

Notice by the Secretary of State under section 52 of the National Parks and Access to the Countryside Act 1949: Somerset Brean Down to Minehead

July 2014

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Introduction

On 17 October 2013 Natural England submitted a coastal access report relating to Brean Down to Minehead (“the coastal access report”) to the Secretary of State for Environment, Food and Rural Affairs under section 51 of the National Parks and Access to the Countryside Act 1949 (“the 1949 Act”) pursuant to its duty under section 296(1) of the Marine and Coastal Access Act 2009 (“the 2009 Act”).

A person was appointed under paragraph 4(2) of Schedule 1A to the 1949 Act, inserted by Schedule 19 to the 2009 Act (“the Schedule”), for the purpose of considering whether the proposals in the coastal access report failed, in the respects specified in the objections received by Natural England under paragraph 3 of that Schedule in relation to that report, to strike a “fair balance” as a result of the matter or matters specified in those objections¹.

In reaching his determination under section 52 of the 1949 Act the Secretary of State has considered:

- a. Brean Down to Minehead - Natural England’s coastal access report submitted to the Secretary of State on 17 October 2013;
- b. in accordance with paragraph 16(1)(a) of the Schedule, the objections which the appointed person determined to be admissible objections;
- c. in accordance with paragraph 16(1)(b) of the Schedule, Natural England’s comments on the admissible objections which it sent to the Secretary of State;
- d. in accordance with paragraph 16(1)(c) of the Schedule, the report given to the Secretary of State by the appointed person in respect of the objections which the appointed person determined to be admissible objections; and
- e. in accordance with paragraph 16(1)(d) of the Schedule, representations made by a person within paragraph 2(2)(b) to (f) of the Schedule, and the summary of other representations made, and Natural England’s comments on those representations which it sent to the Secretary of State on 6 February 2014.

In this notice –

(a) “objection” means an objection about the coastal access report which is made under paragraph 3 of the Schedule; and

¹ A “fair balance” means a fair balance between the interests of the public in having rights of access over land, and the interests of any person with a relevant interest in the land, as set out in section 297(3) of the 2009 Act and paragraph 1(b) of the Schedule. A person has “a relevant interest in the land” if he is the owner of the land, holds a term of years absolute in the land, or is in lawful occupation of the land: see section 55J(2) of the 1949 Act.

(b) “representation” means a representation about the coastal access report which is made under paragraph 7 of the Schedule.

The Secretary of State has determined to approve the proposals set out in the coastal access report so far as they relate to those parts of the route (and associated coastal margin) in relation to which no objections or representations were made.

In the respects specified in the objections set out at **Annex A** to this notice, the Secretary of State determines that the proposals set out in the coastal access report **do not fail** to strike a “fair balance” as a result of the matters specified in the objections. He therefore approves the proposals set out in the coastal access report, so far as they relate to that part of the route (and associated coastal margin) to which those objections relate.

The conclusions and observations of the Secretary of State in relation to the representations listed in **Annex B** to this notice are set out in the fourth column of that Annex.

The Secretary of State has made a copy of this notice available at www.gov.uk/defra.

Natural England has made available at <http://www.naturalengland.org.uk/ourwork/access/coastalaccess/default.aspx> a copy of:

- a. Brean Down to Minehead - the coastal access report;
- b. Representations made by a person within paragraph 2(2)(b) to (f) of the Schedule, and Natural England’s comments on those representations which it sent to the Secretary of State on 6 February 2014; and
- c. Summary of other representations, and Natural England’s comments on those representations which it sent to the Secretary of State on 6 February 2014.

The Planning Inspectorate has made available at <http://www.planningportal.gov.uk/planning/countryside/coastal> the reports given to the Secretary of State by the appointed person in respect of objections APP/MCA/BDM/O/1 to APP/MCA/BDM/O/3.

Annex A

In the respects specified in the objections set out below, the Secretary of State has determined that Natural England's proposal in the coastal access report did not fail to strike a "fair balance" as a result of the matters specified in those objections².

Objection Ref: APP/MCA/BDM/O/1

Farmland east of Doniford Bay Holiday Park, Watchet, TA23 0TJ

Mr Edward Down

The land in the report to which the objection relates is route section BDM-9-SO13 to BDM-9-SO14.

