CABINET

Meeting date: 3 March 2011

From: Cabinet Member for Economy & Highways
Corporate Director – Environment

DEVELOPMENT OF COASTAL ACCESS IN CUMBRIA

PART A - RECOMMENDATION OF CABINET MEMBER

1.0 EXECUTIVE SUMMARY

1.1 Cabinet approval is being sought for the authority to take part in the national project to develop the England Coastal Trail around the coastline of Cumbria. The project is of strategic significance for the County in that it will be the start of a linear “National Trail” status coastal footpath together with associated “spreading room”, which over time may be developed around the entire Cumbrian coast. The project will also have significant social, health, economic and recreational benefits, particularly for the communities of west Cumbria.

1.2 The planning, consultation, development and implementation phases of the project will be undertaken in partnership between Natural England and the Council in close consultation with interested parties, and the project costs grant aided with 100% funding from Natural England. Subject to government funding, the project will be rolled out in defined “stretches”, year on year around the English coast, each following a statutory process.

1.3 Subject to approval the first stretch to be developed will be Whitehaven to Allonby (approx 29km).

2.0 STRATEGIC PLANNING AND EQUALITY IMPLICATIONS

2.1 The development of the England coastal trail in Cumbria meets a number of Council policy objectives:

- ‘Creating and protecting a high quality environment for all’ and ‘Improving the health and well-being of adults’ (Council Plan 2007-2010)

- Development of coastal access in Cumbria (Highways and Transportation Service Plan 2010/11)

- Ensuring the public rights of way network is open and available to
use, and encourages greater access to the countryside (Cumbria Countryside Access Strategy 2006)

- Undertaking improvements to the PROW network which fit with users needs (Rights of Way Improvement Plan 2007)
- Promoting active travel modes (Cumbria Local Transport Plan 2)

The programmes impacts on outcomes will be:

- An increase in the health and wellbeing of local communities along the coast
- An increase in quality of life and opportunities to get out into the countryside
- Improved local economy through increased tourism business

3.0 RECOMMENDATION

Cabinet is recommended:

3.1 To agree the Council work with Natural England to develop the England Coastal Trail in Cumbria as one of the five “phase one” lead authorities in England, and subject to funding, to implement the scheme in stretches in future years.

3.2 To proceed with developing the first stretch in Cumbria from Whitehaven to Allonby subject to the Memorandum of Agreement.

3.3 To authorise that the Portfolio holder for Economy and Highways and Corporate Director for Environment be given delegated authority to agree the detailed terms of a Memorandum of Agreement (project roles, responsibilities and costs) between the County Council and Natural England for the implementation of the coastal trail in Cumbria.

Tony Markley, Cabinet Member for Economy and Highways

PART B – ADVICE OF CORPORATE DIRECTOR - ENVIRONMENT

4.0 BACKGROUND

Development of the coastal access project in Cumbria

4.1 The Marine and Coastal Access Act 2009 received royal assent in November 2009. It placed a duty upon Natural England (NE) to work with highway authorities and their local access forums in England to develop a coastal access trail around the entire coastline of England. NE have
produced an approved “Scheme “setting out how it will discharge the coastal access duty and a project planning tool (the “coastal access implementation cycle”) setting out the 10 key formal stages – NE and local authorities will have to follow in implementing coastal access.

4.2 The County Council has been identified as one of the five “phase one” authorities in England to be the first to develop coastal access. An outline submission was made to NE in October 2009 regarding the resources likely to be required (project staffing and development costs etc) to develop the coastal trail through the county (estimated at the time at circa £4.3million). This assessment took into account the likely “pre-development” work which would also need to be undertaken prior to beginning stage 1. This included early communications with relevant interests, recruitment of staff etc.

4.3 As a result of the comprehensive spending review in Oct 2010, the delivery model for the project has been radically revised in order to make savings, seek greater efficiency and cut overall costs. The result of this is a significantly reduced role for local authorities in the development phase of the project, with NE taking the lead for the planning and consultation phases and Highway Authorities leading the later implementation phase. Roll out of the project has also been much reduced, with government only approving five initial 30 km stretches for development in the five lead authorities starting in April 2011.

