



## **Consultation on proposals to amend the Countryside and Rights of Way Act 2000 for coastal land**

### **A response by the English National Park Authorities Association November 2009**

- 1.1 The English National Park Authorities Association (ENPAA) exists to provide a collective voice for the nine English National Park Authorities. It is governed by the Chairs of the nine Authorities. Our response represents the collective view of officers who are working within the policies established by the National Park Authorities (NPAs). Individual National Park Authorities may submit separate comments, which will draw on the specific issues for their particular area.
- 1.2 The National Park Authorities are very positive about the introduction of coastal access in England. We hope to continue to work closely with Defra and Natural England to ensure that the new access rights work well and gain the maximum benefits for users, the environment and land managers.
- 1.3 Whilst we fully support the new coastal access provision and some of the proposals put forward in this consultation paper, we do have some reservations about others and some deeper concerns over a few proposals. Our views are explained in more detail below.
- 1.4 In general, we think that the messages given to the public about the new coastal access right must be clear and consistent. The new rights of access should, as far as is possible, reflect existing legislation relating to rights of access in order to avoid the public being confronted with a confusing array of different rules applying to what will be seen as a single defined path crossing accessible land.

## **2 Proposals we support**

- 2.1 We support the proposal that the line of the coastal route is not closed when an extremely high risk of fire means that the spreading room is subject to a restriction (Question 9). We agree that fire risk can be effectively controlled through management of the coastal route. It would be inappropriate and confusing for the public were the route to be open where it follows public rights of way, but closed where it does not.
- 2.2 We agree that land within 20 metres of a building used for housing livestock should not be excepted from the right of access (Question 16).
- 2.3 We also agree that the coastal route should be aligned along the edge of a cultivated field where this is the most appropriate location. We think it

unfortunate that the proposed scheme does not allow for compensation to be paid in such circumstances (Question 18).

- 2.4 We support the proposals that the coastal route should be able to pass through golf courses and through licensed or annually certified camp and caravan sites. We also agree that temporary camp or caravan sites should not be excepted land (Question 19).
- 2.5 It is not appropriate to provide any new public access across school playing fields, and so we agree that this should be a category of excepted land (Question 25).
- 2.6 We agree with the proposal to disapply the restriction requiring dogs to be kept on a lead between 1 March and 31 July (Question 31). The use of local restrictions for nature conservation, made on a site by site basis, will be more effective in protecting the wildlife found along the coast. We agree with the proposal to retain the requirement for dogs to be kept on a lead at all times in the vicinity of livestock, although some definition of the term 'vicinity of' would be useful – for example, in sight of livestock, or in the same enclosure as livestock (Question 32).
- 2.7 We believe that it is beneficial to take a positive approach in clearly setting down the degree of control that owners must have over their dogs (Question 33). However, we think that a description of 'effective control' will not be appropriate in many circumstances on coastal land, and we think it would be more appropriate for dogs to be kept under 'close control' as defined on page 26 of the Natural England Supplementary Information published in December 2008.

### **3 Proposals we do not support**

- 3.1 Whilst we agree that the discretionary powers to exclude dogs from managed grouse moors are unlikely to be appropriate for coastal access (Question 7), we believe that the discretionary power to exclude dogs from lambing enclosures should be retained for coastal land. If the coastal route would be affected by use of this discretionary power, then it should be a requirement that an alternative route is provided for people with dogs in order to maintain continuity of access along the coastal route.
- 3.2 Addressing questions 6-13, while we appreciate the consideration of alternative arrangements being considered in National Parks for delegation of the relevant authority role after implementation we do not fully support the proposals in the paper for changing the existing restrictions regime and feel that National Park Authorities should be the relevant authority for all coastal land within national parks at all stages including implementation. We strongly believe that the existing regime for the application of restrictions under the CROW Act should continue to apply for coastal land. There is a need to maintain a consistent approach to managing access land within national parks, and this would be better achieved by National Park Authorities who have good local knowledge and experience of managing access. National Park Authorities are the

access authorities for all access land including coastal land within national parks, and it is clear that more of the implementation phase will be undertaken by access authorities, as opposed to Natural England, than was initially envisaged. By ensuring that coastal access is in line with the existing management regime for access land, any confusion for users and land managers in particular will be minimised.

- 3.3 In the event that Natural England is the relevant authority for the implementation phase, we support the idea that it should be possible for Natural England to delegate the relevant authority role to National Park Authorities after that phase (Question 13).
- 3.4 While we agree that would be desirable not to have two separate regimes applying to the same piece of land, we do not see how adding highways as a new category of excepted land will achieve a simplified regime (Question 23). Highways are not excepted from existing CROW access land and we are not aware of problems arising from this arrangement. We are concerned that operating a different arrangement from open access land for coastal access land would add to confusion rather than reduce it. Also where the highway does not have a defined width it will be impossible to define where the highway rights stop and the coastal access rights start. This is a particularly important consideration for those areas, including some national parks, where the access authority is not the highway authority.
- 3.5 We are of the opinion that marinas, yacht clubs and boatyards should be a category of excepted land with the coastal route going through – as described in paragraph 4.8 of the consultation (Question 27). We believe that wider open access to these areas would interfere with the land use.

#### **4 Proposals we have some concerns about**

- 4.1 With reference to consultation question 4, we are concerned that in some instances, for example through cultivated land, a width of four metres will be significantly detrimental to the land manager – who will not receive any compensation for any associated loss of income. Where the coastal route crosses land that is not subject to an exception or a restriction, the land to the seaward side of the coastal route will have the same access rights as the route, so here a width of 4 metres is likely to be acceptable. Where the coastal route crosses excepted land, the coastal route will be more akin to a public right of way; however the large majority of public rights of way are less than 4 metres wide, so the public expectation will not be for a 4 metre wide path. A minimum width of 2 metres would be adequate for users, and more acceptable to land managers.
- 4.2 We are not convinced that all graveyards and cemeteries should be excepted from the right of access (Question 24). Some such land could provide for excellent coastal access without significant impact on the existing land use. We suggest that land in this category should be considered on a case by case basis.

**November 2009**