

**Department for Environment, Food and Rural Affairs
 Consultation on Proposals to improve access to the English Coast
 Response proforma (August 2007)**

Please use this proforma to answer the questions in the above document. The closing date for the submission of responses is **Tuesday 11 September 2007**.

Responses should be clearly marked in the subject field **Consultation on access to the English coast** and should be sent:

- by email to: coast.consultation@defra.gsi.gov.uk
- or by post to: Andrew Crawford , Coast and Open Access Team, Zone 1/01, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6EB

The email address may also be used for general queries relating to this consultation. Please mark the subject field **Consultation on access to the English coast**.

To help us analyse responses, please provide details of yourself or your organisation (*if appropriate below)

In line with Defra’s policy of openness, at the end of the consultation period copies of the responses we receive may be made publicly available through the Defra Information Resource Centre, Lower Ground Floor, Ergon House, 17 Smith Square, London SW1P 3JR. The information they contain may also be published in a summary of responses. If you do not consent to this, you must clearly request that your response be treated confidentially. Any confidentiality disclaimer generated by your IT system in email responses will not be treated as such a request.

You should also be aware that there may be circumstances in which Defra will be required to communicate information to third parties on request, in order to comply with its obligations under the Freedom of Information Act 2000 and the Environmental Information Regulations.

Defra’s confidentiality statement in full can be found at <http://www.defra.gov.uk/corporate/consult/coast-access/letter.htm>

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Date of response	10 September 2007
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NB: on the form below, please leave the response box blank for any questions that you do not wish to answer. Responses including any general comments you might wish to make are welcome on any number of the questions.

For each question it would be helpful if you could please indicate whether you agree, disagree or are uncertain by marking the box (as appropriate).

Chapter 2: Vision and Outcomes			
1 Do you support this vision? If not, what vision do you have for improving access along the English coast?			
Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
		Not sure	<input type="checkbox"/>
<p>We support the vision.</p> <p>We agree that improvements should be made to coastal access, and we consider that the vision describes a coastal environment in which National Park purposes can be fulfilled.</p>			
2 Do you have any comments on Outcome 1?			
Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
3 Do you have any comments on Outcome 2?			
Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>

This is a key outcome and is welcomed. The improvement in access routes to the coast, the development and promotion of circular routes, and links between public transport and popular routes are seen as being of great public benefit.

It is not apparent from the strategic conclusions and detailed proposals in the consultation document how this Outcome will be achieved, but we hope that any methodology developed will include specific actions to enable this Outcome in a flexible way.

4 Do you have any comments on Outcome 3?

Yes



No



It is of paramount importance that areas designated for protection in particular, are fully considered, and that actions taken to improve public access are integrated with complementary actions to protect and enhance other interests. These other interests should include archaeology and other cultural and historical interests as well as wildlife and landscape interests. The protection afforded to European nature conservation designations may make it impossible to introduce public access unless it can be demonstrated that this access will not adversely affect the protected interest. Consideration should be given to the resource implications of appropriate assessments required by the Habitats Regulations. Guidance will be required from Natural England on approaches to assessing the in-combination impacts of access.

The description of the Outcome indicates that consideration has been given to the potential benefits to wildlife along intensively farmed coastline; it is not clear how these, and other, interests may benefit on coastline that is not currently used for agriculture.

Integrated actions to secure improvements to a wide range of interests will be financially costly. Adequate funding must be made available.

5 Do you have any comments on the relative importance of the three Outcomes?

Yes



No



We consider each of the Outcomes to be of equal importance.

Chapter 3: Factfinding and conclusions drawn

6 Are there any other sources of information you are aware of which you consider should contribute to the evidence base?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
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7 Do you agree with Natural England’s overall picture of the current access situation on the coast? Any there any other studies that might support these conclusions or add to them?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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We accept that the listed conclusions can be drawn from Natural England's report.

We are disappointed that in relation to wildlife interest, environmental benefits are only recognised as coming from the rolling back of intensive farming from the coast. There are other coastal habitats where the wildlife interest could be improved as the improvement of public access is achieved.

8 Do you agree with Natural England’s strategic conclusions? If not, what aspects of Natural England’s strategic conclusions do you disagree with, and why?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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We broadly agree with the strategic conclusions as listed.

We agree that consistency of good quality access should be a key focus.

We welcome the suggestion that local design is important, and consider that delivery of the new access should be locally led, with adequate funding being made available.

We believe that any new rights of access will need to meet landscape and cultural needs, as well as those of nature conservation.

