



The Planning Inspectorate

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

by Alan Beckett BA MSc MIPROW

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

Date 23 April 2020

MARINE AND COASTAL ACCESS ACT 2009

Objections by [REDACTED], [REDACTED], [REDACTED], [REDACTED]

Regarding Coastal Access Proposals by Natural England

Regarding East Head to Shoreham by Sea

Site visit made on 31 October 2019

Table of Contents

Section	Page Number(s)	Paragraph(s)
Case Details	1 - 2	
Procedural and Preliminary Matters	2 - 3	1 - 5
Main Issues	3	6 - 12
The Coastal Route	4	13 - 14
The cases for the Objectors	4	15 - 18
Representations	4 - 5	19 - 20
The Response by Natural England	5 - 6	21 - 29
Conclusions	6	30 - 33
Recommendation	7	34

Objection ref: MCA/East Head to Shoreham by Sea/49 Land at South Beach, Shoreham by Sea

- 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 6 of the Report, Ferring to Shoreham by Sea, has been made by [REDACTED]. The land in this Report to which the objection relates is route section EHS-6-S037.
- The objection is made under paragraphs 3(3) (a), (b) and (c) 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.

Objection ref: MCA/East Head to Shoreham by Sea/50 Land at South Beach, Shoreham by Sea

- On 27 September 2017, NE submitted a CA Report to the Secretary of State under section 51 of 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 2009 Act.
- An objection dated 16 November 2017 to Chapter 6 of the Report, Ferring to Shoreham by Sea, has been made by [REDACTED]. The land in this Report to which the objection relates is route section EHS-6-S037.
- The objection is made under paragraphs 3(3) (a), (b) and (c) 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.

Objection ref: MCA/East Head to Shoreham by Sea/51 Land at South Beach, Shoreham by Sea

- On 27 September 2017, NE submitted a CA Report to the Secretary of State under section 51 of 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 2009 Act.

- An objection dated 15 November 2017 to Chapter 6 of the Report, Ferring to Shoreham by Sea, has been made by [REDACTED]. The land in this Report to which the objection relates is route section EHS-6-S037.
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Summary of Recommendation: That the proposals set out in the CA Report do not fail to strike a fair balance.

Objection ref: MCA/East Head to Shoreham by Sea/52 Land at South Beach, Shoreham by Sea

- On 27 September 2017, NE submitted a CA Report to the Secretary of State under section 51 of 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 2009 Act.
- An objection dated 15 November 2017 to Chapter 6 of the Report, Ferring to Shoreham by Sea, has been made by [REDACTED]. The land in this Report to which the objection relates is route section EHS-6-S037.
- The objection is made under paragraphs 3(3) (a), (b) and (c) 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. Numbers in square brackets refer to paragraphs within this report.

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 four objections considered in this report relate to land between Ferring and Shoreham by Sea (Chapter 6 of the CA Report) and specifically to land at South Beach, Shoreham by Sea (map g EHS-6-S037). The objections relate to the same area of land and are made by persons giving the same address. The objections raise similar matters and the circumstances make it expedient to consider these objections together in this report. 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. The representation made by [REDACTED] (R7) and the Principal Planning officer of Adur District Council (R22) also related to EHS-

6-S037 and it is expedient to consider these representations alongside the objections made to the same parcel 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 objections on Thursday 31 October 2019 in the company of the objectors or their representatives, [REDACTED] and 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 objections to Chapter 5 of the CA Report considered below have been made under paragraphs 3 (3) (a), (b) and (c) of Schedule 1A to the 1949 Act.
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 6 of the CA Report, runs from the junction of Patterson's Walk and Sea Lane, Ferring (grid reference 510007 101554) to the drawbridge over the River Adur at Shoreham by Sea (grid reference 521645 104758) as shown on maps 6a to 6h (points EHS-6-S001FP to EHS-6-S061). 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 is aligned on the beach or foreshore at Shoreham by Sea and runs along a recently constructed boardwalk (EHS-6-S040 to EHS-6-S042).
14. The section of the trail subject to the objections is located at South Beach, Shoreham by Sea where it is proposed to route the trail along the beach. The beach at this point is owned by Adur District Council which generally supports the proposals.

The cases for the objectors

Objector 49

15. The proposed walkway would be too close to the low walls which mark the garden boundary and therefore the properties would be less secure. There is a big gap on the beach before 1 – 6 South Beach where the path could turn right and onto the footway next to the road before reaching 1 – 6 South Beach.

Objector 50

16. The proposed route is far too close to 1 – 6 South Beach and will result in a loss of privacy. There is a big gap on the beach before 1 – 6 South Beach where the path could turn right and onto the footway next to the road before reaching 1 – 6 South Beach.

Objector 51

17. The path is too close to the garden wall and people passing by will be able to look into the bedroom of the house.

Objector 52

18. The proposed route is located too near to the low garden wall of the property. This gives rise to concerns over privacy and security.

