



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

by Mark Yates BA(Hons) MIPROW

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

Date

Marine and Coastal Access Act 2009

Objections from (1) [redacted], (2) [redacted] of Caley Partners (3) [redacted] of
Newton Farming Ltd (4) [redacted] of Yorkwold Pig Pro Ltd (5) [redacted] of R.H.
Leonard Ltd and (6) [redacted] and [redacted]

Regarding Coastal Access Proposals by Natural England

Relating to Easington to Filey Brigg

Site visits made on 9 and 10 October 2018

Ref: MCA/EFB/2-8

Objection Reference: MCA/EFB/2

Waxholme to Hornsea

- On 28 February 2018 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") 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").
- An objection to Chapter 2 of the Report, Waxholme to Hornsea, has been made by [redacted]. The land in the Report to which the objection relates is shown on map 2b.
- The objection is made under paragraphs 3(3)(a), (b) and (c) of Schedule 1A of the 1949 Act on the grounds that the proposals fail to strike a fair balance in such respects as are specified 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.

Objection Reference: MCA/EFB/3

Waxholme to Hornsea

- On 28 February 2018 NE submitted a Report to the Secretary of State under section 51 of the 1949 Act, pursuant to its duty under section 296(1) of the 2009 Act.
- An objection to Chapter 2 of the Report, Waxholme to Hornsea, has been made by [redacted] on behalf of Caley Partners. The land in the Report to which the objection relates is route sections EFB-2-SO34 to EFB-2-SO39 (shown on map 2g).
- The objection is made under paragraphs 3(3)(a), (c) and (d) of Schedule 1A of the 1949 Act on the grounds that the proposals fail to strike a fair balance in such respects as are specified 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.

Objection Reference: MCA/EFB/4

Waxholme to Hornsea

- On 28 February 2018 NE submitted a Report to the Secretary of State under section 51 of the 1949 Act, pursuant to its duty under section 296(1) of the 2009 Act.
- An objection to Chapter 2 of the Report, Waxholme to Hornsea, has been made by [redacted] of Newton Farming Ltd. The land in the Report to which the objection relates is route sections EFB-2-SO36 to EFB-2-SO37 (shown on map 2g).
- The objection is made under paragraph 3(3)(a) of Schedule 1A of the 1949 Act on the grounds that the proposals fail to strike a fair balance in such respects as are specified 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.

Objection Reference: MCA/EFB/5

Waxholme to Hornsea

- On 28 February 2018 NE submitted a Report to the Secretary of State under section 51 of the 1949 Act, pursuant to its duty under section 296(1) of the 2009 Act.
- An objection to Chapter 2 of the Report, Waxholme to Hornsea, has been made by [redacted] of Yorkwold Pig Pro Ltd. The land in the Report to which the objection relates is route sections EFB-2-SO50 to EFB-2-SO51 (shown on map 2i).
- The objection is made under paragraph 3(3)(a) of Schedule 1A of the 1949 Act on the grounds that the proposals fail to strike a fair balance in such respects as are specified 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.

Objection Reference: MCA/EFB/6-7

Waxholme to Hornsea

- On 28 February 2018 NE submitted a Report to the Secretary of State under section 51 of the 1949 Act, pursuant to its duty under section 296(1) of the 2009 Act.
- Objections to Chapter 2 of the Report, Waxholme to Hornsea, have been made by [redacted] of R.H. Leonard Ltd. The land in the Report to which the objections relate is route sections EFB-2-SO50 to EFB-2-SO51 and the route shown on maps 2j and 2k.
- The objections are made under paragraph 3(3)(a) of Schedule 1A of the 1949 Act on the grounds that the proposals fail to strike a fair balance in such respects as are specified in the objections.

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.

Objections Reference: MCA/EFB/8

Waxholme to Hornsea

- On 28 February 2018 NE submitted a Report to the Secretary of State under section 51 of the 1949 Act, pursuant to its duty under section 296(1) of the 2009 Act.
- An objection to Chapter 2 of the Report, Waxholme to Hornsea, has been made by [redacted] and [redacted]. The land in the Report to which the objection relates is route sections EFB-2-SO66 to EFB-2-SO68 (shown on map 2l).
- The objection is made under paragraphs 3(3)(a) (b) and (c) of Schedule 1A of the 1949 Act on the grounds that the proposals fail to strike a fair balance in such respects as are specified in the objection.

