



A Coastal Protection Zone for Scotland Ramblers Scotland, June 2008

A report on how various European countries address coastal access and planning through the designation of coastal protection zones, with a view to informing the debate on the Scottish Marine Bill and any forthcoming coastal planning policy review.

Introduction

The introduction of Scotland's Marine Bill in Parliament is an opportunity to draw attention to the problems facing the coast in terms of threats from inappropriate development. While the discussion has rightly focussed on the marine environment up to now, we believe that the majority of conflicts, which affect the marine environment, actually arise in the coastal zone. As a result, we would like the debate to include a focus on the need for a Coastal Protection Zone (CPZ) around Scotland's coast where there is a presumption against new development. This would have enormous benefit in arguments against potentially damaging applications. We would expect the CPZ to have three main functions:

1. **Recreation** - to provide an opportunity for multiple paths along the coastal zone for recreational users (walkers, cyclists, horse riders and canoeists seeking egress points).
2. **Nature conservation** – to provide for habitat improvement and protection of sensitive coastal habitats.
3. **Erosion protection** – to provide a buffer zone to protect against rising sea levels and against storm surges.

The Cabinet Secretary for the Environment has announced that the Scottish Marine Bill will cover both the coast and marine environment. We believe that the Marine Bill is a good vehicle to at least advance the arguments towards a CPZ in Scotland. The paper below sets out arrangements for coastal protection in relation to access and planning around the shore in various European countries. It is intended to give an insight into the way that other countries are dealing with this issue, which may help to inform the debate in Scotland.

Coastal protection zones in Europe

1. Coastal areas around the world are highly valued in terms of their landscapes, cultural heritage, natural habitats and species, and also as significant recreational and tourism resources. Over the past decade, Ramblers Scotland has become increasingly concerned about the threat to coastal access in Scotland posed by new developments which are built close to the shore and do not take into account the existing and potential recreational use of the area. Coastal areas are under pressure from new golf courses, housing, aquaculture and industry. The current planning framework does not sufficiently take account of the potential loss of recreational routes or the increased threat of coastal erosion due to climate change.

2. We would like to see a strengthened coastal planning system in Scotland, which would enhance species and habitat conservation measures, while giving scope for much greater development of good quality, promoted coastal paths. Such paths currently exist in some places, including the Fife Coastal Path and the John Muir Way in East Lothian, which form

part of the European Nortrail project. However, although the paths exist, their quality varies.

3. The Scottish Parliament looked to Scandinavia in drawing up the Land Reform (Scotland) Act 2003, and now it is useful again to look to Europe to see how coastal access, and coastal protection, is managed. In many European countries, a protected coastal zone exists to enable unimpeded recreational access to be taken around the coastline. The size of the protected area varies from a strip of a few metres in some countries, up to an area extending to 3km for particularly sensitive sites.

4. This paper gives a brief overview of arrangements for public access along the coast in various European countries along the Baltic, North Sea and Atlantic coasts.

5. The information is summarised in the table below.

Country	Coastal access/planning arrangements
Belgium	Coastal zone protected for recreational access.
Denmark	Coastal protection zone of 100m to 3km with presumption against development.
England	No coastal protection zone, but the current Marine Bill consultation is considering an access "margin" around the coast.
Estonia	Coastal protection zone of 100-200m with presumption against development.
Finland	No coastal zone, but new developments usually have to be 20-30m from the shore.
France	There is a 3m strip around the coast to enable recreational access to take place.
Germany	No federal legislation, but coastal protection zones at state level, of 100-200m with restricted development.
Holland	Coastal and dune areas strongly protected against development.
Latvia	Coastal protection zone of 300m offshore and at least 300m onshore.
Lithuania	No protection for the coast currently.
Northern Ireland	The coast is only open for access on a permissive basis, apart from a few rights of way. Development constrained by nature conservation designations.
Norway	Coastal protection zone of 100m with a presumption against development.
Poland	68% of the coast is protected by a zone which varies from 100m to 2km.
Portugal	A right of access applies for 50m inland along the coast, along with coastal zone plans along the entire coast, which ensure new development, does not restrict public access.
Republic of Ireland	A right of access applies on the beach but access to the coast is on a permissive basis and can be withdrawn. Conservation designations form some protection.
Russia (Kaliningrad)	There are discussions on legislation to protect the coast.
Spain	There is a coastal strip of 6-20m along the coast for public access.
Sweden	There is a 100m coastal protection zone in both directions from the mean water mark, which can be extended up to 300m. New development is restricted unless the coastal area is not valuable

