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# 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

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Marine and Coastal Access Act 2009  
Objection outstanding from [redacted] of Mr Moos  
Regarding Coastal Access Proposals by Natural England  
Relating to Easington to Filey Brigg

Site visit made on 9 October 2018

Ref: MCA/EFB/9-10

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**Objection Reference: MCA/EFB/9  
Hornsea to Wilsthorpe**

- 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 3 of the Report, Hornsea to Wilsthorpe, has been made by [redacted] of Mr Moos. The land in the Report to which the objection relates is route section EFB-2-SO24 (shown on map 3f).
- 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.

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**Procedural and Preliminary Matters**

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

***Objection 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. Following the site visit, one of the objectors ([redacted]<sup>1</sup>) withdrew his objection. I therefore see no need to address the withdrawn objection and this report considers the remaining objection to Chapter 3 of the Report. I have dealt with the objections to the other chapters in separate reports to the Secretary of State.
4. In making my recommendation in each report, I have had regard to the representations made to the Report. NE has proposed modifications to Chapter 3 of the Report to address minor errors highlighted by the East Riding of Yorkshire Council. It also agrees with the provision of a gate for route section EFB-3-SO36 in response to the representation from the Ulrome Seaside Caravan Co Ltd.

***Site visit***

5. I carried out a site inspection on 9 October 2018 when I was accompanied by representatives of NE, the East Riding of Yorkshire Council and the original objectors.

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<sup>1</sup> Objection ref: MCA/EFB/10

## **Main Issues**

6. 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.
7. 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.
8. 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.
9. NE's Approved Scheme 2013<sup>2</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. 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.
11. The objection has been made under paragraph 3(3)(a) of Schedule 1A to the 1949 Act.
12. 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**

13. The objection relates to a proposed bridge over the drain at route section EFB-3-SO24.

## **The Case for [redacted]**

14. An alternative crossing point over the dyke already exists. There is no need for a bridge that children could play on and disturb water voles. The private footpath for Mr Moos' customers is a much used path by families and a bridge over a deep dyke is a magnet for children to play on.

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<sup>2</sup> Approved by the Secretary of State on 9 July 2013

### **Response from NE**

15. NE maintains that the proposed bridge will not affect [redacted] ability to conduct his business since it is close to an existing well-used track on a route down to the beach at Withow Gap. The decision to erect a footbridge was taken at the request of the local authority as they were concerned about erosion rates and the sustainability of the existing structure. The siting of the new bridge further inland should mean that it has a significantly longer lifespan.
16. Advice from the officer responsible for the site of special scientific interest at Withow Gap outlines that it is not believed that there is a case for the disturbance of water voles arising out of recreational use. However, if a bridge or other structure is to be constructed, there is a responsibility to survey for water voles and there are potentially issues for licensing and mitigation.
17. The Access and Sensitive Features Appraisal, published at the same time as the Report, concludes that there will be no likely significant effect on the features of the site resulting from the proposals.

### **Conclusions**

18. The proposed route section EFB-3-SO24 proceeds over a short section of permissive path. Nothing has been provided to indicate that the erection of a bridge will pose a risk for children when set against the existing features in this locality. The decision to erect the footbridge was taken due to the risk of erosion in the area [15].
19. [Redacted] concerns regarding the potential disturbance of water voles [14] have to be set against the expert advice obtained by NE [16]. Whilst there is presently no reason to take the view that the proposed route over the bridge would have an adverse impact on water voles, clearly the advice obtained outlines that a survey should be undertaken and there are potential issues to be resolved [16].
20. In light of the above, it would seem appropriate should the Secretary of State be minded to approve the Report for the route at this location to be implemented only after the site is surveyed and subject to any required license being obtained and the implementation of any mitigation measures considered necessary.

### **Other Matters**

21. The East Riding of Yorkshire and Kingston upon Hull joint Local Access Forum expresses concern about maintenance funding for the trail. In addition, various concerns about the implementation of the trail are raised by the Glendon Estates. 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 particular rights of access over land and the interests of any person with a relevant interest in the land.

### **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. Subject to the matters highlighted [20], I recommend that the Secretary of State makes a determination to this effect.

*Mark Yates*

**APPOINTED PERSON**