The Secretary of State agrees with the conclusions set out in paragraphs 8 and 9 of the report by the appointed person that those parts of the original objection, which related to route sections BDM-9-SO15 to BDM-9-SO19, are not admissible objections.

Objection Ref: APP/MCA/BDM/O/2

Perry Farm, West Quantoxhead, Taunton, Somerset, TA4 4DZ

Mr Julian Browning

The land in the report to which the objection relates is route section BDM-9-SO03 to BDM-9-SO07.

Objection Ref: APP/MCA/BDM/O/3

Blue Anchor Chalets, Blue Anchor, Somerset

Mr Howard Gillings, on behalf of the Blue Anchor Chalet Owners Association Ltd

The land in the report to which the objection relates is route section BDM-11-S003.

The Secretary of State approves the proposals relating to route section BDM-11-S003 as shown on Natural England's revised map 11a which is attached to the notice at **Annex C**.

² An objection MCA/BDM/O/4 was made to Natural England but subsequently withdrawn.

Annex B

The Secretary of State has considered, in relation to the coastal access report, the following representations made under paragraph 7 of the Schedule.

Representation No.	Name of representation	Report Chapter and route section(s)	Secretary of State's conclusion and observation
MCA\Brean Down to Minehead\R\3 ³	Individual	All	Secretary of State notes the representation and expression of support.
MCA\Brean Down to Minehead\R\4	Quantock Hills AONB	Chapters 8 and 9 BDM-8-S001 FP to BDM-9- S032	Secretary of State notes the representation and that Natural England's report sets out its consideration of a number of options for the route around St Audries Bay, including a cliff edge route. He approves route sections BDM-8-S001 FP to BDM-9- S032. Secretary of State further notes that any interpretative and way-marking signage within the AONB will be designed and positioned with great sensitivity and in discussion with the AONB. Natural England's use of signs will be kept to a minimum and positioned carefully,

³ The numbering of the representations commence with R\3 (ie there are no representations numbered R\1 or R\2)

			which will limit their aesthetic impact on the natural environment and maximise their impact and effectiveness.
MCA\Brean Down to Minehead\R\5 to MCA\Brean Down to Minehead\R\11	Individuals	Chapter 11 BDM-11-S004 to BDM-11-S008	<p>Secretary of State notes the representations which ask that the coast path should be a shared use path for cyclists as well as walkers due to the economic and tourism benefits that cycle paths can bring to the area. He notes that the representation also asks Natural England to work with the Steam Coast Trail.</p> <p>Secretary of State notes that the coastal access rights under section 2(1) of Countryside and Rights of Way Act 2000 make provision for open-air recreation on foot or by wheelchair only (including walking, climbing and picnicking) but do not include rights to ride bicycles.</p> <p>Voluntary dedication of higher rights for cyclists can be sought by user groups at a local level, but the decision on this rests with the landowner. He further notes that Natural England's proposals for a route that runs along the shingle beach to the seaward</p>

			<p>side of the Blue Anchor Chalet site were judged to have the least impact on these properties.</p> <p>Secretary of State further approves Natural England's revised map 11b which is attached to the notice at Annex D.</p>
MCA\Brean Down to Minehead\R\12	Dunster Parish Council	Chapter 11	<p>Secretary of State notes the representation which asks that the coast path should be a shared use path for cyclists as well as walkers due to the economic and tourism benefits that cycle paths can bring to the area.</p> <p>Secretary of State notes that the coastal access rights under section 2(1) of Countryside and Rights of Way Act 2000 make provision for open-air recreation on foot or by wheelchair only (including walking, climbing and picnicking) but do not include rights to ride bicycles. Voluntary dedication of higher rights for cyclists can be sought by user groups at a local level, but the decision on this rests with the landowner. He further notes that Natural England's proposals for a route that runs along the shingle beach to the seaward</p>

