



Order Decision

Site visit carried out on 4 February 2016

by Peter Millman BA

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

Decision date: 17 February 2016

Order Ref: FPS/T1600/4/51

- This Order is made under Section 119 of the Highways Act 1980 ("the 1980 Act") and Section 53A(2) of the Wildlife and Countryside Act 1981 and is known as the Gloucestershire County Council (Public Bridleway HMA3)(Parish of Mangersbury) Diversion Order 2015.
- The Order is dated 12 February 2015 and proposes to divert a bridleway as shown on the Order Map and described in the Order Schedule.
- There was one objection outstanding when Gloucestershire County Council submitted the Order to the Secretary of State for confirmation.

Summary of Decision: I have confirmed the Order with a modification.

Main issues

1. The Order was made by the County Council in the interests of the owners of the land crossed by the bridleway. Section 119(6) of the 1980 Act requires that, before confirming the Order, I am satisfied that it is expedient in the interests of the owners, or of the public, or both, that the path should be diverted, and that the diverted bridleway would not be substantially less convenient to the public than the current one. Further tests for confirmation are also set out in s119(6) and in s119(6A) of the 1980 Act. The principal issue in this case is whether any adverse effect on the public's enjoyment of the bridleway caused by its diversion would be so great that it would not be expedient to confirm the Order.

Reasons

The landowners' interest

2. Bridleway HMA3 starts from the A429 and runs for about a kilometre on the private drive leading to Hyde Mill Farm and Hyde Mill. For the last hundred metres or so before it reaches Hyde Mill (now a residential property) the drive/bridleway passes close to a tennis court, a swimming pool and the front of the house. The proposed diversion would take the bridleway round the outside edge of a small grass paddock north of the drive (see the attached copy of the Order plan at the end of this decision) and so further away from those features.
 3. If the diversion Order were to be confirmed the owners of the Mill would be able to gate the drive before it reached the features noted above. It would therefore improve their privacy and security. I conclude that it would be in the interests of the owners of Hyde Mill for the bridleway to be diverted as proposed.
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Whether the diverted path would be substantially less convenient to the public

4. The section of the current bridleway which is proposed for diversion runs, as does the whole of it from where it leaves the A429 as far as Hyde Mill, along a smooth tarmac surface. The width of the public right of way along this surface is not defined in the Definitive Statement. The proposed diversion of about 230 metres of bridleway would, once the necessary works have been completed, run on a 3 metre wide rolled hard-core surface within an overall width of 5 metres for most of its length, but only 4 metres for a short stretch where it passes a stable. Its length would be almost identical to the current path.
5. At the time of my site visit, the surface of the proposed diversion was of grass, reasonably firm although slightly damp near point A (see plan below). The paddock is slightly undulating. This may be an example of the traces of the ancient ridge and furrow cultivation which is visible in nearby fields. The proposed diversion where it runs west to east lies in a slight dip which may possibly become wet after heavy rain and could be subject to poaching by horses' hooves if the bridleway carried a lot of horse traffic. The Order, however, states that the landowner has agreed to defray any expenses which are incurred in bringing the new site of the bridleway into a fit condition for use by the public, and the County Council's Statement of Case notes that the bridleway 'will be surfaced with a hard-core suitable for horses.'
6. The proposed works, in my view, should overcome any potential problems of waterlogging or poaching, but to ensure that they are carried out speedily, it would be better to modify the Order to state that the current route would not be stopped up until the works were certified by the County Council as complete.
7. I conclude that the proposed diversion would not be substantially less convenient than the current path.

The effect on public enjoyment

8. The objection to the Order from the representative of a local cycling club was short and to the point: 'The current route of the Bridleway has characteristics that are lost with the new route. These historic approaches to buildings are a public asset and a reminder of our shared heritage. For these reasons I oppose the change of route.' The only feature of the route on which he commented specifically was the 'tree-lined approach' which he felt was a reminder of a bygone age.
9. As I noted in paragraph 2 above, the bridleway follows the line of a private drive. This drive has wide grass verges throughout much of its length, and for the last 200 metres or so as it approaches Hyde Mill there is a row of Lombardy poplars in the verge on each side of the drive. There can be little doubt that people would see this as an attractive feature; at the time of my site visit snowdrops and yellow crocuses were appearing at the feet of the trees. The trees, however, were only planted in 1964 and so cannot be considered to be of significant historical interest. The Mill itself is an interesting old building of indeterminate age, converted to a private house in the 1920s. The current bridleway passes about 12 metres from the house, whereas the proposed diversion would pass about 30 metres from it. Reasonably close views of it would therefore still be available.

10. It is intended that the proposed diversion should be enclosed either side with post and rail fencing. Since almost all the route would be 5 metres wide, this should still provide a fairly open feeling to the route. The surface, once works were carried out, should be suitable for both riders and cyclists, unlike the current one, which might be fine for cyclists, but perhaps too smooth and potentially slippery for horse riders.
11. The County Council considers it significant that none of the other parties consulted about making the Order, for example the Parish Council, the Ramblers, the British Horse Society and the CTC, raised any objections. I concur with that view; had there been a general feeling that some significant characteristic relating to the public enjoyment of the path might be lost, there would probably have been other objections. I note that a previous order to divert the bridleway was abandoned because the British Horse Society objected; the changes it asked for were incorporated into this Order.
12. It is clear that the sole objector feels strongly that his enjoyment of the bridleway would be adversely affected by the proposed diversion, but his concern that the diversion would result in the loss of a public asset and the reminder of a shared heritage (paragraph 8 above) is not one to which I can attach a great deal of weight.
13. I conclude that any effect on public enjoyment of bridleway HMA3 would not be of such significance that the Order should not be confirmed.

