



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

by G D Jones BSc(Hons) DipTP DMS MRTPI

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

Date 23 May 2022

Marine and Coastal Access Act 2009

Objections by [redacted]

Regarding Coastal Access Proposals by Natural England

Relating to Palm Trees Holiday Park to Warden Road, Warden Point

Site visit made on 12 November 2021

File Refs: MCA/IOS/5/1-3

Objection References: MCA/IOS/5/1-3

Palm Trees Holiday Park to Warden Road, Warden Point

- On 22 January 2020 Natural England submitted Coastal Access Reports to the Secretary of State for Environment, Food and Rural Affairs setting out proposals for improved access to the coast on the Isle of Sheppey 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.
- Three objections dated 16 March 2020 concerning Natural England's Report IOS 5 for land between Palm Trees Holiday Park and Warden Road, Warden Point have been made by [redacted]. The land in the Report to which the objections relate is specifically route sections IOS-5-S002 and IOS-5-S003, as shown on Map IOS 5a.
- The objections are made under paragraph 3(3)(d) and 3(3)(e) 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 objections.

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.

Preliminary Matters

1. On 22 January 2020 Natural England (NE) submitted Coastal Access Reports to the Secretary of State setting out proposals for improved access to the coast on the Isle of Sheppey. The period for making formal representations and objections to the reports closed on 18 March 2020. I have been appointed to report to the Secretary of State on these objections.
2. There are other admissible objections to the Reports concerning improved access to the coast on the Isle of Sheppey. As these objections relate to other Reports in respect to different route sections they are considered separately in other reports to the Secretary of State.
3. I carried out a site inspection on 12 November 2021 accompanied by [redacted], as well as by representatives from NE and from Kent County Council (KCC).

Main Issues

4. The coastal access duty arises under s296 of the Marine and Coastal Access Act 2009 (2009 Act) and requires NE and the Secretary of State to exercise their relevant functions to secure two objectives.
5. 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 2009 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.

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6. The second objective is that, in association with the England Coast Path, 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.
7. Section 297 of the 2009 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.
8. 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.
9. Section 300 of the 2009 Act provides that the coast includes the coast of any island other than an excluded island. An island is excluded if it is not accessible; that is, that it is not possible to walk to it from the mainland including by means of a bridge. In this case the Isle of Sheppey is connected to the main land via a bridge over The Swale estuary.
10. Section 301 of the 2009 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.
11. NE's Approved Scheme 2013, as approved by the Secretary of State on 9 July 2013, (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. Section 7.16 of the Scheme concerns islands and states at 7.16.5 that the trail "will broadly follow the periphery of any island which it includes, following the same principles as for the mainland coast. People will normally be able to choose when they arrive at the bridge or causeway whether to use the trail to reach the island or to continue along the mainland coast."
12. 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

13. Although forming part of the England Coast Path for the Isle of Sheppey, the length of path under consideration here is between Palm Trees Holiday Park and Warden Road, Warden Point for which there is just one mapped section of path as shown on Map IOS 5a. The objections collectively relate to route sections IOS-5-S002 and IOS-5-S003, referred to as 'S002' and 'S003' henceforth.
14. S002 would be a new, largely clifftop path linking to trail section IOS-5-S001 to the west. These two sections of path would veer inland to accommodate a fairly steep and deep ravine at the arrival of Barrows Brook. These two sections would meet at the head of the ravine where the trail would also intersect with an existing bridleway,

- which follows Barrows Brook, leading westwards inland to Norman Road / Warden Road.
15. S003 forms part of an existing public road, Manor Way. It would continue the trail, south-eastward, from S002 to a road T-junction where it would meet proposed section IOS-5-S004, turning eastward.
 16. Dogs would be required to be kept on a lead on S002 by direction under s24 of the Countryside and Rights of Way Act 2000 (the 2000 Act) for land management purposes. Regarding coastal margins along these two sections of the trail, the landward margin contains no coastal land type and normal provisions apply on the seaward coastal margin. In respect to section S003 only, for purposes of clarity and cohesion, the landward hedgerow that lines Manner Road would be the specified boundary of margin. Normal provisions apply on the seaward coastal margin.
 17. Concerning roll-back, 'residential and operational buildings' are identified as features potentially affected along S002 and S003. The likely approach to roll-back in this regard is that, if it is no longer possible to find a viable route seaward of the homes and buildings, or other excepted land, a landward route would be chosen following discussions with owners and occupiers.
 18. Part of the Sheppey Cliffs and Foreshore Site of Special Scientific Interest (the SSSI) is located to the north of the trail here. The Outer Thames Estuary Special Protection Area is located further north, beyond the SSSI.

