



The Planning Inspectorate

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

by D M Young JP BSc (Hons) MPlan MRTPI MIHE

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

Date

Marine and Coastal Access Act 2009

Objection by [redacted] on behalf of Pevensey Bay Sailing Club

Regarding Coastal Access Proposals by Natural England

Relating to Eastbourne to Camber

Site visit made on 28 June 2021

File Ref: MCA/EBC2/O/5/EBC0115

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Objection Ref: MCA/EBC2/O/5/EBC0115**Pevensey Bay Sailing Club**

- On 27 February 2020, Natural England (NE) submitted reports to the Secretary of State setting out the proposals for improved access to the coast between Eastbourne to Camber under section 51 of the National Parks and Access to the Countryside Act 1949 (the 1949 Act).
- Natural England submitted its reports in accordance with its duty under the Marine and Coastal Access Act 2009 (the 2009 Act) to improve access to the English Coast.
- The objection, dated 20 April 2020, concerns Report EBC2, Bay View Caravan Park, Pevensey Bay to Herbrand Walk, Cooden and relates to route sections EBC-2-S002 to EBC-2-S006 as shown on Map EBC2a.

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.

Procedural and Preliminary Matters

1. I have been appointed to report to the Secretary of State on objections made to the report. This report summarises the submissions made by [redacted] on behalf of Pevensey Bay Sailing Club (PBSC), the response of NE and my conclusions and recommendation.

Objection considered in this report

2. The report submitted by NE to the Secretary of State sets out the proposals for improved access to the Sussex Coast between Eastbourne and Camber. The period for making formal representations and objections to the report closed on 9 June 2020.

3. 23 objections were received to the Report, all of which were deemed to be admissible. The objection considered in this report relates to land at PBSC (route section EBC-2-S002 to EBC-2-S006 as shown on Map EBC2a). The other objections are considered in separate reports.

Site visit

4. I carried out an accompanied site inspection on the morning of 28 June 2021 when I was accompanied by [redacted] and [redacted] for NE, [redacted] for East Sussex County Council (ESCC), and [redacted] for PBSC. I viewed the proposed alignment of the trail across PBSC's land from the vehicular access gate (EBC-2-S002), across the top of the shingle beach adjacent to the clubhouse (EBC-2-S004) to the boundary with the residential properties to the north (EBC-2-S006).

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 two objectives.

6. The first objective is that there is 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" 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 the trail 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 the trail 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. [If the objection relates to land by a river estuary rather than the sea] Section 301 of the Act applies to river estuaries and states that NE may exercise its functions as if the references to the sea included the relevant upstream waters of a river. [If NE's use of the estuary discretion is a fundamental part of the objection also add in the estuary criteria which are set out in s301(4)]

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

12. My role is to determine whether the proposals set out in NE's report fail to strike a fair balance as a result of the matters specified in the objection. I shall set out that determination and make a recommendation to the Secretary of State accordingly.

The Coastal Route

13. The trail, subject to part 2 of the Report, runs from Bay View Caravan Park, Pevensey Bay (grid reference: 564876 102546) to Herbrand Walk, Cooden (grid reference: 569786 106115) as shown on maps 2a to 2d. The trail generally follows existing walked routes including public rights of way and promoted

¹ Approved by the Secretary of State on 9 July 2013

routes. The section of trail subject to this objection (section EBC-2-S002 to EBC-2-S006) runs across the top of the shingle beach in the vicinity of PBSC.

The Objection

14. The objection states that the area between the clubhouse and the high tide mark can be a busy and dangerous location due to the club's activities which typically involve the launching and winching of boats across the beach. As a consequence, the routing of the trail would put users at risk particularly when events are taking place. There is also a concern that the trail would result in an increased risk of damage and theft to the clubhouse as well as the boats and equipment which are stored at the top of the beach. An alternative route to the rear of the clubhouse has been suggested by the objector.

Response by NE

Public safety

15. Trail sections EBC-2-S003 and EBC-2-S004 are proposed across the open shingle beach, above the Mean High Water Mark and seaward of the PBSC's boat storage area and club facilities. There is existing informal public access along the shingle beach. Guidance within the Scheme² recognises that the trail will typically be close to the sea and therefore close to small boating facilities such as PBSC.

16. Boats launching off the beach are not an unusual occurrence along the coastline and the public may expect to see this type of use along a coastal trail. The use of rope and wire winches to launch and retrieve dinghies and safety boats is an activity that has some risk to the public, but of a relatively minor order. There is potential to mitigate any risks by the use of temporary signage either side of the launch area, providing lookouts to alert visitors to the presence of ropes/wires across the trail (especially if the visibility is poor) or requesting people wait until the boats have been taken across the trail³.

17. PBSC could also arrange for an occasional, informal route landward along the access road, just to the north and east of the club house, during particularly busy periods or events, to avoid the main beach launch area. These types of access management measures will normally be adequate to address safety risks, as directions to exclude access are usually only considered for severe safety risks or for larger scale operations such as port activities.

18. The proposals include the need to install signage to inform people that access along the shingle beaches may be interrupted from time-to-time for short periods due to exceptionally high tides⁴. To assist with the informal management of access to PBSC, NE will add a reference to these signs (at sections EBC-2-S002 & EBC-5-S005) to alert walkers of boating activities on the beach.

