



Public Path Guidance

A summary of the different types of public access paths and the processes for realignment or extinguishment of Public Rights of Way and the King Charles III England Coast Path.

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WSCC Public Rights of Way

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Public Rights of Way

A Public Right of Way (PROW) is a route over which the public have the right to pass and re-pass. All PROWs are highways and are protected by highway law and other legislation. Although the land may be owned by a private individual, the public have a legal right across that land along a specific route. The mode of transport allowed along a PROW differs according to what type of PROW it is. There are four categories as follows:

- Footpath – walkers.
- Bridleway – walkers, cyclists, and horse riders.
- Restricted byway – walkers, cyclists, horse riders and non-motorised vehicles (e.g. horse & cart).
- Byway open to all traffic (BOAT) – all the above, including motorised vehicles.

Maintenance of PROWs is the responsibility of both the Highway Authority and landowners. For more information, please see [Gov.uk](#)

The weblinks below show the Public Rights of Way in the related County:

- Hampshire - [Hampshire Rights of Way online | Hantsweb](#)
- West Sussex - [Public Rights of Way iMap - West Sussex County Council](#)
- East Sussex - [Online rights of way map | East Sussex County Council](#)

For enquiries relating to Public Rights of Way please see [contacts](#) below.

King Charles III England Coast Path

The King Charles III England Coast Path (KCIIECP) is a new walking route being developed by [Natural England](#) in partnership with local access authorities, that will follow the entire coast of England. For the first time the public will have the right of access around all our open coast. The path is being opened in sections but will, when completed, be the longest managed coastal path in the world at approximately 2,700 miles. Once opened the KCIIECP will join the family of National Trails.

- The route of the commenced parts of the KCIIECP can be viewed on the [National Trails website](#)
- For information on the overall progress of the KCIIECP, visit [GOV.UK](#).

Along much of the route, the KCIIECP follows along existing public access paths, including PROWs. The creation of the KCIIECP does not replace existing public access rights and may run parallel to, or along an existing right of way. The KCIIECP also introduces new public access rights where previously there may have been none.

The creation of the KCIIECP includes a legal process to roll back the route in response to natural processes (or managed realignment), thus protecting public access rights to the coast and ensuring an onward trail that can react to changing coastlines, such as in response to sea level rises and climate change.

Coastal Margin – In addition to the route of the KCIIIECP, the public also enjoy new open access rights to the coastal margin. The margin includes all land between the trail and the sea. It may also extend inland from the trail if:

- it's a type of coastal land identified in the Countryside and Rights of Way Act 2000 (CROW Act), such as beach, dune, or cliff.
- there are existing access rights under section 15 of the CROW Act
- Natural England and the landowner agree to follow a clear physical feature landward of the trail.

In the coastal margin, the public have new rights to enjoy areas like beaches, dunes, and foreshore. Some areas will not have such rights because they're:

- [excepted land](#), such as cropped land or buildings and their courtyards or gardens
- [subject to a restriction](#), for example for nature conservation reasons or because the land is not suitable for public access, such as a saltmarsh or mudflat.

The coastal margin will be shaded / hatched pink on ordnance survey maps. For more information on the coastal margin please see [King Charles III England Coast Path: manage your land in the coastal margin - GOV.UK](#)

Alternative routes – in addition to the main route of the KCIIIECP, in some locations, there may be an additional 'alternative/optional route' that goes inland of the trail, to allow trail users to continue on the occasions that the main route may be unavailable, for example, if the path is submerged at extreme high tide, or the route uses a ferry service which is not operating. The coastal margin only applies to the main route of the trail and not the alternative route sections.

The local Access Authority, or a Trail Partnership acting on their behalf, are responsible for the maintenance, management, and enhancement of the KCIIIECP.

Permissive Paths

A permissive path, sometimes termed a concessionary path, is a route which the landowner permits the public to use, with the intention that it should not become a public right of way. Permissive paths are not legally recorded Public Rights of Way and are not defined by statute. Landowners may provide new permissive footpaths or bridleway routes or permit additional rights along existing paths such as bridleway/cycle use along a footpath. The landowner is within their rights to withdraw the access to this land at any time. They may also sometimes temporarily withdraw it, for example for moving livestock, or limit access to certain times of the day. A permissive path can provide a very worthwhile addition to the path network for the benefit of path users, whilst not committing the landowner to a permanent public path on their land.