The Objections

19. The objector is the owner and occupier of most of the land over which S002 passes, forming part of Cartts Farm. Three separate objections have been made.
20. The first objection requests that S002 has a 'no dogs' rather than just a dogs on leads direction. Reference is made to other sections of the Isle of Sheppey trail having such a restriction (IOS 9) and that the farm has a diversified income of sheep and arable. The objector adds that S002 would be a 500m intrusion through key fields used for sheep grazing and lamb rearing close to the farmyard but would provide 150m of clifftop access.
21. Three reasons are given for this first objection:
 - 1) The 2000 Act Part 1, Chapter 11, s23 (2) allows a temporary 'No Dogs' restriction during critical lambing periods. This discretion is specifically excluded for land in the coastal margin and so is not an applicable alternative to periodically protect livestock. A physical barrier such as a fence would be impractical as a 4m wide path of 500m would result in a loss of some 0.2ha of grazing and require maintenance expenses for roll-back on the clifftop section;
 - 2) Dog faeces presents an undue burden on livestock welfare. Contamination from faeces is well documented to cause enzootic abortion. Flock inoculation against abortion would be an undue additional financial burden; and
 - 3) Uninterrupted sheep grazing helps provide the diversified wildlife habitat in the SSSI. Sheep grazing is a conservation objective issued by NE to enhance the SSSI clifftop area. For instance, on 3 December 1998: "light grazing and short sward recommended to protect the rare plant dragon's teeth." To allow this to

occur, unimpeded grazing of livestock should be allowed across the coastal access path. For welfare reasons, this is not possible with dog interactions.

22. Regarding, the objector states that he accepts that S002 and S003, in conjunction with IOS-5-S001, strike a fair balance for public interest and provides new coastal stretches to public access. Nonetheless, in terms of modifications to the proposals, a no dogs policy is requested to avoid dog / livestock interaction on S002:
- Sheep grazing / lamb production is an important financial income which should be protected;
 - The normal 'temporary dog restriction' during lambing period cannot be applied for under prohibitions for land in coastal margin;
 - Inoculation against faeces is an undue financial burden;
 - Fencing the area is a substantial loss of grazing area and undue expense;
 - There is uncertainty dog owners will respect 'dogs on leads' signs; and
 - Sheep grazing is recognised as an important conservation measure in the SSSI recommendations for nationally rare plants in the coastal margin.
23. The second objection also relates to S002 only. The objector states that the proposed trail would be 4m wide across the inland approaches to the clifftop, unnecessarily affecting productive farmland. It adds that the trail would not be directly 'coastal' but merely an inland approach to the clifftop, so a reduced width to that of a standard footpath, 1m or 1.5m, is requested. S002 would be some 500m across farmland. The 4m statutory width is accepted along the 150m length of exposed clifftop.
24. The reasons given for the objection are that a 500m long, 4m wide trail would result in a loss of some 0.2ha of land which would be an unfair business impact. If the farmland is being used as grassland grazing, temporary fencing is reasonably foreseeable and the area represents an unfair loss of grazeable area. Reasons given for temporary fencing include:
- Prevent of livestock interaction with the public when lambing / sheep;
 - Legal compliance to separate fields from public if cattle, for instance bull calves, are grazing as described by UK GOV; and
 - Avoidance of public spread onto grassland where the edge is not clearly defined. If the farmland is being used for rotational cropping, the some 0.2ha land loss would represent a loss of gross revenue of approximately £350 per annum.
25. As landowners and farmers, the objector considers the width of the approach path to the clifftop to be an excessive encroachment that would cause financial loss. In respect to potential modification, a reduced standard footpath width is requested for stretches of the trail that are approaches to / from the clifftop and not direct clifftop areas.
26. The third objection relates to both S002 and S003. Concerning S002, the objector requests that the proposals be modified so that the seaward boundary of coastal access would be limited to the clifftop grass bank. He considers that the cliffs which are seaward of the trail should be considered excepted land for two reasons:
- 1) The unsuitability of the Cliff banks and Barrows Brook for public access is recognised by NE. Quoting from NE's Overview Report for the Isle of Sheppey,

“The spectacular cliffs of the north coast between Minster and Warden (reports IOS 2 to IOS 5) are subject to significant erosion which has resulted in some footpaths along and leading to the cliff tops becoming unusable. Warning signs at road ends and near residential areas highlight the hazards of this coastline. Access along the base of the cliffs is discouraged as walkers can be cut off by rising tides. The slumped cliff slopes themselves do not provide a walkable surface, as feet can sink into the soft material, and the rescue services have reported that people have had to be rescued from the cliff slopes.”

