



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] on behalf of Ferring Beach Hut Owners

Regarding Coastal Access Proposal 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/48 Beach huts at Ferring

- 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 15 November 2017 to Chapter 5 of the Report, Littlehampton to Ferring, has been made by [REDACTED] on behalf of Ferring Beach Hut Owners. The land in this Report to which the objection relates is route section EHS-5-S067 to EHS-5-S081.
- 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 objectors, the gist of the responses made by NE and my conclusions and recommendations.

Objections 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 objection considered in this report relates to land between Littlehampton and Ferring (Chapter 5 of the CA Report) and specifically to land adjacent to the Ferring Beach Huts located just off South Drive, Ferring (map5e EHS-5-S067 to EHS-5-S081). 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. Representations R2 ([REDACTED]on behalf of Ferring Parish Council) and R4 ([REDACTED]on behalf of Ferring Conservation Group) relate to sections EHS-5-S066 to EHS-5-S081 and it is expedient that these representations are considered alongside the objection made to contiguous areas of land.

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 accompanied by the objector and by 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 English Coast Path ('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 5 of the CA Report considered below has been made under paragraphs 3 (3) (e) of Schedule 1A to the 1949 Act.

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12. My role is to consider whether a fair balance has been struck by NE between the interest 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 5 of the CA Report, runs from Littlehampton Harbour footbridge (grid reference 502187 102132) to the junction of Patterson's Walk and Sea Lane, Ferring (grid reference 510007 101554) as shown on maps 5a and 5e (points EHS-5-SO01FP to EHS-5-S087). The trail follows existing walked routes, including public rights of way along most of its length and follows the coastline quite closely and maintains good views of the sea. The trail includes three sections of new path at Rustington, East Preston and Ferring as shown on maps 5b, 5c and 5e.
14. The section of the trail subject to the objection runs along the beach at Ferring to the south of a line of beach huts and the Bluebird Café. The objection concerns the land immediately in front of the beach huts and to the north of the sea defence wall.

The case for the objector

15. The area of land immediately in front of the beach huts to the sea defence wall is private property and is in use by the owners or tenants of the beach huts throughout the year, including on Christmas Day. This area of land is less than 3m wide in places including the patio area in front of each of the beach huts. Some members of the public have been known to walk across this area to reach the Bluebird Café from Patterson's Walk instead of using the beach seaward of the sea defence wall.
16. Walkers and their dogs sometimes walk through the chairs and tables set out on the patio even when hut owners are sat down. Some believe the use of the patio areas to be an obstruction and can be abusive at times. It is considered that the designation of the trail along the beach so close to the sea wall may increase the friction between those wishing to access the café and those using the land in front of the beach huts for private purposes.
17. What is requested is that the report should include the erection of signposts at the eastern and western boundaries of the row of beach huts saying 'No public right of way'. The beach hut owners would be willing to contribute toward the cost of erecting and maintaining such notices.

Representation R2

18. An improved walking surface along the unconsolidated shingle of the landward edge of the beach beside the car park for the Bluebird Café is requested to assist access by the less able; such a path has long been an aspiration of the Parish Council.

Representation R4

19. The Ferring Conservation Group would like to see a proper path surface being laid along the beach adjacent to the Bluebird Café to mark the line of the coastal route. Alternatively, if that were not possible, it is suggested

that the coastal route should follow the public footpath which crosses the car park of the Café.

The Response by Natural England

General Comments

20. NE submits 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 the safety and convenience of those using the route (section 4.2) and that users should be able to follow the trail during all states of the tide (section 4.4.2) and that the trail should provide views of the sea (section 4.6.1).
21. 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 owner'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