			side of the Blue Anchor Chalet site were judged to have the least impact on these properties.
MCA\Brean Down to Minehead\R\13 to MCA\Brean Down to Minehead\R\19	Individuals	Chapter 11 BDM-11-S004 to BDM-11-S006	Secretary of State's conclusion and observation as for MCA\Brean Down to Minehead\R\5 to MCA\Brean Down to Minehead\R\11.
MCA\Brean Down to Minehead\R\20	Somerset Local Access Forum	General	<p>Secretary of State notes the representation and the expression of support. He further notes that the trail follows a beach route along St Audries Bay which is severed at its western extent for up to one hour and twenty minutes either side of an average high tide. The beach route along Helwell Bay is similarly affected.</p> <p>Secretary of State understands that both routes were referred to HM Coastguard who were content with their inclusion and that Natural England does not propose alternative routes for either beach route in order to avoid undue impact upon adjacent landward businesses.</p> <p>He notes that Natural England will be providing</p>

			<p>suitable and prominent signage which will be located at each access point to St Audries Bay and Helwell Bay and at other relevant points where inland link paths connect with the coast. The signage will be drawn up in conjunction with HM Coastguard and other stakeholders and will warn the public of tidal pinch points and provide information on tide times, other routes, where relevant, contact telephone numbers and quick response codes for smart phones.</p> <p>Secretary of State is satisfied that Natural England has followed the key principles of alignment and management as set out in the Coastal Access Scheme, approved in July 2013.</p>
MCA\Brean Down to Minehead\R\21	Individual	Chapter 11 BDM-11-S004 to BDM-11-S006	Secretary of State's conclusion and observation as for MCA\Brean Down to Minehead\R\5 to MCA\Brean Down to Minehead\R\11
MCA\Brean Down to Minehead\R\22	Williton Parish Council	Chapter 9 BDM-9-S018 to BDM-9-S024	Secretary of State notes the representation and that Natural England's report sets out its

			consideration of a number of options for the route including an alignment seaward of Doniford Farm. He approves route sections BDM-9-S018 to BDM-9-S024
MCA\Brean Down to Minehead\R\23 and MCA\Brean Down to Minehead\R\24	Individuals	Chapter 11 BDM-11-S004 to BDM-11-S006	Secretary of State's conclusion and observation as for MCA\Brean Down to Minehead\R\5 to MCA\Brean Down to Minehead\R\11
MCA\Brean Down to Minehead\R\25	Individual	Chapter 6 BDM-6-S005 to BDM-6-S009	Secretary of State notes representation about route sections BDM-6-S005 to BDM-6-S009 which forms part of the Severn Estuary Special Protection Area, Severn Estuary Special Area of Conservation and the Bridgwater Bay Site of Special Scientific Interest. He further notes that in order to prevent disturbance to over-wintering birds for which the site is, in part, designated Natural England's report proposes that a seasonal restriction will apply between 1st October and 31st March. Between these dates an alternative route is proposed for the trail following public footpaths and public

			highway (route sections BDM-6-A001 to BDM-6-A003).
MCA\Brean Down to Minehead\R\26	Individual	Chapter 9 BDM-9-S021	Secretary of State notes the representation and that Natural England's report sets out its consideration of a number of options for the route including an alignment seaward of Doniford Farm. He approves route section BDM-9-S021.
MCA\Brean Down to Minehead\R\27	Individual	Chapter 9 BDM-9-S007 and BDM-9-S008	Secretary of State notes the representation and that Natural England's report sets out its consideration of a number of options for the route around St Audries Bay, including a cliff top route westwards from Esson's Gully. He approves route sections BDM-9-S007 and BDM-9-S008.
MCA\Brean Down to Minehead\R\28	Individual	Chapter 11 BDM-11-S004 to BDM-11-S006	Secretary of State's conclusion and observation as for MCA\Brean Down to Minehead\R\5 to MCA\Brean Down to Minehead\R\11
MCA\Brean Down to Minehead\R\29	The Kennel Club	All	Secretary of State notes the representation and expression of support.