- 2) Public access across the SSSI cliff banks is considered damaging to fauna and flora in previous assessments made by EN, dating from 1 September 1998, Operations Likely to Damage the Special Interest Of The Site: 27. Recreational or other activities likely to damage or disturb features of interest. Yet a completely contrasting “no impact” position is said to have been presented in the 2020 Coastal Path accompanying Nature Conservation Assessment, ‘Assessment of coastal access proposals on The Sheppey Cliffs and Foreshore SSSI’ (pages 22-26) which concluded :

- “no impact” on trampling across SSSI,
- “no impact” on fossil collecting
- “no impact” on the Nationally Rare plants such as vetch
- “no impact” on the rare plants Dragon’s teeth

The objector challenges these ‘no impact’ conclusions:

- It is at odds with previous SSSI assessment and instructions given to him as landowner;
- It conflicts with the objector’s experience that some walkers do damage or disturb features of interest, ranging from trampling to flower picking and to commercial fossil hunters. The objector has experienced confrontations with commercial fossil hunters; and
- To have “no impact” is possible only if coastal access is restricted on the seaward side to the clifftop grass edge.

27. Regarding S003, cliffs and small field seaward of the trail should be considered “excepted land”. The reasons given for this are the same two reasons outlined regarding S002 in the preceding paragraph, plus that the small field seaward of S003 on Manor Road is used for horse grazing and provides an income of £1500 per annum. If the land becomes Coastal Margin, then public access would be legitimate. The objector states that the horse owners have confirmed they would no longer rent the field for grazing causing undue financial loss. The objector, therefore, proposes that the seaward boundary of S003 be limited to the width of Manor Road.

Representations

28. KCC Public Rights of Way and Access Service support the creation of the England Coast Path and recognise the benefits it will bring to the County. It says that although it is disappointing that the trail is not proposed to be aligned closer to the sea in places, it understands the reasons for the preferred route given the wildlife and environmental constraints of the existing landscape. It also says that the proposed trail alignment would be a welcome addition to the public right of way network, linking existing paths and improving connectivity across the Isle of Sheppey.

29. The Ramblers fully support the proposed route along this section of the Coast Path. In particular they are pleased to see the new path along the top of the cliffs from Palm Trees Holiday Park to Manor Way which will provide views of the cliffs and across the estuary and say that it will also provide a very pleasant walking route from the Holiday Park to Warden and Leysdown.
30. Historic England state that although ground disturbance associated with the proposal would appear to be minimal in general, it could potentially disturb non-designated archaeological remains, so recommend consultation with the Heritage Conservation Team at KCC. It adds that it does not think that the proposal is likely to cause much if any change to the setting of heritage assets, or to the historic landscape or town character along its course, but asks NE to consult the local Conservation Officers with regard to the proposal's potential impact upon the setting of Listed Buildings, and the character of historic landscape and conservation areas.
31. Disabled Ramblers are encouraged by the positive physical changes proposed to improve access for mobility vehicles.
32. While South Eastern Power Networks plc has no objection to the works, it insists on a dialogue to discuss working arrangements with them under HSE guidance and Energy Networks Association Technical Specifications, relating to work near underground cables and overhead wires, and on appropriate mitigation and guidance when working around electrical apparatus.

