



The Planning Inspectorate

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

by Paul Freer (BA) Hons LLM PhD MRTPI

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

Date: 10 November 2021

Marine and Coastal Access Act 2009

Objections by: [REDACTED] (for Bulwark Ltd); [REDACTED] and [REDACTED]

Regarding Coastal Access Proposals by Natural England

Relating to Brades Lane, Freckleton to Penwortham New Bridge, Preston

Site visit made on 16 June 2021

File Ref: MCA/CPH2

<https://www.gov.uk/planning-inspectorate>

Objection References: MCA/CPH2/0/1/0061; MCA/CPH2/0/2/1673; MCA/CPH2/0/3/1584

Brades Lane, Freckleton to Penwortham New Bridge, Preston

- On 7 October 2020 Natural England submitted a Coastal Access Report to the Secretary of State for Environment, Food and Rural Affairs under section 51 of the National Parks and Access to the Countryside Act 1949 pursuant to its duty under section 296(1) of the Marine and Coastal Access Act 2009.
- The following objections have been made to Report CPH2: Brades Lane, Freckleton to Penwortham New Bridge, Preston:
 - [REDACTED], dated 26 November 2020
 - [REDACTED] (for Bulwark Ltd), dated 27 November 2020
 - [REDACTED], dated 27 November 2020The land in the Report to which the objections relate is route sections ref. SO10 to SO22.
- The objections are made under paragraph 3(3)(a) of Schedule 1A to the 1949 Act on the grounds that the proposal fails to strike a fair balance in such respects as set out in the objection.

Summary of Recommendation: I recommend that the Secretary of State makes a determination that the proposals in the report do not fail to strike a fair balance.

Procedural Matters

1. On 15 January 2020 Natural England ('NE') submitted a compendium of reports to the Secretary of State for Environment, Food and Rural Affairs (the Secretary of State), setting out proposals for improved access to the coast between Cleveleys and Pier Head, Liverpool. Whilst linked, each report in the series is legally separate and contains free-standing statutory proposals for a particular part of the stretch of coast. A single Overview document applies to the whole stretch explaining common principles and background.
2. The period for making formal representations and objections to the reports closed on 2 December 2020. Three objections were received within the specified timescale. All were determined to be admissible. I have been appointed to report to the Secretary of State on those objections.
3. Various representations were also received and I address these below where they refer to the specific section of trail before me.
4. I conducted a site inspection on 16 June 2021 when I was accompanied by [REDACTED] and [REDACTED], and representatives of NE and Lancashire County Council ('LCC').

Main Issues

5. 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 2 objectives.

6. The first objective is 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.

This is referred to in the Act as the English coastal route, but for ease of reference is referred to as 'the trail' or 'the England Coast Path' in this report.

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. This is referred to as 'the coastal margin'.

8. 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.

9. 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.

10. The stretch from Brades Lane, Freckleton to Penwortham New Bridge, Preston includes the estuarial waters of the River Ribble. Where it is proposed that the trail extends along a river estuary, section 301 of the Act applies. It states that NE may exercise its functions as if the references to the sea included the relevant upstream waters of a river. The relevant upstream waters are the waters from the seaward limit of the estuarial waters of the river, upstream to the first public foot crossing or a specified point between the seaward limit and the first such crossing. Section 301(4) of the Act sets out additional statutory criteria ('the Estuary Criteria') which must be taken into account when deciding whether, and if so how, to exercise the discretion to extend the trail along an estuary.

11. The Estuary Criteria are:

- (a) the nature of the land which would become part of the coast;
- (b) the topography of the shoreline adjacent to those waters;
- (c) the width of the river upstream to that limit;
- (d) the recreational benefit to the public of the coastal access duty being extended to apply in relation to the coast adjacent to those waters;

- (e) the extent to which the land bordering those waters would, if it were coastal margin, be excepted land;
- (f) whether it is desirable to continue the English coastal route to a particular physical feature or viewpoint; and
- (g) the existence of a ferry by which the public may cross the river.

12. NE's Approved Scheme 2013¹ ('the Approved Scheme') sets out the approach NE must take when discharging the coastal access duty. It forms the basis of NE's proposals within each Report.

13. My role is to consider whether or not a fair balance has been struck. I shall make a recommendation to the Secretary of State on the objected Report accordingly.

