Planning Inspectorate LOGO

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| **Order Decision** |
| Site visit made on 8 February 2022 |
| **by Gareth W Thomas BSc(Hons) MSc(Dist) DMS MRTPI** |
| **an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 14 February 2022** |

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| **Order Ref: ROW/3259149** |
| * 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 (the 1981 Act) and is known as the Borough of Telford and Wrekin Footpath 196 Diversion and Definitive Map and Statement Modification Order (Parish of Dawley Hamlets) 5 of 2019. |
| * The Order is dated 5 September 2019 and proposes to divert the public right of way shown on the Order plan and described in the Order Schedule. |
| * There were two objections outstanding when the Borough of Telford and Wrekin 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. Two objections were made to the Order. None of the parties requested an inquiry or hearing into the Order. I have therefore considered this case on the basis of the written representations forwarded to me. I made an unaccompanied inspection of the path at issue on 8 February 2022.
2. Upon confirmation of the Order, the definitive map and statement will be modified.

The Main Issues

1. The Order was made under Section 119 of the 1980 Act and Section 53A(2) of the 1981 Act. Before confirming the Order I need to be satisfied that:-

* it is expedient, in the interests of the landowners that the footpath should be diverted;
* the proposed diversion would not be substantially less convenient to the public;
* 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. Regard should also be given to any material provision contained in a Rights of Way Improvement Plan for the area.

Reasons

*Whether it is expedient in the interests of the owner of the land that the path should be diverted.*

1. Currently the footpath passes through the landowner’s garden and close to their home. It separates a large part of the garden area and runs within a short distance of the owner’s dwelling. By diverting the footpath around the edge of the garden area, it would lead to the full enjoyment of the property and garden as well as providing an increased level of security.
2. In these circumstances, it seems clear that the proposed diversion is expedient in the interest of landowners.

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

1. The proposed new route increases the length of the footpath by some 20 metres according to the OMA as it commences at the convergence of Footpaths 194 and 197 before linking with Restricted Byway (RB) 164. The existing unmade path, although more direct, is somewhat narrow and is enclosed by fencing to the landowner’s property.
2. The new path would follow the southern and western perimeter of the fairly flat grassed garden area and although offers a less direct connection with RB 164, the additional distance between existing and proposed is minimal. The present path is narrow at just over 1 metre width. The new path will be 2 metres in width thus allowing for people to pass more easily. Importantly, the diversion would maintain connectivity with the rights of way network. Accordingly, I am satisfied that the proposed path would be as substantially convenient to the public.

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

1. The proposed route of Footpath 196 would be of an acceptable distance by comparison to the legal alignment. There are currently two gates either end of the path, one of which would remain as present and the other relocated to the new connection point with RB 164. By taking the path away from the restricted and narrow corridor between an existing residential property and its associated garden space, there would be some public convenience improvements over the existing position. From my site visit I also felt that walkers using the existing route would have a sense of intruding into what is otherwise a private space.
2. Whilst there may be a desire by some to retain the footpath in its current alignment and, in this regard, I have noted the comments in relation to the path’s historical association with past local industry, the connection with important local historic routes will remain. There will be no detrimental change in the enjoyment of views; rather, there may be some improvement as views back over open pastureland and to the historic Restricted Byways and public footpaths will be opened up by the new route. There will be no impact on the Dawley Heritage Trail.
3. The proposed diversion affects only a short section of a public rights of way comprising part of a much wider network 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*

1. 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 within it*

1. 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 disagree with this view.

*Other matters*

1. I have had sight of the Telford Rights of Way Improvement Plan and find no conflict with the aims and objectives contained therewith and as far as I have ascertained, contains no material provision that would affect the Order route.
2. Compensation issues have not been raised as being relevant, and there is no evidence before me that the diversion would have any adverse effect on land served by the existing route or on the land over which the alternative route would be created.

Conclusions

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

**Formal Decision**

1. I confirm the Order.

Gareth W Thomas

INSPECTOR

