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

**by Alison Lea MA (Cantab) Solicitor**

**an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs**

**Date 18 December 2019**

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Marine and Coastal Access Act 2009

Objection by [REDACTED]

Regarding Coastal Access Proposals by Natural England

Relating to Grain to Woolwich

File Ref: MCA/GWO5/0/1

**Objection Ref: MCA/GWO5/0/1**

**Darent Industrial Park Estate**

- On 5 June 2019, Natural England submitted reports to the Secretary of State setting out the proposals for improved access to the coast between Grain and Woolwich under section 51 of the National Parks and Access to the Countryside Act 1949 (the 1949 Act) pursuant to its duty under the Marine and Coastal Access Act 2009.
- An objection dated 15 June 2019 to Report GWO5, Dartford Marshes to Erith Saltings, has been made by [REDACTED]. The land in the report to which the objection relates is route sections GWO-5-S042 to GWO-5-S045 as shown on Map 5e.
- The objection is made under paragraphs 3(3)(a) and 3(3)(c) of Schedule 1A to the 1949 Act on the grounds that the proposal fails to strike a fair balance for the reasons set out in the objection.

Summary of Recommendation: I recommend that the Secretary of State makes a determination that the proposals set out in the report do not fail to strike a fair balance.

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**Procedural Matters**

1. On 5 June 2019 Natural England (NE) submitted reports to the Secretary of State setting out proposals for improved access to the coast between Grain and Woolwich. The period for making formal representations and objections to the reports closed on 31 July 2019.
2. There were 2 objections to report GWO5, Dartford Marshes to Erith Saltings, one of which was subsequently withdrawn. I determined objection reference MCA/GWO5/0/1 to be admissible and I have been appointed to report to the Secretary of State on that objection. Representations were also received from both objectors but they do not raise any additional matters.
3. I carried out a site inspection on 21 November 2019 accompanied by representatives from NE and the London Borough of Bexley.

**Main Issues**

4. The coastal access duty arises under section 296 of the Marine and Coastal Access Act 2009 (the 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.

5. 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. This is referred to as the coastal margin whilst the trail is the path corridor through the coastal margin. The trail is referred to as the England Coast Path.
6. Section 297 of the Act provides that in discharging the coastal access duty NE and the Secretary of State must have regard to:
  - (a) the safety and convenience of those using the trail,
  - (b) the desirability of that route adhering to the periphery of the coast and providing views of the sea, and
  - (c) the desirability of ensuring that so far as reasonably practicable interruptions to that route are kept to a minimum.
7. They must also 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.
8. Section 301 of the Act applies to river estuaries and states that NE may exercise its functions as if the references to the sea included the relevant upstream waters of a river.
9. 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.
- 10. My role is to consider whether or not a fair balance has been struck. I shall make a recommendation to the Secretary of State accordingly.**

### **The Coastal Route**

11. The trail would be located around the periphery of the Darent Industrial Park Estate (the Industrial Park). It would follow the route of an existing public footpath, which is also a nationally promoted cycleway (NCN1) and the promoted Thames Path Extension Route. The route provides good views of the estuaries of the River Darent and the River Thames. A long-term exclusion to the coastal margin is proposed on the basis that the land is unsuitable salt marsh and flats.

### **The Objection**

12. The objection is made on the basis that the route could invite unwelcome attention from persons with no interest in walking the coastal route. Fly tipping is already a considerable issue in the area and the coastal path could make the situation worse. The objection also expresses concern about the potential for the disturbance of wildlife, particularly in the breeding season, the trampling of vegetation and the potential impact on the flow of the ditches and dykes in the area which the Industrial Park relies upon for the escape of water.

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

## **The response by Natural England**

13. NE recognises that fly tipping is an issue in the area and that it is an anti-social activity. However, it is usually carried out by people using vehicles to deposit items adjacent to quiet and isolated roads such as those leading to the Industrial Park. Photographic evidence of tipping in such an area is provided. NE are not aware of any evidence where the use of existing promoted routes as the line of the England Coastal Path produces any significant effects on incidents of anti-social behaviour and it seems likely that the presence of law-abiding citizens may have some reducing effect on such behaviour.
14. The objection is not specific about which habitats and species may be disturbed or trampled. The habitats adjacent to the trail are not within a nationally designated wildlife site. However, the Tidal Thames and Crayford Marshes are both locally designated wildlife sites and include intertidal habitats and the seawall in this area.
15. The intertidal mudflat and saltmarsh within the Tidal Thames site is proposed to be excluded from any new coastal access rights, as it is not suitable for walking. The route itself is a well-maintained gravel footway which is a dual use cycle path and although there may be an increase in use, it is expected that the majority of long-distance walkers would be responsible and respectful of the local environment. It is unlikely that significant numbers of users will stray from the path to disturb or trample either of the local wildlife sites. The London Wildlife Trust has been consulted and did not raise any concerns.
16. There are no plans to install significant infrastructure in the area and the maintenance of the surfaced trail and its use is unlikely to impact on the potential flow of the local dykes/ditches. The objector may be referring to the fly-tipping in the ditches significantly inland from the seawall and the effect of that on drainage. However, it is not considered that the proposals will increase incidents of fly tipping.

## **Discussion and Conclusions**

17. At my site visit it was apparent that fly tipping is a considerable problem within the Industrial Park and I saw numerous locations where items had been tipped at the sides of roads and in ditches. I fully accept that the objector and others are concerned about anything which might make the situation worse. However, I did not see any fly tipping either along or to the sides of the existing gravel path which would become route sections GWO-5-S042 to GWO-5-S045. I agree with NE that fly tipping is much more likely to take place along the estate roads where vehicular access is easy. There is no legitimate vehicular access to the existing gravel path and this would not change if it became the coastal path. Furthermore, it appears that such access would be difficult to achieve.
18. With regard to any potential impact on wildlife, the proposed route is surfaced and clear to follow. It is already a public footpath which is also a cycle track and although use of the route may increase if it becomes part of the England Coastal Path, there is no reason to believe that users are likely to stray from the path and cause damage. It is proposed that access to the coastal margin be excluded.
19. It is unclear why it is considered that use of the coastal path could impact on drainage. I agree with NE that it appears likely that the concern relates

to fly tipping in ditches. This activity was apparent at my site visit. However, the affected ditches are a considerable distance from the proposed path.

20. The route, which is an existing public footpath and cycle track, closely follows the estuaries of the River Thames and River Darent and provides good views of them. No alternative route has been proposed. Although fly tipping is clearly a problem within the Industrial Park there is no reason to believe that the proposal would attract the attention of fly tippers or lead to an increase in fly tipping within the area in general. Similarly, there is nothing to suggest that the proposal would have an adverse impact on wildlife or vegetation or on drainage.

21. Taking all of these matters into account I do not consider that the proposals fail to strike a fair balance.

### **Recommendation**

**22. 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 raised in relation to the objection. I therefore recommend that the Secretary of State makes a determination to this effect.**

**Alison Lea**

**APPOINTED PERSON**