



Chairman RODNEY LEGG Charity No 214753 General Secretary KATE ASHBROOK

Department for Environment, Food and Rural Affairs Consultation on the draft Marine Bill

Submission from the Open Spaces Society, June 2008

Introduction

1. The Open Spaces Society (formally the Commons, Open Spaces and Footpaths Preservation Society) is Britain's oldest national conservation body. Founded in 1865, it campaigns to create and conserve common land, village greens and other open spaces, and public rights of way, in town and country, throughout England and Wales. It has about 2,600 members including individuals, organisations and local authorities.
2. In this response we comment only on Part 9 of the draft Bill, coastal access, which we strongly support. In July 1936 the society's then secretary, Lawrence Chubb, wrote an article in the society's *Journal* advocating public access to the coast. So the society has long been in favour of a right of public access to the whole of our coastline.
3. We believe it is completely appropriate to include rights of public access to the coast in the Marine Bill, because this Bill brings together the protection of marine environments with people's enjoyment of them. It will encourage people to appreciate and recognise the immense value of our coasts for their biodiversity, landscape, geology and recreation, and the economic benefits which a cared-for coastline, with full public access, will bring to maritime communities.
4. We fully support the proposed measures for achieving a right of access to and around the coastline of England in a broad swathe. We consider the clauses in the Bill to be ingenious, combining the long-distance path measures of the National Parks and Access to the Countryside Act 1949 to provide the trail, with the access rights of the Countryside and Rights of Way Act 2000 (CROW) to provide spreading room.

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The Open Spaces Society (formally The Commons, Open Spaces and footpaths Preservation Society) campaigns to create and conserve common land, village greens, open spaces and rights of public access, in town and country, in England and Wales. Founded in 1865, we are Britain's oldest national conservation body

5. At present, there are many gaps, large and small, which prevent the public from walking around much of the English coast, or severely reduce the quality of that experience, yet ours is one of the most beautiful and dramatic coastlines of any country in the world. The provisions of the Bill will remedy those shortcomings.
6. We are pleased that the discretionary restrictions on access, which are allowed on access land designated under CROW, will not be permitted on the coast, since they would prevent the creation of continuous access and people would be uncertain as to what restrictions were in place.
7. We also fully accept the reduced liability on landowners for coastal-access land, and will play our part in educating the public on responsible and careful behaviour on the coast, as elsewhere in the countryside.
8. We therefore strongly support part 9 of the Marine Bill and have only a few areas of concern which we list below. We would not wish these to overshadow our enthusiasm for the project. After listing our concerns, we set out our arguments against changes which we understand are being promoted by some other organisations, which we hope Defra will find helpful in countering those arguments.

Concerns

Blanket exclusion of parks and gardens

9. We are concerned at the proposal to exclude all parks and gardens from the line of the trail. This exclusion is not in the Bill itself, but Defra has indicated that it is minded to exclude parks and gardens by including them as an exemption in the proposed order under section 3A of CROW.
10. While we are clear that the trail would not in any case go through many parks and gardens, Natural England having given such an assurance, we consider that their exclusion fetters NE's discretion unreasonably and means that the route might then have to go significantly out of its way, away from the coast, possibly along dangerous roads and far closer to other properties. NE should have the discretion to place the route in the best position to meet all interests, following full consultation. In any case, the Secretary of State has the final say and he can decide not to include a particular park and garden if he considers it appropriate to exclude it.
11. In addition, the privacy of owners and occupiers is protected by the exclusion of buildings and their curtilage, and the requirement to strike a fair balance, between the public and those with an interest in the land, will also protect owners and occupiers.

12. However, the term 'park and garden' has, due to recent debates, now become emotive and we would be prepared to consider some more precise term which ensured protection of privacy without fettering NE to such an extent.

Consultees

13. We are concerned that user groups and others are only entitled to comment on the route and spreading room when the final report is produced, which is far too late. They should be involved in the preparation of the report. There is a precedent for this, using the prescribed list of organisations who are consulted about long-term restrictions on access land under CROW (and who were consulted during the mapping exercise too).

