

Department for Environment, Food and Rural Affairs

Notice by the Secretary of State under section 52 of the National Parks and Access to the Countryside Act 1949

Hopton-on-Sea to Sea Palling

September 2015

Contents

Introduction	2
Secretary of State’s approval of coastal access proposals	3
Annex A: objections which did not fail to strike a “fair balance”	4
Annex B: conclusions and observations on representations.....	6

Introduction

On 29 September 2014 Natural England submitted a coastal access report relating to the stretch of land between Hopton-on-Sea and Sea Palling (“the coastal access report”) to the Secretary of State for Environment, Food and Rural Affairs under section 51 of the National Parks and Access to the Countryside Act 1949 (“the 1949 Act”), pursuant to its duty under section 296(1) of the Marine and Coastal Access Act 2009 (“the 2009 Act”).

A person was appointed under paragraph 4(2) of Schedule 1A to the 1949 Act, inserted by Schedule 19 to the 2009 Act (“the Schedule”), for the purpose of considering whether the proposals in the coastal access report failed, in the respects specified in the objections received by Natural England under paragraph 3 of that Schedule in relation to that report, to strike a “fair balance” as a result of the matter or matters specified in those objections¹.

In reaching her determination under section 52 of the 1949 Act the Secretary of State has considered:

- a. Hopton-on-Sea to Sea Palling - Natural England’s coastal access report submitted to the Secretary of State on 29 September 2014;
- b. in accordance with paragraph 16(1)(a) of the Schedule, the objections which the appointed person determined to be admissible objections;
- c. in accordance with paragraph 16(1)(b) of the Schedule, Natural England’s comments on the admissible objections which it sent to the Secretary of State;
- d. in accordance with paragraph 16(1)(c) of the Schedule, the reports given to the Secretary of State by the appointed person in respect of the objections which the appointed person determined to be admissible objections; and
- e. in accordance with paragraph 16(1)(d) of the Schedule, representations made by a person within paragraph 2(2)(b) to (f) of the Schedule, and the summary of other representations made, and Natural England’s comments on those representations which it sent to the Secretary of State on 31 March 2015.

In this notice –

(a) “objection” means an objection about the coastal access report which is made under paragraph 3 of the Schedule; and

¹ A “fair balance” means a fair balance between the interests of the public in having rights of access over land, and the interests of any person with a relevant interest in the land, as set out in section 297(3) of the 2009 Act and paragraph 1(b) of the Schedule. A person has “a relevant interest in the land” if he is the owner of the land, holds a term of years absolute in the land, or is in lawful occupation of the land: see section 55J(2) of the 1949 Act.

(b) “representation” means a representation about the coastal access report which is made under paragraph 7 of the Schedule.

Secretary of State’s approval of coastal access proposals

The Secretary of State has determined to approve the proposals set out in the coastal access report so far as they relate to those parts of the route (and associated coastal margin) in relation to which no objections or representations were made.

In the respects specified in the objections set out at **Annex A** to this notice, the Secretary of State determines that the proposals set out in the coastal access report **do not fail** to strike a “fair balance” as a result of the matters specified in the objection. She therefore approves the proposals set out in the coastal access report, so far as they relate to that part of the route (and associated coastal margin) to which those objections relate.

The conclusions and observations of the Secretary of State in relation to the representations are set out in **Annex B** to this notice.

The Secretary of State has made available at www.gov.uk a copy of this notice and the reports given to her by the appointed person. Natural England has also made available at www.gov.uk:

- a. Hopton- on-Sea to Sea Palling - the coastal access report;
- b. Representations made by a person within paragraph 2(2)(b) to (f) of the Schedule, and Natural England’s comments on those representations, which it sent to the Secretary of State on 31 March 2015; and
- c. Summary of other representations, and Natural England’s comments on those representations, which it sent to the Secretary of State on 31 March 2015.

Annex A: objections which did not fail to strike a “fair balance”

In the respects specified in the objections set out below, the Secretary of State has determined that Natural England’s proposal in the coastal access report did not fail to strike a “fair balance” as a result of the matters specified in those objections.

