

Briefing



The Marine and Coastal Access Bill

House of Lords

Second reading debate Monday 15 December 2008

Summary

1. The English National Park Authorities Association (ENPAA) exists to provide a collective voice for England's National Park Authorities. It is governed by the Chairs of the nine Authorities, and this briefing therefore represents the overall view of the Authorities where there is a common position. However, not all National Parks have a coastline, and those that do differ in the amount of access already available and also in the coastal land types and uses.

2. ENPAA broadly welcomes the introduction of a Marine and Coastal Access Bill. ENPAA supports the vision, purpose and strategic objectives of the Bill and many of its provisions; including the proposal to create a Marine Management Organisation (MMO) to provide a more integrated and coordinated approach to coastal and marine management. We remain concerned, however, about a number of issues which either require clarification or addressing in the Bill. We hope the Second Reading debate will provide an opportunity for our concerns to be addressed.

3. Our key points are that:

- within National Parks, the Relevant Authority for giving directions relating to the exclusions and restrictions of access on coastal margin should be the National Park Authority, as under the CROW Act;
- compensation should be payable to anyone whose interest in land is depreciated or suffers damage by the introduction of the new coastal access rights;
- the mechanisms for funding the coastal access provisions in the Bill should be clarified to ensure that it is not provided at the expense of existing access provision and funding must be available in perpetuity for the maintenance of the coastal route;
- cultural heritage issues are not adequately addressed in the provisions for Marine Conservation Zones;
- a mechanism for recognising and protecting seascapes is needed; and
- further clarity (probably through detailed guidance) is needed on Integrated Coastal Zone Management.

Part 9 - Coastal Access

Clause 286 The coastal access duty

4. The proposed order under section 3A of the Countryside and Rights of Way Act 2000 (CROW) indicates that Natural England will be the relevant authority for giving all directions relating to exclusions or restrictions of access on coastal margin. On other CROW access land, National Park Authorities are the relevant authority for land within National Parks. We believe that the partnership working between Natural England and National Park Authorities in giving directions on access land has worked and continues to work well. National Park Authorities have good local knowledge and experience and it would be both logical and beneficial for National Park Authorities to remain the relevant authority for all types of access land, including coastal margin.

Clause 287 General provision about the coastal access duty

5. It is essential that any detrimental impacts in livelihoods along the coastline are avoided. There appears, however, to be no mechanism for compensation to those with a relevant interest in the land within this Bill. While we note the comments made by the Minister at the EFRA Select Committee, we would suggest that it would be impossible to strike a fair balance without making compensation available. Land in arable production will be particularly affected by the introduction of a coastal route, as will any land where there is a need for fences to be set back to accommodate the new coastal access provision. This stems from the concentrated access which is being generated, created by what in effect will be a linear route – in contrast to the access under CROW which, for example, is to large expanses of open moorland.

6. We suggest that compensation should be payable to anyone whose interest in land is depreciated, or who suffers damage by being disturbed in the enjoyment of land, such damage or depreciation being caused by the introduction of new coastal access rights. In many instances this fair balance could be reached through section 39 (Wildlife and Countryside Act 1981) management agreements or by bringing a coastal access element into Entry Level Stewardship.

Clause 292 Long-distance routes

55A Proposals relating to the English coastal route

7. We support the proposals to accommodate the roll back of routes that are subject to coastal erosion or encroachment by the sea. We recommend that this approach is taken to the full extent of the coastal route, rather than just to areas that are considered to be subject to coastal erosion. This is a more straightforward approach that will be easier for the public to understand.

8. In order to maintain the integrity of routes and access we would also like to see roll-back in this coastal situation apply fully to existing rights of way and the level of access to be maintained in all cases. For example, if a bridleway is threatened it will roll back as a bridleway, not as a footpath.

55C Alternative routes

9. We have some concerns over subsection 6 regarding the coming into effect of alternative routes at certain times of the year. Whilst we recognise the flexibility provided by this approach, it could cause significant confusion for the public, especially if different areas decide on different restriction periods. We recommend that where a route will not be acceptable at certain times of year, for example because of the risk of disturbance to nesting birds or migratory wildfowl, then that route is not made part of the coastal access route, the alignment process instead defining a route that can be used by the public all year round. Alternatively, statutory guidance should ensure consistency of seasonal diversions between regions.