Estuaries

14. It is proposed that river estuaries should be treated as part of the coast as far as the first bridge or tunnel which the public may cross on foot. It is not clear exactly what is defined as a river, but we urge that any definition is generous and inclusive.
15. We are concerned by the reliance on ferries, which may run infrequently and/or only at certain times of year. Where the ferry cannot be relied upon to provide a frequent, regular, service, the crossing point should be the first pedestrian crossing point. We also feel that in some cases there could be greater access up the estuary, where this will provide a good experience for the public.

Islands

16. An island should also be treated as part of the coast, without a special order needing to be made to secure its inclusion, if it is possible to reach it by regular ferry, for example, the Isle of Wight.

Salt marsh and mudflat

17. We are concerned that it is proposed to enable Natural England to restrict or exclude access to an area of salt marsh or mudflat for specific reasons. We think such restrictions or exclusions should be exceptional and not the norm.

New offence needed

18. We note that there is no provision in the draft Bill to make it an offence to create or display notices deterring public use of the trail or the spreading room, yet this provision exists on public rights of way and on CROW access land. We consider that such a provision should apply to coastal access too.

Other users

19. We are eager for opportunities to be taken to provide access, both on the trail and on the spreading room, for other non-motorised users wherever possible.

Funding

20. While outside the terms of the Bill, we are concerned about the long-term maintenance of the route and spreading room beyond the first ten years. It is important that the responsibility for this is identified, and sufficient funds provided, at an early opportunity, although we do not consider that this needs to be resolved before the Bill becomes law.

Issues raised by others

21. Others have raised issues, at the Efra and Joint Committees and in the press, to which we wish to respond.

Compensation

22. We do not consider that there should be compensation for the creation of the new rights. There is no evidence that land has been devalued as a result of the CROW access rights. Indeed, landowners have already conceded that many will benefit from the new rights and the consequent higher profile of the coast as a destination, so any perceived losses may be offset by the opportunities for financial gain. In addition, we hope that agricultural grants may be redirected to reward coastal farmers who restore or create natural habitats and landscapes, especially heath and downland.

Appeals

23. The Country Land and Business Association has been calling for the addition of an appeal mechanism against the proposed route of the trail. We urge Defra to resist any such amendment for an extra stage for appeals. The arguments against an appeal stage include the following.
 - (a) The Secretary of State is the decision maker on the route of the trail and extent of the spreading room. Any appeal process would merely provide a recommendation to the Secretary of State, which is what Natural England will do in any case. There will be no new evidence available to the appeal process which was not available to NE.

- (b) It will be costly. It has already been said by some people that £50 million over ten years is insufficient funding to provide the route and spreading room. With an appeal process to be paid for, there will be far less money available for valuable improvements on the ground.
- (c) It will be time-consuming and will delay the process considerably.
- (d) It is unlikely to make any significant difference. There were 3,000 appeals under CROW which affected only about three per cent of the land, so the costly appeal process did not provide value for money.
- (e) Unlike with CROW where there was no consultation about mapping because the Countryside Agency had very limited discretion, here there will be full consultation with owners and occupiers (and we hope user groups and the public) before the route is identified. So the need for an appeal process is minimised.

Mapping

- 24. Concern has been expressed by some that there is to be no formal mapping-process. We do not consider this to be necessary, provided it is clear on the ground where people may go, and we understand that such provision will be made. No doubt the Ordnance Survey will wish to map the land in due course because it will be a valuable marketing opportunity for its maps. However, we do not think that it should be a requirement in the Bill. Mapping land under CROW was an extremely costly and time-consuming project.

Conclusion

- 25. It will be seen from this response that we warmly welcome the coastal-access provisions of the draft Marine Bill and look forward to them becoming law. We shall be pleased to assist Defra in any way to achieve this outcome.

Kate Ashbrook

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The Open Spaces Society
26 June 2008