There are 2 types of permissive path:

1. **Through agreement** - A formal agreement with the County Council can be entered into to allow use by the public for an initial specified period. Approval from the Planning and Rights of Way Committee or through delegated powers is required to set up such an agreement. The County Council, as Highway Authority, would be liable, subject to agreed terms, for the maintenance of a permissive path where there is a formal agreement in place, and for the term of the agreement.
2. **Through informal consent** - An owner may simply allow the public to use a route on their land and this consent may be withdrawn at any time. The County Council would have no obligation in terms of maintenance or liability for such routes.

Realignment of paths

Public Rights of Way and the King Charles III England Coast Path are governed under separate legislation and as such there are separate processes for their realignment:

Public Rights of Way - The County Council, as Highway Authority, has the power to make orders to divert or extinguish public rights of way where certain criteria, set out under Section 118 and 119 of the Highway Act 1980 can be met.

An order to divert or extinguish a public right of way can be made in the interest of the owner/occupier or the public.

Legislation also provides for the diversion or extinguishment of a public right of way in other circumstances such as:

- improving school security
- at rail crossings
- at Sites of Special Scientific Interest (SSSIs) by Natural England (NE).

Local Planning Authorities (District/Borough Councils and National Park Authorities) also have powers under *Section 257 of the Town and Country Planning Act 1990* to make Public Path Orders for the diversion or stopping-up of footpaths, bridleways, or restricted byways. This type of application can only be made where the Local Planning Authority is satisfied that the diversion/stopping-up is necessary to enable development to be carried out in accordance with a planning permission. Landowners wishing to divert a path to enable development to take place should speak to their local planning authority.

Both a Highways Act or Town and Country Planning Act change to a public right of way involves a public consultation exercise and is therefore subject to public opinion.

King Charles III England Coast Path

Roll-back: The trail of the King Charles III England Coast Path (KCIIECP) can 'roll back' to a new alignment in response to natural processes (or managed realignment) without further approval by the Secretary of State. However, roll back can only be used on those parts of the trail for which the power was proposed in Natural England's (NE) reports approved by the Secretary of State.

To find out if a section of KCIIECP includes roll back, see link below to find the relevant report, or contact the local Access Authority.

[King Charles III England Coast Path: improving public access to the coast - GOV.UK](#)

Where roll back is included, the authorities will work with the landowner/occupiers to identify a new route that satisfies the coastal access requirements, balancing both public and private interests. If the authorities are unable to come to agreement with the affected landowners/occupiers as to the route of the roll back, then Natural England and the Access Authority possess powers to undertake works without the agreement of the Landowner, although the owner or occupier has a right of appeal (the grounds for appeal are limited*). There is no requirement for public consultation as this was undertaken with the original England Coast Path proposals.

*Details of the appeals process are set out in the Access to the Countryside (Appeals Against Works Notices) (England) Regulations 2011 (SI 2011/2019), amended in 2012.

Changes that can be made to the trail without submitting to approval by Secretary of State include:

- A change to the route under a 'roll-back' provision in an approved report.
- Varying or revoking an existing direction that restricts or excludes coastal access rights.
- A new direction to restrict or exclude coastal access rights.
- Use of a temporary route while the 'ordinary' route is unavailable for use.
- New or replacement signs or infrastructure.

Variation Order: If roll-back has not been included in Natural England's section reports, then any changes to the route of the KCIIECP post approval, must be done via a Variation Report. This carries an 8-week representation and objection period. The report and any representations/objections would be reviewed by a Planning Inspector, which could take a significant time to complete. If the existing alignment was not accessible to the public, then a temporary alternative route must be agreed and established to allow the public to continue their onward journey.

Changes that require a Variation Report which is approved by Secretary of State include:

- Any other change to the route that the trail follows or to an approved alternative route or optional alternative route (this can also include putting rollback provision in place).
- New use of Natural England's discretion to include additional areas of spreading room landward of the trail.

Planning process & development: Landowners can develop their land subject to approval from their local planning authority. Local authorities should reflect the status of the King Charles III England Coast Path as a National Trail in the development of local plans and when determining planning applications as set out in the National Planning Policy Framework (paras 104, 178 (d) and 180 (c)).

Natural England expects local authorities to take a proactive role in handling planning applications for development locally without intervention from Natural England. The new access rights should not prevent owners or occupiers from managing their land as they wish, so long as it is legal. However, Natural England expects local authorities to take into account Part B of the [Coastal Access Scheme](#) (key principles of alignment and management) so that the development allows for the KCIIIECP to be aligned in close proximity to the sea or estuary, and where possible should provide a good recreational experience for the access user which would normally include good views of the sea (see *paragraph 5.5.5 of the Scheme*).

