



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

by [redacted] LLM LARTPI Solicitor

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

Date 21 June 2023

Marine and Coastal Access Act 2009

Objection by [redacted] and [redacted] Farms

Regarding Coastal Access Proposals by Natural England

Relating to Bawdsey to Aldeburgh

Report BSA 1

Site visits made on 4 and 5 July 2022

File Ref: MCA/BSA1/O/4/BSA0240

Objection Reference: MSA/BSA1/O/4/BSA0240
Bawdsey Cliff, Bawdsey, Woodbridge

- On 3 February 2021 Natural England submitted a Coastal Access Report to the Secretary of State for Environment, Food and Rural Affairs under section 51 of the National Parks and Access to the Countryside Act 1949 pursuant to its duty under section 296(1) of the Marine and Coastal Access Act 2009.
- An objection dated 1 March 2021 to Report BSA 1: Bawdsey Quay (picnic site) to Butley Ferry (west side) has been made by [redacted] and [redacted] Farms. The land in the Report to which the objection relates is route sections BSA-1-S007 to BSA-1-S017.
- The objection is made under paragraphs 3(3)(a) and (c) of Schedule 1A to the 1949 Act on the grounds that the proposal fails to strike a fair balance in such respects as are set out in the objection.

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

Procedural Matters

1. On 3 February 2021 Natural England (NE) submitted the Coastal Access Bawdsey to Aldeburgh Report (the Report) to the Secretary of State for Environment, Food and Rural Affairs (the Secretary of State) setting out proposals for improved access to the coast between Bawdsey and Aldeburgh. Whilst linked, each report in the series is legally separate and contains free-standing statutory proposals for a particular part of the stretch of coast. A single Overview document applies to the whole stretch explaining common principles and background.
2. The period for making formal representations and objections closed on 31 March 2021. Nine admissible objections were received within the specified timescale and I have been appointed to report to the Secretary of State on those objections. This report relates to the objection reference MCA/BSA1/O/4/BSA0240, with other objections considered separately. In addition to the objection a total of nine representations were received within the relevant period and these are considered where relevant.
3. I carried out a site inspection from existing public vantage points on Saturday 2 July 2022 and again on Monday 4 July accompanied by [redacted] and representatives from NE and the local highway authority during which part of the proposed route was walked.

Main Issues

4. The coastal access duty arises under section 296 of the Marine and Coastal Access Act 2009 (the Act) and requires NE and the Secretary of State to

Site visits made on 4 and 5 July 2022

File Ref(s): MCA/BSA/1-9

exercise their relevant functions 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.
5. The second objective is that, in association with the English coastal route ('the trail') a margin of land along the length of the English coast is accessible to the public for the purposes of its enjoyment by them in conjunction with the coastal route or otherwise. This is referred to as the coastal margin, whilst the trail is the path corridor through the coastal margin. The trail is referred to as the England Coast Path.
6. Section 297 of the Act provides that, in discharging the coastal access duty, NE and the Secretary of State must have regard to:
- (a) the safety and convenience of those using the trail;
 - (b) the desirability of that route adhering to the periphery of the coast and providing views of the sea; and
 - (c) the desirability of ensuring that so far as reasonably practicable interruptions to that route are kept to a minimum.
7. 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.
8. Section 301 of the 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. The relevant upstream waters are the waters from the seaward limit of the estuarial waters of the river, upstream to the first public foot crossing or a specified point between the seaward limit and the first such crossing. Section 301(4) of the Act sets out additional statutory criteria (the Estuary Criteria) which must be taken into account when deciding whether, and if so how, to exercise the discretion to extend the trail along an estuary. The Estuary Criteria are:
- (a) the nature of the land which would become part of the coast;
 - (b) the topography of the shoreline adjacent to those waters;
 - (c) the width of the river upstream to that limit;
 - (d) the recreational benefit to the public of the coastal access duty being extended to apply in relation to the coast adjacent to those waters;
 - (e) the extent to which the land bordering those waters would, if it were coastal margin, be excepted land;

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- (f) whether it is desirable to continue the English coastal route to a particular physical feature or viewpoint; and
 - (g) the existence of a ferry by which the public may cross the river.
9. NE's Approved Scheme 2013 ('the Approved Scheme') is the methodology for implementation of the England Coast Path and associated coastal margin. It forms the basis of the proposals of NE within the Report.
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. The proposals forming the subject of report BSA1 concern land adjacent to the open coast beginning at Bawdsey Quay picnic site and extending upstream to the Alde-Ore estuary complex as far as the west side of Butley Ferry. One admissible objection forms the subject of this report. Nine other representations (three 'full' and six 'other') were also received by NE in relation to report BSA1.

The Objection and proposed modification

12. The objection is made on grounds (a) and (c); namely it objects to the proposed route and to the failure to include alternatives. The objection sets out the landowner's concerns as to public safety arising from the dangers of an eroding coastline. The proposed route aligns with the clifftop in the relevant part, and 'rollback' proposals form part of the report, in order that the route may in future be realigned as the coast continues to erode.
13. It was explained to me on site, and I observed, that coastal erosion in the area is a reality. The objector proposes to realign the route and offers some routes adjacent to Ferry Road, running south-west of Bawdsey, as an alternative.
14. The objector contends that the stretch of path along the cliff from BSA-1-S005 to the Martello Tower at East Land BSA-1_S016 is extremely hazardous, with the continuous and daily changing coastal erosion making this area very treacherous. He says there have been several large cliff falls recently, which have prompted a nearby business and the local highway authority to erect signs closing the current footpath. He considers that the proposed route is irresponsible and unnecessary and will eventually result in an accident.
15. His proposal is for an alternative route which would be off road, safe and does not divert far from the proposed coastal path. His proposal is to establish a 1 metre path along the field edges on the east side of Ferry Road where there is presently no pedestrian footpath. He considers this would be a safer option and would at minimal cost enable the route to be kept open all year round.

NE's comments on the objection and proposed modification

16. NE acknowledge that the proposed route is on an eroding soft cliff top. The beach has not been proposed because of the frequency of tide coverage, and the clifftop is the closest available route to the sea and offers good sea views; both key principles of ECP route alignment. The alternative route would not meet the requirements of the Scheme to adhere to the coastline and provide sea views.
17. NE do not consider that the shallow cliffs (ranging from 9m to 20m) present a danger to the public, drawing attention to the ECP alignment at Trimmingham Cliffs in Norfolk which are over twice the height. There are very few reports over very many years of the public being hurt from walking on the clifftops.
18. Signage has been reviewed and it is acknowledged that the local business has erected signs to try to stop informal access on their adjoining length of clifftop, but note that the business has not objected to the ECP proposals. The local highway authority sign reflects the closure of the public footpath along the beach and no longer links with the bridleway above as a set of steps have been lost through erosion.
19. As to the proposed modification, NE is grateful for the offer of a different route but consider their proposed alignment better meets the Scheme requirements. The objector's proposed alternative route is some distance inland and would provide a markedly inferior coastal experience for the public. The existing coastal paths (or as they are 'rolled back') along the clifftop would be coastal margin if the alternative route were established, and thus would acquire spreading room rights and would likely still be used. A clear desire line exists on the ground at the clifftop.
20. Thus NE consider that if the ECP were to be aligned inland, the objector would effectively have two routes on his land: the formal route, and the desire line along the clifftop. If the clifftop were not the formal alignment, it would not benefit from the establishment and maintenance works that are integral to a national trail.

Other representations and NE comments

21. Several other representations have been received in relation to the proposals.
22. In relation to this stretch, the Ramblers are generally supportive and welcome the fact that the proposed route is all off-road. The Royal Society for the Protection of Birds (RSPB) are generally supportive but seek additional mitigation measures and seek the closure of a different footpath, although that cannot be considered here. The Suffolk Wildlife Trust (SWT) supports the RSPB's comments and recommends monitoring of the effectiveness of mitigation measures. Both the RSPB and the SWT have made representations about the nature conservation implications of the proposals, considered below in Annex 1.
23. NE express an intention to discuss signage with the SWT and refer to the ability to adapt management of the trail to reflect changing circumstances.

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24. The County Council is generally supportive of the proposals, although seeks more money, and particularly welcomes this report's proposals in avoiding use of the road near Bawdsey Manor.
 25. The British Horse Society seek suitable routes for horses but as NE point out there are no voluntary proposals to consider here.
 26. Hollesley Parish Council support the coastal path but consider the restriction of access rights in the coastal margin to be problematic, expressing concern that existing uses and rights will be removed. NE explain that any existing permitted uses would not be prohibited or limited by the proposed arrangements.
 27. The Disabled Ramblers are concerned that the proposed trail should be suitable for users of mobility scooters, raising points about the width of the route, the use of steps rather than ramps or slopes, and the use of unsuitable gates. NE recognise these concerns and aims to achieve the route widths that are sought. In respect of the particular steps referred to at the car park at route section BSA-1-S018, NE considers that an existing maintained accessible route in the location will continue to be available, although not itself part of the trail.
 28. The Water Management Alliance draw attention to the Internal Drainage Board's responsibilities and the need for consents. NE appreciate their engagement and will inform the County Council in order that any necessary permissions are obtained when establishing the trail.
 29. Most relevant to the objection considered in this report, Bawdsey Parish Council express similar concerns to those of the objector, believing that the extreme instability of the cliffs creates unacceptable hazards and that the objector's proposed alternative would be a realistic one.
 30. The Parish Council consider that the coastal route does not recognise the inherent danger arising from the extreme instability of the cliffs. They point to recent experience of families clambering about on the cliffs without realising the risks of cliff fall or injury. The rate of erosion has been so extreme that the existing County footpath has been closed for some while, and the sign closing it has itself become the victim of a cliff fall.
 31. It seems to the Parish Council quite unreasonable to insist on a route close to the sea which will have to be constantly monitored, repaired, set back etc. They consider that it cannot be environmentally sustainable or worth the considerable expense for such a short length of path with sea views, when a stable and safe section of pathway on agricultural land, with views towards the sea, has been offered. This would be a simple agricultural/woodland walk within sound of the sea and a realistic alternative.
 32. In response, NE comment that it is highly unlikely that families exploring the cliffs would alter as a result of the ECP. The beach and cliffs would fall within the seaward spreading room even if the ECP were aligned inland. A key principle of coastal access rights is that visitors should take primary

responsibility for their own safety. With coastal access rights applying, the landowners are protected by lower levels of public liability than are currently owed to users and trespassers.

33. NE refer to paragraphs 4.5.1, 4.6.1, 7.1.3 and 7.1.4 of the Scheme, whereby the route should normally be close to the sea, should normally offer views of the sea, should normally be aligned along cliffs wherever practicable, and the trail will normally roll back when erosion or landslip takes place without further reference to the Secretary of State.
34. NE say that the ability to easily rollback the ECP is a significant advantage compared to public rights of way legislation, and creates a permanently open and safe path for users. The costs of realignment will be minimal. If the route were realigned inland, public access to the cliff top would nevertheless be available. If the trail is aligned inland then the cliff top access would continue, but unmanaged.

Conclusion and Recommendation

35. I agree with NE that the desirability of walking along the cliff top means that many walkers are likely to do so irrespective of whether the cliff top forms the trail itself or is subject to spreading room access rights. Thus the safety concerns of the objecting landowner and of the Parish Council are likely to arise under either scenario.
36. The Scheme sets out the 'light touch' regulation anticipated, and explains that the liability of occupiers of land subject to the trail and associated access rights is at the lowest possible end of the spectrum. The alternative route proposed by the objector is several hundred metres away from the sea and falls on or adjacent to a road from which the sea cannot be seen by pedestrians. Thus I agree with NE that the proposed alternative would not meet the Scheme criteria.
37. In the circumstances where safety risks may materialise whether or not the cliff top forms the trail itself, I consider that the scheme proposals strike a fair balance between the interests of users of the route and the interests of those with relevant interests in the land, including the present objector.
38. Although Bawdsey Parish Council make a number of well-considered points in support of the objection, ultimately they do not change my view that the cliff top is a significant desire line whether or not part of the trail. Because it would fall within the spreading room of the proposed alternative route, I consider that it is extremely likely to be used anyway. Whilst acknowledging the acute safety concerns relevant to an eroding cliff top, I find that these concerns would be just as relevant whether the cliff top forms the trail or the spreading room to it.
39. Accordingly I recommend that the Secretary of State finds that, in relation to the objection, the proposals of Report BSA1: Bawdsey Quay (picnic site) to Butley Ferry (west side) do not fail to strike a fair balance.

[redacted]

APPOINTED PERSON

Introduction

1. The Conservation of Habitats and Species Regulations 2017 (as amended) and the Conservation of Offshore Marine Habitats and Species Regulations 2017 (as amended) (for plans and projects beyond UK territorial waters (12 nautical miles)) require that where a plan or project is likely to have a significant effect on a European site or European marine site 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 ('AA') of the implications of that plan or project on the integrity of the European site in view of the site's conservation objectives.
2. This report is to assist the Secretary of State, as the Competent Authority, in performing the duties under the Regulations referred to above. The appropriate Statutory Nature Conservation Body must also be consulted, in this case Natural England (NE). A 'shadow' Habitats Regulations Assessment ('the shadow HRA') was conducted by NE, entitled 'Assessment of England Coast Path proposals between Bawdsey and Aldeburgh on sites of European importance for nature conservation', dated January 2021. The shadow HRA was provided to inform the Competent Authority's AA and has been considered in making this recommendation.

Project Location

3. The land in the Report to which the objection relates is route sections BSA-1-S007 to BSA-1-S017 of report BSA1 concerning Coastal Access Proposals by Natural England between Bawdsey and Aldeburgh in Suffolk. Those proposals are themselves the subject of five separate reports that are linked but legally separate statutory reports. Each report relating to a particular part of the stretch makes free-standing proposals, and seeks approval for them by the Secretary of State in their own right under section 52 of the National Parks and Access to the Countryside Act 1949. Nonetheless the Coastal Access Proposals as a whole for Bawdsey to Aldeburgh constitute the 'plan or project' for regulatory purposes.
4. The purpose of the proposals is to establish this tract of the English Coast Path pursuant to the statutory objective of securing a continuous walking route around the coast. Thus the proposals are designed to facilitate public access. In addition to the path, areas of land (usually) seaward of the trail will become coastal margin, attracting coastal access rights except where exclusions or other restrictions apply.
5. The site of the objection itself to which this Report relates lies outwith any area of international designation, but the proposals as a whole lie within or in close proximity to several such sites. They are the Alde-Ore Estuary Ramsar site, the Alde-Ore Estuary Special Protection Area (SPA), the Outer Thames Estuary SPA, Sandlings SPA, Alde-Ore & Butley Estuaries Special Area of Conservation (SAC), Orfordness-Shingle Street SAC and the Southern North Sea SAC.

6. The qualifying features of each site are listed as follows:

Alde-Ore Estuary Ramsar

- Pied avocet (non-breeding)
- Common redshank (non-breeding)
- Lesser black-backed gull (breeding)
- Breeding wetland bird assemblage:
 - European marsh harrier
 - Mediterranean gull
 - Sandwich tern
 - Little tern
- Water bird assemblage (non-breeding):
 - Black-tailed godwit
 - Spotted redshank
 - Common greenshank
 - Greater white-fronted goose
 - Common shelduck
 - Eurasian widgeon
 - Eurasian teal
 - Northern pintail
 - Northern shoveler
- Wetland invertebrate assemblage:
 - *Nematostella vectensis* & *Gammarus insensibilis* of saline lagoons
 - *Malacosoma castrensis*
 - *Campiscenemus magius*
 - *Chilosia velutina*
 - *Empis prodomus*
 - *Dixella attica*
 - *Hylaeus euryscapus*
 - *Pseudoamnicola confuse*
 - *Euophrus browning*
 - *Baryphyma duffeyi*
 - *Haplodrassus minor*
 - *Trichoncus affinis*
- Wetland plant assemblage:
 - *Althaea officinalis*
 - *Frankenia laevis*
 - *Lathyrus japonicus*
 - *Lepidium latifolium*
 - *Medicago minima*
 - *Parapholis incurve*
 - *Puccinellia pasciculata*
 - *Puppia cirrhosa*
 - *Carcocornia perennis*
 - *Sonchus palustris*
 - *Trifolium suffocatum*
 - *Vicia lutea*
 - *Zostera angustifolia*

Alde-Ore Estuary SPA

- Eurasian marsh harrier (breeding)

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- Pied avocet (non-breeding)
 - Pied avocet (breeding)
 - Ruff (non-breeding)
 - Common redshank (non-breeding)
 - Lesser black-backed gull (breeding)
 - Sandwich tern (breeding)
 - Little tern (breeding)

Outer Thames Estuary SPA

- Little tern (breeding)
- Common tern (breeding)
- Red-throated diver (non-breeding)

Sandling SPA

- European nightjar (breeding)
- Woodlark (breeding)

Alde-Ore & Butley Estuaries SAC

- Estuaries
- Mudflat and sandflat not covered by seawater at low tide
- Atlantic salt meadows

Orfordness-Shingle Street SAC

- Coastal lagoons
- Annual vegetation of drift lines
- Perennial vegetation of stony banks

Southern North Sea SAC

- Harbour porpoise.

HRA Implications of the Project

7. As found by the shadow HRA, the principal impact pathways are likely to be by disturbance to feeding and nesting birds caused by users of the trail; by trampling causing damage to vegetation or supporting habitats; or by the installation of trail infrastructure.

Part 1 – assessment of likely significant effects

8. Effects should be considered 'likely' if they cannot be excluded on the basis of objective information, and 'significant' if the result would be to undermine the conservation objectives. Consideration of the scheme both 'alone' and 'in combination' with other plans or projects is required.
9. Whilst it is not appropriate at this stage to have regard to proposed mitigation measures, it is nonetheless appropriate to consider the scheme in the round as proposed. This includes the proposals for access exclusions, which are extensive and apply to much of the coastal margin including most areas of salt marsh and mud flat within the Alde-Ore and Butley Estuaries.

The plan or project effects

Disturbance of feeding, resting or nesting birds

10. The non-breeding wetland birds, and the breeding gulls, found in the Alde-Ore Estuary Ramsar and SPA sites may be disturbed by recreational activity, potentially causing flight. During the wintering season this can lead to extra energy expenditure, interrupted feeding and reduced survival rates. Overwintering birds are present in large numbers and so a significant effect cannot be excluded.
11. The breeding avocets and terns found in the Alde-Ore Estuary and the Outer Thames SPA are subject to similar pressures, with the additional risk of egg or chick trampling, or disturbance of incubating parents, resulting in increased mortality.
12. The breeding marsh harrier, and the ground-nesting woodlark and woodlark for which the Sandling SPA is designated are subject to similar pressures and consequences.
13. Disturbance to birds may also arise from installation works.
14. The likelihood of significant effects on the non-breeding red-throated diver arising from these proposals alone can safely be excluded. This diving bird species feeds predominantly out at sea.

Habitats and invertebrates

15. Areas of shingle may be subject to trampling, resulting in damage to vegetated shingle or invertebrates or their supporting habitat. However the extensive proposals for s. 25A exclusions from saltmarsh and mudflats mean that the likelihood of significant effects can largely be excluded. The exceptions are the shingle beach at Shingle Street, the tidal litter at Gedgrave Cliffs, and the qualifying features of the saline lagoons at Shingle Street and on Orford Ness. Additionally some coastal assemblage plants may be subject to trampling in areas not subject to s. 25A exclusions.

In Combination effects

16. Other projects in the vicinity of the relevant European Sites are not considered to raise the likelihood of significant effects on any qualifying features not already identified as being potentially affected by this project alone.

Overall findings of likely significant effects

17. Consistently with NE's HRA assessment of January 2021, therefore, the proposals are likely to have a significant effect as follows:
 - Non-breeding wetland bird assemblage- through disturbance
 - Breeding gull assemblage- through disturbance
 - Breeding avocets and terns- through disturbance
 - Breeding marsh harrier- through disturbance
 - Heathland and ground-nesting birds- through disturbance
 - Shingle & tidal litter invertebrate habitat- through trampling

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- Aquatic invertebrates & habitat- through trampling
 - Fresh/brackish aquatic plant assemblage- through trampling
 - Coastal plant assemblage- through trampling
 - Coastal lagoons – saline lagoon margins- through trampling
 - Vegetated shingle- through trampling
 - Installation of infrastructure- through disturbance to birds

18. Whether alone or in combination with other plans or projects, the proposals are unlikely to have a significant effect on the following qualifying features:

- Non-breeding red-throated diver - through disturbance
- Saltmarsh & wetland invertebrates- through trampling
- Woodland invertebrates- through trampling
- Intertidal habitat- through trampling
- Vegetated shingle- through loss of habitat
- Harbour porpoise
- SPA supporting habitat- through trampling
- SPA supporting habitat- through loss of habitat

19. Therefore further appropriate assessment is required.

Conservation Objectives

20. The overarching Conservation Objectives for all European Sites in England are to ensure that the integrity of each site is maintained or restored as appropriate, and that each site contributes to achieving the aims of the Habitats Regulations, by either maintaining or restoring (as appropriate) the extent and distribution of their qualifying natural habitats; the structure and function (including typical species) of their qualifying natural habitats; the supporting processes on which their qualifying natural habitats rely, and on which the habitats of their qualifying features rely; the population of each of their qualifying features; and the distribution of their qualifying features within the site.
21. The specific risks identified to the Conservation Objectives in section D1 of NE's shadow HRA are of two types. Disturbance to birds following changes in recreational activities as a result of the proposals potentially leads to changes in the birds' abundance and diversity. Trampling and loss of designated features following such changes potentially leads to the reduction in the extent and distribution of qualifying natural habitats and habitats of the qualifying species.

Part 2 – Findings in relation to Adverse Effects on Integrity

22. NE have reached the following conclusions on assessing the potentially adverse effects, after taking account of any additional mitigation measures incorporated into the design of the scheme:

The following risks to achieving the conservation objectives identified in section D1 of the shadow HRA are effectively addressed by the proposals and no adverse effect on site integrity (taking into account any incorporated mitigation measures) can be concluded:

- Breeding gull assemblage - through disturbance
- Breeding marsh harrier – through disturbance
- Heathland and ground nesting birds – through disturbance
- Coastal plant assemblage – through trampling
- Aquatic invertebrates - through trampling
- Fresh/brackish Aquatic Plant Assemblage - through trampling
- Coastal lagoons – saline lagoon margins – through trampling
- Installation of infrastructure - through disturbance to birds

The following risks to achieving the conservation objectives identified in section D1 of the shadow HRS are effectively addressed by the proposals and no adverse effect on site integrity (taking into account any incorporated mitigation measures) can be concluded, although there is some residual risk of insignificant impacts:

- Non-breeding wetland bird assemblage - through disturbance around the Butley River.
- Breeding avocets - through disturbance at Shingle Street.
- Vegetated shingle - through trampling at Shingle Street.