MCA\Brean Down to Minehead\R\30 to MCA\Brean Down to Minehead\R\32	Individuals	Chapter 11 BDM-11-S004 to BDM-11-S006	Secretary of State's conclusion and observation as for MCA\Brean Down to Minehead\R\5 to MCA\Brean Down to Minehead\R\11
MCA\Brean Down to Minehead\R\33	West Somerset Council	Chapter 9 BDM-9-S007 to BDM-9-S010	Secretary of State notes representation and that Natural England will be providing suitable and prominent signage which will be located at each access point to St Audries Bay and at other points where nearby inland link paths connect with the coast. The signage will be drawn up in conjunction with HM Coastguard and other stakeholders and will warn the public of tidal pinch points and provide information on tide times, alternative public rights of way to follow inland, contact telephone numbers and quick response codes for smart phones. He further notes that Natural England does not propose an alternative route for the beach route at St Audries Bay in order to avoid undue impact upon adjacent landward businesses.
MCA\Brean Down to	West Somerset	Chapter 9	Secretary of State notes

Minehead\R\34	Council	BDM-9-S018	the representation and expression of support.
MCA\Brean Down to Minehead\R\35	West Somerset Council	Chapter 9 BDM-9-S024 to BDM-9-S030	Secretary of State notes representation and that Natural England will be providing suitable and prominent signage which will be located at each access point to Helwell Bay. The signage will be drawn up in conjunction with HM Coastguard and other stakeholders and will warn the public of tidal pinch points and provide information on tide times, alternative public rights of way to follow inland, contact telephone numbers and quick response codes for smart phones. He further notes that Natural England does not propose an alternative route for the beach route at Helwell Bay.
MCA\Brean Down to Minehead\R\36	West Somerset Council	Chapter 10 BDM-10-S029 to BDM-10-S032	Secretary of State notes representation and that the improvement works referred to in this representation relate to stabilisation of the land between the Blue Anchor Hotel and the cliffs. As the route of the England Coast Path is to the landward side of the hotel it will not be affected by the works proposed. He further notes that Natural

			<p>England has included proposals for trail sections BDM-10-S021 to BDM-10-S031 to 'roll back' in direct response to coastal erosion in this area.</p>
<p>MCA\Brean Down to Minehead\R\37</p>	<p>West Somerset Council</p>	<p>Chapter 11 BDM-11-S009 & BDM-11-S010</p>	<p>Secretary of State notes the representation which asks that the coast path should be a shared use path for cyclists as well as walkers due to the economic and tourism benefits that cycle paths can bring to the area.</p> <p>Secretary of State notes that the coastal access rights under section 2(1) of Countryside and Rights of Way Act 2000 make provision for open-air recreation on foot or by wheelchair only (including walking, climbing and picnicking) but do not include rights to ride bicycles.</p> <p>Voluntary dedication of higher rights for cyclists can be sought by user groups at a local level, but the decision on this rests with the landowner. He further notes that Natural England's proposals for a route that runs along the shingle beach to the seaward side of the Blue Anchor Chalet site were judged to have the least impact</p>

			<p>on these properties.</p> <p>At Dunster Beach, the landowners, the Crown Estate and their tenants, afford permissive access along the edge of the field adjacent to the beach for such times when the walked route is unavailable due to high tides.</p>
MCA\Brean Down to Minehead\R\38	Individual	Chapter 11 BDM-11-S004 to BDM-11-S006	Secretary of State's conclusion and observation as for MCA\Brean Down to Minehead\R\5 to MCA\Brean Down to Minehead\R\11
MCA\Brean Down to Minehead\R\39	Ramblers	Chapter 6 BDM-6-S0022 to BDM-6-S012	Secretary of State notes the representation and expression of support.
MCA\Brean Down to Minehead\R\40	Ramblers	Chapter7 BDM-7-S020 to BDN-7-S026	Secretary of State notes the representation and expression of support. He further notes that to maintain the necessary levels of security and safety, it has been necessary for Natural England to propose a significant temporary inland diversion in order to circumnavigate the EDF Energy Hinkley C development area. For this reason he notes that the trail will follow the

