

## Chapter 8. Coastal land use issues

Chapter 8 explains our likely approach to the Coastal Access Duty in relation to common coastal land use issues, in terms of the private interest factors described in part B of the Scheme. The influence of public interests on our decision-making is explained in more detail in chapter 7, which considers coastal land cover and landforms. Sections from each chapter will often be relevant to our approach in a particular circumstance.

Each land use issue is considered in a separate section. The structure of the sections varies slightly according to the land use issue in question:

- Most sections begin with an **overview**. This clarifies the scope of the section and its relationship to other relevant sections where necessary, and may include a brief description of any national limitations on coastal access rights that are likely to be relevant.
- Several sections describe our **general approach to alignment** of the trail and spreading room in relation to the land use issue in question, as background to the more detailed explanation of our likely approach.
- Each section includes a detailed explanation of the **potential land use issue(s) and the likely range of solutions**. This begins with a brief description of the issue(s), referring where necessary to other relevant sections in this chapter; followed by more detailed analysis of the need for intervention in relation to each issue and the likely range of solutions we will consider in order to strike a fair balance.

The sections are arranged as follows:

- 8.1. Bulls
- 8.2. Cattle
- 8.3. Horses and ponies
- 8.4. Sheep
- 8.5. Animals (where not covered elsewhere)
- 8.6. Animal diseases
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- 8.19. Camping and caravanning
- 8.20. Golf courses
- 8.21. Flood and coastal risk management
- 8.22. Military use
- 8.23. Unexploded ordnance
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## 8.1 Bulls

### Overview

- 8.1.1 This section considers concerns arising from the presence of bulls on land with coastal access rights. Section 8.2 considers other types of cattle separately.
- 8.1.2 Any buildings used for housing animals (and the curtilage of such land) will be excepted from coastal access rights, as will land covered by pens used for the temporary reception or detention of livestock. These provisions will help to address some concerns.
- 8.1.3 Dairy or beef bulls<sup>57</sup> may be kept in enclosed fields along the coast but only beef bulls are likely to be present on larger unenclosed areas of coastal land. Dairy bulls are normally housed away from areas with public access, but may be run with cattle on land with coastal access rights for three to six weeks each year. The time when this happens varies according to when calves are required.

### Potential issues and likely range of solutions

- 8.1.4 Concerns are most likely to arise in relation to the threat to public safety posed by bulls (see below). Concerns relating to animal diseases are considered separately in section 8.6.

#### *The need for intervention*

- 8.1.5 Where bulls are kept as part of a business, requirements apply under health and safety at work legislation for the person or company responsible to assess any risks they pose to the public, and to put in place such measures as are reasonably practicable to control these risks adequately. There is also strict liability under section 2 of the Animals Act 1971 for any injury or damage caused by animals in certain defined circumstances. Land managers may in practice already undertake informal management in connection with these wider obligations (see section 6.2), and this may limit any need for further intervention.
- 8.1.6 Intervention is most likely to be necessary where dairy bulls<sup>58</sup> or lone bulls of 'beef' breeds are present. The presence of dogs is unlikely to be a factor, provided that they are kept on a short lead where required under Schedule 2 to CROW. The need for intervention will vary according to a wide range of other factors which Natural England will weigh carefully before reaching a decision in any particular case:
- the degree of enclosure (they may feel more threatened in confined areas and are more likely to exhibit territorial behaviours);
  - their age (bulls under ten months of age are not normally aggressive);
  - their breed (dairy breeds tend to be most aggressive);
  - the temperament of the particular bull;
  - whether the bull is running with other cattle (which tends to reduce aggressiveness);
  - whether the bull is handled frequently or used to the presence of other people in their territory; and
  - the pattern of public use, in particular whether the routes which people are known to use or are likely to follow would bring them into proximity with the bull.
- 8.1.7 Where there are concerns about an individual animal we will discuss its temperament with its handler. Some or all of the following factors are likely to be relevant in building up a profile of an individual animal:
- the overall assessment of the handler regarding the degree of danger posed by the bull to the public;
  - whether the animal has a history of aggression towards people and if so under what circumstances those attacks occurred;

<sup>57</sup> A bull is an uncastrated male. Castrated males are known as bullocks or steers. Risks to the public from steers are considered separately – see '8.2- Cattle'.

<sup>58</sup> Recognised dairy breeds include Ayrshire, Friesian, Holstein, Dairy Shorthorn, Guernsey, Jersey and Kerry.

- whether members of the public are likely to find themselves in similar circumstances to a situation that led to previous attacks;
- whether the bull is handled frequently or if it is used to the presence of other people in its enclosure;
- whether the handler would consider splitting the bull from the main herd and housing it elsewhere; and
- whether the handler culls aggressive animals.

*Alignment solutions*

- 8.1.8 We may align the trail so that it avoids a field where a bull is normally kept, or provide an alternative route at times when it is necessary to exclude access because the bull is present. We will always consider these options in relation to dairy bulls and lone bulls of beef breeds.
- 8.1.9 We may also consider the options above in relation to a field where beef bulls are run with cattle, even if it is the most convenient route along the coast. We are likely to do this if the field is so small that it would be impossible for the livestock and access users to avoid each other.
- 8.1.10 Should we conclude that the most appropriate alignment for the trail is through a field where beef bulls are run with cattle, the trail will normally follow its seaward edge. Livestock tend to keep their distance from people, so this approach will minimise any potential contact with access users.
- 8.1.11 It may be possible to make further simple adjustments for safety reasons without any significant affect on amenity. For instance, upon advice from the land manager, we may align the path to avoid a watering station or area where the animals congregate to shelter. These measures will often be sufficient to address risks posed by beef bulls running with cattle.
- 8.1.12 When considering whether to use our discretion to include an area landward of the trail as spreading room, we will take into account any use made of it for grazing a bull in addition to the general criteria set out in section 4.8. We may decide not to propose spreading room on land where a bull would be present all year or for the greater part of the year, if it would be necessary to exclude access on public safety grounds at those times (see below).
- 8.1.13 Land on the seaward side of the trail will automatically qualify as spreading room unless it is excepted land or subject to access exclusions, as will other land of specific coastal land types – see section 4.8. We are likely to consider the use of informal management or directions where necessary to address concerns about the use of the affected land for grazing a bull.
- Informal management techniques*
- 8.1.14 Livestock keepers are advised wherever bulls are kept on land with public access rights to use standard warning symbols to alert visitors to their presence<sup>59</sup>. Any general information we provide for people visiting the coast may also advise them to keep their distance from bulls, to move slowly following field boundaries where possible and to keep their dogs on leads in the vicinity of livestock as they are required to do.
- 8.1.15 Where there are significant dangers, we will also discuss with the land manager as part of the suite of possible options whether they see any scope to relocate the animals to enclosures where there are no access rights. We will do this in accordance with the principles at paragraph 5.2.4.

*Directions to restrict or exclude access*

- 8.1.16 The Wildlife and Countryside Act 1981 prohibits the keeping of dairy bulls or lone

<sup>59</sup> Any signs warning of potentially dangerous animals should be in accordance with the Health and Safety (Safety Signs and Signals) Regulations 1996. Guidance on the design of standard warning symbols is provided by the Health and Safety Executive at <http://www.hse.gov.uk/pubns/books/l64.htm>

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bulls of other breeds in fields crossed by public rights of way<sup>60</sup>. Directions will therefore be unnecessary to prevent danger from them where the trail is aligned along a public right of way through a field.

8.1.17 We are likely to use directions to exclude access from other fields where dairy bulls (whether alone or running with cows) or lone beef bulls are kept to prevent danger to the public, where no suitable alternative grazing is available.

8.1.18 Dairy bulls (whether alone or running with cows) and lone beef bulls are very unlikely to be kept in large open areas. Directions are therefore unlikely to be necessary in these circumstances.

8.1.19 Exclusion may occasionally be necessary where a beef bull is running with cows, if we conclude from our assessment that warning signs are inadequate to address the risk from the particular bull in question and that suitable alternative grazing is not available. However:

- This is unlikely to be necessary where bulls are kept on large open areas of spreading room, because livestock will normally keep their distance from areas and routes that visitors frequent.
- Directions have no effect on public rights of way where they exist, so we will only give a direction in circumstances where we believe that confining access to the right of way would significantly reduce the risks.

8.1.20 We will normally propose the provision of an alternative route at times when access to the trail is excluded in any of the circumstances described above, provided this can be done at reasonable cost. Where the need arises after the relevant coastal access report has been approved by the Secretary of State, we may provide a temporary route for this purpose – see figure 17 in chapter 6 of the Scheme.

*Figure 30 in chapter 9 illustrates how a direction might be used to exclude access to land where a bull is kept.*

## 8.2 Cattle

### Overview

8.2.1 This section considers concerns arising from the presence of cattle on land with coastal access rights. Section 8.1 considers risks from bulls separately.

8.2.2 A great deal of land grazed by cattle has public access, showing that the two uses are generally compatible. Concerns are significantly more likely where people bring dogs with them. Two national requirements help to address these concerns:

- It is an offence under the Dogs (Protection of Livestock) Act 1953 to allow dogs to attack or chase livestock.
- On land with coastal access rights, people are required to keep dogs on short leads in the vicinity of livestock – see section 2.4.

8.2.3 In addition any buildings used for housing cattle (and the curtilage of such land) will be excepted from coastal access rights, as will land covered by pens used for the temporary reception or detention of livestock. These provisions will also help to address some concerns.

### Potential issues and likely range of solutions

8.2.4 Concerns may arise in relation to potential danger to the public from cattle, disturbance to cattle from public access, or both. The two concerns are related. The options for addressing them are similar in many instances, and are therefore considered together below. Concerns relating to animal diseases are considered separately in section 8.6.

*The need for intervention*

8.2.5 Although cattle normally tolerate people well, because of their size they can

<sup>60</sup> In this context the term 'fields' does not include areas such as open fell or moorland.

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present a significant threat of injury or even death if they feel threatened or, in particular, if they are protecting their young. Fortunately such incidents are rare and their likelihood can be reduced significantly provided that the public treat animals with respect and act responsibly.

8.2.6 Where cattle are kept as part of a business, requirements apply under health and safety at work legislation for the person or company responsible to assess any risks they pose to the public, and to put in place such measures as are reasonably practicable to control these risks adequately. There is also strict liability under section 2 of the Animals Act 1971 for any injury or damage caused by animals in certain defined circumstances<sup>61</sup>. Land managers may in practice already undertake informal management in connection with these wider obligations (see section 6.2), and this may limit any need for further intervention.

8.2.7 Land managers may also be concerned about disturbance to cattle, insofar as heavily pregnant cattle may abort or give birth prematurely if chased by dogs.

8.2.8 Intervention is therefore most likely to be necessary to address either concern when cattle are calving or have calves at foot in fields on land with coastal access rights. Steers<sup>62</sup> and heifers<sup>63</sup> are naturally boisterous, and this may sometimes appear to visitors to be aggressive behaviour, but it rarely results in injury.

8.2.9 The need for intervention may be greater in narrow or constrained areas where cattle tend to congregate, as it is less likely that the cattle will be able to keep their distance from visitors. Such circumstances include:

- cliff slopes, or small enclosures where close proximity is unavoidable;
- areas where the topography or vegetation makes it difficult for people or cattle to be aware of each other's presence and so keep at a safe distance; and
- areas where the established or predicted patterns of access coincide with places favoured by the cattle, such as watering or feeding stations which cannot be placed in less sensitive areas.

8.2.10 The need for intervention may also relate to the temperament of a herd or individual animal. Quite often there is more variation in temperament within breeds than between them, so it is not possible to specify whether a restriction is necessary on the basis of breed alone. Where there are concerns about temperament we will discuss them with the handler in order to decide what intervention is necessary, if any. Some or all of the following factors are likely to be relevant to our assessment:

- their assessment of the degree of danger posed by the cattle to the public;
- whether the animals have a history of aggression towards people and if so under what circumstances those attacks occurred;
- whether it is the herd or the individual that has aggressive tendencies;
- whether members of the public are likely to find themselves in similar circumstances to the situation that led to previous attacks;
- whether the cattle are handled frequently or are used to the presence of other people or dogs in their enclosure;
- whether the handler would consider splitting the animals from the main herd and housing them elsewhere; and
- whether the handler culls aggressive animals.

### *Alignment solutions*

8.2.11 The trail may cross land grazed by cattle if it is the most convenient route along

<sup>61</sup> Reform of the Animals Act is widely supported but would require primary legislation.

<sup>62</sup> A steer is a young castrated male, usually raised for beef.

<sup>63</sup> A heifer is a young cow, especially one that has not yet given birth to a calf.

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the coast. On intensively managed grazing land it will normally follow the seaward edge of the field. This approach will minimise any potential contact between cattle and access users.

8.2.12 It may be possible to make further simple adjustments for safety reasons without any significant effect on amenity. For instance, on advice from the land manager, we may align the path to avoid a watering station or area where the cattle congregate to shelter. These measures will often be sufficient to address risks posed by cattle.

8.2.13 Exceptionally, we may align the trail so that it avoids a field in which cattle are usually kept, even if it is the most convenient route. We will consider this option if the field is so small that it would be impossible for the cattle and access users to avoid each other.

8.2.14 Land on the seaward side of the trail will qualify automatically as spreading room unless it is excepted land or subject to access exclusions, as will other land of specific coastal land types where landward of the trail – see section 4.8. We will also often use our discretion to propose grazing land on the landward side of the trail as additional spreading room, in accordance with the criteria in section 4.8. Where there are concerns about spreading room access – either in respect of public safety or disturbance to animals – we will normally consider the use of either informal management or directions where necessary to address them.

*Informal management techniques*

8.2.15 Cattle will naturally avoid visitors when calving, especially on large open areas of spreading room, and it is reasonable to expect visitors to avoid cattle provided steps have been taken to alert them to the risks and precautions. Informal management techniques may also be used to prevent cattle and visitors from coming into close proximity. Depending on local circumstances this might include:

- exploring with the land manager the scope for relocating the animals during the calving period to enclosures where there are no access rights;
- relocating cattle watering or feeding stations away from routes or areas frequented by the public, provided this can be achieved without unreasonable cost or inconvenience to the land manager;
- marking the trail clearly to steer visitors away from areas favoured by cattle; and
- signs or symbols alerting people to the presence of cattle and reminding them to keep dogs on a short lead in the vicinity of livestock on land with coastal access rights.

8.2.16 Any general information we provide for people visiting the coast (for example leaflets, or signs at nearby car parks) may include more detailed advice about appropriate behaviour around cattle.

*Directions to restrict or exclude access*

8.2.17 Directions are unlikely to be necessary to prevent disturbance to cattle. The national requirement on people with dogs will normally be adequate to address this concern.

8.2.18 The solutions described above will often be adequate to prevent danger to the public too. However, directions are available as an additional measure for land management purposes where we conclude that they are necessary in specific circumstances, for example:

- in places where it is difficult for visitors (particularly those with dogs) and cattle that are calving or have calves at foot to maintain a safe distance from one another, in particular where stocking densities are high;
- where we conclude that it is necessary on the basis of the temperament of a herd or individual animal.

8.2.19 Where necessary directions for this purpose will normally exclude people with dogs from the affected area.

8.2.20 Directions are unlikely to be necessary when cattle are pregnant but not yet

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calving, as they are generally more docile during pregnancy. It is the maternal instinct that occurs at calving that could cause cattle to become more aggressive. The maternal instinct decreases over time, so it is unlikely that a restriction of over three months will be necessary unless there are special circumstances.

8.2.21 Under some farming systems, cattle will be housed for part of the year. It will be necessary to establish the periods in which the cattle will be grazed on the land in order to determine the period when restriction is necessary. An outline direction may be appropriate where the grazing period varies from year to year. This would specify the circumstances when the restriction will be necessary and the number of days in each year when access may be restricted for the purpose.

8.2.22 Directions have no effect on public rights of way so where they exist, we will only give a direction in circumstances where we believe that confining access to the public right of way would significantly reduce the risks.

8.2.23 It is unlikely to be appropriate to exempt people with assistance dogs<sup>64</sup> from any special dog controls for this purpose. The reaction of cattle to the presence of dogs is not always driven by the temperament of the dog in question.

*Figure 30 in chapter 9 illustrates how a direction might be used to manage access to land when cattle are calving.*

## 8.3 Horses and ponies Overview

8.3.1 There is widespread public access on land grazed by horses and ponies, showing that the two land uses are broadly compatible. Where there are concerns about disturbance to horses or ponies, these usually relate to the presence of dogs. Two national provisions help to address these concerns:

- It is an offence under the Dogs (Protection of Livestock) Act 1953 to allow dogs to attack or chase livestock.
- On land with coastal access rights, people are required to keep dogs on short leads in the vicinity of livestock – see section 2.4.

8.3.2 In addition any buildings used for housing horses and ponies (and their curtilage) will be excepted from coastal access rights, as will land covered by pens used for their temporary reception or detention. These provisions will also help to address some concerns.

### Potential issues and likely range of solutions

8.3.3 The national requirements described above will usually be sufficient to prevent disturbance. However, concerns occasionally arise relating to danger to the public from horses or ponies. These are considered in more detail below. Concerns relating to animal diseases are considered separately in section 8.6.

#### *The need for intervention*

8.3.4 Intervention will often be unnecessary. Horses and ponies quickly become accustomed to the presence of visitors and are unlikely to be troubled by them, provided that people behave responsibly and keep their distance.

8.3.5 Where horses or ponies are kept as part of a business, requirements will apply under health and safety at work legislation for the person or company responsible to assess any risks they pose to the public, and to put in place such measures as are reasonably practicable to control these risks adequately. There is also strict liability under section 2 of the Animals Act 1971 for any injury or damage caused by animals in certain defined circumstances. Land managers may in practice already undertake informal management in connection with these wider obligations (see section 6.2), and this may limit any need for further intervention.

