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| **Order Decision** |
| On papers on file |
| **by J J Evans BA (Hons) MA MRTPI** |
| **an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 10 June 2021** |

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| **Order Ref: ROW/3242761** |
| * This Order is made under Section 119 of the Highways Act 1980 (the 1980 Act) and is known as the Northamptonshire County Council (Public Bridleway MF2 (Part) – Parish of Barnwell) Public Path Diversion Order 2017. |
| * The Order is dated 14 September 2017 and proposes to divert part of Public Bridleway MF2 as shown on the Order Map and described in the Order Schedule. |
| * There were no objections to the Order when Northamptonshire County Council submitted the Order to the Secretary of State for Environment, Food and Rural Affairs for confirmation.   **Summary of Decision: the Order is proposed for confirmation subject to modifications set out in the Formal Decision.** |
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**Procedural Matters**

1. Since the Order was made by the order making authority (OMA), Northamptonshire County Council, there has been a re-organisation of local government in the area. The County Council, and other Councils within Northamptonshire have been amalgamated into two unitary authorities. As the Order was made by Northamptonshire County Council, I have referred to that Council above.
2. The OMA has submitted the Order to the Secretary of State for confirmation as following the publicity event it was discovered that a bund and telegraph pole were located on the proposed alignment of Public Bridleway MF2 (MF2). To rectify this, the OMA has proposed a modification to the Order route, thereby necessitating referral of the case to the Secretary of State for consideration. As there were no objections to the Order, my decision is made on the basis of the information contained in the papers on file.

Main Issues

1. The Order is made under Section 119 of the 1980 Act. This requires that before confirming the Order I need to be satisfied that:-

* it is expedient, in the interests of the landowner, lessee or occupier of the land that the bridleway should be diverted. This is subject to any altered point of termination of the path being substantially as convenient to the public;
* that the proposed diversion would not be substantially less convenient to the public;
* that it is expedient to confirm the Order having regard to the effect which: (i) the diversion would have on public enjoyment of the path as a whole; and (ii) the effect the coming into operation of the Order would have upon other land served by the existing public right of way, and the effect which any new public right of way created by the Order would have upon the land over which the right is so created and any land held with it, having regard to the provision for compensation.

1. Other factors are not excluded from consideration and could include those pointing in favour of confirmation.
2. When considering the Order, I must also have regard to any provision contained in a Rights of Way Improvement Plan for the area. As no such plan has been brought to my attention, I have not considered this matter further.

Reasons

1. The Order relates to the bridleway known as MF2 and was made in the interests of the owner of the land crossed by the path. The bridleway runs through the house and the garden of the property shown as The Grange on the Order Map. Having people and equines traversing through a domestic garden and very close to the house would have an unacceptable and intrusive impact upon the privacy of the occupiers of this dwelling. Users of the bridleway may also experience some apprehension about entering what is essentially a private domestic space. Diverting the bridleway would clearly benefit both the occupiers of The Grange as well as path users.
2. The OMA have referred to the area experiencing heavy flooding, with flood defences having been installed on the legal alignment of MF2. Diverting the route away from the flood defences would prevent erosion, thereby helping to maintain their functional integrity. This would be of benefit to the landowner and to other properties that are afforded flood protection by the defences.
3. The total length of the new route, including the use of part of Public Bridleway MF3 (MF3) would be a similar distance to that of the existing legal alignment of MF2. There would be no meaningful change to its alignment, width or surface, and no new gates are proposed.
4. The linkage of the diversion with MF3 and the connection back into the route of MF2 at Point E on the Order Map beyond the flood defences would provide and maintain connectivity for users of the network, including that with other bridleways.
5. Based on the foregoing and given that no objections were received by the OMA with regard to the convenience of the bridleway and the impact upon public enjoyment, I find that the route would not be substantially less convenient to the public nor have an adverse impact on the public’s enjoyment of the path as a whole.
6. Compensation issues have not been raised as being relevant. There is also no evidence before me that the diversion would have any adverse effect on land served by the existing routes or on the land over which the alternative route would be created.

**Conclusions**

1. In the absence of any objections to the Order, and following my examination of the papers on file, I am satisfied that the Order meets the necessary criteria for confirmation, as set out above. In reaching a conclusion on the expediency of the diversion the landowner would derive significant benefit, and the negative impacts on public enjoyment arising from the diversion would be mitigated by other factors. When taking all these matters into consideration, on the basis of the evidence before me, it would be expedient to confirm the Order, subject to modifications. As these modifications would affect land not originally included in the Order, it will be necessary to advertise the modification.

**Formal Decision**

1. The Order is proposed for confirmation, subject to the following modifications:

* Within Part 2 of the Schedule:
  + Amend “…point F…” to “…point H…”
  + Amend “…NGR TL0472 8402…” to …NGR TL0471 8399…”
  + Insert the text as underlined “…and then proceeds around the bund and telegraph pole in a generally south direction for approximately…”
  + Amend “…178 metres…” to “…168 metres…”
  + Amend “…marked F-G-E…” to “…marked H-G-E…”
* On the Order map:
  + The Order map shall be amended to remove point F and include point H.
  + Modify alignment of bridleway MF2 between points H–G-E.

1. As the confirmed Order would affect land not affected by the Order as submitted I am required by virtue of paragraph 2(3) of Schedule 6 of the 1980 Act to give notice of the proposal to modify the Order and to give an opportunity for objections and representations to be made to the proposed modifications. A letter will be sent to interested persons about the advertisement procedure.

J J Evans

INSPECTOR

