

**NOTICE BY THE APPOINTED PERSON UNDER PARAGRAPH 10 OF
SCHEDULE 1A TO THE NATIONAL PARKS AND ACCESS TO THE
COUNTRYSIDE ACT 1949: OBJECTIONS ABOUT A COASTAL ACCESS
REPORT**

On 28 October 2013 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 (the 2009 Act). The report relates to the Kent Coast between Ramsgate and Folkestone.

A person has been appointed^(a) for the purpose of considering objections which have been received in relation to the report. Details of those objections are given below.

The appointed person is minded to determine that the proposals in the report fail, in the respects specified in the objections, to strike a fair balance^(b) as a result of the matter or matters specified in those objections.

A. Land in the report to which the objections relate:

The objections relate to Sections RFK-S034, RFK-S035 and RFK-S036 of the proposed route.

B. Reference to the relevant section of the report to which the objections relate:

Chapter 1, Ramsgate East Pier to Sandwich Bridge and Section 1.5 Stonelees Nature reserve to Stonar Cut Bridge.

C. Details of the objections, including details of:

(a) the matter(s) specified in the objections as the ground(s) on which those objections were made, and

(b) any modifications proposed by the objections:

The objections are made under section 3(3)(a), (c) and (f) of Schedule 1A to the National Parks and Access to the Countryside Act 1949 on the ground that the proposals in the report, in such respects as are specified in the objections fail to strike a fair balance as a result of :

- the proposed position of route sections RFK-S034, S035 and S036;
- the failure to include proposals for an alternative route; and
- the failure to exercise discretion conferred by section 301(3) of the 2009 Act relating to a case where the continuity of any part of the coast is interrupted by a river.

The sections concerned run close the north-western bank of the River Stour estuary. The land is used by the objectors as a secure compound for the storage of motor vehicles.

The objectors object to the exercise by NE of its discretion to propose that the trail should extend from the seaward limit of the estuary of the River Stour as far as the Sandwich Bridge, which is the first bridge with pedestrian access over the river. They state that this is contrary to the statutory criteria set out in section 297(2) of the 2009 Act and fails to take into account the additional criteria set out in section 301(4). Furthermore the exercise of this discretion is contrary to the position set out in Chapter 10 of the Approved Scheme and, in particular, paragraph 10.1.6 because the cost of extending the trail to the bridge is disproportionate to the extra public enjoyment of the coast that would result in view of the extent of new paths needed and the additional distance that will have to be walked to reach the bridge.

The objectors are concerned that public access to the land will undermine the security of their operational land to the extent that they would not be able to continue to use it for its current purpose. The vehicles stored on the land are not owned by the objectors and they believe that the arrangement they have with the vehicles' owners would be terminated by them if public

access is allowed to the land as a result of fears that the vehicles would no longer be secure.

D. Details of Natural England's comments on the objection, including any relevant alternative modifications^(c):

In developing the proposals, NE had the discretion under section 301 of the 2009 Act to extend the trail up the Stour estuary to the first public crossing point.

In considering the exercise of this discretion account was taken of the criteria set out in section 301(4) of the 2009 Act. These are:

- the absence of a ferry crossing;
- the width of the river;
- the nature of the land;
- the topography of the shoreline;
- the recreational benefit;
- features of interest;
- the extent to which land bordering the estuary would be excepted from access rights.

NE considered the options available, including interrupting the trail at the extent of the estuarial waters. It was concluded that the provision of a new access along the west bank of the Stour struck a fair balance between the public interest and the occupiers' interests by:

- creating a continuous, clearly defined and way-marked route between Sandwich Bridge and Ramsgate for the first time;
- incorporating parts of the estuary that are currently inaccessible to the public or difficult to reach, such as Richborough Port and the east bank of the river;
- potentially, acting as a catalyst for further improvement to public access along the west bank of the river between Richborough Port and Sandwich Bridge in the medium term;
- allowing for future realignments to the trail that may arise from land use change and the creation of excepted land;
- improving the experience of people using rights of way between Pegwell Country Park and Sandwich whilst accommodating private interests

In order to realise the proposed route it will be necessary to invest in new path infrastructure. The total cost for the development of the path between the estuarial limits is £54,000 of which £9,500 relates to sections RFK-S035-S036. It is considered that these costs are outweighed by the benefits of providing a riverside route which would significantly improve pedestrian access between Ramsgate and Sandwich and encourage tourists and locals to visit an area rich in history, landscape and nature.

