

Chapter 2. The framework for alignment and management

This chapter describes the statutory framework which underpins the alignment and management of the access established under the provisions in the 2009 Act. By “alignment” we mean the choices we make about the English coastal route and the coastal margin that we propose in our reports to the Secretary of State.

2.1 The land affected

The English coastal route

- 2.1.1 The English coastal route will be established using powers under the National Parks and Access to the Countryside Act 1949 (“the 1949 Act”) as amended for this purpose by section 302 of the 2009 Act and will be shown as a line on a map in our reports to the Secretary of State.
- 2.1.2 Where there is an existing route along the coast which meets the criteria set out in the Scheme, we are likely to recommend that the existing route be adopted as the English coastal route. But where there is none, or where an existing route is unsatisfactory, we will recommend that a new or improved route is provided. The creation of the English coastal route will not remove any existing public rights of way.
- 2.1.3 Where the route of an existing National Trail⁴ is considered unsuitable for the English coastal route we may recommend to the Secretary of State that the existing National Trail is modified, provided that in our view the English coastal route would better meet the purpose for which the existing National Trail was designated⁵. Any public rights of way along the existing National trail route would remain in place regardless of our decision regarding the National Trail.
- 2.1.4 Other promoted routes will remain the responsibility of the body that developed them. There is no obligation on the promoting body to modify its promoted route to bring it in line with the English coastal route, if this is different, but it is a possibility we will be available to advise them on if it is raised.

The coastal margin

- 2.1.5 The position of the English coastal route determines the eligibility of land to either side of it as coastal margin. This happens by virtue of the provisions of an order (“the Order”) made under section 3A of CROW⁶.
- 2.1.6 The line over which the route passes, and the land adjacent to it – normally the land within 2 metres of the line on either side – becomes coastal margin. This strip of land is what the Scheme calls “the trail”.
- 2.1.7 In addition:
- land on the seaward side of the trail automatically becomes coastal margin; and
 - other land of certain specific types also becomes coastal margin if it lies on the landward side of the trail.
- 2.1.8 There are powers under the 1949 Act to provide alternative routes or temporary routes for the trail, at times when access to the ordinary route is unavailable⁷. The provision of alternative and temporary routes does not have the effect of making additional land (other than the line of the alternative or temporary route and 2 metres either side of it) part of the coastal margin as described in paragraph 2.1.7 above.
- 2.1.9 There is also a discretionary power under section 55D(2) of the 1949 Act for Natural England to recommend that the landward boundary of coastal margin should be

⁴See entry for ‘National Trail’ in part B of the glossary.

⁵A recommendation to this effect must be made in a variation report under section 55 of the 1949 Act.

⁶The Access to the Countryside (Coastal Margin) (England) Order 2010 SI2010 No. 558.

⁷The powers to provide alternative routes and temporary routes are under sections 55C and 55I respectively of the 1949 Act. They are explained in more detail in figure 16, in section 6.3 of the Scheme.

extended or contracted in places to coincide with a recognisable physical feature such as a fence, wall or woodland edge⁸. This discretionary power may be used either:

- to include further land within the coastal margin on the landward side of the trail; or
- to make the trail narrower than the 4 metres provided for by law, in places where the edge of the trail coincides with the landward boundary of the margin.

2.1.10 Land owners may also dedicate land as coastal margin under the provisions of section 16 of CROW, as amended for this purpose by section 303(6) of the 2009 Act.

2.1.11 Section 4.7 of the Scheme explains these provisions in more detail, including the criteria we will use to decide how to exercise the discretionary power.

Access rights on the coastal margin

2.1.12 Once a report to the Secretary of State has been approved and the necessary preparatory work has been completed, public access rights under section 2(1) of CROW will be brought into force by Order on the affected stretch of coast on a date decided by the Secretary of State. These access rights are called “coastal access rights” in the Scheme.

2.1.13 Coastal access rights replace other access rights provided under Part 1 of CROW on land which forms part of the coastal margin. This includes access rights over open country, registered common land⁹ and any land previously dedicated for access under section 16 of CROW.

2.1.14 Any public rights of way over the coastal margin are unaffected by the coastal access rights, as are existing maintenance responsibilities for them.

2.1.15 Land with public access rights of the types listed in section 15 of CROW (“section 15 land”¹⁰) may also form part of the coastal margin, but the coastal access rights do not apply there.

2.1.16 Figure 1 summarises the relationship between coastal access rights and the other public access rights on the coastal margin. It also summarises the availability of the local management powers described in section 2.2 of the Scheme in relation to each.