We consider that the issue of liability should be considered further, as there are likley to be different aspects to safety around the coast than are found on open country. We strongly support the need for a Coastal Access Code that emphasises people's responsibility for their own safety.

9 Are there any other perspectives or factors that you think should be considered?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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The resourcing of the required on-going management, beyond the implementation period, must be addressed. Route surfacing, vegetation and access furniture will all require maintenance, and, in order to achieve the vision, continued management of the wildlife interest will be necessary. In cases where the impact of access on nature conservation interests is only acceptable with mitigatory management, the long term resource implications will be significant.

The goodwill and co-operation of a large number of land owners and managers will be necessary for the successful and smooth implementation of the vision. This should be recognised in the strategic conclusions, and consideration should be given as to how this might be achieved.

Chapter 4: Work undertaken on benefits and costs

10 Do you have any comments on the benefits and costs identified in the partial Regulatory Impact Assessment?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
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Comparisons between the different options would be easier to make if the estimated new access for each option were expressed in both linear and area based figures.

We think it likely that benefits to the local economy, for all 4 options, will occur mainly in the more urban areas. We think it unlikely that the rural economy, or the economy of areas that do not attract tourism, would benefit significantly.

We note that the partial Regulatory Impact Assessment acknowledges that property owners will suffer injurious affectation, which will be of high cost to some. It is not clear how the presumption of no compensation fits with this.

11 Are there any other benefits and costs that are relevant to the options which should be considered?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
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Chapter 5: Option 1 – Highways Act 1980

12 Do you agree with Natural England’s assessment of option 1 – use of the Highways Act 1980?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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We broadly agree with the assessment, but would make the following points:

Option 1 does not have the capability of delivering Outcomes 2 and 3.

Option 1 would, however, deliver a type of access that is well understood by users and landowners, and which could be depicted on Ordnance Survey maps using existing, recognised symbols. It would also facilitate the provision of higher rights in appropriate locations. Landowners would have an automatic right to compensation where path orders are made, and in some places there will be scope to divert an existing path to run along the coast; both of these factors may result in greater co-operation. The responsibility for on-going maintenance of the route would be clearly defined.

Option 1 could be made resilient against coastal change if new legislation were introduced to address the issue of paths lost to erosion. This would have the added benefit of addressing loss of inland paths, for example where river banks erode.

13 Do you agree with our assessment of the likely scale of effect?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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We consider that the lower estimate of required new rights of way is more accurate. This assumes satisfactory provision by statutory highway (public right of way, cycleway, road or promenade) within 200m of the coast. If coastal open access land were then excluded as non-linear access rights already exist, then the lower estimate is further reduced. Using the lower estimate would reduce the overall costs, and increase the benefit:cost ratio accordingly.

We consider that, in the Asken Report, the proportion of agreements for creating access along the coast by new rights of way over private land has been over-estimated at 60%.

Chapter 6: Option 2 - Section 3 of the Countryside and Rights of Way Act 2000

14 Do you agree with Natural England's assessment of option 2 – the use of section 3 of the Countryside and Rights of Way Act 2000?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Again, we are in broad agreement.

The effect of legal closure of access land would be detrimental to public confidence in the availability of coastal access.

The inflexibility to create access other than to an area mapped to physical boundaries would make this a difficult, and unfavourable, option to pursue.

This definition of coastal land would not allow for the delivery of Outcome 1.

15 Do you agree with our assessment of the likely scale of effect?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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This appears to be a difficult assessment to make. We have no comment on the accuracy of the figures presented.

Chapter 7: Option 3 – Voluntary measures to create permissive access

16 Do you agree with Natural England’s assessment of option 3 – the use of voluntary measures to create permissive access?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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This option is not likely to be able to deliver the vision or the proposed outcomes in all circumstances.

Permissive access agreements could not be considered as providing a permanent right of access.

It would be difficult to provide the user with easily accessible information about the extent of coastal access, and what activities were allowed.

17 Do you agree with our assessment of the likely scale of effect?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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We think that the take up of voluntary agreements would be much lower than that predicted.

Chapter 8: Option 4 – proposal for new primary legislation

18 Do you agree that the Government should introduce new primary legislation to allow for a tailored access regime around the coast? If not, which of the options would you prefer?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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The vision and outcomes cannot be achieved within the existing legislative framework.

However, the difficulties associated with legislating for, and implementing, an entirely new form of access may be such that re-examination of Option 1 might prove to be beneficial. Modification of existing highway and access law to place a duty on authorities to create coastal access by dedication or creation, along with an effective solution to the problem of loss of access due to erosion could prove more effective, and more acceptable to landowners, than Option 4.