Parts 1 – 8

Cultural heritage

10. The proposals to designate MCZs are welcomed and we agree that the Bill should place specific obligations on Government to designate a comprehensive network of reserves that effectively protect marine biodiversity.

11. This should include a suite of highly protected conservation zones of the richest sites which are selected using scientific evidence and objectively-based criteria. These zones should then be protected from damaging activities.

12. However, as currently defined in the Bill Marine Conservation Zones (MCZs) are almost entirely focussed on wildlife conservation. In not including sites of historic and archaeological interest within the definition of MCZs the Government is missing a golden opportunity to extend protection to our marine cultural heritage similar to that given to sites on land. The lack of consideration given to cultural heritage issues within Chapters 1-5 of the Bill is of great concern to us.

13. There remain serious questions over how marine cultural heritage issues will be dealt with in future. These issues have not been adequately addressed by this bill nor by the marine element of the draft Heritage Protection Bill (which will now not be considered in the current legislative programme). While 'historic and archaeological interest' is contained within the broad definition of 'environmental' concerns - no guidance is provided for sites which are significant but not of national importance. No specific mention of cultural heritage is made in Chapters 1-5 of the draft Bill. Issues relating to historic and archaeological interest are dealt with only within the sections of the Bill on Marine Licensing (4), fisheries (6) and (7) and coastal access (9).

14. Whilst the draft Heritage Protection Bill would have provided for the protection of features of national importance, it did not consider the large number of marine cultural heritage sites which are of regional or local importance. On land, these types of site are protected through the planning system and should be included in the remit of the MMO.

Landscape and Seascape Protection

15. We subscribe to the views put forward during consultation on the draft Bill in the submission by the Coastal and Marine Working Group of Europarc Atlantic Isles, in particular that a mechanism needs to be created to enable the national recognition of seascapes, including the marine dimension of our nationally important coastal landscapes and seascapes. Such a mechanism would mirror the situation on land where the designation of National Parks and AONBs is the means by which the national importance of particular landscapes is recognised.

16. Landscapes and seascapes, especially those of national importance, should be a statutory consideration for the marine planning authority in preparing their marine plan; however, without a means of recognition it is not clear how the new marine planning system can properly take into account their national importance.

Integrated Coastal Zone Management

17. Whilst we agree with the introduction of marine spatial planning, the Bill does not adequately explain the detailed mechanisms by which the new marine spatial planning system will be integrated with the existing terrestrial planning system. As a key element of ICZM, this would appear to be a critical omission.

18. The Bill must address issues such as overlapping systems of planning and regulation and minimise the profusion of plans (including shoreline management plans) where possible. There needs to be a system for resolving potential differences between the terrestrial and marine environments – and between the MMO and local authorities.

19. We are pleased that the Bill requires the MMO to take into account the policies and/or proposals of other Planning Act plans and plans produced by public or local authority bodies (Schedule 6 paragraph 3 and paragraph 9(2)(h)) and trust that accompanying guidance will make clear that this includes National Park Management Plans.

20. To help ensure an effective approach to local consultation and involvement on coastal issues, a list of key statutory consultees for the preparation, monitoring and review of the new Marine Plans should be drawn up – including adjacent planning authorities and those covering protected landscapes such as National Park Authorities.

21. We would urge the Government to ensure that sufficient resources are provided to fully implement the Bill and the work of the MMO.

Schedule 19 Power for Natural England to fund works

22. This clause allows Natural England to meet or contribute towards expenditure incurred in carrying out works subject to an agreement to establish or maintain the coastal route.

23. Expenditure will be required at the time of initial creation, and continually and in perpetuity in respect of the maintenance of the fabric and structure of the coastal route and margin. Adequate funding must be made available for the creation of the new coastal access provision, and the funding of future maintenance must be planned for. Neither of these should be at the expense of funding for other existing access, such as National Trails or public rights of way.

24. Where it is possible to meet the needs of different users and to provide high quality recreational experiences, funding should be provided to meet these wider social opportunities.

General comments

25. Within the coastal access duty we believe there should be a greater emphasis on achieving higher access rights, for example for cyclists and horse-riders, as well as improving access for the less mobile. With significant financial costs associated with the scheme, maximising the variety of different user groups who can utilise the route should be a priority.

Further Information

26. Please do not hesitate to contact us for further information.

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