23. No access exclusions are proposed in relation to the section of the proposals to which this Report relates, being section BSA-1-S007 to BSA-1-S017. Access exclusions are proposed approximately north of the latitude at which the river Ore meets the sea in Hollesley Bay. Relevant to NE Report BSA1, however, are comments from the RSPB concerning the proposals' effects on the RSPB Boyton and Hollesley Marshes nature reserve. The Suffolk Wildlife Trust ('SWT') generally support the RSPB's comments.
24. The shadow HRA identifies (at section D3.2B) that, due to the lack of local facilities, levels of increased use on this section of the Coast Path are anticipated to be negligible. The reserves will not fall under coastal access rights and no additional access is proposed. The route is on an existing public right of way. Seawards of the path much of the coastal margin is covered by an s25A access exclusion as it is unsuitable for access. Therefore there is not considered to be any significant risk to the bird populations within the Hollesley and Boyton Marshes reserve.
25. The RSPB nonetheless note that a number of shingle 'islands' are not proposed for a s. 25A exclusion, and request that the saltmarsh and shingle area is additionally excluded under section 26. In response, NE do not consider additional restrictions are necessary and note that the RSPB do not refer to specific features. There is no need to additionally restrict or exclude the same access rights under section 26 where already excluded under section 25A. Any review of the section 25A exclusion on suitability grounds would involve a reappraisal under section 26.

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26. Both the RSPB and the SWT are concerned about the effectiveness of mitigation measures and recommend monitoring the access exclusions. However, NE do not see the need for additional monitoring where the proposed ECP is already a public footpath and the present access situation will not be substantially altered.
27. Identifying any combinable risks for other plans and projects, namely:
- the Suffolk Coastal Local Plan 2018 – 2036,
 - the East Suffolk Business Plan, the East Suffolk Growth Plan 2014 – 2025,
 - the Suffolk Coast AONB Management Plan 2018 – 2023,
 - the Shoreline Management Plan 7: Lowestoft Ness to Landguard Point,
 - the East Suffolk Catchment Flood Management Plan 2009,
 - the Alde and Ore Estuary Plan,
 - the Deben Estuary Plan,
 - the implementation of Coastal Access Rights from Aldeburgh to Hopton-on-Sea and from Felixstowe Ferry to Bawdsey,
 - the Sizewell C nuclear power station,
 - the Adastral Park Development, and
 - the East Anglia ONE, ONE North, TWO and THREE offshore windfarms,

NE have identified insignificant and combinable effects likely to arise from two of those. The implementation of coastal access from Aldeburgh to Hopton-on-Sea and the construction of East Anglia THREE were subject to further risk assessment.

28. In respect of the Aldeburgh to Hopton-on-Sea proposals potentially affecting waterbirds close to the shore, the spatial separation from Pottersbridge, and the installation of waymarkers and other infrastructure on already-walked routes rather than on existing habitats, led to the conclusion that no adverse effects on the birds at residual risk would occur. As to the Anglia THREE project, measures to minimise disturbance to bird interest, the spatial separation of the proposals, and the availability of similar habitat in the vicinity means that the risk of breeding birds becoming displaced by Anglia THREE construction works into the coastal path areas is not a significant risk.

Conclusions on Site Integrity

29. It can be ascertained, in view of site conservation objectives, that the access proposals (taking into account any incorporated avoidance and mitigation measures) will not have an adverse effect on the integrity of the Alde-Ore Estuary Ramsar, Alde-Ore Estuary Special Protection Area (SPA), Outer Thames Estuary SPA, Sandlings SPA, Alde-Ore & Butley Estuaries Special Area of Conservation (SAC), Orfordness-Shingle Street SAC and the Southern North Sea SAC either alone or in combination with other plans and projects.
30. It is noted that, if minded to modify the proposals, further assessment may be needed. The recommendation of this particular report is not to modify the proposals.

Nature Conservation Assessment

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31. As well as the shadow HRA, NE have also conducted a nature conservation assessment ('NCA') which is to be read in conjunction with the relevant reports on the Coastal Access Proposals and the shadow HRA. The NCA covers all other aspects (including Sites of Special Scientific Interest ('SSSIs'), Marine Conservation Zones ('MCZs') and undesignated but locally important sites and features, but only insofar as the HRA does not already address the issue for the sites and features in question.
 32. Related to this objection is the Bawdsey Cliff SSSI, shown at page 26 of the NCA and discussed at page 7. It coincides in large part or is contiguous with the objector's landholding. The cliffs are of geological interest and a negligible increase in the margin by fossil-hunters is anticipated. Whilst the feature is at risk, this is from coastal squeeze rather than from the access proposals. NE are content that their proposals will not destroy or damage the special interest feature of the site, and overall are satisfied that their proposals are fully compatible with their duty to further the conservation and enhancement of the cliff's notified features.
 33. In respect of the relevant site 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] LLM LARTPI Solicitor

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

Date 21 June 2023

Marine and Coastal Access Act 2009

Objections by [redacted] and [redacted]

Regarding Coastal Access Proposals by Natural England

Relating to Bawdsey to Aldeburgh

Report BSA 2

Objection Reference: MSA/BSA2/O/1/BSA0156
Western side of Butley Creek, Gedgrave Estate, Woodbridge

- On 3 February 2021 Natural England submitted a Coastal Access Report to the Secretary of State for Environment, Food and Rural Affairs under section 51 of the National Parks and Access to the Countryside Act 1949 pursuant to its duty under section 296(1) of the Marine and Coastal Access Act 2009.
- An objection dated 16 February 2021 to Report BSA 2: Butley Ferry crossing (west side) to Orford Quay has been made by [redacted]. The land in the Report to which the objection relates is route sections BSA-2-S004 to BSA-2-S012.
- The objection is made under paragraph 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 are set out in the objection.

Summary of Recommendation: That the Secretary of State determines that the proposals in the report do not fail to strike a fair balance.

Objection Reference: MSA/BSA2/O/3/BSA0158
Western side of Butley River north of Butley Ferry crossing, Woodbridge

- On 3 February 2021 Natural England submitted a Coastal Access Report to the Secretary of State for Environment, Food and Rural Affairs under section 51 of the National Parks and Access to the Countryside Act 1949 pursuant to its duty under section 296(1) of the Marine and Coastal Access Act 2009.
- An objection dated 23 February 2021 to Report BSA 2: Butley Ferry crossing (west side) to Orford Quay has been made by [redacted]. The land in the Report to which the objection relates is route sections BSA-2-S004 to BSA-2-S012.
- The objection is made under paragraph 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 are set out in the objection.

Summary of Recommendation: That the Secretary of State determines that the proposals in the report do not fail to strike a fair balance.

Objection Reference: MSA/BSA2/O/1/BSA0156
Eastern side of Butley River, Gedgrave Estate, Woodbridge

- On 3 February 2021 Natural England submitted a Coastal Access Report to the Secretary of State for Environment, Food and Rural Affairs under section 51 of the National Parks and Access to the Countryside Act 1949 pursuant to its duty under section 296(1) of the Marine and Coastal Access Act 2009.

Site visits made on 4 and 5 July 2022

File Ref(s): MCA/BSA/1-9

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- An objection dated 18 February 2021 to Report BSA 2: Butley Ferry crossing (west side) to Orford Quay has been made by [redacted]. The land in the Report to which the objection relates is route sections BSA-2-S028 to BSA-2-S029.
 - The objection is made under paragraph 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 are set out in the objection.

Summary of Recommendation: That the Secretary of State determines that the proposals in the report do not fail to strike a fair balance.

Procedural Matters

40. On 3 February 2021 Natural England (NE) submitted the Coastal Access Bawdsey to Aldeburgh Report (the Report) to the Secretary of State for Environment, Food and Rural Affairs (the Secretary of State) setting out proposals for improved access to the coast between Bawdsey and Aldeburgh. Whilst linked, each report in the series is legally separate and contains free-standing statutory proposals for a particular part of the stretch of coast. A single Overview document applies to the whole stretch explaining common principles and background.
41. The period for making formal representations and objections closed on 31 March 2021. Nine admissible objections were received within the specified timescale and I have been appointed to report to the Secretary of State on those objections. This report relates to the objection references MCA/BSA2/O/1/BSA0156 and MCA/BSA2/O/3/BSA0158, with other objections considered separately.
42. [redacted] has objected to two sections of the proposed Coast Path covered by report BSA2, and these are both considered under reference number BSA0156. [redacted]'s objection, reference BSA0158, coincides with [redacted]'s in respect of the western side of the Butley River, with their disclosed respective landholdings on the western side being contiguous and together covering the area including the proposed Coast Path, its winter alternative route, and the objectors' proposed modification route, from Butley Ferry north to Butley Mills. As to the eastern side, [redacted] owns the relevant land relating to his objection and proposed modification.
43. In addition to the objections a total of seven representations were received within the relevant period relating to report BSA 2 and these are considered where relevant.
44. I carried out site inspections on Monday 4 July accompanied by the objectors and representatives from NE and the local highway authority during which part of the proposed routes and alternatives were observed.

Main Issues

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

46. The second objective is that, in association with the English coastal route ('the trail') a margin of land along the length of the English coast is accessible to the public for the purposes of its enjoyment by them in conjunction with the coastal route or otherwise. This is referred to as the coastal margin, whilst the trail is the path corridor through the coastal margin. The trail is referred to as the England Coast Path.

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

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

48. 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.

49. Section 301 of the 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. The relevant upstream waters are the waters from the seaward limit of the estuarial waters of the river, upstream to the first public foot crossing or a specified point between the seaward limit and the first such crossing. Section 301(4) of the Act sets out additional statutory criteria (the Estuary Criteria) which must be taken into account when deciding whether, and if so how, to exercise the discretion to extend the trail along an estuary. The Estuary Criteria are:

- (h) the nature of the land which would become part of the coast;
- (i) the topography of the shoreline adjacent to those waters;
- (j) the width of the river upstream to that limit;

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- (k) the recreational benefit to the public of the coastal access duty being extended to apply in relation to the coast adjacent to those waters;
 - (l) the extent to which the land bordering those waters would, if it were coastal margin, be excepted land;
 - (m) whether it is desirable to continue the English coastal route to a particular physical feature or viewpoint; and
 - (n) the existence of a ferry by which the public may cross the river.
50. NE's Approved Scheme 2013 ('the Approved Scheme') is the methodology for implementation of the England Coast Path and associated coastal margin. It forms the basis of the proposals of NE within the Report.
51. 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

52. As its name suggests, the proposed trail that is the subject of this report takes in Butley Ferry around to Orford. The route is entirely estuarial, starting from the western side of the Butley River, a tributary of the Ore, travelling north around the Butley River, looping back on itself at Chillesford, down the eastern side of the Butley River before joining the Ore and running east - northeast to the settlement of Orford.
53. The proposed trail takes in winter alternatives on both sides of Butley River, altering part of the trail on each side in order to protect wintering and passage birds.
54. The objections on the western side relate to maps BSA2a to 2c, to which alternative routes are shown on maps BSA2j and 2k. On the western side, it is proposed to divert westerly, from the summer route along the estuary 'sea wall' (also referred to as the 'embankment'), from (when travelling north) Butley Ferry along the existing Suffolk Coast Path across fields as far as Butley Low Corner. From there it is proposed to take the alternative path back towards the river at a point east of Carmen's Wood where it will rejoin the sea wall for its northern stretch. Thus an alternative to the southern part is proposed during the winter months; whereas the northern part (on the west side) remains the same all year round. To reach the northern part from the southern alternative part requires the new path heading east towards the river from Butley Low Corner.
55. On the east side, the alternative route consists merely of requiring walkers to desist from walking along the top of the embankment during the winter months alongside the upper stretch of the Butley River as shown on maps BSA2e and 2l (i.e. 2L) (Cook's Barn to the Fleet) and instead walking below the embankment on the landward side for this stretch (but only this stretch).

The Objections

56. The three objections are each raised on ground (c): the inclusion of, or failure to include, proposals for an alternative route, or the position of such a route or any part of it.
57. Thus the objections here relate to the alternative routes, or the lack of them. An additional objection arises concerning whether dogs should be required to be on short leads around the Creek (that is, the Butley River) all year round. A further question arises as to the use of the estuarine discretion.

The Western objections (BSA-2-S004 to BSA-2-S012)

58. On the western side, the proposed route creates a new path over the objectors' land during the summer months, which is the embankment path over Butley Marshes between Butley Ferry and Butley Mills to the north. It also creates an additional new path over the objectors' land in the winter months, which is the path from the existing Suffolk Coast Path at Butley Low Corner to the sea wall embankment east of Carmen's Wood where the northern part is joined.
59. The objectors contend that the northern half of the Butley River is most important for over-wintering birds. It holds many more birds, many of them red-listed species, than does the southern half. It is suggested that this is due to the lack of disturbance. The objectors suggest that the whole western side of the river should be subject to a winter alternative route, and not just the southern half of it. They suggest that an appropriate alternative is the existing Suffolk Coast Path.

The Eastern objection (BSA-2-S029)

60. On the eastern side, the objection is not to the proposed alternative route between Cook's Barn to the Fleet, but to the lack of a continuation of that alternative route further south from the Fleet to a little north of the east side of the Butley Ferry crossing. The relevant section (of the objector's proposed route) is shown on map BSA 2f, with the objector's proposed alternative being a continuation of the alternative route below the eastern side of the embankment away from the river.
61. The principal thrust of the objection again relates to over-wintering birds, saying that the whole of the Butley Creek is very important for a number of red-listed species who are particularly vulnerable during the winter months. Although sceptical as to whether walkers (or dogs) will respect any injunction not to walk atop the embankment during the winter months, the alternative winter route unaccountably stops at The Fleet rather than c. 600m further south.
62. It is proposed that the wintertime diversion proposed for section BSA-2-S028 (Map BSA 2l) should be continued for all of BSA-2-S029 (Map BSA 2f).

Objection concerning dogs (BSA-2-S001 to BSA-2-S037)

63. It is suggested that dogs need to be on short leads all year round on both the east and west sides of the Butley Creek, because of the presence of nesting birds in the reed beds throughout the summer and the presence of overwintering birds.

Estuarial discretion

64. It is suggested that the proposals elevate the interests of access well above those of bird life in this special area of protection (SPA and SAC) and amount to an opportunistic diversion away from the coast up a narrow estuary.

NE's responses

The Western section

65. NE has considered the impact of the ECP on the species that comprise the designated features of domestic and internationally-designated sites in their Shadow Habitats Regulations Assessment ('Shadow HRA') and Nature Conservation Assessment. Relying on Wetland Bird Survey ('WeBS') counts averaged from 1993/94 to 2013/14, NE contend that, for most recorded species, over this 20 year period the northern section of the estuary (WeBS sector 13) has fewer birds than the southern section (WeBS sector 12) as an overall percentage of the Alde-Ore total. Those figures are reproduced below:

	Avocet	Bewick's Swan	Redshank	Ruff	Shelduck	Teal	Wigeon
Sector 13	9.21	7.14	6.83	1.05	5.61	18.03	9.30
Sector 12	16.51	21.43	15.63	8.68	6.88	16.02	16.23

66. The Shadow HRA concluded that the proposals, including the alternative route, will not have a likely significant effect on the sensitive features of the site and hence consideration of a longer alternative route was unnecessary. The silhouetting of walkers against the skyline would be minimised by the rising land on the landward side as would the backdrop of Sparrowhill Covert (parts of S004 and S005). Walkers in parts of S006 would be screened from the birds by vegetation.
67. The RSPB (Royal Society for the Protection of Birds) manages a nature reserve in the northern end of the Butley River and, in discussions, said that use of the sea wall is far enough away from the features of interest not to give rise to adverse impacts. NE refer to the RSPB's representation on the proposals where no change was suggested.
68. Therefore NE did not identify any need to extend the alternative route proposals away from the embankment over sections BSA-2-S004 to BSA-2-S011 as suggested.

The Eastern section

69. NE again refer to their Shadow HRA and Nature Conservation Assessment. The alignment of both the ordinary route and the two alternative routes around the Butley River have been considered and the impact on the birdlife fully assessed. The HRA assessment concluded that the proposals, with the winter alternative route put forward by NE, would not be likely to have a significant effect on the sensitive features of the site. Accordingly, NE did not identify a need to extend the alternative route for section BSA-2-S029 as suggested.
70. Again the RSPB's response to the proposals is referred to by NE in support of its position. Additionally, the main route of BSA-2-S028 will be closed by locked gates when the winter alternative route is to be used, so deterring walkers from using the embankment.

Dogs

71. A restriction on BSA-2-S004 (west side) is proposed for dogs to be on leads where the route is closer to the river. The section at BSA-2-S029 (east side) has a fence on the seaward side so dogs cannot enter the water.
72. The possible impact of dogs was considered within the Shadow HRA. This reports that a suite of interpretation panels will be installed at locations likely to be seen by visitors approaching the estuary to inform them of wildlife interest and asking that dogs are kept under control and kept away from the water. They will also outline further mitigation measures that walkers may encounter, namely two alternative winter routes with accompanying restrictions on the main routes, and the requirement to keep dogs on short leads in the vicinity of livestock. New signage, gates, steps and benches will promote the appropriate use of these routes.
73. NE contend that by minimising the length of route to which 'dogs to leads' applies will encourage compliance. The restriction on the west side at BSA-2-S004 is proposed because it is very open in nature and the path is close to the water. A similar restriction on the east side is unnecessary, they say, because the majority of the path is fenced, and trees on the landward side will reduce the effect of skylining. NE concluded that the messaging on interpretation panels would be sufficient here.

Estuarial discretion

74. NE refer to the relevant legislation and parts of the Scheme including paragraph 10.1.5. Taking the ECP around the estuary is the only way to achieve a viable uninterrupted year-round route. Consideration was given to ceasing the route at the Butley Ferry crossing, but this operates infrequently during the summer and not at all during the winter.
75. Use of the estuarine discretion was appropriate here. The estuaries in the vicinity define the area's coastal character, and as such are key elements of the national trail which enables walkers to experience and enjoy the full range of English coastal land types.

Other representations and NE's responses

76. No consultation has been carried out on the objectors' proposed modifications. The Ramblers welcome the existing proposed path and say the proposed alternative route on the western side is quite acceptable and pleasant, and they are very happy to accept the proposed alternative route on the eastern side.
77. The RSPB have requested that the saltmarsh and shingle area is excluded under s. 26 of CROW 2000. NE explain that the area is excluded under s. 25A and so there is no need to additionally restrict the same rights under s. 26, or to extend the area of protection in the absence of identified specific features.
78. The RSPB have expressed some doubt as to the efficacy of the proposed mitigation measures, suggesting that there may be a need for the alternative route to become permanent if disturbance to bird populations arises from use of the route closer to the river during the winter months despite the official diversion. The Suffolk Wildlife Trust (SWT) have expressed similar concerns, recommending that monitoring of the effectiveness of mitigation measures is carried out and considering that further mitigation may be needed if mapping and signage are not sufficient to enforce the restrictions. In response NE have suggested that if necessary they would consider a change to the route, and that bespoke monitoring will not be carried out although regular monitoring of trail condition and infrastructure will be.
79. The County Council welcome the proposals although would like more money, pointing out that the National Trail funding formula does not recognise the need for mitigation in the vicinity of (but not within) SSSIs. NE have in response expressed an intention to review the funding formula as the ECP is completed.
80. In response to representations made by the British Horse Society seeking higher rights and appropriately surfaced routes, NE acknowledge the desirability of creating routes for horse riders but point out that no proposals have been made or received voluntarily.
81. In addition to the representation considered above, the SWT suggest that 'educators' are employed at parking sites to tell users of wildlife importance and of behavioural expectations. NE would welcome the involvement of partner organisations in helping people understand the special character of the area.
82. [redacted] is very pleased with the proposal to allow access along the sea wall, and wishes the project success. NE welcomes that support.
83. The Water Management Alliance provides a reminder of the Internal Drainage Board's catchment and the application of relevant byelaws. The IDB manages higher water levels in the area in order to maximise biodiversity and is concerned that public access may be detrimental to such efforts. In response NE refer to the HRA for the international sites and the Nature Conservation Assessment for the domestic sites, considering that the public commitments to wildlife and public access have been balanced.

Considerations

Estuarial discretion

84. I asked at the site visit whether it was intended to question the use of the estuarial discretion, and confirmed [redacted] that it was not. Notwithstanding that there is a ferry crossing (at Butley Ferry, as its name suggests) this is infrequent and I have no reason to think that the estuary criteria are not met generally, for the reasons explained by NE.

The winter alternative routes

85. Nonetheless I do have some concerns about the alternative routes. First, not a point directly made by the representations although expressed with some force at my site visit, I consider that the creation of not one but two additional paths over the objectors' land on the western side, albeit they would not be used simultaneously, potentially gives rise to a considerable burden to the landowner that requires particular justification if one is to conclude that a fair balance will be struck.
86. Secondly, in the light of NE's reliance on the use of interpretation panels and the like in order to promote 'good behaviour' in order to avoid adverse effects on protected bird species, it is necessary to be confident as to the way in, or rather extent to, which the alternative routes will actually be used if the modifications proposed by the objectors are not made, reflecting the concerns of the RSPB and SWT in this regard.
87. The Shadow HRA of the proposals is found at page 54 onwards (D3.2C Butley River) of the NE Shadow HRA document. An anticipated medium increase in use of the trail led to consideration of the options for mitigation, particularly to address the potential risk of disturbance to overwintering birds. An opportunity was seen to create a set of interpretation panels around the river, informing walkers of the bird species and requesting that dogs not enter the water or otherwise cause disturbance to birds. The panels will outline the alternative routes and the short section (adjoining the point where the western alternative route is taken, to the east of Carmen's Wood) where the year-round dogs to lead restriction is located. The assessment finds that these panels will help encourage the development of positive behaviours in this area.
88. Overall the assessment concludes that no significant adverse effects will arise, but because it is a new access the precautionary principle is invoked and it is concluded that there may be a residual risk. The impacts on breeding gulls, breeding avocets and terns, breeding marsh harriers, by trampling of the coastal plant assemblage and of the shingle and tidal litter invertebrate habitats are given specific consideration. In all cases it is concluded that no additional or no significant impacts are likely to arise.

The Western side

89. I have referred above to the potential burden on the landowner of having two additional paths on his land resulting from the proposals. Here, the track across the farmland between the embankment and the existing public rights of

way network (being the spur of the winter alternative route passing Carmen's Wood) already exists physically, albeit there are no existing public rights to use it. No spreading room rights will arise from its use as an alternative route. On the information available to me, when balanced against the desirability of maintaining the walked route alongside the river so far as possible as is consistent with nature conservation objectives, on balance I do not find the additional route comprising the winter alternative to be unduly burdensome to the landowner, whose objection is made on nature conservation rather than on land management or other grounds.