	for recreational purposes.
Switzerland	Although not on the coast, there is a right of access along lakeshores.
Wales	Same situation as England, but the Welsh Assembly has made a commitment to develop a coastal path.

Table 1: summary of coastal access and planning arrangements in Europe

A Coastal Protection Zone for Scotland

6. The draft Marine Bill in Westminster contains an element of coastal access included within the draft legislation. While we would not want Scotland's bill to mirror that of Westminster, we feel it is important to address the matter of coastal protection in a different, Scottish, way. We do not need to be concerned in Scotland with securing access to the coast, but we do feel there is a need to protect the coast against inappropriate planning applications. A CPZ would be a means of providing that protection. Our envisaged CPZ would act as a planning restraint on new development along the coast. The actual zone could be set at a limit of, e.g., 100m, or else it could be varied according to the habitat and landforms on the ground.

7. The Scottish government is currently consulting on a proposed Marine Bill. This raises the opportunity to debate the problem of coastal zone management more widely. At the same time, it is recognised that National Planning Policy and Guidance (NPPG)13 on Coastal Planning does not provide sufficient protection and guidance for planning authorities, but a stronger, updated Scottish Planning Policy (SPP)13 may be one means of strengthening safeguards against unsuitable new development. It could be the case that a new SPP13 could be given a statutory underpinning through the Marine Bill.

8. NPPG13 currently designates coastal areas as Developed, Undeveloped or Isolated Coast. However, these are descriptions used for planning purposes and they do not necessarily take into account wider issues. A coastal protection zone could be added to an updated planning policy, defined as "an area designated for the purpose of protecting the special qualities of the coast". A new SPP13 could require planning authorities to identify such a coastal protection zone in local plans, which varied from, e.g., 100m to 1km, depending on a number of criteria.

9. There would be a strong presumption against new development in this zone, and the three main functions of this area would be as follows:

- **Recreation** - to provide an opportunity for multiple paths along the coastal zone for recreational users (walkers, cyclists, horse riders and canoeists seeking egress points).
- **Nature conservation** – to provide a framework for habitat improvement and protection of sensitive coastal habitats.
- **Erosion protection** – to provide a buffer zone to protect against rising sea levels and against storm surges and facilitate managed retreat.

More detailed information on each country

Belgium

There is a right to access the coast in a protected zone along the coast of Belgium, but no promoted route.

Denmark

The Nature Conservation Act 1993 provides a protection zone around the coast with a presumption against new development, including housing, fencing or commercial constructions. The state of the coastal strip cannot be changed for 100m beyond where the continuous vegetation starts. This protection zone widens to 300m along open coasts, although summer cottage areas are exempted. Other exceptions include harbours, existing farming operations and constructions for military purposes.

In addition, the Planning Act 1993 defines a 3km wide belt along the coast as being of national interest. Any development in the coastal zone must ensure that the coasts are only being used for the functions in connection with coastal or recreational needs. New summer cottage areas are prohibited, and holiday or leisure facilities can only be built in accordance with political considerations regarding tourism for the whole area. There is a general requirement for ensuring and improving public access to and along the coast.

Denmark's coastal protection zone is currently coming under threat from proposals, which would enable local authorities to make exceptions for new developments in coastal areas. This move is being strongly resisted by outdoor recreation bodies. While camping is not allowed in the coastal zone, informal campsites are now being set up at 20km intervals along the coast to enable kayakers to tour the country by sea.