Excepted land

2.1.17 Any land categories treated by Schedule 1 of CROW as excepted land are normally outside the operation of the coastal access rights, although there may be other public rights of access over excepted land – notably public rights of way.

2.1.18 The Order creates some excepted land categories for the purposes of the coast and modifies or removes some which apply on other land with access rights provided under Part 1 of CROW. It also introduces scope for the trail to cross certain categories of excepted land on an access strip – in which case the strip itself is not excepted from the access rights.

2.1.19 Land owners may also choose to dedicate excepted land as coastal margin under the provisions of section 16 of CROW, as amended for this purpose by section 303(6) of the 2009 Act. Such a dedication may:

- provide for the trail to cross an area of excepted land – section 8.17 includes examples of circumstances when we will explore this option with the land owner; or
- dedicate wider access rights across excepted land, as described in section 4.7 of the Scheme.

2.1.20 Figure 2 lists all the excepted land categories in Schedule 1 of CROW, as amended by the Order, including those which the trail may cross on an access strip.

⁸ This discretionary power is provided in section 55D(2) of the 1949 Act.

⁹ See entries for ‘open country’ and ‘registered common land’ in part B of the glossary.

¹⁰ See the entry for ‘section 15 land’ in part A of the glossary for a list of the types of public access rights listed under section 15 of CROW.

Figure 1 Effect of coastal access regime on other access arrangements

| | Access rights provided under Part 1 of CROW on the coastal margin | Activities permitted by the land owner such as horse riding or cycling, whether informally or under a formal agreement. | Access rights of the types listed under CROW section 15 Public rights of way |
|---|--|--|--|
| Effect of coastal access rights | Coastal access rights replace other access rights provided under Part 1 of CROW. | Exist in parallel. | Coastal access rights are not exercisable over section 15 land or on public rights of way. Public access to this land exists by virtue of the provisions listed under section 15 or the public right of way. |
| Effect of national restrictions under Schedule 2 of CROW as amended (see section 2.2) | Apply in all cases, unless removed or relaxed by agreement with the owner or lifted by dedication under CROW section 16. | Do not affect the parallel rights of access. | Do not apply. |
| Scope for informal management (see section 6.4) | Available in all cases. | Available in all cases. | Available in all cases. |
| Effect of local restrictions and exclusions under Chapter II of CROW (see section 6.5) | Available in all cases. | Do not affect the parallel rights of access. | Not available. (But local highway authority has powers to manage access on public rights of way). |
| Effect of local byelaws and other statutory prohibitions | Prevail over coastal access rights (although local byelaws do not prevail over other access rights provided under Part 1 of CROW). | Continue to apply. | Continue to apply. |

Figure 2 Excepted land

a) This table lists those categories of land which are excepted from the coastal access rights under Schedule 1 of CROW, as amended by the Order.

Excepted land in full

b) The following land categories will be excepted in full:

- land covered by buildings¹¹ or the curtilage of such land;
- land used as a park or garden (see section 8.17 of the scheme);
- land used for the getting of minerals by surface working including quarrying (except, under certain circumstances, the removal of sand or shingle from an area of foreshore or beach – see section 8.23 of the Scheme);
- land used for the purposes of a railway (including a light railway) or tramway;
- land covered by pens in use for the temporary detention of livestock¹²;
- land used for the purposes of a racecourse or aerodrome;
- land which is being developed and which will become excepted land under certain other excepted land provisions;
- land covered by works used for the purposes of a statutory undertaking (other than flood defence works or sea defence works) or the curtilage of such land;
- land covered by works used for an electronic communications code network or the curtilage of any such land;
- land the use of which is regulated by byelaws under section 14 of the Military Lands Act 1892 or section 2 of the Military Lands Act 1900;
- land which is, or forms part of, a school playing field or is otherwise occupied by the school and used for the purposes of the school; and
- land which is, or forms part of, a highway (within the meaning of the Highways Act 1980) – see (e) below.

Excepted, with provision for an access strip

c) The following land categories are excepted land, but we may recommend that the trail should cross them on an access strip – in which case the strip itself is not excepted from the coastal access rights:

- land on which the soil is being, or has at any time within the previous 12 months been, disturbed by any ploughing or drilling undertaken for the purposes of planting or sowing crops or trees (see section 8.7 of the Scheme);
- land used for the purposes of a golf course (see section 8.19 of the Scheme);
- land which is, or forms part of, a regulated caravan or camping site (see section 8.18 of the Scheme); and
- land which is, or forms part of, a burial ground.

