



**REPORT of
DIRECTOR OF CUSTOMERS AND COMMUNITY**

**to
PLANNING AND LICENSING COMMITTEE
2 MARCH 2017**

**RESPONSE TO NATURAL ENGLAND - ENGLAND COASTAL PATH, MALDON
TO SALCOTT SECTION**

1. PURPOSE OF THE REPORT

- 1.1 To present Officer recommendations that they may be incorporated into a formal letter of response to Natural England regarding the creation of the first of three sections of the England Coastal Path through the Maldon District.

2. RECOMMENDATIONS

- (i) that the guiding principles set out in section 3.3 of this report be agreed and, where necessary, incorporated into a response to Natural England consultation on the proposed route (Maldon to Salcott) of the English Coastal Path (ECP);
- (ii) that for land owned by Maldon District Council (MDC), the route of the ECP follows the proposed / mapped Natural England route, with boundary restrictions and exclusions as specified in the body of this report;
- (iii) that a voluntary dedication agreement of ECP route through land ‘excluded’ from the Marine & Coastal Access Act 2009; specifically the proposed short section connecting Promenade Park to Hythe Quay on riverward side of Cooks Boatyard and a second section through the Downs, Downs Road, be agreed;
- (iv) that for land not owned by MDC but falling within the District Area, the proposed / mapped route be considered to be favourable;
- (v) that subject to (i) to (iv) above and in consultation with the Chairman of the Planning and Licensing Committee the Director of Customers and Community be authorised to respond to Natural England’s consultation on the ECP Maldon to Salcott proposed route and the subsequent two further sections of the ECP within the Maldon District (Maldon to Burnham-on-Crouch and Burnham-on-Crouch to Wallasea), subject to the detail of the route proposals and in good time for the submission of their reports to the Secretary of State.

3. SUMMARY OF KEY ISSUES

3.1 Background

- 3.1.1 Part 9 of the Marine and Coastal Access Act 2009 aims to improve public access to the English Coast by the creation of a long distance walking route and a margin of land adjoining the route where people will be able to spread out and explore in appropriate places.
- 3.1.2 The Act places a statutory duty on Natural England to prepare a series of reports for consideration by the Secretary of State. Each Report is to set out proposals for the route and the adjoining margin for a particular stretch of coast.
- 3.1.3 The English Coast Path is split into three sections that fall within Maldon District (from North to south) - Maldon to Salcott; Maldon to Burnham-on-Crouch; and Burnham-on-Crouch to Wallasea. This report is intended only for the first of these sections .
- 3.1.4 The Maldon to Burnham-on-Crouch section proposals will be outlined in a report to this Committee in April 2017, in line with Natural England's timescale for developing their report for that section.
- 3.1.5 Burnham-on-Crouch to Wallasea will be due towards the end of this calendar year as work on the development of this part of the route has just started.

3.2 Consultation with Natural England

- 3.2.1 Council Officers have been in discussion with Officers from Natural England (NE) since Autumn 2015, with regular update meetings to communicate information, current status of proposals, and developments in the local and National stances on the development of the England Coastal Path (ECP).
- 3.2.2 Consultation has involved several visits and on-site discussions to various sections of the proposed route, including viewing areas of concern from the waters of the River Blackwater itself.
- 3.2.3 There was clear understanding between MDC and NE Officers that the ECP must strike a fair and appropriate balance between the interests of the public in having rights of access over coastal land and the interests of owners and occupiers of land over which coastal access rights would be conferred.
- 3.2.4 Natural England expressed an interest in gaining a response / representation to both the proposed ECP route specifically through MDC owned land and the route in general through the District.

3.3 MDC Guiding Principles

- 3.3.1 Much of the immediate coast through the Maldon District is already accessible through existing Rights of Way along the Sea Wall and Sea defences.

3.3.2 Through the MDC ownership and leasing of large sections of the intertidal foreshore in the Blackwater Estuary (and byelaws governing such), there is *already* implicit public access to the foreshore from an MDC point of view. However, it is recognised that this usage of the intertidal area is largely confined to publicly accessible beaches and would not be suitable for enshrining under the Marine and Coastal Access (MCA) Act 2009.

