

NFNPA 516/17

NEW FOREST NATIONAL PARK AUTHORITY

AUTHORITY MEETING – 19 JANUARY 2017

ENGLAND COAST PATH – ESTABLISHMENT AND MAINTENANCE PLANS

Report by: Mark Holroyd, Transport, Access & Sustainable Tourism Manager

Summary:

As a result of the Marine and Coastal Access Act 2009, Natural England (NE) is in the process of developing plans for a new coastal path around the English coastline, including within the New Forest National Park. Over the last year, NE has been working with landowners to develop a route between Highcliffe and Calshot. This route will be subject to a public consultation in the next few months and will then be determined by the planning inspectorate and the Secretary of State for Environment, Food and Rural Affairs.

As the Access Authority for the National Park, the National Park Authority (NPA) has been asked by Natural England to carry out establishment works to create the new infrastructure for the route once the route has been determined. This report sets out the background to the England Coast Path, our statutory responsibilities and powers, the options for our role in establishment of the route and how the path will be maintained in perpetuity.

Recommendation:

That the Authority agrees to establish the England Coast Path within the New Forest National Park, on behalf of Natural England.

Officers will give members opportunity to comment on the Coastal Access Report when this is published, and inform members when proposals for the Trail Partnership are produced.

1. Introduction

- 1.1 The creation of a public right of access along the English coast for open-air recreation on foot is provided for by the Marine and Coastal Access Act 2009 (MCA). The Act places a duty on Natural England (NE) to secure this access by means of a route and an associated margin of open access land for the public to enjoy. The coastal margin includes both the 'trail' (also referred to as the Coast Path) and 'spreading room' (those parts of the margin other than the trail).
- 1.2 The primary intention of the new coastal access rights is to create more opportunities for the public to enjoy the natural and cultural environment of the coast and to understand it better. NE's approach is to find the best outcome that secures these opportunities whilst ensuring appropriate protection for key sensitive features. This principle is in keeping with NE's statutory purpose to conserve, enhance, and manage the natural environment; and also the National Park purposes. It is also acknowledged that a balance must be struck between the needs of private land owners and benefits to the public.
- 1.3 NE staff have been working to an approved scheme to implement the route which covers most of the complex situations and balances which need to be taken into account. Where a new situation is encountered, NE has a national programme board to resolve issues.
- 1.4 The route through the National Park falls into two stretches: Highcliffe to Calshot, and Calshot to Gosport. This report focusses on Highcliffe to Calshot. The Calshot to Gosport stretch is following six months later and only has a short section within the National Park.
- 1.5 The NPA is the Access Authority for land within the National Park, defined under the Countryside & Rights of Way Act 2000 (CROW). The MCA legislation and subsequent approved scheme for the delivery of the programme; consistently refer to the role of the Access Authority rather than the Highway Authority (which manages Public Rights of Way). The role of NPAs in implementing the route is also referred to in the Government's circular for National Parks in 2010.

2. Progress to date

- 2.1 The five stages of the implementation process are briefly summarised below:
 - Stage one (Prepare) – Define the extent of the coastal stretch in discussion with local access authorities. Ask key organisations about their ideas and concerns for this stretch. Raise awareness of the work that is about to take place through public drop-in sessions.
 - Stage two (Develop) – Contact owners of relevant land, do alignment checks on the ground, share initial thinking with owners and occupiers and offer to 'walk the course' with them if they wish. Plan protection of key sensitive features (e.g. sensitive habitats, heritage features).
 - Stage three (Propose) – Finalise materials and associated maps. Publish them in a statutory report to the Secretary of State (SoS). Invite any representations on the report from anyone who wishes to comment. Invite any objections on the report from owners or occupiers.
 - Stage four (Determine) – Receive any representations or objections. Forward or summarise them to the SoS together with any comments by Natural England.