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

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Procedural and Preliminary Matters

1. I have been appointed to report to the Secretary of State on objections made to the Report. This report includes the gist of the submissions made by the objectors, the responses of NE and my conclusions and recommendation. Numbers in square brackets refer to paragraphs contained in this report.

Objections considered in this report

2. On 28 February 2018 NE submitted the Report to the Secretary of State, setting out the proposals for improved access to the Yorkshire Coast between Easington and Filey Brigg. The period for making formal representations and objections to the Report closed on 25 April 2018.
3. Objections were received to the Report which I deemed to be admissible. This report considers the objections made in relation to Chapter 2 of the Report. I have dealt with the objections to the other chapters in separate reports to the Secretary of State. In making my recommendation in each report, I have had regard to the representations made to the Report. NE has proposed modifications to Chapter 2 of the Report to address minor errors highlighted by the East Riding of Yorkshire Council. The representation by [redacted] is supportive of the objections made by [redacted] and [redacted].

Site visits

4. I carried out site inspections on 9 and 10 October 2018 when I was accompanied by the objectors and representatives of NE and the East Riding of Yorkshire Council.

Main Issues

5. 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.
6. 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.
7. In discharging the coastal access duty there must be 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.

8. 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.
9. 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.
10. The objections have been made under paragraph 3(3)(a), (b), (c) and (d) of Schedule 1A to the 1949 Act.
11. 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 Cases for the Objectors

[Redacted]

12. He was under the impression when meeting with NE that the landowners would be involved with the decision if rollback is required. However, he has subsequently found that this is not the case. It appears that this is also the case with other landowners. He has questioned the difficulty of implementing the proposed path.
13. The Scheme is designed for a coast that has a rather slower rate of erosion than this section, which is acknowledged as the fastest eroding coast in Europe. He is concerned about who is responsible for the safety of walkers and points to the increased insurance risk.
14. The landowner is aware there is a risk but NE suggests it is a safe route. Therefore, the onus for checking and ensuring it is will lie with the landowner. The situation will need to be checked daily due to the speed of change.
15. The consultant who assessed the risk had difficulty in quantifying the risk and came up with a broad brush; almost meaningless approach, in an attempt to produce a risk profile. They constantly refer to needing more data. The suggestion that the path is no closer than 4 metres from the cliff means that 8 metres is required for the path. The consultant does not know the coast and it is not unusual for the land to open up 12 metres inland.
16. He questions how an angler is to know if they intend to fish from the cliff tops whether the rights described apply to that piece of land. NE has suggested signs to state which sections can be fished legally. However, there is nothing in the Report regarding this matter and the public may be unwittingly breaking the law.
17. Land will also be lost by people taking a diagonal route to reach bridges. Large corners of fields will be lost by people trampling over crops. He suggests that the ditch on his land is potted and covered with earth to make a good walking surface. This would be cheaper than building a bridge and the crossing could be moved inland as erosion occurs.

¹ Approved by the Secretary of State on 9 July 2013

18. Route section EFB-2-SO06 is described as tarmac but it is now impassable as it has gone into the sea. The rollback option would take it into the curtilage of a caravan park and the gardens of residential caravans. The closest route available is the footpath through the caravan park which exits on Kilnhouse Lane. Further, the planned route goes a fair way inland on a non-intuitive route. It makes sense to use the existing footpath at the end of Kilnhouse Lane, or through Tunstall village, back from this point to join Rectory Road and then to the cliff. This route would have a long life, become established and recognised whilst still retaining the sea views.

[Redacted]

19. The proposals are not a coastal path as they deviate from the cliff edge. The neighbouring farmer to the north is quite prepared to accept the path. To the south of their land is space for the path to follow the cliff. The effect of all this will be to create two rights of way on their land, which together with the 24 metres setback, means that they are losing a considerable amount of land.
20. There will be even more problems with people parking. This is a single track public road laid on their land and there have been problems in the past in moving farm equipment due to parked cars. Therefore, they created a car park for which there was a small charge to clear rubbish left by the public.
21. There is no reason why there should not be a coastal footpath totally along this stretch of land. The alternative is likely to lead to chaos with a huge increase in traffic using the poor quality road with no turning places because this plan would create three rights of way to the cliff and their ramp.

