

The Great Grid Upgrade

Sea Link

Sea Link

Volume 4: Compulsory Acquisition Information

Document 4.2.3 Statement of Reasons Appendix C Special Category Land Report

Planning Inspectorate Reference: EN020026

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~~October~~ ~~March~~ 2025

Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 Regulation 5(2)(h)

nationalgrid

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Version History

<u>Date</u>	<u>Issue</u>	<u>Status</u>	<u>Description / Changes</u>
<u>March 2025</u>	<u>A</u>	<u>Final</u>	<u>For DCO submission</u>
<u>October 2025</u>	<u>B</u>	<u>Final</u>	<u>Updated due to removal of Open Space and Errata</u>

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1. Special Category Land Report

1.1 Introduction

- 1.1.1 This Document is an Appendix to **Application Document 4.3 Statement of Reasons**.
- 1.1.2 For a full description of the proposed project, reference should be made to Chapter 4 of the **Application Document 6.2.1.4 Environmental Statement: Description of the Proposed Project**.

1.2 Purpose of the Report

- 1.2.1 This report addresses the issue of Special Category Land (SCL) in respect of the proposed project. SCL is afforded special protection by the Planning Act 2008. This report outlines the requirements of the Planning Act 2008 in respect of special category land, describes the inalienable National Trust Land and areas of Open Space affected by the proposed powers of compulsory acquisition, and explains the basis for National Grid’s view that the open space SCL affected would be no less advantageous as a consequence of the exercise of the proposed powers of compulsory acquisition than it is at the present time.

1.3 Section 130 of the Planning Act 2008 – National Trust

- 1.3.1 Section 130 makes provision for special parliamentary procedure (SPP) to apply where a Development Consent order (DCO) authorises the compulsory acquisition of Land held by the National Trust inalienably. SPP will apply if the National Trust makes a formal objection to the compulsory acquisition of that land and the objection is not withdrawn.
- 1.3.2 Land “held inalienably”, in relation to land belonging to the National Trust, means that the land is inalienable under section 21 of the National Trust Act 1907.
- 1.3.3 National Trust Land within the Order Limits and in respect of which powers of compulsory acquisition are sought, is shown shaded blue on the **Application Document 2.4 Special Category and Crown Land Plans** and listed in the table below.

Table 1.1 Special Category Land – National Trust

Land Plan Sheet	Plot No	Works in Summary	CA Classes Sought
Kent	3/68 , 3/68a , 3/68b , 3/68c , 3/68d , 3/69 , 3/70 , 3/71 , 3/72	Compulsory Acquisition or Rights Underground Cable System	Class 3

5/2, 5/1, 5/4, 5/9
3/73, 3/72, 5/3

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Assessment of powers of compulsory acquisition sought in respect of National Trust Land

Pegwell Bay

1.3.4 **Plots 5/2, 5/1, 5/4, 5/9, 3/73, 3/72, 5/33/68, 3/68a, 3/68b, 3/68c, 3/68d, 3/69, 3/70, 3/71, 3/72**

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1.3.51.3.4 National Grid is seeking an easement for underground cables within the National Trust land and is in discussions with both National Trust and their tenant, Kent Wildlife Trust, to seek the necessary land rights on a voluntary basis. The plots as shown in Orange in **Application Document 2.4 Special Category and Crown Land Plans** where it is National Trust land alone. The shading is blue hatch where the land is National Trust and Open Space.

1.3.61.3.5 Feedback from National Trust at consultation confirmed that they ~~did~~ not object to the scheme in principle but require further discussion on the likely potential impact to and around their land interests in Pegwell Bay including the location of works, detailed activities and the construction methodology. They also note National Grid's preference to enter into voluntary negotiations. ~~At this point National Grid does not anticipate a formal objection from National Trust.~~ Since the submission we have received an objection from The National Trust through their Relevant Representations. Discussions are on-going with National Trust and their tenants Kent Wildlife Trust in relation to seeking a voluntary agreement to acquire the necessary land interests and remove the formal objection.

1.3.71.3.6 National Grid is aware that the Nemo Link project (an interconnector which had a landfall at Pegwell Bay, promoted by National Grid Ventures ('NGV')) secured a similar land right from National Trust in Pegwell Bay, without objection.

1.4 Sections 131 and 132 of the Planning Act 2008 – Open Space^[OB]

1.4.1 Sections 131 and 132 of the Planning Act make provision for Special Parliamentary Procedure (SPP) to apply where a development consent order (DCO) authorises the compulsory acquisition of land, or rights over land, forming part of a common, open space, or fuel or field garden allotment.