Representations

Representation R7

19. There is not enough room for the coastal path on the beach in front of the property as it is too close to the sea. It is suggested that the route should be diverted onto the pavement of South Beach and pass along the front of the property not along the beach to the rear. Concerns are expressed regarding vandalism and privacy due to the proximity of the proposed path to the rear of the property.

Representation R22

20. Adur District Council generally supports the proposal to route the coast path along the beach on sections EHS-6-S037 to EHS-6-S041 and enquired whether funding was available to construct a boardwalk along this section of beach to give protection to the vegetated shingle.

The Response by Natural England

General Comments

21. NE maintains that it has followed the key principles of alignment and management set out in the Scheme. Particularly relevant in relation to the objections and representations are the principles that (a) the trail should normally be close to the sea (section 4.5); (b) the trail should normally offer views of the sea because they are a key part of many people's enjoyment of the coast; and (c) specific coastal land types will be included automatically in the coastal margin.

Comments on objections 49, 50, 51 and 52

22. The objectors do not appear to own the land affected by the proposals. The beach comprised in EHS-6-S037 is owned by Adur District Council.
23. The proposed route follows the current worn trail along the more compacted shingle at the top of the beach and fits with the statutory criteria that the trail should be close to the sea, offer views of the sea and be available to the public at all states of the tide. The stretch of beach at issue is in an urban area and currently experiences a high level of public access. The area opposite the objector's property is designated a public bathing area and is popular with residents and visitors to the area.
24. Although concerned about privacy and security, the objectors will be accustomed to beach users being close to or passing close to their property boundary; it is considered that there will be no adverse effect upon resident's privacy over and above that which they already experience, partly because the existing walked route along the beach is not hard up against the property boundary as is implied by the objectors.
25. The proposed route follows the existing desire line over compacted shingle, and it is considered that most trail users will follow this existing line. The route has been aligned on the beach as using the proposed alternative along Beach Road would not fit the relevant criteria as the road is not close to the sea nor would it give views of the sea, nor join up with the existing boardwalk at EHS-6-S038. The beach is owned by Adur District Council and they have raised no concerns over the proposals.
26. Section 7.12.6 of the Scheme explains how shingle beaches will normally qualify as spreading room and this would be the case here as the shingle beach is a 'default coastal land type'. If the trail were aligned along Beach Road, coastal access rights would apply to the beach and most walkers would continue to access the beach as they do now, following the desire line across the shingle.

Comments on representation R7

27. The trail is located on the beach to link with the promenade to the east with the boardwalk to the west. The proposed trail is already well walked and follows the clear wear line over compacted shingle. The landowner, Adur District Council aspires to extend the boardwalk beyond EHS-6-S038 and over this section of the beach and the trail is located on the likely route of that future boardwalk. If the boardwalk is not constructed the trail will remain on the beach.
28. The beach is well used by the public and it is expected that residents of properties abutting the beach will be used to the public passing close to their boundaries. Had a route been chosen landward of the beach along Beach Road, the beach would still form part of the coastal margin and be used by the public in the same manner as they currently do.

Comments on representation R22

29. The Council has long expressed a desire to extend the boardwalk west from EHS-6-S038 but are limited by funds. The trail has been aligned on the potential future line of a boardwalk although the installation of a boardwalk as part of the Scheme has been ruled out due to the cost of construction and maintenance.

Conclusions

30. In discharging the coastal access duty there must be regard to the convenience of the trail and the desirability of that route adhering to the periphery of the coast and providing views of the sea. The Secretary of State may note that the route proposed by NE satisfies the provisions of the Scheme and would discharge the coastal access duty.
31. Although the objectors consider that the trail should be routed along the footway of Beach Road to address their concerns regarding loss of privacy and security, to do so would not achieve their objectives as the shingle beach would become coastal margin by default and the public could access the beach in the manner and to the extent to which they do so currently. Given that the beach is freely accessed by the public, those whose properties about the beach will be aware of and used to the public passing near their property. I consider it to be unlikely that the issues of privacy and security which the objectors already experience will be added to in any significant way by the proposal.
32. In any event, neither the objectors nor representor R7 appears to have a relevant interest in the land crossed by the trail as EHS-6-S037 is owned by Adur District Council. The owner of the land has not objected to the proposal and is broadly supportive of the trail being routed across its property.

Whether the proposals strike a fair balance

33. Having regard to all the above, the proposed route will have some impact upon the privacy and amenity of those with properties which abut the beach. However, the owners of those properties are not the owners of the beach. The owner of the beach is broadly supportive of the proposal to route the trail over Shoreham beach. It follows that I do not consider that the proposals fail to strike a fair balance.

Recommendation

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) (a) (b) and (c) of Schedule 1A to the 1949 Act. I therefore recommend that the Secretary of State makes determinations to this effect.

Alan Beckett

APPOINTED PERSON