90. The two particular nature conservation risks arising are, first, whether walkers and dogs would, contrary to the provisions of the alternative route, proceed southwards into WeBS sector 12 during the winter months, thus putting at risk the bird species in the southern part of the river; and secondly, whether the presence of walkers and dogs (off lead save for a short section) along the embankment in the northern part of the river (sector 13) during the winter months would put those species at risk of adverse effects.
91. On the first point, it is necessary to be confident about whether users will really take the alternative route south during the winter. Advisory signs are to be installed at either end of the alternative route; gates at each end (proposed to be locked seasonally, although this relies on the RSPB) will direct walkers to the relevant route for the time of year; and timber steps will provide access onto the alternative route.
92. The point at which walkers (travelling south) are expected to leave the embankment to turn right past Carmen's Wood lacks any particular landmarks in its own right, save for the nearby existing farm track leading westwards towards the Suffolk Coast Path. With proper signage and information, however, the injunction to leave the sea wall embankment at that particular point is likely to be understood and obeyed, particularly with clear barriers to any progression southwards on the embankment. Walkers will be expected to descend onto the track through farmland for about half a mile before joining the Suffolk Coast Path prior to linking up with the Coast Path as it approaches the Boyton Marshes, or alternatively with the existing public rights of way network, near to the Butley Ferry jetty (maps BSA 1g; BSA 2a). Although reliance is placed on the RSPB to ensure the efficacy of these measures, on balance there is reason to be confident that they will work.
93. As to the second point, whilst the objection contends that the northern half of the Butley River holds considerably more birds, many of them red-listed species, than does the southern half, this assertion is unsupported by any evidence. The only evidence before me of bird counts is that (admittedly of some vintage) supplied by NE, which is at odds with the objector's assertion about where most of the overwintering birds are to be found.
94. Accordingly, and although cognisant of the RPSB's and SWT's misgivings as well as those of the objectors, there appears insufficient evidence or information available to justify departing from the findings of the Shadow HRA on either of these matters.

The Eastern side

95. On the eastern side, the proposed alternative route applies to the northern part of the eastern side of the river, involving use of the land (on the landward side) below the embankment during the winter months as the alternative to route section BSA-2-S028. This however ceases at BSA-2-A015, with use of the embankment to resume south of that point at section BSA-2-S029. Proposed measures include interpretation boards; steps from the embankment onto the landward side; the provision of seats at each end; signage requiring dogs on short leads near livestock; and the provision of a birdwatching platform and screen. Additionally, the main route BSA-2-S028 will be closed by locked gates during the winter months.
96. Again, one needs to be confident as to the efficacy of these measures and again I find insufficient reason to depart from the findings of the Shadow HRA. The thrust of the objection here is not that the measures will not be successful on the northern spur, but concerns whether they are also needed on the southern section. For the reasons given by NE including the tree cover and the provision of fencing, there are insufficient reasons to require the route to divert onto the lower ground on section BSA-2-S029.

The objectors' proposed modifications

97. On the western side the objectors propose that the winter alternative route follows the existing Suffolk Coast Path all the way between Butley Ferry and the road at Butley Mills. On the eastern side it would mean the alternative route; that is, the path sitting below the (summer) embankment on the landward side, continuing through route section BSA-2-S029 from where the route meets 'The Fleet' south to shortly north of Ferry Cottage, where it meets 'The Cliff' and the embankment disappears as the route approaches the Butley Ferry jetty.
98. Having regard to the section 297 criteria (referred to at paragraph 8 above), there is no reason to think that the proposed modifications would adversely affect, when compared with the proposed routes and their alternatives, the safety of those using the trail. The proposal to the western side would result in the use of a short additional section of the lightly trafficked road approaching Butley Mills, but no safety concerns have been identified in the use of the remainder of the road in the existing scheme. The proposed modification to the eastern side appears neutral in this respect.
99. The proposed modification to the western side appears in itself as convenient as the proposed winter alternative, by avoiding the detour between Butley Low Corner and the sea wall embankment east of Carmen's Wood. Overall, however, the convenience of users would potentially be reduced, because it would remove the option of a winter circular walk from Butley Mills utilising both the existing Suffolk Coastal Path and the ECP. Again the proposal on the eastern side appears neutral in this regard.
100. Both proposed modifications would be considerably less desirable for the user insofar as they would take the route away from the sea wall, and thus views of the estuary, on both sides of the river.

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101. Both proposals would be neutral as to the avoidance of interruptions to the route.
102. By avoiding the creation of two new routes over the land on the western side, the proposed modification there would potentially strike a better balance for the landowner 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. The objector's proposals on the eastern side would result in two new routes over the land there, although this is at the landowner's suggestion and thus a fair balance to his interests could be said to result if the modification were to be made.
103. Overall, however, the findings of the Shadow HRA, and the absence of evidence to disturb or doubt those findings, mean that there are insufficient grounds for nature conservation or other reasons to displace the desirability of the route adhering to the periphery of the coast or, as in this case, the estuary. Should the Secretary of State be minded to determine otherwise, it may be necessary to consult on the objectors' proposed modifications which may raise issues other than those I have considered here. With the possible exception of a small stretch of land at Butley Low Corner that is already subject to public rights of way, the objectors' landholdings extend to all the land comprised in their proposed modifications.

Conclusions and recommendations

104. For the reasons set out above I conclude that the proposals do not fail to strike a fair balance as a result of the matters raised in relation to the objections.
105. If the Secretary of State is minded to disagree, modifications that accepted and incorporated the objectors' proposed winter alternative routes may, depending on the outcome of any further consultation deemed necessary, meet the coastal access requirements.
106. I therefore recommend the Secretary of State makes a determination that the proposals as set out in the report do not fail to strike a fair balance.

[redacted]

APPOINTED PERSON

Introduction

34. The Conservation of Habitats and Species Regulations 2017 (as amended) and the Conservation of Offshore Marine Habitats and Species Regulations 2017 (as amended) (for plans and projects beyond UK territorial waters (12 nautical miles)) require that where a plan or project is likely to have a significant effect on a European site or European marine site 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 ('AA') of the implications of that plan or project on the integrity of the European site in view of the site's conservation objectives.
35. This report is to assist the Secretary of State, as the Competent Authority, in performing the duties under the Regulations referred to above. The appropriate Statutory Nature Conservation Body must also be consulted, in this case Natural England (NE). A 'shadow' Habitats Regulations Assessment ('the shadow HRA') was conducted by NE, entitled 'Assessment of England Coast Path proposals between Bawdsey and Aldeburgh on sites of European importance for nature conservation', dated January 2021. The shadow HRA was provided to inform the Competent Authority's AA and has been considered in making this recommendation.

Project Location

36. The land in the Report to which the objections relate is route sections BSA-2-S001 to BSA-2-S012 and section BSA-2-S019, as well as a generalised objection to the extent of restrictions on dogs between BSA-2-S001 to BSA-2-S037, of report BSA2 concerning Coastal Access Proposals by Natural England between Bawdsey and Aldeburgh in Suffolk. Those proposals are themselves the subject of five separate reports that are linked but legally separate statutory reports. Each report relating to a particular part of the stretch makes free-standing proposals, and seeks approval for them by the Secretary of State in their own right under section 52 of the National Parks and Access to the Countryside Act 1949. Nonetheless the Coastal Access Proposals as a whole for Bawdsey to Aldeburgh constitute the 'plan or project' for regulatory purposes.
37. The purpose of the proposals is to establish this tract of the English Coast Path pursuant to the statutory objective of securing a continuous walking route around the coast. Thus the proposals are designed to facilitate public access. In addition to the path, areas of land (usually) seaward of the trail will become coastal margin, attracting coastal access rights except where exclusions or other restrictions apply.
38. The site of the objections itself to which this Report relates lies immediately adjacent to the Alde-Ore Ramsar and SPA and the Alde-Ore and Butley Estuaries SAC areas of international designation. The proposals as a whole lie within or in close proximity to several such sites. They are the Alde-Ore Estuary Ramsar site, the Alde-Ore Estuary Special Protection Area (SPA), the

Outer Thames Estuary SPA, Sandlings SPA, Alde-Ore & Butley Estuaries Special Area of Conservation (SAC), Orfordness-Shingle Street SAC and the Southern North Sea SAC.

39. The qualifying features of each site are listed as follows:

Alde-Ore Estuary Ramsar

- Pied avocet (non-breeding)
- Common redshank (non-breeding)
- Lesser black-backed gull (breeding)
- Breeding wetland bird assemblage:
 - European marsh harrier
 - Mediterranean gull
 - Sandwich tern
 - Little tern
- Water bird assemblage (non-breeding):
 - Black-tailed godwit
 - Spotted redshank
 - Common greenshank
 - Greater white-fronted goose
 - Common shelduck
 - Eurasian widgeon
 - Eurasian teal
 - Northern pintail
 - Northern shoveler
- Wetland invertebrate assemblage:
 - *Nematostella vectensis* & *Gammarus insensibilis* of saline lagoons
 - *Malacosoma castrensis*
 - *Campiscenemus magius*
 - *Chilosia velutina*
 - *Empis prodomus*
 - *Dixella attica*
 - *Hylaeus euryscapus*
 - *Pseudoamnicola confuse*
 - *Euophrus browning*
 - *Baryphyma duffeyi*
 - *Haplodrassus minor*
 - *Trichoncus affinis*
- Wetland plant assemblage:
 - *Althaea officinalis*
 - *Frankenia laevis*
 - *Lathyrus japonicus*
 - *Lepidium latifolium*
 - *Medicago minima*
 - *Parapholis incurve*
 - *Puccinellia pasciculata*
 - *Puppia cirrhosa*
 - *Carcocornia perennis*
 - *Sonchus palustris*
 - *Trifolium suffocatum*
 - *Vicia lutea*
 - *Zostera angustifolia*

Alde-Ore Estuary SPA

- Eurasian marsh harrier (breeding)
- Pied avocet (non-breeding)
- Pied avocet (breeding)
- Ruff (non-breeding)
- Common redshank (non-breeding)
- Lesser black-backed gull (breeding)
- Sandwich tern (breeding)
- Little tern (breeding)

Outer Thames Estuary SPA

- Little tern (breeding)
- Common tern (breeding)
- Red-throated diver (non-breeding)

Sandling SPA

- European nightjar (breeding)
- Woodlark (breeding)

Alde-Ore & Butley Estuaries SAC

- Estuaries
- Mudflat and sandflat not covered by seawater at low tide
- Atlantic salt meadows

Orfordness-Shingle Street SAC

- Coastal lagoons
- Annual vegetation of drift lines
- Perennial vegetation of stony banks

Southern North Sea SAC

- Harbour porpoise.

HRA Implications of the Project

40. As found by the shadow HRA, the principal impact pathways are likely to be by disturbance to feeding and nesting birds caused by users of the trail; by trampling causing damage to vegetation or supporting habitats; or by the installation of trail infrastructure.

Part 1 – assessment of likely significant effects

41. Effects should be considered 'likely' if they cannot be excluded on the basis of objective information, and 'significant' if the result would be to undermine the conservation objectives. Consideration of the scheme both 'alone' and 'in combination' with other plans or projects is required.

42. Whilst it is not appropriate at this stage to have regard to proposed mitigation measures, it is nonetheless appropriate to consider the scheme in the round as proposed. This includes the proposals for access exclusions, which are extensive and apply to much of the coastal margin including most areas of salt marsh and mud flat within the Alde-Ore and Butley Estuaries.

The plan or project effects

Disturbance of feeding, resting or nesting birds

43. The non-breeding wetland birds, and the breeding gulls, found in the Alde-Ore Estuary Ramsar and SPA sites may be disturbed by recreational activity, potentially causing flight. During the wintering season this can lead to extra energy expenditure, interrupted feeding and reduced survival rates. Overwintering birds are present in large numbers and so a significant effect cannot be excluded.
44. The breeding avocets and terns found in the Alde-Ore Estuary and the Outer Thames SPA are subject to similar pressures, with the additional risk of egg or chick trampling, or disturbance of incubating parents, resulting in increased mortality.
45. The breeding marsh harrier, and the ground-nesting woodlark and woodlark for which the Sandling SPA is designated are subject to similar pressures and consequences.
46. Disturbance to birds may also arise from installation works.
47. The likelihood of significant effects on the non-breeding red-throated diver arising from these proposals alone can safely be excluded. This diving bird species feeds predominantly out at sea.

Habitats and invertebrates

48. Areas of shingle may be subject to trampling, resulting in damage to vegetated shingle or invertebrates or their supporting habitat. However the extensive proposals for s. 25A exclusions from saltmarsh and mudflats mean that the likelihood of significant effects can largely be excluded. The exceptions are the shingle beach at Shingle Street, the tidal litter at Gedgrave Cliffs, and the qualifying features of the saline lagoons at Shingle Street and on Orford Ness. Additionally some coastal assemblage plants may be subject to trampling in areas not subject to s. 25A exclusions.

In Combination effects

49. Other projects in the vicinity of the relevant European Sites are not considered to raise the likelihood of significant effects on any qualifying features not already identified as being potentially affected by this project alone.

Overall findings of likely significant effects

50. Consistently with NE's HRA assessment of January 2021, therefore, the proposals are likely to have a significant effect as follows:
 - Non-breeding wetland bird assemblage- through disturbance
 - Breeding gull assemblage- through disturbance
 - Breeding avocets and terns- through disturbance

- Breeding marsh harrier- through disturbance
- Heathland and ground-nesting birds- through disturbance
- Shingle & tidal litter invertebrate habitat- through trampling
- Aquatic invertebrates & habitat- through trampling
- Fresh/brackish aquatic plant assemblage- through trampling
- Coastal plant assemblage- through trampling
- Coastal lagoons – saline lagoon margins- through trampling
- Vegetated shingle- through trampling
- Installation of infrastructure- through disturbance to birds

51. Whether alone or in combination with other plans or projects, the proposals are unlikely to have a significant effect on the following qualifying features:

- Non-breeding red-throated diver - through disturbance
- Saltmarsh & wetland invertebrates- through trampling
- Woodland invertebrates- through trampling
- Intertidal habitat- through trampling
- Vegetated shingle- through loss of habitat
- Harbour porpoise
- SPA supporting habitat- through trampling
- SPA supporting habitat- through loss of habitat

52. Therefore further appropriate assessment is required.

Conservation Objectives

53. The overarching Conservation Objectives for all European Sites in England are to ensure that the integrity of each site is maintained or restored as appropriate, and that each site contributes to achieving the aims of the Habitats Regulations, by either maintaining or restoring (as appropriate) the extent and distribution of their qualifying natural habitats; the structure and function (including typical species) of their qualifying natural habitats; the supporting processes on which their qualifying natural habitats rely, and on which the habitats of their qualifying features rely; the population of each of their qualifying features; and the distribution of their qualifying features within the site.

54. The specific risks identified to the Conservation Objectives in section D1 of NE's shadow HRA are of two types. Disturbance to birds following changes in recreational activities as a result of the proposals potentially leads to changes in the birds' abundance and diversity. Trampling and loss of designated features following such changes potentially leads to the reduction in the extent and distribution of qualifying natural habitats and habitats of the qualifying species.

Part 2 – Findings in relation to Adverse Effects on Integrity

55. NE have reached the following conclusions on assessing the potentially adverse effects, after taking account of any additional mitigation measures incorporated into the design of the scheme:

The following risks to achieving the conservation objectives identified in section D1 of the shadow HRA are effectively addressed by the proposals and no adverse effect on site integrity (taking into account any incorporated mitigation measures) can be concluded:

- Breeding gull assemblage - through disturbance
- Breeding marsh harrier – through disturbance
- Heathland and ground nesting birds – through disturbance
- Coastal plant assemblage – through trampling
- Aquatic invertebrates - through trampling
- Fresh/brackish Aquatic Plant Assemblage - through trampling
- Coastal lagoons – saline lagoon margins – through trampling
- Installation of infrastructure - through disturbance to birds

The following risks to achieving the conservation objectives identified in section D1 of the shadow HRS are effectively addressed by the proposals and no adverse effect on site integrity (taking into account any incorporated mitigation measures) can be concluded, although there is some residual risk of insignificant impacts:

- Non-breeding wetland bird assemblage - through disturbance around the Butley River.
 - Breeding avocets - through disturbance at Shingle Street.
 - Vegetated shingle - through trampling at Shingle Street.
56. Almost the entirety of the 'seaward' side of the proposed trail north of the Butley Ferry on both sides of the river is to be made the subject of access exclusions. The route itself is to be partly subject to winter exclusions and summer alternative routes.
57. The shadow HRA refers (at section D3.2C) to the local desire for increased access around the Butley River. A small increase in use over existing public rights of way is anticipated, rising to medium in areas of new access. Extensive restrictions to the coastal margin are proposed, with only small sections to the north to be unrestricted and these are in large part uninviting.
58. The particular importance of the Butley River to overwintering birds, who may expend energy during disturbance events, has led to the proposal of the two winter alternative routes discussed in the report above. RSPB staff will undertake to lock the gates at the north and south ends of the alternative routes seasonally, thus ensuring no access on the sea wall (on the relevant sections) during the winter months. Much of the remaining length of the new access on the east bank is fenced on the seaward side, which will deter walkers and dogs from entering the water. On the west side, wherever practicable vegetation will be left seaward of the path to create a visual screen.
59. NE conclude that these mitigation measures, together with the provision of a set of interpretation panels around the Butley River, will result in no significant adverse effects on the overwintering bird interests at the site; but conclude, applying the precautionary principle, that there may be a residual risk.

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60. Hence the risks of disturbance to the breeding gull assemblage, the breeding avocets and terns and the breeding marsh harrier, as well as the risk of trampling of the coastal plant assemblage and shingle & tidal litter invertebrate habitat, were given further consideration. In each case the shadow HRA concludes that no additional or significant risks arise.
61. Both the RSPB and the SWT are concerned about the effectiveness of mitigation measures and recommend monitoring the impacts of the path and the effectiveness of the mitigation measures. Both understand that the increase in the numbers of walkers and changes to the patterns of access are likely to be small, but consider it essential that excluded areas are clearly marked on the ground and that signage is carefully located. Both suggest that further mitigation may be needed if the proposed measures are insufficient to enforce the restrictions.
62. In response to these concerns, NE say that should circumstances affecting the site change, Coast Path management can be adapted as necessary to avoid or reduce any negative impacts. If needed, NE would consider a change to the route. Monitoring of the protected site will continue through established programmes including bird counts by the Wetland Bird Survey recorders. In the event that public access is a contributing factor to any problems, coastal access provisions may need to be modified as part of the management response. Experience is that informal management techniques such as waymarks are however effective ways to steer visitors to use a particular route.
63. The RSPB have also requested that the saltmarsh and shingle area is excluded under s. 26 CROW 2000. NE explain that the area is excluded under s. 25A and so there is no need to additionally restrict the same rights under s. 26, or to extend the area of protection in the absence of the identification of specific features.
64. Therefore, the opinion of the appropriate nature conservation body is that the proposals in the BSA2 Report, and having regard to the manner in which the project is proposed to be carried out and the conditions and restrictions that will apply, are sufficient to enable the Competent Authority to ascertain that the project will not adversely affect the integrity of the relevant European sites. Neither the RSPB nor the SWT have suggested otherwise, but both stress the importance of monitoring of the mitigation measures, which NE say will take place through established programmes.
65. Identifying any combinable risks for other plans and projects, namely:
- the Suffolk Coastal Local Plan 2018 – 2036,
 - the East Suffolk Business Plan, the East Suffolk Growth Plan 2014 – 2025,
 - the Suffolk Coast AONB Management Plan 2018 – 2023,
 - the Shoreline Management Plan 7: Lowestoft Ness to Landguard Point,
 - the East Suffolk Catchment Flood Management Plan 2009,
 - the Alde and Ore Estuary Plan,
 - the Deben Estuary Plan,

- the implementation of Coastal Access Rights from Aldeburgh to Hopton-on-Sea and from Felixstowe Ferry to Bawdsey,
- the Sizewell C nuclear power station,
- the Adastral Park Development, and
- the East Anglia ONE, ONE North, TWO and THREE offshore windfarms,

NE have identified insignificant and combinable effects likely to arise from two of those. The implementation of coastal access from Aldeburgh to Hopton-on-Sea and the construction of East Anglia THREE were subject to further risk assessment.

66. In respect of the Aldeburgh to Hopton-on-Sea proposals potentially affecting waterbirds close to the shore, the spatial separation from Pottersbridge, and the installation of waymarkers and other infrastructure on already-walked routes rather than on existing habitats, led to the conclusion that no adverse effects on the birds at residual risk would occur. As to the Anglia THREE project, measures to minimise disturbance to bird interest, the spatial separation of the proposals, and the availability of similar habitat in the vicinity means that the risk of breeding birds becoming displaced by Anglia THREE construction works into the coastal path areas is not a significant risk.

Conclusions on Site Integrity

67. It can be ascertained, in view of site conservation objectives, that the access proposals (taking into account any incorporated avoidance and mitigation measures) will not have an adverse effect on the integrity of the Alde-Ore Estuary Ramsar, Alde-Ore Estuary Special Protection Area (SPA), Outer Thames Estuary SPA, Sandlings SPA, Alde-Ore & Butley Estuaries Special Area of Conservation (SAC), Orfordness-Shingle Street SAC and the Southern North Sea SAC either alone or in combination with other plans and projects.
68. It is noted that, if minded to modify the proposals, further assessment may be needed. The recommendation of this particular report is not to modify the proposals.

Nature Conservation Assessment

69. As well as the shadow HRA, NE have also conducted a nature conservation assessment ('NCA') which is to be read in conjunction with the relevant reports on the Coastal Access Proposals and the shadow HRA. The NCA covers all other aspects (including Sites of Special Scientific Interest ('SSSIs'), Marine Conservation Zones ('MCZs') and undesignated but locally important sites and features, but only insofar as the HRA does not already address the issue for the sites and features in question.
70. Related to this objection is the Alde-Ore Estuary SSSI, shown at Map C on page 28 of the NCA and discussed at pages 7 through to 20. Designated features are aggregations and assemblages of breeding and of non-breeding birds, maritime cliffs and slopes, coastal geomorphology, invertebrate and vascular plant assemblages, and littoral sediment.

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71. In all cases, and subject to the measures in place as described in the above report, it is concluded that the proposals will not result in the damage to or destruction of the features of interest.
 72. In respect of the relevant site 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] LLM LARTPI Solicitor

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

Date 21 June 2023

Marine and Coastal Access Act 2009

Objections by:

[redacted] and [redacted]

[redacted] and [redacted]

[redacted] and [redacted]

Regarding Coastal Access Proposals by Natural England

Relating to Bawdsey to Aldeburgh

Report BSA 4

Objection Reference: MSA/BSA4/O/1/BSA0191 ('the Howe objection')
Iken Cliffs, Iken, Woodbridge

- On 3 February 2021 Natural England submitted a Coastal Access Report to the Secretary of State for Environment, Food and Rural Affairs under section 51 of the National Parks and Access to the Countryside Act 1949 pursuant to its duty under section 296(1) of the Marine and Coastal Access Act 2009.
- An objection dated 8 March 2021 to Report BSA 4: Ferry Lane (track) to Hazlewood Marshes car park has been made by [redacted] and [redacted]. The land in the Report to which the objection relates is route sections BSA-4-S019.
- The objection is made under paragraph 3(3)(a) of Schedule 1A to the 1949 Act on the grounds that the proposal fails to strike a fair balance in such respects as are set out in the objection.

Summary of Recommendation: Subject to incorporating the proposed minor modification, the Secretary of State makes a determination that the proposals as set out in the report do not fail to strike a fair balance.

