

NORTH YORKSHIRE  
LOCAL ACCESS FORUM

May 15<sup>th</sup> 2008

DRAFT MARINE BILL

1.0 PURPOSE OF REPORT

- 1.1 To provide a background report to the Draft Marine Bill introduced by government in April 2008. This report will concentrate on how the Draft Bill will secure access to the English coast.

2.0 BACKGROUND

- 2.1 The draft Bill places a duty on the Secretary of State and Natural England to secure a long distance route (“the English coastal route”) and land available for open-air recreation (“spreading room”) accessible to the public around the coast of England. It amends existing legislation to provide a coastal margin, within which people will be able to walk along a long distance route for the length of the English coast (with certain exceptions, including, for example, developed land, Ministry of Defence land, land used as a park or garden, railways and quarries). In addition people will have access to coastal land such as beaches, cliffs, rocks and dunes, for the purposes of open- air recreation on foot.
- 2.2 Provision for extending access to the coast was made in the Countryside and Rights of Way Act 2000 (the CROW Act). A commitment to improve coastal access was included in the Defra Five Year strategy in December 2004. The Labour Party’s election paper “Rural Communities forward not back” in April 2005 promised that “Improving access to coastal areas will be an early priority for a Labour third term”.
- 2.3 The Government’s vision is of “A coastal environment where rights to walk along the length of the English coast lie within a wildlife and landscape corridor that offers enjoyment, understanding of the natural environment and a high quality experience; and is managed sustainably in the context of a changing coastline”.
- 2.4 Natural England (NE) was asked to research the access situation on the coast and look at a number of options for doing this, working to the vision set out above. NE looked at three existing options for improving coastal access – using existing public rights of way legislation; an order under section 3 of the Countryside and Rights of Way Act 2000; voluntary measures such as agreements to provide access through agri-environment schemes – and also an option for new legislation. The NE Board submitted its report on coastal access (“Improving coastal access – our advice to Government”) to Defra at the end of February 2007<sup>1</sup>, recommending that the Government bring in new legislation. Defra consulted on options, including the approach recommended by NE, in June 2007.

- 2.5 The coastal access provisions in the draft bill only apply in relation to England. The Welsh Assembly Government is considering appropriate statutory provisions for Wales, subject to consultation, which might be included in the final Bill.

1 <http://www.naturalengland.org.uk>

### 3.0 CURRENT POSITION

- 3.1 There were 72 million leisure visits to the coast (outside seaside towns) generating £1.4 billion spend in 2005, and going for a walk was the most popular main activity on these visits.<sup>2</sup> Half of the English public said they did not visit the coast frequently but would like to visit more.<sup>3</sup>
- 3.2 NE's report highlighted the fact that there are parts of the coast where public access on foot is not currently possible, making parts of our wonderful coast unavailable for the public to enjoy. The study has also shown that the English coast is a dynamic environment, where some stretches of existing coastal paths are closed or have fallen into the sea as a result of the natural changes which are occurring to our coastline. In other parts the feeling of confinement leaves the walker wishing for a better quality of experience and a sense of freedom with the elements. The coast is vitally important for nature conservation and wildlife. NE has developed its work in a way that has taken account of the coastal landscape and wildlife, not just the benefits that an improvement in access might bring.
- 3.3 In line with the findings from the June 2007 consultation, the draft Bill aims to improve public access to and enjoyment of the English coastline, providing secure and consistent rights for people to enjoy the whole English coast with confidence and certainty.

*2 England Leisure Visits Survey 2005.*

*3 Ipsos MORI 2006*

### 4.0 IMPLEMENTATION: HOW THE ENABLING MEASURES WILL WORK

- 4.1 The English coastal route will be proposed by NE in consultation with local interests, taking due account of the existing pattern of physical features and boundaries, and of potential impacts on nature conservation and on other land uses, both for the route and for the associated spreading room. NE have published a document setting out the key principles they propose to apply to this work, available on their website<sup>4</sup>.

4 <http://www.naturalengland.org.uk/leisure/access/coastal>

- 4.2 These principles will be further developed and consulted on before implementation begins. Consultation with landowners and those with an interest in the land will take place in order to take account of their concerns over issues such as land management, privacy or business interests.

There will also be discussion with other local interests – including parish councils, other local authorities and local access forums, and wildlife and user groups – which will form a key part of the local design. In practice NE will work through access authorities (typically county councils) in achieving much of the detailed setting out of the coastal margin, wherever they are satisfied that this will result in timely and effective delivery.