4.4 The project is of strategic significance for the County in that it will provide the mechanism for the development and establishment of a linear “National Trail” status coastal footpath together with associated “spreading room” (places along the route where the public can take access beyond a limited corridor), which over time may be developed around the entire Cumbrian coast amounting to approximately 326km in length.

4.5 The project will also have significant, long term social, health, economic and recreational benefits, particularly for the communities of west Cumbria. The trail will create and permanently establish improved access provision. The coastal trail will also attract inward investment in tourism provision as day users and long distance walkers start to explore the route, and result in greater tourism spend. It will also provide opportunities for local businesses to supply goods and services as part of both the construction and maintenance phases of the route’s development and its subsequent management.

Role and responsibilities of the County Council in delivering the project

4.6 The roles and responsibilities for undertaking the project between NE and the County Council will be as follows.

4.7 The planning, consultation and development phases of the project will be led by NE working closely with the Council. This will comprise information gathering, surveying route options, developing draft proposals, consulting with interests, developing a final report, considering representations and submitting the report to the Secretary of State.
4.8 The implementation phase of the project will be led by the Council working closely with NE. This will comprise informing interests and publicising the approved route by the Secretary of State, planning, procuring and undertaking establishment works on the ground, launching the trail and maintaining it.

4.9 The costs associated with the planning, consultation, development and implementation phases will be grant aided with 100% funding from NE. This will be set out in a Memorandum of Agreement between the two bodies which NE are currently proposing to be an annual agreement.

4.10 Delivery of the coastal access project within the Council will be led and coordinated by the Environment Directorate. A more detailed project plan is currently being developed for Cumbria by NE in consultation with the Council. The project will also involve other tiers of local government, the districts particularly for planning matters and parish and town councils during the consultation stages.

**Development of the first stretch and future roll out**

4.11 Subject to government funding, the project will be rolled out in defined “stretches”, year on year around the English coast, each following a clear statutory process. Detailed discussions have taken place with NE to identify the most advantageous place to start the first 30km stretch and which meets their set criteria for the initial development of the trail. Appendix 1 sets out the rationale for the selection of the Whitehaven to Allonby stretch. Appendix 2 illustrates the proposed route.

4.12 The current timetable for the development on this stretch is 4 years – from initial planning and consultation through to implementing the route on the ground.

**Initial communications**

4.13 A key element of the project prior to implementation is early communications with relevant interests across the county. This will include general awareness raising activities across Cumbria to explain that coastal access is coming, the opportunities it will bring, reassurance that land managers, communities and relevant interests will be fully consulted, how they can get involved and when, and how they are likely to be affected. One of the lessons learnt from the development of Open Access in Cumbria is that early warning is an essential prerequisite to good relations and positive engagement with local interests. These activities will be targeted to keep local communities, organisations and individuals informed and engaged at the right level in the development process.

**Project risks**

4.14 There are a number of key project risks for the Council as follows:

- Further central government budget cuts which might delay or halt the project (but not the first stretch which has been confirmed and funding allocated by government).
- Lack of funding from NE to Local Highway Authorities to properly develop and deliver the project to the standards required
- Project may divert the Council’s staff and other resources from future service plan priority areas of work
- Protracted consultations, detailed negotiations, and objections to the route prevent or inhibit rollout of coastal trail, and result in reputational damage to the Council
- Complexity of route development – e.g. natural or man made barriers in establishing the route – slows down or prevents rollout of the coastal trail.
- Burden of future maintenance costs to manage and maintain the trail in the future lies with the Council, and are disproportionate compared to other rights of way liabilities.

4.15 Overall it is considered that the first 5 of the above risks identified can be managed to an acceptable level, however the likely impact of the last risk identified - the Council’s future liability for maintenance of the trail - is unknown at this stage, as NE are not yet able to commit to the level of maintenance funding available in the future.

Responsibilities for maintenance of the coastal trail

4.16 The potential costs to maintain the coastal trail and spreading room to a national trail standard could be considerable (if the trail is fully developed over its approximate 326km length in Cumbria). Costs will comprise the survey, assessment and specification of a cyclical trail maintenance programme, as well as its procurement, delivery and coordination on the ground. Based upon the current costs of maintaining the three national trails in Cumbria and experience elsewhere, the overall cost of managing and maintaining the new coastal trail is estimated to be circa £11,500 per annum for the first 30km stretch, running up to circa £125,000 per annum for the full 326km trail length.