If the existing alignment of the KCIIIECP is unavailable during development, then a temporary alternative route must be made available for the public to continue their onward journey.

Unless the change in alignment constitutes 'roll back' Natural England has a responsibility to submit a Variation Report for Secretary of State approval where the alignment of the KCIIIECP changes including following development.

Development that occurs within the margin may or may not alter the overall levels of access available to the public and/or have wider impacts on landscape and/or nature conservation interests. These matters should be dealt with by the relevant local authorities.

Contacts

Before undertaking any works on Public Rights of Way and/or the King Charles III England Coast Path, and for general enquiries relating to either please contact the relevant access authority (contact details below):

Hampshire County Council:

[Contact the rights of way team | Environment | Hampshire County Council](#)

0300 555 1391

Rights of Way

Castle Avenue

Winchester

SO23 8UL

West Sussex County Council:

prow@westsussex.gov.uk

Public Rights of Way

1st floor Northleigh

Tower Street

Chichester

West Sussex

PO19 1RH

East Sussex County Council:

rightsofway@eastsussex.gov.uk

0345 608 0193

County Hall

St Anne's Crescent

Lewes

BN7 1UE

Natural England

National Trail Team

nationaltrails@naturalengland.org.uk

NB: West Sussex, East Sussex, and Hampshire County Councils act both as Highway and Access Authority except in those areas which are run by a unitary authority (Portsmouth, Southampton) or are within a National Park. In the South Downs and New Forest National Parks the County Council acts as Highway Authority only and the National Park Authority acts as Access Authority.

Path realignment: Example Scenarios

Note: changes to the alignment of the KCIIIECP may also result in changes to the Coastal Margin area (i.e. land seaward of the realigned trail becomes coastal margin with public open access rights, unless a restriction or exclusion is applied).

Example scenario	Public Right of Way	King Charles III England Coast Path
<p>The PROW and route of KCIIIECP cease to exist.</p> <p>Scenario: For example, if a seawall or the land on which the path follows along falls away due to coastal erosion or following storm events.</p>	<p>An assessment would be made by the Highway Authority (HA) as to whether all or part of the PROW could be kept available by other means (i.e., bridging over the gap, fencing off eroded section).</p> <p>If there was no possibility of reasonable works to restore the path the PROW would be ‘temporarily’ closed and listed as ‘unavailable’.</p> <p>The PROW would eventually cease to exist: if the underlying land of a public right of way is destroyed, such as a footpath on a cliff that disappears when the cliff falls into the sea, the right of way ceases to exist. There is no right to deviate onto adjoining land when the footpath disappears unless its disappearance is the fault of the owner of the subsoil. The Highway Authority may undertake a Legal event modification order (section 53(3)(a) of the Wildlife and Countryside Act 1981, to record on the definitive map legal changes that have already taken place.</p> <p>A new right of way will only come into existence subsequently if use of a new path satisfies the tests for dedication under s31 of the Highways Act 1980, or at common law. Note that the situation would differ if the owner of the land is responsible for the way becoming inaccessible.</p> <p>The Highway Authority has powers to undertake a Public Path Order (PPO) to divert the PROW onto another route, such as via a Creation agreement (S25 of the Highways Act 1980) or via Creation Order (S26 of the Highways Act).</p>	<p>The trail of the KCIIIECP can ‘roll back’ to a new alignment in response to natural processes (or managed realignment) without further approval by the Secretary of State. However, roll-back can only be used on those parts of the trail for which the power was proposed in Natural England’s (NE) report approved by the Secretary of State. NE and the Access Authority (AA) will choose a route landward of it, following discussions with owners and occupiers.</p> <p>Where roll back is included, if NE and the AA are unable to come to agreement with the affected landowners/occupiers as to the route of the roll back, then NE and the AA possess powers to undertake works without the agreement of the landowner although the owner or occupier has a right of appeal (the grounds for appeal are limited).</p> <p>If roll-back has not been included in NE’s reports, then any changes to the route of the KCIIIECP must be done via a Variation Report. This carries an 8-week representation and objection period. The report and any representations/objections would be reviewed by a Planning Inspector, which could take a significant time to complete. In the meantime, the existing alignment would remain, but a temporary diversion will be put in place.</p>