Objection Reference: MSA/BSA4/O/7/BSA0122 ('the Cooke objection')
Stanny House Farm, Iken, Woodbridge

- On 3 February 2021 Natural England submitted a Coastal Access Report to the Secretary of State for Environment, Food and Rural Affairs under section 51 of the National Parks and Access to the Countryside Act 1949 pursuant to its duty under section 296(1) of the Marine and Coastal Access Act 2009.
- An objection dated 29 March 2021 to Report BSA 4: Ferry Lane (track) to Hazlewood Marshes car park has been made by Paul and Louise Cooke. The land in the Report to which the objection relates is route sections BSA-4-S001 to BSA-4-S012.
- The objection is made under paragraph 3(3)(a) of Schedule 1A to the 1949 Act on the grounds that the proposal fails to strike a fair balance in such respects as are set out in the objection.

Summary of Recommendation: That the Secretary of State determines that the proposals in the report do not fail to strike a fair balance.

Objection Reference: MSA/BSA4/O/9/BSA0465 ('the [redacted] objection')
Anchorage Farm, Iken, Woodbridge

- On 3 February 2021 Natural England submitted a Coastal Access Report to the Secretary of State for Environment, Food and Rural Affairs under section 51 of

Site visits made on 4 and 5 July 2022

File Ref: MCA/BSA5/O/8/BSA0023

the National Parks and Access to the Countryside Act 1949 pursuant to its duty under section 296(1) of the Marine and Coastal Access Act 2009.

- An objection dated 14 March 2021 to Report BSA 4: Ferry Lane (track) to Hazlewood Marshes car park has been made by [redacted] and [redacted]. The land in the Report to which the objection relates is route section BSA-4-S015-RD.
- 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 are set out in the objection.

Summary of Recommendation: That the Secretary of State determines that the proposals in the report do not fail to strike a fair balance.

Procedural Matters

107. On 3 February 2021 Natural England ('NE') submitted the Coastal Access Bawdsey to Aldeburgh Report (the Report) to the Secretary of State for Environment, Food and Rural Affairs (the Secretary of State) setting out proposals for improved access to the coast between Bawdsey and Aldeburgh. Whilst linked, each report in the series is legally separate and contains free-standing statutory proposals for a particular part of the stretch of coast. A single Overview document applies to the whole stretch explaining common principles and background.
108. The period for making formal representations and objections closed on 31 March 2021. Nine admissible objections were received within the specified timescale and I have been appointed to report to the Secretary of State on those objections. This report relates to the objection references MCA/BSA4/O/9/BSA0465, MCA/BSA4/O/7/BSA0122 and MCA/BSA4/O/5/BSA0191, with other objections considered separately. In addition to the objections a total of ten representations were received within the relevant period and these are considered where relevant.
109. I carried out site inspections from public vantage points on Saturday 2 July, and further on 4 and 5 July accompanied by the objectors and representatives from NE and the local highway authority during which part of the proposed routes were walked and/or observed. No further information has since been requested by me from any party.

Main Issues

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

111. The second objective is that, in association with the English coastal route ('the trail') a margin of land along the length of the English coast is accessible to the public for the purposes of its enjoyment by them in conjunction with the trail or otherwise. This is referred to as the coastal margin, whilst the trail is the path corridor through the coastal margin. The trail is referred to as the England Coast Path.

112. Section 297 of the 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.

113. 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.

114. Section 301 of the 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. The relevant upstream waters are the waters from the seaward limit of the estuarial waters of the river, upstream to the first public foot crossing or a specified point between the seaward limit and the first such crossing. Section 301(4) of the Act sets out additional statutory criteria (the Estuary Criteria) which must be taken into account when deciding whether, and if so how, to exercise the discretion to extend the trail along an estuary. The Estuary Criteria are:

- (o) the nature of the land which would become part of the coast;
- (p) the topography of the shoreline adjacent to those waters;
- (q) the width of the river upstream to that limit;
- (r) the recreational benefit to the public of the coastal access duty being extended to apply in relation to the coast adjacent to those waters;
- (s) the extent to which the land bordering those waters would, if it were coastal margin, be excepted land;
- (t) whether it is desirable to continue the English coastal route to a particular physical feature or viewpoint; and
- (u) the existence of a ferry by which the public may cross the river.

115. NE's Approved Scheme 2013 ('the Approved Scheme') is the methodology for implementation of the England Coast Path and associated coastal margin. It forms the basis of the proposals of NE within the Report.
116. 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

117. This report relates to the fourth section of the proposed Bawdsey to Aldeburgh England Coast Path (ECP), relating to the stretch of the proposed trail that circumnavigates the river Alde to the west of Aldeburgh culminating in the road crossing at Snape, some four miles or so up river as the crow flies. It is entirely estuarial and there is no dispute by any of the objectors that the estuary discretion has been properly exercised or that the Estuary Criteria apply generally.
118. The proposed trail comes close to the river Alde at only three short sections:
- a. southwest of the Aldeburgh Marshes at the beginning of the trail section (taking the proposed trail clockwise from south of the river);
 - b. near to Iken Hall, which is the site of the [redacted] objection; and
 - c. north of Snape Bridge, as the trail leads back towards Aldeburgh on the north side of the river.
119. Otherwise, the trail lies away from the river, and the coastal margin is in places extensive. Substantial sections of the proposed coastal margin are proposed to be subject to a number of directions to exclude or restrict access, as shown on map BSA E4. The extent to which those, or other, directions should or should not apply forms the main aspect of the [redacted] objection.
120. The trail to the south of the river – where all 3 objections arise – aligns almost entirely with existing roads or public rights of way. The [redacted] objection arises out of a slightly anomalous position near to Iken Cliffs. The [redacted] objection arises out of the use of one existing public right of way, a footpath lying eastwards of High Street towards the river Alde, rather than another – the proposed modification being to continue southwards on the road and then to head east to approach the river along the existing road then bridleway on the route south of Red and Cowton Houses (the Ferry Lane track). As indicated above, the Hailes objection arises not out of the trail *per se* but concerns spreading room rights.

Considerations

The [redacted] objection

121. [redacted] and [redacted]'s objection, made on ground (a), relates to the part of the path shown on map BSA 4d, relating to trail section BSA-4-019 where it runs close to the south side of the Alde near Troublesome Reach. They are very supportive of the coast path and the principle of better public access to the coast. The suggestion was made by them to NE that the existing public

footpath should be realigned slightly and offered a proposed route for the coastal path on the adjoining land owned by them.

122. However it was then explained by NE that the creation of the coastal path was a different creature from the process of stopping up existing public footpaths. Whilst the [redacted] are content for the route to be realigned, they are not content to have two distinct paths running parallel, only a few feet apart and yet resulting in double the maintenance costs. Therefore they object to the proposed route of section BSA-4-S019 and ask that it follows the line of the existing public right of way. This is, they say, in line with the approach adopted in the adjacent sections where conditions are very similar. This will require some surface improvements as suggested by the County Council.

NE's response

123. Since learning of the misunderstanding regarding the existing public right of way, NE is minded to agree with the objectors' proposed change to the line of the ECP. They therefore ask that a modification is recommended.

Discussion

124. Neither NE nor the County Council object to the alignment of the coastal path being on the existing public footpath (albeit the walked route differs again slightly from the mapped route) and I accept that without the [redacted] proposed modification the scheme would result in the entirely unintended and unnecessary consequence of parallel routes. Therefore taking into account all the relevant matters, the proposed modification, as set out in Annex 1 below, would be the option best meeting a fair balance between public access and landowner requirements. The proposals would not fail to strike a fair balance with this modification, which is agreed by the relevant parties.
125. Other points raised by the [redacted] concern dogs on leads and the placing of brash at Church Marsh. These were to some extent disavowed during my site visit. NE have explained that the area suggested by [redacted] for placing brash is open saltmarsh rather than reedbed, and thus using brash is not suitable. The area is proposed to be made subject to a s. 25A saltmarsh exclusion and this is felt sufficient to exclude public access. The Suffolk Wildlife Trust (SWT) does support the proposed placement of brash piles to protect the reedbeds as appropriate.
126. As to dogs on leads, because the route is already a public footpath, the existing 'higher' rights exclude the application of coastal access restrictions. Dogs should however be under close control and information boards are proposed nearby to promote appropriate visitor behaviour.
127. In the light of NE's explanations on these points, I do not think that there are sufficient grounds to incorporate other modifications, exclusions or restrictions.

Conclusion

128. For the reasons given above I conclude and shall recommend that, in relation to the [redacted] objection, the proposed modification as set out in Annex 1

does not fail to strike a fair balance and that the Secretary of State determines to accept and incorporate the proposed modification.

The [redacted] objection

129. [redacted] and [redacted] feel that the current proposed route will lead to an increased footfall with adverse effect on nesting and over-wintering birds, some of which are of national importance. They turned arable land back into fresh water marsh when acquiring their farm and have spent 30 years trying to encourage and protect the bird life.
130. They propose a modification to the route to follow the bridleway/footpath (views of both estuary and sea) and the minor road to re-join the coastal path around High Street. With this route in mind they are willing to discuss the inclusion of a strip of arable land as a new footpath, to avoid walkers having to use the road.

NE's response

131. NE are grateful for [redacted] and [redacted]'s suggestion of a different route and the offer of an arable field edge for the ECP; however, such a change would mean BSA-4-S001 to BSA-4-S003 would not be alongside the river and would create a longer inland section. The difficulty is that it is so far inland that it would provide a markedly inferior experience for the public. The southerly route would create a larger area of coastal margin where a nature conservation exclusion would need to be considered and in practice many people would still use the proposed route on the current public footpath alongside the river, affecting the benefit of any such exclusion.
132. NE refer to the key Scheme principle that a route should normally be close to the sea otherwise it would fail in its primary purposes (4.5.1). The Scheme also states that where there is more than one existed walked route, NE will propose the one offering the best 'fit' for these purposes (4.7.2). NE consider the proposed route has a longer length that is closer to the sea, which is a better fit with the statutory criteria and reduces the amount of seaward coastal margin. Should circumstances affecting the site change in the future, Coast Path management can be adapted as necessary.

Discussion

133. The extent to which the trail would take in the sea wall embankment or adjoin significant areas of nature conservation is a controversial one along this stretch. Representations have been received from, amongst others, the Ramblers, expressing disappointment that the plans exclude the possibility of using the sea wall for any of the section from the footbridge at Short Reach around to Iken (BSA-4-S004 to BSA-4-S015).
134. The sea wall embankment south of the river is an obvious desire line for walkers to take, a matter I refer to in relation to the [redacted] objection too. For reasons of nature conservation, it is however excluded from the scheme northwest of the footbridge, and the route instead takes a turn inland. Other

representations express dismay that the route follows the road for a considerable stretch, and raise pedestrian safety concerns as a result.

135. The part south of the footbridge (BSA-4-S001 to BSA-4-S003) is one of few stretches where the path runs close to the river in this section (Report BSA 4) of the proposals. This, however, with the proposed alignment along the existing public footpath running west from the footbridge up to High Street, is the part of the trail disputed by the [redacted], whose objection is made on ground (a). The reason given is a concern about increased footfall with adverse effects on nesting and over-wintering birds, some of which are of national importance (Ramsar) and some qualifying species of the Alde-Ore Marshes Special Protection Area. The [redacted] returned arable land to freshwater marsh upon their acquisition of the farm, and have spent 30 years improving the bird habitat. The modification suggested by them is that the trail instead aligns along Ferry Lane before meeting the road near Red House, with an arable field edge being offered in part.
136. Both the proposed trail and the [redacted] proposed modification consist of routes on the current highway (carriageway and/or rights of way) network (with the exception of the arable field strip offered by the [redacted]). Both begin at the current start of Report 4, shown on map BSA 4a. Both end at the road junction adjacent to Thatched Cottage shown on map BSA 4b. The distance between these points is around 2km as the crow flies. The proposed modification route is slightly longer overall, and is entirely inland unlike the proposed route which runs adjacent to the river for around 800m.
137. The proposed modification route would introduce a larger area of coastal margin, which would include (as does the proposed route, to a lesser extent) the fields around Stanny House Farm. No express objection has been made by the [redacted] to the proposed restrictions or exclusions.
138. Since consultation on the proposals began, the SWT are understood to have acquired a long leasehold interest in the [redacted] land that relates to the objection. The SWT support the objection and add reasons of their own. The RSPB has said it supports the SWT's concerns. At the site visit it was evident that some plans were afoot to undertake measures to improve the bird habitat in the area in question, including areas beyond those where public access is presently proposed to be excluded on nature conservation grounds, although full details are not before me. I am in no doubt as to the [redacted] commitment to improving the biodiversity habitat on their land.
139. The SWT raise concerns that the proposals will cause disturbance to a number of breeding and wintering birds, including marsh harriers, and request that the existing right of way at the coast, forming the proposed trail, is removed.
140. As explained in relation to the Howes' objection, the stopping-up of existing rights of way is not within the remit of the ECP project. For the moment at least, a public right of way exists along the line of the proposed trail. The SWT express concern that route restrictions will be ignored, the sea wall being an obvious desire line for walkers to take.

141. I agree that to take the route inland further south, in accordance with the proposed modification, would potentially limit the prospects of those using the ECP from deviating and accessing the further areas of sea wall to the north that lie outside of either proposed route, and which is proposed to be made the subject of access exclusions. However, the proposed trail is already a public footpath, and more desirable to walkers being both shorter and closer to the river than the proposed modification. The additional management measures and controls that come with the ECP funding may result in more effective controls at the footbridge of the proposed trail. Even if the ECP were to take the route of the proposed modification, no obstructions to the continued use of the right of way adjoining it (i.e. the existing proposed trail route) could lawfully be constructed.
142. NE point out that the footfall in this area, although likely to increase slightly as a result of ECP designation, is not anticipated to increase significantly, because of the remoteness from services and car parks.
143. Having walked or cycled much of the proposed trail and all of the proposed modification, I find the proposed trail route to be significantly more desirable to users. It connects with a significant (c. 2km) stretch of on-road travel between High Street and Iken, and the proposed modification would nearly double this amount of walking on metalled roads (or adjacent to them, if the proffered arable strip were to come to fruition). The proposed trail, as well as lying adjacent to the river in part, affords better views of the estuary and across to Aldeburgh than does the proposed modification route, which is largely tree-lined as it approaches the river.
144. I agree with NE that the proposed modification route would provide an inferior user experience, and I think there is considerable uncertainty about the extent to which the ECP, if located here, would be used rather than the preferable (and shorter) right of way, unless that is stopped up which, as explained, is not a consideration for present purposes.
145. The HRA has concluded that public access should be excluded from the seaward tracts of land adjoining the proposed route near the river for nature conservation, unsuitability, or land management reasons. There would be no spreading room rights south of the route, and it is suggested that future land management changes will include screening near the public footpath.
146. Ultimately I agree with NE that, on present information, the proposed route amounts to the best fit and best aligns with the Scheme principle of keeping the route close to the sea. For the reasons I have given, I am not convinced that making the modification would prevent disturbance in areas of sensitive habitats any more than the proposed route would, or at least not to any significant extent. This is principally because the public footpath would continue to exist, would be more desirable to users, and would be unlikely to achieve the same degree of management controls if not part of the ECP.

Conclusion

147. For the reasons given above I conclude and shall accordingly recommend that, in relation to the [redacted] objection, the Secretary of State makes a

determination that the proposals in the report do not fail to strike a fair balance.

The [redacted] objection

Background

148. [redacted] and [redacted] farm from The Anchorage, a former rectory just south of St Botolph's Church, a prominent local landmark at Iken visible, and walkable, from Snape. The church lies at the end of Church Lane some 600m north away from the proposed trail, which passes Church Corner some 2km east of Snape and around 3km west of where the trail is proposed to rejoin the sea wall alongside the River Alde as it turns south. A public car park lies around 1km away from Church Corner, west of Iken Cliff.
149. The [redacted] objection relates to the proposed access restrictions, or lack thereof, over the land to the east of Church Lane between the proposed trail and the sea wall. The proposed trail follows minor vehicular roads at this point, and the [redacted] land falls within the spreading room north of the route to the river. I shall refer to this as Anchor Farms' land.
150. Various access restrictions are proposed in the general area between Stanny Point and Snape. All land north of the sea wall, which exists eastward of a point just north east of the Anchorage, is proposed to exclude public access on saltmarsh/unsuitability grounds, as is the land to the north and west of the church and to the west of the drain that runs parallel to Church Lane across the next fields. The sea wall itself, and the Iken Marshes further east, are to be excluded on nature conservation grounds. Land immediately to the east of the 'objection land' is to be excluded on s. 24 land management grounds. These exclusions are depicted on Map BSA E4.
151. The proposals for land at Anchor Farms are rather different. Section 24 land management restrictions are proposed in the form of a prohibition on dogs from 1 August to 1 February each year, and no public access for 12 days each year on dates between 1 September to 1 February. The report explains (at paragraph 4.2.14 at page 7) that these restrictions are proposed because the route is adjacent to land holding released game birds. Dogs should be prohibited during those identified months to ensure the game birds are habituated to the site. People will also be excluded on shooting days.
152. Game birds are not the only concern of Anchor Farms, however, and further exclusions are sought on both land management and nature conservation grounds: these desired exclusions constitute the proposed modification. The objection is raised under paragraph 3(3)(e), with no objection raised to the route of the trail itself.
153. The land that is the subject of the objection is not quite as remote as that of the [redacted], considered above. It lies west of Stanny House Farm and the Church is within ready walking distance of car parks, both to the west of Iken Cliffs and further beyond at Snape. It is an attractive landmark with an interesting history, and I consider that the footfall on the trail from Snape and

on Church Lane to the west of the objection land would be moderate (although not necessarily increasing significantly as the result of the ECP designation).

154. The Appropriate Assessment ('AA') records (D3.2E, page 63) that a small increase in the use of the Coast Path in this location is anticipated. A negligible increase in the use of the coastal margin is anticipated because much of it is covered by restrictions to access year-round. This does not really answer the point about land in the margin that is not intended to be covered by such restrictions (or to the same degree, as here) although the general prohibition on access to the sea wall is likely to discourage users to a large degree. Signage will be erected informing users of this prohibition, including at Church Corner. The AA records that the Anchorage currently experiences low levels of access, although the footfall is higher towards Iken Cliffs near the car park.
155. Access to the sea wall from St Botolph's or from the end of Church Lane itself appears difficult if not impossible, whether physically or lawfully. There is however a clear desire line using a track across the [redacted] fields running north east from Church Lane, from around the halfway point, in the direction of the sea wall. Under current proposals, this track would fall within the spreading room of the ECP, albeit access to the sea wall itself would be prohibited.
156. Adjacent to the trail itself, as the route heads south east away from Church Corner, the [redacted] land is largely fields used for grazing or cropping, although areas may change on rotation. At a point around halfway between Church Corner and the next road junction, a track leads away from the road into an area of ancient woodland (although not appearing on any inventory because of its relatively small size) that provides an invitation to deviate from the trail.

Matters raised by the objection and proposed modification

157. [redacted] and [redacted], through their objection dated 14 March 2021 and associated correspondence also provided to me including that from the neighbouring farmer, identify several reasons for their objection and for seeking proposed modifications. These are broadly on the two themes of land management and nature conservation, reflecting the statutory bases of the objection.

(I) Land management

The objection

158. The land management objection principally relates to agri-environment schemes and to biosecurity. [redacted] and [redacted] do not object in terms to the 'game birds' restrictions, but consider these are insufficient to safeguard all the land management activities at the farm.

Cattle

159. Anchor Farms' grazing regime is reliant upon biosecurity and shared arrangements exist with the neighbouring closed system farm. That

neighbouring owner (whose land will be the subject of year-round exclusions) has indicated that existing rental arrangements with Anchor Farms (of approximately 100 acres) could not continue if public access were allowed. This is because of the disease risk to a rare pedigree cattle herd, having a High Health Herd Status. Additionally, without access restrictions on Anchor Farms' land, it is felt that the access restrictions on the neighbouring land will be unworkable because of the ease of access between farms. Other land at Anchor Farms is used to graze rare breed sheep said to be at risk from both dog-worrying and disease if public access is allowed.

Sheep

160. The second particular reason for seeking a land management direction relates to Anchor Farms' own keeping of rare breed sheep. It is sought to exclude the public from the farm grassland in order to maintain the present level of good health of the flock and to minimise any physical (eg dog-worrying) or disease risk.

Agri-environment schemes

161. [redacted] and [redacted] understanding is that they will be unable to meet the terms of existing entry or higher level environmental stewardship agreements and would become ineligible to achieve countryside stewardship or environmental land management agreements, with concomitant funding implications, if the proposed public access via spreading room rights is conferred as a consequence of the ECP.

NE Response

162. NE point out that some of Anchor Farms' land, even where not subject to access restrictions, will nonetheless be excepted from access rights, either because it is arable land or because it amounts to structures excepted from those rights (the game bird pens). Access to the neighbouring farm, which is separated by a small river, is available at only two crossing points, 350m and 1400m respectively from the trail. 'No access' roundels could be installed.
163. NE also draw a distinction between the management of Anchor Farms and that of the neighbouring farm upon which access restrictions are proposed. The neighbouring farm operates a closed system with higher biosecurity standards to protect rare breed cattle, which is why access restrictions are proposed there. By contrast the [redacted] farm is more diverse in its enterprise and presently open to a range of visitors.
164. NE have confirmed that the trail and associated spreading room will have no impact on environmental stewardship scheme payments. The relevant agri-environment option requires the farm not to allow birds to be disturbed by walkers, except on public rights of way or open access land. Therefore the provision of public access rights is not inconsistent with the relevant option. NE also confirm that being within spreading room will not prevent the farm from being able to enter new schemes.

Discussion

165. Although the neighbouring farmer presently rents fields at Anchor Farms to graze his rare breed cattle, those fields are not subject to the same biosecurity policy or closed system as the neighbouring farm. Prior to any ECP designation, there is no public access over Anchor Farms, but there is no farm policy requiring the farm to be managed in the same way as that of the neighbouring farmer. It appears to me that if the relevant fields were incontrovertibly subject to the same biosecurity policy as the neighbouring farm then there may be a case to make a land management direction, and would also give the neighbouring farmer the assurances he requires in order to continue to rent the land. However, without that policy and the stringent requirements it is said to impose, it is difficult to see how a direction would on the face of it be commensurate with the Scheme, which states that directions are unlikely to be necessary in relation to normal farm biosecurity requirements but may be considered only in exceptional circumstances (8.6.18).
166. The Scheme provides that land management directions may be given only where public access would significantly disrupt land management activities or would significantly affect the operation of a business (6.6.14). Thus the connection between public access and where or upon whose business any significant effects might be felt does not expressly have to lie within the same ownership: here, there is a contention that allowing access rights on Anchor Farms' land will have disruptive effects on the operation of the neighbouring farmer's business (as well as their own).
167. As there is no biosecurity policy presently applicable to the farm, the land management activities at Anchor Farms would not in principle appear to be in danger of disruption as a result of the trail's designation. In practice, however, there are other relevant factors to consider. The first is that the farm is in practice run in tandem with that of the neighbour, who apparently relies upon the lack of existing public access in order to be satisfied that his rare breed herd is not put at risk when renting the relevant fields for grazing or forage. Although the neighbouring farmer is not a relevant objector, it is in my view necessary to have regard to his statement in correspondence that if the fields are not available then he will have to sell half of his herd due to not having enough grass/forage to keep them.
168. The precise biosecurity arrangements operated by the neighbouring farm are not known, although the accompanying correspondence refers to visitors needing to sign in, be clean, disinfect all footwear and not have been on other livestock farms within the previous 72 hours. There appears to be no public access across that land at present by way of public footpaths or bridleways. A number of attachments to the correspondence are included. These include Government guidance on disease prevention for livestock, including advice to limit and control farm visitors where possible and to provide cleaning and disinfectant materials. No specific reference is made in any of the attached documents to any public access rights, save for an XL Vets publication identifying the existence of public footpaths as a 'medium' risk to farm biosecurity.