Objection Ref: MCA/Hopton-on-Sea to Sea Palling/O1

Land at Sea Palling forming the landholding of Waxham Hall.

Mr H Harvey

The land to which the objection relates are the route sections HSP-5-S008, HSP-5-S009, HSP-5-S010 and HSP-5-S011.

Objections Reference: MCA/Hopton-on-Sea to Sea Palling/02,03 and 04

Land at Hall Farm, Sea Palling.

Mr I V Foster and Mr A G Harris.

The land to which the objections relate are the route sections HSP-5-S012, HSP-5-S013 and HSP-5-014.

Objection Reference: MCA/Hopton-on-Sea to Sea Palling/05

29, The Promenade, Scratby.

Mr C Hogg.

The land to which the objection relates are the route sections HSP-3-A007 to HSP-3-A014.

Objection Reference: MCA/Hopton-on-Sea to Sea Palling/06

29, The Promenade, Scratby.

Mrs L Hogg.

The land to which the objection relates are the route sections HSP-3-A007 to HSP-3-A014.

Objection Reference: MCA/Hopton-on-Sea to Sea Palling/07

31, The Promenade, Scratby.

Mr and Mrs N and J Seggie.

The land to which the objection relates are the route sections HSP-3-A007 to HSP-3-A014.

Objection Reference: MCA/Hopton-on-Sea to Sea Palling/08

Land at St Benedicts, Sea Palling.

Mr P and Mrs J Newson.

The land to which the objection relates is the route section HSP-5-S012.

Objection Reference: MCA/Hopton-on-Sea to Sea Palling/09

Land at Poplar Farm, Waxham

Sunrise Poultry Farms Ltd.

The land to which the objection relates is the route section HSP-5-S003.

Annex B: conclusions and observations on representations

The Secretary of State has considered, in relation to the coastal access report, the following representations made under paragraph 7 of the Schedule.

Representation Nos: MCA/Hopton-on-Sea to Sea Palling/R/1 to R/6

Name of representation: Sea Palling and Waxham Parish Council

Report chapter and route sections:

Chapter 5

HSP-5-S011 to HSP-5-S016

Secretary of State's conclusion and observation:

Secretary of State notes that the Parish Council's representation was considered by the Inspector as part of his determination of objection references MCA/Hopton-on-Sea to Sea Palling/01/02/03/04 and 08. She approves route sections HSP-5-S011 to HSP-5-S016.

Representation No: MCA/Hopton-on-Sea to Sea Palling/R/7

Name of representation: Friends of Horsey Seals

Report chapter and route sections:

Chapter 4

HSP-S008 to S013

Secretary of State's conclusion and observation:

Secretary of State notes the representation and that Natural England has statutory obligations in respect of sites and features. As such Natural England has undertaken an Access and Sensitive Features Assessment in line with the Habitat Regulations to ensure there is no likely significant effect resulting from its proposals, alone or in combination on the Natura 2000 site, or on the sensitive species and habitats along this stretch of coast including protection of the grey seal. The Secretary of State also notes that management measures have been identified as part of this assessment which will ensure no negative effects on the grey seals when the new access arrangements are introduced. These measures include continued wardening by Friends of Horsey Seals during the seal breeding season with areas of the beach cordoned off. She approves route sections HSP-S008 to S013.

Representation No: MCA/Hopton-on-Sea to Sea Palling/R/8

Name of representation: Private Individual

Report chapter and route sections:

Chapter 5

HSP-5 -S010 and S011

Secretary of State's conclusion and observation:

Secretary of State notes that the representation was considered by the Inspector as part of his determination of objection references MCA/Hopton-on-Sea to Sea Palling/01/02/03/04 and 08. She approves route sections HSP-5 -S010 and S011.