4.17 Advice available to date from NE (posted on the NE website) states:

“Some two-thirds of the English coast is served by public rights of way. The England Coast Path will follow these wherever they meet the criteria in the 2009 Act and the Scheme. So the key responsibility for maintenance will continue to sit with local highway authorities, who also have maintenance powers under the legislation in relation to new stretches of the route. This reflects the recreational and economic benefits that are expected to be gained by their local communities when existing path problems are resolved using the new Coastal Access powers. In recognition of the national status and importance of the England Coast Path, we envisage Natural England providing a significant ongoing contribution to this (maintenance) cost, subject to future Government spending plans. This is in line with undertakings given in Parliament during the passage of the coastal access legislation.”
4.18 The Council currently contributes 25% towards the maintenance of the current three national trails in Cumbria to reflect their higher status, use and needs for higher standards. This however may change as part of the current budget consultation, and maintenance could revert to a reduced standard as applies to the rest of the public rights of way network. Whilst the Council may judge that on balance it is in its interests to contribute to the maintenance of the coastal trail, this is clearly a future liability which the Council will want to see managed. In order to avoid any future unsustainable liabilities it is considered that there should be commitment made by NE to a significant (majority) and ongoing contribution to the maintenance costs as set out in Para 4.16.

4.19 For the purposes of agreeing the initial annual Memorandum of Agreement to enable the first stretch to be developed, NE may not be in a position to make that commitment until the late spring or summer 2011 (because maintenance funding is tied up with a national policy review regards the future management of national trails). This however can be managed, as the Council will not be exposed to any liability for maintenance of the coastal trail for at least the first four years while the first stretch is being developed. During this time the Council will seek to secure such an agreement with NE, and (worst case) if agreement cannot be reached, to relinquish any involvement in the further roll out of the project.

5.0 OPTIONS

5.1 To agree all three recommendations as set out in the paper; to proceed with the project, to develop the first stretch from Whitehaven to Allonby, and to provide delegated authority for the Corporate Director for Environment to agree the Memorandum of Agreement between the County Council and Natural England.

5.2 To agree the first two recommendations; (i.e. to proceed with the project and to develop the first stretch from Whitehaven to Allonby) but to request that the detailed costs and responsibilities (to be developed in the Memorandum of Agreement between the County Council and Natural England) be brought back to Cabinet for approval (note – this will delay the implementation of the project).

5.3 To reject the recommendation to proceed with the project on the basis that the potential future liabilities and costs as a result of implementing the coastal trail outweigh the benefits (as identified under project risks in paras 4.12 & 4.13).

6.0 RESOURCE AND VALUE FOR MONEY IMPLICATIONS

6.1 There are financial implications for the Council in approving the recommendations to support Natural England to develop the England Coastal Trail in Cumbria. Government funding has only been made available for the first stretch in Cumbria from Whitehaven to Allonby and the assumption is that 100% of the costs through to implementation will be met by Natural England. The Memorandum of Agreement has not been finalised
yet so we are unable to ascertain if there are risks the County Council will be asked to take such as; acting as Accountable Body, costs of cash flowing the project, cost overruns, time overruns etc. The Memorandum of Agreement should seek to mitigate all reasonable risks associated with implementing this project if approved by Cabinet.

6.2 The cost to the Council of proceeding with the 30km stretch of the Coastal Trail in Cumbria relates to the future maintenance costs, this is £3k if there was a 75% contribution from Natural England which has been indicated however, this is subject to government spending plans. A worst case scenario would be that the Council has to fund all the future maintenance costs of the first stretch of this trail at £11.5k. There is no additional budget provision for this, it will be managed within the rights of way budget.

6.3 The third recommendation seeks approval for the Memorandum of Agreement to be signed. Clarity needs to be provided on the expected financial cost the Council is willing to accept for future maintenance of the trail if completed. Given that Natural England has caveated its willingness to support the future maintenance costs, subject to future Government spending plans, there is therefore a significant risk that 100% of the maintenance costs will fall to the Council. The Directorate does not have any budget provision to support these additional costs in the future.

