
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

Marine and Coastal Access Act 2009

Objections by [REDACTED] and [REDACTED]

Regarding Coastal Access Proposals by Natural England

Relating to Grain to Woolwich

File Refs: MCA/GWO4/0/1 and MCA/GWO4/0/2

Objection Refs: MCA/GW04/0/1 and MCA/GW04/0/2

Continuity Court, Greenhithe

- 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.
- Objections to Report GWO4, Botany Marshes to Dartford Marshes, were made by [REDACTED] on 15 July 2019 and by [REDACTED] on 26 July 2019. The land in the report to which the objections relate is route sections GWO-4-S032 and GWO-4-S033 as shown on Map 4c.
- The objections are made under paragraphs 3(3)(a), 3(3)(c) and 3(3)(f) 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.

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 3 objections to report GWO4, Dartford Marshes to Erith Saltings, two of which I determined to be admissible. I have been appointed to report to the Secretary of State on those objections. As they relate to the same land and raise the same issues, I shall deal with them both in this report. 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 from Kent County Council.

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 2013¹ (“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.**

1. The Coastal Route

11. The proposed route heads towards the riverside from the corner of Station Road and High Street into a residential development known as Continuity Court. It continues for a short distance adjacent to the riverside, from where there are good views of the River Thames, and then turns away from the river at North Star Boulevard towards a shopping area. The route includes a broad flight of steps. A legal agreement defines the area as a “Public Access Area” and provides that it shall be open to the public, on foot and in wheelchairs, between dawn and dusk, subject to the right of the owner to close it one day per year to prevent it from becoming public highway.

2. The Objections

12. Both objections state that the route would result in a loss of privacy to residents of some of the flats in Continuity Court as the route would be available for use 24 hours per day. [REDACTED] also objects on the basis that the route includes steps and states that, for this reason, it is not consistent with the requirements of the Equality Act 2010. They propose an

¹ Approved by the Secretary of State on 9 July 2013

alternative route which would continue along Station Road and around the border of Continuity Court, thereby avoiding the steps. In addition, they suggest that signs be installed to advise that a riverside walk is available for public access and that the through route to connect to the coastal path includes steps.

3. The response by Natural England

13. NE state that they would not expect a dramatic increase in use of the route through Continuity Court during the daytime, and only a negligible increase after dusk. They would also expect the great majority of long-distance walkers to be responsible and respectful of residents' privacy and suggest that walkers' attention is likely to be focussed on the views of the Thames.
14. NE state that they seek to balance the key criteria set out in the statutory criteria for establishing the trail, namely closeness to the sea (or estuary), sea views and safety and convenience. Where there is a choice of route options that meet the criteria they will generally favour the one that is accessible to the widest range of people or most easily adapted for that purpose. The proposals align the route adjacent to the riverside and through a publicly accessible pedestrian area. The alternative would be to direct everyone inland of the residential area with no views of the river.
15. As a result of discussion, NE propose to signpost an additional informal route for people with reduced mobility, along the route proposed [REDACTED]. As that route already has access rights it would not require any amendment to the proposals. It would however provide both the opportunity and necessary information for people to make a decision as to which route is appropriate to their abilities, while maximising access to the riverbank and views of the Thames.

4. Discussion and Conclusions

16. With regard to the potential impact on privacy I note that views into some of the flats may be possible from the route and also that some of the flats have balconies. However, the flats are set back some distance from the route and walkers would not pass in close proximity to any windows. Furthermore, the proposed route is already accessible to pedestrians between dawn and dusk under the terms of a legal agreement. Any increase in the number of pedestrians as a result of the route becoming the coastal path is unlikely to have a significant impact on the privacy of residents. Moreover, although the proposal would permit use after dusk, I consider that it is unlikely that many walkers would choose to walk the coastal path in the dark.
17. Given the presence of a flight of steps, the proposed route would not be accessible to all who may wish to use the coastal path. The alternative route proposed by the objector would be accessible to all but would take walkers away from the riverside and would not provide views of the estuary. NE have agreed that the objector's alternative route should be signposted, but that given that it is already publicly accessible, no amendment to the current proposal is required. I agree that such signposting would be desirable and would allow users of the path to make a choice about whether or not to use the steps.

18. The proposed trail adheres to the periphery of the coast and provides good views of the River Thames. In my opinion it would have little impact on the privacy of residents, particularly given that it is already accessible to pedestrians between dawn and dusk. Although not accessible to all, an alternative route along publicly accessible land can be signposted. Taking all of these matters into account I consider that the proposal does not fail to strike a fair balance.

Recommendation

19. 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