

## **Countryside and Rights of Way (CROW) Act 2000**

### **NOTICE OF RELEVANT AUTHORITY DECISION FOLLOWING REVIEW OF DIRECTION RESTRICTING COASTAL ACCESS RIGHTS**

**Prepared by Natural England**

**Access Authority: Somerset County Council**  
**Relevant Authority: Natural England**  
**Local Access Forum: Somerset Local Access Forum**

**Direction reference: 2014107416**

<b>Land Parcel Name</b>	<b>Direction Reference</b>	<b>Details of restriction on original direction</b>
Stert Flats	2014107416	15 March 2016 until 15 March 2056 S25A Saltmarsh and Flats unsuitable for public access

Natural England has now decided how to proceed following its review of the long-term direction to restrict coastal access rights in association with the England Coast Path on this land. A consultation was held between 17 December 2020 and 29 January 2021 with statutory consultees and the general public. We received feedback from a local resident.

The respondent was interested in access at 'Combwich Common' which is actually a registered Village Green. He wished to confirm that it is correct that there is no landward coastal margin at this location, as the Village Green does not have Open Access rights under the CROW Act. He noted that there have been incidents where people have strayed off the river bank and needed to be rescued from the mud. He also stressed that traditional rights for fisherman/ boaters will need to remain unaffected by the exclusion.

He also refers to land at Wall and Catsford Commons that had previously had access excluded in error under this direction, and noted this had been corrected prior to this consultation. And he raised strong concerns about plans to allow bicycles and horses on the stretch of the ECP east from Hinkley, with new fencing and surfacing, though this is not the subject of this consultation.

## **Outcome of the review:**

Natural England's decision is to vary the extent or nature of the direction in the way originally proposed in the consultation.

The direction is exclude access to the saltmarsh and mudflats in the coastal margin at Stert Flats under s25A between 15 March 2021 and 15 March 2071.

The 93 km (58 mile) stretch of the England Coast Path (ECP) from Brean Down to Minehead was opened to the public on 15 March 2016. Coastal access rights came into force along this stretch of coast by order of the Secretary of State at that time. Stert Flats cover a large area to the west and south west of Burnham on Sea, including following the River Parrett up as far as Bridgewater, and some way up the River Brue. The flats are situated between Mean High Water and Mean Low Water and therefore fall within the coastal margin.

As part of the process of establishing the coast path along this stretch an assessment was made of the saltmarsh and flats in the coastal margin to ascertain whether they may be unsuitable for access and therefore need to be closed under s25A. Section 25A is a specific addition to CROW relating only to coastal access rights over salt marsh and flat. It should not be confused with our public safety power under section 25(1)(b) of CROW, which cannot be used to avoid danger to the public from natural features of the landscape or natural processes.

This is explained in the Coastal Access Scheme under 7.15:

*'Salt marsh and flats are distinctive coastal environments.'*, and *'Many extensive intertidal areas of this type are unsuitable for informal open air recreation'* (7.15.1) and that they *'often pose dangers that are neither well-understood nor readily apparent to many visitors to the area.'* (7.15.12).

Salt marsh is generally easy to identify on the ground because of its distinctive salt and flood tolerant vegetation and land form, but it can merge into coastal grazing land quite rapidly. The physical structure of intertidal flats is also variable ranging from mobile, coarse-sand beaches on wave-exposed coasts to stable, fine-sediment mudflats in estuaries and other marine inlets. This habitat type can be divided into three broad categories (clean sands, muddy sands and muds) although in practice there is a continuous gradation between them.

We created new rights of access on the coast here in 2016 and the general public may have little understanding of the extreme dangers often presented by unpredictable tide movements in areas like this. The danger to the general public may therefore be substantially greater than the danger to local people used to the tidal movements on their particular local areas of salt marsh or flat.

Where there are 'functional' local uses of areas of this kind, but we consider them unsuitable for wider public access, we make clear to local interests that the established local uses of the land would not be affected by any S25A restriction we might impose. These might include activities such as livestock management, wildfowling, fishing, bait digging, collecting samphire and accessing boats on open water beyond a saltmarsh or flat. Some may take place under a separate legal right, while others may simply be customary on the land or traditionally tolerated by the land owner, often in connection with the exercise of actual legal rights such as fishing or navigation in the sea.

During our assessment in 2016 the area shown in the consultation notice as excluded was found to be unsuitable for access as it has:

- Network of creeks and channels
- Flats with deep channels and very soft sinking mud
- Unpredictable pattern of features
- Features that change regularly
- Unseen dangers such as tides

These characteristics are by their very nature usually present on **most** saltmarshes and flats, but there may be some areas that do not present them and so do not need a S25A restriction, e.g. areas of salt marsh immediately adjacent to other land types such as beaches, and sand flats which normally provide a firmer surface suitable for walking and beach activities. Here we follow the more general Scheme advice that *'the extent of the land affected by the direction should not be greater than is required to meet the need;'* (6.7.2).

In this case it was found that the area of beach or sand flats at Burnham-on-Sea, is well used by the public and is suitable for use by the public, and it was therefore not included in the excluded area.

As described in the Initial Consultation Report there have been some changes made to the boundary of this exclusion since commencement of the rights in 2016, the inclusion of Stert Marshes, and removal of non-saltmarsh or flats habitat types at Combwich, Hinkley and Wall and Catsford Commons.

Furthermore as proposed in the Initial Consultation Report an area around Steart Peninsula will also be removed from this direction as it is not all saltmarsh and flats habitat type, and it is not unsuitable for access. This area will remain closed in the short term as it will be excluded under a new short term s26 nature conservation direction, case number 2021039351, that will run until 15 August 2021. During this period a public consultation will be held to determine whether this short term

direction should be extended to a long term s26 direction under case number 2020049167.

Estuaries are dynamic environments where habitat types can change rapidly due to weather events. Therefore the attached Web Display notice is a guide as to where we believe is unsuitable for access at the time of this decision. It should not be used as a definitive guide to where is suitable or unsuitable for walking, though there may be signage on the ground that would need to be followed.

**Summary of changes made to the existing directions:**

<b>Land Parcel Name:</b>	<b>Details of restriction on original direction:</b>	<b>New details of restriction</b>
Stert Flats	15 March 2016 until 15 March 2056 S25A Saltmarsh and Flats unsuitable for public access	15 March 2021 until 15 March 2071 S25A Saltmarsh and Flats unsuitable for public access

Details of the restriction will appear on the relevant map of access land on the Open Access website - [www.openaccess.naturalengland.org.uk](http://www.openaccess.naturalengland.org.uk).

Where a direction restricts access indefinitely, for more than five years, for part of every year, or for part of at least six consecutive years, we have a statutory duty to review it within five years of the date of its issue.

Date review completed: 15 March 2021