169. There is scant information available upon which to reach a concluded view on whether public access, with or without dogs, could result in 'significant' disruption to the land management activities or business operations on either farm. The land take by the neighbouring farmer amounts to around a quarter of the land at Anchor Farms, and appears to add around 50% to the land otherwise available at the neighbouring farm. If it is the case that public access rights *would* prohibit the use of Anchor Farms' fields by the neighbouring landowner for his rare breed cattle, I would accept this as resulting in the 'significant' disruption, to both farms, that the Scheme recognises as the threshold for restricting public access rights.
170. Although on rotation, the current plan of which fields are used for grazing by the neighbouring farmer shows that they are adjacent or near to the 'desire line' track leading in the direction of the sea wall from Church Lane across Anchor Farms' land. Insofar as there would be user footfall into the spreading room, I consider it is most likely to take place along this track.
171. However, the AA anticipates only a small increase in the footfall along the trail in this location, and a negligible increase in the use of the coastal margin, albeit this assessment of a 'negligible' increase relies on the use of access restrictions. NE nonetheless note that the most likely use of the coastal margin will be to approach the sea wall (comments on objection, page 3) which is why, in agreeing with that assessment, I consider that such increased use as there is would be mostly along this track.
172. Therefore on present information, it appears that the public access rights to be created would potentially prejudice the biosecurity of the neighbouring farmer's rare breed cattle, because the public will be entitled to enter (in some months, with dogs) the fields in which those cattle are grazing or from which forage for them is taken. This creates a risk that the neighbouring farmer would cease renting those fields, creating business disruption to both enterprises (as rents are lost and some of the herd is sold). At half the neighbouring farmer's herd, and around a quarter of the land take of Anchor Farms, being affected, this would be a significant disruption if it results.
173. However I am not satisfied that these risks would in fact be likely to materialise. None of the 'biosecurity' documents supplied discuss excluding public access. The actual use by the public is anticipated by the AA conducted by NE to amount to a 'negligible' increase in the coastal margin. Even within that margin I consider the public user would most likely be confined to the track leading towards the sea wall. Therefore it does not seem to me that further access exclusions are required in order to safeguard this particular existing land management practice or to avoid business disruption in this respect. If I am wrong in that, then the obvious course of action would be for the adoption of similar biosecurity measures in the relevant fields at Anchor Farm in order to make out the exceptional circumstances required under the Scheme to justify a land management direction, which could be applied for at any time following confirmation of the coastal access report, with a right of appeal (6.6.15).
174. As to the rare breed sheep, again I am not convinced that such controls are necessary in order to preserve the health or safety of the flock. On the present

rotation, the sheep are grazed in fields away the trail, although some fields adjoining the 'desire line' track towards the sea wall are used.

175. Considering that the most likely use of the coastal margin would be of the track, and considering too the requirement that any dogs would be required to be on leads in the vicinity of livestock (albeit I accept that this is an edict not always followed) I do not think that the risk to the sheep amounts to the circumstances required to make a direction. As the Scheme notes, public access can be controlled in order to contain notifiable diseases, and directions are unlikely to be necessary on sites larger than 15 hectares unless visitor use is unusually high and spread across the site.
176. In relation to agri-environment schemes, the Scheme notes (8.8.1) that public access will normally sit comfortably alongside agri-environment options, but impacts might arise on the terms of agri-environment agreements. Here, NE have confirmed that the trail and associated spreading room will have no impact on environmental payments. Therefore the grounds for a land management direction to protect agri-environment scheme arrangements do not appear to be made out.

Conclusion on land management objection

177. For the above reasons, although the arrangements between Anchor Farms and the neighbouring farmer concerning the closed herd of rare breed cattle raise some weighty concerns, I do not consider that the exceptional circumstances required by the Scheme to make a land management direction on biosecurity grounds are presently made out. Nor do I consider that such directions are required to protect the health or safety of the farm's rare breed sheep or to preserve the integrity of its agri-environment scheme arrangements.

(II) Nature Conservation

The objection

178. [redacted] and [redacted] seek public access exclusions from all the wet grassland on the farm, as it is home to a wide range of significant indigenous and migratory species. Birds are easily scared away owing to the flat landscape with long sightlines. Scepticism is expressed as to whether dogs will really be kept on leads.
179. [redacted] and [redacted] have spent the last three decades redressing the balance between sustainable farming and the environment in this location, and have achieved an optimal balance now. The imposition of public access would jeopardise this rare habitat and wildlife sanctuary.
180. The current field management system is to plant fields to the north and east of the ancient woodland with plants and seeds suitable for butterflies and bees in the summer, and migrating birds in the winter. Further north, from the sea wall, lie nationally and internationally designated sites. The existing HLS agreement here requires the maintenance of wet fields to encourage associated bird interest.

NE Response

181. Ne consider that there is likely to be a limited use of the margin, and that areas of woodland, hedging and crops on the farm provide breaks to the open farmland and a backdrop against skylining. The proposed ECP route is along a road with existing vehicle movements and mainly bounded on the seaward side by fences, hedges and ditches which do not advertise an accessible area.
182. The seasonal grazing restriction should result in grass growth helping to screen nesting birds from those accessing the farmland. The year round restriction to the sea wall and the uninviting nature of the wet grassland should dissuade most members of the public from being in close proximity to wintering birds.
183. A complete exclusion of dogs for six months each year (1 August to 1 February) is proposed by NE rather than just restricting dogs to leads, because of the potential to disturb free-roaming game birds. This exclusion applies to all of the objectors' land east of Church Lane. Attention is drawn to legislative requirements to keep dogs on short leads in the vicinity of livestock and associated offences. NE consider that there is no particular incentive to use the coastal spreading room because no right of access is being created onto the sea wall.
184. NE have been unable to make a case for an access exclusion on nature conservation grounds. The designated areas (SSSI and SPA) lie beyond the farm. A freshwater pond at the farm is not a preferred habitat of the estuarine birds. Although the Hailes' land may have some bird interest, NE consider it will remain largely undisturbed by the public thus not warranting further restrictions. It is possible that the 12 days of permitted game bird shooting activities at the farm would be of greater disturbance to birds than walkers in the seaward margin.

Discussion

185. Although the land is relatively flat, I agree with NE's assessment that there are sufficient field boundaries, woodlands and other features to provide breaks in the visibility across the land and a backdrop against skylining. I do not consider that the use of the spreading room by the relatively small number of anticipated users, who in winter would be without dogs, would compromise the bird interest in the site or in the wider area more generally where much similar habitat exists.
186. I have no grounds to disagree with the assessment that the water body in the ancient woodland area is not the preferred habitat of the birds for which the nearby SSSI and SPA have been designated, and overall I consider that the impacts on designated bird species arising from additional recreational users would be negligible, especially when compared with the use of the land for game bird shoots on up to 12 days per annum.
187. Therefore I am unable to discern any convincing reason for which a direction to exclude public access on nature conservation grounds should be made.

Conclusion

188. For the above reasons I conclude and shall recommend that the Secretary of State makes a determination that, in relation to the [redacted] objection, the proposals set out in the report do not fail to strike a fair balance.

Other representations

189. Other representations have been made but, save where considered above, do not appear to me to relate directly to the objections considered in this report.

Recommendations

The [redacted] objection

190. I recommend for the reasons given above that, in relation to the [redacted] objection, the modified proposal as set out in Annex 1 does not fail to strike a fair balance, and that it is accepted and incorporated.

The [redacted] objection

191. I recommend that, in relation to the [redacted] objection, the Secretary of State makes a determination that the proposals in the report do not fail to strike a fair balance.

The [redacted] objection

192. I recommend that, in relation to the [redacted] objection, the Secretary of State makes a determination that the proposals in the report do not fail to strike a fair balance.

[redacted]

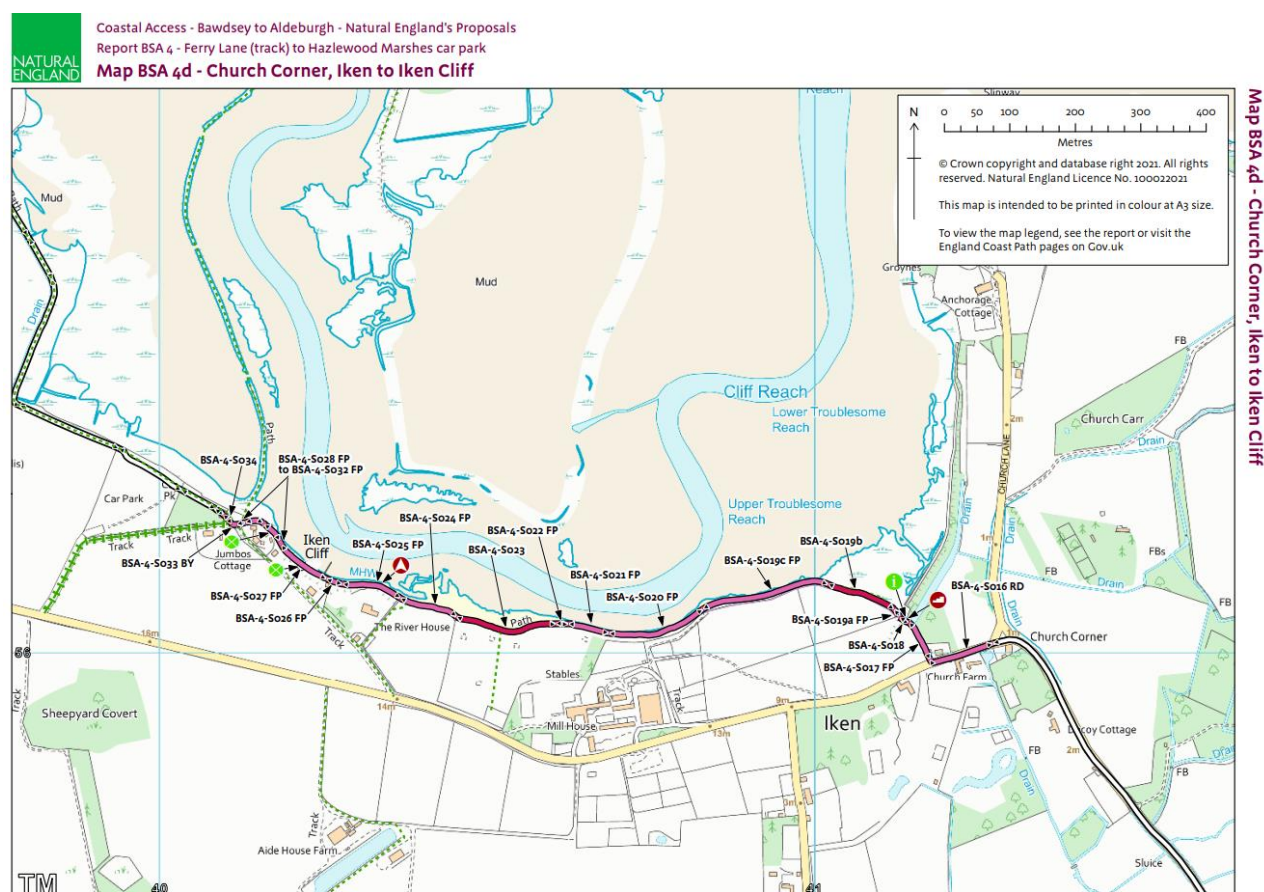
APPOINTED PERSON

ANNEX 1: Proposed modifications arising from the Howe objection

Substitute table in respect of BSA-4-S019 at page 11 of report BSA 4: Ferry Lane (track) to Hazlewood Marshes car park as follows:

BSA4d	BSA-4-S019a	Public footpath	Yes – See table 4.3.4	No	Fence line	Clarity and cohesion	
BSA 4d	BSA-4-S019b	Other existing walked route	Yes – See table 4.3.4	No	Fence line	Clarity and cohesion	
BSA 4d	BSA-4-S019c	Public footpath	Yes – see table 4.3.4	No	Fence line	Clarity and cohesion	

Substitute Map BSA 4d with the one as follows:



ANNEX 2: Habitat Regulations Assessment: Report to Inform the Competent Authority

Introduction

73. The Conservation of Habitats and Species Regulations 2017 (as amended) and the Conservation of Offshore Marine Habitats and Species Regulations 2017 (as amended) (for plans and projects beyond UK territorial waters (12 nautical miles)) require that where a plan or project is likely to have a significant effect on a European site or European marine site 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 ('AA') of the implications of that plan or project on the integrity of the European site in view of the site's conservation objectives.
74. This report is to assist the Secretary of State, as the Competent Authority, in performing the duties under the Regulations referred to above. The appropriate Statutory Nature Conservation Body must also be consulted, in this case Natural England (NE). A 'shadow' Habitats Regulations Assessment ('the shadow HRA') was conducted by NE, entitled 'Assessment of England Coast Path proposals between Bawdsey and Aldeburgh on sites of European importance for nature conservation', dated January 2021. The shadow HRA was provided to inform the Competent Authority's AA and has been considered in making this recommendation.

Project Location

75. The land in the Report to which the objections relate concerns sections of, and spreading room rights applicable to, the proposals of report BSA4 concerning Coastal Access Proposals by Natural England between Bawdsey and Aldeburgh in Suffolk. Those proposals are themselves the subject of five separate reports that are linked but legally separate statutory reports. Each report relating to a particular part of the stretch makes free-standing proposals, and seeks approval for them by the Secretary of State in their own right under section 52 of the National Parks and Access to the Countryside Act 1949. Report BSA4 specifically concerns the section between Ferry Lane (track) and Hazlewood Marshes car park. Nonetheless the Coastal Access Proposals as a whole for Bawdsey to Aldeburgh constitute the 'plan or project' for regulatory purposes.
76. The purpose of the proposals is to establish this tract of the English Coast Path pursuant to the statutory objective of securing a continuous walking route around the coast. Thus the proposals are designed to facilitate public access. In addition to the path, areas of land (usually) seaward of the trail will become coastal margin, attracting coastal access rights except where exclusions or other restrictions apply.
77. The sites of the objections to which this Report relates are in and around the hamlet of Iken, considered by the shadow SRA at section D3. 2E (page 62) and shown as section 5 on Map 2 (page 101). The proposals as a whole lie within or in close proximity to several such sites. They are the Alde-Ore Estuary Ramsar site, the Alde-Ore Estuary Special Protection Area (SPA), the

Outer Thames Estuary SPA, Sandlings SPA, Alde-Ore & Butley Estuaries Special Area of Conservation (SAC), Orfordness-Shingle Street SAC and the Southern North Sea SAC.

78. The qualifying features of each site are listed as follows:

Alde-Ore Estuary Ramsar

- Pied avocet (non-breeding)
- Common redshank (non-breeding)
- Lesser black-backed gull (breeding)
- Breeding wetland bird assemblage:
 - European marsh harrier
 - Mediterranean gull
 - Sandwich tern
 - Little tern
- Water bird assemblage (non-breeding):
 - Black-tailed godwit
 - Spotted redshank
 - Common greenshank
 - Greater white-fronted goose
 - Common shelduck
 - Eurasian widgeon
 - Eurasian teal
 - Northern pintail
 - Northern shoveler
- Wetland invertebrate assemblage:
 - *Nematostella vectensis* & *Gammarus insensibilis* of saline lagoons
 - *Malacosoma castrensis*
 - *Campiscenemus magius*
 - *Chilosia velutina*
 - *Empis prodomus*
 - *Dixella attica*
 - *Hylaeus euryscapus*
 - *Pseudoamnicola confuse*
 - *Euophrus browning*
 - *Baryphyma duffeyi*
 - *Haplodrassus minor*
 - *Trichoncus affinis*
- Wetland plant assemblage:
 - *Althaea officinalis*
 - *Frankenia laevis*
 - *Lathyrus japonicus*
 - *Lepidium latifolium*
 - *Medicago minima*
 - *Parapholis incurve*
 - *Puccinellia pasciculata*
 - *Puppia cirrhosa*
 - *Carcocornia perennis*
 - *Sonchus palustris*
 - *Trifolium suffocatum*
 - *Vicia lutea*
 - *Zostera angustifolia*

Alde-Ore Estuary SPA

- Eurasian marsh harrier (breeding)
- Pied avocet (non-breeding)
- Pied avocet (breeding)
- Ruff (non-breeding)
- Common redshank (non-breeding)
- Lesser black-backed gull (breeding)
- Sandwich tern (breeding)
- Little tern (breeding)

Outer Thames Estuary SPA

- Little tern (breeding)
- Common tern (breeding)
- Red-throated diver (non-breeding)

Sandling SPA

- European nightjar (breeding)
- Woodlark (breeding)

Alde-Ore & Butley Estuaries SAC

- Estuaries
- Mudflat and sandflat not covered by seawater at low tide
- Atlantic salt meadows

Orfordness-Shingle Street SAC

- Coastal lagoons
- Annual vegetation of drift lines
- Perennial vegetation of stony banks

Southern North Sea SAC

- Harbour porpoise.

HRA Implications of the Project

79. As found by the shadow HRA, the principal impact pathways are likely to be by disturbance to feeding and nesting birds caused by users of the trail; by trampling causing damage to vegetation or supporting habitats; or by the installation of trail infrastructure.

Part 1 – assessment of likely significant effects

80. Effects should be considered 'likely' if they cannot be excluded on the basis of objective information, and 'significant' if the result would be to undermine the conservation objectives. Consideration of the scheme both 'alone' and 'in combination' with other plans or projects is required.

81. Whilst it is not appropriate at this stage to have regard to proposed mitigation measures, it is nonetheless appropriate to consider the scheme in the round as proposed. This includes the proposals for access exclusions, which are extensive and apply to much of the coastal margin including most areas of salt marsh and mud flat within the Alde-Ore and Butley Estuaries.

The plan or project effects

Disturbance of feeding, resting or nesting birds

82. The non-breeding wetland birds, and the breeding gulls, found in the Alde-Ore Estuary Ramsar and SPA sites may be disturbed by recreational activity, potentially causing flight. During the wintering season this can lead to extra energy expenditure, interrupted feeding and reduced survival rates. Overwintering birds are present in large numbers and so a significant effect cannot be excluded.
83. The breeding avocets and terns found in the Alde-Ore Estuary and the Outer Thames SPA are subject to similar pressures, with the additional risk of egg or chick trampling, or disturbance of incubating parents, resulting in increased mortality.
84. The breeding marsh harrier, and the ground-nesting woodlark and woodlark for which the Sandling SPA is designated are subject to similar pressures and consequences.
85. Disturbance to birds may also arise from installation works.
86. The likelihood of significant effects on the non-breeding red-throated diver arising from these proposals alone can safely be excluded. This diving bird species feeds predominantly out at sea.

Habitats and invertebrates

87. Areas of shingle may be subject to trampling, resulting in damage to vegetated shingle or invertebrates or their supporting habitat. However the extensive proposals for s. 25A exclusions from saltmarsh and mudflats mean that the likelihood of significant effects can largely be excluded. The exceptions are the shingle beach at Shingle Street, the tidal litter at Gedgrave Cliffs, and the qualifying features of the saline lagoons at Shingle Street and on Orford Ness. Additionally some coastal assemblage plants may be subject to trampling in areas not subject to s. 25A exclusions.

In Combination effects

88. Other projects in the vicinity of the relevant European Sites are not considered to raise the likelihood of significant effects on any qualifying features not already identified as being potentially affected by this project alone.

Overall findings of likely significant effects

89. Consistently with NE's HRA assessment of January 2021, therefore, the proposals are likely to have a significant effect as follows:
 - Non-breeding wetland bird assemblage- through disturbance
 - Breeding gull assemblage- through disturbance
 - Breeding avocets and terns- through disturbance
 - Breeding marsh harrier- through disturbance

- Heathland and ground-nesting birds- through disturbance
- Shingle & tidal litter invertebrate habitat- through trampling
- Aquatic invertebrates & habitat- through trampling
- Fresh/brackish aquatic plant assemblage- through trampling
- Coastal plant assemblage- through trampling
- Coastal lagoons – saline lagoon margins- through trampling
- Vegetated shingle- through trampling
- Installation of infrastructure- through disturbance to birds

90. Whether alone or in combination with other plans or projects, the proposals are unlikely to have a significant effect on the following qualifying features:

- Non-breeding red-throated diver - through disturbance
- Saltmarsh & wetland invertebrates- through trampling
- Woodland invertebrates- through trampling
- Intertidal habitat- through trampling
- Vegetated shingle- through loss of habitat
- Harbour porpoise
- SPA supporting habitat- through trampling
- SPA supporting habitat- through loss of habitat

91. Therefore further appropriate assessment is required.

Conservation Objectives

92. The overarching Conservation Objectives for all European Sites in England are to ensure that the integrity of each site is maintained or restored as appropriate, and that each site contributes to achieving the aims of the Habitats Regulations, by either maintaining or restoring (as appropriate) the extent and distribution of their qualifying natural habitats; the structure and function (including typical species) of their qualifying natural habitats; the supporting processes on which their qualifying natural habitats rely, and on which the habitats of their qualifying features rely; the population of each of their qualifying features; and the distribution of their qualifying features within the site.

93. The specific risks identified to the Conservation Objectives in section D1 of NE's shadow HRA are of two types. Disturbance to birds following changes in recreational activities as a result of the proposals potentially leads to changes in the birds' abundance and diversity. Trampling and loss of designated features following such changes potentially leads to the reduction in the extent and distribution of qualifying natural habitats and habitats of the qualifying species.

Part 2 – Findings in relation to Adverse Effects on Integrity

94. NE have reached the following conclusions on assessing the potentially adverse effects, after taking account of any additional mitigation measures incorporated into the design of the scheme:

The following risks to achieving the conservation objectives identified in section D1 of the shadow HRA are effectively addressed by the proposals and no adverse effect on site integrity (taking into account any incorporated mitigation measures) can be concluded:

- Breeding gull assemblage - through disturbance
- Breeding marsh harrier – through disturbance
- Heathland and ground nesting birds – through disturbance
- Coastal plant assemblage – through trampling
- Aquatic invertebrates - through trampling
- Fresh/brackish Aquatic Plant Assemblage - through trampling
- Coastal lagoons – saline lagoon margins – through trampling
- Installation of infrastructure - through disturbance to birds

The following risks to achieving the conservation objectives identified in section D1 of the shadow HRS are effectively addressed by the proposals and no adverse effect on site integrity (taking into account any incorporated mitigation measures) can be concluded, although there is some residual risk of insignificant impacts:

- Non-breeding wetland bird assemblage - through disturbance around the Butley River.
- Breeding avocets - through disturbance at Shingle Street.
- Vegetated shingle - through trampling at Shingle Street.