<sup>64</sup> See entry for 'assistance dog' in part B of the glossary.

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- 8.3.6 Public safety concerns are most likely to arise where there are either:
- stallions with a herd, which may react aggressively if they feel their herd is threatened – for example if visitors are very noisy or walk through the herd and separate it; or
  - mares with foals, which may react defensively if visitors approach them.
- 8.3.7 Special intervention may occasionally be necessary where the behaviour of a stallion is known to be aggressive. Stallion behaviour will vary according to the temperament of the animal and the size of the enclosure where they are put out to graze. Where there are concerns we will question the handler in order to build up a profile of the animal's temperament before deciding what action – if any – is necessary.

*Alignment solutions*

- 8.3.8 The trail may cross land grazed by horses or ponies if it is the most convenient route along the coast. In enclosed areas, it will normally follow the seaward edge of the field. This approach will minimise any potential contact between the horses and people.
- 8.3.9 It may be possible to make further simple adjustments for safety reasons without any significant effect on amenity. For instance, on advice from the land manager, we may align the path to avoid a watering station or area where the horses or ponies congregate to shelter. These measures will often be sufficient to address any risks.
- 8.3.10 Exceptionally, we may align the trail so that it avoids an enclosure in which horses and ponies are usually kept, even if it is the most convenient route. We will consider this option if the field is so small that it would be impossible for the horses and ponies and access users to avoid each other.
- 8.3.11 Land on the seaward side of the trail will automatically qualify as spreading room unless it is excepted land or subject to access exclusions, as will other land of specific coastal land types – see section 4.8. In addition we will often use our discretion to propose grazing land on the landward side of the trail as spreading room, in accordance with the criteria in section 4.8. Where there are concerns about spreading room access – either in respect of public safety or disturbance to horses or ponies – we will consider whether informal management or directions are necessary to address them.

*Informal management techniques*

- 8.3.12 Signs may be used if necessary to warn visitors not to approach the animals or feed them, and remind them of the national requirements described in section 8.3.1.
- 8.3.13 Keepers may elect to run temperamental animals on land which is not publicly accessible where this is available. We will discuss this possibility with them where there are concerns.

*Directions to restrict or exclude access*

- 8.3.14 The techniques and national provisions mentioned above will normally be sufficient to address any risk. Directions may be used in relation to particular animals if there is no suitable alternative land on which they may be grazed. This is most likely to be necessary in small enclosures where aggressive stallions or mares with foals are present - particularly if the stocking density is high.
- 8.3.15 Where necessary directions are likely to restrict people with dogs to the route of the trail. This will establish a consistent pattern of access for people with dogs, which will enable the horses and ponies to become used to the areas of the enclosure where dogs may be present and to avoid them.

**8.4 Sheep**

**Overview**

- 8.4.1 Sheep will often keep their distance from visitors. They are not usually troubled by considerate public use and can habituate to it well.



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- 8.4.2 Several national provisions also help to reduce the potential for disturbance significantly:
- Land covered by pens in use for the temporary reception or detention of livestock is excepted from coastal access rights.
  - It is an offence under the Dogs (Protection of Livestock) Act 1953 to allow dogs to attack or chase livestock.
  - On land with coastal access rights, people are required to keep their dogs under effective control – see section 2.4. This includes a requirement to keep dogs on short leads in the vicinity of livestock.

8.4.3 In addition any buildings used for housing sheep (and their curtilage) will be excepted from coastal access rights, as will land covered by pens used for their temporary reception or detention. These provisions will also help to address some concerns.

**Potential issues and likely range of solutions**

8.4.4 The main potential concern is disturbance from dogs of heavily pregnant ewes or lambs during the lambing season. There may also sometimes be concerns regarding danger to the public from rams known to have a difficult temperament. The range of potential solutions is similar in relation to both concerns and they are considered together below.

8.4.5 Concerns relating to animal diseases are considered separately in section 8.6.  
*The need for intervention*

8.4.6 When sheep are heavily pregnant or have young lambs at foot, disturbance by dogs can significantly increase the risk of ewe or lamb mortality. Sheep are also vulnerable to disturbance during gathering or handling.

8.4.7 The potential for disturbance in these circumstances is likely to depend on the patterns and levels of public access, in particular the route of the trail and any other popular secondary routes across the spreading room. Intervention is also more likely to be necessary in small enclosures than on large or unenclosed areas, where contact between dogs and sheep is less likely.

8.4.8 Rams occasionally respond aggressively to visitors if they feel provoked. Intervention may occasionally be necessary to prevent danger to the public where this is a concern.  
*Alignment solutions*

8.4.9 The trail may pass over land where sheep are grazed if it is the most convenient route along the coast. In enclosed areas, it will normally follow the seaward edge of the field. This will help to minimise close contact between people and livestock and so reduce the risk of disturbance or, where rams are present, injury to visitors.

8.4.10 It may be possible to make further simple adjustments to prevent disturbance without any significant affect on amenity. For instance, on advice from the land manager, we may align the path to avoid a watering station or area where the sheep congregate to shelter.

8.4.11 Exceptionally, we may align the trail so that it avoids an enclosure in which sheep are usually kept, even if it is the most convenient route. We will consider this option if the field is so small that it would be impossible for the sheep and access users to avoid each other.

8.4.12 Access will normally be excluded from salt marsh, which may be grazed. Other grazing land will automatically qualify as spreading room if seaward of the trail unless it is excepted land or subject to access exclusions, as will any other land of specific coastal land types – see section 2.1. We may also use our discretion to propose land where sheep are kept as spreading room on the landward side of the trail, in accordance with the criteria in section 4.8. Where there are concerns about spreading room access in relation to disturbance to sheep we will normally address these either through informal management or directions as necessary.

*Informal management techniques*

- 8.4.13 Where people follow predictable routes, sheep habituate more easily to the presence of visitors. Clear way-marking can be used to encourage visitors to use the trail and other preferred routes over spreading room.
- 8.4.14 Signs may be used if necessary during the lambing period to remind visitors of the national requirement to keep dogs on a short lead in the vicinity of livestock and to explain the threat that dogs may represent to heavily pregnant ewes or young lambs, and the need to leave young lambs alone because of the risk of rejection or separation from the ewe.
- 8.4.15 Temporary signs may also be used during the handling or gathering operations to ask visitors to keep to the trail and/or other preferred routes. Such requests for co-operation will usually be sufficient to prevent disruption, even though the public are not obliged to obey such requests.
- 8.4.16 Where the behaviour of a particular ram concerns the keeper, it will normally be sufficient for signs to request visitors not to approach it.
- 8.4.17 It may also be possible for the land manager to consider positioning water and food supplements to encourage the sheep to use less visited areas, or to use suitable alternative land to graze the sheep during lambing and other sensitive periods. We will discuss these possibilities with the land manager where appropriate as part of the suite of possible options.

*Directions to restrict or exclude access*

- 8.4.18 The national requirements with respect to dog control will limit the need for directions in relation to the concerns above.
- 8.4.19 Directions are unlikely to be necessary to prevent danger to the public from rams provided that there are warning signs to alert the public to the danger.
- 8.4.20 In relation to the other issues affecting sheep, directions are unlikely to be necessary on sites larger than 15 hectares unless visitor use is unusually high and spread across the site. If the trail passes through smaller enclosures that will be used:
  - for periodic gathering or handling; or
  - by heavily pregnant ewes or ewes with young lambs at foot,
 we will consider whether to use directions as an additional measure.
- 8.4.21 In these circumstances we will typically use directions to restrict visitors to the trail and/or other preferred routes during the sensitive period.

**8.5 Animals (where not covered elsewhere)**

**Overview**

- 8.5.1 There is widespread public access on land grazed by farm animals and the two uses are generally compatible. Where there are concerns, these vary according to the type of animal kept on the land. Common types of livestock such as cattle and sheep are considered in separate sections. This section explains our approach to concerns about access around other animals not covered elsewhere, for example pigs or poultry.
- 8.5.2 Any buildings used for housing animals (and their curtilage) will be excepted from coastal access rights, as will land covered by pens used for the temporary reception or detention of livestock. There are also relevant legal requirements in relation to dogs (see figure 21). These provisions will help to address some concerns.

**Potential issues and likely range of solutions**

- 8.5.3 Concerns may relate to public safety, disturbance to animals or both. Concerns relating to animal diseases are considered separately in section 8.6.

*The need for intervention*

- 8.5.4 Figure 21 summarises the factors which are likely to influence our decision as to whether any intervention is necessary for either reason.

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Figure 21

The need for intervention in relation to animals kept on coastal land

Factor	Concern	Consideratons
Visitor awareness	Public safety and disturbance	Depending on their knowledge and experience, visitors may take account of the presence of animals without being prompted. In areas of frequent public use, or where visitors are likely to be unfamiliar with the animals encountered, it may be advisable to provide information on safe and considerate behaviour.
Timing, level and pattern of public use	Public safety and disturbance	Some animals become habituated to human presence. Intervention may be necessary where expected peak levels of public use are likely to cause significant disturbance or where key routes correspond with areas frequented by animals.
Dogs	Public safety and disturbance	Animals that are normally tolerant of human presence may feel threatened by the presence of dogs. On land with coastal access rights people are required to keep dogs on a short lead in the vicinity of livestock – see section 2.4. It is also an offence under the Dogs (Protection of Livestock) Act 1953 to allow dogs to attack or chase livestock. These general provisions will limit the need for further intervention.
Relevant legal provisions	Public safety only	Where animals are kept as part of a business, requirements apply under health and safety at work legislation for the person or company responsible to assess any risks they pose to the public, and to put in place such measures as are reasonably practicable to control these risks adequately. There is also strict liability under section 2 of the Animals Act 1971 for any injury or damage caused by animals in certain defined circumstances. Land managers may in practice already undertake informal management in connection with these wider obligations (see section 6.2), and this may limit any need for further intervention.
Stocking density, degree and character of enclosure	Public safety and disturbance	Close contact between visitors and animals is more likely to occur: <ul style="list-style-type: none"> <li>■ where stocking densities are high;</li> <li>■ in small, enclosed fields than in more open areas;</li> <li>■ where vegetation and topography conceal animals from visitors.</li> </ul>
Animal temperament	Public safety only	The temperament of individual animals may be relevant in deciding whether (and, if so, to what extent) intervention is necessary. The assessment criteria in section 8.2 (cattle) may be relevant to other domestic animals for this purpose. Animal temperament can also vary according to the time of the year. For instance, stags may pose significant risks to public safety during the rut, as could hinds that have recently calved or are about to calve.

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*Alignment solutions*

- 8.5.5 The trail may cross land where animals are kept, if it is the most convenient route along the coast. In enclosed areas, it will normally follow the seaward edge. This approach will help to minimise close contact between people and animals kept there.
- 8.5.6 It may be possible to make further simple adjustments for operational reasons without any significant effect on amenity. For instance, on advice from the land manager, we may align the path to avoid a watering station or area where the animals congregate to shelter.
- 8.5.7 In some circumstances we may align the trail so that it avoids an enclosure in which animals are usually kept, even if it is the most convenient route along the coast. For example we will consider this option if the field is so small that it would be impossible for the animals and access users to avoid each other.
- 8.5.8 Land on the seaward side of the trail will qualify automatically as spreading room unless it is excepted land or subject to access exclusions, as will other land of specific coastal land types – see section 4.8. We will often use our discretion to propose grazing land on the landward side of the trail as additional spreading room, in accordance with the criteria in section 4.8. Where there are concerns about spreading room access – either in respect of public safety or disturbance to animals – we will normally consider the use of either informal management or directions where necessary to address them.

*Informal management techniques*

- 8.5.9 Animals will usually avoid visitors, especially on large open areas of spreading room, and it is reasonable to expect visitors to avoid animals. Clear way-marking of the trail and any secondary routes across the affected land will help to ensure this.
- 8.5.10 Signs may be placed at entry points to remind visitors of the requirement to keep their dogs on leads in the vicinity of livestock. Any general information we provide for people visiting the coast (for example leaflets, or signs at nearby car parks) may include more detailed advice about appropriate behaviour around livestock.
- 8.5.11 We may explore, as part of the suite of possible options, whether the land manager sees any scope for other techniques to address any further concerns. Depending on local circumstances these might include:
- positioning feeding and watering areas away from the trail or other routes that the public are likely to use, if this can be achieved without unreasonable cost or inconvenience to the land manager;
  - grazing animals on alternative land, for example at particular times when disturbance or danger is likely to be more significant than usual; and
  - providing information<sup>65</sup> to the public on safe and considerate behaviour towards the animals, e.g. walking along field margins, avoiding coming between mothers and young.

We will do this in accordance with the principles at paragraph 5.2.4.

*Directions to restrict or exclude access*

- 8.5.12 The solutions described above will usually be adequate to prevent danger to the public or disturbance to animals. We may use directions where other solutions are unavailable or we conclude at any stage that they are inadequate to meet a need.
- 8.5.13 This is only likely to be so when animals are in small fields and enclosures where it is more difficult for animals and people to avoid each other, and which are likely to be subject to frequent public use – for example, because the trail passes through them.
- 8.5.14 Directions may be given for land management purposes (in relation to disturbance) or to prevent danger to the public, or both. The form of the direction will also vary according to the circumstances. For example it may depend, in relation to the animal concerned, on whether it is only the presence of dogs that causes a problem or whether the presence of people is also relevant.

<sup>65</sup> Any signs warning of potentially dangerous animals should be in accordance with the Health and Safety (Safety Signs and Signals) Regulations 1996.

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8.5.15 Where necessary, directions will typically restrict access to the trail in the affected area. This will establish a consistent pattern of access, which will enable most animals to become accustomed to public access and avoid the trail at times of frequent use. We will normally propose the provision of an alternative route if it is necessary to exclude access to the trail for this purpose, provided this can be done at reasonable cost.

8.5.16 Animals may tolerate the presence of an assistance dog, provided it has been trained not to act in any way that might disturb them. Therefore, in any areas where dogs are excluded to prevent disturbance, we may decide, after discussion with the land manager, to specify in the direction notice that a person may bring an assistance dog, provided it has been trained by an accredited trainer to behave appropriately in the circumstances and that it is kept on a short lead. This type of exemption is unlikely to be appropriate in relation to directions to prevent danger to the public.

## 8.6 Animal diseases

### Overview

8.6.1 All animals naturally carry a range of micro-organisms that can cause diseases. Buildings used for housing livestock (and their curtilage) are excepted from coastal access rights, as is land covered by pens used for the temporary reception or detention of livestock. This will help address many concerns.

### Potential issues and likely range of solutions

8.6.2 In relation to coastal access rights, concerns may arise that animal diseases<sup>66</sup>.

- are potentially harmful to people (public safety concerns); or
- may be spread by people from one place to another (land management concerns).

#### *Public safety concerns*

##### *The need for intervention*

8.6.3 Some diseases carried by animals (called zoonoses) can be transmitted to humans, and may cause ill health or exceptionally even death, but ill health as a result of visiting the countryside is unusual. Such diseases are typically transmitted to humans by touching animals or by direct contact with animal products including dung, urine, placental material or carcasses. A few diseases may also be waterborne (e.g. Leptospirosis) or present in ticks (e.g. Lyme disease).

8.6.4 Intervention will not normally be necessary to protect visitors from animal diseases, except in areas where particular diseases are naturally prevalent.

#### *Alignment solutions*

8.6.5 It will usually be possible in discussion with the land manager to align the trail so that it avoids close proximity to areas where the public would be at significant risk such as yards and handling areas. This will limit the need for further intervention.

#### *Informal management techniques*

8.6.6 Beyond the normal aspects of good husbandry (for example, adopting safe working techniques, vaccination of animals, isolation of sick animals) further intervention will not normally be necessary to protect visitors from diseases carried by farm animals.

8.6.7 At some farms visitors are encouraged to have direct contact with animals, but these arrangements are not part of the general rights of access and are at the discretion of the farm manager. Where they happen, the farm manager may advise visitors on common sense precautions to prevent infection or spread of disease, for example washing hands and clothes after a visit and before eating, drinking or smoking.

8.6.8 In areas of the coast where diseases spread by wild animals (such as Lyme disease and *Leptospirosis*) are naturally prevalent we may, after discussion with the appropriate authorities, provide targeted information about precautions visitors should take.

<sup>66</sup> Criteria set 8 of our relevant authority guidance provides background information about animal disease and its management in England and Wales: <http://www.naturalengland.org.uk/ourwork/enjoying/places/openaccess/restrictions.aspx>

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*Directions to restrict or exclude access*

8.6.9 Animal health legislation<sup>67</sup> provides animal health and appropriate veterinary bodies with access prohibition powers which can be used to control public access where it is considered necessary to contain the spread of a notifiable disease such as foot and mouth. In practice these powers are more likely to be necessary to contain the spread of the disease between animals (see 'land management concerns' below) than for public health protection. Any such prohibitions for either purpose would automatically prevail over the coastal access rights. Directions are therefore unnecessary to protect the public from disease.

**Land management concerns**

*The need for intervention*

8.6.10 There are sometimes concerns about visitors and their dogs helping to spread animal disease. In practice, other types of movement (e.g. of sick animals, contaminated products, equipment, vehicles and animal handlers) are generally considered far more significant factors in promoting any spread that occurs.

8.6.11 Intervention in relation to coastal access rights will not normally be necessary as a control measure unless there is an outbreak of a notifiable disease and if it is judged necessary by the authorities to introduce temporary measures to manage public access to contain the disease until it has been brought under effective control.

8.6.12 There is evidence of a link between dog faeces and Neosporosis (in cattle) and Sarcocystosis (in sheep). Special measures may therefore be advisable to prevent contamination locally, either where there is already an outbreak of either disease or in an area used heavily for dog walking and where livestock may therefore be considered at particular risk from this potential source of infection.

