use of firearms is licensed under the Firearms Acts and guided by well-established codes of practice. Such shooting activity should, therefore, be well managed and I have no good reason to believe that they would not be here. On this basis, any risk to users of the trail from these activities here would be very limited.
297. Regarding camping at the property, an alternative route has been proposed that would take the trail around the camp site field when in use. As this use is occasional, combined with signage and associated management measures that could be reasonably put in place to ensure that trail users would respect the temporary diversion, there is good reason to believe the trail proposal and camping use could comfortably coexist without giving rise to significant safeguarding issues. Given the distance the trail would be located away from the main house, I also agree with NE that the same conclusion can be drawn in respect to the safeguarding of members of [redacted]'s family.
298. NE's advice and reasoning that [redacted]'s land does not support the breeding and wintering birds associated with other areas of Horsham Marsh is reasonable. On that basis I agree that the trail alignment here would not adversely affect the designated site. [redacted]'s efforts to support wildlife on [redacted] land are commendable. I have found no reason to disagree with NE's conclusion that much of the wildlife [redacted] has helped to conserve is relatively tolerant of public access. Great crested newts and water voles were considered in the NCA, and the proposals make appropriate provision for them. No access infrastructure is proposed in the vicinity of the badger setts that are known to be present at the property. Moreover, it is also reasonable to assume that use of the trail here at night would be very low, such that there would be no significant disturbance of the badgers when they are active.
299. Regarding perceived liabilities associated with public access, the legislation enabling the England Coast Path specifically includes reduced liability for owners/occupiers, and in effect removes the possibility of liability for injury from natural or man-made features unless the owner/occupier is carrying out a reckless activity. On this basis, I see no good reason why the proposed trail alignment here would be inappropriate on grounds associated with landowner liability. Indeed, if there were any significant implications in this regard it is difficult to imagine how the England Coast Path might be reasonably delivered.

Conclusion

300. For the reasons outlined above, the proposed sections of the England Coast Path here would be unlikely to have any significant detrimental effects in respect to living conditions, to shooting activities, including in terms of limiting those activities or public safety, to safeguarding or to liability. The land in question is not garden or exempted land. A range of potential options have been thoroughly assessed and no more appropriate alternatives have been identified. Human rights have been properly assessed.

Recommendation

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

[redacted]

APPOINTED PERSON

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

Introduction

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

Project Location

303. The proposed section of path in question forms part of the England Coast Path between Iwade and Grain. In terms of the objection considered here, main trail sections IGR-6-S015, IGR-6-S016, IGR-6-S017 and IGR-6-S018 and Alternative Route IGR-6-A001 would affect the objector's property. They are referred to henceforth as 'S015', 'S016', 'S017', 'S018' and 'A001' respectively, as shown on Map IGR 6b.

304. S015 to S018 inclusive and A001 are in proximity to the SPA and the Medway Estuary and Marshes Ramsar site (the Ramsar site). The SPA and Ramsar sites have a complex arrangement of tidal channels, which drain around large islands of salt marsh and peninsulas of grazing marsh, with large areas of mudflat that have high densities of invertebrates providing a good food source for wading birds. Grazing marsh can also be found landward of some sea walls in the area. The complex and diverse mixes of coastal habitats support important numbers of waterbirds throughout the year. In summer, the estuary supports breeding waders and terns, whilst in winter it holds important numbers of geese, ducks, grebes and waders. The middle and outer parts of the estuary represent the most important areas for the birds.

Habitats Regulations Assessment Implications of the Project

305. S015-S018 and A001, as part of the England Coast Path between Iwade and Grain, would increase access to this area by walkers, including those accompanied by dogs, whose presence have the potential to affect the SPA and the Ramsar site. In the vicinity of S015-S018 and A001 the qualifying features of these designated sites are:

- non-breeding waterbirds (dark-bellied brent goose; common shelduck; hen harrier; northern pintail; avocet; ringed plover; grey plover; red knot; dunlin; redshank; black-tailed godwit; curlew; great-crested grebe; greenshank; oystercatcher; shoveler; spotted redshank; teal; wigeon; waterbird assemblage;
- breeding waterbirds (avocet; little tern; breeding bird assemblage); and
- wetland plant and invertebrate assemblages.

306. In 2020 Natural England (NE) undertook a Habitats Regulation Assessment for the Iwade to Grain length of the England Coast Path (the HRA). It provides

the information to inform the Competent Authority's appropriate assessment, in accordance with the assessment and review provisions of the Habitats Regulations. The HRA is recorded separately in the suite of reports. It considered the potential impacts of the coastal access proposals on the designated sites identified above as well as others which are distant from S015-S018 and A001, including likely significant effects.

