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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]

Regarding Coastal Access Proposals by Natural England

Relating to Marsland Mouth to Newquay

**Objection Ref: MCA/MNQ6/0/1**  
**Signal Field, New Road, Port Isaac**

- On 9 October 2019, Natural England submitted reports to the Secretary of State setting out the proposals for improved access to the coast between Marsland Mouth and Newquay 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 MNQ6, Trebarwith Strand to Port Isaac, was made by [redacted] and [redacted] on 4 December 2019. The land in the report to which the objection relates is route section MNQ-6-S087 shown on Map 6e.
- 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 9 October 2019 Natural England (NE) submitted reports to the Secretary of State setting out proposals for improved access to the coast between Marsland Mouth and Newquay. The period for making formal representations and objections to the reports closed on 4 December 2019.
2. This is the only objection to report MNQ6 and there are no relevant representations.
3. I carried out a site inspection on 8 October 2020 accompanied by [redacted] and by representatives from NE and a representative from Cormac.

**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 Approved 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 follow the line of the existing South West Coast Path (SWCP) along a broad, surfaced pedestrian route which is a busy tourist thoroughfare between Cornwall Council's car park and Port Isaac's harbour. The objectors own a residential property, which is situated landward of the trail, together with land seaward of the trail which they describe as the coastal slope. The trail is separated from the seaward land by a fence and a private gate which gives access to an area of grassed headland which slopes steeply to the sea.

### **The Objection**

11. The objectors are concerned about there being public access to the coastal slope on the basis of public safety and the impact on wildlife. In relation to the former they point out that it is steep and the grass is slippery when wet. Many users of this stretch of the SWCP are tourists interested in the location of the television series "Doc Martin" and are ill equipped for the terrain. When HM Coastguard Auxiliary Cliff Rescue Team was based in Port Isaac, they used ropes to go down to the cliff edge at this point. The objectors state that safety has not been an issue since the Countryside Agency and Cornwall Council erected and maintained a chain link fence and they request that the fence continue to be maintained in order to prevent public access.
12. The objectors state that removal of the fence and the provision of public access would have an adverse impact on the birds which nest on the coastal slope. They also state that coastering should be discouraged during the breeding season and that unregulated copycat "tombstoning" should be forbidden.

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

## **The Response by Natural England**

13. NE agrees that public safety has not been an issue in recent years since the fence was erected. It has been confirmed to the objectors that Cornwall Council is responsible for the repair and maintenance of the safety fence, including the private access gate, and that the coast path is regularly inspected. There is no intention to remove the fence or to encourage or signpost walkers onto the coastal margin. NE points out that it is a key principle of the coastal access legislation that visitors should take primary responsibility for their own safety and that the legislation does not give NE the power to exclude access by direction for public safety reasons, unless the danger is man-made. NE's view is that any potential danger to the public will not change from that currently existing.
14. With regard to the impact on breeding birds, NE states that no particular issues were raised by either internal specialists or relevant organisations locally in relation to the Port Isaac area. The proposals do not involve removing the fence and encouraging access. However, if evidence becomes available to show that the introduction of coastal access rights is increasing disturbance during the breeding season a direction excluding access for nature conservation reasons could be considered in the future.
15. Coasteering is a commercial activity and not one which NE has power to control. However, the organisations operating coasteering in this area are currently signed up to the voluntary National Coasteering Charter which requires they lead activities on the coast with minimal impact on the environment and with respect to wildlife and other users of the coast. Tombstoning is an unregulated activity and not covered by the Charter. However, there is no evidence that it occurs adjacent to this route section or that it is causing disturbance to wildlife.

## **Discussion and Conclusions**

16. I agree with the objectors that the land seaward of the trail at MNQ-6-S087 is steep and potentially dangerous. However, it has been fenced for safety reasons for a number of years and NE has confirmed that there is no intention to remove the fence, or to encourage walkers to access the coastal slope. The fence, together with the private locked gate, will continue to be repaired and maintained by Cornwall Council. I therefore agree with NE that the potential danger to the public will not be increased by the current proposals.
17. For the same reason I agree that the impact on breeding birds should be neutral. However, I note that NE would be able to make a direction excluding access if evidence was provided to demonstrate that this was not the case. I note the comments with regard to coasteering and tombstoning and see no reason why the proposals should result in any increase in those activities.
18. Accordingly, given the confirmation that the fence will remain in place and be maintained and repaired as necessary, I am satisfied that the proposals strike a fair balance between the interests of the public and the interests of those with a relevant interest in affected land.

**Recommendation**

19. 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**