8.6.13 Some intensive commercial pig and poultry enterprises may be subject to more stringent biosecurity requirements than normal. We will discuss these with the land manager where they arise before deciding whether and, if so, to what extent intervention is necessary in relation to coastal access.

*Alignment solutions*

8.6.14 It will usually be possible in discussion with the land manager to align the trail so that it avoids close proximity to areas where direct contact with animals is likely. This will limit the need for further intervention.

*Informal management techniques*

8.6.15 Signs may be placed requesting any necessary precautions in areas of concern, for example the need to avoid direct contact with animals and the requirement to keep dogs on leads in the vicinity of livestock (see section 2.4).

8.6.16 Where there are concerns about the spread of disease through dog faeces, signs should encourage people to help control the spread of disease, for example by worming dogs regularly, picking up after their dogs and disposing of waste carefully.

*Directions to restrict or exclude access*

8.6.17 Animal health legislation<sup>68</sup> provides animal health and appropriate veterinary bodies with access prohibition powers which can be used to control public access where it is considered necessary to enable the containment of a notifiable disease such as foot and mouth. Any such prohibitions automatically prevail over the coastal access rights. Directions are therefore unnecessary to contain notifiable diseases.

8.6.18 Directions are unlikely to be necessary in relation to normal farm biosecurity requirements, but may be considered in exceptional circumstances where other solutions are unavailable or where we conclude at any stage that they are inadequate to meet a particular need.

<sup>67</sup> Public access may be prohibited for this purpose by means of powers provided by orders made under section 23 of the Animal Health Act, or by regulations made under the European Communities Act 1972, depending on the disease in question.

<sup>68</sup> See footnote 82.

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## 8.7 Crops

### Overview

8.7.1 This section assesses the case for specific measures to prevent damage to crops. It covers both recently sown crops such as cereals and 'long rotation crops' such as trees, game cover crops, wildlife margins, and grass grown for hay or silage. Section 8.15 (pesticides) and section 8.13 (work operations) may also be relevant to crop management.

8.7.2 Land on which the soil is being, or has at any time within the previous twelve months been, disturbed by any ploughing or drilling for the purpose of planting or sowing crops or trees is excepted land – but there is provision for the trail to pass over it on an access strip (see section 2.1). Even where this happens, no additional spreading room may be created on such land to either the landward or seaward side of the trail. This will limit the need for intervention in relation to public access in these circumstances.

8.7.3 Long rotation crops such as trees, game cover crops, wildlife margins and grass grown for hay or silage will not for this reason be treated as excepted land once twelve months have elapsed after sowing.

### Potential issues and likely range of solutions

8.7.4 Concerns are most likely to arise in relation to trampling of crops by people or their dogs or contamination of crops by dog faeces. The two issues are considered together in this section.

#### *The need for intervention*

8.7.5 Crops are often obvious to the general public. People can be expected to avoid walking on them provided that the trail itself is adequately way-marked, and the route left unsown. Further intervention may be necessary in some circumstances, for example:

- Litter can contaminate crops or interfere with harvesting.
- Food crops such as salads and strawberries are vulnerable to contamination by dog faeces or urine, because:
  - The part of the plant which is harvested is close to the ground; and/or
  - The plant is sold or (in many cases) eaten without further processing.
- Hay and silage are also vulnerable to this sort of contamination.

See figure 18 for further information about informal management techniques such as signage.

#### *Alignment solutions*

8.7.6 Normally, the trail will occupy a 4-metre wide strip along the edge of a cropped field. Usually this will be along the seaward edge as it represents the most convenient route along the coast. There will already be a strip of un-cropped land left at the seaward edge for practical, safety or environmental reasons. Often this strip will be suitable to accommodate the trail and, in some places, some additional spreading room on the seaward side if, for example, there is an irregular cliff edge.

8.7.7 On eroding cliffs, the trail will typically roll back without further reference to the Secretary of State, in accordance with a description in our report (see sections 4.10 and 7.1).

8.7.8 Land used for arable or food crops on the seaward side of the trail will not normally qualify as spreading room because of their excepted land status. Where cropped or sown areas seaward of the trail are not covered by the excepted land provisions – for example grass leys or cover crops that are sown on longer rotations - we will consider using informal management or directions as necessary to address concerns about spreading room access. We are unlikely to propose any such areas as spreading room on the landward side of the trail, though tree plantations may be considered suitable for inclusion.

*Informal management techniques*

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8.7.9 So long as the route is not sown, people will normally find it easy to follow the line along a crop edge. Where slumping or erosion suddenly removes the uncultivated strip at the cliff edge, it may be in the farmer's best interests to cut the crop edge in order to reinstate a visible path strip and thereby reduce the risk of people straying further into the crop.

8.7.10 A mown path along the edge of grass grown for hay or silage may be used where the aim is to encourage people to stay on the line of the trail as they usually avoid areas of heavier vegetation in favour of well managed paths. However, low-key access across these areas does not significantly affect yield, given modern harvesting techniques. Similar solutions may be used in relation to grass leys that are sown with less frequency than arable and food crops, to ensure that there is a clear path for people to follow along the field edge.

8.7.11 Where necessary, signs may be used to mark the line of the trail and/or promote specific relevant messages, such as encouraging dog owners to keep their dog out of the crop and clean up after it. Targeted signs may be particularly useful where significant trampling or contamination is occurring, or where litter is an issue. Signs are more persuasive where they explain the reason why it is preferable to stay on the trail, as experience shows that people are more likely to obey signs if they understand the reason for the request.

*Directions to restrict or exclude access*

8.7.12 The solutions described above are likely to be sufficient to address most needs. We may use directions for land management purposes in circumstances where other solutions are not available, or where we conclude at any stage that they are unlikely to be sufficient to meet the need.

8.7.13 Directions will normally require people using the trail to keep their dogs on leads, where necessary to prevent contamination of crops on land adjoining the trail if they are vulnerable to contamination (see 8.7.5).

8.7.14 Directions are unnecessary to prevent people from walking over cropped areas that fall into the category of excepted land described in section 8.7.2, but notices may be used to advise people not to do so. Directions are unlikely to be necessary for this purpose in relation to other cropped or sown areas that are not excepted land, provided there is a clear route for people to follow along the edge.

8.7.15 Local authorities have powers under the Clean Neighbourhoods and Environment Act 2005 to make dog control orders requiring people to remove dog waste. We may advocate their use where there are persistent problems and where we conclude at any stage that other solutions are likely to be insufficient to meet the need. We are unlikely to use directions for this purpose.

*Figures 23, 24 and 26 in chapter 9 illustrate how coastal access rights might be implemented in areas with crops.*

**8.8 Land subject to agri-environment schemes**

8.8.1 Public access will normally sit comfortably alongside agri-environment options, but where there is likely to be an impact on the terms of the agri-environment agreement as a result of newly introduced coastal access rights, we will consult the agreement holder and Natural England advisers to agree a fair and practical solution. When considering the alignment of the England Coast Path on land subject to agri-environment schemes and the Single Farm Payment Scheme, we will carefully consider both the existing land management practices, and any current SPS compliance requirements, field registrations and land management restrictions.

8.8.2 Where agri-environment agreements are designed to support positive



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management of European sites or SSSIs, the proposals we devise for protecting the key features of those sites from adverse effects will take due account of the 'fit' with the requirements under the agreement.

- 8.8.3 In relation to our wider work to use agri-environment agreements to create a richer natural environment, we aim to design these arrangements to produce integrated public benefits in line with our statutory purpose to enhance the natural environment for the benefit of present and future generations. Where there is any potential conflict between the detailed objectives, it is normally possible for agri-environment agreements to improve the natural environment in a way that does not impede the alignment of a pleasant and convenient trail around the coast.

## 8.9 Game bird management

### Overview

- 8.9.1 This section assesses the need for specific measures in relation to the management of land to provide game birds for shooting. Other sections consider closely related topics:

- Section 8.9 considers the need for specific intervention in relation to the management of wild deer.
- Section 8.11 considers the need for specific measures in connection with shooting live quarry, including wild fowl, deer and pest species.

- 8.9.2 Game management on the coast is most likely to involve birds bred in captivity and released into a managed area. Most released birds are either red-legged partridge or pheasant and this section therefore focuses on these. However, we will cautiously apply the same principles to any other types of game, bearing in mind that their management, behaviour and habitat may differ in some respects.

### Potential issues and likely range of solutions

- 8.9.3 The most likely concern is that game birds will be disturbed, which may interfere with the number of birds in the correct location or 'drive' on a shooting day.

#### *The need for intervention*

- 8.9.4 The following considerations are particularly relevant in deciding whether, and if so when, intervention is necessary to manage disturbance to game birds:

- Birds are particularly sensitive to free roaming dogs, which are more likely to cause disturbance than people. For released birds this is relevant from the time of release to the end of the breeding season. For wild game birds this is relevant all year round, but particularly so during the breeding season.
- Released birds are held in pens for two to four weeks before release<sup>69</sup>, but encouraged to remain in - or return daily to - the area where they will be shot. The four to six weeks following release, whilst the birds are habituating to the area, are critical.
- Where frequent disturbance occurs, it may cause some birds to desert a drive altogether, or significantly disrupt the daily movement of birds from their roosting site to the drive.
- Gamekeepers often provide food and water at or near the drive to ensure that the number of birds at the drive on the day of the shoot is maximised.
- In the lead up to the shoot there may be no time to change the location of the drive or to recover the birds if they fly off.

- 8.9.5 There may also be concerns that there is potential for interference to traps and snares used for pest control, whether in the form of unlawful interference by visitors, or accidental interference by dogs who may inadvertently trigger the

<sup>69</sup> Release pens will be exempted from the coastal access rights because they fall within the definition of a structure in Schedule 1 of CROW.

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device. It is unlikely to be necessary to take action provided that traps and snares are positioned in places where people and their dogs are unlikely to encounter them.

*Alignment solutions*

8.9.6 We will aim to position the trail to influence patterns of public access so that visitors are a beneficial, or at least neutral, presence on the estate, having regard to other factors relating to the key principles set out in chapters 4 and 5 of the Scheme. Managed access along the edge of a drive or feeding area is sometimes regarded as a positive influence by gamekeepers, if it encourages the birds to keep within the area managed for shooting. Public access along the trail may therefore be beneficial to game management.

8.9.7 Normally the trail will be along the seaward edge of any land used for rearing and shooting of game birds. It may be possible in consultation with the land manager to make further simple adjustments for game management reasons without any significant affect on amenity, for instance to avoid close proximity to a release pen or drive.

8.9.8 Land on the seaward side of the trail will qualify automatically as spreading room unless it is excepted land or subject to access exclusions, as will other land of specific coastal land types – see section 4.8. We may also use our discretion to propose land managed for game on the landward side of the trail as additional spreading room, in accordance with the criteria in section 4.8. Where there are concerns about spreading room access in relation to game management objectives we will normally consider the use of informal management or directions to address them where necessary.

*Informal management techniques*

8.9.9 Informal management is unnecessary to prevent disturbance to released game birds once shooting has finished for the season, until new birds are released the following summer. However, it may be necessary in connection with related activities such as shooting for pest control (see section 8.11) or where the aim is to maintain a population of resident wild birds for shooting.

8.9.10 The need for informal management is likely to depend on:

- the management techniques already employed by the land manager;
- the times of release and shooting;
- the location of sensitive areas (pens, drives and areas managed for roosting and feeding); and
- the patterns, levels and frequencies of public access.

8.9.11 Clear way-marking of the trail will help to manage access away from the sensitive areas. Signs may be placed at site entrances reminding visitors to keep their dogs under effective control – see section 2.4.

8.9.12 In the long-term, disturbance can be minimised in both open and woodland settings by creating or improving ground cover for the birds - where this is in keeping with the overall management of the land and there are sufficient resources to implement it.

*Directions to restrict or exclude access*

8.9.13 The solutions described above will sometimes be sufficient to manage disturbance to game. However, we may use directions for land management purposes in circumstances where:

- other solutions are not available, or
- we conclude that they are unlikely to be sufficient to meet the need or prove to be so in practice.

8.9.14 Where necessary directions are likely to restrict dogs to leads in sensitive areas:

- For wild game, these may include both the breeding season (principally for ground-nesting birds such as partridge) and the shooting season<sup>70</sup>.
- For released game birds, these will be from the time of release until the end of

<sup>70</sup> See Annex P of our relevant authority guidance for dates.

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the shooting season.

- 8.9.15 Directions are most likely to be necessary in areas that the public visit regularly and where one or more of the following factors is present:
- visitors would be likely to pass close to a nesting area or to release pens during the first four to six weeks following release;
  - routes through the spreading room likely to be favoured by visitors bring them into close proximity with the game;
  - the direction of any disturbance is likely to cause birds to move off the estate;
  - neighbouring land outside the control of the gamekeeper provides alternative suitable habitat that is likely to attract significant numbers of birds if they are disturbed;
  - cover is sparse and the birds are more likely to seek alternative habitat in response to regular disturbance; or
  - a small estate has fewer drives and so is less able to absorb regular disturbance.
- 8.9.16 Directions are unlikely to be necessary to prevent accidental interference to traps and snares, provided they can be located away from areas favoured by the public. Deliberate interference with traps or snares is outwith the coastal access rights<sup>71</sup> and directions cannot be used to address it. Where there are recurrent problems of this type we will discuss the best approach with the land manager and, in cases of criminal damage, with the police.
- Figure 27 in chapter 9 illustrates how coastal access rights might be implemented in an area managed for released game birds.*
- ## 8.10 Wild deer management
- ### Overview
- 8.10.1 Wild deer populations are often managed in order to limit the damage they cause to crops (including trees), often in accordance with a plan agreed by land managers in the affected area. On some land the right to shoot deer is let for sport. This provides an income to the estate, often in addition to meeting population control aims. In places, deer populations are specifically managed at levels that are commercially sustainable for sport.
- 8.10.2 This section considers the need for specific measures in relation to management of wild deer for either of the purposes above. Section 8.10 considers the need for measures in relation to the shooting of wild deer.
- 8.10.3 Where deer are farmed or kept for other purposes we will have regard to the criteria set out in section 8.5 in relation to other animals kept on land with coastal access rights.
- ### Potential issues and likely range of solutions
- 8.10.4 There may be concerns that disturbance following the introduction of coastal access rights will cause long-term changes to the habits of local deer populations, causing difficulty in meeting management objectives.
- The need for intervention*
- 8.10.5 Wild deer are generally tolerant of the presence of visitors and any disturbance caused by public access has no overall impact on their numbers. They will often remain still while people pass, provided there is sufficient distance or cover to give them reassurance. Where cover is sparse or visitors pass close by, they may move away temporarily, but will normally return.
- 8.10.6 Deer may adapt their habits if disturbance is frequent and sustained over long periods, in order to avoid those areas at times when visitors are likely to be present. This is more likely where people allow their dogs to exercise off lead. Concerns may

<sup>71</sup> Under paragraph 1(d) of Schedule 2 of CROW.

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therefore be alleviated to some extent by the requirement that people must keep their dogs under effective control on land with coastal access rights – see section 2.4.

- 8.10.7 Where deer management is carried out for population control only, disturbance is unlikely to jeopardise the overall management objectives, provided that the deer management practices are able to reflect any changing habits of the deer and patterns of public visiting, and if necessary incorporate suitable local arrangements to manage access.
- 8.10.8 Where deer are shot commercially, it may be necessary to manage public access in order to ensure that deer routinely visit specific areas in sufficient numbers and at an appropriate time to satisfy the expectations of clients.
- 8.10.9 In both cases, the need for intervention will depend on the patterns and levels of access in the affected areas and the objectives of those responsible for deer management.
- Alignment solutions*
- 8.10.10 The trail will typically be on the seaward side of areas where wild deer populations are managed. Where there are concerns that trail access may interfere with deer management objectives we will discuss the objectives with the person responsible. It will often be possible to align the trail to avoid sensitive areas, such as those where deer fawn or gather habitually or where shooting takes place – see section 8.11. The discussions will also inform our use of the discretion to propose spreading room on the landward side of the trail, in accordance with the criteria in section 4.8.
- 8.10.11 Any land on the seaward side of the trail will automatically qualify as spreading room unless it is excepted land or subject to access exclusions, as will any other land of specific coastal land types – see section 4.8. Where there are concerns about spreading room access in relation to deer management objectives we will consider whether it is necessary to use informal management or directions to address them.
- Informal management techniques*
- 8.10.12 Clear way-marking of the trail and any preferred routes over spreading room will help to ensure that any access to sensitive areas is low-key. Signs may be used to remind people of the requirement to keep dogs under effective control and to ask people to keep them on leads in particular areas or at particular times where this will contribute to deer management objectives.
- Directions to restrict or exclude access*
- 8.10.13 The solutions described above will often be sufficient to address concerns. We will only use directions for land management purposes where there is clear evidence of each of the following:
- local deer populations are managed in a planned way for population control or sport;
  - patterns and levels of public use will cause routine disturbance to deer;
  - this disturbance will cause long-term changes to the habits of local deer populations;
  - deer management techniques cannot be adapted to the changing habits of the deer; and
  - informal management techniques are unavailable or inadequate to meet the need.
- 8.10.14 Where necessary directions will usually require people to keep their dogs on leads in sensitive areas during the shooting season<sup>72</sup> or at other times when deer are rearing young. Wild deer rear young in the summer months, except muntjac deer which breed all year round.

<sup>72</sup> Annex P of the relevant authority guidance details shooting seasons.

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## 8.11 Shooting live quarry

### Overview

8.11.1 This section assesses the need for specific measures in connection with shooting live quarry, including game birds, wild fowl, deer and pest species. Other sections consider closely related topics:

- Section 8.9 considers the need for specific intervention in relation to the management of land to provide game birds for shooting.
- Section 8.12 considers shooting at man-made targets – including clay pigeon shooting, range shooting, archery – and also considers paintballing and similar ‘war games’.
- Section 8.10 considers the need for specific intervention in relation to the management of wild deer populations.

