

# Broads Local Access Forum

04 September 2024

Agenda item number 7

## Paths lost to the River

Report by Waterways and Recreation Officer

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### Summary

A report relating to the ongoing issue of paths in the Broads being lost to the river due to erosion, the history of the issue and proposed next steps.

### Recommendation

Bring the issue to the attention of local MPs and Councillors.

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## 1. Introduction

- 1.1. The issues of “paths lost to the river” in the Broads were first brought to the attention of the BLAF in June 2021 by Richard Atkins relating to Surlingham Footpath 1 and Bramerton Footpath 5.

## 2. Legal considerations

- 2.1. The legal situation around Public Rights of Way being lost to erosion in coastal areas and on riverbanks are quite different.
- 2.2. Public Rights of Way are public highways and are protected by law, under the Highways Act 1980. It is an offence for anyone to close a public right of way, or to disturb or damage the surface without lawful authority. In the Broads, the county councils as the Highways Authorities are the legal bodies with responsibility for rights of way matters.
- 2.3. According to the Marine and Coastal Access Act 2009, part 9, section 302. Insert from the 1949 Act relating to long-distance routes, section 55B, *Route subject to erosion etc.:*

*2) Where Natural England considers that the area through which the route passes is an area to which subsection (3) applies, the report may set out proposals for the route, or any part of it, to be determined at any time in accordance with provision made in the proposals (rather than as shown on a map).*

*(3) This subsection applies to an area if it is or may be—*

*(a) subject to significant coastal erosion or encroachment by the sea, or*

*(b) subject to significant physical change due to other geomorphological processes.*

*(4) The provision made by virtue of subsection (2) may, in particular, provide for the route to be determined by reference to the edge of a cliff or boundary of a field (as it exists from time to time).*

*(5) Where the report contains proposals under subsection (2), the map included in the report in accordance with section 51(2) must show the route as determined, at the time the report is prepared, in accordance with those proposals.*

*(6) Natural England must consult the Environment Agency before exercising its powers under subsection (2) in respect of an area which is or may be—*

*(a) subject to significant coastal erosion or encroachment by the sea, or*

*(b) subject to significant physical change due to other geomorphological processes in relation to which the Agency has functions. ([Marine and Coastal Access Act 2009 \(legislation.gov.uk\)](#))*

- 2.4. When it comes to riverside paths rather than coastal paths, there is not the same legislation to move paths with the erosion which means that paths can be rerouted but not necessarily following the river.
- 2.5. *A Public Right of Way which appears on a Definitive Map or Statement can be diverted or extinguished by a legal process whereby a local authority makes a Public Path Order. The County Council has a power (and not a duty) to make Public Path Orders under sections 26, 118 and 119 of the Highways Act 1980. These orders, once confirmed, have the effect of permanently creating, extinguishing or diverting Footpaths, Bridleways or Restricted Byways respectively.*
- 2.6. *A Council is under no obligation to make an Order. Extending this further, if the Council decides to make an order it is again under no duty to refer it to the Secretary of State for the Environment, should objections be received. ([Public Path Orders \(diversions and extinguishments\) - Norfolk County Council](#))*

### **3. Issues raised to Norfolk County Council**

- 3.1. Both Suffolk and Norfolk County Councils have online portals with which to raise highways related problems.
- 3.2. Norfolk County Council shared some of their 2023 data which showed that the same paths in the Broads are being flagged as flooded, namely paths in Geldeston and Honing, and the Weaver Way.
- 3.3. There are 10 paths in the Broads which have been rerouted and therefore been flagged to be extinguished. Originally 14 were identified and rerouted but 4 were extinguished before 2020.

## 4. Conclusion

- 4.1. There is not the same legislation around paths lost to riverbank erosion as there is for coastal erosion. Paths flooding and being lost to the river will continue to be a problem with climate change and the predicted rise in water levels and rainfall patterns. Communication with local MPs about the concerns around losing Public Rights of Way to bank erosion on inland waterways could raise this issue to those who have the power to make changes to policies, which could mean that similar legislation to that for coastal paths could be considered for riverside paths.

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