			perimeter fence of the construction site while at least the preparatory works are ongoing.
MCA\Brean Down to Minehead\R\41	Ramblers	Chapter 9 BDM-9-S014 to BDM-9-S023	Secretary of State notes the representation and that Natural England considered a number of options for the route in this area including an alignment through the body of the Haven Leisure Ltd holiday park along or close to the seaward edge, using existing access tracks where present. He approves route sections BDM-9-S014 to BDM-9-S023.
MCA\Brean Down to Minehead\R\42	Sedgemoor District Council	Chapters 1 and 2	Secretary of State notes that the North Devon & Somerset Shoreline Management Plan (SMP2) identifies (in the short term to 2025) a policy of 'hold the line' for the stretch of coastline between Brean Down and Burnham-on-Sea. He further notes that Natural England has not proposed to recommend that the trail is able to roll back along this stretch but recognises that should the dune defences breach in the coming years then the trail will have to be realigned by his approval to a variation

			report, with regard to any flood management measures undertaken in the area.
MCA\Brean Down to Minehead\R\43	Sedgemoor District Council	Chapters 1 and 2 BDM-1-S011 to BDM-2-S002	<p>Secretary of State notes the concerns over public safety on the areas of tidal mudflat (eg dangerous conditions, high tidal range and deaths). Natural England has powers to exclude access rights over areas of mudflat (using the power at section 25A of the Countryside and Rights of Way Act 2000) if they are unsuitable for public access. However where such areas are already well used by the public, he notes that it would be difficult for Natural England to conclude that they are unsuitable for access for the purposes of this power – and any attempt to exclude the public from them would be unlikely to succeed in practice. The areas of tidal mudflat between Burnham-on-Sea and Brean are already well used by the public for a wide range of recreational activities, and have been so used by tradition for many years.</p> <p>Secretary of State notes that Natural England has</p>

			decided against using this power to propose exclusion of public access rights over these areas.
MCA\Brean Down to Minehead\R\44	Sedgemoor District Council	Chapter 3	<p>Secretary of State notes the representation and approves the following amendment to the text used in paragraphs 3.1.8 and 3.3.11 of the report:</p> <p>3.1.8 We propose to use our power under section 25A of CROW to exclude the coastal access rights from applying to the tidal mudflats and salt marsh between the mouth of the River Parrett at Stert Point (including the Steart inundation), and Saltlands Bridge, Bridgwater on the River Parrett, on the grounds that they are unsuitable for public access.</p> <p>3.3.11 Access to the tidal mudflats and salt marsh is to be excluded by direction between the mouth of the River Parrett at Stert Point (including the Steart inundation), and Saltlands Bridge, Bridgwater on the River Parrett, on the grounds that they are unsuitable for public access.</p>
MCA\Brean Down to	Sedgemoor	Chapter 4	Secretary of State notes the representation and

Minehead\R\45	District Council		<p>approves the following amendment to the text used in paragraphs 4.1.7 and 4.3.11 of the report:</p> <p>4.1.7 We propose to use our power under section 25A of CROW to exclude the coastal access rights from applying to the tidal mudflats and salt marsh between the mouth of the River Parrett at Stert Point (including the Steart inundation), and Saltlands Bridge, Bridgwater on the River Parrett, on the grounds that they are unsuitable for public access.</p> <p>4.3.11 Access to the tidal mudflats and salt marsh is to be excluded by direction between the mouth of the River Parrett at Stert Point (including the Steart inundation), and Saltlands Bridge, Bridgwater on the River Parrett, on the grounds that they are unsuitable for public access.</p>
MCA\Brean Down to Minehead\R\46	Viridor Waste (Somerset) Ltd	Chapter 3 BDM-3-S028 to BDM-3-S030	Secretary of State notes the representation. He also notes the anomalies between the definitive map of public rights of way and the line currently enjoyed by the public but considers this issue is not part of Natural England's coastal access duty. He