Natural England's Response to the Objections

33. Regarding a potential no dogs restriction, NE says that the fields at Cartts Farm will contain either ewes and lambs or arable, and the proposed trail alignment therefore seeks to minimise impacts on both livestock and crops by keeping close to the seaward edge of the fields and clifftops (see para 8.4.9 of the Scheme). It has not proposed any additional landward coastal margin here and therefore expects walkers, some of whom will have dogs, to keep to this seaward route and not venture landward, particularly as the clifftop path and route around Barrows Brook valley offer clear views across the Thames Estuary.
34. While landowners of open access land under the 2000 Act do have the discretion to exclude dogs from lambing fields, this standardised approach is not available to owners of coastal margin under the new legislation. In developing its coastal access proposals, NE says it has reviewed land management needs and where necessary adjusts its proposals to balance private needs and public enjoyment. On Cartts Farm, NE do not consider that a 'no dogs' restriction is necessary, as the vast majority of dog walkers will be aware of their responsibility to keep dogs to lead in the vicinity of livestock. Although the individual fields are relatively small here, NE considers there is still adequate space to enable the sheep and lambs, when present, to distance themselves from walkers/dogs following the trail.
35. NE adds that it has, however, proposed a year-round dogs on lead restriction here and along a stretch of the north coast of Sheppey, because the proposed trail passes through multiple small fields and landholdings that lie between residential areas and a number of popular caravan parks. These fields have a variety of uses, including hay production, grazing and some arable, with management in any one field often varying from year to year.

36. NE goes on to explain that landowners raised concerns regarding contamination of hay and arable crops, given the proximity of significant residential populations and the likelihood of local dog walkers regularly using these fields. Dogs are already required to be kept on a lead at all times in the vicinity of stock, however given the size of the fields here and the unique mix of different land management systems that walkers would encounter as they pass from one field to the next, NE considers it necessary to establish a single approach to access management throughout these areas to allow the continuation of the current land management and provide walkers with a clear and consistent message about dog control.
37. NE says that its proposed new signage would be sited at various locations along the trail, including close to caravan parks, clarifying and explaining the reasons for keeping dogs on lead. It considers that the signs would be effective in re-enforcing the dogs on lead message around livestock. Regarding the 'no dogs' restriction as part of trail length IOS 9 between Windmill Creek to Ferry Road, NE advises that this is for nature conservation reasons on land within the coastal margin rather than along the trail itself.
38. In respect to the potential fencing of the trail to separate walkers and dogs from the rest of the field, NE says that [redacted] advised that this would be impractical due to loss of grazing land. NE adds that while a landowner would be within their rights to erect fencing, it does not think it is necessary in this case.
39. NE refers to Section 8.4 of the Scheme which outlines the general approach that should be taken towards risks to sheep. Para 8.4.6 says that when sheep are heavily pregnant or have young lambs at foot, disturbance by dogs can significantly increase the risk of ewe or lamb mortality. It goes on to say that sheep are also vulnerable to disturbance during gathering or handling.
40. NE maintains that, as the Scheme explains, sheep can habituate to access when people follow a predictable route and path users would be expected to stick to the proposed route here because it is convenient, reasonably direct and easy to follow. It adds that the legislation already requires a person who brings a dog to keep it on a short lead in the vicinity of livestock, and that this is a general provision that applies without any local direction being made. NE's view is that these provisions, re-enforced by the proposed direction to keep dogs on leads all year alongside proposed signage, are sufficient to address the objector's concerns.
41. Regarding potential contamination from dog faeces, NE submits that intervention should not normally be necessary to control the spread of animal disease unless there is an outbreak of a notifiable disease, as outlined in para 8.6.11 of the Scheme. Special measures may however be necessary if there is a local outbreak of Neosporosis in cattle or Sarcocystosis in sheep. In these cases, signs should be used to encourage walkers to help control the spread of disease as per paras 8.6.12 and 8.6.16 of the Scheme.
42. NE adds that advice from the Animal and Plant Health Agency (APHA) is that the overall likelihood that walkers' dogs may infect livestock with these diseases is very low, because the vast majority of pet dogs are fed commercial dog food, which is either processed or, if raw, produced to human standards of consumption. NE also says that the advice from APHA is that there is a minimal risk posed by introducing *Chlamydophila abortus* leading to enzootic abortions.