7.0 LEGAL IMPLICATIONS

7.1 As to the legal process in summary, the English Coastal Route will be established using powers of designation under the National Parks and Access to the Countryside Act (1949) as amended for coastal route purposes by the 2009 Act and will be shown as a line on a map together with other adjacent land and features in statutory reports by Natural England to the Secretary of State (SoS).

7.2 The line over which the route passes and the land adjacent to it within 2m either side, will thus become coastal margin. This line around which the coastal access scheme is organised / designated is known as “the trail”.

7.3 Thus the line of the Coastal Route and public access rights thereto will be determined by reference to the land to either side thereof as coastal margin and will be the subject of an order by the SoS under s.3A Countryside Rights of Way Act as amended by the 2009 Act legislation. The Planning Inspectorate will deal with formal objections by the Public Inquiry process and Inspector’s reports to the SoS.

7.4 There will be additional land in most locations beside the trail to be known as “spreading room” which comprises land seaward or landward of the Trail and to which it is possible / appropriate for the public to have access e.g. delineated by existing natural features. The various types of land that can form “spreading room” are described in details in NE’s Coastal Access Approved Scheme document (March 2010).

7.5 It is not intended that highways in general are to be included as or in coastal access rights. This does not prevent the trail from following a public footpath
or other highway and persons can continue to exercise their rights to use highways that fall within spreading room. Such highways will be part of the coastal margin even though access rights along them originate as public rights of way. However public rights of way will exist in parallel and related maintenance responsibilities will remain unaltered.

7.6 Landowners will not have to dedicate or surrender land on agreed terms to the SoS for the same to be coastal margin subject to “coastal access rights”. In some instances it will suit landowners to opt in to the Scheme and they may dedicate land under the Act if they so wish.

7.7 Coastal access scheme assessments will respect such interests as European protected habitats, SSSI’s, Scheduled Monuments etc. and there will be various categories of excepted land.

7.8 Whilst the draft Agreement produced by NE thus far does not contain any obviously unfair or onerous terms there are areas yet to be finalised.

7.9 It is clear that in approving any detailed Memorandum of Agreement, care will be needed to provide appropriate safeguards to the Council in terms of long term maintenance liabilities. It is not clear at present to what extent the Council may be an Accountable Body for any moneys received under the Agreement, if any.

7.10 As indicated, it is understood NE will lead the trail and margin alignment process and will also manage objections and potential public Inquiry processes, though at this early stage the extent / detail of these are not entirely clear.

7.11 It is expected that a suitable Memorandum of Agreement can be successfully negotiated and concluded within the terms of the delegation to the Corporate Director – Environment recommended at 3.3 above. However, if significant or unexpected difficulties in agreeing the Memorandum are encountered, it may be necessary to bring the Memorandum of Agreement back to Cabinet for a further decision.

8.0 CONCLUSION

8.1 This national project presents the Council with the opportunity to become one of the lead authorities in England to implement the coastal trail. The project is likely to be of strategic importance for the County, particularly for the communities of west Cumbria, and bring significant long term social, health, economic and recreational benefits.

8.2 Members will need to carefully weigh up the benefits of the project set against the costs that the Council may incur in both implementing the trail and managing it in the future. These include some elements of staff cost during the development phase (specialist advice and management input not covered by grant aid), and future liabilities for the management and maintenance of the trail.
8.3 On balance it is felt the benefits significantly outweigh the short and long term costs to the Council, and that any liabilities and costs can be managed to an acceptable level.

Marie Fallon
Corporate Director - Environment

20 January 2011

APPENDICES

Appendix 1 – Rationale for first stretch – Whitehaven to Allonby
Appendix 2 – location map

Electoral Division(s): 1st Phase - Solway Coast, Dearham & Broughton, Maryport West, Seaton, St Michael’s and Bransty Future Phases – All Cumbrian Coast

* Please remove whichever option is not applicable

<table>
<thead>
<tr>
<th>Executive Decision</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Key Decision</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>If a Key Decision, is the proposal published in the current Forward Plan?</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Is the decision exempt from call-in on grounds of urgency?</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>If exempt from call-in, has the agreement of the Chair of the relevant Overview and Scrutiny Committee been sought or obtained?</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Has this matter been considered by Overview and Scrutiny?</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>If so, give details below.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Has an environmental or sustainability impact assessment been undertaken?</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Has an equality impact assessment been undertaken?</td>
<td>No</td>
<td></td>
</tr>
</tbody>
</table>

PREVIOUS RELEVANT COUNCIL OR EXECUTIVE DECISIONS

No previous relevant decisions.