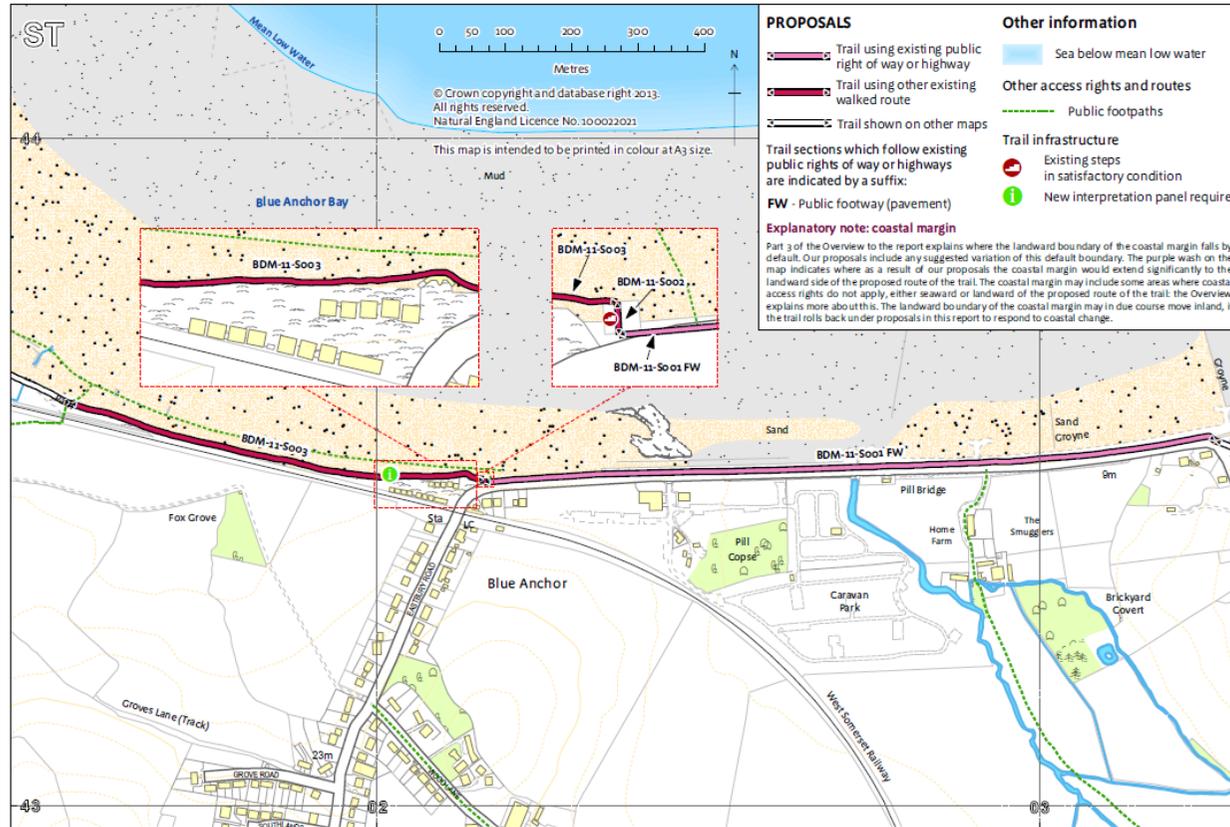
			understands that, as and when resources allow, Somerset County Council will be identifying sections where the route of the recorded right of way could be diverted to that of the route of the England Coast Path.
MCA\Brean Down to Minehead\R\47 and MCA\Brean Down to Minehead\R\48	Individuals	Chapter 11 BDM-11-S004 to BDM-11-S006	Secretary of State's conclusion and observation as for MCA\Brean Down to Minehead\R\5\ to MCA\Brean Down to Minehead\R\11
MCA\Brean Down to Minehead\R\49	National Grid	Chapters 3, 6 and 7	Secretary of State notes the representation and expression of support. He further notes that Natural England has developed a protocol with National Grid to ensure that National Grid's interests are fully considered and taken into account during all stages of the coastal access implementation process.
MCA\Brean Down to Minehead\R\50	National Grid	Chapter 3 BDM-3-S024 Chapter 6 BDM-6-S001 to BDM-6-S002	Secretary of State notes the representation and that Natural England has developed a protocol with National Grid to ensure that National Grid's interests are fully considered and taken into account during all stages of the coastal access implementation process.

