

FAVERSHAM FOOTPATHS GROUP

PUBLIC FOOTPATH ZF43 (parts) FAVERSHAM; PUBLIC CREATION ORDER 2016
PUBLIC FOOTPATH ZF5 (parts) FAVERSHAM; PUBLIC PATH EXTINGUISHMENT ORDER 2016

REF: ROW/3175170

Proof of evidence of Brian Caffarey

1. BRIAN MICHAEL CAFFAREY will say: I live at 130 Athelstan Road, Faversham ME13 8QW. I have lived in Faversham for nearly eight years. I am Secretary of the Faversham Footpaths Group and have been nominated by its Executive Committee to represent the Group, which has some 65 members, at this inquiry. I will also be representing a number of other people who have asked me in writing to represent their views. (Copies of those authorisations can be provided if required.) I was co-opted as a Trustee of Faversham Municipal Charities in April 2017.
2. The Group set out clearly in its Statement of Case why it thought that both of the current Orders should be confirmed in the public interest and why it also thought that they represented the 'least worst' outcome from the residents' point of view, bearing in mind the potential impact of the 'spreading room' provisions of the England Coast Path, which the objectors have chosen to ignore. Having considered the Statements submitted by the two residents' associations and other objectors, the Group sees no reason to change its view.
3. In the interests of avoiding repeating what other parties will no doubt comment on, I will concentrate on evidence relating to the public support for the Orders and the extent and nature of the objections.

Preliminary remarks

4. Some objectors seem to have little understanding of the nature of the enjoyment to be had from walking public footpaths. The Waterside Close Residents' Association (WCRA, para 3, page 3) is not alone in arguing that the proposed path would simply 'duplicate' existing routes, saying that it would provide "no access or other amenity that cannot be accessed already and satisfactorily through defined and safe paths". However, it is not a case of 'either/or'. One of the great delights of walking the extensive English footpath network is that it is often possible to follow a variety of paths, offering different perspectives and delights. It is mistaken to adopt a wholly utilitarian view that, unless a footpath goes to somewhere different or new or a defined entity, there is no need for it.

5. I would also point out that, while the Faversham Reach Residents' Association (FRRRA, page 6) refers to 'convenience', s.26 (1)(a) of the Highways Act 1980 refers to 'convenience or enjoyment'. Over 100 people have made representations to this inquiry to say that they would wish to walk the proposed route; and to explain why they feel it would provide not only a more convenient route if one is wishing to take a Creekside walk but also a more enjoyable one. I am confident that, when the Inspector carries out a site visit, he or she will readily see that the two routes afford different experiences in terms of the views they provide and the interest and enjoyment they generate. Mrs Bales (page 3) may only see "a car wash, old oil depot remains, car storage, car parks and construction material storage" but others will enjoy the unique and ever-changing views of the Creek, boats, wildlife and the town's fascinating historical heritage.
6. Some objectors also seem to be under the impression that walkers – who will form the vast majority of people using the proposed route – cannot be trusted to act sensibly or must be protected from every conceivable risk, whether from falling off well-defined promenades or braving cattle. Walkers have a duty to act responsibly, and the risks involved in walking the proposed route are negligible compared with my own recent experience of, for example, the Pembrokeshire Coast Path and the coastal section of the Cleveland Way.

Extent of support for and opposition to the Orders

7. The extent of public support for the Orders has been questioned by objectors. I believe this support is amply proven. First, the creation of a Creekside path, including the present Orders, is supported by all the elected representative bodies. Second, this objective is an integral part of all the relevant policy documents concerning the Creek over a good many years, ranging from the Faversham Creek Streetscape Strategy through to the recent Faversham Creek Neighbourhood Plan. Third, it is supported by a substantial number of individuals, as indicated by the many representations which have been submitted to this inquiry. Finally, it is warmly supported by the relevant footpaths groups i.e. Ramblers, Faversham Footpaths Group and Swale Footpaths Group, who together represent a great many local walkers, and by the Statement of Linda Harrison, who leads walks for several local groups.
8. Several objectors argued that the lack of public support was evident from the relatively few people who expressed support for the Orders at the formal consultation stage (see e.g. WCRA page 5). This ignores the fact that the proposals had already been the subject of informal consultation in June 2015; that KCC had already made the Orders in May 2016; and that everyone expected that another public inquiry would be ordered – which would be the most appropriate time to make support known.
9. Some objectors (e.g. FRRRA, page 7) have pointed to the results of feedback from an exhibition in 2014 to argue that footpaths have a relatively low priority for the public among Creek regeneration projects. This confuses two distinct issues: support for an

objective and its relative priority. The Group has not argued that footpaths have a higher priority than anything else in terms of Creek regeneration. No one would be surprised to learn that the linked projects of a new opening bridge and dredging the Inner Basin come much higher up the pecking order. But this does not necessarily mean that other projects are not warmly supported, as evidenced in this case by Appendix 1 to the Group's Statement of Case. It is a bit like asking people if they would prefer to see money spent on the NHS or on recreation. Nearly everyone would say the former, but this does not mean that respondents think nothing should be spent on the latter. In the present instance, achieving the goal of a continuous Creekside path on the north bank of the Creek can be accomplished easily and at a relatively small cost, whilst re-creating an opening bridge is proving to be a far more expensive and problematical undertaking.