The Coastal Route

14. The objections concern parts of the proposed trail extending to the north of the estuary of the River Ribble. At this point, the trail drops from the pedestrian footway alongside the Blackpool Road (A583) to initially follow the eastern bank of Savick Brook. The route then turns eastwards to cross Lea Marsh before continuing in a south-easterly direction on a raised embankment, where it passes to the south of Mason's Wood and eventually links with the higher embankment on the northern bank of the River Ribble. The optional alternative route continues along the pedestrian footway on the seaward side of the A583, thereby entirely bypassing Lea Marsh and the raised embankment.

The Objections

15. The main theme raised in the objections concerns the position of the proposed route. The objectors explain that the land is grazed by bullocks unused to public contact. The objectors consider that the proposed route would create an unnecessary health & safety risk to users of the path and to the welfare of the bullocks. A further risk to public safety is posed by the uneven ground, which is in part inaccessible.

16. The objectors also point out that the majority of the route floods regularly. This is demonstrated by photographs of flooding events over two consecutive weekends in November 2020, which clearly show the land under water. The extent of the flooding depends on the tide and the weather, and is impossible to predict. This presents a very real risk to users of the path, and is considered to be an entirely unnecessary health & safety risk to the public.

17. The objectors consider that the proposed route would have a serious impact on the shooting rights over the land that are currently exercised regularly. The exercise of these rights includes wildfowling at least three or four times per week between September and February, and pigeon shooting throughout the year.

18. It is considered that the proposed route would have an adverse environmental impact, in terms of the proximity to Mason's Wood and interference with breeding birds. It is considered that the proposed route would

¹ Approved by the Secretary of State on 9 July 2013

exacerbate the anti-social problems and trespass which are prevalent on Old Hall Farm, which have included vandalism, theft, motorcycling and littering.

19. Other objections to the proposed route include higher insurance premiums, and that proposed roadworks in the area would cut off the proposed coastal path, resulting in a waste of public money.

20. The above leads the objectors to propose modifying the route to follow the optional alternative route as the main route. Alternatively, the route should follow the eastern bank of Savick Brook southwards all the way to the northern bank of the River Ribble, and then continue eastwards along the embankment on the northern bank of the River Ribble.

Representations

21. The Ramblers and the Open Spaces Society consider that the route between CPH2 – S001 and CHH2 – S009 is unacceptable on the grounds that it uses the verge of the dual carriageway, and as such would make for a very miserable walking experience. It is also pointed out that this section of the route is so far from the River Ribble that the latter does not even appear on maps 2a-2d inclusive. Instead, they propose that the route should follow the flood defences as much as possible.

22. The Lancashire Local Access Forum (LLAF) adopts the strategic position of expediting the completion of the project at the earliest opportunity. The LLAF notes that the route continues alongside a main road, well away from the coast. It is a busy road, with vehicles travelling at high speeds. The route would follow this road for some 3km. This would be unpleasant to walk on, and potentially dangerous. For that reasons, the LLAF proposes that alternative routes are explored.

23. The representation by [REDACTED] also questions the use of the roadside pavement between Freckleton and the western edge of Preston. It questions the reasons given by NE for not following a more southerly route, and proposes an alternative route using existing farm tracks. The Disabled Ramblers express concerns over the accessibility of some aspects of the proposals, and asks that greater efforts are made to ensure that less mobile users are able to use and enjoy as much of the England Coast Path as possible. Preston City Council ('PCC') note that the route at CPH2 -S016 is aligned on a flood embankment, and points out that the embankment may need to be raised at some point in the future. PCC also advises of an intention to develop land adjacent to the proposed route at Lockside Road. National Grid notes the proximity of the route to some of its assets and asks that further information is provided to its risk management team.

Natural England's Response to the Objections

24. Given that a number of separate themes raised in the objections, it is convenient to summarise the response of Natural England in relation to each theme separately.

The position of the proposed route

25. The land over which the route would pass is not intensively managed, having the appearance of semi-rural coastal grazing marsh. The area is sufficiently

large to allow for considerable separation between walkers and stock. NE therefore consider that the route is consistent with paragraph 8.2.11 of the Approved Scheme, which indicates that the trail may cross land grazed by cattle if it is the most convenient route along the coast. It is therefore unlikely that walkers using the route would cause any significant issues in respect of the livestock grazing on this land.

26. The proposed optional alternative route follows the seaward side of the A583, given the propensity of the land to flood. It would not be required for much of the time, and on that basis is deemed adequate. However, NE consider that the alternative route would not be acceptable as the main route.

27. To the west of Savick Brook, for reasons relating to a combination of land management, public safety and nature conservation, NE was obliged to propose a route to the seaward side of the main road. That is not the case east of Savick Brook, where the continuation of the route across grazing land would be consistent with the Approved Scheme. Any continuation of the main route along the seaward side of the A583 east of where it crosses Savick Brook would entail a continuous walk along the side of a busy road for approximately 7km in total (including the route west of Savick Brook).

