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# **Report to the Secretary of State for Environment, Food and Rural Affairs**

**by Barney Grimshaw BA DPA MRTPI(Rtd)**

**The person appointed by the Secretary of State for Environment, Food and Rural Affairs**

**Date 20 October 2016**

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Marine and Coastal Access Act 2009

Objection Kingsgate Castle Residents Ltd

regarding coastal access proposals by Natural England relating to  
the England Coast Path, Ramsgate to Whitstable, Kent

Site visit made on 26 November 2015

Land adjacent to Joss Gap Road, Broadstairs, Kent

File Ref: MCA/Ramsgate to Whitstable/O/2

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**Objection Ref: MCA/Ramsgate to Whitstable/O/2**

**Route section RGW-1-S023 to S024**

- On 25 March 2015 Natural England (NE) submitted a Coastal Access Report (the Report) to the Secretary of State for Environment, Food and Rural Affairs (the Secretary of State), pursuant to its duty under section 296 of the Marine and Coastal Access Act 2009 (the 2009 Act).
- An objection dated 15 May 2015, to Chapter 1 of the Report, Ramsgate Pier to Whiteness, has been made on behalf of Kingsgate Castle Residents Ltd. The land to which the objection relates is route sections RGW-1-S023 to S024.
- The objection is made under paragraph 3(3)(a) of Schedule 1A to the 1949 Act on the grounds that the proposals fail to strike a fair balance as a result of the position of the proposed route.

**Summary of Recommendation:** That the SoS makes a determination that the proposals in the report do not fail to strike a fair balance as a result of matters within paragraph 3(3)(a) of Schedule 1A to the 1949 Act specified in the objection.

**Procedural matters**

1. I have been appointed to report to the Secretary of State on objections made to the Report. My report therefore includes a summary of submissions made by the objector and the response of NE and my conclusions and recommendations.
2. Another inspector, Michael Lowe, was originally appointed to report on these objections but, as a result of his absence due to illness, the case has now been transferred to me.

**Objections considered in this report**

3. On 25 March 2015 NE submitted the Report to the Secretary of State, setting out proposals for improved access to the Kent Coast between Ramsgate and Whitstable.
4. Three objections were received to the Report that were deemed admissible. The objection considered in this report relates to land adjacent to the west side of Joss Gap Road opposite Kingsgate Castle. The other objections are considered in separate reports.
5. Besides objections, representations may be made regarding NE's report. However, in assessing whether the proposals strike a fair balance, only those representations which are relevant to the matters specified in admissible objections should be considered. In this case, 2 representations were made regarding the section of route specified in the objection. These were made on behalf of Thanet District Council, owners of the land occupied by Kingsgate Golf Club, and Kent Wildlife Trust. I have had regard to these representations in making my recommendation but in general terms they did not raise issues additional to those raised in the objection.

### **Site Visit**

6. Inspector, Michael Lowe, made a site visit on 26 November 2015 accompanied by Mrs J Bowen, representing NE, and a representative of Kingsgate Castle Residents Ltd. Having considered all the submissions made, I did not feel that a further site visit was necessary or desirable.

### **Main Issues**

7. The coastal access duty arises under section 296 of the 2009 Act and requires NE and the Secretary of State to exercise their relevant functions to secure a route for the whole of the English coast which:
  - (a) consists of one or more long-distance routes along which the public are enabled to make recreational journeys on foot or by ferry, and
  - (b) (except for the extent that it is completed by ferry) passes over land which is accessible to the public.
8. The second objective is that, in association with the English coastal route ("the trail"), a margin of land along the length of the English coast is accessible to the public for the purposes of its enjoyment by them in conjunction with the coastal route or otherwise.
9. In discharging the coastal access duty there must be regard to:
  - (c) the safety and convenience of those using the trail,
  - (d) the desirability of that route adhering to the periphery of the coast and providing views of the sea, and
  - (e) the desirability of ensuring that so far as reasonably practicable interruptions to that route are kept to a minimum.
10. NE's Approved Scheme 2013<sup>1</sup> ("the Scheme") is the methodology for implementation of the England Coast Path and associated coastal margin. It forms the basis of the proposals of NE within the Report.
11. NE and the Secretary of State must aim to strike 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.
12. The objection has been made under paragraphs 3(3)(a) of Schedule 1A to the 1949 Act.
13. My role is to consider whether or not a fair balance has been struck by NE 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. I shall make a recommendation to the Secretary of State accordingly.