3.3.3 Landward boundary

- Where the route falls upon sea wall / sea defence, the landward boundary of the ECP should be restricted to the landward edge of the crest of the sea wall.
- Where the route follows existing Public Rights of Way elsewhere, the landward boundary should be defined by that boundary or legal width stated in the Definitive Statement and Definitive Map for any such right of way.
- For land “excluded” from the MCA Act 2009, the route should follow an existing publicly accessible surfaced line, to be proposed by Natural England and agreed by MDC through a Voluntary Dedication agreement (*see maps: The Hythe & Downs Road*)

3.3.4 Spreading Room

3.3.4.1 This should exclude all areas defined as Saltmarsh and mudflats for the following reasons:

- Safety of ECP users – The landform and inherent nature of the majority of the Saltmarsh, Mudflats, and tidal river present hazards to the health and safety of users, particularly those unfamiliar with the area. By excluding these areas, officers consider that the risks associated with them are greatly reduced. (Exclusion justification under S25a of the Countryside and Rights of Way (CROW) Act 2000)
- Sensitivity and fragility of Habitat – Increased usage will have a detrimental impact on the Saltmarsh and intertidal Mudflat as habitats and ecosystems. (Exclusion under S26 of CROW Act 2000)
- Negative impact on species – The Blackwater Estuary holds National and International protected designations as a result of the species which reside and migrate through the area. (Exclusion under S26 of CROW Act 2000)

3.3.4.2 Concerns have also been raised regarding the use of the seaward face of the sea wall, however officers feel that this should be considered on a case by case basis in specific geographical areas and not be part of these guiding principles.

3.4 **Future considerations**

3.4.1 Rollback

3.4.1.1 The new right of Coastal Access brings in 'roll back' meaning that if a section of coast erodes or slips the path is not lost, it simply moves back with the new coastline.

3.4.1.2 Rollback is not considered to be a factor for the Maldon District as it generally applies to cliffs, however would allow for erosion of those sections of unprotected / undefended coastline.

3.4.1.3 Any major changes to ECP route would as a matter of course go through full consultation and report to Secretary of State for approval.

3.4.2 Trail Standards

3.4.2.1 Once created under the MCA Act 2009 the ECP will become the responsibility of the local Highways Authority, in this case Essex County Council.

3.4.2.2 Establishment costs for the Coastal trail will be 100% funded by Natural England and 75% of the ongoing maintenance costs will be met by them through Essex County Council.

3.4.2.3 National Trail standards have existed for many years elsewhere within the UK and will be adopted for the ECP.

3.4.2.4 It is not known yet how Essex County Council will allocate resources or implement its duties with regard to the ECP. These discussions will be undertaken as the final route is confirmed and formally created, however Officers feel it is worth highlighting that the maintenance of the ECP will be a statutory duty.

3.4.3 Creation of “higher” Rights

3.4.3.1 The ECP will create a right of use by Foot only, as is conferred if it were a Public Footpath. There has been some discussion by Officers and expressions of interest by existing users, both locally and nationally, regarding the future creation of higher Rights along the route – namely right of access by Bicycle or Horse (i.e. to Bridleway PRow).

3.4.3.2 MDC Officers would be keen to participate in discussions of these ideas however fully recognise that there would be a large number of concerns and obstacles to overcome, not least the availability of funding - both for the upgrading of the route, signage & surfacing and for future ongoing Maintenance – the concerns of Private Landowners over conferring any higher rights, and the impact of such use upon the essential role of the Sea Wall / defences.

3.4.3.3 Private landowners have every right to confer higher Access rights at their own discretion, for example Permissive Bridleways or Cycleways.

4. **CONCLUSION**

4.1 The creation of the ECP is being enacted under a piece of National Legislation and carried out by a suitable body as a Statutory Duty.

4.2 MDC Officers feel that appropriate and fair consultation process and time have been given by Natural England as the appointed Statutory body to develop a considered

and suitable route proposal for the Maldon to Salcott section of the England Coastal Path.

- 4.3 MDC Officers consider that all concerns as a Landowner have been recorded, incorporated, and responded to appropriately as part of the consultation process.
- 4.4 That the Officer recommendations at the head of this report should be enacted.

5. IMPACT ON CORPORATE GOALS

- 5.1 This activity supports the corporate goals of delivering good quality, cost effective and valued services.

6. IMPLICATIONS

- (i) **Impact on Customers** – The creation of the ECP will confer permanent access right by foot to the whole of the coastline through the Maldon district, where currently sections are not permissible through existing Public Rights of Way.
- (ii) **Impact on Equalities** – None.
- (iii) **Impact on Risk** – None.
- (iv) **Impact on Resources (financial)** – None.
- (v) **Impact on Resources (human)** – None.
- (vi) **Impact on the Environment** – None directly for MDC. Assuming that Landward and Spreading room recommendations in this report are enacted, impact should be no different than current usage of the coast.

Background Papers:

Natural England “Maldon District Council Absolute Freehold” maps 1-6

Natural England Maldon to Salcott ECP route proposal map

<https://www.gov.uk/government/publications/england-coast-path-plan-of-the-maldon-to-salcott-stretch>

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