<p><u>Temporary diversion of the path</u></p> <p>Scenario: The path has become unavailable because of coastal erosion, sea level rise etc. (e.g., breached sea wall), but the plan is to undertake repairs and reopen the path.</p>	<p>The PROW would need to be temporarily closed whilst the route is unavailable. The landowner could apply for the closure, or this could be done by the Highway Authority (HA).</p> <p>The PROW cannot be legally diverted on a temporary basis; however, the landowner may wish to offer an alternative permissive route whilst the PROW is temporarily closed, however they are not required to do so. The HA also has powers under S122 of the Highways Act to make a temporary diversion where highway is about to be repaired or widened.</p> <p>The landowner would be responsible for the maintenance and liability of any permissive route. Or the landowner could enter an agreement with a third party (e.g. National Park Authority) who may offer to undertake the maintenance/liability.</p>	<p>For temporary diversions on the KCIIECP, where the landowner and Access Authority (AA) agree to a suitable alternative, the AA can divert the route informally, with signage on the ground and by updating the relevant part of the National Trails Website.</p> <p>If the landowner is not agreeable to a temporarily diverted route, then the KCIIECP would need to be temporarily rerouted along existing public access routes.</p> <p>Where the KCIIECP follows along a PROW, the KCIIECP may be temporarily diverted whilst a Temporary Closure was in place such as for the duration of maintenance work on the PROW.</p>
<p><u>Diverting the path permanently (prior to the route becoming unavailable).</u></p> <p>Scenario: The path is currently available, but the plan is to breach the sea defence (for habitat objectives) on which the path follows along.</p>	<p>Under Section 118 and 119 of the Highway Act 1980, a request for a Public Right of Way to be diverted or extinguished (legally removed) might be made because:</p> <ul style="list-style-type: none"> • it is no longer needed for public use. • it is in the interests of the public or the person owning, renting, or occupying the land crossed by the path. • doing so would protect a site of special scientific interest. • it would be in the interests of school security or for public safety across a railway line. • the land is being developed – in this case please also see Landowners’ and managers’ rights and responsibilities. <p>There needs to be a good alternative route, and the owner of the land crossed by the proposed route must agree.</p>	<p>The trail of the KCIIECP can ‘roll back’ to a new alignment in response to natural processes (or managed realignment) without further approval by the Secretary of State. However, roll-back can only be used on those parts of the trail for which the power was proposed in Natural England’s (NE) report approved by the Secretary of State. NE and the Access Authority (AA) will choose a route landward of it, following discussions with owners and occupiers.</p> <p>If roll back is not included in the report, then the AA and NE would undertake a Variation Report. This carries an 8-week representation and objection period. The report and any representations/objections would be reviewed by a Planning Inspector, which could take a significant time to complete. In the meantime, the existing alignment would remain. This may also include either an</p>

	<p>Note: the above process is open to public consultation and objections may be made. There is no guarantee that an application will succeed.</p> <p>The PROW could also be diverted by the Local Planning Authority via a Planning Application under Section 257 of the Town and Country Planning Act 1990</p>	<p>update to the Habitats Regulations Assessment (HRA), or undertake a new HRA, possibly including a Nature Conservation Assessment (NCA).</p>
<p><u>Diverting the path permanently to prevent damage to habitat.</u></p> <p><u>Scenario:</u> Excessive foot erosion is having a negative impact on ground flora's ability to grow back.</p>	<p>Section 119D Highways Act 1980 provides the ability to divert or extinguish a public right of way if:</p> <ul style="list-style-type: none"> (a) that public use of the highway is causing, or that continued public use of the highway is likely to cause, significant damage to the flora, fauna or geological or physiographical features by reason of which the site of special scientific interest is of special interest, and (b) that it is expedient that the line of the highway, or part of that line should be diverted (whether on to land of the same or another owner, lessee, or occupier) for the purpose of preventing such damage. <p>The new route should not be substantially less convenient to the public and regard should be given to the effect of the diversion on the public enjoyment of the route both in respect of the land crossed by the existing path and the land crossed by the new path</p>	<p>Natural England can submit a Variation Report to the Secretary of State recommending a change to the trail or landward boundary of spreading room if either is affected in this way in the future in ways that could not be predicted at the time of their report.</p> <p>Alternatively, a temporary diversion of the trail for an agreed period of time could be implemented if this was deemed sufficient to allow the vegetation to recover, or to allow mitigating measures to be put in place.</p>
<p><u>The route of the PROW/KCIIIECP is proposed to be realigned as part of a planning application.</u></p> <p><u>Scenario:</u> a landowner submits a planning</p>	<p>Although rights of way matters are usually dealt with by the Local Highways Authority (typically the County Council), Local Planning Authorities (District/Borough Councils and National Park Authorities) have been granted powers by Section 257 of the Town and Country Planning Act 1990 to make Public Path Orders for the diversion or stopping-up of footpaths, bridleways, or restricted byways. This type of application can only be made however where the Local Planning Authority is satisfied that the diversion/stopping-up is necessary to</p>	<p>The KCIIIECP access rights do not prevent landowners developing their land and Local Planning Authorities are advised to notify Natural England of any development or other change that impedes or obstructs people's ability to undertake a continuous journey on foot on the National Trail.</p>