[Redacted]

22. Whilst agreeing with the proposal, all liabilities for the new path should remain with the proposers of the route.
23. There is no formal parking area on East Newton Road which leads to lorries trying to turn into house entrances and causing damage. He is concerned about visiting traffic and the proposed buses the route will bring. The adopted highway is already in an atrocious state.
24. The proposal will lead to a 4 metres wide path located 24 metres away from the cliff. Walkers will walk along the cliff because they want to see the beach. Therefore, the path should be as near to the cliff as practicable and 5-6 metres from the cliff would be acceptable.
25. The route as proposed creates three new rights of access to the coastal path. There is already managed access to the beach which has been provided at their expense.
26. Previous parking at East Newton has closed because residents did not want the intrusion and waste. Parking requires active management and there are no proposals for this in the coastal path consultation.
27. Not all landowners at East Newton were consulted despite these contact details being supplied.
28. Reference is made to the alignment of the path in respect of other landholdings and discussions regarding its route. It is submitted that an alternative alignment

could be pursued to the north and south of their land. Agreement has been reached with the owners of land to the north of route section EFB-2-SO37 for the route to continue along the cliff which is well walked. The owner of Cliff Farm does not agree to a diversion onto his land.

[Redacted]

29. The proposed route runs against the boundary/perimeter of their Cowden Parva pig unit and they object to the route passing close to the unit. This is a biosecurity issue for them as the health of the animals is of paramount importance. They try to keep animals and people away from the pig unit as much as possible. Therefore, to encourage people to walk alongside the unit is a major concern for them.
30. A modification is suggested which takes the route away from the pig unit. This would require a footbridge over the small dyke.

[Redacted]

31. He objects to route sections EFB-2-SO50 to EFB-2-SO51 as they pass close to Cowden Parva House. It is suggested that the route is placed on an alternative route away from the pig unit and house which would be more enjoyable for walkers.
32. The proposed route shown on maps 2j and 2k should return to the coast and be sited well away from the main road after leaving the Cowden range area. He suggests that an alternative alignment is adopted.

[Redacted] and [redacted]

33. They own 2.5 acres of land crossed by the proposed path. Horses are kept on the land and they run a business from the outbuildings and yard that adjoin the field. They want the path to be re-directed along Green Lane and the B1242 Road into Mappleton to meet the inland part of the original route.
34. They have safety concerns for walkers and their family and horses. The cliff has seriously eroded since the last visit by NE and in many places the original boundary fence has collapsed into the sea. They consider that there is an imminent risk of a further collapse which could lead to serious or fatal injury. A second fence erected some 4 metres from the cliff edge created a walkway, but it is no longer safe to take the horses along it due to the condition of the cliff edge.
35. The access from the stable area to the field would cross the coastal path creating a critical control point. To keep the horses away from the cliff edge they need to have a barrier across this route. Should a walker leave any form of barrier open there would be a risk of horses straying close to or over the cliff edge.
36. In respect of the section of path across the driveway at EFB-2-SO66, this driveway is in constant use with deliveries and occasional HGVs, as well as for access by staff members and visitors.
37. They are concerned about the safety and security of their children given that the proposed path will allow people to walk through the exercise area and past the stables and paddock area. This would change and restrict the way that they use their land. Further, the public will be in close proximity to the storage areas for

their equestrian equipment and business, the car park and staff amenities. The staff room entrance will be 3 metres from the path and all other areas will be visible from the path. They will need to install and implement extra security at their own cost.

38. There is also the risk that any gates or fences left open or damaged could cause animals that have been quarantined for any reason to mingle with the rest of the herd.

The Responses from NE

Response to the objection from [redacted]

39. NE understands that [redacted] only has a relevant interest in the land crossed by route sections EFB-2-SO11 to ESB-2-SO13. However, he raises some general points regarding the coastal access proposals. In terms of the concerns about safety and liability, it is considered that the proposals meet the criteria in sections 4.2.1 and 4.2.2 of the Scheme.
40. However, during the preparatory work it became clear that the unusually rapid rate of erosion could present an increased risk to users of the proposed route along the cliff top. Expert advice was obtained and this was published along with the coastal access proposals. Whilst the situation is complicated and the data is insufficient to provide certainty, the local authority and NE agreed that no part of the route should lie within 4 metres of the cliff top, as it appeared that the risk diminished significantly inland of that point.
41. The position in respect of fishing is addressed in section 2.4.7 of the Scheme. NE would be happy to discuss any potential signage with [redacted]. They also recognise that there is concern that people may cut corners when crossing bridges set inland from the cliff top. NE would be prepared to erect signage asking people to follow the route of the trail.
42. NE and the access authority are mindful of providing a high standard of experience on a national trail. Having regard to the public purse, the bridge in question is proposed to be set back in order to allow an estimated twenty years of life before requiring relocation as the cliff erodes further.
43. The alternative route suggested by [redacted] runs contrary to the principle in section 4.5.1 of the scheme regarding the proximity of the route to the sea. NE disagrees with the route suggested by [redacted].