¹¹ See the entry for 'buildings' in part B of the glossary.

¹² See the entry for 'livestock' in part B of the glossary.

- d) The access strip will normally be 4 metres wide (2 metres either side of the centre line of the trail), although we may recommend that it should coincide with a physical feature such as a fence, wall or hedge¹³. Where appropriate we will use this power to “work with the grain” of existing routes and physical features along the access strip. This may result in sections that are wider or narrower than 4 metres or not of uniform width.

Highways, including public rights of way

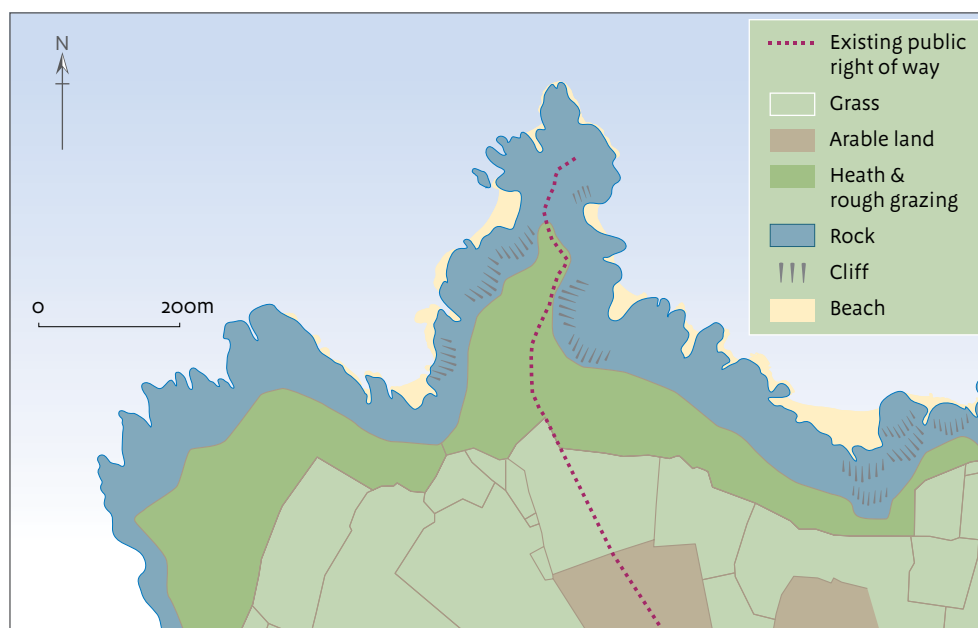
- e) Highways are also excepted from the coastal access rights. This does not prevent the trail from following a public footpath or other highway and people can continue exercising their rights to use highways that fall within the wider spreading room. Such highways form part of the coastal margin even though the access rights along them are public rights of way.

Spreading room

2.1.21 The Scheme uses the term “spreading room” to describe any land, other than the trail itself, which forms part of the coastal margin and which has public rights of access. In addition to land with coastal access rights it therefore includes areas of section 15 land and may be either seaward or landward of the trail. Section 4.7 of the Scheme explains in more detail the ways in which land may become spreading room.

2.1.22 Land is not described as spreading room in the Scheme if it falls into one of the descriptions of excepted land, although it may become spreading room if it loses its excepted status as a result of a change of use, or if the owner voluntarily dedicates it as coastal margin. Highways are excepted land under the provisions of the Order, but may cross spreading room or form part of the trail.

2.1.23 Figures 3 to 6 illustrate a simple example of how the alignment of the trail and spreading room might look in practice on a short section of coast. Chapter 9 includes more detailed examples.

