

Department for Environment, Food and Rural Affairs

Notice by the Secretary of State under section 52 of the National Parks and Access to the Countryside Act 1949

Walney Island

March 2017

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Introduction

On 26 September 2016 Natural England submitted a coastal access report relating to Walney Island (“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”).

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

- (a) England Coast Path Walney Island - Natural England’s coastal access report - submitted to her on 26 September 2016; and
- (b) 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 11 January 2017.

In this notice –

- (a) “objection” means an objection about the coastal access report which is made under paragraph 3 of the Schedule;
- (b) “representation” means a representation about the coastal access report which is made under paragraph 7 of the Schedule; and
- (c) “Schedule” means Schedule 1A to the 1949 Act, inserted by Schedule 19 to the 2009 Act.

Secretary of State’s approval of coastal access proposals

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.

The conclusions and observations of the Secretary of State in relation to the representations are set out in **Annex A** to this notice.

The Secretary of State has made available at www.gov.uk a copy of this notice. Natural England has also made available the England Coast Path Walney Island coastal access report.

Annex A: conclusions and observations on representations

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. MCA/Walney Island/R/2/WNI0514

Name of representation: Cumbria GeoConservation

Report chapter and route sections: Chapter 2

Secretary of State's conclusion and observation:

Secretary of State notes the representation and support for Natural England proposals. She asks Natural England to look to cooperate with Cumbria GeoConservation and others, to promote understanding of the natural environment including opportunities to include maps of showing key local geological sites in its interpretation materials.

Representation No. MCA/Walney Island/R/3/WNI0016

Name of representation: Open Spaces Society

Report chapter and route sections: Chapters 1 and 2

Secretary of State's conclusion and observation:

Secretary of State notes the Society's support for parts of Natural England's proposals. On the detailed representations she:

- a) notes Natural England has confirmed that future proposals for the adjacent mainland stretch of the England Coast Path (Silecroft to Silverdale) will include links on footpaths to either side of Jubilee Bridge, thus ensuring that the path is eventually continuous in this area;
- b) notes the proposals will not affect or change any existing routes and de facto access arrangements;
- c) agrees the need for the proposed restriction as shown on Map E;
- d) notes that paragraphs 7.15.5 to 7.15.10 of the Coastal Access Scheme, approved under section 298 of the Marine and Coastal Access Act 2009, explains that it will often be necessary to exclude access to saltmarsh on grounds of unsuitability for access. She approves the two proposed restrictions for North End Marsh, shown on Map F, and for Christy Pool to North East Point, shown on Map G, but asks Natural England to keep these restrictions under review. If there is evidence to suggest that the exclusion or

restriction is no longer required she asks Natural England to consider removing or modifying the restrictions or exclusions;

e) approves the proposed restriction at Creephaw Marsh and Sandy Nook, shown on Map I (i);

f) approves route sections WNI-1-S014 to S022 noting that the coastal margin will extend as far as the boundary feature, and further approves route sections WNI-1-S021 to S025;

g) approves route section WNI-2-037 noting that Natural England considered aligning the route on top of, or seawards of, the existing sea dyke alongside the road. She notes that Natural England discounted this option partly because of nature conservation sensitivities on the adjacent saltmarsh and partly because it was advised that it would be extremely difficult to secure a sustainable route on top of the dyke, which is very narrow in places.

Representation No. MCA/Walney Island/R/4/WNI0536

Name of representation: The Ramblers

Report chapter and route sections: Chapters 1 and 2

Secretary of State's conclusion and observation:

Secretary of State refers to her conclusions and observations for representation MCA/Walney Island/R/3/WNI0016.

Representation No. MCA/Walney Island/R/5/WNI0013

Name of representation: National Grid

Report chapter and route sections: Whole report

Secretary of State's conclusion and observation:

Secretary of State notes the representation and the clarification from National Grid. She notes that Natural England is confident that any future concerns arising from the need to maintain infrastructure can be managed effectively at a local level.

Representation Nos. MCA/Walney Island/R/6/WNI0523 and R/7/WNI0523

Name of representations: Historic England

Report chapter and route sections: Chapters 1 and 2

Secretary of State's conclusion and observation:

Secretary of State notes the representations and asks Natural England to liaise closely with Historic England if any establishment works are required in the vicinity of the non-designated historic features, prior to such works commencing.

Representation No. MCA/Walney Island/R/8/WNI0046

Name of representation: United Utilities

Report chapter and route sections: Whole report

Secretary of State's conclusion and observation:

Secretary of State notes the representation and asks that Natural England and Cumbria County Council liaise with all statutory undertakers as a normal part of any establishment works.

Representation No. MCA/Walney Island/R/9/WNI0604

Name of representation: Royal Society for the Protection of Birds

Report chapter and route sections: Whole report

Chapter 1 WNI-1-S015 to WNI-1-S020

Secretary of State's conclusion and observation:

Secretary of State approves the proposed restrictions around North Walney NNR – route sections WNI-1-S015 to WNI-1-S020 - noting that Natural England considers that its proposals will not significantly change levels or patterns of access, since the majority of the reserve is already accessible and popular with walkers. The access management measures that Natural England has proposed are designed to address existing issues as much as to prevent any deterioration in the future.