10. Several objectors (e.g. WCRA, page 5) state that neither the Brents Community Association nor the Faversham Society supports the proposed Orders. The Brents Community Association has not submitted a Statement of Case to this inquiry, so we do not know the basis for any opposition. I note, however, that, while a dozen Brents residents have written to this inquiry in support of the Orders, no Brents resident other than from the two developments has written to oppose the Orders. I would also point out that none of the elected representatives for the area has written to support the residents' associations in their objections.
11. The Faversham Society was an official objector at the previous public inquiry to the extinguishment of ZF5 and its representative was properly authorised to represent that body. The Society's statement of its position, which is included in the papers for this inquiry, concerns only the present proposals and says that the Society is neither endorsing nor opposing them. The Society supported the Faversham Creek Neighbourhood Plan, a key element of which is the provision of a continuous Creekside path, but is presumably anxious not to offend members who live on the two estates.

Residents' objections

12. I note that the residents have requested the Inspector to extend the extinguishment order to cover the whole of footpath ZF5 in Faversham Reach. This request simply resurrects a proposal which was firmly rejected by the Inspector who chaired the 2014 inquiry and which is not before the present public inquiry. Although some criticisms are now made of the Inspector's decision and her judgment, neither the residents nor the County Council sought to challenge the decision at the time. Moreover, the residents had many years previously in which they could have sought a modification order if they believed that the footpath was wrongly recorded on the Definitive Map.
13. I turn to some of the points made about the impact on the residents of the two developments. Some Waterside Close residents seem to be under the misapprehension that the development was always intended to be a private gated community to which the general public would not have access. The plans submitted

with Bensted's Charity's Statement of Case demonstrate conclusively that public access along the Creek promenade was always intended. And the fact that there was a s.106 agreement for a public right of way would have been known to any purchaser of a property there. It follows, too, in my view, that all the objections relating to the supposed impact from public use of the promenade carry little or no weight. Similarly, the fact that the path would run close to No 2 Waterside Close was always envisaged and was well known to the purchasers.

14. The suggestion in the WCRA's Statement (page 5) that the Inspector who conducted the 2014 public inquiry thought that the s.106 agreement was unreliable misrepresents her view. What she actually said (para 21) was that "there is no guarantee that the S106 agreement remains enforceable or that it would be enforced and it does not provide a mechanism for joining that route with the wider network".
15. What is clear from the WCRA Statement (see page 3) is that, while much is made of objections to a route exiting via the slipway, the WCRA is opposed to any public access to the development. It is plain that, even if the original route had been proposed, it would have been objected to and no doubt a host of other arguments would have been adduced as to its unsuitability.
16. Much is made in various objectors' Statements of the impact on residents' privacy. Few of us live where no passer-by can view any part of our property. There are usually paths or pavements from where people can see into some at least of the outside area and, often, into the property itself. WCRA (page 4) says that "The proposed PROW cuts immediately across rear garden entrances and allows views into private gardens, compromising privacy and security". This is one example of the tendency to hugely overstate the impact of the proposals. All this actually means is that people would be able to walk along the promenade, which some residents can access directly from their gardens, and that they might in some cases be able to see into parts of gardens, or even into properties, depending on the height of the fence or other screening. I am confident that, when the Inspector makes a site visit, he or she will not think that what is proposed is at all unreasonable in its impact. This also applies, I believe, to what is put forward by the WCRA as the worst example i.e. 2 Waterside Close. To say that the path "seriously compromises the family's security and privacy" (WCRA, page 1) is a gross exaggeration.
17. The privacy arguments are also raised in relation to houses fronting the promenade at Faversham Reach (see e.g. FRRRA, page 8). But, again, what is described as a "significant loss of privacy" appears to be very limited, as I believe the Inspector will see when visiting the site.
18. I will comment briefly, however, on the Statement submitted by the owners of one of these properties, Mr and Mrs Pollock. The key point here – which they do not mention – is that they appear to have bought this property on 24 February 2015 i.e. some seven months after the Decision Letter following the previous public inquiry and its attendant publicity. They knew, therefore, that it was highly probable that

the County Council would propose that the promenade in front of this property should form part of a public footpath and no doubt factored that into their offer. One can only assume, therefore, that they viewed the price they paid as adequate compensation for any perceived difficulties in running their business.

19. Several objectors (e.g. WCRA page 2) refer to an Inspector's decision at a public inquiry to divert a stretch of path at Nagden, arguing that it should provide a precedent for this case. But, as is clear from the Decision Letter, that was a different case with a very different set of circumstances in relation to the issues of privacy and security and the judgment to be made about the effect of the proposed change on the degree of enjoyment of the route as a whole.
20. Turning, finally, to security concerns, I believe that the residents of both estates have failed to appreciate that a major deterrent to crime is the risk of being caught and that this risk is greatly increased if the area concerned is in public view. The residents of both estates (e.g. WCRA page 4, FRRR page 8) have pointed to instances in which crimes have taken place. It is worth stressing that these incidents occurred when there was no general public access to Waterside Close and virtually none to Faversham Reach. The people using the proposed path will consist almost entirely of walkers, who will pose no threat to property or person, but who will on the contrary provide extra pairs of eyes, thus helping to ensure that any criminal activity, or misbehaviour by children or others, is minimised.

18 December 2017