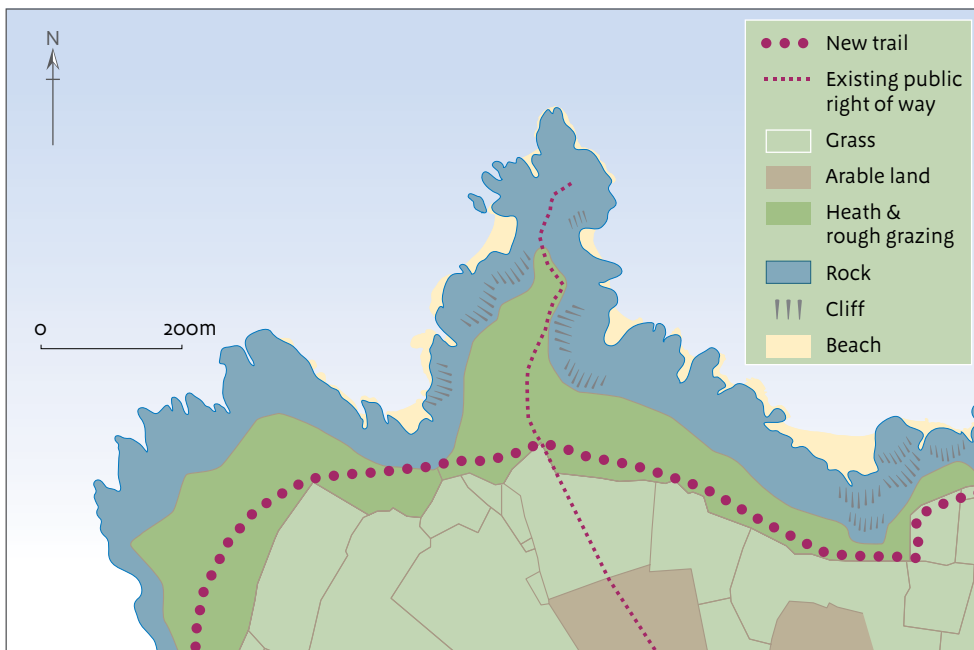


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Figure 3

A section of coast before coastal access rights are created. A rocky shore is overlooked by sloping cliffs covered with heath and rough grass. Further inland there are fields of grass and arable crops. A public right of way leads to the end of a small headland.

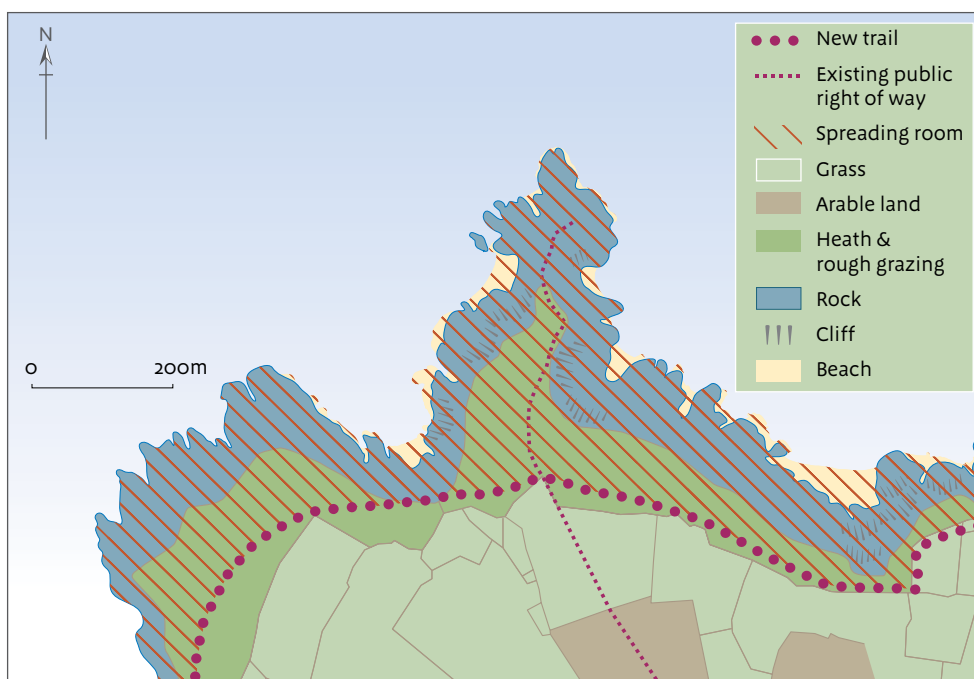
¹³ This power is provided under section 55D(2)(c) of the 1949 Act.