Secretary of State asks Natural England to work closely with the access authority and RSPB in order to ensure that any signage advertising restrictions is likely to be clearly understood by people exercising their coastal access rights.

Secretary of State thanks the RSPB for raising the issue regarding the wording and interpretation of one of the general restrictions in Schedule 2 to the Countryside and Rights of Way Act 2000 in the list on page 46 of the coastal access report. She notes that an error has been made in the paragraph numbering of the restrictions and asks Natural England to correct the information before the publication of future reports.

Representation No: MCA/Walney Island/R/10/WNI0610

Name of representation: Private individual

Report chapter and route sections: Chapter 2 (Carr Lane)

Secretary of State's conclusion and observation:

Secretary of State notes the representation about hazards for pedestrians and cyclists and the suggestions that the route should instead be placed along the top of the adjacent sea

dyke, partly on grounds of safety and partly to consequently reduce flood risk. She notes that Natural England proposals was carefully drawn up in partnership with the highways authority, Cumbria County Council, and is designed to reduce road traffic speeds and improve safety.

Secretary of State further notes that Natural England looked carefully at the option of aligning the path on the top of the adjacent sea dyke but discounted this option partly because of the difficulty of creating a sustainable route on what is, in places, a narrow dyke ridge, and partly due to concerns about the impact on protected species of birds using the adjacent saltmarsh.

Secretary of State approves route sections WN1 -2-SO37.

Representation No. MCA/Walney Island/R/11/WNI0541

Name of representation: Cumbria Wildlife Trust

Report chapter and route sections: Chapter 2

Secretary of State's conclusion and observation:

Secretary of State notes that while the representation supported Natural England's proposals for access exclusions over the South End reserve and adjacent land concerns were expressed about the effectiveness of such exclusions and restrictions, and the reliance on signs to raise awareness of such.

She further notes Natural England's position that any proposed new signs will only help to reinforce existing management practices and advice about nature conservation sensitivities and asks Natural England to introduce informal management measures if new evidence requires this to be necessary.

Representation No. MCA/Walney Island/R/12/WNI0612

Name of representation: Private individual

Report chapter and route sections: Whole report

Secretary of State's conclusion and observation:

Secretary of State notes that Natural England's proposals do not affect existing rights or patterns of use and access restrictions or exclusions relate solely to new access rights under the Marine and Coastal Access Act 2009. She approves Natural England's proposed restrictions under section 26(3)(a) of the Countryside and Rights of Way Act 2000 in order that there is no impact on the designated nature conservation interest on Walney Island.

Secretary of State asks Natural England to keep these restrictions under review. If there is evidence to suggest that the exclusion or restriction is no longer required she asks Natural England to consider removing or modifying the restrictions or exclusions.

Representation No. MCA/Walney Island/R/13/WNI0613

Name of representation: Private individual

Report chapter and route sections: Chapter 2

Secretary of State's conclusion and observation:

Secretary of State notes that Natural England's proposals do not affect existing rights or patterns of use and therefore do not remove any existing rights to access Piel Island on foot, from Walney. The access restrictions or exclusions relate solely to new access rights under the Marine and Coastal Access Act 2009. She approves Natural England's proposed restrictions under section 26(3)(a) of the Countryside and Rights of Way Act 2000 in order that there is no impact on the designated nature conservation interest on Walney Island.

Secretary of State asks Natural England to keep these restrictions under review. If there is evidence to suggest that the exclusion or restriction is no longer required she asks Natural England to consider removing or modifying the restrictions or exclusions.

Secretary of State notes that the private individual said that he was unable to find copies of Natural England's coastal access report in either of the specified libraries. She further notes that Natural England has confirmed that copies of its coastal access report along with other supporting documents were lodged at the two libraries specified; instructions were passed on, asking that these materials remain available to the public for the relevant period. It appears that the documents were removed for some reason, prior to the specified date. While this was regrettable Secretary of State does not agree that this means that the consultation on Natural England's coastal access report should be considered invalid.

Representation No. MCA/Walney Island/R/14/WNI0614

Name of representation: Private individual

Report chapter and route sections: Chapter 2

Secretary of State's conclusion and observation:

Secretary of State notes the representation about hazards for pedestrians and cyclists and the suggestions that the route should instead be placed along the top of the adjacent sea dyke, partly on grounds of safety and partly to consequently reduce flood risk. She notes that Natural England proposals was carefully drawn up in partnership with the highways

authority, Cumbria County Council, and is designed to reduce road traffic speeds and improve safety.

She further notes that Natural England looked carefully at the option of aligning the path on the top of the adjacent sea dyke but discounted this option partly because of the difficulty of creating a sustainable route on what is, in places, a narrow dyke ridge, and partly due to concerns about the impact on protected species of birds using the adjacent saltmarsh.