Responses to the objections from [redacted] and [redacted]

44. It should be noted that they only have a relevant interest in route sections EFB-2-SO36 and EFB-2-SO37, which cross the fields close to the sea in line with the principles in section 4.5.1 of the Scheme.
45. The route to the north and south of their land takes an inland detour around coastal properties where a judgement had to be made regarding the route passing between properties and the rapidly eroding cliffs. However, in respect of sections EFB-2-SO36 and EFB-2-SO37, the properties are significantly further inland and a route close to the cliff top, set back a safe distance, was deemed appropriate.

46. Concerns about car parking, the nature of the road and litter have been forwarded to the East Riding of Yorkshire Council but they are beyond the scope of the legislation.
47. The reference to the route being set back 24 metres appears to be a misunderstanding as the proposed route lies 4-8 metres inland from the cliff top (a centre line of 6 metres). Any resultant managed path may in fact have a narrower footprint.
48. They suggest that the route should stay on the cliff and this is the case where it passes through their land. No objection has been made by the owners or occupiers of the land to the north and south of their land and NE maintains that a fair balance is struck with the route proposed in this area.
49. The alternative route suggested by [redacted] between EFB-2-SO31 and EFB-2-SO38 lies mainly on land where he does not have a relevant interest. As outlined above, the section within their ownership proceeds over the cliffs rather than along the adopted highway, as suggested by [redacted]. The proposed route in this locality is consistent with section 4.5.1 of the Scheme. NE maintains that the route will have minimal impact on their business as the route crosses largely uncultivated margins around the field.

Response to the objection from [redacted]

50. [Redacted] has not previously raised concerns regarding biosecurity and appeared unconcerned at the development stage of the proposals.
51. Following receipt of the objection, NE sought advice from its biosecurity team and the Animal and Plant Health Agency. Neither expressed concerns about the proposed route. A representative from the biosecurity team stated that it was considered to be a low risk in terms of the spread of animal disease. There would be no direct contact between the public and the animals or any access to the facilities.
52. The suggested modified route would proceed through RAF Cowden which is subject to Military Bylaws. This modified route would therefore pass through excepted land, something that is not possible without a dedication by the landowner. The landowner, the Ministry of Defence ("MOD") is not willing to allow further requests for access at this site.

Responses to the objections from [redacted]

53. [Redacted] does not make clear his concerns regarding the objection to the proximity of route sections EFB-2-SO50 to EFB-2-SO51 to Cowden Parva House or the pig unit. It is assumed that these centre upon privacy. The route passes close to the pig unit and then further north within 30 – 40 metres of Cowden Parva House, within a fenced corridor of land dedicated through the RAF Cowden site. The pig unit appears to be closed off to the public and they have been assured that there is minimal risk to livestock by virtue of the public having access to this fenced corridor.
54. Given that the land to the east of the house, aside from the dedicated fenced corridor, is excepted land the only other options involved an alignment to the west of the house. This would involve either crossing the front entrance to the house, or crossing the busy road and creating a new path on the farmland to the

west. In the circumstances, NE considers that it has struck the balance the legislation requires. The proposed alternative route would pass through the site of RAF Cowden.

55. In terms of the second objection, NE asserts that most of the relevant part of the proposed route does not cross land that is owned or occupied by [redacted]. The exception is route section EFB-2-SO53.
56. NE would normally propose that the route follows an alignment close to the sea. However, a number of factors in this area have sometimes meant that the proposed route lies some way inland in this area, including route section EFB-2-SO53. The land immediately to the east of EFB-2-SO53 is subject to Military Bylaws and is excepted land. The MOD has made it clear that it is not willing to allow further requests for access at this site.
57. Section 8.22.5 of the Scheme states that, "*There will be places where for defence reasons a significant detour inland would be necessary to enable continuous access along the coast*". NE maintains that this is the case with [redacted] land.