307. Initial screening set out that as the plan or project is not either directly connected or necessary to the management of all of the European sites' qualifying features, an HRA was required. The overall Screening Decision found that the plan or project at large would be likely to, or may, have significant effects on some or all of the qualifying features of the European Sites alone in the absence of mitigation measures. On this basis, the HRA considered the potential for the project to give rise to Adverse Effects on the Integrity (AEol) of the designated sites.
308. The scope of the assessment is set out in Table 6 of the HRA (pages 25 & 26) and identifies the sites and qualifying features for which significant effects, 'alone' or 'in combination', would be likely or could not be excluded beyond reasonable scientific doubt. The relevant information for S015-S018 and A001 is identified in the fourth row of Table 7 of the HRA (page 36) and discussed in D3.2D Upchurch peninsula (Horsham Marsh, Bayford Marshes, Hamgreen Saltings, and Otterham Creek) (pages 49 to 54); note that this covers the entirety of this part of the coastal path, not just S015-S018 and A001.
309. The assessment of AEol for the project alone takes account of measures to avoid or reduce effects incorporated into the design of the access proposal as set out in sub-section D3.3, including Table 8. The assessment, which covers the entire length of the England Coast Path between Iwade and Grain, not just S015-S018 and A001, identifies that the measures incorporated into the design of the scheme are sufficient to ensure no AEol in light of the sites' conservation. Those where there is some residual risk of insignificant impacts are:
- Disturbance to foraging or resting non-breeding waterbirds;
 - Disturbance to breeding waterbirds; and
 - Trampling of sensitive vegetation.
310. In section D4 of the HRA, NE considered the appreciable effects that are not themselves considered to be adverse alone to determine whether they could give rise to an AEol in combination with other plans or projects. Insignificant and combinable effects likely to arise, and with the potential to act in-combination with the access proposals, were identified in relation to the implementation of coastal access both from Grain to Woolwich and from Whitstable to Iwade. Nonetheless, as set out in Table 10 of the HRA (pages 72 to 73) assessing the risk of in-combination effects, NE concluded that, in view of site conservation objectives, the access proposal (taking into account any incorporated avoidance and mitigation measures) would not have an adverse effect on the integrity of the relevant designated sites either alone or in combination with other plans and projects.
311. Part E of the HRA sets out that NE is satisfied that the proposals to improve access to the English coast between Iwade and Grain, including S015-S018 and A001, 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.

312. Nonetheless, since the HRA was published, NE has amended its proposals to adjust the access direction in respect to access associated with trail sections IGR-6-S010 to IGR-6-S012 inclusive, as shown on Maps IGR 6a and 6b. This modification would prevent access all-year, rather than just during the winter, on much of the seaward affected land to the west of the trail in that location. In light of the objections raised and representations made in respect to that part of the proposed trail, this proposed modification would be necessary to avoid disturbance to internationally important numbers of breeding, on passage and wintering birds.
313. Taking all of these matters into account, subject to the proposed modification outlined in the previous paragraph, reliance can be placed on the conclusions reached in the HRA that the proposals would not adversely affect the integrity of the relevant European sites. It is noted that the HRA states that, if minded to modify the proposals, further assessment may be needed. However, given the nature of the proposed modification and the evidently positive effect it would have in terms of avoiding disturbance to birds, this would not be necessary in this instance.

Nature Conservation Assessment

314. Although not forming part of the HRA, NE has also undertaken a Nature Conservation Assessment (NCA), which should be read alongside the HRA. The NCA covers matters relating to Sites of Special Scientific Interest (SSSI) Marine Conservation Zones (MCZ) and undesignated but locally important sites and features, which are not already addressed in the HRA. Relevant to S015-S018 and A001 are the Medway Estuary and Marshes SSSI, the Medway Estuary MCZ and other features about which concern has been expressed, which include Water voles, Great crested newts, Bats, and Grey Partridge.
315. NE was satisfied that the proposals to improve access to the English coast between Iwade and Grain, including S015-S018 and A001, were fully compatible with its duty to further the conservation and enhancement of the notified features of The Swale SSSI, Medway Estuary and Marshes SSSI, Tower Hill to Cockham Wood SSSI and South Thames Estuary and Marshes SSSI. NE was also satisfied that in developing these new access proposals the appropriate balance has been struck between its conservation and access objectives, duties and purposes in respect of important features at Horsham Marsh.
316. In respect of the relevant sites or features, subject to the access direction modification outlined above, the appropriate balance has been struck between NE's conservation and access objectives, duties and purposes.