8.11.2 Wildfowling is common at the coast, but we are likely to exclude access to areas of salt marsh and mudflat, where most wildfowling takes place. There may be localised issues around other types of shooting on the coast – these are considered in detail below.

8.11.3 There is specific legislation governing the species which may be shot and, in the case of some species, the times of year when shooting may take place. This is summarised in Annex P of our relevant authority guidance<sup>73</sup>.

### Potential issues and likely range of solutions

8.11.4 Concerns are likely to be centred around the period during and immediately prior to a shoot. They may relate to any of the following effects either alone or in combination:

- disturbance to the quarry;
- danger to the public; or
- disruption to the shoot.

#### *Disturbance to quarry*

##### *The need for intervention*

8.11.5 The need for intervention to prevent disturbance to the quarry will depend on the levels and patterns of public access on the affected land and how these relate to the places where shooting takes place, the times when it takes place and the extent to which the success of a shoot relies on the presence of quarry at a particular location and a particular time.

8.11.6 Shooting sometimes takes place at times when other people are unlikely to be present and/or in places that are relatively undisturbed. The need for intervention in such instances will depend on whether quarry is likely to be disturbed by any change in patterns or levels of access as a result of the introduction of coastal access rights and subsequent trends in their use. It will not normally be necessary to manage access when shooting takes place in less visited areas or at quieter times of the day, or where there are suitable alternative times and locations which enable shooters to adapt to changes in the patterns and levels of public use.

8.11.7 Visitors may cause quarry to leave an area where a shoot is planned to take place, if by passing through they disturb it. This is most likely if they bring dogs and their dogs run freely. The location and density of suitable vegetation cover is also likely to be relevant; quarry will usually remain still in good cover, but are easily disturbed in poor cover where they feel more vulnerable. Visitors almost always prefer to follow clear routes with short vegetation; clear way-marking of the trail may therefore significantly reduce disturbance to quarry in dense cover adjacent to it. This may not in itself be sufficient to prevent disturbance from people's dogs.

8.11.8 Disturbance is most critical in the twenty-four hours before a driven shoot where the timing of the shoot and the position of the guns and quarry are all predetermined to

provide the best shooting conditions, and where business interests may depend on presenting sufficient birds to the guns. Driven shoots are less likely at the coast, but where they occur it may be necessary to take action to ensure that quarry is easy to locate and in such a position that it can be driven towards the guns.

#### *Alignment solutions*

**8.11.9** Where land is managed specifically for game shooting (in particular driven shoots) we will discuss the alignment of the trail and the landward boundary of spreading room with the land manager in the context of the overall management of the shoot and the location of areas that may be sensitive to public access. Section 8.9 looks at these considerations in more detail.

**8.11.10** Other shooting interests will also have opportunities to influence our coastal access proposals at various stages of the implementation process summarised in chapter 3. It may be possible in the light of these discussions to make simple adjustments to the trail which avoid disturbance to quarry in areas favoured for shooting without any significant affect on recreational interests. The discussions will also inform our use of the discretion to propose spreading room on the landward side of the trail, in accordance with the criteria in section 4.8.

**8.11.11** Land seaward of the trail will automatically qualify as spreading room unless it is excepted land or subject to access exclusions, as will other land of specific coastal land types – see section 4.8. Where this raises concerns in relation to disturbance to quarry we will consider whether it is necessary to use either informal management or directions to address them.

#### *Informal management techniques*

**8.11.12** Signs may be used asking the public for cooperation where there are concerns that visitors or their dogs may disturb quarry in the period immediately before and during a shoot. These might for example ask visitors to follow particular routes and remind them of the requirement to keep their dogs under effective control – see section 2.4.

**8.11.13** There may be suitable alternative land available nearby for rough shooting. We will discuss this possibility with shooting interests where there are concerns. It is unlikely that there will be alternative land available for driven game shoots, if the land used by the shoot is specifically laid out and managed for the purpose.

#### *Directions to restrict or exclude access*

**8.11.14** Directions are unlikely to be necessary in relation to disturbance to wildfowl, because there will not normally be coastal access rights in the areas where wildfowling takes place.

**8.11.15** Directions may be necessary for land management purposes in relation to other types of quarry – in particular driven shoots, where they occur on the coast – if:

- the trail passes through or very close to a drive or an area favoured by shooters;
- the quarry is likely to respond by moving away from the area; and
- it is impractical following the disturbance for the shoot organisers to recover the quarry or relocate the shoot before it takes place.

**8.11.16** Where necessary directions will normally restrict dogs to leads from noon on the preceding day until the shoot is over. However, some areas may be shot more than once a week. This intensive use may make birds more sensitive to disturbance on intervening days. In areas that are shot regularly, we may elect to restrict dogs to leads throughout the shooting season, both to minimise disturbance and in the interests of clarity for the visiting public.

#### *Danger to the public*

##### *The need for intervention*

**8.11.17** It is extremely rare for countryside visitors to be injured as a result of shooting activities, as it is well established that the primary responsibility for preventing

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injury lies with the user of the gun. Those whose undertakings involve the use of guns have a legal duty under health and safety at work legislation to take all reasonably practicable steps to ensure that no-one is put at risk as a result. The use of firearms is also licensed under Firearms Acts and the Games Licences Act 1860 and is guided by well observed codes of practice<sup>74</sup>: For example:

- Shooters have to assume that members of the public may be present and take all necessary precautions, even at times when they are unlikely to encounter visitors.
- People using shotguns should be able to see the whole area where their shot could fall and must not shoot if anyone enters that zone of risk.
- People using rifles must choose a position that provides clear views against a safe backdrop before taking a shot. On flat ground, marksmen sometimes use raised seats that ensure that the bullet hits the ground behind the target if it misses.

8.11.18 These standard precautions are normally sufficient to reduce risks to the public to an acceptable level and it will not usually be necessary to take further action in relation to public safety. However, further precautions may be necessary where the topography, vegetation cover or other obstacles obstruct the views of shooters over the zone of risk.

*Alignment solutions*

8.11.19 Where land is managed specifically for game shooting (in particular driven shoots) we will discuss the alignment of the trail and the landward boundary of spreading room with the land manager in the context of the overall management of the shoot and the location of areas that may be sensitive to public access. Section 8.9 looks at these considerations in more detail.

8.11.20 Other shooting interests will also have opportunities to influence our coastal access proposals at various stages of the implementation process summarised in chapter 3. It may be possible in the light of these discussions to make simple adjustments to the trail for safety reasons without any significant affect on recreational interests. The discussions will also inform our use of the discretion to propose spreading room on the landward side of the trail, in accordance with the criteria in section 4.8.

8.11.21 Land seaward of the trail will automatically qualify as spreading room unless it is excepted land or subject to access exclusions, as will other land of specific coastal land types – see section 4.8. Where this raises concerns about public safety we will consider whether it is necessary to use either informal management or directions to address them.

*Informal management techniques*

8.11.22 Signs at entry points and other local publicity can be used to alert the public to when and where shooting is taking place. Lookouts are another established and effective means to alert visitors to shooting and to prevent danger by asking them to wait for a suitable moment to pass by or to use a different route.

*Directions to restrict or exclude access*

8.11.23 In most circumstances, concerns about disruption to the shoot or disturbance to game are more likely than public safety to be determining factors in any direction that is necessary, because the standard precautions taken by the people shooting make injury very unlikely. Directions to prevent danger to the public on shoot days are therefore only likely to be necessary where shooters' views over the area of risk are obstructed and the standard precautions are therefore insufficient to manage the risks. The area of risk will depend on sightlines in the direction(s) of fire, and the gun and ammunition used. We may take expert advice to determine its precise extent.

8.11.24 Where necessary directions for this purpose will exclude people from the area of risk while shooting is in progress or earlier, where necessary to ensure that visitors

<sup>74</sup> 'The Code of Good Shooting Practice' is available on the British Association for Shooting and Conservation (BASC) website at [www.basc.org.uk](http://www.basc.org.uk).

are not present when the shoot begins. We will normally seek a temporary or alternative route at times when access to the trail is excluded for this purpose, if this can be provided at reasonable cost.

### Disruption to the shoot

#### *The need for intervention*

8.11.25 Shooters may be distracted by the need for extra vigilance to prevent any risk of accidental injury to visitors. Intervention is only likely to be necessary for this purpose where shooting coincides with times and places where visitors are likely to be present. This is most likely to occur where there is a commercial shooting enterprise, but may occur during other forms of shooting

#### *Alignment solutions*

8.11.26 Where land is managed specifically for game shooting (in particular driven shoots) we will discuss the alignment of the trail and the landward boundary of spreading room with the land manager in the context of the overall management of the shoot and the location of areas that may be sensitive to public access. Section 8.9 looks at these considerations in more detail.

8.11.27 Other shooting interests will also have opportunities to influence our coastal access proposals at various stages of the implementation process summarised in chapter 3. It may be possible in the light of these discussions to make simple adjustments to the trail to prevent disruption without any significant effect on recreational interests. The discussions will also inform our use of the discretion to propose spreading room on the landward side of the trail, in accordance with the criteria in section 4.8.

8.11.28 Land seaward of the trail will automatically qualify as spreading room unless it is excepted land or subject to access exclusions, as will other land of specific coastal land types – see section 4.8. Where this raises concerns about disruption to the shoot we will consider whether it is necessary to use either informal management or directions to address them.

#### *Informal management techniques*

8.11.29 Sometimes shooters may be able to time their activity to avoid periods when visitors are likely to be present, or find suitable alternative land nearby on which to shoot. We will discuss this possibility with shooting interests where there are concerns. Commercial shooting enterprises may be less flexible in this respect than those shooting for other purposes, since shooting is timed for the convenience of their clients.

8.11.30 Signs at entry points and other local publicity can be used to alert the public to when and where shooting is taking place and remind people to keep their dogs under effective control. Lookouts are another established and effective means to alert visitors to shooting and to seek their co-operation by waiting for a suitable moment to pass by or by using a different route.

#### *Directions to restrict or exclude access*

8.11.31 Directions will not normally be necessary for this purpose but we may use them for land management purposes where:

- the timing of the shoot unavoidably coincides with times when visitors are likely to be present; and
- it is not practical to manage the passage of visitors effectively through the area while the shoot takes place.

8.11.32 Such directions are likely to exclude people from the affected area while driving or shooting are in progress or earlier, where necessary to ensure that visitors are not present when the shoot begins. We will normally seek a temporary or alternative route at times when access to the trail is excluded for this purpose, if this can be provided at reasonable cost.

*Figure 27 in chapter 9 illustrates how coastal access rights might be implemented in an area with shooting nearby.*

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## 8.12 Shooting at man-made targets

### Overview

8.12.1 This section assesses the need for specific measures in relation to shooting at man-made targets, including clay pigeon shooting, range shooting, airgun shooting and archery. It also considers paintballing and similar 'war games'.

- Shooting of live quarry is considered separately in section 8.11.
- Section 8.22 (military use) considers risks arising from unexploded ordnance.

### Potential issues and likely range of solutions

8.12.2 Concerns are most likely to arise in relation to:

- danger to the public from shooting; or
- disruption to shooting.

These concerns are considered together because the range of solutions is likely to be similar in relation to each.

#### *The need for intervention*

8.12.3 It is extremely rare for countryside visitors to be injured as a result of shooting activities, as in most cases the primary responsibility for preventing injury lies with the person using the weapon. Professional organisers and companies conducting weapons testing also have a legal duty under health and safety at work legislation to take all reasonably practicable steps so that no-one is put at risk as a result of the activities. The use of firearms is also licensed under Firearms Acts and is guided by well observed codes of practice<sup>75</sup>.

8.12.4 Shooters normally have to assume that members of the public may be present and take all necessary precautions, even at times when they are unlikely to encounter visitors:

- People using air guns, rifles, bows or similar weapons must choose a position that provides clear views against a safe backdrop before taking a shot. Shoot organisers must ensure that no-one enters the area of risk (sometimes called the safety zone) while shooting is taking place.
- During clay pigeon shooting, participants should be able to see the whole area where there is a risk of injury from their shot and from falling clays and must not shoot if anyone enters that zone.

8.12.5 Risks vary according to the activity:

- Where the target is static (e.g. archery), the main risk is from entering the corridor behind and in front of the target as a shot is taken. The area of risk (sometimes called a safety zone) may extend beyond the target for some distance, depending on the weapon and ammunition in use.
- The area of risk in clay pigeon shooting is wider because the target is moving, and fragments on impact. People are at risk from both shot and falling clays.
- People entering an area where a paintballing or a similar activity is taking place may be at risk of serious injury, depending on the exact nature of the activity and the type of weapon or ammunition in use.

8.12.6 Participants may also be distracted by the need for extra vigilance to prevent any risk of accidental injury to visitors. Where visitor levels are high, the frequent need to stop shooting in order to allow visitors to pass may detract significantly from their enjoyment of the activity. Intervention may be necessary to prevent this where the activity coincides with times and places where visitors are likely to be present.

8.12.7 The enjoyment of paintballing (and similar war games) depends on simulating combat conditions, so it is impractical for participants to take account of the presence of visitors while a game is taking place. Game organisers will not usually

<sup>75</sup> 'The Code of Good Shooting Practice' is available on the British Association for Shooting and Conservation (BASC) website at [www.basc.org.uk](http://www.basc.org.uk).

allow paintballing or other similar war games to begin if there is any likelihood that people may be present who are not wearing the protective clothing required.

*Alignment solutions*

8.12.8 We will usually align the trail along the seaward edge of affected land. This is likely to address many concerns by limiting the scope for the public to enter the dangerous area. However, occasionally we may align the trail on the landward side of the dangerous area if the weapons are discharged in the direction of the sea. In either circumstance, further intervention may be necessary to manage risks to people on any spreading room that is affected.

8.12.9 Shooting interests and game organisers will have opportunities to influence our coastal access proposals at various stages of the implementation process summarised in chapter 3. It may be necessary in the light of these discussions to align the trail in a particular way in order to prevent danger from (or disruption to) these activities. The discussions will also inform our use of the discretion to propose spreading room on the landward side of the trail, in accordance with the criteria in section 4.8.

8.12.10 Land seaward of the trail will automatically qualify as spreading room unless it is excepted land or subject to access exclusions, as will other land of specific coastal land types – see section 4.8. Where this raises concerns – either in relation to public safety or disruption to the shoot – we will consider whether it is necessary to use either informal management or directions to address them.

*Informal management techniques*

8.12.11 Signs at entry points and other local publicity can be used to alert the public to when and where shooting (or a similar activity) is taking place. Lookouts are another established and effective means to alert visitors to shooting and to prevent danger or disruption by asking them to wait for a suitable moment to pass by or to use a different route.

*Directions to restrict or exclude access*

8.12.12 Directions may be necessary while an activity is in progress if we conclude that other available techniques are inadequate to prevent danger to the public or for land management reasons, to allow it to take place without significant disruption. This is more likely to be necessary where topography, vegetation or other obstacles obstruct the views of shooters over the area of risk, or where the public may be at risk from paintballing and other games that depend on simulating combat conditions.

8.12.13 Where necessary directions will exclude people from the area where the activity is taking place. Where it is necessary to exclude access to prevent danger to the public the area of the exclusion will take account of the expected trajectory of the ammunition and, in the case of clay pigeon shooting, the area in which clays may fall.

8.12.14 We will normally seek a temporary or alternative route at times when access to the trail is excluded for either purpose, if this can be managed at reasonable cost.

**8.13 Work operations**

**Overview**

8.13.1 This section considers specific measures required in relation to work operations such as:

- the use of vehicles and machinery, including agricultural and forestry machinery;
- civil engineering work such as road or bridge building;
- routine management and maintenance tasks such as the repair and installation of gates or boundary features; and
- preparation and clear-up of events.

8.13.2 Some land in regular operational use is excepted land (see section 2.3), including for example:

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- land used for the getting of minerals by surface working (including quarrying) – see section 8.24; and
- land covered by works used for the purposes of a statutory undertaking or a telecommunications code system, or the curtilage of any such land (except for flood defence works and sea defence works – see section 2.3).

8.13.3 Where they apply, these national provisions will help to address any concerns about the introduction of coastal access rights.

**Potential issues and likely range of solutions**

8.13.4 There are two separate but usually closely-related concerns:

- danger to the public; and
- disruption to the work.

*The need for intervention*

8.13.5 Many work operations are governed by health and safety at work legislation. Those responsible must ensure, so far as is reasonably practicable, the health and safety of persons affected by their work activities. Where a land manager indicates that he carries out (or is willing to carry out) appropriate informal management to secure compliance with such obligations, we may take the view that these steps are adequate to address a particular concern.

8.13.6 The need for intervention to prevent danger to the public will depend on the nature of the risks and the patterns and levels of public access. Intervention may be unnecessary for lower order risks, provided visitors can clearly see the work area and there is a safe and accessible way through it or around it.

8.13.7 Visitors are unlikely to disrupt work intentionally and will avoid areas where work is taking place if they can clearly identify the affected area and there is a route around it. The need for intervention to prevent disruption will therefore depend on the availability of such a route or, in the absence of one, the frequency with which work is likely to be interrupted by people passing through.

*Alignment solutions*

8.13.8 The trail will typically pass on the seaward side of land where work operations are regularly carried out. Where it is already known during the preparation of our initial proposals to the Secretary of State that such operations will take place on the land we will discuss the alignment of the trail with the land manager. The discussions will also inform our use of the discretion to propose any spreading room on the landward side of the trail.

8.13.9 It will often be appropriate to align the trail so that it avoids land where there are regular operations, where this would strike a fair balance between public interests and operational needs. This may also be a factor in any use of our discretion to propose further landward spreading room, which we will exercise in any case in accordance with the principles in 4.8. It will also be possible to reassess the trail or landward spreading room if it is necessary in connection with an operation that could not be foreseen at the time when we prepared our initial proposals for the affected stretch of coast.