95. The shadow HRA considers the possible risks to qualifying features at Iken Marshes and Iken Cliffs in light of the access proposals at page 63 et seq. The risk to both the breeding and overwintering bird populations is minimised because the route follows minor roads, inland of the marshes. Access to the reedbeds is to be deterred by the placement of brash piles. Positive visitor behaviours are to be promoted by the provision of interpretation panels along the route. No significant or additional risks are considered to arise to the breeding gull assemblage, the breeding avocets or terns, the breeding marsh harrier, or to the coastal plant assemblage or shingle & tidal litter invertebrate habitat by reason of trampling.

96. Identifying any combinable risks for other plans and projects, namely:

- the Suffolk Coastal Local Plan 2018 – 2036,
- the East Suffolk Business Plan, the East Suffolk Growth Plan 2014 – 2025,
- the Suffolk Coast AONB Management Plan 2018 – 2023,
- the Shoreline Management Plan 7: Lowestoft Ness to Landguard Point,
- the East Suffolk Catchment Flood Management Plan 2009,
- the Alde and Ore Estuary Plan,
- the Deben Estuary Plan,
- the implementation of Coastal Access Rights from Aldeburgh to Hopton-on-Sea and from Felixstowe Ferry to Bawdsey,
- the Sizewell C nuclear power station,
- the Adastral Park Development, and
- the East Anglia ONE, ONE North, TWO and THREE offshore windfarms,

NE have identified insignificant and combinable effects likely to arise from two of those. The implementation of coastal access from Aldeburgh to Hopton-on-Sea and the construction of East Anglia THREE were subject to further risk assessment.

97. In respect of the Aldeburgh to Hopton-on-Sea proposals potentially affecting waterbirds close to the shore, the spatial separation from Pottersbridge, and the installation of waymarkers and other infrastructure on already-walked routes rather than on existing habitats, led to the conclusion that no adverse effects on the birds at residual risk would occur. As to the Anglia THREE project, measures to minimise disturbance to bird interest, the spatial separation of the proposals, and the availability of similar habitat in the vicinity means that the risk of breeding birds becoming displaced by Anglia THREE construction works into the coastal path areas is not a significant risk.

Conclusions on Site Integrity

98. It is noted that, if minded to modify the proposals, further assessment may be needed. The recommendation of this particular report is to make a minor modification to the proposals, by aligning the ECP at section BSA-4-S019 with the existing route. It is unlikely that the need for further assessment will arise as a consequence.
99. It can be ascertained, in view of site conservation objectives, that the access proposals (taking into account any incorporated avoidance and mitigation measures, and as proposed to be modified) will not have an adverse effect on the integrity of the Alde-Ore Estuary Ramsar, Alde-Ore Estuary Special Protection Area (SPA), Outer Thames Estuary SPA, Sandlings SPA, Alde-Ore & Butley Estuaries Special Area of Conservation (SAC), Orfordness-Shingle Street SAC and the Southern North Sea SAC either alone or in combination with other plans and projects.

Nature Conservation Assessment

100. As well as the shadow HRA, NE have also conducted a nature conservation assessment ('NCA') which is to be read in conjunction with the relevant reports on the Coastal Access Proposals and the shadow HRA. The NCA covers all other aspects (including Sites of Special Scientific Interest ('SSSIs'), Marine Conservation Zones ('MCZs') and undesignated but locally important sites and features, but only insofar as the HRA does not already address the issue for the sites and features in question.
101. Related to these objections is the Alde-Ore Estuary SSSI, shown on Map F at page 31. The Alde-Ore SSSI is discussed at pages 7 – 20. With the particular measures in place, no damage to or destruction of the particular features of the SSSI is anticipated.
102. In respect of the relevant site or features the appropriate balance has been struck between NE's conservation and access objectives, duties and purposes.



The Planning Inspectorate

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

by [redacted] LLM LARTPI Solicitor

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

Date 21 June 2023

Marine and Coastal Access Act 2009

Objection by Aldeburgh Town Council

Regarding Coastal Access Proposals by Natural England

Relating to Bawdsey to Aldeburgh

Report BSA 5

Objection Reference: MSA/BSA5/O/8/BSA0023
Saxmundham Road, Aldeburgh

- On 3 February 2021 Natural England submitted a Coastal Access Report to the Secretary of State for Environment, Food and Rural Affairs under section 51 of the National Parks and Access to the Countryside Act 1949 pursuant to its duty under section 296(1) of the Marine and Coastal Access Act 2009.
- An objection dated 29 March 2021 to Report BSA 5: Hazelwood Marshes car park to Fort Green car park Aldeburgh has been made by Aldeburgh Town Council. The land in the Report to which the objection relates is route sections BSA-5-S028 to BSA-5-S031.
- The objection is made under paragraphs 3(3)(a) and (c) of Schedule 1A to the 1949 Act on the grounds that the proposal fails to strike a fair balance in such respects as are set out in the objection.

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

Procedural Matters

193. On 3 February 2021 Natural England (NE) submitted the Coastal Access Bawdsey to Aldeburgh Report (the Report) to the Secretary of State for Environment, Food and Rural Affairs (the Secretary of State) setting out proposals for improved access to the coast between Bawdsey and Aldeburgh. Whilst linked, each report in the series is legally separate and contains free-standing statutory proposals for a particular part of the stretch of coast. A single Overview document applies to the whole stretch explaining common principles and background.

194. The period for making formal representations and objections closed on 31 March 2021. Nine admissible objections were received within the specified timescale and I have been appointed to report to the Secretary of State on those objections. This report relates to the objection reference MCA/BSA5/O/8/BSA0023, with other objections considered separately. In addition to the objection a total of 13 representations were received within the relevant period and these are considered where relevant.

195. I carried out an accompanied site inspection from existing public vantage points on Tuesday 5 July 2022. No further information has since been requested by me from any party.

Main Issues

Site visits made on 4 and 5 July 2022

File Ref: MCA/BSA5/O/6/BSA0578

196. The coastal access duty arises under section 296 of the Marine and Coastal Access Act 2009 (the Act) and requires NE and the Secretary of State to exercise their relevant functions to secure 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.
197. The second objective is that, in association with the English coastal route ('the trail') a margin of land along the length of the English coast is accessible to the public for the purposes of its enjoyment by them in conjunction with the coastal route or otherwise. This is referred to as the coastal margin, whilst the trail is the path corridor through the coastal margin. The trail is referred to as the England Coast Path.
198. Section 297 of the 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.
199. 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.
200. Section 301 of the 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. The relevant upstream waters are the waters from the seaward limit of the estuarial waters of the river, upstream to the first public foot crossing or a specified point between the seaward limit and the first such crossing. Section 301(4) of the Act sets out additional statutory criteria (the Estuary Criteria) which must be taken into account when deciding whether, and if so how, to exercise the discretion ('the Estuary Discretion') to extend the trail along an estuary. The Estuary Criteria are:
- (v) the nature of the land which would become part of the coast;
 - (w) the topography of the shoreline adjacent to those waters;
 - (x) the width of the river upstream to that limit;
 - (y) the recreational benefit to the public of the coastal access duty being extended to apply in relation to the coast adjacent to those waters;

- (z) the extent to which the land bordering those waters would, if it were coastal margin, be excepted land;
- (aa) whether it is desirable to continue the English coastal route to a particular physical feature or viewpoint; and
- (bb) the existence of a ferry by which the public may cross the river.
201. NE's Approved Scheme 2013 ('the Approved Scheme') is the methodology for implementation of the England Coast Path and associated coastal margin. It forms the basis of the proposals of NE within the Report.
202. 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

203. Report BSA5 proposes to exercise the Estuary Discretion in the vicinity of the estuarial waters of the River Alne extending, in this Report, to opposite Stanny Point (and in report BSA4 as far as Snape Bridge). The proposed trail that is the subject of Report BSA5 extends south eastwards from the Hazlewood Marshes car park, located adjacent to the A1094 Saxmundham Road where the Sailors' Path from Snape emerges, terminating at the southern end of Aldeburgh town centre.
204. The proposed trail begins on the A1094, unavoidably so it appears for around 700m to point BSA-5-S012 as it passes the South Warren Golf Course to the north and a smattering of properties and farmsteads on its south side. As presently proposed, the trail then enters the outskirts of Aldeburgh and continues along the A1094 for a further 1100m or so to a roundabout lying adjacent to shops and public conveniences. At this point the trail heads off in a southerly direction across a recreation ground and thence Aldeburgh Marshes towards the 'sea wall', an embankment lying alongside the northern bank of the River Alde until the trail meets the coast at Slaughden, south of Aldeburgh.

The Objection

205. Aldeburgh Town Council are the owners of some 126 acres of land at Aldeburgh Marshes, through which existing public footpath 13 travels and which is proposed to form part of the trail. The objection arises under subparagraphs (a) and (c), being both to the position of part of the proposed route and to the inclusion, or – in this case – the failure to include, proposals for an alternative route. The objection in substance makes four points.
206. First, that the proposed route across the Marshes is notoriously difficult to cross in or after inclement weather, particularly in muddy patches around field entrances. Secondly, that there is no footway along part of the proposed route on the short stretch where it leaves the A1094 near the roundabout before joining the recreation ground, raising safety concerns. Thirdly, that the proposed route is considerably longer than other potential alternatives,

and fourthly, that the A1094 is an uninteresting and very busy main road, detracting from the recreational experience. I shall consider the third and fourth points together. All of these matters are said to be unnecessary, given the availability of alternatives and in particular an alternative route through the 'Brickfields' development leading directly to the sea wall.

Condition of the proposed route across Aldeburgh Marshes

Town Council objection

207. The Town Council consider that the proposal lacks safety and convenience for walkers as it passes over the Aldeburgh Marshes, supplying a number of photographs and drawing attention to the recent involvement of emergency services to rescue a walker who had become stuck in the mud. They say that the route chosen is notoriously difficult to cross in winter and wet weather as it is marshland. In addition to the year-round concerns raised by the hazard of grazing cattle, the mud by the various gates is almost invariably deeper than ankle-deep. The Town Council's photographs show elements of the path to be at or near impassable.

NE response

208. NE appreciate that the Public Rights of Way in the grazing marshes are well used and that until recently there has been little remedial action taken, meaning that the paths were in poor condition particularly in the autumn and winter around field entrances. NE understand that during 2021 the County Council have completed a range of improvement works, including bridges and surfacing. These, say NE, align with the works that NE would have proposed to fund in order to improve the walked line to National Trail standard.
209. The ECP is a countryside route in this location and users can expect weather conditions to impact on trail condition. A muddy section is not a reason to avoid alignment, as often simple remedial works will improve the situation. Any rights of way that follow the alignment of the ECP will benefit from the enhanced management expectations associated with a National Trail. The future maintenance expectations on the ECP as such a National Trail mean that the recent surface and infrastructure improvements should be maintained to a high standard.
210. The proposed route, in crossing the coastal grazing marshes is a fairly unique experience for the ECP around the eastern area of England to be within a classic coastal landscape rather than just offering views over it. Members of the public and the grazing herd are already accustomed to each other here.
211. If NE's proposals are approved, a large amount of coastal margin will be approved in this area between the trail and mean low water, meaning that the public will have access to areas such as the seawall to the Brick Jetty unless exceptions apply.

Discussion

212. On observing the footpath in a dry summer, I saw evidence of degradation around the field entrances with occasional stones, logs etc. placed to facilitate access across the mud. For the route to be convenient, it should be reasonably direct and pleasant to walk along. Report BSA 5 sets out (at 5.2.25) that NE envisage that it will be maintained to the same high quality standards as other National Trails in England. The 'New Deal' management document referred to sets out a number of quality standards and indicators designed to result in easily accessible routes. Enhancement measures are to result in surfaces in good condition and readily passable routes.
213. It is understood that some works have recently been completed (and that these will have post-dated the photographs supplied by the Town Council). NE point out that any rights of way aligning with the trail will benefit from the enhanced management expectations, and funding, associated with a National Trail.
214. The Town Council also raise a safety concern arising from the presence of grazing cattle on the Marshes, although no specific instances of user conflict have been identified on the public footpaths that already exist and as NE point out the herd are presently accustomed to the public.

Safety concerns re. lack of footway

Town Council objection

215. The Town Council point out that there is no footway along the proposed stretch between the Aldeburgh roundabout and King's Field (BSA-5-S016). The route can be dangerous taking into account the hazards of exiting King's Field as a pedestrian and encountering traffic leaving the roundabout to access the field's car park and nearby amenities. Additionally, crossing the entrances to two busy supermarkets near the roundabout can be perilous.

NE comments

216. NE point out that the proposed route uses an existing right of way and other already accessible areas. The public footpath is aligned along a service road used to access the community centre, public conveniences, businesses, recreation ground and children's play area. Whilst walkers may encounter vehicular traffic here, the risk is low. There are three speed bumps and good visibility. It is already heavily used by pedestrians.

Discussion

217. A section of the proposed route of around 100m leading SSW from the Saxmundham/Leiston/Victoria Roads roundabout lacks a designated footway. This service road, a no-through route, leads to the fire station and to a public car park serving the adjacent King's Fields recreation ground. Other amenities likely attracting vehicular traffic to the track are nearby, including bottle banks and the rugby pavilion. To obtain access to the service road from the west, it is necessary for pedestrians to cross the entrances to two supermarkets off the A1094, also considered perilous by the Town Council.

218. The grounds for the objection are not raised by the local highway authority. As an existing public right of way, local users of the car park will be accustomed to encountering pedestrians in the vicinity. Signage at the entrance to the service road to the community centre and WCs gives rise to some expectation of pedestrian traffic. Although there is no footway, the visibility is generally good, with double yellow lines serving to limit vehicular obstruction to sight lines on the service road. There are some speed bumps, with cautionary signs. Overall I would not anticipate conflicts between vehicular and pedestrian users giving rise to safety concerns.

Length of proposed route and suitability of the route and alternatives

Town Council objection

219. The route suggested is 1.25 miles between points TM 4523 5738 (the junction of A1094 Saxmundham Road and the new estate road leading down to Brickfields) and TM 4507 5660 (the river wall steps). The direct route through the existing paths via the old brick jetty is only 0.67 miles.
220. The proposed route along Saxmundham Road is dull and relatively uninteresting. The road is the very busy A1094 main road into and out of Aldeburgh. Walkers would have to endure traffic fumes, possible pollution and considerable road noise along this section.

Other representations

221. The Town Council's objections here are shared by others making representations, including Suffolk County Council (the local highway authority: reference MCA/BSA5/R/27/BSA0435) and the Ramblers' Association (reference MCA/BSA1/R/9/BSA0419). One potential alternative route has been identified by those making representations, to take the trail through the Golf Club to the sea wall at a point further west; however NE have found this to be unsuitable as on excepted land or otherwise subject to the saltmarsh exclusion.
222. Another potential alternative route has been identified by objectors and several of those making representations, which would involve the trail leaving the A1094 at a point some 700m WNW of the roundabout and heading SSW past the 'Brickfields' development to join the sea wall at the point of a disused jetty, around 300m NNW of where the existing proposal meets the sea wall (Map BSA 5b).
223. It is said by the Ramblers and the County Council that public access through Brickfields is presently available, the Ramblers referring to a planning condition attaching to a permission for redevelopment granted on 15 January 2014. This is, say the Ramblers, an existing well-used path, and is the route proposed by the Ramblers. The Ramblers do not consider the privacy impacts on those residing at the Brickfields development to justify diverting the coast path for an extra 2km inland. Further, the proposed inland route is predominantly already a public right of way, and would constitute no gain for coastal path users.

224. This section of the route has had more complaints from members of the Ramblers than the rest of the Suffolk length of the coastal path put together. It is the only section, report the Ramblers, that people feel really strongly about.

NE comments

225. NE have proposed a route along a public pavement that is currently in popular use. When developing a route proposal, consideration must be given to the multiple objectives of the Scheme. The length of the journey for users is not a consideration. NE believe the continued use of the pavement along this road is the best available option which provides walkers with a safe and reasonably direct journey.
226. A significant number of options for the route alignment in this area were investigated. When reviewing the option to pass through Brickfields, NE is compelled to consider the privacy of those living in adjoining properties, and concluded here that the privacy impacts would be significant. A much increased footfall is likely as the result of the ECP and walkers would be an obtrusive and intrusive presence. A further planning condition attached to the 2014 permission restricts the height of the permissible boundary treatment at the Brickfields houses meaning that privacy impacts could not be avoided.
227. NE sought to achieve a more direct and coastal route, but it was not possible, and NE believes this is the best route available. The proposed route is about 1km longer than a route through Brickfields, which is not considered significant in the context of a national path. The proposed route gives better access to services. The seawall would be in spreading room and therefore the area between the proposed route and the Brickfields route would be available.

Discussion

228. The advantages of this alternative proposal are obvious. It would be around half a mile shorter, avoiding a significant stretch of the busy main road; it would avoid walking the Marshes; and it would give better views across the estuary.
229. The principal disadvantages of the alternative (that can be identified in the absence of consultation upon it) are that it would intrude into the privacy of those living in the Brickfields development, passing their rear windows and gardens at close quarters; and that it would bypass the available shops and conveniences close to the A1094 roundabout. Additionally, the proposed alternative is likely (unless excepted) to be available as part of the coastal margin anyway.
230. The 'Brickfields' development consists of a small housing estate apparently constructed pursuant to a planning permission granted in January 2014 to redevelop a former brickworks site. The development is of 15 dwellings, consisting of two semi-detached properties and a terrace of three dwellings to the northern end, and a part-crescent of 10 detached dwellings whose rear living areas and gardens face towards the river.

231. Planning condition no. 9 required public access for pedestrians to be made available from Saxmundham Road through the site to the river wall (via the existing track along the south-eastern side of the site) and thereafter for the route to be kept open and available for public use. The reason given was to provide an enhancement of public access within the locality in the interests of public health and amenity.
232. Other conditions required prior approval of any means of enclosure and withdrew certain permitted development rights in the interests of the character of the AONB. It appears that the effect is to limit the height of any rear boundary treatments to 1.2m.
233. Existing OS Explorer maps (last revised 2013) show paths but not public rights of way through the former brickworks site and along part of the sea wall SSE of the disused jetty. The Town Council aver that the route down to the jetty has been used continuously for more than 50 years, although it is not clear to me whether any realignment has occurred as a result of the redevelopment or whether any pre-existing route was used by the public generally rather than by any specific class of persons. The Town Council also say that the sea wall path between the jetty and FP13 (meeting the proposed trail) is also well-walked. I observed this to be the case on site.
234. No questions have been raised by NE or by any person making representations as to the validity of the planning condition, which requires the route between the main road and the jetty to be made available for public use. I observed that the route exists on the ground with no physical barriers to its use. Nonetheless NE's comments on the County Council's second representation indicate that there may be some impediment to inferring its dedication as a public footpath.
235. The Supreme Court has recently affirmed in *DB Symmetry Ltd (Respondents) and others v Swindon Borough Council (Appellants)* [2022] UKSC 33 that a planning authority may not lawfully require a landowner by means of a planning condition to dedicate land as a public highway. Thus there is, at the least, some doubt as to the efficacy of the planning condition. I make no finding as to whether dedication of the route may nonetheless be inferred.
236. Unless the proposed alternative route is a highway within the meaning of the Highways Act 1980, it does not appear to me to be excepted from the coastal access rights under Schedule 1 to the CROW Act (as amended by Order). It does not appear to form the curtilage of land covered by buildings, or to be used for any purposes to which exceptions to coastal access rights apply. If it is a highway, the public will have rights to use it that will take precedence over coastal access rights. The objector's proposed alternative route lies seaward of the proposed trail, thus falling within the coastal margin if the trail is made as proposed and, with no proposal to direct exclusions or restrictions, coastal access (if not 'higher' highway) rights will apply to it as falling within the relevant spreading room.
237. The Scheme explains (at Chapter 4) that since in many places there will be a choice as to the route, with different options fulfilling each

of the s. 297 considerations to varying degrees, it is for NE to propose the balance to be struck between them on each stretch of coast. The extent to which spreading room should be available to the public is relevant in striking this balance.

238. Privacy is a relevant consideration, as set out in paragraph 5.4.3 of the Scheme. Section 8.18 of the Scheme considers the need for specific measures in order to protect the interests of the privacy of residents of private houses. In many places, established coast paths pass close to private property and their impact is often long accepted as part of living in the property. Where such routes meet the criteria for trail alignment, NE will look to adopt them. However, the Scheme explains that there may be circumstances where adopting a nearby adjacent route instead would alleviate specific impacts on a property from an existing path, in which case proposing the adjacent route would be considered, subject to it not simply transferring the existing impact onto another landowner.

239. NE suggest that the 'promotion' of any route to that of a National Trail will inevitably result in a much increased footfall. Whilst there are no research figures before me to support this view, I have no reason to disagree with this assessment. The route through Brickfields is presently not signposted and is said (by NE) not to appear on any maps of access routes. It is principally known only to local residents.

240. Rear balconies of the dwellings are approximately at eye level when passing on foot, and entire rear gardens and living areas are visible to the passing pedestrian at close quarters. It was suggested during my site visit that a number of the properties are second homes. There was evidence of current occupation of some but not all of the dwellings during my site visit.

241. Whilst some public access at such close quarters was evidently found to be appropriate by the planning authority when permitting the redevelopment, I agree with NE that it is questionable whether these privacy impacts would be acceptable to occupiers if the path were elevated to a National Trail with the expected increase in footfall that would result.

The section 297 criteria

242. Comparing the alternative proposals against the s 297 criteria:

Safety

243. I have specifically considered the safety aspects of the condition of the Marshes and the lack of a footway near the fire station above, finding no significant concerns. Other representations are made as to the health and safety implications of the route alongside the main A1094 road.

244. Overall I do not find the proposed route to be unsafe. The disputed stretch of the A1094 lies within the urban area where passing traffic speeds are reasonably low. A pedestrian footway enabling walkers two abreast

(or passing in single file) is provided along its length (on the estuarial side of the road).

245. The proposed alternative route is not unsafe, and has the advantage of avoiding any incipient risks from vehicular traffic for the approximately 700m for which it would avoid the main A1094 footway.

Convenience

246. The proposed route is not inconvenient. To satisfy this criterion, it is required by the Scheme to be reasonably direct and pleasant to walk along.
247. To be reasonably direct, the trail needs in general to be close to the sea and to offer sea views, but also needs to enable people to make reasonable progress if their key aim is an onward walk around the coast. The Scheme seeks to avoid slavish adherence to an indented coastline.
248. The proposed route lacks the efficiency of the proposed alternative, but in itself it is reasonably direct. It is approximately 1km longer than the alternative which, as NE point out, is not a significant difference within the length of a national path.
249. As to whether it is pleasant to walk along, the footway is sufficiently wide and there are otherwise no excessively steep or oppressive sections. Walking alongside an urban main road is not itself especially pleasant, but neither is it excessively oppressive. In the context of the proposed route that already requires a walk of a kilometre or so alongside the A1094, the further 700m of the proposed route is not especially significant. The walk across the Aldeburgh Marshes to the sea wall is itself a pleasant one, subject to the appropriate measures being in place to prevent excessive mud at the field entrances. NE point out that it is a rare feature of the proposed Coastal Path for the walker to walk within a classic coastal landscape, of grazing marshes, rather than merely obtaining views over it.
250. In terms of other conveniences, the advantages of the proposed route include its passing public conveniences, shops and a car park. It also avoids the walker feeling s/he is imposing on the privacy of occupiers adjoining the route, which itself can detract from the user experience (as well as the occupier's). Although a number of houses are passed on the A1094 footway, these are largely set back from the road with walkers passing the driveways and front elevations where there is no reasonable expectation of privacy given the proximity to the main road and existing footway.
251. The proposed alternative route is however more convenient for the walker overall. It does avoid 700m of footway avoiding the main road, is more pleasant to walk by reason of avoiding road traffic and enjoying estuarine views for more of its length, and is more direct. However it avoids local facilities and raises privacy conflicts.