Conclusion

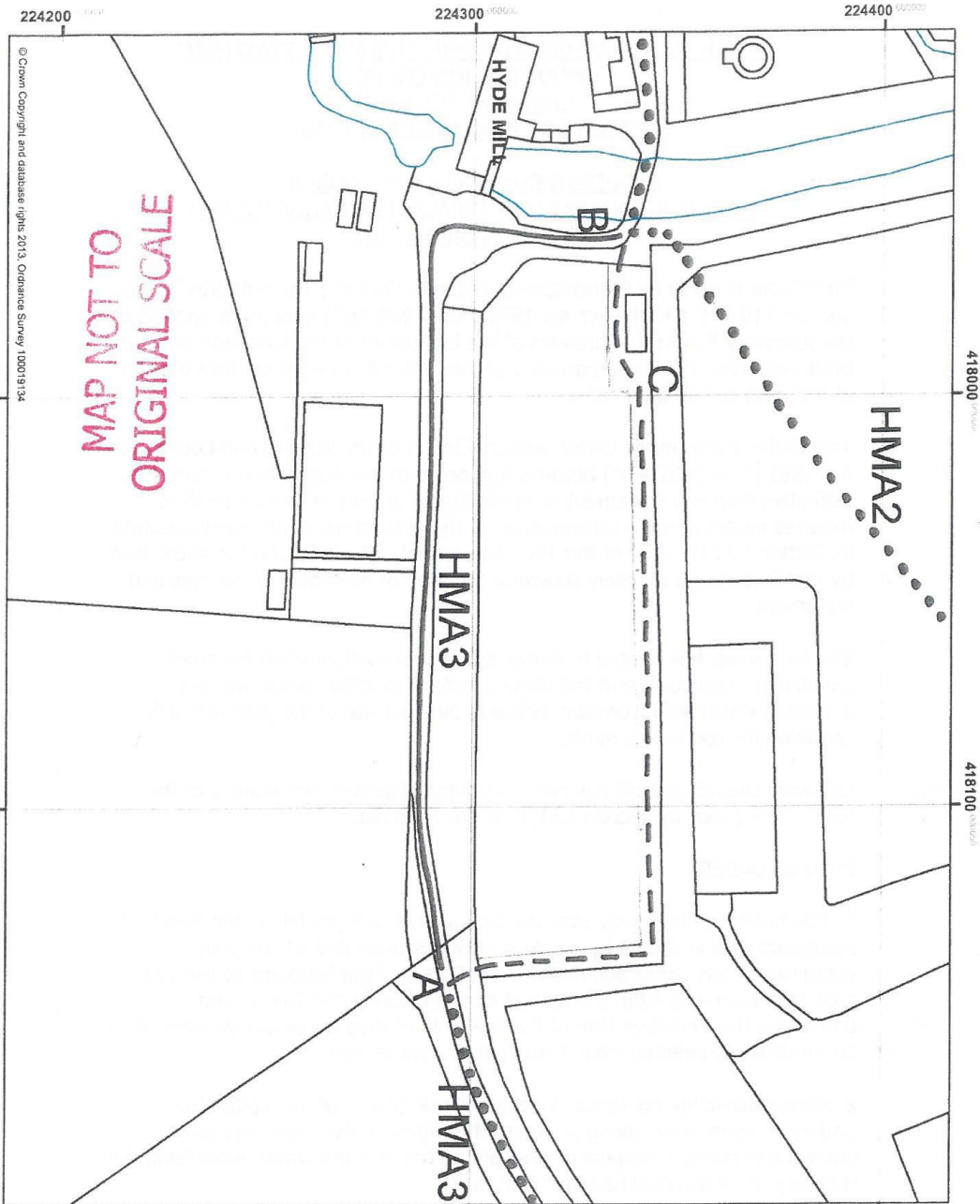
14. Having regard to these and all other matters raised in the written representations I conclude that it is expedient to confirm the Order with a modification to provide that the current bridleway is not stopped up until the new route is properly formed.

Formal Decision

15. I confirm the Order with the following modification: In paragraph 1 of the Order, delete the words 'of confirmation of this Order' and insert in their place 'on which Gloucestershire County Council certifies that works needed to bring the new site of the bridleway into a fit condition for use by the public have been completed'.

Peter Millman

Inspector



<p>Proposed Diversion of HMA 3 at Hyde Mill in the Parish of Mlaugersbury</p>	
<p>Key</p> <ul style="list-style-type: none"> Unaffected Footpath/Bridleway Bridleway Proposed to be Stopped Up Proposed Replacement Bridleway 	
<p>Public Rights of Way Shire Hall, Westgate Street, Gloucester GL1 2TG Tel: 08000 514 514 www.gloucestershire.gov.uk</p> <p>DRAWN BY: SKML SCALE: 1:1,250 DATE: 11-NOV-2014 DRAWING NO.: HMA 3 a</p> <p><small>You are not permitted to copy, sub-license, distribute or sell any of this data to third parties in any form.</small></p>	