8.13.10 We are more likely to consider the use of informal management or directions in relation to temporary or occasional operations, provided it will meet the need. We may also (in association with a direction) propose an alternative route for people to use at times when the work is taking place, or we may provide a temporary route in connection with operations that could not be foreseen at the time when our initial proposals were made – see figure 17 in chapter 6.

8.13.11 Any land on the seaward side of the trail will automatically qualify as spreading room unless it is excepted land or subject to access exclusions, as will any other land of specific coastal land types – see section 4.8. Where there are concerns about spreading room access in relation to work operations we will consider whether it is necessary to use informal management or directions to address them.

*Informal management techniques*

8.13.12 Clear way-marking of the trail and any preferred routes through spreading room will be sufficient in some circumstances to ensure that short-term operations can take place without danger or disruption.

8.13.13 Working people will often be expected to check for approaching visitors while working, and should be able to stop work temporarily if it is necessary to allow people to pass safely. However, where visitor levels are high, this may disrupt the work significantly. There are several informal techniques which can be used to prevent this:

- The work could be planned for times when visitor numbers are expected to be low. We will discuss this possibility with the land manager where appropriate.
- Banksmen or lookouts may be used to guide people around the danger area or to ask them to wait until there is a convenient break in operation before they pass.
- Signs may be used to encourage people to avoid the working area.

*Directions to restrict or exclude access*

8.13.14 The informal techniques described above will often be sufficient to enable routine tasks to be carried out safely and without significant disruption.

8.13.15 We may use directions to prevent danger to the public in relation to operations that pose severe risks, such as those arising from the use of industrial harvesting or spraying equipment, major civil engineering works, road line clearance, bridge building, hauling stone and dismantling of large heavy structures.

8.13.16 Where necessary for public safety, directions will exclude access from the area of risk, taking account of any risk assessment that has been conducted and of the practicability or otherwise of identifying in advance the precise areas that will be affected by the operations. Large-scale civil engineering works often involve a series of related operations taking place at different times and in different areas of a work site during a specified period, so it will not usually be practicable to specify the exact time and place where risks will arise. In circumstances like these, we will exclude access from the whole site where risks may arise.

8.13.17 We may also use directions for land management purposes to prevent significant disruption to work operations. This is most likely to be necessary where visitor levels are expected to be high during the period when work is taking place and there is no alternative means available to manage the passage of visitors safely through or around the site while the work is taking place.

8.13.18 Where necessary directions for land management purposes will exclude access from the area where work is taking place.

8.13.19 We will normally provide a temporary or alternative route at times when access to the trail is excluded for either purpose, if this can be done at reasonable cost.

**8.14 Heather and grass burning**

**Potential issues and likely range of solutions**

8.14.1 Where controlled burning takes place for land management purposes, concerns may arise regarding public safety or the potential for people to disrupt the operation by walking across the affected land.

*The need for intervention*

8.14.2 Under the Heather and Grass (Etc.) Burning Regulations (England) 2007 SI No. 2003<sup>76</sup>:

- burning is allowed only between November 1st and March 31st in the lowlands, and between October 1st and April 15th in the uplands, except by special licence;
- burning must not commence between sunset and sunrise;

<sup>76</sup> The Regulations do not apply to private gardens or allotment gardens, except to the extent they are adjacent to other land.

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- sufficient people and equipment must be on hand at all times to control the burning; and
- all reasonable precautions must be taken to prevent injury or damage to adjacent land or any person or thing on adjacent land.

8.14.3 Further intervention is unlikely to be necessary provided these requirements are observed. Any risks from these activities will generally be low and obvious to the public.

*Alignment solutions*

8.14.4 Where coastal grass or heath is managed by burning we will discuss the alignment of the trail with the land manager. Although these operations are unlikely to be a significant factor in the choice of route, it may be possible to make simple adjustments to the line of the trail for operational reasons without any significant effect on amenity.

8.14.5 Such land will automatically qualify as spreading room if seaward of the trail unless it is excepted land or subject to access exclusions, as will any other land of specific coastal land types – see section 4.8. We may also use our discretion to include it as spreading room on the landward side of the trail, in accordance with the criteria in section 4.8. Where this raises concerns in relation to burning we will consider whether informal management is necessary to address them.

*Informal management techniques*

8.14.6 Those supervising the fire can warn any visitors as necessary if they should approach the area that is being burnt. Where necessary they may request people to use a particular route across the land as a temporary measure while burning takes place. Further intervention is unlikely to be necessary.

*Directions to restrict or exclude access*

8.14.7 Directions are very unlikely to be necessary for this purpose provided that regulatory requirements are observed. However in exceptional cases we may for land management reasons exclude access to the trail for a short period if there is no other accessible land which visitors could use to pass the area where the operation is taking place. We will normally propose the provision of an alternative route at times when access to the trail is excluded for this purpose, provided this can be done at reasonable cost.

## 8.15 Pesticides

### Overview

8.15.1 Pesticides have the potential to harm people, wildlife and the environment if they are not used correctly.

8.15.2 The Chemicals Regulation Directorate control the approval of pesticides for storage, marketing and use. This pesticide approval system is designed to ensure that pesticides, when used correctly, will not result in harm. Specific instructions to ensure this are included on the product label. This is supplemented by general guidance in the statutory “Code of Practice for using plant protection products”<sup>77</sup>. Provided these guidelines are followed there will be little need for further intervention.

### Potential issues and likely range of solutions

8.15.3 There are likely to be several concerns relating to the use of pesticides:

- that the product may place the public at risk;
- that the presence of the public will interrupt application – see section 8.13; or
- that the public may be placed at risk by the machinery used for application – see section 8.13.

### *Risks to the public from the product itself*

#### *The need for intervention*

8.15.4 The use of hazardous substances is also strictly controlled by Regulations, in

<sup>77</sup> [www.pesticides.gov.uk/safe\\_use.asp?id=64](http://www.pesticides.gov.uk/safe_use.asp?id=64)

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particular the Control of Substances Hazardous to Health Regulations (COSHH) 2002 (SI No.2677)<sup>78</sup>. A COSHH assessment may provide useful background information for making decisions.

8.15.5 Intervention will not usually be necessary. Most products in use in the countryside pose no significant risk to people provided they are used in accordance with their label instructions and general guidance on correct pesticide use. Risks to the public from the application of pesticides are almost always more perceived than real.

8.15.6 Risks to the public during pesticide application will therefore only arise exceptionally, due to incorrect use (spillage, for example). Provided the guidelines are followed, the public should not come into contact with the product during an application.

8.15.7 Intervention may exceptionally be necessary where the public may come into contact with a pesticide by passing through an area after it has been treated. However, there are very few products where contact of this type poses a genuine risk. Where the land manager contacts us in connection with the planned use of any product of this type, we will consult the Chemicals Regulation Directorate before deciding whether intervention is necessary on our part.

8.15.8 Regulations require hazardous substances to be stored in areas without public access. Further control measures for public safety on access land will not be required in this respect.

*Alignment solutions*

8.15.9 The trail will normally cross the seaward edge of fields where pesticide applications are likely to take place.

8.15.10 Because the risks – if any – are short-term, they are unlikely to be a significant factor in deciding whether to exercise our discretion to propose spreading room on the landward side of the trail.

8.15.11 On the coast pesticides are most likely to be used as part of crop management. Much land used for growing crops will be excepted from coastal access rights except for an access strip along which the trail may pass – see section 8.7. The need to consider pesticide application in relation to spreading room will therefore be quite limited.

*Informal management techniques*

8.15.12 Although the product itself and the technique for applying it may not in themselves be hazardous, it still makes sense for the land manager to time such applications where possible to avoid any peak periods of visitor use to avoid causing alarm needlessly.

8.15.13 Where it is not possible to time applications to avoid busy periods, it may be advisable to use temporary signs to explain the operation to the public and to reassure them regarding their safety.

8.15.14 In exceptional circumstances where there are genuine risks to the public from contact with a used pesticide (after it has been applied), it may be necessary to use signs to warn people of the risks and suggest suitable precautions.

*Directions to restrict or exclude access*

8.15.15 The solutions described above will usually be an effective means to manage any risk. However, directions may exceptionally be necessary if there is a risk to the public's health from the pesticide product.

8.15.16 Directions will normally only be necessary where the applicant intends to use one of the very few products where contact with the used pesticide poses a genuine risk, but may also occasionally be necessary where a risk arises due to accidental spillage or incorrect use of a product. We will only use directions for these reasons after advice (on necessity, form and extent) from the Chemicals Regulation Directorate<sup>79</sup>.

8.15.17 Should a direction be justified, exclusion from the affected area is likely to be necessary during an application, and may be necessary for a period afterwards

<sup>78</sup> Disease-causing micro-organisms are also classed as hazardous substances. The control of animal disease is considered separately in section 8.6.

<sup>79</sup> Chemicals Regulation Directorate's Plant Protection Products Information Section – 01904 455775 or pesticides@hse.gsi.gov.uk

until there is no longer a significant risk. Wherever practicable we will provide a alternative route if the trail is affected, or we may provide a temporary route in connection with operations that could not be foreseen at the time when our initial proposals were made – see figure 17 in chapter 6.

## 8.16 Special events

### Overview

- 8.16.1 This section considers the need for special measures in relation to a variety of recreational activities, events and other temporary uses including:
- special events such as agricultural shows and music festivals;
  - private or corporate functions (such as weddings or parties or team-building exercises);
  - location hire for special purposes such as film-making;
  - sports events and practice.
- 8.16.2 Issues relating to the preparation or take-down of events are considered separately in the context of work operations (section 8.13). Camping by organised groups is considered in section 8.19.
- 8.16.3 CROW does not include any rights to hold events such as these on land with coastal access rights, but they may take place there (as elsewhere) with the permission of the occupier, provided that any necessary planning consents have been obtained.
- 8.16.4 Some events are likely to take place on land that is excepted from the coastal access rights, such as:
- land covered by buildings (including temporary structures such as marquees or stages) or the curtilage of such land;
  - land used as a park or garden (see section 8.18).
- In these circumstances intervention is unlikely to be necessary in relation to coastal access rights.
- ### Potential issues and likely range of solutions
- 8.16.5 The introduction of coastal access rights may be beneficial to some businesses if it brings more potential customers to coastal areas, but where they manage land for special events, recreational activities, or other temporary uses, there may be concerns about either:
- disturbance to the activity or event; or
  - danger to the public.
- 8.16.6 The potential solutions are likely to be similar in relation to both issues and are therefore considered together.
- The need for intervention*
- 8.16.7 People exercising coastal access rights can be expected to take account of how other people are using the land. For example they may avoid an area that is being used for a private party if it is clear to them what is happening. Intervention may therefore be unnecessary in some cases.
- 8.16.8 Some activities are more sensitive to public access than others and intervention is therefore more likely to be necessary, for example:
- commercial filming is easily disrupted if people pass through the area of the shoot;
  - it may not be feasible to allow a general right of access over land where there is an event taking place for which an entry charge is made.
- 8.16.9 Many events and activities are governed by the health and safety at work legislation. Organisers must ensure, so far as is reasonably practicable, the health and safety of persons affected by them. Where an organiser indicates that he

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carries out (or is willing to carry out) appropriate informal management to secure compliance with such obligations, we may take the view that these steps are adequate to address a particular concern.

8.16.10 Intervention may be necessary to separate dangerous activities from areas where people are exercising coastal access rights. The need for intervention will depend on:

- the nature of the risk and to what extent people can be expected to take account of it without further management;
- the patterns and levels of public access and the availability of a safe and accessible route through or around the area of risk.

8.16.11 Beach managers sometimes informally 'zone' recreational activities that might put others at risk such as horse riding and land yachting so that there are safer parts of the beach where people can go if they do not want to watch or participate. Further intervention is unlikely to be necessary provided these arrangements are working effectively.

*Alignment solutions*

8.16.12 Where it is already known during the preparation of our initial proposals to the Secretary of State that the land will be used for such activities we will discuss the requirements with the occupier and/or event manager. It may be possible to make simple adjustments to the route of the trail which take account of any regular use of the land for these purposes without any significant effect on the public interest in having access to the coast, or we may provide an alternative route at times when events are taking place. The discussions will also inform our use of the discretion to propose spreading room on the landward side of the trail, in accordance with the criteria in section 4.8.

8.16.13 Land seaward of the trail will automatically qualify as spreading room unless it is excepted land or subject to access exclusions, as will other land of specific coastal land types – see section 4.8. Where this raises concerns in relation to these types of activity we will consider whether it is necessary to use either informal management or directions to address them.

8.16.14 It will also be possible to reassess the trail or extent of spreading room where necessary in connection with an event and other temporary use that could not be foreseen at the time when we prepared our initial proposals to the Secretary of State.

*Informal management techniques*

8.16.15 Depending on the nature of the event or activity, it may be possible to hold it at a time when few members of the public are expected to visit. We will discuss this possibility with the organiser where appropriate.

8.16.16 Clear way-marking of the trail and any other preferred routes around the affected area may be sufficient to avoid danger or disruption while the event or activity is taking place. Signs and barriers may also be used in addition to steer visitors away from areas where they might cause disruption or be in danger.

8.16.17 People are more likely to respond to signs in combination with other communication techniques, for example a steward who can explain what is happening and request cooperation.

*Directions to restrict or exclude access*

8.16.18 The solutions described above may be sufficient to prevent significant disruption or danger. Directions may be used for land management purposes or to prevent danger to the public where:

- other solutions are unavailable; or
- we conclude that they are likely to be insufficient or they prove to be so in practice.

8.16.19 Directions for land management reasons are most likely to be necessary where there is charge for entry to an event, or when land is being used for a private function. Where necessary they are likely to exclude access from the area being used for the event.



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8.16.20 Directions to prevent danger to the public are most likely to be necessary in connection with high-speed activities such as motor sports. Where necessary they will usually exclude access from the area of risk while the event is taking place. It may also be necessary to exclude access in connection with the preparation or take-down of the event – see section 8.13.

8.16.21 We will normally seek a temporary or alternative route at times when access to the trail is excluded for either purpose, if this can be provided at reasonable cost.

## 8.17 Visitor attractions

### Overview

8.17.1 This section focuses mainly on the case for specific intervention in relation to businesses that run visitor attractions for which there is an entry charge such as historic houses and theme parks. Temporary events (for example an agricultural show or concert) are considered separately in section 8.16. Hotels and holiday properties are considered in section 8.18.

8.17.2 Some relevant areas are excepted from coastal access rights (see section 2.1) including:

- land covered by buildings (including structures such as piers and fairground rides) or the curtilage of such land; and
- land used as a park or garden (although some land with “park” or “garden” in its name may not qualify as excepted land if it is used for a different purpose – see figure 22).

8.17.3 These general provisions will help to address concerns about the introduction of coastal access rights in circumstances where the affected land qualifies.

### Potential issues and likely range of solutions

8.17.4 The introduction of coastal access rights may be beneficial to some businesses if it brings more potential customers to coastal areas. However, concerns may also arise in relation to the potential for business income from managed visitor attractions to be adversely affected.

#### *The need for intervention*

8.17.5 Where businesses running managed visitor attractions wish to charge the public for goods, services or facilities, the coastal access regime will not prevent it. This includes for example charges for parking or other facilities, and permits for activities not covered under the access rights. Intervention is unlikely to be necessary to enable such charges to continue.

8.17.6 Where a charge is levied on the public for entry to a managed visitor attraction, coastal access rights are unlikely to apply. The trail will typically be on the seaward side of the attraction or, where it passes on the landward side, the attraction is likely to fall into one of the categories of excepted land described in section 8.17.2. In other circumstances, we may make specific proposals to enable the charge to continue if, on the basis of the evidence available at the time, we consider that significant loss of income would otherwise be likely as a result of the introduction of coastal access rights.

8.17.7 Where such proposals prove necessary, the action we propose will depend on the objectives of the business, the management of any existing public access arrangements which affect it and our best prediction of future levels and patterns of public use following the introduction of coastal access rights.

#### *Alignment solutions*

8.17.8 The trail will normally avoid passing through a visitor attraction which the public pay to enter - typically by skirting round it on the seaward side. We may align the route on the landward side of the affected land if no other suitable route can be found.

8.17.9 Land on the seaward side of the trail will by default qualify automatically as spreading room, as will other land of specific coastal land types, unless in either

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case the land is excepted land – see section 4.8. If for either reason a managed visitor attraction that the public pay to enter would qualify as spreading room by default, we will consider with the operator whether informal management or directions are required to enable it to continue to function as a paying attraction.

8.17.10 We are unlikely to use our discretion to include visitor attractions as spreading room on the landward side of the trail if there is a charge for entry.

*Informal management techniques*

8.17.11 Clear way-marking of the trail will encourage people exercising coastal access rights to avoid any areas where they may inadvertently disrupt the operation of a visitor attraction. Operators may also use signs to show people the way in to paying attractions.

*Directions to restrict or exclude access*

8.17.12 Where the operation of coastal access would by default have the effect of creating public access rights over the land occupied by a managed visitor attraction that the public pay to enter, we are likely to give a direction for land management purposes excluding the public's rights to the extent necessary to avoid any significant loss of income. This is unlikely to be necessary where the charge relates primarily to facilities and services that are outwith the coastal access rights.

## 8.18 Private houses, hotels, holiday properties, parks and gardens

### Overview

8.18.1 This section considers the need for specific measures in order to protect the interests of hotel and holiday accommodation businesses and the privacy of residents of private houses. It also considers our general approach in relation to parks or gardens, including those associated with private houses, hotels and holiday properties.

8.18.2 The following relevant land categories are excepted from the coastal access rights (see section 2.3):

- land covered by buildings or the curtilage of such land;
- land used as a park or garden.