Response to the objection from [redacted] and [redacted]

58. NE suggests that the objectors do not have an interest in sections EFB-2-SO66 and EFB-2-SO67, which form part of the road verge, and that only section EFB-2-SO68 lies within their ownership.
59. During the preparatory work it became clear that the unusually rapid rate of erosion could present an increased risk to users of the proposed route along the cliff top. Expert advice was obtained and this was published along with the coastal access proposals. Whilst the situation is complicated and the data is insufficient to provide certainty, the local authority and NE agreed that no part of the route should lie within 4 metres of the cliff top, as it appeared that the risk diminished significantly inland of that point.
60. NE maintains that there is an issue in terms of erosion, as described in section 4.10.1 of the Scheme, and this is supported by evidence supplied by the objectors. Therefore the principle of rollback has been proposed.
61. In terms of the safety of horses, it may be possible to install some infrastructure such as self-closing gates to minimise the risk. NE would also be prepared to erect appropriate signage should this be desired.
62. As highlighted in section 8.3.1 of the Scheme there is a widespread public access over land grazed by horses. Section 8.3.2 specifies that any building used to house horses will be exempted from public access. This in practice means no new access rights will be created in or around the buildings on site. Any possible problems regarding security would most likely involve a breach of the criminal law. Again additional signage could be erected.
63. Signage could also be erected for walkers and drivers in relation to the drive. The proposed modified route would still cross the drive and would include a much longer section of road where users and vehicles will be in close proximity, either on a narrow verge, or via two road crossings. Safety was a deciding factor in not proposing this route.

64. The proposed alternative route would involve either creating an alignment along a narrow verge adjacent to a busy road, or the creation of a crossing and re-crossing of this road to access a wider verge on the western side. Further, in order to make this route safe, there would be a significant cost involved in creating a surfaced path, the possible moving of fences and/or the creation of two safe road crossings.

Conclusions

Objection from [redacted]

65. Route sections EFB-2-SO11 to EFB-2-SO13 proceed over land owned by [redacted] and comprise of proposed new sections of path that are set back from the cliff edge with EFB-2-SO13 turning to meet the site of a proposed bridge.
66. Whilst NE accepts that there is a lack of certainty regarding the data obtained on erosion [40], [redacted] acknowledges that the coast in this locality is eroding at a rapid rate [13]. It would therefore seem reasonable for the initial route of the coastal path to be set back from the cliff edge. There is clearly a need for the rollback principal to apply in this case.
67. In terms of liability, sections 4.2.1 and 4.2.2 of the Scheme firmly place responsibility on users of the path [39]. NE has agreed to discuss the potential for signage to be erected [41] to address the point made by [redacted] concerning where people may fish from the cliffs [16].
68. NE accepts that there is a risk that people may cut across the corners of fields to reach bridges. In my view, this is most likely to occur at times when no crops are planted or before they are established. People may at other times walk around crops. NE has proposed signage to ask people to stay to the route of the trail [41]. Clearly, adequate waymarking at particular locations should be employed to encourage walkers not to stray onto the crops. Although there could be some merit in the route following a straighter alignment [17], the provision of the bridge further inland arises from the issue of erosion [42].
69. The alternative route suggested by [redacted] [18] would involve a significant detour inland and NE points to the principal of the route following the coast where possible [43]. In terms of route section EFB-2-SO06, this lies away from [redacted] land and would be a matter for NE and the local authority to consider.
70. The route proposed does not in my view fail to strike a fair balance as a result of the matters raised in relation to the objection.

Objections from [redacted] and [redacted]

71. Route section EFB-2-SO36 follows the margin of the field and section EFB-2-SO37 continues within agricultural land 4 metres from the edge of the cliff before turning generally westwards along the edge of the field. Although the position was queried on the site visit, NE has confirmed that route section EFB-2-SO37 is located on land belonging to [redacted]. As outlined by NE [47], it would not be 24 metres from the edge [19 and 24] and appears to be more in line with the objection by [redacted] [24].
72. No representation has been provided in support of the route continuing on the adjacent landholdings to the north and south [19 and 28]. NE does not consider

that the route should continue over the alternative route due to the position of the properties and the eroding cliff [45]. Nor has NE accepted or denied that any of the landowners affected by the proposed route were not consulted [27]. However, the Secretary of State may wish to seek assurances on the latter point before making a decision on the Report.