When the trail alignment was being investigated (in November 2011) there was an adequate margin of land including an unused hard-surfaced wharf along section RFK-S035. It was considered that this would provide a safe and suitable walking surface and there would be over 25m between the trail and security fencing around neighbouring premises. However, an alternative route following an existing cycle path along the A256 road was also considered but felt to be considerably less attractive. Later (February 2014) the use of the wharf in section RFK-S035 had changed and the area had begun to be used for the storage of cars. Nevertheless, it was still considered that a solution allowing the trail to continue safely along the wharf edge while respecting the landowner's interests was still possible. Additional measures to allow this might take the form of markings painted on the wharf to indicate the line to be walked.

E. If applicable, any observations of the appointed person on any relevant alternative modifications or any modifications proposed by the objection:

In my view there will be considerable benefits from the creation of a continuous coastal path around the estuary of the River Stour by way of Sandwich Bridge, as set out in the response by NE to the objection.

However, on my visit the land proposed to be crossed by section RFK-S035 of the trail was occupied by parked cars and access was only possible by way of a locked gate through a security fence. Section RFK-S034 was also occupied by parked cars and surrounded by an earth bund. I understand that this development had taken place with the appropriate planning approval.

The objectors state that providing public access through these sections could not easily be achieved safely and, more importantly, would seriously undermine the security of their operation to the extent that it would no longer be possible to continue to use it. In particular, it is stated that the owner of the vehicles would find such an arrangement unacceptable and that this would have a serious adverse effect on their business.

On balance, it appears that the situation with regard to sections RFK-S034-S036 has now changed so significantly since the proposed alignment of the path was published that it now seems unlikely that a route that is safe and convenient for the public can be established without seriously compromising the operational management of the land crossed. It therefore seems necessary for further consideration to be given to an alternative alignment for these sections. Chapter 5 of the Approved Scheme states that "*Our flexible alignment powers under the 2009 Act should in general ensure that access rights will not interfere in any significant way with the operational needs of coastal businesses...*" In this case it appears that such interference may well result from the proposed alignment and, even though there are powers whereby access arrangements to a section of coast can be amended as a result of changes in the use of land, it would be inappropriate to proceed on the basis of an alignment that may already be unacceptable.

I note that one possible alternative has been suggested by the objector which would involve the route turning inland after section RFK-S033 to join the footway alongside the A256 road. However, this suggestion has not been investigated in any detail and I am not able to assess whether it would offer an acceptable alternative.

A copy of the report and a map of the area indicating the proposed line of the route and (if applicable) the boundaries of the associated coastal margin which is the subject of the objection above are available at

<http://www.naturalengland.org.uk/ourwork/access/coastalaccess/folkestone/folkestone-ramsgate-proposal.aspx>

or may be viewed free of charge between the hours of 10.00am and 4pm at the following locations:

Natural England, International House, Dover Place, Ashford, Kent, TN23 1HU
Sandwich Town Council, Cattle Market, Guildhall, Kent, CT13 9AH
Margate Library, Thanet Gateway Plus, Cecil Street, Margate CT9 1RE
Ramsgate Library, Guildford, Lawn, Ramsgate, Kent CT11 9AY

This notice invites any person to make representations to the appointed person in connection with the above objection.

Representations may be made about any of the following matters:

- (a) the objection (including any modifications proposed by the objection) (see box C above);
- (b) any relevant alternative modifications in relation to that objection (see box D above); or
- (c) any observations of the appointed person on any relevant alternative modifications or any modifications proposed by the objection (see box E above).

Any representations must be received by the appointed person no later than Thursday 11th September 2014.

Any representations must be made on the appropriate form which may be obtained from the appointed person at:

The Environment Team, The Planning Inspectorate, Room 3/25, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN.

or from <http://www.planningportal.gov.uk/planning/countryside/coastal>

Representations should be sent to the appointed person at the above postal address, or to environment.appeals@pins.gsi.gov.uk.

17 July 2014

(a) See paragraph 4(2) of Schedule 1A to the National Parks and Access to the Countryside Act 1949.

(b) A fair balance means 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 (see paragraph 1(b) of Schedule 1A to the National Parks and Access to the Countryside Act 1949 and section 297(3) of the Marine and Coastal Access Act 2009).

(c) See paragraph 6(3) of Schedule 1A to the National Parks and Access to the Countryside Act 1949 for the meaning of “relevant alternative modifications”.