19 Do you think that spreading room (such as headlands, viewpoints or uncultivated land) along the coast is important?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Spreading room enhances the coastal access experience in a number of different ways. However, we consider that there could be a number of associated difficulties that would potentially require active management. These might include informing people of where there was a right to 'spread' and preventing 'spread' where it was not allowed; defining the rights on the spreading room, for example in relation to dogs; the responsibility for vegetation management; managing any increased risk.

We consider that there would be value in giving a power for authorities to enter into agreements regarding spreading room where there is local demand.

20 Do you believe it is important to formalise access to beaches?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Clear information about beach access will enable the public to enjoy accessible beaches with confidence.

21 Do you have any comments on the proposal for a statutory methodology?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
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A well thought out, sensible and flexible methodology will be essential to the process.

Public consultation on the proposed statutory methodology is essential.

The methodology must consider all aspects of the new rights, including assessments of nature, landscape and heritage, and the implementation of management as well as infrastructure.

The methodology must be flexible enough to allow for the application of local solutions to meet local needs.

22 Do you agree there should be a right of appeal against Natural England's application of the statutory methodology?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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23 Do you have any views on this approach to protecting important wildlife and habitats?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
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Natural England (and the relevant Access Authority with advice and support from NE) are the only body (bodies) that is (are) in a position to be able to undertake these assessments. However, all relevant stakeholders should be involved in the assessments. Consistency should be applied to the assessments made.

Assessments should also be made of the landscape, archaeological and other cultural heritage interests. Management interventions to avoid damage to other interests must be in place before the new access rights come into being. Assessments should be dynamic, and not simply look to protect what is already there but account for likely change e.g. in erosion / sea level rise / climate change etc. Adequate funding must be made available for the assessments and any required management.

We would expect the Sandford Principle to be adhered to, at least in National Parks.

24 Do you agree that planning and implementation should be undertaken through access authorities wherever possible and funded by Natural England?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Within the context of a National Park, we consider that the access authority is the correct body to undertake the planning and implementation. It is important that local context and local distinctiveness are taken into account at this stage.

Sufficient and direct funding for planning, implementation, and on-going management must be made available to the bodies charged with these duties.

25 Do you agree that Natural England should have powers to do such work itself where the access authority was unwilling to act?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Natural England should be expected to undertake local consultations and follow guidelines for planning and implementation where the access authority is unwilling to act.

26 Do you think it is important that local solutions should be designed in consultation with local interests?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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It is also important to include local distinctiveness and the use of local materials for infrastructure in areas that are designated for their landscape value.

27 Are there any partners that you consider Natural England should particularly involve in its consultations?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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In addition to the bodies listed in Box 7 of the consultation document:

Country Land and Business Association

National Farmers Union

National Trust

Coastal Management Forums

Environment Agency

28 Should any legislation enable conditions to be placed on access if necessary (eg seasonal diversions to protect sensitive species or permanent diversions as a result of coastal change and realignment)?

Yes

No

Not sure

The proposal that the route is realigned as a result of coastal change is integral to the vision and to Outcome 1, and therefore should be catered for within the legislation. This may be challenging in some areas, particularly in areas of soft coastline.

The achievement of Outcome 3 will be futhered by the ability to place conditions on access. These are likely to be local conditions to limit or divert access permanently or seasonally. The process for imposing access conditions must be robust. Clear information must be provided to users about any limitations or diversions, including the reasons for their imposition.

29 If so, should it be the responsibility of Natural England or the access authority to plan for and implement such conditions?

The access authority should plan and implement the conditions.

Natural England should be involved in setting guidelines for the use of conditions.

30 Do you agree 10 years is a reasonable timescale for implementation? If not, what period should the implementation programme be over?

Yes

No

Not sure

Subject to the availability of resources, implementation should be possible within a 10 year timescale. However, we are concerned that the estimated budget of £5m per year will be grossly inadequate properly to deliver the vision and achieve the three desired outcomes.

31 Do you have any comments on Natural England’s assessment of costs?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
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We note the Asken Report's findings that 'It is important to recognise that Option 4 contains new legislative proposals and so past experience is less appropriate as a source of guidance on future benefits and costs than for other options, meaning the monetary estimates carry a higher level of uncertainty'. We feel that this is an important factor in assessing the likely costs of Option 4.