Representation No: MCA/Hopton-on-Sea to Sea Palling/R/9

Name of representation: AG Harris and Co

Report chapter and route sections:

Chapter 5

HSP-5-S012 to S014

Secretary of State's conclusion and observation:

Secretary of State notes the representation and that walkers are encouraged to follow the Countryside Code when exercising their coastal access rights, which includes keeping dogs under effective control and cleaning up after them. Where necessary, signs may be installed reminding walkers of their responsibilities. She further notes that the ongoing maintenance and management of the coastal route will be the responsibility of the local Access Authority, and Natural England will put a rolling agreement in place with them to meet these requirements. She further notes that Natural England investigated five other alignment options along this stretch of coast and that the reasons for not proposing any of these options are explained at paragraph 5.2.2 of its report to the Secretary of State. She approves route sections HSP-5-S012 to S014.

Representation No: MCA/Hopton-on-Sea to Sea Palling/R/10

Name of representation: The Ramblers

Report chapter and route sections:

Chapter 1

HSP-1-S003 to S004 and HSP-1-A001 to A006

Secretary of State's conclusion and observation:

Secretary of State notes that the representation and the suggestion that the coastal route should follow the cliff top. She further notes that Natural England investigated the option for trail alignment between the cliff top and the seaward boundary of the Holiday Village but was unable to propose this alignment option because the public footpath shown on the map along the top of the cliff was no longer safe or convenient to follow due to erosion. She also notes that when the main route may not be available to walkers due to tides and severe weather Natural England has proposed an optional alternative route be made available to walkers, part of which is through Hopton Holiday Village. She approves route sections HSP-1-S003 to S004 and HSP-1-A001 to A006.

Representation No: MCA/Hopton-on-Sea to Sea Palling/R/11

Name of representation: The Ramblers

Report chapter and route sections:

Chapter 1

HSP-1-S010 and HSP-1-S011

Secretary of State's conclusion and observation:

Secretary of State notes the representation and that, following consultation with the Port Authority, Natural England rejected the option for trail alignment around the edge of South Pier. She approves route sections HSP-1-S010 and HSP-1-S011.

Representation No: MCA/Hopton-on-Sea to Sea Palling/R/12

Name of representation: The Ramblers

Report chapter and route sections:

Chapter 1

HSP-1-S019 and HSP-1-S020

Secretary of State's conclusion and observation:

Secretary of State notes that Natural England considered the route option proposed by The Ramblers. Although this was initially its preferred option Natural England was concerned about the suitability of the southern end of Malthouse Lane as there was no pavement and the road becomes narrower. Following consultation with Norfolk County Council Highways team Natural England was unable to support this option. She approves route sections HSP-1-S019 and HSP-1-S020.

Representation No: MCA/Hopton-on-Sea to Sea Palling/R/13

Name of representation: The Ramblers

Report chapter and route section:

Chapter 1

HSP-1-S021

Secretary of State's conclusion and observation:

Secretary of State notes the representation and, following consultation with the Port Authority, that Natural England rejected the option for trail alignment proposed by the Ramblers. She approves route section HSP-1-S021.

Representation No: MCA/Hopton-on-Sea to Sea Palling/R/14

Name of representation: The Ramblers

Report chapter and route section:

Chapter 1

HSP-1-S022

Secretary of State's conclusion and observation:

Secretary of State notes that Natural England accepts the Ramblers' assertion that the road crossing could be avoided if the proposal for route section HSP-1-S021 was approved. However, for the reasons set out for representation MCA/Hopton-on-Sea to Sea Palling/R/13 the Secretary of State approves route section HSP-1-S022.

Representation No: MCA/Hopton-on-Sea to Sea Palling/R/15

Name of representation: The Ramblers

Report chapter and route sections:

Chapter 1

HSP-1-S010 and HSP-1-S011

Secretary of State's conclusion and observation:

Secretary of State notes the representation and the reasons why Natural England was not able to support the Ramblers' proposal. She approves route sections HSP-1-S010 and HSP-1-S011.

Representation No: MCA/Hopton-on-Sea to Sea Palling/R/16

Name of representation: The Ramblers

Report chapter and route sections:

Chapter 3

HSP-3-S002 to HSP-3-S004

Secretary of State's conclusion and observation:

Secretary of State notes the representation and that alignment is intended along the top of the sea wall. She further notes Natural England's acceptance that the route is generally inundated in sand with limited sections of concrete exposed. She approves route sections HSP-3-S002 to HSP-3-S004.