1.4.2 Land described as common, fuel or field garden allotment and open space have the same meanings as in section 19 of the Acquisition of Land Act 1981, which states:

- common includes any land subject to be enclosed under the Inclosure Acts 1845 to 1882, and any town or village green.
- fuel or field garden allotment means any allotment set out as a fuel allotment, or a field garden allotment, under an Inclosure Act; and

- open space means any land laid out as a public garden, or used for the purposes of public recreation, or land being a disused burial ground.

1.4.3 Of these categories, only open space is affected by the powers of compulsory acquisition sought for the proposed project, hence this report solely addresses Open Space where permanent rights are being sought.

1.4.4 SPP would be engaged unless the Secretary of State is satisfied that one of a number of exemptions can be shown to apply. The potential exemptions are:

- that the land, when burdened with the Order right, will be no less advantageous than it was before;
- that replacement land has been, or will be, given in exchange for land being compulsorily acquired;
- that there is no suitable alternative land, save at a prohibitive cost;
- that the land is needed only for temporary purposes; or
- that the land in question is less than 200sqm.

1.4.5 National Grid, through its land referencing and due diligence processes, has not identified any common land or fuel or field garden allotments. It has however identified some land it deems to be Open Space within the order limits. It is National Grid's assertion that the open space identified would be no less advantageous as a result of the proposed project. Where powers of compulsory acquisition are sought, Open Space is shown shaded purple where it is Open Space alone and blue hatch where it is both Open Space and owned by the National Trust, on the **Application Document 2.4 Special Category and Crown Land Plans** and listed in Table below.

Table 1.2 Special Category Land Open Space—~~National Trust~~

Land Plan sheet – Plot No	Works in Summary	Class of rights sought
Suffolk (Aldeburgh Beach) 6/5, 6/6, 6/7, 6/3	Compulsory Acquisition or Rights Underground Cable System	Class 3
Kent (Pegwell Bay) <u>3/68, 3/68a, 3/68c,</u> <u>3/68, 3/69, 3/71,</u> <u>3/70, 3/72, 3/73</u>	Compulsory Acquisition or Rights Underground Cable System	Class 3
Kent (River Stour) 2/57, 2/58, 2/105, 2/106	Compulsory Acquisition of Rights Overhead Line	Class 2
Kent (Hoverport) <u>5/6, 5/24, 3/90</u>	Compulsory Acquisition of Rights Access	Class 5

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1.4.6 In this case only powers of compulsory acquisition of rights are being sought over land identified as Open Space. The exemption upon which National Grid proposes to rely is that set out in section 132(3). Section 132(3) requires that the Order land, when burdened with the Order Rights, be no less advantageous than it was before, to the following persons: (1) the persons in whom it is vested, (2) other persons, if any, entitled to rights of common or other rights and (3) the public. National Grid considers that the Secretary of State can be satisfied that this proposed project would not cause the land to be less advantageous to the persons aforementioned, and hence the Secretary of State may confirm by certificate that SPP would not apply.

1.5 Assessment of powers of compulsory acquisition sought in respect of Open Space

Aldeburgh Beach (Suffolk)

- 1.5.1 Plots 6/5, 6/6, 6/7, 6/3
- 1.5.2 The proposed project requirement is that the land be used for underground cables from offshore. It is proposed that these works will be conducted from outside the Open Space

area by trenchless techniques and therefore no closure or disturbance will occur to the Open Space (which is enjoyed only at ground level and not below) during either construction or operation and maintenance as the cables are laid below the surface of the beach. The Compulsory Acquisition powers, construction activity or presence of the cables thereafter activity will not change the ability of those who enjoy the beach to continue to do so.

- 1.5.3 The land will be no less advantageous when burdened with the rights sought.

