



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

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

Date 23 April 2020

MARINE AND COASTAL ACCESS ACT 2009

Objection by [REDACTED]

Regarding Coastal Access proposals by Natural England

Regarding east Head to Shoreham by Sea

Site visit made on 31 October 2019

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Objection Ref: MCA/ East Head to Shoreham by Sea/42 Western Half of Climping Sand Dunes

- On 27 September 2017, Natural England ('NE') submitted a Coastal Access Report ('the CA 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') setting out the proposals for improved access to the coast between East Head and Shoreham by Sea pursuant to its duty under section 296(1) of the Marine and Coastal Access Act 2009 ('the 2009 Act').
- An objection dated 20 November 2017 to Chapter 4 of the Report, Poole Place to Littlehampton Harbour, has been made by [REDACTED]. The land in this Report to which the objection relates is route section EHS-4-S013 to EHS-4-S014.
- The objection is made under paragraphs 3(3) (e) of Schedule 1A to 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: That the proposals set out in the CA Report do not fail to strike a fair balance.

Procedural and Preliminary Matters

1. I have been appointed to report to the Secretary of State on objections made to the CA Report. This report includes the gist of submissions made by the objector, the gist of the responses made by NE and my conclusions and recommendation.

Objection considered in this report

2. On 27 September 2017 NE submitted the CA Report to the Secretary of State, setting out the proposals for improved access to the Sussex coast between East Head and Shoreham by Sea. The period for making formal representations or objections to the CA Report closed on 22 November 2017.
3. Forty-four objections were received to the CA Report which I deemed to be admissible. The objections considered in this report relate to land between Poole Place to Littlehampton Harbour (Chapter 4 of the CA Report) and specifically to land at Climping Sand Dunes between Atherington and the car park at West Beach, Littlehampton (map 4b EHS-4-S013 to EHS-4-S104). The objection relates to areas of affected land which form part of

the sand dunes at Climping. The extant objections to other Chapters of the CA Report will be considered in separate reports.

4. In addition to the objections, a total of thirty representations were made in relation to the CA Report. None of the representations related to the section of the English Coast Path ('the trail') to which this report relates.

Site visit

5. I carried out thirteen separate site inspections in relation to the objections raised to the CA Report over three days from Tuesday 29 October 2019 to Thursday 31 October 2019. I undertook an inspection of the land subject to the objection on Thursday 31 October 2019; the objector did not attend the site visit, nor was he represented. I conducted the site visit in the company of the representatives of NE.

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 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 trail or otherwise.
8. In discharging the coastal access duty there must be a 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 ('the Scheme') is the methodology for implementation of the trail and associated coastal margin. It forms the basis of the proposals of NE within the CA 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 to Chapter 4 of the CA Report considered below has been made under paragraphs 3 (3) (e) of Schedule 1A to the 1949 Act.
12. My role is to consider whether 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 trail, subject to Chapter 4 of the CA Report, runs from a point on the beach or foreshore at Poole Place (grid reference 499448 100300) to Littlehampton Harbour (grid reference 502187 102132) as shown on maps 4a and 4b (points EHS-4-S001 to EHS-4-S029RD). The trail follows existing walked routes, including public rights of way along most of its length and in the main follows the coastline quite closely and maintains good views of the sea. The trail is aligned along the edge of an arable field to the east of Poole Place (EHS-4-S004) as due to erosion the existing public right of way is now upon the beach and is inaccessible at high tide. This section of the trail will roll back. The trail is generally aligned on the beach or foreshore along an existing public right of way between Poole Place and the beach south of The Mill.
14. The section of the trail subject to the objection is the section of the proposed trail at West Beach where it is proposed to route the trail along the beach with the extent of the landward coastal margin being indicated by the fence between the dunes and the golf course.

The case for the objector

15. The sand dunes were fenced following the introduction of sand lizards by English Nature, a project carried out in partnership with Arun District Council. Removing the fencing to allow access to the dunes will disturb the habitat of this protected species.
16. The inference to be drawn from the inclusion of the dunes as coastal margin is that this fenced off land will immediately become publicly accessible. All land within the SSSI dune system should be removed from being designated as spreading room.

The response by Natural England

General comments

17. NE maintains that in relation to the proposed route of the trail it has followed the key principles of alignment and management as set out in the approved Scheme. Particularly relevant are the principles of the Scheme regarding (a) the default landward margin of the trail that the trail where certain specific coastal land types will be included automatically in the coastal margin (section 4.8.8); (b) the discretion available to NE to propose that the landward boundary of the coastal margin should align with a recognisable physical feature (section 4.8.11); (c) that all sand dunes will normally be included as spreading room whether seaward or landward of the trail (section 4.8), unless they are excepted land or subject to long term exclusions (section 7.10.6) and (d) that trampling can be best avoided through sensitive alignment in conjunction with informal management techniques (section 7.10.11).
18. In discharging the coastal access duty, Section 297 of the 2009 Act requires the decision maker to aim to strike a fair balance between the

occupier's interests and the public's interests in having access rights over the land. NE are of the view that the appropriate balance is struck by its proposals.