Representation No: MCA/Hopton-on-Sea to Sea Palling/R/17

Name of representation: The Ramblers

Report chapter and route sections:

Chapter 3

HSP-3-S006 to S009

Secretary of State's conclusion and observation:

Secretary of State notes the representation and that Natural England investigated the scope for a route along the public footpath seaward of HSP-3-S008 as proposed by The Ramblers. She further notes Natural England's comments that it was unable to propose this alignment and that it opted for a proposed route which was safer and more convenient for walkers and accessible for a wider variety of user groups, though with some loss of sea view within the car park at HSP-3-S007. She approves route sections HSP-3-S006 to S009.

Representation No: MCA/Hopton-on-Sea to Sea Palling/R/18

Name of representation: The Ramblers

Report chapter and route section:

Chapter 3

HSP-3-S010

Secretary of State's conclusion and observation:

Secretary of State notes the representation and that, following consultation with Great Yarmouth Borough Services, the Council has agreed to remove the potential blockage at two locations along this section of the route to provide a clear and unobstructed route for walkers by the commencement of the access rights. She approves route section HSP-3-S010.

Representation No: MCA/Hopton-on-Sea to Sea Palling/R/19

Name of representation: The Ramblers

Report chapter and route sections:

Chapters 3 to 5

HSP-3-S013 to HSP-4-S003 and HSP-4-S010 to HSP-5-S016

Secretary of State's conclusion and observation:

Secretary of State notes the representation and that Natural England investigated access along the dunes between Hemsby and Beach Road, Winterton. She further notes that, following consultation with the Environment Agency, Natural England proposed that the coast path be aligned along a public footpath in The Valley between Beach Road, Winterton and Hemsby, which is the route currently used by walkers in this area. She approves route sections HSP-3-S013 to HSP-4-S003 and HSP-4-S010 to HSP-5-S016.

Representation No: MCA/Hopton-on-Sea to Sea Palling/R/20

Name of representation: The Ramblers

Report chapter and route section:

Chapter 3

HSP-3-S015

Secretary of State's conclusion and observation:

Secretary of State notes that the proposed route out of the car park is not aligned where the stile is located. She approves route section HSP-3-S015.

Representation No: MCA/Hopton-on-Sea to Sea Palling/R/21

Name of representation: Norfolk County Council

Report chapter and route section:

Chapter 4

HSP-4-S007

Secretary of State's conclusion and observation:

Secretary of State notes the proposed route is coincident with a registered public right of way. She approves route section HSP-4-S007.

Representation No: MCA/Hopton- on-Sea to Sea Palling/R/22

Name of representation: Norfolk County Council

Report chapter and route section:

Chapter 4

HSP-1-S021

Secretary of State's conclusion and observation:

Secretary of State notes that the maps and commentary in Natural England's report should refer to a Restricted Byway. She approves route section HSP-1-S021.

Representation No: MCA/Hopton- on-Sea to Sea Palling/R/23

Name of representation: Norfolk County Council

Report chapter and route sections:

Chapter 1

HSP-4-SO11 to HSP-4-S012

Secretary of State's conclusion and observation:

Secretary of State notes that Natural England accepts that the route walked on the ground between sections HSP-4-S010 and HSP-4-S012 differs in places from the registered right of way as shown on the definitive map and Ordinance Survey Maps. She further notes that Natural England proposes that the England Coast Path follows the walked line on the ground, which is being used as if it were, in practice, the public right of way. To the extent that the two vary, new access rights will automatically be created along the sections that are not public rights of way. She approves route sections HSP-4-S011 to HSP-4-S012.

Representations No: MCA/Hopton- on-Sea to Sea Palling/R/24 and 25

Name of representation: Sunrise Poultry Farms Ltd

Report chapter and route section:

Chapter 5

HSP-5-S003

Secretary of State's conclusion and observation:

Secretary of State notes that this representation was considered by the Inspector as part of his determination of objection reference MCA/Hopton-on-Sea to Sea Palling/09. She approves route section HSP-5-S003.