8.18.3 Taken together, these provisions address most concerns in relation to coastal access rights in the vicinity of private houses, hotels and holiday properties and land that is used as a park or garden.

### General approach to alignment

#### *The trail*

8.18.4 The trail will wherever possible be aligned on the seaward side of hotels, holiday properties, private residences and any gardens or parkland associated with them. Existing public rights of way through or past these areas will remain unaffected and the trail may follow them. Where they meet the alignment criteria set out in the legislation and in this Scheme, we seek to use such existing and established access routes wherever possible in line with the principles in section 4.7. The trail may pass on the landward side of residences and their curtilage if no suitable seaward route can be found (for example where the boundary of such land extends very close to the sea), or if there is an available alternative that is reasonably direct and convenient which enables us better to strike a fair balance.

8.18.5 In many places established coast paths pass close to private property. In many cases they are already promoted and their impact is often long accepted as a part of living in the property, or may be insignificant. We will look to adopt such routes where they meet the criteria for trail alignment referred to above. However, there may be circumstances where adopting a nearby adjacent route instead would alleviate specific impacts on a property from an existing path. In such circumstances we would consider proposing the adjacent route if it meets the criteria and would not simply transfer the existing impact onto another land owner.

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*Parks and gardens*

- 8.18.6 Land used as a park or garden is excepted from any new coastal access rights – so where very large areas of this kind on the coast (whether private land or, for example, large municipal gardens) have no suitable public rights of way through them, a significant inland detour may prove necessary in order to provide continuity of access around the coast. In this situation we talk to the owners of the land in question as appropriate to explore the scope for them to dedicate voluntarily a suitable permanent route through the large excepted area in question in order to avoid this kind of substantial diversion.
- 8.18.7 It was agreed during debates on the enactment of the legislation that Natural England would report to Parliament by January 2015 on the issues that have arisen in this respect as a result of parks being excepted land, and on the success of any voluntary agreements reached to secure a route through coastal parks or parkland.
- 8.18.8 Figure 22 describes how we will judge during the alignment process whether land is excepted because it is “used as a park or garden”, and accordingly whether the voluntary dedication approach described above might be relevant to it.
- 8.18.9 Where the land owner is open in principle to dedication of a route through a large park or garden, we will normally suggest a route furthest away from any associated dwelling, to ensure that any impact on the owner’s privacy or enjoyment is minimal. Where possible this will be along the seaward edge of the park or garden.

**Figure 22**

Land used as a park or garden

**Land used as a park**

- a) Defra published guidance in relation to the original categories of excepted land as they applied to open country and registered common land appearing on conclusive maps prepared under the provisions of Part 1 of CROW<sup>80</sup>. In relation to land used as a park, the Defra guidance says: “As well as municipal recreation grounds or play areas, the term ‘park’ may include the landscaped grounds around a house, such as a country house. A park may include ornamental gardens, water features or other man-made scenic vistas.” In applying this description, we will look for evidence:
- i) that the land was specifically designed and laid out for:
    - the exclusive recreation and visual enjoyment of the occupants of the house in question and their guests, or
    - the recreation and enjoyment of the general public – as in the case of an urban or municipal park;
  - ii) that the land is still primarily in use for recreation and enjoyment, either by the owner of the house and/or their private guests, or by the general public; this includes parks which are opened to the public at certain times or for which in some cases an entry charge is levied (see section 8.17 on visitor attractions); and
  - iii) that the land is an enclosed area with clearly defined boundaries.
- b) In relation to the first of these criteria, many historic parks are registered on a list compiled by English Heritage. Some may appear on databases compiled by other relevant organisations, such as the Association of Garden Trusts. We will also consider any other evidence that the owner is able to supply that land was laid out for this purpose.
- c) There may be cases of land originally laid out as a park that is no longer used for that purpose. Where this is the case, the criteria we will use for alignment purposes will be those relating to the current rather than the historic use of the land.

<sup>80</sup> <http://www.defra.gov.uk/rural/documents/countryside/crow/excepted-land.pdf>

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d) In some cases the word “park” will be used to describe an area of coastal land, for example in its postal address or business name. This will not of itself indicate whether the land has any excepted status.

**Land used as a garden**

e) In relation to land used as a garden, the Defra guidance says: “A garden is usually enclosed land near a building. It typically includes areas of lawn, flower borders and other cultivated plants.” In practice on the coast there may be some very large areas of enclosed land associated with a dwelling and consisting of areas of lawn, flower borders or other cultivated plants, or similar garden-like cover such as ornamental plantings, garden furniture or vegetable plots.

f) Included in this category would be any gardens within this description that are opened to the public at certain times or for which an entry charge is levied (see section 8.17 on visitor attractions).

g) In some cases the word “garden” will be used to describe an area of coastal land, for example in its postal address or business name. This will not of itself indicate whether the land has any excepted status.

h) Land registered as agricultural land or in receipt of payments relating to the management of such land will not be considered as garden and as a consequence will not be excepted from the coastal access provisions, although this does not preclude an owner seeking a ‘change of use’ through the appropriate process.

*Spreading room*

**8.18.10** Any land on the seaward side of the trail, and any other land of specific coastal land types, will qualify automatically as spreading room unless it is excepted land or subject to long-term local exclusions. However, most land used exclusively in connection with a private house, hotel or holiday accommodation will qualify as excepted land - see section 8.18.2). There will also be some cases where it is not possible to reach seaward spreading room such as beaches or cliffs adjacent to some houses, hotels or holiday properties because the only means of access to them (other than from the sea itself) is through excepted land.

**8.18.11** When considering whether to exercise our discretion to propose other land as spreading room on the landward side of the trail, in accordance with the criteria in section 4.8, we will carefully consider any concerns that there would be significant impacts on the privacy or enjoyment of people living or staying in adjacent properties. Our use of this discretion cannot in any case create any new access rights over areas of excepted land, such as the curtilage of a building or land used as a park or garden.

*Figures 23 and 26 in chapter 9 illustrate how coastal access rights might be implemented in areas with private houses.*

**Potential issues and likely range of solutions**

**8.18.12** Most concerns will relate to the privacy which residents or guests enjoy in the area immediately around private houses, hotels or holiday accommodation. These will usually be addressed by sensitive alignment of the trail within the context of any excepted land provisions which apply in particular instances.

**8.18.13** In some cases there may be concerns that the income from hotels or holiday accommodation may be affected despite these safeguards, if coastal access rights might be introduced to land that was previously enjoyed exclusively by paying guests. These concerns are considered in more detail below.

*The need for intervention*

**8.18.14** Where hotel and accommodation businesses wish to charge the public for specific goods, services or facilities, the coastal access rights will not prevent it. This

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includes for example charges for the use of facilities such as toilets or parking, and permits for activities not covered under the access rights. Equally, businesses may reserve such facilities for the exclusive use of guests if they prefer. Intervention will not normally be necessary on our part to facilitate these arrangements, which will typically represent a continuation of the status quo.

8.18.15 Hotel and accommodation businesses will not be able to charge the general public to enter land where the coastal access rights apply, for activities falling within those rights. Many accommodation businesses already experience low-key public access to beaches and other land used by their guests. The introduction of coastal access rights is unlikely to have any significant effect in these cases. However there may be exceptional cases, where land has previously been reserved for the exclusive enjoyment of hotel guests or people staying in holiday accommodation, in which intervention may be necessary to prevent any significant loss of income to the business concerned as a result of introduction of the coastal access rights.

*Alignment solutions*

8.18.16 Should coastal access rights be potentially in scope on land previously enjoyed exclusively by paying guests, we will discuss the implications with the business concerned.

8.18.17 It will often be possible to align the trail in a way that avoids areas favoured by paying guests for quiet enjoyment, with any associated spreading room access being sufficiently low key to be in keeping with these qualities.

8.18.18 It will also be possible in these circumstances to reassess the route of the trail or the landward extent of the coastal margin if, on the basis of the evidence available at the time, we consider that significant loss of income is likely unless the change is made.

*Informal management techniques*

8.18.19 Clear waymarking of the trail can be used to steer trail users past quiet areas and places where there are no rights of access. Businesses will also be able to use signs to indicate areas not subject to the rights, explain any facilities reserved for residents or guests, or advertise any facilities that are available to the public at a charge.

*Directions to restrict or exclude access*

8.18.20 Directions may be considered if, on the basis of the evidence available at the time, we consider that significant loss of income would otherwise be likely as a result of the coastal access rights applying to any particular area of land.

## 8.19 Camping and caravanning

### Overview

8.19.1 There is no general public right to camp on land with coastal access rights<sup>81</sup>. This section relates to camping or caravanning organised, permitted or undertaken by the person who controls the use of the land.

8.19.2 There are several national provisions which help to address the likely concerns:

- The actual land covered by a tent or caravan is always excepted from coastal access rights.
- Regulated caravan and camping sites (as defined by section 14 of Schedule 1 to CROW) are also excepted land, but it is possible for the trail to cross them on an access strip (see section 2.3).

8.19.3 Camping and caravan sites may have “park” or “garden” in their names, but the provision enabling the trail to be aligned through them would apply irrespective of the separate exception of “land used as a park or garden” because they are used for a different purpose – see figure 22.

<sup>81</sup> See paragraph 1(s) of Schedule 2 of CROW.

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Potential issues and likely range of solutions

8.19.4 Concerns may arise at the prospect of aligning the route through permanent (normally commercial) camping or caravan sites, or other land where the owner occasionally gives permission for people to camp. This is most likely with camping or caravan sites where there is currently no public access or where the site has long-term tenancies.

*The need for intervention*

8.19.5 Many campsites already have routes through them that are public rights of way, or used to pass through the site by a great many visitors drawn from the wider public. Passage by walkers along the trail will typically be compatible with this kind of use. People walking through land where others are camping normally do their best to stay clear of the tents or caravans, wherever other space is available. The trail will be aligned to minimise impact on the privacy of the residential areas of a site, where there is no current public access, and to avoid facilities that are intended for the exclusive use of paying guests (such as swimming pools and toilet facilities).

8.19.6 Sensitive alignment of the trail can alleviate concerns about introducing new access. However, it is recognised that further intervention may be necessary in particular instances where the trail passes through or close to affected land, for example:

- where the site is of a restricted design or has a high density of pitches;
- to maintain the privacy of the residential areas of a site (whether the site consists of caravans, camping or a mix), if there is no current public access;
- to avoid facilities that are intended for the exclusive use of residents;
- to draw the public's attention to the boundaries of the site, if they are not obvious;
- in relation to the needs of specialist groups using a site (see below); and
- in relation to routine maintenance and other work operations that take place from time to time on the site (see section 8.13).

*Alignment solutions*

8.19.7 The ideal alignment for the trail at a coastal caravan or camping site, in terms of coastal experience, will normally be to pass it on the seaward side, where space allows and this is achievable. Where it is not, we will aim to seek agreement from the site manager to aligning the trail through part of the site using existing access tracks, and avoiding any other excepted land (such as areas set aside specifically as a garden, or as curtilage around a caravan). In doing this we will take fully into account the issues outlined in 8.19.6. Once the trail has been established, it will remain possible to make adjustments to the route if the site manager later decides it is necessary to make a change to the layout of the site.

8.19.8 If, because there is no existing public access and given the factors outlined above, it is not possible to align a route through a caravan or camping site, consideration will be given to aligning a route landward of the site. In doing so the key principles of alignment, as set out in part B of this Scheme, will be applied to ensure that a fair balance is struck, balancing the interests of the public in having new rights of access and the various interests of owners and occupiers of any land in the area.

*Figure 23 in chapter 9 illustrates how the trail might be aligned along the seaward edge of a caravan site.*

8.19.9 A few coastal sites cater for specialist groups which require a greater degree of privacy or security than normal, in particular:

- sites used by recognised youth organisations for organised youth camps, where children or young people may be encouraged to explore freely within the safe boundaries of such a site, knowing that any adult they encounter will be a trusted and accredited helper; and
- sites set aside specifically for members of naturist organisations, where a high degree of privacy may be a requirement for their continued use.

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- 8.19.10 We would not normally propose to align the trail through such sites, unless it is possible to propose an alternative route for times when access is excluded because it is in use by such a group (see 'Directions to restrict or exclude access' below).
- 8.19.11 Land used occasionally for camping may qualify automatically as spreading room, if it is seaward of the trail or falls within one of the specific coastal land types – see section 4.8. Where this raises concerns we will normally address them either through informal management or directions.

- 8.19.12 In deciding whether to use our discretion to propose land as spreading room on the landward side of the trail, we will take into account the scope for informal management or directions to address any concerns about potential impacts on occasional camping, in addition to the general criteria in section 4.8.

#### *Informal management techniques*

- 8.19.13 Signs may be used if necessary to mark the trail clearly and encourage visitors to exercise consideration for people staying on a site. We will discuss with the site manager the wording of any signs that are necessary.

#### *Directions to restrict or exclude access*

- 8.19.14 Directions may be necessary if the trail passes through a caravan or camping site, for example in order to replicate rules that apply to residents of the site in relation to their dogs. Such restrictions may only be for the periods when the site is in use.

- 8.19.15 It may also occasionally be necessary to exclude access to a site for land management purposes in order to allow a site to offer a more private or secure environment than normal for specialist groups such as those mentioned above, if the alignment of the trail or landward boundary of spreading room, or the excepted land provisions, do not themselves address this need.

- 8.19.16 An exclusion for this purpose may be for the periods when the site is in use by the groups or it may be indefinite, taking into account questions of clarity and practicality described in section 6.7. In the former case, we would expect to propose an alternative route for the public to use at times when the exclusion is in force.

## 8.20 Golf courses

### Overview

- 8.20.1 Any land used for the purposes of a golf course is excepted land, but there is provision for the trail to cross it on an access strip (see section 2.3). Buildings associated with the golf course, and their curtilage, will also be excepted from the rights. These provisions will limit the need for intervention.

### Potential issues and likely range of solutions

- 8.20.2 While many golf courses in England already have some form of public access across them (usually on rights of way) there may be concerns that the introduction of coastal access rights will cause disruption to play or danger to the public from flying golf balls.

#### *The need for intervention*

- 8.20.3 The need for intervention will be determined by the route of the trail and the layout of any course through which it passes.

#### *Alignment solutions*

- 8.20.4 The trail will wherever possible be aligned on the seaward side of golf courses. If this is not possible we will work with the course manager to find the best alignment through the golf course.

- 8.20.5 It will usually be possible to design the line of the trail to ensure that public access and golfers' needs can be accommodated. For instance, subject to advice from the course manager, we may be able to align the trail along existing access tracks used by the golfers or over recognised crossing points on the fairway. In aligning the

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route, we will aim to take into account factors such as:

- areas intended for general play;
- an area in a golfer's sight line from a tee etc;
- the desirability of avoiding a route that runs parallel to a fairway for a significant distance, if its use by the public would be likely to disrupt play;
- the safety margin for each hole (normally reaching a width of at least 60 metres across a point on the fairway).

8.20.6 Exceptionally it may be necessary to align the trail around the back of the course on its landward side if no workable route can be found through it or on the seaward side.

8.20.7 There may be some areas owned or managed by the club – such as extensive dune systems – that qualify automatically as spreading room because they are not part of an active playing area. In such a case we may use our discretion to align the inland boundary of the coastal margin with a suitable physical feature for the sake of clarity, in accordance with the principles at 4.8. We are unlikely to use our discretion more widely to propose inclusion of additional landward areas that form part of a golf course.

*Informal management techniques*

8.20.8 Where there is public access at a golf course, golfers will normally check to see if there are any members of the public before playing their shots and stop play temporarily if the members should enter an area where they may be at risk from flying golf balls.

8.20.9 Signs and way-marks may be used in such circumstances to minimise disruption to play or risks to visitors. The wording of such signs will vary according to the requirements on each course, but might typically aim to:

- mark the trail clearly and encourage people to stay off other areas of the course used for play;
- remind people of the requirement to keep dogs under effective control;
- educate people about the special requirements of golfers particularly when they are settled on a shot, for example:
  - keeping noise to a minimum and avoiding movement if they are in a golfers' line of sight;
  - where a golfer is settled on a shot, waiting until the shot has been completed before crossing a playing area;
  - if the visitor is some distance from the golfer taking a shot but is still within the area of risk, standing still and facing the golfer so as to clearly see the direction of the golf ball;
  - staying in view so that golfers can provide warning of an ill-directed golf ball where necessary;
  - listening for calls of "fore", used by golfers to indicate that they have hit a golf ball in the direction of a person on the course and that the person may need to take evasive action.

*Directions to restrict or exclude access*

8.20.10 Directions are unlikely to be necessary provided that golfers and visitors behave considerately towards one another.

8.20.11 However, it may occasionally be necessary to give a direction for land management purposes requiring people to keep dogs on leads, if we conclude at any stage that the national requirement to keep dogs under effective control is inadequate to prevent disruption to play.



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## 8.21 Flood and coastal risk management

### Overview

8.21.1 Section 4.10 of the Scheme describes how we will use the special provisions in the 2009 Act to ensure that coastal access is responsive to coastal change in the context of developing policies for flood and coastal risk management policies and the strategies that implement them.

8.21.2 This section explains our general approach to alignment in relation to structures used for flood and coastal risk management and the need for specific measures to ensure that an appropriate balance is struck between the public interest in having rights of access over them and their primary purpose.

### General approach to alignment

#### *The trail*

8.21.3 Natural England will work with those responsible for flood and coastal risk management to ensure that the coastal access proposals do not compromise essential functions. We will consult the Environment Agency in all such cases, in line with the requirement in section 55D(6) of the 1949 Act. We will also consult the operating authority, if different.

8.21.4 Land covered by flood defence works and sea defence works is not excepted land – see section 2.3. On a defended coast, the trail may therefore be aligned along the flood bank or barrier where it is safe, suitable and convenient for public access on foot.