28. NE did consider the possibility of continuing the route along the eastern side of Savick Brook to the confluence with the River Ribble. However, much of the land at the western end of Lea Marsh is below 4.5m in elevation and would be more impacted by inundation than the proposed route. The western end of Lea Marsh is cut by an extensive system of tidal creeks leading from Savick Brook. Some of these creeks are wide, deep, very muddy and have steep sides. A considerable detour away from Savick Brook would be required to circumnavigate these creeks, along with many new bridges. It would be difficult to justify that level of establishment and consequent expense for a route that would be more impacted by tidal inundation than the nearby proposed route.

29. NE accept that views of the Ribble Estuary from the proposed route are very limited. This is not unexpected, particularly in areas such as this where land uses or other factors preclude the alignment of England Coast Path close to the estuary. Views over marsh, which itself is a coastal land type, are excellent from sections CPH-2- S011 to S016. Whilst there may be some increased views from the proposed optional alternative route, NE consider that the proposed route would be more attractive to walkers, taking all relevant factors into account.

Flooding

30. The Approved Scheme recognises that the trail will normally only be aligned on marsh where there is no better option. NE consider that this is the case here. Routes on higher ground have been considered but have been discounted. It is accepted that sections S012 to S014 inclusive are prone to flooding, and an alternative option is available for use at those times. The majority of these sections are over 5m in elevation, with just a short part of section S013 being closer to 4.8m.

31. The tidal data for this area suggests that only ground over 2.9m above sea level would be inundated by the highest tides in normal atmospheric conditions. The highest tide prediction issued for the mouth of Savick Brook during 2020

was around 7.7m. In that same year, the highest predicted tides of 7.5m+ occurred on 7 days of the year, with tides of 7m+ on a further 25 days. The corollary is that water levels do reach 2m higher than ground level on occasion.

32.NE therefore accept that parts of the route might be inundated but only on a handful of days every year, and then for relatively short periods. The risk to walkers of the route is considered to be relatively small: the affected sections are fairly short and clearly visible in their entirety from each end. In the event of a rising tide, escape to higher ground would be straightforward and quick.

Public safety

33.The land surface at Old Hall Farm is similar to large parts of the land crossed by the English Coast Path, and is considered entirely suitable. The area is not considered to be inaccessible in comparison with other, more remote, sections of the English Coast Path.

Nature conservation

34.Lea Marsh itself is not a Site of Special Scientific Interest, nor does it fall within the Ribble Estuary Special Protection Area. NE is not aware of any records of ground nesting birds on Lea Marsh: birds will tend to favour those areas not impacted by tidal inundation during the nesting season. The proposed route largely follows the periphery of the marsh, and it is considered unlikely that there would be any significant levels of access over the wider marsh as a result of the proposals. Mason's Wood is not crossed by the trail and is not within the coastal margin.

Anti-social behaviour

35.NE do not consider that the new coastal access rights and the delivery of the England Coast Path will make such incidents more likely. On the contrary, NE consider that lawful public access will often serve as a deterrent to those intent on anti-social behaviour. The presence of walkers on the route will deter unwelcome visitors.

36.If the main route was to follow that proposed as the optional alternative (as proposed by the objectors), one consequence would be a significant increase in the coastal margin. An unfortunate outcome of that might be a greater difficulty in challenging those intent on illegal activity in the fields between the main road and the coast, given that they would have a legal right to be on the land.

Shooting rights

37.The approach to access over land used for shooting at live quarry is set out at paragraph 8.11 of the Approved Scheme. NE understands that the types of shooting mentioned in the objection are normally carried out at dawn and dusk. Consequently, NE do not expect any significant impact on those activities as a result of new coastal access rights being introduced. The primary responsibility for safety rests with the shooters. The landscape here is very open, and the route proposed for the England Coast Path would mean that any walkers would be immediately obvious to others on the land.

Waste of public money

38.NE is aware of various road improvements schemes, including the possibility of a new bridge over the Ribble estuary. However, at the time of publishing the proposals, there was no certainty or timescale associated with the latter. Work is underway on the new link road between Lea and the M55, but this seems unlikely to have any significance to the proposals.

Public liability and insurance costs

39.The 2009 Act specifically and considerably reduces the occupier's liability for land subject to new coastal access rights. The liability relating to those exercising coastal access rights would be below that owed to a trespasser. NE is not aware of any increase in insurance premiums nationally as a direct result of the implementation of the English Coast Path over private land.