43. Nevertheless, NE agrees with APHA advice that walkers should be encouraged to stop their dogs from defecating on farmland if possible and to pick up after their dogs and remove the waste to a public or home bin, in the interests of human and animal health and well-being. Accordingly NE intends to post signs to this effect along the route, complementing Swale Borough Council's (SBC) 'bag it & bin it' campaign. NE believes that this measure is sufficient and proportionate to the risks in most circumstances, including these.
44. Regarding the SSSI, NE considers that sheep grazing is common on many wildlife sites with public access and that it can often support the management and diversity of species-rich grassland. In this location, it says, grazing could be beneficial for the plant species associated with the cliffs as it creates open ground for species such as dragon's teeth, which is present within this SSSI, and prevents encroachment by developing scrub. The main interest of the SSSI is the geological features, and while NE may have discussed the benefits of grazing with the owners at this site in the past, the cliff slumping itself creates adequate open ground for this plant. NE, therefore, does not consider that grazing of the cliffs is an essential requirement for maintaining the favourable condition of this SSSI.
45. Concerning the width of the trail, NE contends that the proposed alignment of S002 seeks to minimise impacts on livestock by keeping close to the seaward edge of the fields. It expects walkers, some of whom will have dogs, to keep to this seaward route without the use of fencing as the majority of the trail offers clear views across the Thames Estuary.
46. NE adds that while the Coast Path legislation secures access rights, by default, to land 2m either side of the mapped route, it is often able to propose a smaller landward coastal margin where there is an obvious physical feature nearby, such as a fence or wall. NE says that as there is no such feature alongside S002, it did not make a proposal regarding the extent of the landward coastal margin and as a consequence, the trail takes on its default width of 4m. NE adds that in practice, however, coastal paths across grassland generally develop into a 'desire line' that is significantly narrower than 4m.
47. NE also states that, apart from waymarkers and signs that would encourage walkers to stick to the field edge, at a safe distance from the cliff top, it does not intend to put in any additional access infrastructure. This does not mean that a landowner is prevented from erecting permanent or temporary fencing should they wish. In such circumstances, NE says that it would not expect the newly created access corridor to be 4m wide. It adds that it has spoken to KCC, which would be responsible for the maintenance of the trail, once established, and confirmed with them that if fencing were erected by the landowner, a 2m wide path corridor, set back at a safe distance from the clifftop, would be acceptable for the trail, as this provides sufficient space for maintenance/mowing and to allow two people to pass each other comfortably.
48. Regarding access to the cliffs, NE refers to matters relating to safety and wildlife. In respect to safety NE says that most people understand that the coast can be a dangerous environment and are aware of inherent risks. NE's key principle regarding coastal access is that visitors should take primary responsibility for their own and their family's safety. While its approach to risk management is, therefore, light touch with minimal intervention, it understands that the cliffs here have less obvious hazards, in regard to erosion and the soft sloping substrate of the cliffs. NE explains that

directions to exclude access cannot be used to avoid dangers from natural features as outlined in para 6.6.20 of the Scheme. It adds that the cliff slopes do not sit comfortably within the definitions of any of the excepted land categories, as set out in Schedule 1 to the 2000 Act.

49. NE advises that warning signs already highlight the hazards of this coastline and that, in liaison with SBC, it would provide new signage to further raise awareness of the dangers posed by the cliffs, especially on sections of the trail that involve 'new access' along the clifftops. NE also explains that where coastal access rights apply, owners/occupiers will also benefit from the reduced occupiers' liability. This, it says, is the lowest level in English law such that landowners are highly unlikely to be held responsible for any injuries to the public from either man-made or natural features, unless they have acted deliberately or recklessly.
50. Regarding wildlife, NE says that the SSSI covers the eroding cliff slopes and beach, excluding the clifftop grassland, where the main designated interests are geological strata and geomorphological processes, with some interesting plants on the cliffs. NE maintains that in making its assessment of the impacts of the coast path proposal on the whole SSSI, it considered that the fossils, the rotational landslips and plant life would be unaffected by walkers. In NE's view, walkers are most likely to keep to the safe, new linear route along the clifftop grassland which avoids the crumbling, soft substrate of the cliff faces. NE adds that, if trampling were to occur locally, it would not harm the overall interests of the site given its existing slumping nature, which accounts for NE's conclusion of no impact.
51. NE also maintains that fossil hunting largely takes place on the beach as many fossils end up here as a result of ongoing erosion. NE says it supports this activity as an important part of understanding the local geological history. It adds that digging into the cliff face for fossils is not permitted on the SSSI and coastal access rights would not provide a licence for this activity, including commercial collection. NE does not believe that the proposals would exacerbate any existing anti-social activity, and additional signage proposed along the coast reflecting the unstable nature of the cliffs may increase the likelihood of public scrutiny on any existing collection activities here.

