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# Order Decision

**by Barney Grimshaw BA DPA MRTPI(Rtd)**

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

**Decision date: 05 March 2020**

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## **Order Ref: ROW/3239746**

- This Order is made under Section 119 of the Highways Act 1980 (the 1980 Act) and is known as the North Yorkshire County Council, Public Footpath 10.39/8 (Part) Easby Firs, Easby Diversion Order and Definitive Map and Statement Modification Order 2019.
- The Order is dated 4 March 2019 and proposes to divert part of a public footpath at Easby Firs as shown on the Order Map and described in the Order Schedule.
- There were 3 objections outstanding when North Yorkshire County Council submitted the Order to the Secretary of State for Environment, Food and Rural Affairs for confirmation.

**Summary of Decision: The Order is confirmed.**

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## **Procedural Matters**

1. Three objections were made to this Order. However, none of the objectors provided a recognised postal address and, despite extensive efforts by both North Yorkshire County Council, the Order Making Authority (OMA), and the Planning Inspectorate, it has proved impossible to contact them. It has consequently been agreed by the remaining parties that the Order be determined by way of written representations.
2. I have not visited the site but am satisfied that I am able to determine the Order without doing so. I have relied on the submissions of the OMA which include photographs of the site and have taken account of the objection letters.
3. I attach a copy of the Order Map for reference purposes.

## **The Main Issues**

4. The Order is made in the interests of the landowners. Section 119 of the 1980 Act therefore requires that, before confirming the Order, I must be satisfied that:
  - It is expedient in the interests of the landowners that the footpath should be diverted;
  - The new footpath will not be substantially less convenient to the public;
  - The diversion is expedient with regard to:
    - the effect on public enjoyment of the right of way as a whole;
    - the effect on other land served by the existing right of way;

- the effect of the proposed new right of way on the land over which it is created and any land held with it.
5. Regard should also be given to any material provisions of the Rights of Way Improvement Plan for the area.

### **Reasons**

#### ***Whether it is expedient in the interests of the landowners that the footpath be diverted***

6. Currently the footpath passes through the landowners' garden and close to their home. They consider that diverting the path onto the new route which they say has been used informally for many years will improve the privacy and security of their property.
7. In these circumstances, it seems clear that the proposed diversion is expedient in the interests of the landowners.

#### ***Whether the new footpath will be substantially less convenient to the public***

8. The proposed new route of the path is more direct and approximately 62 metres shorter than the existing route.
9. It crosses a fairly flat grass field whereas the existing route follows an access road in part and then crosses part of the same grass field. There is currently a stile on the proposed route, but this is to be replaced by a pedestrian gate. One objector refers to having to climb a fence on the existing route.
10. No width is currently recorded in respect of the existing footpath, but it is proposed that the new route will be 2 metres wide.
11. Overall, there appears to be no reason why the proposed new route will be substantially less convenient to the public and, in fact, it may prove to be more convenient.

#### ***The effect on public enjoyment of the right of way as a whole***

12. The proposed new path will afford users open views of the Cleveland Hills.
13. It will also mean that users will not walk through the immediate curtilage of the property Easby Firs which some people might find preferable.
14. One objector refers to a willow tree adjacent to the existing route providing a meeting point for walkers. The OMA accepts that this is a pleasant feature of the existing route but suggests that the effect of the diversion on public enjoyment will be minimal.
15. The proposed diversion affects only a short section of a much longer path and, in my view, is likely to have no significant adverse effect on public enjoyment of the right of way as a whole.

#### ***The effect on other land served by the right of way***

16. I have seen no evidence to suggest that the proposed diversion would have any adverse effect on other land served by the existing rights of way.

***The effect of the new right of way on the land over which it is created and other land held with it***

17. All of the land over which the new footpath would be created is in the same ownership as the existing path. The landowners have applied for the diversion and believe that overall its effect will be beneficial. I have no reason to think otherwise.

***The Rights of Way Improvement Plan (ROWIP)***

18. I have not seen the ROWIP, but it is stated on behalf of the OMA that it contains no material provision that affects the Order route.

**Conclusions**

19. Having regard to these and all other matters raised, I conclude that the Order should be confirmed.

**Formal Decision**

20. I confirm the Order.

*Barney Grimshaw*

**Inspector**