- Stage five (Open) – Establishment works on approved stretch after discussion with land owners by Access Authority. Any agreed restrictions or dedications implemented. Order brings new public rights into effect.
- 2.2 Officers are currently supporting Natural England with stage 3, and we will provide some support in stage four in the new financial year. We have walked route options to help NE assess new infrastructure requirements, in liaison with landowners where appropriate.
- 2.3 The NE team has engaged positively and constructively with land and property owners along the route. While there is inevitable concern from some, particularly around the impact of ‘spreading room’, from our observations to date engagement has been pragmatic and calm. Objections are inevitable along this stretch but NE staff are doing their best to take landowner views into account to minimise this as much as possible, and going against this only where there is a clear public interest.
- 2.4 The report to the Secretary of State will be completed by the end of March 2017. Shortly after this, an eight week public consultation will take place. Affected landowners can make objections; the public and other organisations can make comments. The Planning Inspectorate will determine the report and respond to objections from landowners.
- 2.5 The New Forest Access Forum has been fully involved about the development of the route and will submit detailed comments on the proposals during the consultation stage. The National Park Authority will also have opportunity to submit comments.

3. Statutory duties and discretionary powers

- 3.1 In association with coastal access, the statutory duties of a National Park Authority are *(the implications are explained in italics)*:
- to provide Natural England with information for the preparation of a coastal access report. *The Authority has an agreement with Natural England to provide this support and is being paid to do so.*
 - to ensure that the public has reasonable access to the coastal margin. *This is our Access Authority responsibility, which we currently hold for CRoW open access land within the National Park. There is currently very little CRoW land within the National Park (the significant amounts of open access land within the National Park pre-date the CRoW Act 2000). The ECP will create new open access land along the coastal margin between the path and the sea, for which we will have the responsibility to ensure public access. Parts of the New Forest route may be some distance from the coast, creating significant amounts of new open access land. It is unlikely there will be significant use of this access land because the natural desire line is to follow the trail itself, but the fear of its use by landowners is the most contentious issue with the route to date. Some of the access land will be ‘excepted land’ that the public will not be able to use (for example, private gardens and the National Nature Reserve at Needs Ore), but distinguishing between excepted and non-excepted land on the ground will be challenging. The Authority will be expected to provide advice to landowners and the public around these issues and take enforcement action where access is restricted unreasonably.*

- 3.2 The following powers enable us to carry out our responsibility to ensure that the public has reasonable access to the coastal margin. They also provide us with optional powers to establish and maintain the path. The powers that an NPA has are:
- to undertake, or to make an agreement with an owner/occupier to undertake, works associated with the establishment and/or maintenance of the coastal route and associated margin
 - to erect and maintain signs and notices, appoint wardens and make byelaws
- 3.3 At the invitation or discretion of NE, an NPA may:
- undertake preliminary activities
 - manage and maintain established coastal access land under a partnership agreement
 - remove signs and notices
 - manage directions to restrict or exclude access

4. Establishment works

- 4.1 Although we have no statutory duty in legislation to complete establishment works for the path, NE is expecting the Access Authority to perform this role on their behalf and the legislation provides us with the powers to do so. In our 2007 response to DEFRA's consultation on the MCA legislation the NPA supported Access Authorities undertaking the implementation role.
- 4.2 From our assessment of the potential route so far, it is likely to be quite 'infrastructure light' requiring new gates, signage, new and replacement culverts, brush cutting and some woodland management. To date no new bridges or major structures have been identified. There will be a small budget for new and replacement interpretation boards.
- 4.3 NE has now asked the NPA to carry out establishment works to create the infrastructure for the route once the route has been determined. We could respond in one of two ways.

Option 1 – We agree to carry out establishment works for NE

On a cost recovery basis from NE, including our staff costs, we would project manage and procure the construction of infrastructure on the route, and ensure it is installed to the appropriate National Trail standard. We are in the process of developing an estimate for these establishment costs. Whilst there is not an unlimited NE budget for this work, we would expect that the work is carried out to a standard commensurate with the route being within a National Park, reflecting the New Forest identity and local distinctiveness.