Comments on the objection

19. NE has confirmed that the proposals do not include any plans to remove the fencing already in place between the beach and the dune system. This was confirmed to the objector in writing on 28 November 2017. Section 4.8 of the Scheme states "All dunes will normally be included as spreading room whether seaward or landward of the trail unless they are excepted land or subject to long-term local exclusions. Dunes are generally unlikely to be excepted land unless they form part of the playing area of a golf course or are subject to military byelaws". The dunes at Climping do not fall into any of the land types or land uses which may be regarded as excluded land. They have therefore been included automatically as landward coastal margin as they are a default land type under the Scheme.
20. The fence line along the boundary of the golf course provides the clearest boundary on the ground to mark the extent of the coastal access rights. Including the whole of the dune system as landward margin secures and enhances public enjoyment of the coast by providing additional areas to explore or places to rest, picnic or shelter from the elements.
21. The Access and Sensitive Features Appraisal did not conclude that it was necessary to make a section 26 nature conservation direction to exclude the dunes from landward coastal margin. Concern over potential trampling of the dunes has been addressed by aligning the trail on the beach where people already walk. Public access through the dunes is encouraged by the stepped access already present and the public already access the dunes at various points.
22. The fencing erected as part of the reintroduction of sand lizards works well to encourage people not to enter the most sensitive parts of the dunes, but there is ample evidence on the ground of access through the dunes. Such access will not be encouraged by the trail as it will run outside the dunes on the beach.
23. Arun District Council, the owner of the dunes adjacent to [REDACTED] land did not raise any issues or concerns over the proposal to include the dunes as landward coastal margin. The management plan for the West Beach LNR makes provision for sections of fencing to be removed if the vegetation on the dunes is considered to be too dense.
24. Sand Lizards were introduced into the LNR (outside of the objector's land) and informal management of the LNR by way of fencing restricts access and keeps dogs out of the most sensitive areas. NE consider that these measures will provide effective management without the need for a formal direction to restrict access. NE does not agree that the exclusion of the dunes from the coastal margin is required.

Conclusions

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25. The route proposed by NE would discharge the coastal access duty in that it would provide a route which is at the periphery of the coast, would provide sea views and is convenient and safe for the public to use. The trail would follow the beach on the seaward side of the dunes and would follow an already established route over Climping Sands.
 26. It was evident from my site visit that the public already enjoys both formal and informal access to the dunes. The dunes to the north of sections EHS-4-S013 and EHS-4-S014 are unfenced or are unprotected by the remnants of fencing which may have once enclosed them, and there is evidence of many informal routes leading across and through the dunes present on site. This informal access is predominantly to be found within the dune system to the north of the sections of the trail which the objector is concerned with.
 27. Within that section of the dunes to the north of EHS-4-S015 which I understand to be in the ownership of Arun District Council, informal access through the dunes is less evident although there is stepped access through the dunes on a formal path which runs from the West Beach Car Park alongside Littlehampton Old Fort and onto the beach. The area of dunes to the south east of this stepped access is fenced as part of the sand lizard reintroduction scheme. Although this part of the dunes would become coastal margin by default, the current management of the site suggests that the public accepts the need for informal restrictions being placed upon access to this section of the dunes.
 28. The landward extent of the coastal margin will be defined by the boundary fence which separates Littlehampton Old Fort and the golf course from the dune system. This fence is a recognisable physical feature which marks the landward extent of the sand dunes.
 29. The concerns raised by the objector regarding nature conservation are not reflected in the outcomes of the Access and Sensitive Features Appraisal, nor do they appear to be shared by the owner of the land. I am satisfied that there is no requirement for the dunes to be excluded from the coastal margin on nature conservation grounds.

Whether the proposals strike a fair balance

30. Having regard to all the above, the route proposed by NE would discharge the coastal access duty in respect of the relevant considerations [8]. The sand dunes north of the route are a default coastal land type which are automatically included as coastal margin.
31. The proposed route and the sand dunes are already accessed and used by the public for informal recreation and I consider it unlikely that the proposal would have any significant adverse effect upon the land over and above what already occurs. Any minor adverse effects that the trail would have upon the owners of the land does not outweigh the interests of the public in having rights of access over coastal land. As such I do not consider that the proposals fail to strike a fair balance.

Recommendation

32. 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 within paragraphs 3(3) (e) of Schedule 1A to the 1949 Act. I therefore recommend that the Secretary of State makes a determination to this effect.

Alan Beckett

APPOINTED PERSON