Natural England's Comments on the Representations

40.NE accept that the proposed route on the roadside from CPH-2-S001 to S009 is not ideal and would not provide a particularly pleasant walking experience. From the outset, NE identified the north bank of the River Ribble as being one of the key areas for potential access improvements. Despite many visits to the area, NE were unable to identify any other viable options. This included the flood embankments that would ordinarily be the obvious and preferred for the England Coast Path. However, the risk of disturbance to protected birds is high on this side of the Ribble estuary, with only a narrow strip of marsh and flat between the tidal channel and the embankment.

41.Towards the eastern end of the area is the large landfill site. There is insufficient space to create a path on the seaward side of this site without moving the security fence inland by several metres. The ground conditions are poor, with considerable path resurfacing being required. The costs of those works, together with a bridge over the southern end of Savick Brook, meant that this option had to be discounted.

42.NE also considered aligning the trail on the various farm and access tracks that cross Freckleton, Clifton and Newton marshes. However, NE was made aware of various issues relating to the use of those tracks, and to the risk to low-flying aircraft (from Warton airfield) arising from bird disturbance.

43.NE indicate that a variation report might be prepared and published should opportunities for a more pleasant coastal path route arise in the future.

44.The accessibility of the route will be discussed with the relevant access authority prior to the establishment of the coastal path to ensure that all works and infrastructure are fully compliant with the law and best practice. Given that the establishment of the England Coast Path is minimal and very localised in this area, NE would not anticipate any risk arising from proximity to National Grid infrastructure. NE is aware that the flood embankment at CPH2 -S016 may need to be raised at some point in the future, and indicate that a temporary exclusion could be put in place to allow that work to be carried out, with a diversion along the proposed alternative route.

Analysis

45. Section 296 of the 2009 Act places a duty on Natural England and the Secretary of State to use their powers to secure twin objectives. One of those objectives is to secure a route around the whole of the English coast. In order to achieve that objective, it is inevitable that some sections of the route will be more attractive to walkers than others. The stretch between Brades Lane, Freckleton to Penwortham New Bridge, Preston presents a particular challenge in that respect.

46. Although the objections relate specifically to sections ref. S010 to S022 of the proposed route, they must be considered in the context of the preceding sections S001 to S009. For sound reasons, the route between S001 to S009 is alongside a busy main road for a distance of some 3km. It is not a pleasant walking environment. In places, those sections are a considerable distance from the River Ribble, and views of the estuary are extremely limited.

47. Having walked those sections, dropping down to the eastern bank of Savick Brook at S010 would represent the first opportunity for some distance for users of the England Coast Path to experience a more pleasant walking environment. Even then, it is not ideal. Conditions under foot are difficult, albeit not dangerous. It is prone to flooding, and there are only glimpsed views of the River Ribble. Initially, such views that are available are confined to marsh (S012 to S013). This is itself a coastal land type, and as such is of interest. From sections S014 to S016, expansive views are obtained over Lea Marsh from the raised embankment, together with clear views of an attractive area of woodland (Mason's Wood) to the north of the route. The raised embankment also affords distant views of Preston, together with views of the embankment to the River Ribble itself. It is, on the whole, a pleasant walking experience.

48. It is recognised that the route would be unavailable at certain times due to flooding. At such times, the flooding would be apparent to anyone considering walking the route before starting out. There would be good notice of rising flood waters to any walkers already on the route, and there are easy means of escaping the rising water. The risk to the public is therefore low. The optional alternative route would facilitate the continuity of the England Coast Path at those times when the main route was inundated.

49. In that context, the route at S013 follows the northern edge of a creek leading from Savick Brook whereas there is a path² that follows the base of a shallow embankment to higher ground slightly to the north. The ground is uneven. However, the site inspection confirmed that the trail would be on ground that is slightly higher than the path, and therefore quicker to dry out in the event of flooding. It also affords the option of the route then turning north to follow the eastern bank of Savick Brook, thereby offering better views of the brook. The line of the route is therefore appropriate in these respects.

50. In respect of Lea Marsh (S012 to S013), the terrain over which the route passes is uneven due to trampling by livestock, and would present some difficulty for those with impaired mobility. There is no better alternative, given that the terrain is generally the same to the north of the route as proposed. There is no such difficulty in relation that part of the route which uses the raised embankment (S015 to S016), or in relation to the optional alternative route.

² Shown on the map but not readily apparent on the ground.

