

Coastal Access – Implications for Businesses

In an expansion of the Government's policy of freeing-up access to rural and coastal areas, at last year's Labour Party conference Hilary Benn announced that *"we now intend to legislate so that each of us has, for the first time in our history, the right to walk around our coastline from the white cliffs of the South Coast to the wild cliffs of Northumberland"*.

As a result, the Marine Bill, which is now progressing through parliament has been amended to provide the necessary primary legislation to provide access to the 30% of English coastline that is not presently open to the public while also improving access to a further 20% of the coastline. Improving access to the coastline has definite benefits for the domestic tourism industry but there are implications for coastal businesses that need to be considered.

These implications centre on two of the main principles of the proposed legislation. This first of these is that, unless there is a very good reason to the contrary, this access should be provided along the coastal edge (ie. between any business and the coast itself).

The second principle is the presumption against compensation for the new access ways. The Government view is that the right of public access to the coastline outweighs individual landowners' rights. While there will be situations such as private residences where the coastal path will detour around the property rather than going through someone's back garden, it is clear that the Government wants to keep these situations to an absolute minimum. As a result, the legislation will impact on a large number of properties and businesses around the English coast.

There are two particular circumstances that are particularly problematic. The first is where there is a paid attraction that borders on the coast. An access path through the property will obviously provide a route for the public to enter the attraction without going through the turnstile and impact on the viability of the business. To prevent this happening the erection of fencing will be required which, if no compensation is to be paid, could be a considerable burden to the business.

There is also the Health and Safety issue. With a turnstile entrance, businesses know who is on their property and have the opportunity to identify and explain hazards to users. This is not the case if people are able to circumvent the entrance. Another consideration is the need for businesses to provide a safe and secure environment for customers especially where there are children involved.

The second situation where there is an impact on coastal businesses is where part of the value of the business is in it providing sole access to a resource such as a private beach. This exclusivity is a benefit to customers and therefore a considerable business asset. If sole access is taken away from the owner, then the value of the business is diminished and the operator should be compensated. If, in addition, a secure fence needs to be erected between the business and the coast, then the value of the business is further diminished.

All aspects of delivering access will hinge on the methodology. There may be scope for determining a set of circumstances when the coastal path will go around a tourism business.

While the Marine Bill will provide the necessary legislation, the implementation will be at the local level through a methodology that is currently being developed by Natural England, which is overseeing the implementation of this policy. It will therefore be very important to businesses affected by the establishment of the new coastal access paths to work with Natural England who, once the legislation is passed, are required to consult with affected landowners before submitting plans on development of the new coastal paths to the Secretary of State for approval.