### **The Coastal Route**

14. The trail described in Chapter 1 of the Report runs from Ramsgate Pier to Whiteness. The proposed route mainly follows the coastline quite closely but in

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<sup>1</sup> Approved by the Secretary of State on 9 July 2013

limited areas an inland diversion is proposed to avoid excepted land. One such area is that at Kingsgate Castle where gardens extend to the cliff edge and the route is proposed to run alongside Joss Gap Road. Sections RGW-1-S019 and RGW-1-S026 of this area follow an existing walked route or highway but between these sections a new route is proposed.

15. Sections RGW-1-S023 and S024 are proposed to run through a triangular wooded area owned by Kingsgate Castle Residents Ltd which includes part of the historic drive to Kingsgate Castle.

### **The case for the objectors**

16. The objection states that the proposals in the Report do not strike a fair balance as a result of:
  - majority owners rejected proposals twice at general meetings
  - destruction of mature hedgerows, trees, natural habitats
  - risk of misuse of private land, littering, defacing, trespass
  - cost to Kingsgate Castle in policing, clearing rubbish on land
  - disruption to privacy of residents at Kingsgate Castle.

### **The response from NE**

17. There has been a long standing safety concern in this area as a currently promoted path and cycleway run along Joss Gap Road which is narrow and has no verges. It has not been possible to identify a satisfactory alternative off-road route to that proposed in this area.
18. One alternative alignment considered involved utilising an indirect existing walked route along the historic drive to Kingsgate Castle. This was opposed by residents who felt it would adversely affect their amenity and privacy.
19. NE and Kent County Council explored the possibility of using road calming to address safety issue and allow the trail to safely follow Joss Gap Road itself in this area. It was concluded that road calming measures were not an appropriate solution.
20. It is proposed that the trail will be fenced off from wooded areas reducing the likelihood of trespass. There is no reason to link managed public access of this kind to any form of anti-social behaviour.
21. With regard to the destruction of mature hedgerows, trees and natural habitats, this has been considered carefully as the area is a designated Local Wildlife Site (Golf Course Roughs, Kingsgate). The proposed alignment would involve the removal of some trees but this would be minimised where possible. The proposals have been discussed with the Kent Wildlife Trust who have raised no objection to the route although they wish to be involved in plans for the work.

### **Appraisal**

22. Efforts have been made to identify an alternative off-road route for the trail in this area but none has been found. In consequence the trail in this area must

either follow the alignment proposed in the Report or be routed along Joss Gap Road.

23. The highway authority, Kent County Council (KCC), was requested to consider whether a section of the road could be marked and signed so that vehicular traffic would be restricted to one-way on the eastern side allowing the western side to effectively become a shared use footpath and cycleway. In response KCC stated that traffic signals would be required in connection with any scheme to allow traffic prioritisation in this area and that as the road is unlit traffic calming would not be considered. It was also stated that a traffic light study would take around 6 months and cost around £9,000 and subsequent installation of traffic lights could cost a further £100,000. In the light of this information and the existing nature of Joss Gap Road in this area and consequent valid safety concerns, it would not be appropriate to recommend that the trail should run along the road. However, if the route is kept close to the road side with a maximum width of around 2.2m, as is currently proposed by NE, this will minimise intrusion into the land owned by Kingsgate Castle residents.
24. With regard to the loss of trees, NE has had further discussions with the Tree Officer of Thanet District Council. He stated that 2 holm oaks would need to be removed to accommodate the proposed trail in sections RGW-1-S023 and S024. However, these trees were said to be not worthy of a Tree Preservation Order as they are suppressed specimens growing next to larger trees and have signs of dead wood and decay. He also stated that other trees along the road comprise some hawthorn and in the main elm which are not in good health.
25. Overall, it is my view that NE has followed the key principles of alignment and management as set out in the approved scheme and has appropriately balanced the issues relating to the proposed route.

### **Conclusion and Recommendation**

26. Having regard to these and all other matters raised, I conclude that the proposals do not fail to strike a fair balance as a result of the matters within paragraphs 3(3)(a) of Schedule 1A to the 1949 Act. I therefore recommend that the Secretary of State makes a determination to this effect.

*Barney Grimshaw*

APPOINTED PERSON