England

The Westminster government is currently consulting on a draft Marine Bill that will include provision for a right of access to the coastal margin, leading to the establishment of a coastal long distance path. This will extend "access land" as defined by the Countryside and Rights of Way Act 2000 to beaches, foreshore and coastal land. There has not yet been discussion relating to the planning of new developments on the coast.

Estonia

Under the Act of the Protection of Marine and Freshwater Coasts, Shores and Banks 1995, there is a protected strip of 100m from the coastline with a presumption against new development. This zone extends to 200m in certain areas and may be extended up to 300m, but there are exceptions, such as harbours. Rivers and lakes also receive this protection.

However, a National Audit Office report in 2007 found that the coastline was not adequately protected from illegal construction activities on the coast. The protection zone is not being enforced or the environmental impact of these activities being given due regard. In addition, there is no effective punishment following illegal construction activities.

Finland

There is no legal protection for shore protection in Finland, but municipalities can stipulate the minimum distance from the shore when new houses are built. This is usually set at a distance of 20-30m, excluding saunas.

France

There is a 3m strip providing a right of way for walkers around the coast of France for recreational access, although there are exclusions in the vicinity of buildings. If a property on the coast is bought, a servitude right of access is negotiated in order to maintain access on a path along the shore.

Germany

There is no federal legislation regarding protection of the coastal strip, but the issue is considered at by the individual states. In Mecklenburg-Vorpommern, there is a 200m strip from the coastline within which no construction can take place. In Schleswig-Holstein, the protected area is 100m. Exemptions may be granted, but mostly relate to existing settlements or to harbours, farm buildings or construction related to energy, gas, water supply or communication, etc. Individual cases may also be exempt but only if the public interest in terms of nature conservation and landscape protection is not affected.

Holland

In Holland, the coast and dune systems are very strongly protected. The dune areas are mostly owned by public bodies for coastal defence, water storage and conservation. However, there are cases where wealthy people have managed to gain exemptions to this zone in order to build housing and other developments.

Latvia

The Law on Environmental Protection 1991 contains provisions for a coastal protected zone of 300m from the water's edge, and including beaches and any coastal formations such as dunes. If the dune system exceeds 300m, then the protected area is extended to its natural boundaries. The aim of the protection zone is to preserve the functions of the coastal forests and the landscape while protecting the area for recreational enjoyment. The coastal zone also exists for 300m in the off-shore direction.

Lithuania

There is no general legal protection of the coastal strip, but there are plans to draw up legislation concerning the protection of the marine environment.

Northern Ireland

There are currently discussions on creating a coastal path in Northern Ireland, since research has identified that only 200km of the 650km coastline is open to the public on a secure basis, being owned by the National Trust. There is no formalised right of access in Northern Ireland, nor many rights of way, and access is taken on a permissive basis, although the foreshore is owned and managed by the Crown Estate. Much of the coast is protected by nature conservation designations.

Norway

There is a 100m zone around the coast of Norway with a presumption against development. The building or partitioning of property within this zone is prohibited, but there are exemptions, which can be granted by local authorities. It is forbidden to set up fences or intimidatory signs around holiday homes, which are located on the coast.

According to the State of Environment Norway agency, housing and commercial property is encroaching on the coastal zones in some areas. It appears that local authorities have been granting exemptions to the exemption rule, especially for wealthier residents. Some recent legal cases have resulted in the right of access being upheld. (See box below for more information.) Nevertheless, in general, the right of access is being upheld and many communities are working to create new routes to extend the existing long and short distance paths along the coast.

