

**NOTICE BY THE APPOINTED PERSON UNDER PARAGRAPH 10 OF
SCHEDULE 1A TO THE NATIONAL PARKS AND ACCESS TO THE
COUNTRYSIDE ACT 1949: OBJECTION ABOUT A COASTAL ACCESS
REPORT**

On 25 July 2016 Natural England submitted a 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 pursuant to its duty under section 296(1) of the Marine and Coastal Access Act 2009. The report relates to Gretna to Allonby.

A person has been appointed^(a) for the purpose of considering an objection which has been received in relation to the report. Details of that objection are given below.

The appointed person is minded to determine that the proposals in the report fail, in the respects specified in the objection, to strike a fair balance^(b) as a result of the matter or matters specified in that objection.

A. Land in the report to which the objection relates:

Land adjacent to River Wampool and Angerton Marsh

B. Reference to the relevant section of the report to which the objection relates:

Chapter 4 of Natural England's Report: Whittrig Bridge to eastern corner of Newton Marsh (Map 4a) GAL-4-S002 to GAL-4-S006 and GAL-4-S008 to GAL-4-S010

C. Details of the objection, including details of:

(a) the matter(s) specified in the objection as the ground(s) on which that objection was made, and
(b) any modifications proposed by the objection:

The objection is made on the ground set out in paragraph 3(3)(a) of Schedule 1A to the 1949 Act; that the proposals in the report fail to strike a fair balance as a result of the position of any part of the proposed route.

Summary of objection

1. Suckler cows are kept on the land. They are unpredictable and will be dangerous to walkers. 24 people have been killed in the past 4 years and many more injured. The objector had to be rescued from a bull by the fire brigade and spent 10 days in hospital and took 3 months to recover. Sometimes the farmers only enter the fields in tractors.
2. The farm is a traditional wintering area for thousands of geese, hundreds of swans and lapwing, curlew and skylarks nest on a 6 acre marsh land that has not been touched for at least 20 years. Shooting is not allowed on the farm and there are fox holes which have been here for years.
3. At times of flooding and high tides the area of the proposed coastal path floods making it dangerous for walkers.
4. Accountability if anyone is killed or injured.
5. Interference with landowner's human rights.
6. The alternative route via the road would be better as it would not interfere with cattle or wildlife.

D. Details of Natural England's comments on the objection, including any relevant alternative modifications^(c):

1. The proposals were made without the benefit of being able to walk along the proposed route. NE designed the proposals based on views from nearby land and by reference to data sources such as aerial photography and maps.
2. Most areas of low-lying coast will be subject to flooding, due to a combination of tides and adverse weather. NE agrees that the proposed main route will periodically be affected by floods which is why an optional alternative route is provided for use when the main route become unsuitable. Appropriate signage will alert walkers to the potential dangers and remind them to check tides.
3. The coast path will often cross land grazed by cattle and the situation is not unique or particularly unusual. The proposals are consistent with the approach in the Scheme at parts 8.1 and 8.2. Although primarily for nature conservation reasons, rights will be restricted so that dogs must be kept on a lead.
4. In some sections the trail will be outside the fields, along the edge of the river. Unless and until any roll-back of the path might be necessary, walkers and dogs would be separated from stock. Other sections are within and along the edge of the fields as it appears that there is insufficient room to align the trail between the fence and the estuary. NE would be willing to discuss the possibility of adjusting the existing fence line in key locations so as to generate adequate width for a path on the seaward side of the fence. This would prevent stock and walkers from mixing.
5. The Access and Sensitive Features Appraisal concludes that any impacts on protected sites and species are not likely to be significant, when viewed against the protected sites as a whole and the distribution of such species across the whole of the Solway estuary. The alignment of the route and associated restrictions of access for people and dogs on either s25A or s26 grounds will separate walkers from the most sensitive areas.
6. The Government has provided a statement of compatibility with the European Convention on Human Rights.
7. Occupier's liability is specifically and considerably reduced in relation to visitors on land covered by coastal access rights (section 4.2.2 of the Scheme). It is set at the same lower level owed to trespassers provided the visitor is only exercising the statutory right of access. Section 306 of the Marine and Coastal Access Act 2009 extends this exclusion of liability for land which is coastal margin in respect of a risk resulting from any physical feature. This does not affect liability under animals' legislation.
8. The nearby road fails to meet the key criteria within the scheme – namely that the route should normally adhere to the periphery of the coast and provide views of the sea ((para 4.1.1). It would also have the effect of creating a very large area of coastal margin. The proposed route minimises the extent of the margin and therefore any impact on local farming practices, whilst offering the most enjoyable route for walkers.