Analysis

52. S002 would be aligned to the perimeter of the farm such that the fields adjacent to the trail here could continue to be used for agricultural purposes. This sort of arrangement, where a right of way follows the fringes of farm fields, is a common feature of the countryside and I see no good reason why use of this section of the trail would be incompatible with the farming activity, particularly bearing in mind the dogs on leads direction.
53. While I appreciate that a 'no dogs' restriction would be preferable for the objector, trail users are likely to keep to the clifftop trail alignment. This is because they are likely to want to take advantage of the attractive views across the Thames Estuary and then to take the most direct route to continue on to S003. In turn this next trail section along Manor Road would provide a clear and legible route through to the following proposed section to the south. Consequently, walkers are very likely to remain, with their dogs, on the trail alignment throughout S002 and S003. As such, I also do not envisage that a significant amount of farmland would be likely to be left unproductive.

54. Moreover, in the main, dog walkers will be aware of their responsibilities regarding management of their dogs, including being on leads near livestock and in respect to faeces. This would be supplemented by the dogs on leads direction proposed along S002 and to the west, as well as by the proposed associated signage. There also appears to be reasonable space to enable livestock to distance themselves from trail users. I also note what the Scheme says regarding sheep growing accustomed to access when people follow a predictable route. For these reasons, a no dogs requirement along S002 would not be justified, nor would fencing to separate the trail from the rest of the farmland, and any effects of the proposed trail on farming and commercial income would be likely to be limited.
55. Regarding the SSSI and wildlife, given its purposes and remit, NE is very well placed to assess the likely effects of the proposed trail on this designated site and on biodiversity. In summary, it has concluded that the proposals would not have any significant effect on the SSSI or on wildlife. Having regard to its summarised comments at paras 44, 50 and 51 above, alongside the contents of Report IOS 5 and of NE's Nature Conservation Assessment for its England Coast Path proposals on the Isle of Sheppey I have found no good reason to disagree. I have come to this conclusion bearing in mind, amongst other things, that sheep grazing is common on many wildlife sites with public access, cliff slumping creates open ground for species such as dragon's teeth, the main interest of the SSSI is the geological features, and users are likely to stick to proposed trail alignment as outlined above.
56. In respect to safety, it is reasonable to assume that most people understand that the coast can be a dangerous environment and are aware of inherent risks. Additionally, the need to be safety-aware could be clearly communicated via the proposed signage. Visitors should take primary responsibility for their own and their family's safety. I also accept that directions to exclude access cannot be used to avoid dangers from natural features and that the cliff slopes here do not sit comfortably within the definitions of any of the excepted land categories in the 2000 Act. Moreover, as NE has outlined, where coastal access rights apply landowners have reduced occupiers' liability.
57. I note the objector's concerns regarding the potential effect of the proposals on income associated with the equestrian use of part of their land, including what the current tenants have said. Nonetheless, although the existing liveries may opt to leave, there is no reason, taking account of the Scheme, to suppose that others might not wish to rent the land nor that it could not be put to another beneficial, income generating use.

Conclusions

58. For the reasons outlined above, the proposed trail sections S002 and S003 of the England Coast Path would not have any significant effects on farming or business activities, including in terms of income from agriculture and the keeping of horses, on the SSSI or wildlife, nor on public and general safety. The Isle of Sheppey is not an excluded island under Section 300 of the 2009 Act as it is accessible via the existing bridge over The Swale and is within the scope of the England Coast Path.

Recommendation

59. Having regard to these and to 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 these objections. I therefore recommend that the Secretary of State makes a determination to this effect.