Adherence to coastal periphery and providing sea views

252. The proposed alternative route is preferable on these counts: it more directly adheres to the periphery of the estuary and provides better estuarine views where, from adjacent to the Brickfields development, long range views of the estuary up to Aldeburgh are obtained. However, both routes are acceptable on these counts.

Interruptions to the route

253. No interruptions to the route arise in either case.

A fair balance between users of the route and affected landowners

254. In the absence of consultation upon the proposed alternative route, it is not possible to ascertain the exact interests of those with relevant interests and how they might be affected. I have explained above why the proposed route does not adversely affect the interests of the relevant objecting landowner.
255. By contrast the proposed alternative route would, if elevated to National Trail status, be likely to see an increased footfall to the extent that the privacy of the adjoining occupiers at Brickfields would be adversely affected to an unacceptable degree.

Overall Conclusions

256. The proposed route appears to me to strike a fair balance. It is longer than the proposed alternative, and involves a lengthier section along the footway adjacent to the A1094. It does however meet the requirements of the Scheme to be safe, convenient, adhere to the periphery of the coast (or in this case the estuary) and to provide sea (estuarial) views. It adequately balances the interests of route users with those with relevant interests. It results in spreading room that is likely to include the opportunity to walk the proposed alternative route, but without elevating that route to the status of a National Trail which would be likely to result in unacceptable privacy impacts.

Other Representations

257. Other representations have been addressed above.

Recommendation

258. I therefore recommend that the Secretary of State finds that the proposals as set out in the report do not fail to strike a fair balance.

[redacted]

APPOINTED PERSON

ANNEX : Habitat Regulations Assessment: Report to Inform the Competent Authority

Introduction

103. The Conservation of Habitats and Species Regulations 2017 (as amended) and the Conservation of Offshore Marine Habitats and Species Regulations 2017 (as amended) (for plans and projects beyond UK territorial waters (12 nautical miles)) require that where a plan or project is likely to have a significant effect on a European site or European marine site 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 ('AA') of the implications of that plan or project on the integrity of the European site in view of the site's conservation objectives.
104. This report is to assist the Secretary of State, as the Competent Authority, in performing the duties under the Regulations referred to above. The appropriate Statutory Nature Conservation Body must also be consulted, in this case Natural England (NE). A 'shadow' Habitats Regulations Assessment ('the shadow HRA') was conducted by NE, entitled 'Assessment of England Coast Path proposals between Bawdsey and Aldeburgh on sites of European importance for nature conservation', dated January 2021. The shadow HRA was provided to inform the Competent Authority's AA and has been considered in making this recommendation.

Project Location

105. The land in the Report to which the objection relates is route sections BSA-5-S028 to BSA-5-S031 of report BSA5 concerning Coastal Access Proposals by Natural England between Bawdsey and Aldeburgh in Suffolk. Those proposals are themselves the subject of five separate reports that are linked but legally separate statutory reports. Each report relating to a particular part of the stretch makes free-standing proposals, and seeks approval for them by the Secretary of State in their own right under section 52 of the National Parks and Access to the Countryside Act 1949. Nonetheless the Coastal Access Proposals as a whole for Bawdsey to Aldeburgh constitute the 'plan or project' for regulatory purposes.
106. The purpose of the proposals is to establish this tract of the English Coast Path pursuant to the statutory objective of securing a continuous walking route around the coast. Thus the proposals are designed to facilitate public access. In addition to the path, areas of land (usually) seaward of the trail will become coastal margin, attracting coastal access rights except where exclusions or other restrictions apply.
107. The site of the objection itself to which this Report relates adjoins the Alde-Ore and Butley Estuaries' SPA and SAC sites, considered by the shadow SRA at section D3.2I and shown as section 9 on Map 2 (page 101) and the extent of which is delineated on Map 1 (page 100). The proposals as a whole lie within or in close proximity to several such sites. They are the Alde-

Ore Estuary Ramsar site, the Alde-Ore Estuary Special Protection Area (SPA), the Outer Thames Estuary SPA, Sandlings SPA, Alde-Ore & Butley Estuaries Special Area of Conservation (SAC), Orfordness-Shingle Street SAC and the Southern North Sea SAC.

108. The qualifying features of each site are listed as follows:

Alde-Ore Estuary Ramsar

- Pied avocet (non-breeding)
- Common redshank (non-breeding)
- Lesser black-backed gull (breeding)
- Breeding wetland bird assemblage:
 - European marsh harrier
 - Mediterranean gull
 - Sandwich tern
 - Little tern
- Water bird assemblage (non-breeding):
 - Black-tailed godwit
 - Spotted redshank
 - Common greenshank
 - Greater white-fronted goose
 - Common shelduck
 - Eurasian widgeon
 - Eurasian teal
 - Northern pintail
 - Northern shoveler
- Wetland invertebrate assemblage:
 - *Nematostella vectensis* & *Gammarus insensibilis* of saline lagoons
 - *Malacosoma castrensis*
 - *Campiscenemus magius*
 - *Chilosia velutina*
 - *Empis prodomus*
 - *Dixella attica*
 - *Hylaeus euryscapus*
 - *Pseudoamnicola confuse*
 - *Euophrus browning*
 - *Baryphyma duffeyi*
 - *Haplodrassus minor*
 - *Trichoncus affinis*
- Wetland plant assemblage:
 - *Althaea officinalis*
 - *Frankenia laevis*
 - *Lathyrus japonicus*
 - *Lepidium latifolium*
 - *Medicago minima*
 - *Parapholis incurve*
 - *Puccinellia pasciculata*
 - *Puppia cirrhosa*
 - *Carcocornia perennis*
 - *Sonchus palustris*
 - *Trifolium suffocatum*
 - *Vicia lutea*

- *Zostera angustifolia*

Alde-Ore Estuary SPA

- Eurasian marsh harrier (breeding)
- Pied avocet (non-breeding)
- Pied avocet (breeding)
- Ruff (non-breeding)
- Common redshank (non-breeding)
- Lesser black-backed gull (breeding)
- Sandwich tern (breeding)
- Little tern (breeding)

Outer Thames Estuary SPA

- Little tern (breeding)
- Common tern (breeding)
- Red-throated diver (non-breeding)

Sandling SPA

- European nightjar (breeding)
- Woodlark (breeding)

Alde-Ore & Butley Estuaries SAC

- Estuaries
- Mudflat and sandflat not covered by seawater at low tide
- Atlantic salt meadows

Orfordness-Shingle Street SAC

- Coastal lagoons
- Annual vegetation of drift lines
- Perennial vegetation of stony banks

Southern North Sea SAC

- Harbour porpoise.

HRA Implications of the Project

109. As found by the shadow HRA, the principal impact pathways are likely to be by disturbance to feeding and nesting birds caused by users of the trail; by trampling causing damage to vegetation or supporting habitats; or by the installation of trail infrastructure.

Part 1 – assessment of likely significant effects

110. Effects should be considered 'likely' if they cannot be excluded on the basis of objective information, and 'significant' if the result would be to undermine the conservation objectives. Consideration of the scheme both 'alone' and 'in combination' with other plans or projects is required.
111. Whilst it is not appropriate at this stage to have regard to proposed mitigation measures, it is nonetheless appropriate to consider the scheme in the round as proposed. This includes the proposals for access

exclusions, which are extensive and apply to much of the coastal margin including most areas of salt marsh and mud flat within the Alde-Ore and Butley Estuaries.

The plan or project effects

Disturbance of feeding, resting or nesting birds

112. The non-breeding wetland birds, and the breeding gulls, found in the Alde-Ore Estuary Ramsar and SPA sites may be disturbed by recreational activity, potentially causing flight. During the wintering season this can lead to extra energy expenditure, interrupted feeding and reduced survival rates. Overwintering birds are present in large numbers and so a significant effect cannot be excluded.
113. The breeding avocets and terns found in the Alde-Ore Estuary and the Outer Thames SPA are subject to similar pressures, with the additional risk of egg or chick trampling, or disturbance of incubating parents, resulting in increased mortality.
114. The breeding marsh harrier, and the ground-nesting woodlark and woodlark for which the Sandling SPA is designated are subject to similar pressures and consequences.
115. Disturbance to birds may also arise from installation works.
116. The likelihood of significant effects on the non-breeding red-throated diver arising from these proposals alone can safely be excluded. This diving bird species feeds predominantly out at sea.

Habitats and invertebrates

117. Areas of shingle may be subject to trampling, resulting in damage to vegetated shingle or invertebrates or their supporting habitat. However the extensive proposals for s. 25A exclusions from saltmarsh and mudflats mean that the likelihood of significant effects can largely be excluded. The exceptions are the shingle beach at Shingle Street, the tidal litter at Gedgrave Cliffs, and the qualifying features of the saline lagoons at Shingle Street and on Orford Ness. Additionally some coastal assemblage plants may be subject to trampling in areas not subject to s. 25A exclusions.

In Combination effects

118. Other projects in the vicinity of the relevant European Sites are not considered to raise the likelihood of significant effects on any qualifying features not already identified as being potentially affected by this project alone.

Overall findings of likely significant effects

119. Consistently with NE's HRA assessment of January 2021, therefore, the proposals are likely to have a significant effect as follows:

- Non-breeding wetland bird assemblage- through disturbance
- Breeding gull assemblage- through disturbance
- Breeding avocets and terns- through disturbance
- Breeding marsh harrier- through disturbance
- Heathland and ground-nesting birds- through disturbance
- Shingle & tidal litter invertebrate habitat- through trampling
- Aquatic invertebrates & habitat- through trampling
- Fresh/brackish aquatic plant assemblage- through trampling
- Coastal plant assemblage- through trampling
- Coastal lagoons – saline lagoon margins- through trampling
- Vegetated shingle- through trampling
- Installation of infrastructure- through disturbance to birds

120. Whether alone or in combination with other plans or projects, the proposals are unlikely to have a significant effect on the following qualifying features:

- Non-breeding red-throated diver - through disturbance
- Saltmarsh & wetland invertebrates- through trampling
- Woodland invertebrates- through trampling
- Intertidal habitat- through trampling
- Vegetated shingle- through loss of habitat
- Harbour porpoise
- SPA supporting habitat- through trampling
- SPA supporting habitat- through loss of habitat

121. Therefore further appropriate assessment is required.

Conservation Objectives

122. The overarching Conservation Objectives for all European Sites in England are to ensure that the integrity of each site is maintained or restored as appropriate, and that each site contributes to achieving the aims of the Habitats Regulations, by either maintaining or restoring (as appropriate) the extent and distribution of their qualifying natural habitats; the structure and function (including typical species) of their qualifying natural habitats; the supporting processes on which their qualifying natural habitats rely, and on which the habitats of their qualifying features rely; the population of each of their qualifying features; and the distribution of their qualifying features within the site.

123. The specific risks identified to the Conservation Objectives in section D1 of NE's shadow HRA are of two types. Disturbance to birds following changes in recreational activities as a result of the proposals potentially leads to changes in the birds' abundance and diversity. Trampling and loss of designated features following such changes potentially leads to the reduction in the extent and distribution of qualifying natural habitats and habitats of the qualifying species.

Part 2 – Findings in relation to Adverse Effects on Integrity

124. NE have reached the following conclusions on assessing the potentially adverse effects, after taking account of any additional mitigation measures incorporated into the design of the scheme:

The following risks to achieving the conservation objectives identified in section D1 of the shadow HRA are effectively addressed by the proposals and no adverse effect on site integrity (taking into account any incorporated mitigation measures) can be concluded:

- Breeding gull assemblage - through disturbance
- Breeding marsh harrier – through disturbance
- Heathland and ground nesting birds – through disturbance
- Coastal plant assemblage – through trampling
- Aquatic invertebrates - through trampling
- Fresh/brackish Aquatic Plant Assemblage - through trampling
- Coastal lagoons – saline lagoon margins – through trampling
- Installation of infrastructure - through disturbance to birds

The following risks to achieving the conservation objectives identified in section D1 of the shadow HRS are effectively addressed by the proposals and no adverse effect on site integrity (taking into account any incorporated mitigation measures) can be concluded, although there is some residual risk of insignificant impacts:

- Non-breeding wetland bird assemblage - through disturbance around the Butley River.
- Breeding avocets - through disturbance at Shingle Street.
- Vegetated shingle - through trampling at Shingle Street.

125. The land in the vicinity of the proposed trail is proposed to be made the subject of a section 25A access exclusion seaward of the sea wall. As proposed, this exclusion adjoins the trail itself in part, and also does so seaward of the sea wall northwards of the trail towards the Brickfields jetty, which is where the main proposed alternative route would lie.
126. The shadow HRA identifies (at section D3.2I) that the proposals include using the existing public rights of way on the seawall. There are current low levels of use of the right of way on Aldeburgh Marshes, rising to medium closer to Aldeburgh. The proposed path alignment on the seawall means that there is minimal coastal margin, and what is present will be subject to a year-round s. 25A access exclusion. A negligible increase in use is therefore predicted. No significant risks to qualifying features at this location are identified by the shadow HRA, and no representations made suggest otherwise.
127. Identifying any combinable risks for other plans and projects, namely:
- the Suffolk Coastal Local Plan 2018 – 2036,
 - the East Suffolk Business Plan, the East Suffolk Growth Plan 2014 – 2025,
 - the Suffolk Coast AONB Management Plan 2018 – 2023,
 - the Shoreline Management Plan 7: Lowestoft Ness to Landguard Point,
 - the East Suffolk Catchment Flood Management Plan 2009,
 - the Alde and Ore Estuary Plan,

- the Deben Estuary Plan,
- the implementation of Coastal Access Rights from Aldeburgh to Hopton-on-Sea and from Felixstowe Ferry to Bawdsey,
- the Sizewell C nuclear power station,
- the Adastral Park Development, and
- the East Anglia ONE, ONE North, TWO and THREE offshore windfarms,

NE have identified insignificant and combinable effects likely to arise from two of those. The implementation of coastal access from Aldeburgh to Hopton-on-Sea and the construction of East Anglia THREE were subject to further risk assessment.

128. In respect of the Aldeburgh to Hopton-on-Sea proposals potentially affecting waterbirds close to the shore, the spatial separation from Pottersbridge, and the installation of waymarkers and other infrastructure on already-walked routes rather than on existing habitats, led to the conclusion that no adverse effects on the birds at residual risk would occur. As to the Anglia THREE project, measures to minimise disturbance to bird interest, the spatial separation of the proposals, and the availability of similar habitat in the vicinity means that the risk of breeding birds becoming displaced by Anglia THREE construction works into the coastal path areas is not a significant risk.

Conclusions on Site Integrity

129. It can be ascertained, in view of site conservation objectives, that the access proposals (taking into account any incorporated avoidance and mitigation measures) will not have an adverse effect on the integrity of the Alde-Ore Estuary Ramsar, Alde-Ore Estuary Special Protection Area (SPA), Outer Thames Estuary SPA, Sandlings SPA, Alde-Ore & Butley Estuaries Special Area of Conservation (SAC), Orfordness-Shingle Street SAC and the Southern North Sea SAC either alone or in combination with other plans and projects.
130. It is noted that, if minded to modify the proposals, further assessment may be needed. The recommendation of this particular report is not to modify the proposals.

Nature Conservation Assessment

131. As well as the shadow HRA, NE have also conducted a nature conservation assessment ('NCA') which is to be read in conjunction with the relevant reports on the Coastal Access Proposals and the shadow HRA. The NCA covers all other aspects (including Sites of Special Scientific Interest ('SSSIs'), Marine Conservation Zones ('MCZs') and undesignated but locally important sites and features, but only insofar as the HRA does not already address the issue for the sites and features in question.
132. Related to this objection are the Slaughden and Aldeburgh Marshes, shown on Map E at page 30. The Alde-Ore SSSI is discussed at pages 7 – 20. With the particular measures in place, no damage to or destruction of the particular features of the SSSI is anticipated.

133. The section of route to which this report applies is also close to the Aldeburgh Brick Pite and Aldeburgh Hall Pit SSSIs, with the Round Hill Pit SSSI also lying within the coastal margin, and shown on Map E at page 30. These sites are discussed at pages 21 and 22. There is no current public access to the Round Hill Pit: a golf course and gardens mean it may be excepted land, and a negligible increase in use of the coastal margin is anticipated. The Aldeburgh Brick Pit is a Quaternary geological locality, with conservation threats mainly being landfill or developments rather than recreational users. The Hall Pit lies adjacent to already-existing public rights of way. No damage to or destruction of any of these features is anticipated as a result of the proposals.
134. In respect of the relevant site or features the appropriate balance has been struck between NE's conservation and access objectives, duties and purposes.



The Planning Inspectorate

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

by [redacted] LLM LARTPI Solicitor

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

Date 21 June 2023

Marine and Coastal Access Act 2009

Objection by the National Trust

Regarding Coastal Access Proposals by Natural England

Relating to Bawdsey to Aldeburgh

Report BSA 5

**Objection Reference: MSA/BSA5/O/6/BSA0578
Orford Ness**

- On 3 February 2021 Natural England submitted a Coastal Access Report to the Secretary of State for Environment, Food and Rural Affairs under section 51 of the National Parks and Access to the Countryside Act 1949 pursuant to its duty under section 296(1) of the Marine and Coastal Access Act 2009.
- An objection dated 12 March 2021 to Report BSA 5: Hazelwood Marshes car park to Fort Green car park Aldeburgh has been made by [redacted] of the National Trust. The land in the Report to which the objection relates is the coastal margin resulting from route sections BSA-5-S028 to BSA-5-S031 (Maps BSA 5c and BSA E5a).
- The objection is made under paragraphs 3(3)(a), (b) and (d) of Schedule 1A to the 1949 Act on the grounds that the proposal fails to strike a fair balance in such respects as are set out in the objection.

Summary of Recommendation: Subject to incorporating the proposed minor modification, the Secretary of State makes a determination that the proposals as set out in the report do not fail to strike a fair balance.

Procedural Matters

259. On 3 February 2021 Natural England (NE) submitted the Coastal Access Bawdsey to Aldeburgh Report (the Report) to the Secretary of State for Environment, Food and Rural Affairs (the Secretary of State) setting out proposals for improved access to the coast between Bawdsey and Aldeburgh. Whilst linked, each report in the series is legally separate and contains free-standing statutory proposals for a particular part of the stretch of coast. A single Overview document applies to the whole stretch explaining common principles and background.
260. The period for making formal representations and objections closed on 31 March 2021. Nine admissible objections were received within the specified timescale and I have been appointed to report to the Secretary of State on those objections. This report relates to the objection reference MCA/BSA5/O/6/BSA0578, with other objections considered separately. In addition to the objection a total of 13 representations were received within the relevant period relating to BSA Report 5, and these are considered where relevant.
261. I carried out an unaccompanied site inspection from existing public vantage points on Tuesday 5 July 2022. No further information has since been requested by me from any party.

Main Issues

262. The coastal access duty arises under section 296 of the Marine and Coastal Access Act 2009 (the Act) and requires NE and the

Secretary of State to exercise their relevant functions to secure 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.

263. The second objective is that, in association with the English coastal route ('the trail') a margin of land along the length of the English coast is accessible to the public for the purposes of its enjoyment by them in conjunction with the coastal route or otherwise. This is referred to as the coastal margin, whilst the trail is the path corridor through the coastal margin. The trail is referred to as the England Coast Path.

264. Section 297 of the 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.

265. 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.

266. The Scheme sets out a number of criteria applicable to making directions to restrict or exclude access rights to the coastal margin. Land on the seaward side of the trail automatically becomes coastal margin, to which coastal access rights apply except as provided for as described by section 2 (paragraph 2.3.8 et seq) of the Scheme.

267. The grounds for which a direction to restrict or exclude access can be given are summarised at Figure 19 of the Scheme and are set out in sections 24 – 28 of the Countryside and Rights of Way Act 2000 (as amended) ('CROW Act'). In any case, three administrative tests must be satisfied:

- (a) the concerns must relate to activities included in the coastal access rights;
- (b) the land affected must be subject to the coastal access rights; and
- (c) there must be valid grounds for a direction.

268. The particular objection raised by the National Trust, although citing each of sub-paragraphs (a), (b) and (d) of paragraph 3(3) to Schedule 1A of the 1949

Act, essentially concerns the limitations of the proposed directions to exclude or restrict access. In substance, for the reasons I set out below, I consider that this amounts to an objection under paragraph 3(3)(e).

269. 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 Objection

270. The objection raised by the National Trust ('NT') is formally made on grounds (a), (b) and (d) which respectively concern the position of the proposed route, the provisions as to "roll back", and proposals for landward boundaries of the coastal margin as they relate to physical features.

271. The NT remark the public footpath ends at the NT boundary at Slaughden, where there is already a gate demarcating the terminus of the footpath and 'no unauthorised access' beyond. NT objects to the proposed spreading room rights beyond this gate, of a further 300m of linear 'out-and-back' spreading room, on the just the ridge and its seaward side, for the following reasons:

- The need for increased signage in an exposed location subject to significant coastal change;
- There is no place to put a new gate on the unconsolidated shingle ridge, so the NT gate needs to remain in place, leading to confusion for users;
- The proposal will introduce those using the linear spreading room to an area of significant coastal change with associated risks and vulnerability;
- The shingle ridge and groyne field is significantly compromised and unsafe;
- It is a very short additional stretch, with questionable coastal access benefit, with the estuary side of the shingle ridge exempt, adding to confusion;
- It will encourage users further into the SPA (Special Protection Area) and SAC (Special Area of Conservation) and to an area of shingle vegetation now subject to natural processes and so increasingly susceptible to trampling. Sky-lining of people on the shingle ridge further south into the SPA will add to potential disturbance;
- All of Orford Ness remains an area where unexploded ordnance risk remains high.

NE's comments

272. NE recognise that recent coastal processes have altered the landscape and continue to do so. A prior demarcation for the direction to exclude access has been lost. Access to the area has changed, with vehicular access no longer possible and the wider public asked to 'keep out'. Access for sea anglers has been reviewed.

273. NE recognise that the ability to control public access would be difficult where the public cannot see a clear demarcation between accessible land and land excluded by direction. The original proposed boundary for the restriction does not have a clear feature on the ground, and this is not now practicable. A newer boundary exists, namely a gate and associated fencing and blockwork, constructed on stable substrate with limited danger of damage or loss from

coastal processes. This current boundary is working well and protecting the wildlife and historic interests beyond.