22. NE submits that the objection does not relate to land affected by the proposals. The issues which are raised in the objection are pre-existing and probably of long-standing but it is hoped that the proposals will help reduce the instances of the public walking through the land between the beach huts and the sea defence wall. These concerns were raised by the beach hut owners during the consultation process and led NE to aligning the trail on the seaward side of the sea wall along a short section of compacted shingle, rather than routing the trail through the car park on the landward side of the beach huts and Café.
23. Had the trail been routed through the car park, then the beach huts and their land would have been brought into the coastal margin. Although the report maps do not show the location of any proposed signage, it has been proposed to erect signage at appropriate points to direct trail users and others along the seaward side of the sea wall and away from the paved areas in front of the beach huts. This was the subject of discussion with the objector at the site visit.
24. Although the grounds of the objection are that NE has failed to include a direction to exclude or restrict the right of access in relation to the land at issue, it is not possible to propose a direction to restrict access as no new rights of access are being created over the land between the beach huts and the sea wall. The pre-existing problems with anti-social behaviour which are of concern to the objector should be raised with the relevant local authority in terms of additional signage but it is hoped that the proposed signage and waymarking will alleviate such issues.
25. There will be signposting at either end of this section of the trail to direct walkers along the seaward side of the sea defence wall; as such no modifications to the proposal are required. NE is happy to work with the beach hut owners to ensure that signs and waymarks are located in the most suitable location to address the existing issues raised in the objection.

Comments on representation R2

26. There were two options available for the route of the trail at this location. NE has chosen to route the trail on the seaward side of the sea defence wall to reduce the extent of coastal margin. Inclusion in the coastal margin was a concern for the owners of the beach huts, Café and car park. The proposed route is close to the sea, provides sea views and runs over consolidated shingle for only 280 metres.
27. For those with reduced mobility, a public footpath runs from the beach to the car park and it possible to traverse the car park on firm ground to re-join the trail at Patterson's Walk. The cost of establishing a boardwalk or similar structure at this location would be high and would place a high maintenance burden on the Access Authority; given the alternative available for those with reduced mobility, the proposed route along the beach is considered to be of an adequate standard.

Comments on representation R4

28. There were two options available for the route of the trail at this location. NE has chosen to route the trail on the seaward side of the sea defence wall to reduce the extent of coastal margin. The proposed route is close to the sea, provides sea views and runs over consolidated shingle for only 280 metres.
29. The cost of establishing a boardwalk or similar structure at this location would be high and would place a high maintenance burden on the Access Authority; given the alternative available for those with reduced mobility through the car park, the proposed route along the beach is considered to be of an adequate standard.

Conclusions

30. NE has given consideration to the alternative routes suggested by those who made representations to the proposals. Having regard to these submissions the Secretary of State may wish to note that in discharging the coastal access duty regard must be given to a number of factors. The route proposed by NE follows an informal desire line already used by the public, is reasonably close to the sea and offers views of the sea and would be available at all states of the tide. The proposed route therefore satisfies the Scheme criteria set out in sections 4.4, 4.5 and 4.6.
31. The land between the beach huts and the sea wall which is of principal concern to the objector is not affected by the proposals. Although NE state that the proposals do not affect the land between the sea wall and the beach huts, and the landward extent of the coastal margin of EHS-5-S066 to EHS-5-S080 is described as the landward edge of the beach in the table at 5.2.1 of Chapter 5, this is not what is conveyed by the inset map found on map 5e.

32. The inset map on map 5e in the Report shows that for sections EHS-5-S078 to EHS-5-S080 the landward extent of the coastal margin runs beyond the sea wall into the area in front of the beach huts. To reflect what is proposed in the table at 5.2.1 of Chapter 5 of the report, NE has produced an amended map 5e which is appended to this report.

Whether the proposals strike a fair balance

33. The route proposed by NE would discharge the coastal access duty in respect of the relevant considerations set out in paragraph 8 above and satisfies the Scheme criteria. Whilst the trail may have an adverse impact upon the owners of the beach above mean high water, the owners are solely concerned with the impact the proposals may have upon their land between the beach huts and the sea wall. However, this land is excluded from the landward extent of the coastal margin. Accordingly, I do not consider that the proposals fail to strike a fair balance.

Recommendations

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

Alan Beckett

APPOINTED PERSON