8.21.5 We will be able to reposition the trail later, if for example:

- land which the trail is on is due to be flooded as part of a strategy of managed realignment; or
- the route is in our view no longer safe, suitable and convenient, because the bank or barrier on which it is aligned have not been actively maintained (see section 4.10).

#### *The spreading room*

8.21.6 Land to the seaward side of the trail will normally be spreading room unless it is excepted land or subject to long-term local exclusions, as will any other land of specific coastal land types – see section 4.8. We may also use our discretion to include as spreading room on the landward side of the trail some flood and sea defences in accordance with the principles in 4.8. The slopes of flood defence banks on either side of the trail will normally be spreading room as a result of these provisions.

*Figure 28 in chapter 9 illustrates how the trail might be aligned along embankments used for flood defence.*

### Potential issues and likely range of solutions

8.21.7 Concerns in relation to coastal access rights on flood or sea defences are most likely to arise in relation to:

- over-topping of flood defences by the sea;
- danger to the public from access on some defences, or impacts of such access on their primary function; or
- operations which may put visitors at risk or may be disrupted by their presence – see section 8.13.

#### *Over-topping of flood defences*

##### *The need for intervention*

8.21.8 All flood defences are at some risk of being over-topped by the sea occasionally. When this happens it can prevent people from continuing a journey along the coast or put them at risk if they try to do so. The need for intervention will depend on the likely frequency of flooding and the potential consequences for public access when it happens. We will take advice on these factors from the Environment Agency (and the operating authority, if different) to inform our assessment of whether, and if so what form of, intervention is necessary in each circumstance.

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*Alignment solutions*

- 8.21.9 Where there is a significant likelihood or risk of the sea over-topping a bank or barrier along which the trail is aligned, an alternative route may be provided which the public can use at times when the route is unsuitable for public use – see section 4.10. If over-topping is likely to happen frequently, we may align the trail on higher ground or on another bank where there is less risk of flooding.

*Informal management techniques*

- 8.21.10 Signs may be used to warn the public where the trail is at significant risk of flooding and explain the operation of any alternative route that is available when it happens.

- 8.21.11 Any general information we provide for people visiting the coast (for example leaflets, or signs at nearby car parks) may include details of a local or national flood warning service which people can contact to help them decide whether the trail is likely to be affected by flooding and if so, whether they wish to proceed.

*Directions to restrict or exclude access*

- 8.21.12 Directions may not be used to prevent danger to the public from natural hazards such as flooding – see section 6.6.

*Danger from access on structures*

*The need for intervention*

- 8.21.13 Some flood and sea defence works may be unsuitable for access in certain locations, or under certain conditions. For example, access on rock armour can be dangerous in locations where the beach is constantly covered over at high tides and the rock armour is subject to severe wave action, as the surfaces may be wet and slippery making it hazardous for the public to use.

- 8.21.14 We will discuss these circumstances with the Environment Agency (and the operating authority, if different) to inform our assessment of whether, and if so what form of, intervention is necessary in each circumstance.

- 8.21.15 The operating authority is normally required under Health and Safety legislation to assess such risks and take such steps as are reasonably practicable to reduce them to an acceptable level. Where it already carries out (or is willing to carry out) appropriate risk management measures to secure compliance with such obligations, we may take the view that these steps are adequate to address a particular concern.

*Alignment solutions*

- 8.21.16 We will not align the trail on flood or sea defence works that would be inherently dangerous to walk on under normal conditions and we are unlikely to exercise our discretion to include them as spreading room on the landward side of the trail. Neither would we take either action if we conclude that access to them would significantly compromise their primary function in relation to flood or coastal risk management.

- 8.21.17 Some flood and sea defence works may qualify automatically as spreading room, typically where they are seaward of the trail. Further intervention may be necessary in relation to these if they are inherently dangerous or access over them would significantly compromise their primary functions.

*Informal management techniques*

- 8.21.18 Signs may be used in places to warn the public of any danger from access over flood or sea defences (where it is not already obvious), and of any particular conditions when there may be heightened risk.

- 8.21.19 The provision of safe access (such as a ramp or steps) through rock armour to the beach is often an effective means to deter people from clambering on it.

*Directions to restrict or exclude access*

- 8.21.20 Directions are unlikely to be necessary to prevent danger to the public.

- 8.21.21 We may exclude access from flood or sea defence works on land management

grounds, where we conclude in discussion with the operating authority that access over it would significantly compromise its primary flood or coastal risk management function.

## 8.22 Military use

### Overview

8.22.1 Coastal access will not compromise defence needs. Much land used for defence purposes on the coast is excepted from the access rights under the existing CROW rules, being land regulated by byelaws under section 14 of the Military Lands Act 1892 or section 2 of the Military Lands Act 1990. On any other land used for defence purposes where access rights would apply on the coast, the Secretary of State may use the powers under section 28 of CROW to restrict or exclude access as necessary for the purposes of defence or national security (see section 6.6).

8.22.2 Nevertheless, managed public access is compatible with some types of defence activity. There is already managed access to a significant proportion of military training land on the coast, either alongside defence activities or at times when it is not in use for those purposes. Some of this access is provided along public rights of way which are subject to military byelaws in many cases. Other access opportunities may be provided with the permission of the defence authorities.

8.22.3 Natural England and the Ministry of Defence have agreed to work closely together to improve the current position where possible and achieve the best possible 'fit' with the Government's coastal access objectives on land used for defence purposes. We will discuss during the preparation of our initial proposals to the Secretary of State the best approach to trail alignment, creation of spreading room and informal management, and any requirement to use the section 28 of CROW exclusion or restriction powers.

### General approach to alignment

#### *The trail*

8.22.4 We will discuss the alignment of the trail with the Ministry of Defence where they have an interest in affected land to ensure that our proposals are in keeping with defence needs. A suitable route may be available through the affected area or on the seaward side. Otherwise it may be possible for the trail to pass on the landward side of the land without a significant effect on recreational interests.

8.22.5 There will be places where for defence reasons a significant detour inland would be necessary to enable continuous access along the coast. It may be possible to provide a managed route which is closer to the coast in these places which would be available for the public to use at times when the land is not in use for defence purposes. The nature of the access rights in these circumstances will vary according to whether the land is subject to military byelaws or to directions under section 28 of CROW and the conditions set by them.

8.22.6 We will normally align the trail around any area where access would be excluded for defence purposes for significant periods, so that a continuous route is available irrespective of defence activity. However, we will compare carefully the benefits to the public which would be afforded by providing a continuous route around the affected land with the cost of doing so. The longer the potential route, the higher the costs of alignment and establishment would normally be. We may accept temporary breaks in continuity in some places for this reason, if a coastal route can be provided at times when the land is not in use for defence purposes.

#### *The spreading room*

8.22.7 Land seaward of the trail will qualify automatically as spreading room unless it is excepted or subject to long-term local exclusions, as will any other land of specific coastal land types such as dunes – see section 4.8. We will discuss the potential

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consequences of these provisions with the Ministry of Defence. In some cases it may be possible to manage coastal access rights to the spreading room alongside defence training activities; in others it may be necessary to exclude access while the land is in use for defence purposes.

**8.22.8** Coastal access rights do not apply on land if military byelaws prevent such access. In practice the public may have managed access rights to byelawed areas under specified conditions. Defence Infrastructure Organisation may review byelaws from time to time. We may advise them on any potential opportunities to improve coastal access which arise from such a review.

**8.22.9** We will not normally use our landward spreading room discretion to propose any land inland of the trail that is used for defence purposes, but may do so where it would be in accordance with the criteria in section 4.8 and subject to agreement with the Ministry of Defence.

**Potential issues and likely range of solutions**

**8.22.10** Where land is currently used for defence purposes we will adopt the general approach to alignment described above to reach agreement with the Ministry of Defence on the alignment and management of coastal access rights.

**8.22.11** Further issues may arise in relation to land previously used for military purposes. Concerns are most likely to arise in connection with:

- Contamination – see section 8.26.
- Unexploded ordnance, which may also be an issue in connection with previous private or industrial use – see section 8.23.

**8.23 Unexploded ordnance**

**Overview**

**8.23.1** This section assesses the case for specific measures in order to address concerns regarding the alleged presence of unexploded ordnance on land with coastal access rights.

**8.23.2** It is estimated that military training took place on over a third of the UK's rural land mass during World War 2. A proportion of coastal land was used for invasion practice, for live firing and as temporary bombing ranges. This use was not always well documented. In addition, the threat of invasion meant that many beaches were protected by obstacles and minefields. A major 'clean-up' of the coast was undertaken once the threat of invasion decreased. The great majority of requisitioned coastal land had been returned to local authorities and the other original landowners by 1950. Some coastal land was retained by Ministry of Defence and was subsequently sold back into private ownership. In such circumstances the Ministry of Defence disposed of land as either 'cleared', or 'bought with risk'.

**8.23.3** Commercial ordnance companies have also used areas of land for test firing ammunition (section 8.11 considers land currently in use for shooting, including weapons testing).

**Potential issues and likely range of solutions**

**8.23.4** Concerns for people's public safety may arise where there is proven or an alleged existence of unexploded ordnance on coastal land.

*The need for intervention*

**8.23.5** Concerns in relation to unexploded ordnance will be uncommon, but may arise during the preparation of our initial proposals to the Secretary of State or come to light after the introduction of coastal access rights. In either case we will take into account the following factors in order to decide what intervention is necessary, if any:

- Evidence provided by the person raising the concern.
- Any advice we receive from the police.

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- Any archive research report provided by Defence Infrastructure Organisation (in relation to former defence use) or by a commercial testing company which was responsible for live firing. This report gives some guidelines as to the level of risk posed by unexploded ordnance on the site.
- Any advice offered by Defence Infrastructure Organisation, the Ministry of Defence's Explosive Ordnance Disposal teams or the commercial testing company about the nature of the risk.
- Whether activities such as grazing of livestock or ploughing have occurred without incident in the past.
- Where there is a history of public access without any previously reported injury or damage.
- Intervention may not be necessary if previously discovered unexploded ordnance on the land has been found to pose no threat to public safety.

8.23.6 Whilst small arms ammunition pose little threat to public safety unless mishandled, ordnance such as mortar bombs that did not explode when fired or were dumped by allied troops after exercises can still pose a risk of accidental detonation many decades after it was fired or discarded. Because of the danger of serious injury or death, intervention is likely to be necessary where there is a significant verified risk.

*Alignment solutions*

8.23.7 Where there is a significant verified risk from unexploded ordnance, we may align the trail either to avoid the affected area or to pass through it if a safe route can be provided.

8.23.8 Land seaward of the trail will automatically qualify as spreading room unless it is excepted land or subject to access exclusions, as will other land of specific coastal land types (see section 4.8). Informal management or directions may be necessary where such land carries risks from unexploded ordnance.

8.23.9 Where we know that unexploded ordnance is present on land next to the trail on the landward side, we will only use our discretion to include the land within the spreading room (in accordance with the criteria in section 4.8) if we are satisfied that there would be no significant danger to the public from this source.

*Informal management techniques*

8.23.10 Where it is known that live firing has taken place in the past on land with coastal access rights but it is thought that the risk to the public is low, safety signs and other media may be used to warn visitors and advise them on sensible precautions.

8.23.11 If a member of the public reports a suspicious object on land with coastal access rights we will advise them to contact the police if they have not already done so. If they consider the discovery to be significant, the police will normally contact the Ministry of Defence's Explosive Ordnance Disposal team, who will deal with the item on site or remove it for disposal.

8.22.12 At the same time we will discuss the need for the management of coastal access with the police. Temporary signs may be used to advise the public of any potential danger whilst the risk is assessed.

*Directions to restrict or exclude access*

8.23.13 Directions to prevent danger to the public will only be necessary in exceptional circumstances where there is a significant verified risk, or as a precautionary measure until the risk can be properly assessed. We will revoke any direction given on a precautionary basis if no substantive evidence emerges after a reasonable period of time to support an allegation.

8.23.14 Where necessary, directions will normally exclude the public from the affected land, leaving residual routes open where it is safe to do so. It may be necessary to exclude access indefinitely in some cases, or it may be possible to have a verified danger neutralised or removed so that coastal access rights can be restored in the medium to long-term.

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## 8.24 Mineral workings

### Overview

8.24.1 This section assesses the case for specific measures in order to manage risks to the public from the presence of mineral workings including mines, quarries, tips and land used for commercial peat extraction.

8.24.2 Active mineral workings are likely to be excepted land (see below). However, there may be concerns about public safety where coastal access rights are introduced on adjacent land.

8.24.3 There may also be concerns about public safety at abandoned mineral workings, or disturbance to sites used by bats (see section 7.1). However, abandoned workings often have historic or geological interest and old quarries can provide valuable recreational opportunities, in particular for climbers for whom an element of risk is part of their sport. We will discuss with the land manager how to strike an appropriate balance between providing opportunities for recreation and addressing concerns about public safety.

### Potential issues and likely range of solutions

#### Active mineral workings

##### *The need for intervention*

8.24.4 Active mineral workings and associated tips are likely to be included in one of the following two categories of excepted land:

- Land used for the getting of minerals by surface working (including quarrying)<sup>82</sup>; or
- Land covered by buildings or the curtilage of such land.

These provisions will help address any concerns about coastal access rights around active workings.

8.24.5 Operators of active workings have statutory obligations to assess risks to the public arising from them, and to take any necessary steps to prevent or adequately control these risks. The mine owner or quarry operator is also required under Mines and Quarries legislation to ensure that any tip associated with the workings does not constitute a danger to the public. Annex O of our relevant authority guidance outlines the relevant statutory requirements<sup>83</sup>. Where the operator indicates that he carries out (or is willing to carry out) appropriate informal management to secure compliance with such obligations, we may take the view that these steps are adequate to address a particular concern.

8.24.6 If the trail passes close to and/or on the landward side of an active mineral working, further specific intervention may be necessary to ensure that the public are aware of the extent of their access rights and do not stray into an area of risk.

##### *Alignment solutions*

8.24.7 Where there are active workings on the coast we will discuss the alignment of access rights with the operator to ensure as far as possible that the trail avoids areas where people would be put at risk. We will align the route on the seaward side of the workings wherever it is safe and practicable to do so.

8.24.8 In some instances it may be necessary for the trail to cross vehicle access tracks outside the working area in order to provide a continuous route. We will discuss the location and design of these crossing points with the operator to ensure an appropriate level of public safety and a minimum of interruption to works traffic.

8.24.9 It is very unlikely that we will use our discretion to propose landward spreading room in a way that would include active workings.

<sup>82</sup> This does not include the removal by any person of sand or shingle from an area of foreshore or beach which is coastal margin, in pursuance of a right which is enjoyed by the person under any grant or reservation, local or personal Act, Royal charter or letters patent or by prescription.

<sup>83</sup> <http://www.naturalengland.org.uk/ourwork/enjoying/places/openaccess/restrictions.aspx>

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- 8.24.10 Where a working area falls within the area of spreading room on the seaward side of the trail, we will discuss with the operator how best to ensure that people do not stray into it.

*Informal management techniques*

- 8.24.11 Operators normally erect signs and/or barriers at the boundary of active workings to deter people from straying into a work area. The number and location of these may need to be reviewed when coastal access rights are introduced.

*Directions to restrict or exclude access*

- 8.24.12 The public will have no right to use active working areas, so directions may not be used to exclude their access. In exceptional circumstances it may be necessary to exclude the public from adjacent land to prevent danger to the public from activities in the working area – for example at quarries where explosives are used.

**Abandoned workings**

*The need for intervention*

- 8.24.13 Where coastal access rights are newly introduced to abandoned mineral workings, this may trigger a review by the owner or operator (or person entitled to work the mine or quarry) of any risks to the public from abandoned workings. Annex O of our relevant authority guidance outlines the relevant statutory requirements<sup>84</sup>. Where the land manager indicates that he carries out (or is willing to carry out) appropriate informal management to secure compliance with such obligations, we may take the view that these steps are adequate to address a particular concern. Such steps may include:

- fencing to prevent people from falling into a quarry;
- caps, plugs or grills at the entrances of abandoned mines; and
- measures to ensure the stability of disused tips.

- 8.24.14 Many hazards at abandoned workings are visible and their nature is obvious to anyone approaching them. Intervention may be necessary where hazards are known to exist that may not be readily apparent to visitors. Such situations could include overgrown and unsecured mine entrances, unstable tips, or disused quarries with steep, crumbling slopes above vertical drops. Precautions may also need to be taken where the deterioration of the roof of a mine has left the land susceptible to crown holes<sup>85</sup> appearing.

- 8.24.15 The need for intervention in these circumstances will depend to some extent on the context provided by the surrounding landscape. Where the hazard is not visible to a person approaching it, but its nature is in keeping with other, natural landscape features nearby – as, for example, an abandoned quarry in a landscape of rugged hills or cliffs – it is reasonable to expect visitors to be prepared for the hazard, and intervention is therefore unlikely to be necessary to manage the risk.

- 8.24.16 Where the hazard is out of character with the surroundings – as, for example, a steep quarry set in rolling downs – the following factors are likely to be relevant in deciding whether and, if so, to what extent intervention is necessary:
- The extent and effectiveness of existing informal management measures.
  - The ease to which the public, and in particular unaccompanied children, can access the site and its proximity to the trail; remote sites are likely to attract people who are willing to accept a greater degree of risk than those people who use sites close to car parks, settlements, public transport routes and access infrastructure.
  - The location of mine openings; even where the locations of entrances and openings are obvious, they may occasionally pose a significant risk to the public if they are located on a popular route, such as the coastal trail. Conversely, an

<sup>84</sup> <http://www.naturalengland.org.uk/ourwork/enjoying/places/openaccess/restrictions.aspx>

<sup>85</sup> An opening caused where mine workings have been close to the surface and have collapsed from below.

opening situated in a place where people are very unlikely to go (such as in dense vegetation) may not pose a significant risk even if it is concealed, provided that people have been warned about the danger of leaving the path.