51. The openness of Lea Marsh and the surrounding land would enable anyone exercising their shooting rights to spot approaching walkers and to exercise their responsibilities in that respect. Similarly, the openness and expanse of the land at Old Hall Farm would enable walkers to achieve separation from the livestock that graze on the land. The proposed route is the most convenient route along the coast. It is therefore consistent with paragraph 8.2.11 of the Approved Scheme.

52. There is no evidence that the route would cause significant harm to biodiversity. Lea Marsh is not a Site of Special Scientific Interest and does not fall within the Ribble Estuary Special Protection Area. The observations of birdlife detailed by the objectors are not disputed, but the presence of those birds does not necessarily mean that the land provides valuable habitat for those species. Mason's Wood is not crossed by the trail and is not within the coastal margin. It is on private land and would require a significant deviation from the route to reach. It is therefore unlikely that Mason's Wood would experience a significant number of visitors as a direct result of the England Coast Path.

53. The objections in relation to anti-social behaviour and public liability are noted. As NE point out, if anything, the presence of walkers on the England Coast Path would be likely to deter those intent on anti-social behaviour. The England Coast Path would be an advantage to the landowner in that respect.

54. In relation to other points raised by the objectors, Section 306 of the 2009 Act reduces the occupier's liability for land subject to new coastal access rights to a point that would be below that owed to a trespasser. The landowners would therefore not be disadvantaged by the creation of the England Coast Path on land at Old Hall Farm. The objector's have not provided any evidence of increases in insurance premiums nationally as direct result of the implementation of the England Coast Path over private land. The new link road between Lea and the M55 would not affect the England Coast Path, and it would not be appropriate at this point in time to consider potential impacts of other road schemes that have not commenced or have not been confirmed through a definite timetable.

55. Despite some disadvantages, the route between S001 to S016 represents a viable option to achieve continuity of the England Coast Path. By contrast, the optional alternative route continues along the A583. It is an unpleasant walking experience, compounded by the fact that on reaching this point the walker would already have endured some 3km of walking alongside a busy road. The optional alternative route does offer some elevated views towards the Ribble estuary, but these do not compensate for the unpleasant environment from which they are experienced. In any event, the views from the main route are to be preferred. For these reasons, whilst of considerable value as an alternative to the main route proposed when the latter is not available due to flooding, the optional alternative route is not suitable as a main route for the England Coast Path.

56. The other modification proposed is that of extending the route to follow the eastern side of Savick Brook to the confluence with River Ribble and from there follow the embankment of the River Ribble eastwards. This would require circumnavigating a series of creeks that extend from Savick Brook. These creeks are wide, deep, muddy and have steep sides. A considerable detour away from Savick Brook would be required to circumnavigate these creeks. In

any event, even though the primary responsibility for safety lies with those walking the route, the very presence of these creeks would be an unacceptable risk to the public walking the route.

57. The only safe option would be a series of bridges crossing the creeks. The route as suggested to be modified would have the benefit of providing more direct access to the embankment of the River Ribble, and as such would provide better views of the estuary. However, the route as proposed by NE already accesses the embankment of the River Ribble a little further to the east and the benefits in terms of better views would therefore be limited. Furthermore, the modified route would be more impacted by inundation than the route proposed by NE. On balance, the expense of providing a series of bridges could not be justified. In the absence of those bridges, the modified route would not be safe and would not be suitable.

Conclusions

58. The trail along this section responds to some significant challenges presented by land uses and nature conservation issues, as well as some extensive areas of marsh and mud flats. This has inevitably resulted in some compromises being made in the route followed: for example, lengthy stretches adjoining busy main roads.

59. The section to which the objections related (SO10 to SO22) is typical in this regard. It is not ideal. The terrain underfoot is difficult in some places, and the land at Old Hall Farm is prone to flooding. Nevertheless, it is a viable route and, on the whole, provides a pleasant walking experience. Importantly, the route contributes to achieving the objective set by section 296 of the 2009 Act of secure a route around the whole of the English coast. This is facilitated in no small part by the optional alternative route that would be available at all times on those occasions when the main route was inundated by floodwater.

60. There are no suitable alternatives to route proposed by NE at this time. It is possible that this situation could change as a result of various infrastructure improvements planned for the area. NE have indicated that a variation report might be prepared and published should opportunities for a more pleasant England Coast Path route arise in the future.

61. On balance, in my view any adverse effects that have been identified by objectors do not outweigh the interests of the public in having rights of access over the land.

Recommendation

62. 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. Therefore, I recommend that the Secretary of State makes a determination to this effect.

Paul Freer

APPOINTED PERSON