If we agree to take responsibility for establishment, we would share the work between a Ranger with practical access and/or conservation experience, the Transport, Access & Sustainable Tourism manager or Landscape Officer for project management and the Finance & Procurement Officer for procurement. As the majority of the route is on land managed by a handful of key estates, it may be possible to use existing estate workers to install infrastructure with our supervision.

Likely implications for option 1 are as follows:

- Ensures that the new path is installed to a 'National Park standard', taking into account our Landscape Action Plan and the local distinctiveness of the area.

- Opportunity to develop skills within the NPA around Countryside Access, particularly with Rangers and volunteers, and commission local estate workers to complete the work. These skills can be used more widely in the future to ‘add value’ to the wider public rights of way network. This is an opportunity for the Authority as a whole to have ownership of a key National Park experience.
- An opportunity to maintain and further develop good relationships with local landowners and estates.
- Ensures the NPA has a high level of familiarity with the infrastructure on the route, which will be useful in future maintenance and with management of access to the coastal margin.
- Use of a Ranger to deliver this work may delay or reduce some other areas of work.

Option 2 – We advise Natural England that we will not establish the route

In this situation, NE have indicated they would first approach Hampshire County Council (HCC) to see if they would establish the path. From our own initial discussions with HCC officers it is unlikely they want to perform this role (except possibly where the route uses existing Public Rights of Way) because the legislation gives powers to the Access Authority rather than the Highway Authority. The expectation is that the Access Authority will perform this role.

NE would then look to contract the work out themselves and having full operational responsibility for delivery of works. To date NE have not done this anywhere in England and whilst they may have some small amount of in-house expertise through their National Nature Reserves teams, these staff are relatively few and far between and already stretched to capacity. As such there would inevitably be a delay to Stage 5 of the project whilst they upskill and train staff. This phase would continue to require input from the NPA in terms of agreeing suitability of access furniture, surfacing, etc.

Likely implications for option 2 are:

- There would be only a small resource implication from the establishment phase for the Authority.
- The installation of the path would be out of our control in terms of quality, and quality of landowner engagement.
- We will lack detailed familiarity with the route and access land for ongoing management.
- The infrastructure along the route is less likely to reflect the National Park’s identity and local distinctiveness.
- Our reputation with partner organisations (e.g. by Government, HCC, NE and the New Forest Access Forum) could be damaged because of a perception that we would be avoiding our responsibilities.
- The opening of the route would be delayed.

5. Ongoing maintenance

- 5.1 We do not believe there is a legal responsibility for the NPA to maintain the new path in perpetuity. However, NE is proposing that a Trail Partnership is formed to manage a significant length of the new national trail, rather than individual Access Authorities being asked to manage their own stretches.
- 5.2 The Trail Partnership is currently expecting funding on a 3:1 ratio by NE, with Access Authorities contributing £1 for every £3 NE contributes. A lead Access Authority would

employ a Trail Partnership Officer who will take responsibility for the management of the trail and any maintenance works. This takes the maintenance responsibility away from the NPA directly, and allows us to do as much or as little as we wish to 'add value' to the path in the long term with existing resources, and maintain good working relationships with landowners.

- 5.3 Discussions about the formation of the Trail Partnership are at an early stage. There will need to be an annual funding commitment to this partnership to be determined when the route and infrastructure requirements are finalised. We understand that existing staff resources and in-kind contributions to the management of the route may be eligible match funding.

RECOMMENDATION

That the Authority agrees to establish the England Coast Path within the New Forest National Park, on behalf of Natural England.

Officers will give members opportunity to comment on the Coastal Access Report when this is published, and inform members when proposals for the Trail Partnership are produced.

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Papers: NFNPA 516/17 Cover report
NFNPA 516/17 Annex 1 - Highcliffe-Calshot-stretch-map

Previous Papers: NFNPA 202/07 DEFRA Consultation on proposals to improve access to the English coast: New Forest National Park Authority response. 13 September 2007.

Equality Impact Assessment: There are no equality implications relating to the Authority carrying out the establishment role. The England Coast Path scheme has an accompanying Equality Impact Assessment.