<p>application to remove a sea defence on which a public path follows along.</p>	<p>enable development to be carried out in accordance with a planning permission.</p> <p>The grant of planning permission does not entitle developers to obstruct a public right of way. The diversion or stopping up of footpaths, bridleways and restricted byways is a separate process which must be carried out before the paths are affected by the development. It cannot be assumed that because planning permission has been granted that an Order under section 257 will invariably be made or confirmed.</p> <p>The procedure for diversion or stopping-up of rights of way made under The Town and Country Planning Act 1990 is prescribed in Schedule 14 of The Town and Country Planning Act 1990 and The Town and Country Planning (Public Path Orders) Regulations 1993.</p>	<p>Local Authorities should however reflect the status of the KCIIECP as a National Trail in the development of local plans and when determining planning applications as set out in the <u>National Planning Policy Framework</u> (paras 104, 178 (d) and 180 (c)).</p> <p>Local authorities should take into account Part B of the Coastal Access Scheme (key principles of alignment and management) so that the development allows for the King Charles III England Coast Path to be aligned in close proximity to the sea or estuary, and where possible should provide a good recreational experience for the access user which would normally include good views of the sea (see paragraph 5.5.5 of the Scheme).</p> <p>Natural England has a responsibility to prepare a Variation Report for Secretary of State approval where the <u>alignment</u> of the King Charles III England Coast Path changes, including following development.</p>
<p><u>Diverting the path for a private interest</u></p> <p>Scenario: for example, a landowner wishes to divert a PROW for reasons of privacy etc. (and not part of a planning application).</p>	<p>Under Section 118 and 119 of the Highway Act 1980, a request for a Public Right of Way to be diverted or extinguished (legally removed) might be made because:</p> <ul style="list-style-type: none"> • it is no longer needed for public use. • it is in the interests of the public or the person owning, renting, or occupying the land crossed by the path. • doing so would protect a site of special scientific interest. • it would be in the interests of school security or for public safety across a railway line. 	<p>During the process for creating the route of the KCIIECP landowners were given opportunity to object to the alignment. Natural England also were required to strike a fair balance between the landowner’s interest and that of the public. Any objections or representations raised during the alignment process were reviewed by the Planning Inspectorate and the current alignment of the KCIIECP was approved by the Secretary of State following this review.</p> <p>Coastal access rights however do not prevent land from being developed or redeveloped in the future. When this happens, the developed land is likely to become excepted</p>

	<ul style="list-style-type: none"> the land is being developed – in this case please also see Landowners’ and managers’ rights and responsibilities. <p>There needs to be a good alternative route, and the owner of the land crossed by the proposed route must agree.</p> <p>Note: the above process is open to public consultation and objections may be made. There is no guarantee that an application will succeed.</p> <p>The PROW could also be diverted by the Local Planning Authority via a Planning Application under Section 257 of the Town and Country Planning Act 1990</p>	<p>land by virtue of paragraph 9 of Schedule 1A to CROW, and therefore outside the coastal access rights.</p> <p>Natural England will submit a variation report to the Secretary of State recommending a change to the trail or landward boundary of spreading room if either is affected in the future in ways that could not be predicted at the time of their report.</p>
<p><u>Restricting Coastal Margin</u></p> <p>Scenario: a landowner wishes to erect fencing to control livestock, or exclude dogs from a field during lambing</p>	<p>Existing Public Access Rights are not affected by the alignment of the KCIIIECP or the Coastal Margin and subsequent changes to the KCIIIECP/Coastal Margin alignment do not apply to other existing public access rights, which would be governed under separate processes and legislation.</p>	<p>The coastal margin created as part of the work to implement the King Charles III England Coast Path is mostly open access land under the CROW Act.</p> <p>Landowners may be able to limit a public right of access under the CROW Act if they own or have a legal interest in the land. These are known as restrictions. Landowners cannot use these powers to restrict access on:</p> <ul style="list-style-type: none"> footpaths, bridleways or other public rights of way areas where CROW rights don’t apply, including open access land that existed before the CROW Act <p>More information on restricting coastal margin rights can be found on the following link Open access land and the coastal margin: how to restrict public access - GOV.UK</p>