Pegwell Bay (Kent)

- 1.5.4 Plots 3/68, ~~3/68a, 3/68c~~3/69, 3/71, 3/70, 3/72, 3/73

- 1.5.5 Pegwell Bay saltmarsh and mudflats, form part of the Pegwell Bay Country Park and are restricted access by Kent Wildlife Trust. Visitors are directed by the Wildlife Trust to use the solid circular path around the seawall. ~~Whilst there is evidence of apparent restrictions on the ability to enjoy the land for the purposes of recreation,~~ National Grid has found no evidence of people taking access to the saltmarsh and has therefore limited the extent of Open Space to the area immediately adjacent to the seawall and comprising the Coastal Path. Furthermore we are aware of a Directive under the Countryside and Rights of Way Act 2000 restricting access to Sandwich & Pegwell Bay on the ground of it being Coastal access margin used for Nature conservation s26 and unsuitable for public access (saltmarsh / mudflat) s25A. The Directive means the land is closed under CROW s26 (nature conservation) to prevent disturbance to sensitive birds, 365 days a year as mitigation specified in the Habitats Regulations Assessment. A copy of the Directive and associated Map is attached to this report. and mudflats but has included the land in this Report on a precautionary basis.

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- 1.5.6 The land is owned by the National Trust and leased to Kent Wildlife Trust. In respect of Section 130 this is reported above. National Grid notes that it is necessary to be cognisant of both Sections 130 and 132 in this instance. An objection from the National Trust is not expected.
- 1.5.7 The proposed project requirement is that the land be used for underground cables from offshore. It is proposed that these works will be conducted from outside the Open Space area by trenchless techniques and therefore no closure or disturbance will occur to the Open Space (which, insofar as enjoyed as Open Space, is enjoyed at ground level and not below) during either construction or operation and maintenance as the cables are laid below the surface. The Compulsory Acquisition powers, construction activity or presence of the cables thereafter activity will not change the ability of those who enjoy the land to continue to do so.
- 1.5.8 The land will be no less advantageous when burdened with the rights sought.

River Stour (Kent)

- 1.5.9 Plots 2/62; 2,58, 2/85,2/91, 2/98, 2/105
- 1.5.10 National Grid has considered the River Stour as having the potential to be Open Space on a precautionary basis. National Grid understands that this section of river is navigable and hence the interference with that right is proposed to be authorised by virtue of the draft DCO article 53. On that basis National Grid submits that the river is not Open Space, however National Grid has chosen to include these plots in this report on a precautionary basis only.
- 1.5.11 National Grid is seeking permanent rights for overhead cables across these plots. It is not anticipated there will be an interference at surface level from the overhead cables once installed.
- 1.5.12 The construction of the Proposed Project is expected to require that a section (shown yellow on the Access, Public Rights of Way and Navigation Plans) of the River Stour will be temporarily closed for navigation (pursuant to article 53 of the draft DCO) for between 1 and 5 days during the construction and removal of the temporary bridge which will be installed to facilitate the installation of the Overhead Line section from the Kent converter station to the existing Overhead Line. The works will be taking place on and from the banks of the river for both the construction and removal of the temporary bridge over the river.
- 1.5.13 The construction activity (the bridge) will present a temporary disruption to the use of the river for navigation; however, the presence of the bridge and the overhead line thereafter will not change the ability of those who enjoy the river to continue to do so. Therefore, National Grid is able to confirm that the land (being the section of river) will be no less advantageous when burdened with the rights sought.

Hoverport (Kent)

- 1.5.14 Plots ~~5/24~~, 3/90
- 1.5.15 The disused Kent hoverport site does appear to be used for access by walkers. Whilst not intended to be laid out as open space there is some evidence of use and therefore National Grid has included the hoverport site and the access to it from the highway as Open Space.
- 1.5.16 The plots are included in the application to provide a permanent pedestrian and vehicular access to the offshore and landfall areas of the cable. The use will be negligible in terms of emergency access during construction and for annual checks. There are no proposed physical works within this land.
- 1.5.17 The use of the land will not be restricted in any way and public access will not be prevented and therefore the proposed rights will not change the ability of those who enjoy the area to continue to do so.
- 1.5.18 The land will be no less advantageous when burdened with the rights sought.

1.6 Conclusion of Report

- 1.6.1 As set out in Chapter 7 of this Report, the proposed development by National Grid is seeking powers for the compulsory acquisition of rights in both the inalienable National Trust and Open Space land.
- 1.6.2 In respect of National Trust, we are not anticipating a formal objection and are currently negotiating the required easement on a voluntary basis.
- 1.6.3 In respect of the Open Space, these rights would not materially impact the use of the open space as compared to their current use and therefore the land is no less advantageous when so burdened.
- 1.6.4 Therefore, there is no requirement for the draft DCO to be subject to the SPP because the Secretary of State can be satisfied that the requirements of sections 130 and 132 of the Planning Act 2008 have been met.