			<p>He further notes that Natural England and Somerset County Council will seek to ensure that when establishment works are done on the approved stretch that the relevant safety guidance in relation to existing above and below ground infrastructure is observed, in consultation with National Grid.</p>
<p>MCA\Brean Down to Minehead\R\51</p>	<p>National Grid</p>	<p>Chapter 7 BDM-7-A(T)001 to BDM-7-A(T)018</p>	<p>Secretary of State notes the representation and expression of support. He further notes that Natural England has developed a protocol with National Grid to ensure that National Grid's interests are fully considered and taken into account during all stages of the coastal access implementation process. He also notes that Natural England and Somerset County Council will seek dialogue with National Grid to ensure that the Hinkley Point connection related construction works are fully considered and taken into account before establishment works are done on the approved stretch.</p>
<p>MCA\Brean Down to Minehead\R\52 and</p>	<p>Individuals</p>	<p>Chapter 11</p>	<p>Secretary of State's conclusion and</p>

MCA\Brean Down to Minehead\R\53	BDM-11-S004 to BDM-11-S006	observation as for MCA\Brean Down to Minehead\R\5\ to MCA\Brean Down to Minehead\R\11
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Annex C

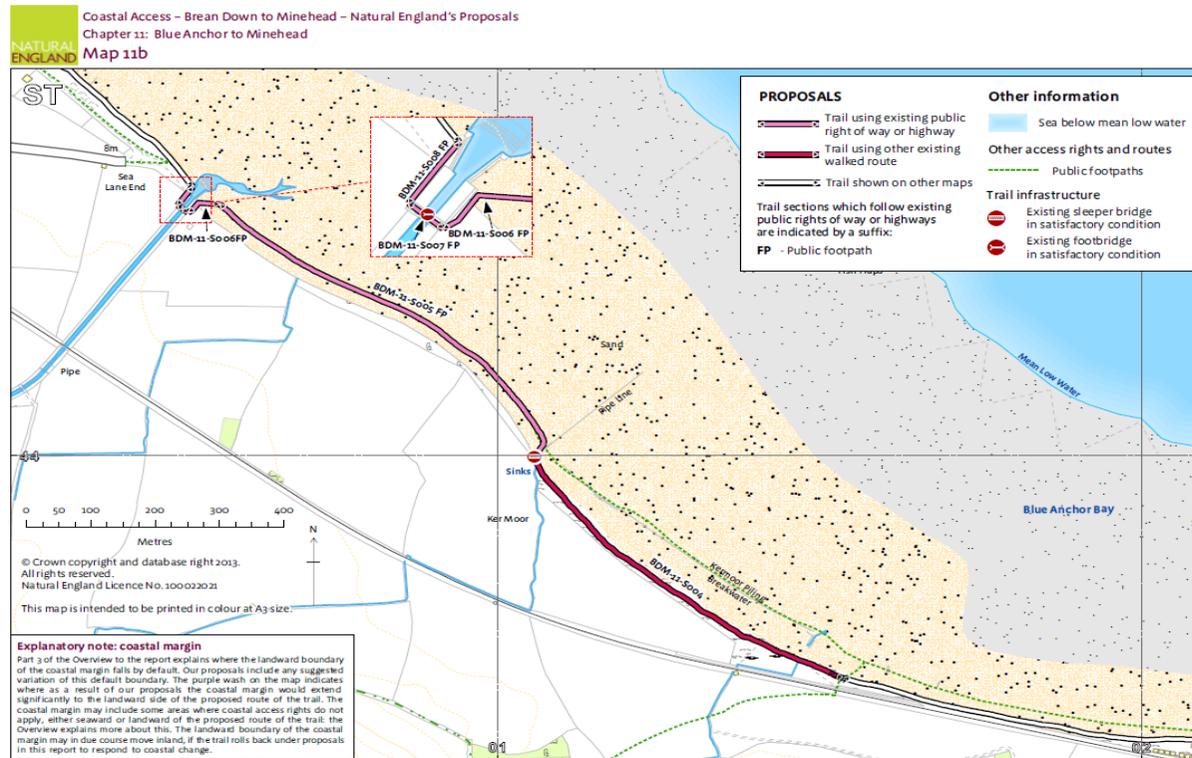
Objection Ref: APP/MCA/BDM/O/3: Natural England's revised map 11a



Map 11a

Annex D

Natural England's revised map 11b



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