Representation No: MCA/Hopton- on-Sea to Sea Palling/R/26

Name of representation: National Trust

Report chapter and route sections:

Chapter 4

HSP-4-S012 to S014

Secretary of State's conclusion and observation:

Secretary of State notes the representation including the National Trust's support for the coastal access project. She asks Natural England to ensure that, if in the future the voluntary wardening scheme becomes unsustainable or circumstances change, then management measures would be reviewed as necessary. She agrees that it would not be appropriate to apply roll back to this section of the coast. She approves route sections HSP-4-S012 to S014.

Representation No: MCA/Hopton-on-Sea to Sea Palling/R/27

Name of representation: Norfolk Coast Partnership

Report chapter and route sections:

Chapter 4

HSP-4-S004 to S009

Secretary of State's conclusion and observation:

Secretary of State notes the representation and that Natural England considered aligning the route along the public byway running on the landward side of the NNR from Winterton Ness to North Market Road Winterton. She further notes that Natural England undertook an Access and Sensitive Features Assessment in line with the Habitat Regulations to ensure there is no likely significant effect alone or in combination on the Natura 2000 site or on sensitive species and habitats based on anticipated changes to access levels and patterns arising from the implementation of its proposals. She further notes that management measures have been identified as part of this assessment which will ensure no negative effects on the interest features/ sensitive features of the site. She approves route sections HSP-4-S004 to S009.

Representation No: MCA/Hopton-on-Sea to Sea Palling/R/28

Name of representation: RSPB

Report chapter and route sections:

Chapters 2, 3 and 4

HSP-2-S002 to S003, HSP-3-S001 to S006 and HSP-4-S004 to S009

Secretary of State's conclusion and observation:

Secretary of State notes that Natural England has carried out an Access and Sensitive Feature Appraisals in line with the Habitat Regulations to ensure there is no likely significant effect, alone or in combination, on the rare and vulnerable birds within the SPA based on anticipated changes to access levels and patterns arising from the implementation of our proposals.

She further notes that management measures have been identified as part of this assessment which will ensure no negative effects on the interest features/ sensitive features of the site. She asks Natural England to continue to prioritise working in partnership with RSPB and other local partners to ensure the little terns' long-term future on this section of coast and that should the current programme of activities become unsustainable at any point in the future, it should use its powers under Chapter II of the Countryside and Rights of Way Act 2000 to put in place restrictions or exclusions on coastal access rights on nature conservation grounds. She approves route sections HSP-2-S002 to S003, HSP-3-S001 to S006 and HSP-4-S004 to S009.

Representation No: MCA/Hopton-on-Sea to Sea Palling/R/29

Name of representation: The Right Path action group

Report chapter and route sections:

Chapter 5

HSP-5-S010 to S015

Secretary of State's conclusion and observation:

Secretary of State notes that the representation was considered by the Inspector as part of his determination of objection references MCA/Hopton-on-Sea to Sea Palling/01/02/03/04 and 08. She further notes that Natural England investigated five other alignment options along this stretch of coast and that the reasons for not proposing any of these options are explained at paragraph 5.2.2 of its report to the Secretary of State. She approves route sections HSP-5-S010 to S015.

Representation Nos: MCA/Hopton-on-Sea to Sea Palling/R/30,31 and 32

Name of representations: Private individuals

Report chapter and route sections:

Chapter 5

HSP-5-S011 to HSP-5-S013

Secretary of State's conclusion and observation:

Secretary of State notes that these representations were considered by the Inspector as part of his determination of objection references MCA/Hopton-on-Sea to Sea Palling/01/02/03/04 and 08. She approves route sections HSP-5-S011 to HSP-5-S013.

© Crown copyright 2015

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit www.nationalarchives.gov.uk/doc/open-government-licence/ or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or e-mail: psi@nationalarchives.gsi.gov.uk

This document/publication is also available on the website at: www.gov.uk/defra.

Any enquiries regarding this document should be sent to us at:

Commons, access and inland waterways implementation Team,
Defra
Zone 109, Temple Quay House
2 The Square, Temple Quay
Bristol BS1 6EB

Tel: 0117 372 3553

Email: coast.consultation@defra.gsi.gov.uk

PB 14332