G D Jones

APPOINTED PERSON

ANNEX A: INFORMATION TO INFORM THE SECRETARY OF STATE'S HABITATS REGULATIONS ASSESSMENT

Habitats Regulations Assessment

1. This is to assist the Secretary of State, as the Competent Authority, in performing the duties under the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations). The Competent Authority is required to make an appropriate assessment of the implications of a plan or project for the integrity of any European site in view of the site's conservation objectives. The appropriate nature conservation body must also be consulted, in this case Natural England (NE). If the appropriate assessment demonstrates that the integrity of a European site would be affected then consent for the plan or project can only be granted if there are no alternative solutions, the plan or project must be carried out for imperative reasons of overriding public interest and compensatory measures will be provided which maintain the ecological coherence of the National Site Network.
2. NE has undertaken a Habitats Regulation Assessment for the whole of the Isle of Sheppey section of the England Coast Path, dated 22 January 2020 (the HRA). It provides the information to inform the Competent Authority's appropriate assessment, in accordance with the assessment and review provisions of the Habitats Regulations. The HRA is recorded separately in the suite of reports. It considered the potential impacts of the coastal access proposals on the Isle of Sheppey on designated sites, including likely significant effects.
3. Initial screening set out that as the plan or project is not either directly connected or necessary to the management of all of the European sites' qualifying features, an HRA was required. The overall Screening Decision found that the plan or project at large would be likely to, or may, have significant effects on some or all of the qualifying features of the European Sites alone in the absence of mitigation measures. On this basis, the HRA considered the potential for the project to give rise to Adverse Effects on the Integrity (AEol) of the designated sites.
4. The scope of the assessment is set out in Table 6 of the HRA (pages 24 & 25) and identifies the sites and qualifying features for which significant effects, 'alone' or 'in combination', would be likely or could not be excluded beyond reasonable scientific doubt. The relevant information for effected sections of the trail are discussed in Section D3.2, including Table 11, of the HRA. While the Outer Thames Estuary Special Protection Area is located to the northern coast of the Isle of Sheppey, sections IOS-5-S002 (S002) and IOS-5-S003 (S003) of the trail were not identified as affecting any designated sites.
5. The assessment of AEol for the project alone takes account of measures to avoid or reduce effects incorporated into the design of the access proposal as set out in sub-section D3.3, including Table 12. The assessment, which covers the entire Isle of Sheppey section of the England Coast Path, not just sections S002 and S003, identifies that the measures incorporated into the design of the scheme are sufficient to ensure no AEol in light of the sites' conservation. Those where there is some residual risk of insignificant impacts are:
 - Disturbance to foraging or resting non-breeding waterbirds;
 - Disturbance to breeding waterbirds;

- Loss of habitat that supports qualifying features; and
 - Trampling of sensitive vegetation.
6. In section D4 of the HRA, NE considered the appreciable effects that are not themselves considered to be adverse alone to determine whether they could give rise to an AEoI in combination with other plans or projects. Insignificant and combinable effects likely to arise, and with the potential to act in-combination with the access proposals, were identified in relation to the implementation of coastal access both from Iwade to Grain and from Whitstable to Iwade, which are well removed from S002 and S003. In any event, as set out in Table 14 of the HRA (pages 68 to 70) assessing the risk of in-combination effects, NE concluded that, in view of site conservation objectives, the access proposal (taking into account any incorporated avoidance and mitigation measures) would not have an adverse effect on the integrity of the relevant designated sites either alone or in combination with other plans and projects.
7. Part E of the HRA sets out that NE is satisfied that the proposals to improve access to the English coast for the Isle of Sheppey, including sections S002 and S003, are fully compatible with the relevant European site conservation objectives. NE's general approach to ensuring the protection of sensitive nature conservation features is set out in section 4.9 of the Scheme. To ensure appropriate separation of duties within NE, the assessment conclusions are certified by both the person developing the access proposal and the person responsible for considering any environmental impacts. Taking these matters into account, reliance can be placed on the conclusions reached in the HRA that the proposals would not adversely affect the integrity of the relevant European sites. It is noted that, if minded to modify the proposals, further assessment may be needed.

Nature Conservation Assessment

8. Although not forming part of the HRA, NE has also undertaken a Nature Conservation Assessment (NCA), which should be read alongside the HRA. The NCA covers matters relating to Sites of Special Scientific Interest (SSSI) Marine Conservation Zones (MCZ) and undesignated but locally important sites and features, which are not already addressed in the HRA. Relevant to sections S002 and S003 is the Sheppey Cliffs and Foreshore SSSI and other features about which concern has been expressed, which include Water voles, Grey and Harbour Seals, Migrant birds, Breeding Waders, and Short-eared owl.
9. NE was satisfied that the proposals to improve access to the English coast around the Isle of Sheppey, including sections S002 and S003, were fully compatible with its duty to further the conservation and enhancement of the notified features of The Swale SSSI, Sheppey Cliffs and Foreshore SSSI, the Swale and Medway MCZs, and the Medway Estuary and Marshes SSSI, consistent with the proper exercise of their functions.
10. In respect of the relevant sites or features the appropriate balance has been struck between NE's conservation and access objectives, duties and purposes.