#### *Alignment solutions*

8.24.17 We will aim to align the trail in such a way that people using it will not be exposed to any significant danger from abandoned mineral workings.

8.24.18 At quarries, the ideal route may be along the quarry top, a safe distance from the edge. This distance is likely to relate to several factors such as:

- fencing or other measures undertaken by the quarry operator or the occupier of the land in accordance with their relevant statutory obligations (see above);
- the stability of the path surface and the angle of any slope between the trail and the quarry edge;
- any places where people are likely to step off the trail to allow others to pass;
- the height, slope and landing of the drop below the quarry edge.

8.24.19 In deciding an appropriate route for the trail and boundary for any landward spreading room, we will also take into consideration the location of any mine entrances, buildings and/or tips and the extent to which these are safe for people to approach, or to which it is practicable to undertake further safety measures before access rights are introduced.

8.24.20 Any abandoned workings on the seaward side of the trail – or on any other land of specific coastal land types (see section 2.3) will qualify automatically as spreading room unless they are excepted land or subject to access exclusions. Where there are safety concerns in relation to these we will consider the use of informal management or directions to address them as necessary.

8.24.21 We may also use our discretion to propose land with abandoned workings as spreading room on the landward side of the trail, in accordance with the criteria in section 4.8. We will have particular regard in this to their recreational value and/or historic or geological interest as well as any safety concerns.

#### *Informal management techniques*

8.24.22 Where the risk from abandoned workings is considered significant, the following techniques can be used to prevent danger either alone or in combination:

- signs to warn people of dangers that are not readily apparent and to advise on suitable precautions;
- marked routes to lead people safely through areas of spreading room where there are features that pose a particular risk; and
- fencing and/or caps, plugs or grills, installed by the land manager in accordance with relevant statutory obligations<sup>86</sup>.

8.24.23 Where physical barriers are considered appropriate, they should be designed and installed to ensure that there is no loss to any special heritage interest on the site. At entrances to sites which are known to be used by bats, grilles must be used rather than caps or plugs to enable ingress and egress by the bats.

#### *Directions to restrict or exclude access*

8.24.24 For abandoned workings, directions will not normally be necessary to prevent danger unless:

- the danger is significant and not readily apparent to the visitor; and
- informal management measures are not being taken to reduce the risk, or we conclude that they are likely to be insufficient to reduce it to an acceptable level; and
- physically securing the hazard would place a significant new cost on the occupier – over and above what may already be required of him in law - or have an unacceptable effect on the landscape or on features of heritage or nature conservation value.

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8.24.25 In relation to the risk from mine subsidence, including fissures or crown holes, we may give a direction where there is visible evidence of subsidence on the land surface, or if a qualified inspector has advised at any time that it is likely to develop on the land surface.

8.24.26 Where necessary directions are likely to take the form of long-term exclusions from the area of risk. The extent of the exclusion is likely to relate to the location of the dangerous features and of other nearby features that would provide a more effective boundary around the area of risk.

8.24.27 Temporary exclusions may be necessary as a short term measure where an incident such as fresh subsidence exposes the public suddenly to substantial risk. In this situation, we will discuss a longer term solution with the owner or operator and the enforcing authority (usually the district council).

## 8.25 Ports, industry and other maritime facilities

### Overview

8.25.1 This section assesses the case for specific measures in relation to ports and other industrial facilities. It also includes consideration of smaller maritime facilities such as harbours, marinas, boatyards, quays, jetties and lifeboat stations on the coast. Land used for military purposes (including ports) are considered separately in section 8.22.

8.25.2 Much land of these types will be excepted land under Schedule 1 to CROW, because it will fall into one of the following categories:

- land covered by buildings or the curtilage of such land;
- land covered by works used for the purposes of a statutory undertaking (other than flood defence works or sea defence works, on land which is coastal margin) or the curtilage of any such land;
- land the use of which is regulated by byelaws under section 14 of the Military Lands Act 1892 or section 2 of the Military Lands Act 1990 – see section 8.22.

The definition of building does not include any slipway, hard or quay on the coastal margin. In addition land may be subject to the Port Security Regulations 2009 which have introduced measures to enhance port security in the face of threats of security incidents.

8.25.3 These general provisions will often help to address concerns about the introduction of coastal access rights at particular sites. Where concerns are raised, we will discuss the circumstances with the site manager in order to determine whether more specific intervention is appropriate.

### Potential issues and likely range of solutions

8.25.4 Concerns are likely to relate to either:

- public safety; or
- site security implications, particularly in relation to the rigorous security standards with which ports and some other industrial facilities are required to comply.

8.25.5 The available solutions are similar in relation to both concerns and are therefore considered together.

#### *The need for intervention*

8.25.6 Many work operations are governed by health and safety at work legislation. Employers must ensure, so far as is reasonably practicable, the health and safety of persons affected by their work activities. Where the land manager indicates that he already carries out (or is willing to carry out) appropriate informal management to secure compliance with such obligations, we may take the view that these steps are adequate to address a particular concern.

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- 8.25.7 Intervention may be unnecessary for lower order risks such as those commonly encountered in small harbours, marinas and boatyards, provided visitors can clearly see the hazard and there is a safe and accessible way around it. It may be necessary to discourage access in areas with higher order risks, for example risks from use of heavy duty industrial machinery or potential exposure to harmful substances used in manufacturing or during an industrial operation.
- 8.25.8 Secure areas will usually be isolated from areas with public access by fencing in accordance with industry standards. For instance the International Ship and Port Facility Security (ISPS) Code sets out mandatory security-related requirements for port authorities<sup>87</sup>. These measures will normally be sufficient at sites with special security requirements. Where a security concern is raised relating to coastal access rights, Natural England will discuss the circumstances with the site manager in order to determine whether and, if so, to what extent intervention is appropriate.

*Alignment solutions*

- 8.25.9 The trail will usually avoid passing through ports and other industrial areas in active working use. It will do so even where there is an existing public right of way, unless it offers an appropriate route that addresses any concerns about security, safety and efficient operations.
- 8.25.10 Wherever possible we will align the trail on the seaward side of such areas, but it will sometimes be necessary to make significant detours inland for safety or security reasons, in particular to avoid international container ports. Where new port facilities are planned, we will discuss with planners and developers the scope to provide an access provision as part of the overall development plan.
- 8.25.11 At smaller harbours, marinas, boatyards, quays and areas of light industry, the trail will typically be much closer to the sea. We will discuss the practicalities with site managers in order to avoid any areas where there are significant safety or security issues. Similarly we will discuss with the operator the alignment of the trail in the vicinity of any lifeboat stations to prevent disruptions at launching.

- 8.25.12 Although much of the land used for these purposes will be excepted, there may be adjacent land such as a beach which will qualify automatically as spreading room. We are very unlikely to use our landward discretion in such a way as to include active ports or industrial areas (including smaller harbours, marinas etc) as spreading room, though there may in some instances be adjacent land in the same ownership which we regard as suitable because it is not in active use.

*Informal management techniques*

- 8.25.13 The trail will be clearly way-marked to encourage people to stay away from any areas where there are safety or security issues.
- 8.25.14 Safety signs and temporary barriers may also be used to warn of specific dangers and to deter visitors from entering an area of risk. These techniques are likely to be more effective to manage lower order risks that occur in harbours, marinas, quays, and boatyards than those in ports or areas of heavy industry where risks will often be of a higher order.
- 8.25.15 People at work are usually expected to check for the presence of others, and to stop any activity or operation temporarily if they enter the area of risk. Banksmen or lookouts may also be used to stop visitors from entering. This approach may be particularly effective in mitigating lower order risks, for instance in areas that are used from time-to-time to remove boats from the water, or on slipways or other hazards used for launching boats. In such circumstances it will usually be possible for the operator to spot approaching visitors and either ask the visitor to wait until the operation is complete or to halt the operation temporarily whilst they pass.

<sup>87</sup> The International Maritime Organisation publishes details of the International Ship and Port Facility Code and other related security requirements at <http://www.imo.org/>

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8.25.16 Many areas in use for these purposes will be excepted land where directions are not available or necessary to manage access rights.

8.25.17 The solutions described above will normally be adequate to address lower order risks. Where the public access rights would otherwise apply, we may give directions:

- on public safety grounds, to manage severe risks; or
- on land management grounds, to enable port authorities and others to comply with particular security requirements<sup>88</sup>.

8.25.18 Where necessary directions will normally exclude access from the affected area. Exclusions on safety grounds will be limited so far as is reasonably practicable to the actual area of risk, taking account of any risk assessment that has been conducted. There are powers to provide alternative or temporary routes which can operate if access to the ordinary route is temporarily excluded for these purposes – see figure 17 in chapter 6 of the Scheme.

**8.26 Contamination of land or water**

**Overview**

8.26.1 This section considers contamination of coastal land or water arising from its previous use or from accidental spillage. Section 8.23 separately considers issues arising from unexploded ordnance.

**Potential issues and likely range of solutions**

8.26.2 Concerns are most likely to arise in relation to public safety in these circumstances.  
*The need for intervention*

8.26.3 Contamination may not be obvious to the public and may place people at serious risk if they came into contact with dangerous substances. Intervention may therefore be necessary:

- where there is existing contamination to land or water – normally identified as such on the local authority's contaminated land register; or
- in exceptional circumstances where land with coastal access rights or adjacent water (including the sea) becomes dangerous as a result of an accidental spillage.

8.26.4 In deciding whether intervention is necessary – and if so, what measures would be appropriate, we will have regard to any advice from the local authority (which has a duty to identify and register all such land within its jurisdiction under the Environmental Protection Act 1990), the Health Protection Agency and any other bodies involved in the management of the land.

*Alignment solutions*

8.26.5 Where there is existing contamination of land or water along the coast we will discuss the most appropriate alignment of the trail and spreading room with the local authority and any other bodies involved in the management of the land.

8.26.6 We will not align the trail through any area where there is contamination that would present a significant risk to the public. Equally, we will not exercise our discretion to include such areas as spreading room on the landward side of the trail.

8.26.7 Where contaminated land or water would qualify automatically as spreading room – either by virtue of its position seaward side of the trail or because it forms part of a specific coastal land type (see section 4.8) – informal management and/or directions may be necessary to prevent any danger (see below).

8.26.8 In the event that land with coastal access rights is subsequently affected by

<sup>88</sup> The Home Office has powers to exclude access for reasons for national security which may also be relevant to port security requirements in some instances – see section 6.2.

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accidental spillage we will take advice from the appropriate bodies before deciding whether intervention is necessary and to what extent.

- 8.26.9 Where it is necessary to exclude access to the trail in the short-term until the ordinary route can be made safe, we may provide a temporary route. Where the danger is likely to persist in the medium to long-term we may reassess the route (if the trail is affected) and/or the landward boundary of spreading room. Informal management and/or directions may be necessary instead of, or in conjunction with, alignment solutions.

*Informal management techniques*

- 8.26.10 Safety signs may be used to warn visitors and advise them on sensible precautions. These may be sufficient to address low level risks.

- 8.26.11 In serious emergencies, the local authority or the Environment Agency may use a range of other techniques including warnings on local radio and television, temporary barriers or stewards to prevent visitors from entering an area of risk.

*Directions to restrict or exclude access*

- 8.26.12 We may exclude access to contaminated land (or water bodies) that would otherwise qualify as spreading room where we conclude after advice from the local authority and any other bodies involved in the management of the land that this is necessary to prevent danger to the public.

- 8.26.13 Emergency services have powers to prohibit public access in response to emergencies under other legislation. We may, depending on the circumstances, use directions as a complementary measure, either to prevent danger to the public or to enable relief operations to take place without disruption. Where it is necessary to exclude access to the trail for either purpose we may provide a temporary route to enable onward access around the coast.

- 8.26.14 Directions may also be necessary once the emergency subsides, depending on the advice from the relevant statutory agencies responsible for assessing the residual risk. We may reassess the route of the trail and/or the boundary of landward spreading room if these are likely to be affected in the long term.

## 8.27 Man-made features (where not covered elsewhere)

### Overview

- 8.27.1 Specific man-made features are considered in other sections in this chapter, notably mineral workings, ports, and structures used for flood and coastal risk management. This section considers any need for special intervention in relation to other man-made features.

- 8.27.2 There are a great many man-made features on the coast, including features of historic and cultural significance which may be of special interest to people exercising coastal access rights. Some, such as historic buildings, are excepted from the coastal access rights (see section 2.3), though public access may be provided in other ways, for example under section 19 of the Ancient Monuments and Archaeological Areas Act 1979.

### Private roads

- 8.27.3 We will consider the following factors in deciding whether to propose a route along private roads:

- the presence of any existing public right of way or permissive access;
- any predicted increase in levels of use;
- the nature of the other private rights associated with the road;
- the general suitability of the road as a walking route;
- whether the road is already promoted as a walking route; and
- potential impacts on residents, and the configuration of their properties in relation to the road itself.

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If no other suitable option is available we may choose a private road for the route of the trail.

### Car parks

- 8.27.4 Many car parks function in effect as public space, and drivers and pedestrians are used to the risks present in such areas. We may align the route through a car park where this represents the best option. Where this happens we will seek to identify a route that is reasonably direct, but so far as practicable avoids areas of high traffic movement, in discussion with the car park manager. Where appropriate we will make constructive links with any associated facilities such as public toilets, litter bins or interpretation panels.

### Potential issues and likely range of solutions

- 8.27.5 Concerns may arise in relation to;
- public safety; and
  - wear and tear, damage, or interference.

#### Public safety

##### *The need for intervention*

- 8.27.6 In respect of public safety on land with coastal access rights, the occupier owes no duty of care with respect to risks of injury arising from either man-made features or natural features, except where he does something recklessly, or with the intention of creating danger<sup>89</sup>. Many man-made features are likely to be excepted land, for example buildings and their curtilage, railways, pylons and other equipment used by statutory undertakers. These provisions will help to address many of the concerns that are likely to be raised.

- 8.27.7 Many risks will be familiar and obvious to the public, provided that the hazard is visible and its nature is obvious to anyone approaching it. Intervention is unlikely to be necessary in such cases.

- 8.27.8 Where the hazard is not visible to a person approaching it, but its nature is nonetheless in keeping with other, natural landscape features that might be encountered – as, for example, a ditch in a boggy or marshy area – it is reasonable to expect visitors to be prepared for it and no special intervention will normally be required to manage the risk. It may occasionally be necessary to take action to manage the risks posed by other man-made features, such as ruins, where they present significant risks that may not be readily apparent to visitors.

- 8.27.9 Employers and the self-employed already have a duty under health and safety at work legislation to assess risks arising from their undertakings (which may include risks from such features) and take such steps as are reasonably practicable to reduce them to an acceptable level. Where the land manager indicates that he carries out (or is willing to carry out) appropriate informal management to secure compliance with such obligations, this may be sufficient to address a particular concern.

##### *Alignment solutions*

- 8.27.10 Where there is existing privately installed infrastructure such as steps or bridges on a proposed alignment for the trail that would be suitable to form part of the trail, we will discuss this possibility with the occupier. Some agreements for their improvement or maintenance may be necessary to make and keep particular structures safe for public use.

- 8.27.11 Where there are concerns that a particular feature will pose a threat to public safety we will discuss the most appropriate course of action with the land manager. We may align the trail to avoid it or, if that is not possible, consider the range of other solutions described below.

- 8.27.12 Where features occur on the seaward side of the trail or on any other land

<sup>89</sup> See Occupiers Liability Act 1984 section 1(6A)-(6C), as inserted by section 13 of CROW and section 306 of the 2009 Act.

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of specific coastal land types – see section 4.8 – the land in question will automatically qualify as part of the spreading room unless it is excepted land or subject to access exclusions. Similarly, such land will often be included as part of spreading room on the landward side of the trail, in accordance with the criteria in section 4.8. Where this raises public safety concerns we will consider whether informal management or directions are necessary to address them.

*Informal management techniques*

8.27.13 Often warning signs will be sufficient where dangers are not obvious, or where risks are severe. In some instances physical barriers may also be appropriate to steer visitors away from such hazards or prevent them from approaching. We will follow the general principles in section 4.2 in deciding whether these measures are necessary.

*Directions to restrict or exclude access*

8.27.14 The solutions described above will normally be sufficient to manage any significant risks. We may use directions to prevent danger in circumstances where:

- other solutions are not available; or
- we conclude that they are likely to be insufficient to address the risk; or
- repairing or physically securing the feature that gives rise to the risk would place a significant cost on the occupier, or have an unacceptable effect on the landscape or on features of heritage or nature conservation value.

8.27.15 Where necessary such directions will normally take the form of small-scale exclusions from the area of risk.

*Alignment solutions*

8.27.16 Where there are existing privately installed tracks, bridges or other access infrastructure which would be suitable to form part of the trail we will discuss these possibilities with the occupier. Some agreements about maintenance may be necessary if we conclude that there is likely to be significant wear and tear as a result of public use.

8.27.17 We may adopt the same approach to any private access infrastructure that is already within the spreading room, for instance steps leading down to a beach, if it is likely to be used by people exercising coastal access rights.

*Informal management techniques*

8.27.18 Way-marking and other informal techniques (e.g. signs requesting public co-operation) are often an effective means to steer visitors away from structures or other features that are sensitive to public use.

*Directions to restrict or exclude access*

8.27.19 The techniques described above will normally be sufficient to address any reasonable concerns about wear and tear or unintentional damage or disturbance. We may use directions for land management purposes as a last resort where other solutions are unavailable, or where we conclude at any stage that they are inadequate to meet the need.

8.27.20 Where necessary directions would be likely to take the form of small-scale exclusions around the affected feature.

8.27.21 Damage or wilful interference with man-made features is outwith the coastal access rights and directions are therefore not an effective means to prevent it. Where there are recurrent problems of this type we will discuss the best approach with the access authority and, in cases of criminal damage, with the police.