274. NE agree it is appropriate to increase the area covered by the direction to exclude access. They ask that the Secretary of State approves this amended proposal, because:
- The newly proposed direction is aligned to permanent boundary features, providing clarity about the extent of access rights and preventing accidental trespass;
 - It protects an area of developing vegetated shingle and therefore creates enhanced wildlife protection of this sensitive habitat;
 - It creates a buffer to land where NE had originally proposed an exclusion to protect wildlife interests; necessary as the extent of the original exclusion was impossible to clearly demarcate on the ground; and
 - The restriction closely aligns with the boundary of the Special Area of Conservation (Map C1 of the overview report) and National Nature Reserve (Map C2).

Discussion

275. Although made on grounds (a), (b) and (d), NT's objection in substance amounts to one under paragraph (e) as consisting of an objection to the failure to include a proposal as to the directions to be made under Chapter 1 of Part 1 of the CROW Act for the exclusion or restriction of access rights. NE have acceded to the substance of the objection and propose to modify map BSA E5a accordingly. The proposed modification is reproduced in map form below at Annex 1.
276. I have thus considered the objection in accordance with the three administrative criteria referred to in paragraph 9 above.

Activities included in the coastal access rights

277. Public access rights under section 2(1) of the CROW Act would be brought into force by Order on the affected land. That section entitles any person to enter and remain on the land for the purposes of open-air recreation, if and so long as s/he does so without breaking or damaging any wall, fence, hedge, stile or gate and s/he observes certain other general restrictions.
278. The concern expressed by the NT relates to the exercise of such access rights.

Land affected subject to the coastal access rights

279. The substantial portion of Orford Ness is proposed to be made the subject of directions to exclude or restrict access for s24 (land management) reasons.
280. Land west and south of the proposed coastal path as it adjoins the river Alde is proposed to be excluded for s25A reasons (saltmarsh and flats unsuitable for public access all year round) to a point south of the Martello Tower where there presently exists a gate and signs prohibiting further entry to the south. This gate exists at the southern terminus of an existing public footpath.

281. It is to the south of this gate that the s24 exclusion is proposed to be applied; however, omitted from the proposed exclusion on the published map BSA E5a is a narrow strip of land approximately 300m long, which constitutes the seaward side of a shingle ridge, and it is this strip to which the NT's objection relates. It is within the coastal margin and thus, on present proposals, to be made subject to coastal access rights (not being exempt or excluded for any other reason).

Whether valid grounds for a direction

282. NE accept some of the NT's concerns, and agree it is appropriate to increase the area covered by the direction to exclude access for s 24 (land management) reasons.
283. The original proposal (paragraph 5.2.12 of Report BSA 5) was to exclude access to the coastal margin on Orford Ness owing to it being a complex site with various concerns that could be impacted from the introduction of coastal access rights, as follows:
- Areas of saltmarsh and mud unsuitable for general public access;
 - Public safety concerns from unexploded ordnance;
 - Concerns with damage from recreational access to vegetated shingle; and
 - Concerns with disturbance from recreational access to breeding and wintering birds.
284. The proposed exclusion of coastal access rights on the Ness for the purpose of land management was to replicate existing visitor management. The reasons given, whilst potentially presenting valid grounds under other sections of the CROW Act (such as for public safety or for nature conservation), are appropriately the province of land management purposes, described in the Scheme (paragraph 6.6.13) as embracing all forms of conventional or novel land management undertaken on the land, whether relating to commercial or non-commercial activities. The Ness is presently managed by the NT for public access.
285. Also relevant to the scope of any direction where valid grounds exist is the Scheme's approach of identifying the option least restrictive of the extent or scope of coastal access rights that will strike the appropriate balance. Relevant to this are the matters of clarity and practicality. The Scheme sets out (at 6.7.10) that sometimes a rigid interpretation of the 'least restrictive' principle might produce a situation that would be difficult to manage or to make clear to the public, such as where the precise extent of the land to which the direction would need to be in force would not correspond well with recognisable physical features.
286. This is the case here, and NE's first reason for agreeing the amended proposal is that it aligns with permanent boundary features, providing clarity as to the extent of access rights and preventing accidental trespass. The amended proposal results in coastal access rights corresponding with the existing terminus of a public footpath and the NT's gate with signage. Additional reasons given by NE concern the protection of habitats and wildlife interests,

although these do not in themselves form the basis of the proposed amendment to the exclusion direction.

287. Taking into account all the relevant matters, an extension of the s 24 direction to exclude public access all year round to include the area forming the subject of the NT's objection would be the option best meeting a fair balance between public access and landowner requirements. The proposals would not fail to strike a fair balance with this modification, which is agreed by the relevant parties.
288. I therefore recommend that the Secretary of State makes a determination to the effect that the s 24 direction to exclude public access all year round is extended to include the area forming the subject of the NT's objection, as depicted on the proposed amended map 'BSA E5a: Directions to exclude/restrict access – as proposed for area covered by Report BSA5' submitted by NE in their comments about the objection and reproduced below at Annex 1, as striking 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.

Other representations

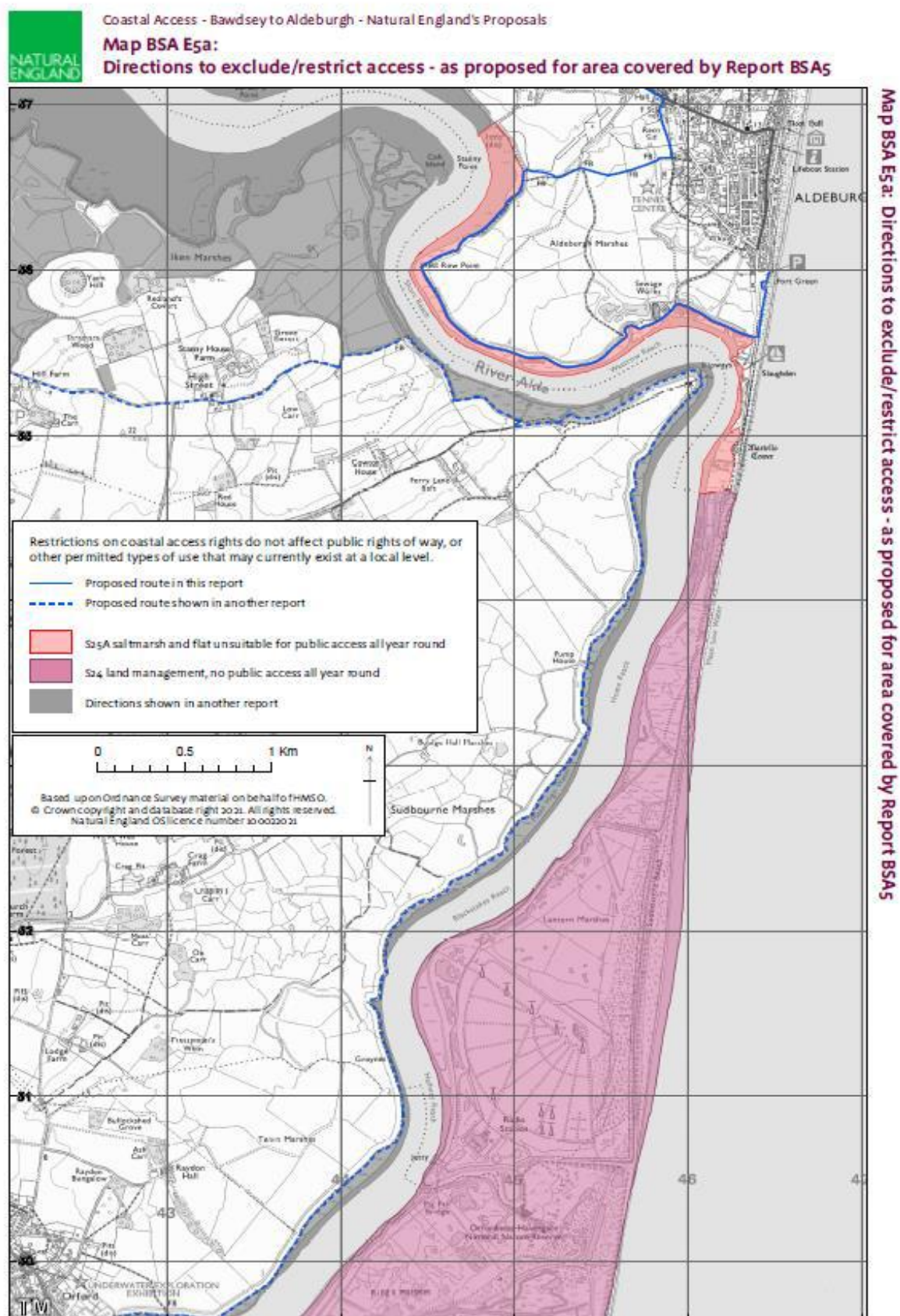
289. Other representations have been made in response to Report BSA 5, but none are of direct relevance to the objection considered in this report.

Recommendation

290. I accordingly recommend to the Secretary of State that the modified proposal as set out in Annex 1 does not fail to strike a fair balance, and that it is accepted and incorporated.

[redacted]

APPOINTED PERSON

ANNEX 1: Proposed modification to map BSA5 E5a

ANNEX 2 : Habitat Regulations Assessment: Report to Inform the Competent Authority

Introduction

135. The Conservation of Habitats and Species Regulations 2017 (as amended) and the Conservation of Offshore Marine Habitats and Species Regulations 2017 (as amended) (for plans and projects beyond UK territorial waters (12 nautical miles)) require that where a plan or project is likely to have a significant effect on a European site or European marine site 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 ('AA') of the implications of that plan or project on the integrity of the European site in view of the site's conservation objectives.
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Project Location

137. The land in the Report to which the objection relates concerns the spreading room rights that would result from the proposals of report BSA5 concerning Coastal Access Proposals by Natural England between Bawdsey and Aldeburgh in Suffolk. Those proposals are themselves the subject of five separate reports that are linked but legally separate statutory reports. Each report relating to a particular part of the stretch makes free-standing proposals, and seeks approval for them by the Secretary of State in their own right under section 52 of the National Parks and Access to the Countryside Act 1949. Nonetheless the Coastal Access Proposals as a whole for Bawdsey to Aldeburgh constitute the 'plan or project' for regulatory purposes.
138. The purpose of the proposals is to establish this tract of the English Coast Path pursuant to the statutory objective of securing a continuous walking route around the coast. Thus the proposals are designed to facilitate public access. In addition to the path, areas of land (usually) seaward of the trail will become coastal margin, attracting coastal access rights except where exclusions or other restrictions apply.
139. The site of the objection itself to which this Report relates lies to the north of Orford Ness, considered by the shadow SRA at section D3.2J and shown as section 10 on Map 2 (page 101). The proposals as a whole lie within or in close proximity to several such sites. They are the Alde-Ore Estuary Ramsar site, the Alde-Ore Estuary Special Protection Area (SPA), the

Outer Thames Estuary SPA, Sandlings SPA, Alde-Ore & Butley Estuaries Special Area of Conservation (SAC), Orfordness-Shingle Street SAC and the Southern North Sea SAC.

140. The qualifying features of each site are listed as follows:

Alde-Ore Estuary Ramsar

- Pied avocet (non-breeding)
- Common redshank (non-breeding)
- Lesser black-backed gull (breeding)
- Breeding wetland bird assemblage:
 - European marsh harrier
 - Mediterranean gull
 - Sandwich tern
 - Little tern
- Water bird assemblage (non-breeding):
 - Black-tailed godwit
 - Spotted redshank
 - Common greenshank
 - Greater white-fronted goose
 - Common shelduck
 - Eurasian widgeon
 - Eurasian teal
 - Northern pintail
 - Northern shoveler
- Wetland invertebrate assemblage:
 - *Nematostella vectensis* & *Gammarus insensibilis* of saline lagoons
 - *Malacosoma castrensis*
 - *Campiscenemus magius*
 - *Chilosia velutina*
 - *Empis prodomus*
 - *Dixella attica*
 - *Hylaeus euryscapus*
 - *Pseudoamnicola confuse*
 - *Euophrus browning*
 - *Baryphyma duffeyi*
 - *Haplodrassus minor*
 - *Trichoncus affinis*
- Wetland plant assemblage:
 - *Althaea officinalis*
 - *Frankenia laevis*
 - *Lathyrus japonicus*
 - *Lepidium latifolium*
 - *Medicago minima*
 - *Parapholis incurve*
 - *Puccinellia pasciculata*
 - *Puppia cirrhosa*
 - *Carcocornia perennis*
 - *Sonchus palustris*
 - *Trifolium suffocatum*
 - *Vicia lutea*
 - *Zostera angustifolia*

Alde-Ore Estuary SPA

- Eurasian marsh harrier (breeding)
- Pied avocet (non-breeding)
- Pied avocet (breeding)
- Ruff (non-breeding)
- Common redshank (non-breeding)
- Lesser black-backed gull (breeding)
- Sandwich tern (breeding)
- Little tern (breeding)

Outer Thames Estuary SPA

- Little tern (breeding)
- Common tern (breeding)
- Red-throated diver (non-breeding)

Sandling SPA

- European nightjar (breeding)
- Woodlark (breeding)

Alde-Ore & Butley Estuaries SAC

- Estuaries
- Mudflat and sandflat not covered by seawater at low tide
- Atlantic salt meadows

Orfordness-Shingle Street SAC

- Coastal lagoons
- Annual vegetation of drift lines
- Perennial vegetation of stony banks

Southern North Sea SAC

- Harbour porpoise.

HRA Implications of the Project

141. As found by the shadow HRA, the principal impact pathways are likely to be by disturbance to feeding and nesting birds caused by users of the trail; by trampling causing damage to vegetation or supporting habitats; or by the installation of trail infrastructure.

Part 1 – assessment of likely significant effects

142. Effects should be considered 'likely' if they cannot be excluded on the basis of objective information, and 'significant' if the result would be to undermine the conservation objectives. Consideration of the scheme both 'alone' and 'in combination' with other plans or projects is required.
143. Whilst it is not appropriate at this stage to have regard to proposed mitigation measures, it is nonetheless appropriate to consider the scheme in the round as proposed. This includes the proposals for access exclusions, which are extensive and apply to much of the coastal margin

including most areas of salt marsh and mud flat within the Alde-Ore and Butley Estuaries.

The plan or project effects

Disturbance of feeding, resting or nesting birds

144. The non-breeding wetland birds, and the breeding gulls, found in the Alde-Ore Estuary Ramsar and SPA sites may be disturbed by recreational activity, potentially causing flight. During the wintering season this can lead to extra energy expenditure, interrupted feeding and reduced survival rates. Overwintering birds are present in large numbers and so a significant effect cannot be excluded.
145. The breeding avocets and terns found in the Alde-Ore Estuary and the Outer Thames SPA are subject to similar pressures, with the additional risk of egg or chick trampling, or disturbance of incubating parents, resulting in increased mortality.
146. The breeding marsh harrier, and the ground-nesting woodlark and woodlark for which the Sandling SPA is designated are subject to similar pressures and consequences.
147. Disturbance to birds may also arise from installation works.
148. The likelihood of significant effects on the non-breeding red-throated diver arising from these proposals alone can safely be excluded. This diving bird species feeds predominantly out at sea.

Habitats and invertebrates

149. Areas of shingle may be subject to trampling, resulting in damage to vegetated shingle or invertebrates or their supporting habitat. However the extensive proposals for s. 25A exclusions from saltmarsh and mudflats mean that the likelihood of significant effects can largely be excluded. The exceptions are the shingle beach at Shingle Street, the tidal litter at Gedgrave Cliffs, and the qualifying features of the saline lagoons at Shingle Street and on Orford Ness. Additionally some coastal assemblage plants may be subject to trampling in areas not subject to s. 25A exclusions.

In Combination effects

150. Other projects in the vicinity of the relevant European Sites are not considered to raise the likelihood of significant effects on any qualifying features not already identified as being potentially affected by this project alone.

Overall findings of likely significant effects

151. Consistently with NE's HRA assessment of January 2021, therefore, the proposals are likely to have a significant effect as follows:

- Non-breeding wetland bird assemblage- through disturbance

- Breeding gull assemblage- through disturbance
- Breeding avocets and terns- through disturbance
- Breeding marsh harrier- through disturbance
- Heathland and ground-nesting birds- through disturbance
- Shingle & tidal litter invertebrate habitat- through trampling
- Aquatic invertebrates & habitat- through trampling
- Fresh/brackish aquatic plant assemblage- through trampling
- Coastal plant assemblage- through trampling
- Coastal lagoons – saline lagoon margins- through trampling
- Vegetated shingle- through trampling
- Installation of infrastructure- through disturbance to birds

152. Whether alone or in combination with other plans or projects, the proposals are unlikely to have a significant effect on the following qualifying features:

- Non-breeding red-throated diver - through disturbance
- Saltmarsh & wetland invertebrates- through trampling
- Woodland invertebrates- through trampling
- Intertidal habitat- through trampling
- Vegetated shingle- through loss of habitat
- Harbour porpoise
- SPA supporting habitat- through trampling
- SPA supporting habitat- through loss of habitat

153. Therefore further appropriate assessment is required.

Conservation Objectives

154. The overarching Conservation Objectives for all European Sites in England are to ensure that the integrity of each site is maintained or restored as appropriate, and that each site contributes to achieving the aims of the Habitats Regulations, by either maintaining or restoring (as appropriate) the extent and distribution of their qualifying natural habitats; the structure and function (including typical species) of their qualifying natural habitats; the supporting processes on which their qualifying natural habitats rely, and on which the habitats of their qualifying features rely; the population of each of their qualifying features; and the distribution of their qualifying features within the site.

155. The specific risks identified to the Conservation Objectives in section D1 of NE's shadow HRA are of two types. Disturbance to birds following changes in recreational activities as a result of the proposals potentially leads to changes in the birds' abundance and diversity. Trampling and loss of designated features following such changes potentially leads to the reduction in the extent and distribution of qualifying natural habitats and habitats of the qualifying species.

Part 2 – Findings in relation to Adverse Effects on Integrity

156. NE have reached the following conclusions on assessing the potentially adverse effects, after taking account of any additional mitigation measures incorporated into the design of the scheme:

The following risks to achieving the conservation objectives identified in section D1 of the shadow HRA are effectively addressed by the proposals and no adverse effect on site integrity (taking into account any incorporated mitigation measures) can be concluded:

- Breeding gull assemblage - through disturbance
- Breeding marsh harrier – through disturbance
- Heathland and ground nesting birds – through disturbance
- Coastal plant assemblage – through trampling
- Aquatic invertebrates - through trampling
- Fresh/brackish Aquatic Plant Assemblage - through trampling
- Coastal lagoons – saline lagoon margins – through trampling
- Installation of infrastructure - through disturbance to birds

The following risks to achieving the conservation objectives identified in section D1 of the shadow HRS are effectively addressed by the proposals and no adverse effect on site integrity (taking into account any incorporated mitigation measures) can be concluded, although there is some residual risk of insignificant impacts:

- Non-breeding wetland bird assemblage - through disturbance around the Butley River.
- Breeding avocets - through disturbance at Shingle Street.
- Vegetated shingle - through trampling at Shingle Street.

157. The route does not align onto Orford Ness as there is no way to get off the Ness at the southern point near Orford. It does however fall within coastal margin and has thus been assessed in the shadow HRA.
158. The shadow HRA identifies (at section D3.2J) that access on foot to Orford Ness is only possible from the north, where a public right of way terminates at the edge of the national nature reserve (NNR). Public access is strongly discouraged. Some permissive access is granted to those with fishing licences or licensed wildfowl shooters. Some use by recreational visitors arriving by boat is tolerated although discouraged.
159. The HRA finds that, as a consequence of the proposed exclusion of coastal access rights on the Ness for land management purposes, the existing visitor management practices on the site will continue effectively unchanged. A small increase in usage of the trail at the northern end of the Ness is anticipated, a possible increase in beach access, and a negligible increase in use of the Ness as a whole. Consequently, a significant risk to the designated features can be excluded.
160. Proposing the minor modification that is the subject of this report, the NT consider that increased recreational pressure would result if the proposals were unmodified, because of the difficulties of preventing unauthorised access where ground features are not easily discernible. NE agree that clarity

and the avoidance of accidental trespass would ensure from aligning the extent of the exclusion direction with permanent boundary features.

161. Identifying any combinable risks for other plans and projects, namely:

- the Suffolk Coastal Local Plan 2018 – 2036,
- the East Suffolk Business Plan, the East Suffolk Growth Plan 2014 – 2025,
- the Suffolk Coast AONB Management Plan 2018 – 2023,
- the Shoreline Management Plan 7: Lowestoft Ness to Landguard Point,
- the East Suffolk Catchment Flood Management Plan 2009,
- the Alde and Ore Estuary Plan,
- the Deben Estuary Plan,
- the implementation of Coastal Access Rights from Aldeburgh to Hopton-on-Sea and from Felixstowe Ferry to Bawdsey,
- the Sizewell C nuclear power station,
- the Adastral Park Development, and
- the East Anglia ONE, ONE North, TWO and THREE offshore windfarms,

NE have identified insignificant and combinable effects likely to arise from two of those. The implementation of coastal access from Aldeburgh to Hopton-on-Sea and the construction of East Anglia THREE were subject to further risk assessment.

162. In respect of the Aldeburgh to Hopton-on-Sea proposals potentially affecting waterbirds close to the shore, the spatial separation from Pottersbridge, and the installation of waymarkers and other infrastructure on already-walked routes rather than on existing habitats, led to the conclusion that no adverse effects on the birds at residual risk would occur. As to the Anglia THREE project, measures to minimise disturbance to bird interest, the spatial separation of the proposals, and the availability of similar habitat in the vicinity means that the risk of breeding birds becoming displaced by Anglia THREE construction works into the coastal path areas is not a significant risk.

Conclusions on Site Integrity

163. It is noted that, if minded to modify the proposals, further assessment may be needed. The recommendation of this particular report is to make a minor modification to the proposals, by extending the area of the public's exclusion to the 'obvious' boundary feature of the existing gate. Making this modification would give a higher degree of confidence in the shadow HRA findings that levels of use across Orford Ness are not anticipated to increase as a result of the proposals.

164. It can be ascertained, in view of site conservation objectives, that the access proposals (taking into account any incorporated avoidance and mitigation measures, and as proposed to be modified) will not have an adverse effect on the integrity of the Alde-Ore Estuary Ramsar, Alde-Ore Estuary Special Protection Area (SPA), Outer Thames Estuary SPA, Sandlings SPA, Alde-Ore & Butley Estuaries Special Area of Conservation (SAC), Orfordness-Shingle Street SAC and the Southern North Sea SAC either alone or in combination with other plans and projects.

Nature Conservation Assessment

165. As well as the shadow HRA, NE have also conducted a nature conservation assessment ('NCA') which is to be read in conjunction with the relevant reports on the Coastal Access Proposals and the shadow HRA. The NCA covers all other aspects (including Sites of Special Scientific Interest ('SSSIs'), Marine Conservation Zones ('MCZs') and undesignated but locally important sites and features, but only insofar as the HRA does not already address the issue for the sites and features in question.
166. Related to this objection is Orford Ness, shown on Map D at page 29. The Alde-Ore SSSI is discussed at pages 7 – 20. With the particular measures in place, no damage to or destruction of the particular features of the SSSI is anticipated. Making the proposed modification sought by the NT and supported by NE would give higher confidence in this assessment.
167. In respect of the relevant site or features the appropriate balance has been struck between NE's conservation and access objectives, duties and purposes.