- 4.3 A right of access to the route and associated spreading room will be provided under the CROW Act, as amended by this Bill. The route itself will be established so that it can always remain open, for example, it will not go through areas where there would be an unacceptable impact on nature conservation or, for instance, through ports or defence establishments where security and safety are issues. Where coastline is subject to erosion, NE will be able to use its discretion to specify that the route should “roll back” with erosion. The route (but not the spreading room) will be able to be established on certain categories of land which are otherwise excepted from the CROW right of access, for example, arable fields. NE and the Secretary of State for Defra, will be under a duty to strike a fair balance between the interests of the public in acquiring a right of access and the interests of any owner or occupier of land over which the new right would apply. The right of access will be subject to restrictions or exclusions, for example, for nature conservation or land management purposes, although these will be somewhat different from those applicable to existing CROW access land, reflecting different conditions on the coast. Modifications to CROW will be made by means of an Order. Details of the proposed content of such an Order are available on the Defra website.
- 4.4 Following the planning and consultation process for a particular section of the coast, NE will produce a report for the Secretary of State for Defra proposing the line of a long-distance route as part of the English coastal route. The report will indicate what other land will be subject to access as a result of the setting out of the route (in most cases by description rather than mapping), and any restrictions and exclusions that it proposes. Those with an interest in the land will be able to make representations to NE about the line of the route, or any restrictions or exclusions proposed or which they believe should be proposed. NE will present these representations, and a summary of any other representations, with the report to the Secretary of State. The Secretary of State will consider the report and the representations and will either approve or reject the report, or approve it with modifications.
- 4.5 Once the route is approved for a section, any necessary establishment work will be undertaken to facilitate and manage the new or improved access (infrastructure, signage, restrictions or exclusions). The rights will then come into force for that section of the English coastal route. The establishment of the English coastal route will be carried out over a period of years – the assumption is that most work will be complete after 10 years, but there is not a cut-off date for completing the work. NE will be free to focus on the areas of greatest need first.

- 4.6 The coast is a dangerous environment, but we believe that the public can and do make use of it safely and sensibly and should be allowed to make their own judgement on the level of risk they wish to undertake. General information on safety is important, and the public need to be made aware of any unusual or hidden risks, but we believe they should take responsibility for their own safety and the safety of any children or others for whom they are responsible. The legislation therefore removes occupier's liability in respect of any natural feature, as for other CROW access land, but in addition removes occupier's liability in respect of any non-natural feature. In both cases this is subject to the occupier not having acted intentionally or recklessly in respect of a known danger. The legislation will also clarify that NE owes no duty of care when preparing proposals for a long-distance route as part of the English coastal route, or in connection with any failure to exercise their power to erect signs warning of particular hazards or to exclude or restrict access to any area of coastal margin. The legislation will similarly clarify that the Secretary of State owes no duty of care when approving proposals for a long-distance route as part of the English coastal route.

## 5.0 NEXT STEPS

- 5.1 The draft Bill is being made available for Parliamentary pre-legislative scrutiny. Further information on this process is available in a note by the House of Commons library.<sup>5</sup>

The publication of this draft Bill is intended to enable a full debate with all interested parties on the overall package of reforms and on the detail of the specific proposals.

It is important to get this complex legislation right and ensure that the final package of reforms makes sense to those who will have to work with it. That is why we have outlined how we plan it working in practice as far as possible.

Whilst no specific consultation questions have been set out, DEFRA welcome views on whether our proposals will deliver the outcomes we wish to see.

You may submit comments in writing to:

Marine Bill Team  
Department for Environment, Food & Rural Affairs  
Area 2C, Nobel House  
17 Smith Square  
London  
SW1P 3JR

Alternatively, you may submit comments electronically to:

[MarineBillTeam@defra.gsi.gov.uk](mailto:MarineBillTeam@defra.gsi.gov.uk)

Please submit comments by 26 June 2008.

Following consultation and pre-legislative scrutiny, the Government will respond to comments and suggestions and make amendments to the draft Bill in preparation for introduction to Parliament.

5 <http://www.parliament.uk/commons/lib/research/notes/snpc-02822.pdf>

#### 4.0 RECOMMENDATION

It is recommended that:

- a) This report is received for information and Forum respond to Defra.

Contact Officer:

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Rights of Way and Access Manager

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