Implementation of Option 4, or any mechanism to provide a right of access along the length of the coastline, is likely to be a very expensive process. Significant resources will be required for pre-implementation assessments and planning, the implementation process itself, and post-implementation maintenance and management of the access and other interests. There are also likely to be legal challenges to the new right of access which could be expensive. We feel that the proposed costs have been significantly under-estimated.

32 Do you agree that compensation should not be paid in respect of the new right of access?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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33 If you disagree, in what circumstances do you think compensation should be paid, and why?

Landowner co-operation will ease the way to the successful implementation of coastal access. Without compensation, the process may well become adversarial.

Fair and reasonable compensation should be paid to any landowner who is significantly adversely affected by the new right of access. This should include changes to land management are essential to accommodate a new right of access, or where a new public right significantly impacts on the private enjoyment of property, or on the profits of a business.

34 Do you agree that the reduced level of occupiers' liability introduced for access land under the Countryside and Rights of Way Act 2000 should also apply to coastal access?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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The reduced level of occupiers' liability should be the maximum liability applicable to land affected by new coastal access. The coastal environment can be inherently dangerous, and individuals should be responsible for their own safety.

35 Do you have any comments on Natural England's proposals for complementary work to enhance coastal landscapes and wildlife?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
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This is a good opportunity to improve the coastal environment. We particularly welcome the opportunity to reduce the fragmentation of coastal habitats and to join up coastal landscapes. This will be essential to achieve Outcome 3.

This work needs to be on-going, and not simply part of the implementation. Proper resourcing for this complementary work must be made available. The funding should not simply be a re-targeting of existing funds; new resources must be allocated.

Access should be considered in managed realignment projects but not necessarily impede them even if the quality of access is reduced.

36 Do you have any other general comments on Natural England's proposals for new primary legislation?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
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We consider that it is important that any new legislation should be flexible enough to be applied to best effect over the full range of land types and uses to which it would be applied. This implies that the legislation would not be overly prescriptive, and would allow for new access to be tailored to fit local situations.

It is important that other interests, be they wildlife, historic, landscape, business or personal, are fully taken account of in the introduction of new public rights. We have some concerns that the introduction of new access rights on private property might lead to the erection of screening, such as tall fences or hedges, which would impact adversely on the landscape.

Any new primary legislation should take into account any developing policies on Integrated Coastal Zone Management.

37 Do you agree with Natural England's assessment of the outcomes its recommended approach would deliver?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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The specific details of the recommended approach, including the statutory methodology, are not yet available. We therefore are unable to comment on the assessment of outcomes.

38 Do you agree with our assessment of the likely scale of effect?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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As Option 4 proposes area access, it is felt that an assessment by area 'gain' would have been useful, in addition to an assessment of the linear 'gain'.

The wording in the consultation document implies that under Option 4, 4,000 to 4,870 km of coastal access would be improved to a common standard. In fact, access will only be improved where it needs improving, and no quantification of this length has been attempted. It could equally well be claimed that under Option1, 4,000 to 4,870 km of coastal rights of way would be made available.

Chapter 9: Other issues

39 Do you believe there is a need for higher rights (rights other than a right of access on foot for open-air recreation) around the coast?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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We believe that where it is practical and safe to do so, opportunities should be taken to provide access to the coast for higher rights.

Whilst there are areas where there is local demand for higher rights, we do not consider this to equate to a need for higher rights around the length of the coast.

40 Do you have any information on demand for, and opportunities to provide for higher rights?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
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The Authority has not undertaken any studies of this, but coastal Rights of Way Improvement Plans should provide this information.

41 Do you consider there is a need for more advice or information on possible visitor safety risks being available to the public if access to the coast was improved? If so, are there any particular issues that the advice and information should cover?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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A Coastal Access Code which stresses the need for people to take responsibility for their own safety is required. The Code should also address responsible behaviour.

42 Do you agree with Natural England's advice that improving access to salt marshes and mudflats should not be a national priority in its own right?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Although there are a number of examples where excellent access is available to such areas, to create acceptable and safe new access would be very costly.

43 Are there any other issues we need to take into account in assessing how we might improve access to the English coast?

The proposals concentrate on increasing and improving access around the coastline. We consider that similar consideration, and associated resources, should be given to enabling easier access from inland areas to the coast. This should include the use of public transport, and the provision of access routes for non-motorised users from nearby settlements, and from inland car parks where this will not create an adverse impact on the existing coastal resource. The provision of useful and accurate information should also help to enable those who lack confidence, or who have particular requirements, to access the coast.