Security

² paragraph 8.25.11

³ Paragraph 8.25.15 of the Coastal Access Scheme

⁴ paragraph 2.2.25

19.NE are aware that boat clubs can suffer from theft, however we do not have evidence that pedestrian footpaths increase this risk. On the contrary, more walkers may well have a positive, deterrent effect on such activities, by increasing the presence of law-abiding people in an area. Clubs such as PBSC are already alert to security risks and undertake basic security measures such as securing loose equipment in the club house and locking equipment onto boats where possible. PBSC reported that they do not suffer significant theft or vandalism at present, and NE do not consider that the proposals would significantly increase this risk.

Alternative options

20.NE met with PBSC in May 2018, and they expressed their preference for an inland route in this area due to the concerns raised in their objection. New access along their access road, landward of the PBSC, was not favoured by the owners due to concerns over public safety as cars are passing and unloading boats; the proximity to the Club building entrance, and unauthorised access to the building. PBSC were however happy for the trail to be located landward of land outside of their ownership.

21.As outlined in the Report⁵, four alternative options for routes inland of PBSC were considered but discounted. The inland routes would all have provided more consolidated surfaces for walkers, in line with the Scheme's guidance⁶ which advises to avoid walking across shingle for any great distance where a viable alternative is available, unless the shingle route provides the best 'fit' with the statutory criteria.

22.The two possible inland options that included Grey Tower Caravan Park were considered unviable, due to a number of factors including: safety concerns regarding access close to a golf course tee; issues over the sustainable management of the bank route close to the golf club (raised by ESCC, the relevant Access Authority); concern from the Caravan Park regarding the privacy of their residential guests, and the sensitivity of vegetated shingle habitat north of PBSC.

23.The option to align the trail along the coast road (A259) would have been an unsuitably long inland detour resulting in a loss of sea views. The final option to align on the PBSC's access road and across the shingle was not preferred by the Club, as this would provide new access rights and interfere with land management. This route may also impact the sensitive vegetated shingle habitat in the area.

24.In weighing up these options we noted that any inland route would also create coastal access rights seaward of the trail – including across the shingle beach where the trail is aligned, and that walkers may prefer to take the most direct and fastest route across this shingle, as people currently do.

25.In light of these considerations, NE proposed to align the route along an existing walked route over the open shingle beach, seaward of the boat storage area and PBSC facilities. NE maintain the route best meets the statutory criteria, including being close to the coast, with views of the sea and that access

⁵ Table 2.3.3

⁶ paragraph 7.12.4

can be managed informally to provide a safe route, without significant impact on PBSC's activities.

Conclusions

Public safety

26. As NE point out, there is already informal access across the beach seaward of the clubhouse. Notwithstanding the objector's concerns there is no specific evidence before me to support the argument that the trail would significantly increase the number of walkers over and above current levels.

27. Even if I were to accept that argument, the Approved Scheme makes clear that the trail will at times be routed in close proximity to amongst other things boatyards. It is evident from photographs attached to the objection that PBSC can generate a significant amount of activity on 'event' days. However, there is no suggestion that the level of activity shown on the photographs are typical. Indeed, the objector pointed out that the number of event days is limited and generally occur on weekends during the summer months. At the time of my visit (weekday, mid-morning) there was no boating activity taking place.

28. As NE point out, boats launching off the beach is not an unusual or unexpected event along the coast. Members of the public walking the trail are likely to have good forward visibility and would therefore have ample time to alter their route and to avoid any busy areas. Signage at either ends of PBSC's land would further assist in bringing any potential hazards to the attention of the public. Given that no signs currently exist, this represents a small degree of betterment. Based on the foregoing, I consider that any safety risks to users of the trail would not be significant.

Security

29. Whilst the objector refers to past incidents of theft at the club, it is not known whether these were related to the existing use of the beach by the public. Moreover, there is no credible evidence before me to suggest the establishment of the trail would compromise the ability of the club to prevent such incidents.

30. Indeed, it strikes me that the users of the trail are likely to be law-abiding citizens enjoying the splendour of the Sussex coastline rather than engaged in any type of nefarious activity. As NE point out, the presence of walkers on the beach may result in a small increase in natural surveillance of the clubhouse and outdoor equipment thus helping to deter criminal behaviour. For the reasons given above, I do not consider that the trail would have an adverse effect on the security of the clubhouse or those items stored adjacent to it.

Alternative route

31. NE considered four different options which would have avoided the need for the trail to cross PBSC land. For the reasons given in Table 2.3.3 of the report, these options were discounted. The objector has not challenged NE's assessment of the alternative routes with any cogent evidence. Having seen the location of the alternative routes, I share NE's assessment that the potential

alternative routes would not in my view meet the objectives of the coastal access duty for all the reasons given.

Recommendation

32. Taking account of all matters viewed on my site inspection, as well as the objection, representations and comments made relating to it, I conclude that the proposals do not fail, in the respects specified in the objection, to strike a fair balance as a result of matters within paragraph 3(3)(a), (b), (c) or (e) of Schedule 1(a) to the 1949 Act. I therefore recommend that the Secretary of State makes a determination to this effect.

Dominic Young

APPOINTED PERSON