Representation No. MCA/Walney Island/R/15/WNI0302

Name of representation: Private individual

Report chapter and route sections: Whole report

Secretary of State's conclusion and observation:

Secretary of State notes that the representation included a number of concerns, including the apparent lack of consultation documents at the specified venues, an assumed extinguishment of existing rights, alleged inconsistency of approach in provision of information about access and nature conservation, and a perceived overly restrictive set of proposals (set against a need to involve local people more in their surroundings).

Secretary of State notes the comments in the representation about the apparent lack of Natural England's coastal access report and supporting consultation documents at the specified libraries. She notes that Natural England confirmed that copies of its coastal access report along with other supporting documents were lodged at the two libraries specified; instructions were passed on, asking that these materials remain available to the public for the relevant period. It appears that the documents were removed for some reason, prior to the specified date.

Secretary of State notes that Natural England's proposals do not affect existing rights or patterns of use. The proposed access restrictions or exclusions relate solely to new access rights under the Marine and Coastal Access Act 2009. She approves Natural England's proposed restrictions under section 26(3)(a) of the Countryside and Rights of Way Act 2000 in order that there is no impact on the designated nature conservation interest on Walney Island.

Secretary of State asks Natural England to keep these restrictions under review. If there is evidence to suggest that the exclusion or restriction is no longer required she asks Natural England to consider removing or modifying the restrictions or exclusions.

In taking forward the implementation and delivery of the new access rights on Walney Island under the Marine and Coastal Access Act 2009 the Secretary of State asks Natural England to work with owners and other parties who have an interest in the land affected by the coastal path.

Representation No. MCA/Walney Island/R/16/WNI0302

Name of representation: Private individual

Report chapter and route sections: Chapter 2

Secretary of State's conclusion and observation:

Secretary of State notes the representation about the Natural England's proposed exclusion affecting the intertidal area between Walney and Piel Island.

Secretary of State notes that Natural England's proposals do not affect existing rights or patterns of use. The proposed access restrictions or exclusions relate solely to new access rights under the Marine and Coastal Access Act 2009.

Secretary of State notes that paragraphs 7.15.5 to 7.15.10 of the Coastal Access Scheme, approved under section 298 of the Marine and Coastal Access Act 2009 explains that it will often be necessary to exclude access to saltmarsh on grounds of unsuitability for access. She therefore approves the proposed restrictions but asks Natural England to keep it under review. If there is evidence to suggest that the exclusion or restriction is no longer required she asks Natural England to consider removing or modifying the restriction or exclusion.

Representation No. MCA/Walney Island/R/17/WNI0302

Name of representation: Private individual

Report chapter and route sections: Chapter 2

Secretary of State's conclusion and observation:

Secretary of State notes that representation about the proposed exclusions affecting the South End reserve. She approves the proposals on the grounds that it will not change the existing situation at the South End reserve and that any person is able to access the reserve currently will be able to continue in the same way, either by paying to enter or via the existing local agreement.

Representation No. MCA/Walney Island/R/18/WNI0616

Name of representation: Barrow Sea Sport Association

Report chapter and route sections: Whole report

Secretary of State's conclusion and observation:

Secretary of State notes that paragraphs 7.15.5 to 7.15.10 of the Coastal Access Scheme, approved under section 298 of the Marine and Coastal Access Act 2009, explains that it will often be necessary to exclude access to saltmarsh on grounds of unsuitability for

access. She therefore approves the proposed restrictions but asks Natural England to keep it under review. If there is evidence to suggest that the exclusion or restriction is no longer required she asks Natural England to consider removing or modifying the restriction or exclusion.

Representation No. MCA/Walney Island/R/19/WNI0534

Name of representation: Councillor

Report chapter and route sections: Whole report

Secretary of State's conclusion and observation:

Secretary of State notes the comments in the representation that local councillors were not informed about the publication of Natural England's proposals and also the concerns about how its proposals related to access restrictions and exclusions. She is assured by Natural England that it made all reasonable attempts to advise local councillors of the development of coastal access proposals for Walney Island, both directly and via a range of other media. She is advised that Cumbria County Council officers similarly briefed local councillors about the project, on behalf of Natural England.

Secretary of State notes that Natural England's proposals do not affect existing rights or patterns of use. The proposed access restrictions or exclusions relate solely to new access rights under the Marine and Coastal Access Act 2009. She further notes that paragraphs 7.15.5 to 7.15.10 of the Coastal Access Scheme, approved under section 298 of the Marine and Coastal Access Act 2009, explains that it will often be necessary to exclude access to saltmarsh on grounds of unsuitability for access. She approves the proposed restrictions in its report but asks Natural England to keep them under review. If there is evidence to suggest that any exclusion or restriction is no longer required she asks Natural England to consider removing or modifying the exclusion or restriction.

Representation No. MCA/Walney Island/R/20/WNI0543

Name of representation: Councillor

Report chapter and route sections: Whole report

Secretary of State's conclusion and observation:

Secretary of State notes the representation and welcomes the support for Natural England's proposals. She further notes that it is important to continue with the long history of access around the island, including access to the foreshore.

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