73. There may well be a problem with people such as fisherman parking in the area but there is nothing to suggest that the coastal path would lead to the alleged significant increase in parked vehicles [20], traffic [21] or buses using the road [23]. The car park mentioned by these objectors [20 and 26] has now been closed. Nonetheless, as NE states such matters are beyond the scope of the legislation [46]. The same would apply to incidents of crime and anti-social behaviour². Further, the presence of any additional means of access over the land to the coastal path are not a matter to be determined as part of this process.
74. Given the position of route sections EFB-2-SO36 and EFB-2-SO37 in respect of the land owned by [redacted], I do not find that the route would have a significant impact on their land.

Objections from [redacted] and [redacted]

75. The proposed route section EFB-2-5050 going northwards would comprise of a fenced corridor on MOD land and pass to the east of the pig unit [53]. My observations of the site indicate that the route would not have a direct impact on the pig unit and the advice obtained by NE [51] indicates that there would be a low risk for the spread of animal disease. In terms of section EFB-2-SO51 [31], this appeared to me to be some distance from Cowden Parva House.
76. It is also apparent that the alternative routes suggested by [redacted] and [redacted] [30-32] would proceed over land owned by the MOD [52]. This is excepted land and the MOD are not willing to allow any further access in this locality [52]. NE also points to the problems associated with the route following an alignment to the west of Cowden Parva House [54], which would be located further away from the coast.
77. It appears to me that the proposed route offers a fair balance between the parties given the circumstances.

Objections from [redacted] and [redacted]

78. It was apparent during the site visit that there had been changes to the site since the land was originally inspected by NE. Following the accompanied site visit, NE entered into further discussions with the objectors and proposes that the trail no longer follows the original route sections EFB-2-SO68 and EFB-2-SO69. It is now proposed that the trail continues northwards along the western edge of the land owned by the objectors and then eastwards over the existing public right of way to re-join the original route at EFB-2-SO70.
79. Bearing in mind the proximity of the original route to the cliff edge, the revised route would offer a more suitable route for the public and address particular concerns of the objectors [34 and 35]. The path would still proceed through

² Mentioned in other representations made by members of the [redacted] family

paddocks containing horses but I agree that this is a frequent occurrence [62] and there is the potential for self-closing gates to be installed [61]. Alternatively, the objectors could separate the path from the other parts of their land.

80. In terms of the alternative route originally proposed by the objectors [33], I agree with NE [63 and 64] that it does not provide a safe or convenient route given that it would involve crossing and walking immediately adjacent to the B1242 Road where it enters Mappleton. The new route put forward would be a more suitable alternative.
81. The buildings [37] are located off the original route and would be situated further away from the revised route proposed by NE. From my observations of the site I did not find the driveway [36] to pose a particular problem. It is a common occurrence and would impact on the alternative route [63] and also the revised route promoted by NE.
82. The changes that have occurred in the area and some of the points made by the objectors raise concerns about the route proceeding over the alignment originally included in the Report. I also do not view the alternative route proposed by the objectors to be appropriate. However, the modified route put forward by NE would strike a fair balance between the respective parties. I therefore recommend that this route is adopted for the trail. If the Secretary of State is minded to accept this recommendation, he would need to be satisfied that there are no procedural issues arising from such a change being made to the route of the trail. I note that NE has formulated the revised route following discussions with the objectors but I am unsure about the position regarding the section over the existing public right of way.

Other Matters

83. The East Riding of Yorkshire and Kingston upon Hull Joint Local Access Forum requests that particular route sections are upgraded to bridleway status for the safety of cyclists and horse riders. Further support on this issue is found in the representations from the British Horse Society and the Aldbrough Women's Institute. The Access Forum and [redacted] also express concerns about maintenance funding for the trail and anti-social behaviour.
84. Whilst the Secretary of State may wish to note the contents of the representations, he will be aware that the issue to be determined is whether the proposals strike a fair balance between the interests of the public in having rights of access on foot over land and the interests of any person with a relevant interest in the land. The issues raised are not matters for consideration by the Secretary of State in respect of the determination.

Recommendations

85. 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 objections. I therefore recommend that the Secretary of State makes a determination to this effect.

Mark Yates

APPOINTED PERSON