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Figure 4

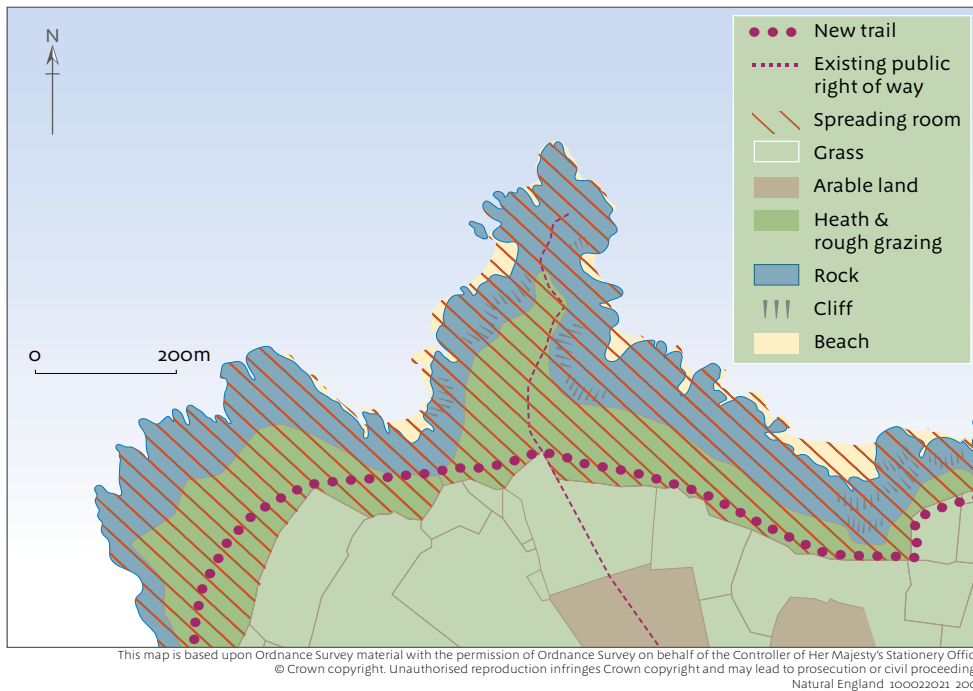
The trail is aligned on a convenient route along the top of the cliff.



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Figure 5

Land seaward of the trail is normally included as spreading room.

**Figure 6**

Natural England (under its discretionary power) may recommend further spreading room landward of the trail, in this case up to walls and fences marking the boundary of heath and rough grass.

2.2 The management of coastal access rights

National rules

- 2.2.1 The coastal access rights will take effect by virtue of CROW section 2(1). They include most types of open-air recreation on foot or wheelchair¹⁴ including walking, climbing and picnicking. Where the land to which they apply is already accessible under CROW, the coastal access rights will apply instead.
- 2.2.2 As on other land accessible under CROW there will be general restrictions on the scope of the coastal access rights, which are called “national restrictions” in the Scheme; for example the coastal access rights will not normally include camping, horse riding or cycling. However, these will not prevent such recreational uses taking place by virtue of an existing right, with the landowner’s permission or by traditional tolerance and they have no effect on public rights of way or section 15 land.
- 2.2.3 Natural England may relax any of these national restrictions in specific areas with the consent of the owner or, if the land is let, the farm tenant¹⁵. The owner may also voluntarily provide such rights by making a permanent access dedication under section 16 of CROW.
- 2.2.4 The national restrictions on the coastal access rights are set out in Schedule 2 of CROW which is amended in several ways by the Order for the purposes of the coast.
- 2.2.5 The main difference between the national restrictions on coastal access rights and those which apply to other access rights under Part 1 of CROW are the rules for people who bring dogs with them:
- there is no national requirement on coastal land to keep dogs on a short lead between March 1st and July 31st – although we may give directions to enable this arrangement to apply locally (see section 6.7); and
 - a person who brings a dog with them must keep it under “effective control”, which means they must:

¹⁴ This includes most types of mobility vehicle, as provided by section 20(2) of the Chronically Sick and Disabled Persons Act 1970.

¹⁵ See entry for ‘farm tenant’ in part B of the glossary.

- keep the dog on a lead; or
- keep it within sight, remain aware of its actions and have reason to be confident that the dog will return reliably and promptly to them on command; and
- in either case, keep the dog on land with coastal access rights or other land to which the person has a right of access.

2.2.6 As on other land with access rights under Part 1 of CROW, a person with a dog must keep it on a short lead in the vicinity of livestock¹⁶. The purpose of this provision is to prevent dogs from approaching livestock.

2.2.7 There are two other differences between the national restrictions that apply to coastal access rights and those that apply to other access rights provided under Part 1 of CROW:

- People are entitled to bring equipment on to land with coastal access rights and to exercise a right to fish from that land, such as the common law right to fish in the sea and tidal waters. They may not use the equipment whilst on land used for grazing or other agricultural purposes.
- People may not obstruct others who are using the trail.