E. If applicable, any observations of the appointed person on any relevant alternative modifications or any modifications proposed by the objection:

At the APs site visit, the objector and NE agreed to meet in order to survey the land with a view to considering adjusting the line of the trail and in places the riverside fence so that the trail would fall outside grazing land. To date this has not happened.

The AP notes the representation from the RSPB supporting use of the alternative route as the main route. This is on the basis that in its opinion the proposed route risks causing unacceptable levels of disturbance to SPA/SSSI bird species through the introduction of access onto a site that currently has no access. The RSPB considers that the limited access restrictions and exclusions do not constitute adequate mitigation and that in the absence of sufficient data to inform or contradict the risk the precautionary principle should be followed.

The RSPB also states that it is accepted that the increased area of coastal margin which would result from adopting the alternative route as the primary route is not ideal. However, in its view, the linear nature of a route along a lane combined with signage denoting the access restrictions on the marsh as well as a pro-active approach to access management being taken by landowners will likely result in increased compliance from users of the route.

A copy of the report and a map of the area indicating the proposed line of the route and (if applicable) the boundaries of the associated coastal margin which is the subject of the objection above are available at <https://www.gov.uk/government/consultations/england-coast-path-from-gretna-to-allonby-comment-on-proposals> or may be viewed free of charge at

Location	Address	Contact number
Campfield Marsh visitor centre	RSPB Campfield Marsh, North Plain Farm, Bowness on Solway CA7 5AG	01697 351330
Carlisle Library	11 Globe Lane, Carlisle CA3 8NX	01228 227310
The Library, Silloth Discovery Centre	Solway Coast Discovery Centre, Liddell Street, Silloth-on-Solway, CA7 4DD	01697 333055
Kirkbride post office	Kirkbride, Wigton CA7 5JH	01697 351231
Longtown Library	Lochinvar Centre, Longtown, CA6 5UG	01228 791638

and at the Natural England offices at Murley Moss Business Village, Oxenholme Road, Kendal, Cumbria LA9 7RL

This notice invites any person to make representations to the appointed person in connection with the above objection.

Representations may be made about any of the following matters:

- (a) the objection (including any modifications proposed by the objection) (see box C above);
- (b) any relevant alternative modifications in relation to that objection (see box D above); or
- (c) any observations of the appointed person on any relevant alternative modifications or any modifications proposed by the objection (see box E above).

Any representations must be received by the appointed person no later than 17 July 2017.

Any representations must be made on the appropriate form which may be obtained from the appointed person at: *The Planning Inspectorate, Rights of Way Section, Room 3G, Hawk Wing, Temple Quay House, 2 The Square, Bristol BS1 6PN*

or from <https://www.gov.uk/government/collections/england-coast-path-gretna-to-allonby>

Representations should be sent to the appointed person at the above postal address, or to RightsofWay2@pins.gsi.gov.uk.

22 May 2017

- (a) See paragraph 4(2) of Schedule 1A to the National Parks and Access to the Countryside Act 1949.
- (b) 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 (see paragraph 1 (b) of Schedule 1A to the National Parks and Access to the Countryside Act 1949 and section 297(3) of the Marine and Coastal Access Act 2009).
- (c) See paragraph 6(3) of Schedule 1A to the National Parks and Access to the Countryside Act 1949 for the meaning of “relevant alternative modifications”.