Appendix A Map of Public Access Restriction

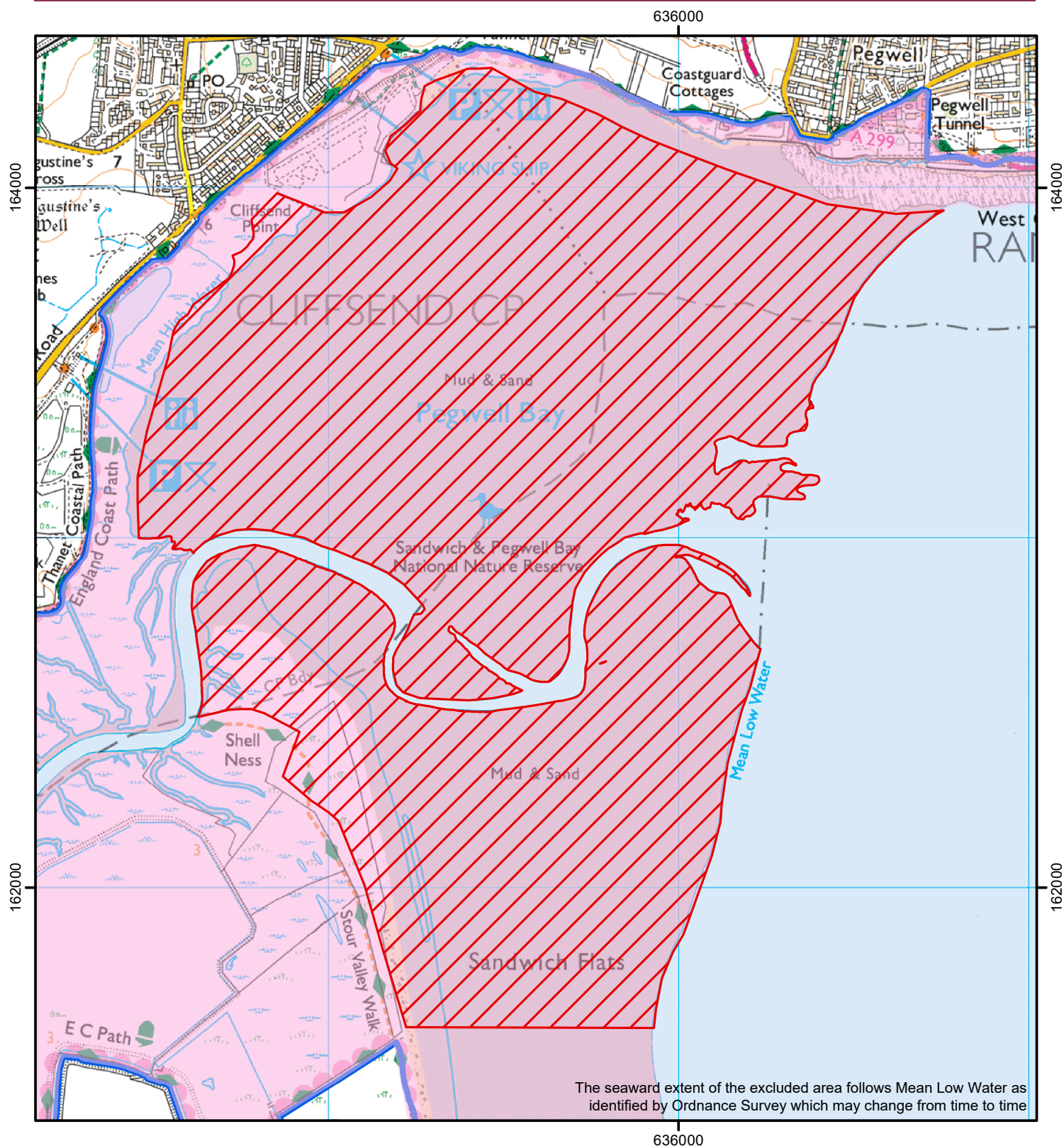
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NO PUBLIC ACCESS

The Coastal Access Margin shown hatched in red on the map below is closed at all times to protect sensitive nesting and overwintering birds. The England Coast Path remains open for public access. This does not affect Public Rights of Way and Permissive Access.

