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

**by Alison Lea MA (Cantab) Solicitor**

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

**Date 26 February 2021**

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Marine and Coastal Access Act 2009

Objection by [redacted], Meudon Hotel

Regarding Coastal Access Proposals by Natural England

Relating to Penzance to St Mawes

## **Objection Ref: MCA/PSM9/0/1**

### **Meudon Hotel, Maenporth Road, Falmouth**

- On 18 September 2019, Natural England submitted reports to the Secretary of State setting out the proposals for improved access to the coast between Penzance and St Mawes under section 51 of the National Parks and Access to the Countryside Act 1949 (the 1949 Act) pursuant to its duty under the Marine and Coastal Access Act 2009.
- An objection to Report PSM9, Carne to St Mawes Pier, was made by [redacted], Meudon Hotel on 13 November 2019. The land in the report to which the objection relates is route sections PSM-9-S104 to PSM-9-S110 shown on Map 9f.
- The objection is made under paragraph 3(3)(e) of Schedule 1A to the 1949 Act on the grounds that the proposal fails to strike a fair balance for the reasons set out 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 Matters**

1. On 18 September 2019 Natural England (NE) submitted reports to the Secretary of State setting out proposals for improved access to the coast between Penzance and St Mawes. The period for making formal representations and objections to the reports closed on 13 November 2019.
2. This is the only objection to report PSM9. There is one relevant representation. It was submitted by the objector and raises the same matters as the objection.
3. I carried out a site inspection on 7 October 2020 accompanied by [redacted] and by representatives from NE and a representative from Cornwall Council.

### **Main Issues**

4. The coastal access duty arises under section 296 of the Marine and Coastal Access Act 2009 (the 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.
5. 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. This is referred to as the coastal margin.

6. Section 297 of the Act provides that in discharging the coastal access duty NE and the Secretary of State must have 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.
7. They must also 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.
8. NE's Approved Scheme 2013<sup>1</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.
9. My role is to consider whether or not a fair balance has been struck. I shall make a recommendation to the Secretary of State accordingly.

### **The Coastal Route**

10. It is proposed that the trail will use the existing alignment of the South West Coast Path, which crosses land within the ownership of the Meudon Hotel. Landward of the trail are the hotel's extensive gardens; seaward of the trail is a small grassy headland and a beach, known as Bream Cove. The Meudon Hotel owns to the low water mark.

### **The Objection**

11. The beach is an integral part of the business at Meudon Hotel and the fact that it is private is a unique selling point to customers. The owners wish to retain the right to inform people that the beach is private property and want a direction on the beach which they could manage with signage.

### **The response by Natural England**

12. Under the coastal access legislation all land seaward of the trail as far as mean low water automatically becomes coastal margin. Once coastal access rights come into force the objector's beach and headland will fall within the coastal margin and coastal access rights will apply.
13. The intention of the coastal access legislation is for walkers to have the opportunity to engage in quiet enjoyment of the coast. In NE's experience the overwhelming majority of national trail users act in a responsible and respectful way. The majority of coast path walkers are "destination walkers" who for the most part will want to follow the line of the trail in order to complete their objective of walking from A to B. In addition to this, because the alignment is along an already popular national trail, it is not expected that there would be a significant increase in the number of people accessing this area of coastal margin as a result of the proposals.

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<sup>1</sup> Approved by the Secretary of State on 9 July 2013

14. NE met with the objector on site in December 2019 and observed that it was clear that the hotel's gardens and beach are a key selling point for the business and have been since the hotel was established 60 years ago. The public have informally accessed the beach during that time but in the last 5 years the use of the beach by the public has increased and so have instances of anti-social behaviour, littering, attempts at camping and BBQs. The hotel had considered installing signage and fencing to formally exclude the public from the headland and beach to maintain the use primarily for guests. However, it was decided that fencing would spoil the natural beauty of the location itself.
15. The hotel holds private functions that include the exclusive use of the headland and/or beach up to three times a week for ten months of the year. These events include weddings, family celebration and yoga retreats. When weddings are held on the headland and beach this has been managed by positioning staff on the coast path to ensure that the public do not access the headland or beach during the event.
16. At the meeting it was verbally agreed that initially the hotel would like to manage the situation on the beach and headland with signage. If that approach was not successful NE is minded to provide an outline direction which allows the hotel to formally close coastal access rights to the beach and/or headland when events are being held on the basis that there would be an impact on the business if the hotel could not offer exclusive access.

### **Discussion and Conclusions**

17. I note the importance to the business of maintaining exclusive access to the headland and beach for private functions. I also note the various problems that have been experienced by the hotel in the last few years and the concern that these types of behaviour are increasing.
18. However, I agree with NE that it is unlikely that there would be a significant increase in the numbers of people using the coast path and also that the majority of coast path walkers are destination walkers and behave in a responsible and respectful way.
19. It was clear at the site visit that the hotel would like to try to maintain exclusive access for private functions by way of signage if possible. However, if it became necessary, NE would be prepared to issue an outline direction based on the total number of days that events are held which would allow the hotel to, in effect, close coastal access rights on those days. I consider this to be an acceptable approach which would allow the hotel to maintain exclusive access when necessary for business purposes.
20. Accordingly, I conclude that the proposals do not fail to strike a fair balance.

**Recommendation**

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

*Alison Lea*

**APPOINTED PERSON**