Local management arrangements

2.2.8 Where, to supplement these national rules, there is a need to manage the coastal access rights at a local level, there are several options available either alone or in combination to ensure that an appropriate balance is struck between the various factors in play on the affected land:

- Alignment solutions, by which we mean aligning the trail or the landward boundary of spreading room in ways that take account of the need, including the powers available to us in the 2009 Act to provide temporary or alternative routes for the trail under certain circumstances.
- Informal management solutions, such as posting advisory notices or asking people for their co-operation face-to-face.
- Local restrictions and exclusions, using powers available to us under Chapter II of CROW. These powers have no effect on public rights of way or section 15 land.

2.2.9 Chapter 6 describes each of these options in more detail alongside the general principles we will apply to choose between them. Chapters 7 and 8 outline how we are likely to deploy these options in relation to the range of land cover types, landforms and land use issues which commonly occur on the coast.

2.2.10 We will aim to identify any foreseeable need for local management measures, including local restrictions and exclusions and temporary or alternative routes on each stretch of coast, as part of the consultation on and preparation of our initial recommendations for coastal access as described in chapter 3. We will do this in consultation with those who manage the affected land, and others who have relevant expertise or local knowledge.

2.2.11 After commencement of the coastal access rights, further restrictions, exclusions or temporary routes may be necessary locally, if situations arise that could not be foreseen initially. People with a legal interest in the land will have powers to apply to us for directions to restrict or exclude access, and will be able to appeal to the Secretary of State against our decision if they disagree with it. Legal interests include land owners and tenants and those with rights of common or sporting rights¹⁷.

2.2.12 The procedures for applying for a direction are very similar to those which apply on other land with access rights under Part 1 of CROW (see section 6.6). However, there are no discretionary powers under the coastal access regime to exclude access for up to 28 days per year for any reason (under section 22 of CROW) or to exclude people with dogs

¹⁶ See the entry for 'livestock' in part B of the glossary.

¹⁷ See entry for 'legal interest' in part B of the glossary.

from grouse moors or lambing enclosures (under section 23 of CROW).

- 2.2.13 On some sections of coast, existing rights will apply instead of or as well as the coastal access rights (see figure 1). These may include rights to ride horses or cycles, or other “higher rights”. There may already be powers to manage these existing access rights under other legislation; for example, local highway authorities will retain their powers and duties to manage access along coastal bridleways. Where the coastal access rights include rights to ride horses or bicycles by virtue of the relaxation of national restrictions (see paragraph 2.2.3.), there are clearance and maintenance powers for that purpose¹⁸.
- 2.2.14 Local byelaws and other statutory prohibitions may also apply in relation to the coastal access rights in particular places along the coast¹⁹ or in relation to other rights of access which may exist on the coastal margin (see figure 1).

2.3 Natural England’s coastal access reports

2.3.1 Under section 55A of the 1949 Act, Natural England may prepare a series of coastal access reports, each relating to a different stretch of the English coast, recommending to the Secretary of State the alignment of the trail and the extent of any spreading room on the landward side of that stretch.

2.3.2 Each report will include:

- a map of the proposed route for the **trail** and any alternative routes;
- an indication of the extent of any **spreading room** to either side of the trail, using descriptions, maps or both, depending on what we think is necessary to make our proposals clear in each circumstance; and
- a description of any **local management** that we consider necessary including any local restrictions or exclusions for which we foresee a need at the time we submit the report.

2.3.3 Figure 8 in chapter 3 explains the contents of the reports in more detail.

2.3.4 In relation to the trail, we must have had regard to the following criteria which are set out in section 297(2) of the 2009 Act:

- the safety and convenience of those using the English coastal route;
- the desirability of the route adhering to the periphery of the coast and providing views of the sea; and
- the desirability of ensuring that, so far as is reasonably practicable, interruptions to that route are kept to a minimum.

In addition under section 297(4) we must aim to strike a fair balance between the interests of the public in having a right of access over land and the interests of any person with a relevant interest²⁰ in the land.

2.3.5 Part B of the Scheme explains these principles together with other relevant considerations, including issues relating to the coastal environment and coastal change. Part C explains their application to different circumstances around the English coast.

¹⁸ These clearance and maintenance powers are by virtue of paragraph 2(3)(c) of Schedule 20 of the 2009 Act.

¹⁹ In accordance with section 2(3) of CROW, as amended by section 303(3) of the 2009 Act.

²⁰ See entry for ‘relevant interest’ in part B of the glossary.