Case number: 2014097391



0 430 860 Metres

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Coastal Access Restrictions



England Coast Path



Coastal Access Margin



Appendix B Notice of Relevant Authority Decision Following
Review of Direction Restricting CROW Access Rights

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Countryside and Rights of Way (CROW) Act 2000

NOTICE OF RELEVANT AUTHORITY DECISION FOLLOWING REVIEW OF DIRECTION RESTRICTING CROW ACCESS RIGHTS

Prepared by Natural England

Access Authority: Kent County Council
Relevant Authority: Natural England
Local Access Forum: Kent Local Access Forum

Land Parcel Name	Direction Reference	Details of restriction/ exclusion on original direction
Sandwich & Pegwell Bay	2014097390 2014097392	Coastal access margin closed – unsuitable for public access (saltmarsh / mudflat) s25A
Sandwich & Pegwell Bay	2014097391 2014097393	Coastal access margin closed – Nature conservation s26
Kingsdown MOD Ranges	2014107436	Coastal access margin closed – Danger to public safety s25
Stonar Landfill Site	2015117900	Coastal access margin closed – Danger to public safety s25
Dungeness Beach	2015128012	Coastal access margin closed (except on marked routes) – Nature conservation s26
Dungeness NNR	2019038847	Open Access closed (except on PROW) – Nature conservation s26

Natural England has now decided how to proceed following its review of the above-mentioned long-term directions to restrict coastal access rights in association with the England Coast Path (ECP) for the cases listed above. Consultations were held between 10 May – 7 June 2021 with statutory consultees and the public. We received no feedback for any of the cases.

Outcome of the reviews

Sandwich & Pegwell Bay	2014097390 2014097392	Coastal access margin closed – unsuitable for public access (saltmarsh / mudflat) s25A
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Summary of circumstances

The land has been assessed as unsuitable for public access under CROW section 25A. The exclusion extends to mean low water which is the boundary of the coastal margin. Following changes to mean low water as identified by the Ordnance Survey, the boundary to the margin has changed. These minor changes are reflected in the exclusion boundary.

Determination

The habitat along the mean low water boundary has not changed and is still unsuitable for public access. We will therefore extend the direction for a further 50 years.

Sandwich & Pegwell Bay	2014097391 2014097393	Coastal access margin closed – Nature conservation s26
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Summary of circumstances

The land is closed under CROW s26 (nature conservation) to prevent disturbance to sensitive birds, 365 days a year as mitigation specified in the Habitats Regulations Assessment. The exclusion extends to mean low water which is the boundary of the coastal margin. Following changes to mean low water as identified by the Ordnance Survey, the boundary to the margin has changed. These minor changes are reflected in the exclusion boundary.

Determination

Both the landowner and NE designated sites officer are satisfied that the species listed in the Habitat Regulations Assessment are still present on the site. The exclusion is therefore still required as mitigation. We will therefore extend the direction for a further 50 years.

Kingsdown MOD Ranges	2014107436	Coastal access margin closed – Danger to public safety s25
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Summary of circumstances

The site, south of Kingsdown Beach is a former MOD firing range, still owned by the MOD and not covered by military byelaw. It is closed under CROW s25 to prevent danger to public safety.

Determination

The National Defence Estates team and local MOD officers have confirmed that the site is still a public safety concern, with the same ongoing issues. It continues to be monitored, but a direction to exclude is still necessary. We will therefore extend the direction for a further 6 years.

Stonar Landfill Site	2015117990	Coastal access margin closed – Danger to public safety s25
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Summary of circumstances

Stonar Landfill is a former chemical waste disposal site. The EA confirm that it is currently still considered dangerous if access was allowed over it.

Determination

There is an ongoing monitoring programme by the landowners and Environment Agency to ascertain levels of waste. The current estimate is that it is still several years until the site could be considered safe. It continues to be monitored, and a

direction to exclude access is still necessary. We will therefore extend the direction for a further 6 years.

Dungeness Beach	2015128012	Coastal access margin closed (except on marked routes) – Nature conservation s26
Dungeness NNR	2019038847	Open Access closed (except on PROW) – Nature conservation s26

Summary of circumstances – both cases

The land is closed under CROW s26 (nature conservation) (except on marked routes and PROW) to prevent trampling to sensitive plants on the upper shingle beach area, 365 days a year. This as mitigation specified in the Habitats Regulations Assessments for the ECP and CROW s16 dedication.

Determination – both cases

Both the landowner and NE designated sites officer are satisfied that the plants species listed in the Habitat Regulations Assessment are still present on the site. The direction is therefore still required as mitigation. We will therefore extend the directions for a further 50 years.

In each case, the directions will be reviewed again in five years. If we are notified of a change in circumstances before that time, Natural England will reassess the need for the directions.

Date reviews completed: 13th July 2021

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