Threats to the right of access in Norway

Public access to the countryside is being threatened by commercial developments and privatization. In some places, fences and other barriers are put up even where they are not permitted under the Outdoor Recreation Act. Piecemeal developments along the coast, particularly in the Oslo fjord and in popular areas of Southern Norway have gradually reduced public access to the shoreline. As a general rule, building and partitioning of property is prohibited in the 100 m zone closest to the sea, but local authorities have made liberal use of opportunities to grant exemptions from this rule in many areas. Permanent housing and holiday cabins have been built along more and more stretches of the coast that were once attractive recreation areas.

With so much building and development along the shoreline, long stretches of shore and beach have become private. This type of privatization in this way may be legal in some cases, but in many others, it is not. Privatization is generally illegal if the main aim is to keep the public away from areas where they have a legal right to access or passage.

<http://www.environment.no/Tema/Frillufsliv/Allemannsretten/>

Poland

Over 68% of the Polish coast is protected, including 10.5% within national parks or nature reserves, and the remainder in landscape parks or protected landscape areas where new development is tightly restricted. The coastline is encircled by a 'technical belt' which encompasses the beach, dune ridge and 200m beyond the dunes, or cliffs and a zone up to 100m from the upper edge of the cliffs, while on lagoons it includes an area of up to 2,000m. There is also an adjacent 'protective belt', which covers an area up to 2km from the shoreline.

Portugal

In Portugal, there is a right of access along the Maritime Public Domain, comprising 50m landward of the high tide, and which classifies this area as public land. The legislation enables interpretation of the legislation depending on the situation on the ground and changing coastlines, and ports, harbours and defence land are not included. Any development within this area must not restrict public access. Around 55% of the coast is protected by landscape or nature conservation designations. In addition to the Maritime Public Domain, the whole coast is covered by coastal zone plans from 30m below sea

level, up to 500m above high tide. These plans ensure that no new development conflicts with the public access, although some golf courses have put people walking on adjacent beaches at risk.

Republic of Ireland

There is no statutory right of access in Ireland, and rights of way are not protected in law. Access to the coast is taken on a permissive basis, although a right of access on the foreshore exists, due to state ownership. Many sections of the coast are protected through conservation designations, but development pressure in recent years has led to the construction of marinas, golf courses and holiday homes along the coast, which have had the result of restricting recreational access in certain areas.

Russia (Kaliningrad)

In the Russian Baltic state of Kaliningrad, there is no legal protection for the coastal strip, but development is restricted according to land use plans.

Spain

The 1988 Coasts Act lays down a 6m strip from the shore, which is free from development to enable recreational access at all times. This strip can be extended to 20m in certain cases, but the use of the shore must be unimpeded, public and free of charge for people to walk along. The recent urban development of the Mediterranean coast has meant that the development of a right of way can prove difficult in places, but the legislation provides for routes to the coastal zone, although the length and width of the path will depend on the local urban planning regulations.

Sweden

The Nature Conservation Act 1974 includes provision for the protection of the coast in Sweden for recreational access. The protected zone is 100m from the mean water mark in both directions, i.e., both inland and seaward. Provincial governments can enlarge this zone to 300m in each direction, or remove the protection if the area is of no importance for outdoor recreation. It is prohibited to construct new buildings, change the use of existing buildings or build fences within this area, but any construction relating to fishing, farming or forestry is permitted. Exemptions may be granted by local authorities in the area in special circumstances.

There is currently a move to make it easier for local authorities to grant exemptions for development along the coast, especially for housing and leisure activities. This is being opposed by outdoor recreation groups.

Switzerland

While Switzerland does not have any coastline, there is national legislation to enable access along rivers and lakes, but it is up to every Canton to put this into the land use planning system. Unfortunately, this access zone is not rigorously enforced and there is a problem of wealthy individuals buying large lakeside houses and restricting public access along the shore.

Wales

Access to the coast in Wales is governed by the same legislation as England. The Welsh Assembly has made a commitment to develop a coastal path around the entire country. The existing Pembrokeshire Coastal Path National Trail attracts some 300,000 walkers annually, contributing £15m to the local economy and supporting 570 jobs.

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