CONSIDERATION BY OVERVIEW AND SCRUTINITY

Not considered by Overview and Scrutiny.
BACKGROUND PAPERS

Marine and Coastal Access Act 2009, part 9 – coastal access
Natural England approved “Scheme” – setting out how it will discharge the coastal access duty to develop the England coastal trail.
Project initiation form developed for the coastal access project and approved by the Councils Environment Programme Board.
Notes from meetings of national Implementation Advisory Group held by Natural England with the five "phase one" lead authorities.
The case for the development of the first stretch - Whitehaven to Allonby - submitted by the County Council and approved by Natural England.
Generic legal template which will form the basis of the Memorandum of Agreement between Natural England and the County Council.
Business case for Cumbria lead stretch - NE

RESPONSIBLE CABINET MEMBER

Tony Markley - Cabinet Member Economy and Highways

REPORT AUTHOR

Contact: Andrew Coleman, Countryside Access Manager, tel 01228 226559 andrew.coleman@ccumbria.gov.uk
THE CASE FOR WHERE THE FIRST STRETCH OF COASTAL ACCESS SHOULD BE DEVELOPED IN CUMBRIA

Proposed stretch: Whitehaven to Allonby with option to extend to Silloth

- Length - the coast from Whitehaven to Allonby is approx. 29km in length, so fits with NE’s requirement. If it continues to Silloth it runs to approx 42km.
- Coastal experience - good variety: cliff scenery at Whitehaven, on through semi and urban stretch of coast to Workington, scenic dunes from Maryport to Allonby and Silloth. Good views too of Solway Firth and Isle of Man.
- Current access: approx 95% of the route is walk able now, either on the permissive Cumbria Coastal Way or on PROW. No major obstacles to open up route.
- Landholding: Significant landholding owned and managed by Allerdale Borough Council within the Solway Coast AONB. CCC also own parcels of coastal land around Whitehaven and Workington. In all total public ownership approx 20% of coast. The rest small landholdings. No major barriers anticipated to negotiate / secure access.
- Attractors: covers the following tourist destinations: Whitehaven, Maryport, Allonby and Silloth, and attractive section of the Solway coast AONB.
- Highlights of the walk: beaches at Silloth and Allonby, docks/marinas at Silloth, Maryport, Workington, Harrington and Whitehaven, the dunes, Allonby Ice cream shop, Roman Milefort 21, Maryport Prom, Maryport Coastal Park, views down the coast to Whitehaven and St Bees Head.
- VFM: funding would unlock and provide continuous coastal access along a key stretch of Cumbrian coast with a lot gained for a relatively small sum. Much good work has already begun to improve access along the coast in anticipation of coastal access.
- Economic impact: fits with other significant regeneration projects along the coast – see below – and would have positive impact upon the local economy.
- Social impact: proposed stretch fits with largest population corridor along Cumbrian coast, so has potential to deliver greatest benefit for local communities
- Connecting links: C2C cycle route, Hadrian’s Wall path and cycle routes, opportunity to walk addition 7 miles south from Whitehaven to St Bees via the head on existing PROWs and new permissive Open Access areas. Link with Coast to Coast LDR.
- Road links, public transport & facilities: Good road links and car parking. Local bus route from Silloth to Maryport stopping at regular points, and West coastal line includes train stops at Maryport to Whitehaven - providing walkers the chance to return to their starting point.
Links to regeneration projects

- Silloth Green Heritage Project – £1.5 HLF (Parks for People), RDPE, Silloth Town Council funded project to improve the heritage features and access of public open space of Silloth Green.
- Maryport to Allonby cycle path. Funding in application stage, to RDPE for 100% funding, £1.1 million. Could provide shared use facilities with coastal path.
- Camp Farm Roman Centre Development. HLF £11 million to create a visitor attraction on the edge of Maryport.
- Workington Corus housing redevelopment will be creating footway links to the coastal path.
- Links to upgraded PROW network within the Derwent corridor around Workington as part of the PROW flood recovery programme of works.
Annex 1: Coastal Access Trail - Whitehaven to Allonby location map