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| **Order Decision** |
| On Papers on file |
| **by John Dowsett MA DipURP DipUD MRTPI** |
| **an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 31 May 2022** |

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| **Order Ref: ROW/3284079** |
| * This Order is made under Section 119 of the Highways Act 1980 (the 1980 Act) and is known as the Dorset County Council (Bridleway 1 (Part), Tarrant Keyneston) Public Path Diversion Order 2007. |
| * The Order is dated 29 August 2007 and proposes to divert the public right of way shown on the Order plan and described in the Order Schedule. |
| * There were no objections outstanding when Dorset Council submitted the Order to the Secretary of State for Environment, Food and Rural Affairs for confirmation. |
| **Summary of Decision: The Order is confirmed subject to the modifications as set out below in the Formal Decision.** |
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Procedural Matters

1. The Order was originally made in 2007. At the time that the Order was made, there were concerns from English Heritage (as they were then, now Historic England) in respect of the possible effect of the diversion on Buzbury Rings, a Scheduled Ancient Monument [List entry: 1002718]. Scheduled monuments are heritage assets of the highest significance and, accordingly, the Order Making Authority (at that time Dorset County Council) resolved not to confirm the Order until such time as an Archaeological Management Plan was agreed between the County Council and the owners of the land, Ashley Wood Golf Club, to ensure that damage to the scheduled monument was avoided.
2. The proposed route crosses the scheduled monument on the line of an existing path. The evidence provided states that Scheduled Monument Consent was given for the creation of that existing path, which would not be altered as a result or requirement of the proposed diversion. I have not been provided with a copy of the Scheduled Monument Consent, nonetheless, I have no reason to believe otherwise. I am advised that the required Archaeological Management Plan has been drawn up and that Historic England are satisfied that it addresses the concerns that it had in respect of increased usage of the existing route potentially causing damage at the point where it passes through the ramparts of the iron age defended settlement, and also that Historic England do not have any objection to the path being recorded as a public right of way. Although I have not been provided with a copy of the management plan or Historic England’s confirmation, I have no reason to believe that this is not the case.
3. At the time that the Order was made, the definitive route of Bridleway 1 lay within the Parish of Tarrant Keyneston. The proposed diversion was largely also within this parish boundary with short sections of the proposed diversion running through the neighbouring parishes of Tarrant Rawston and Langton Long.
4. In April 2009 the North Dorset Parishes Order 2008 came into effect. The evidence indicates that this repositioned the relevant parish boundaries with the effect that the affected part of the definitive route of Bridleway 1 was subsequently within the boundary of Tarrant Rawston parish and was renumbered as Bridleway 10 Tarrant Rawston. The proposed diversion is now partly within the boundary of Tarrant Keyneston parish and partly within Tarrant Rawston parish. No part of the route is now within Langton Long Parish. The practical effect of this is that if the Order is confirmed, it would require modification to reflect the current situation.
5. In April 2019, following local government re-organisation in the ceremonial county of Dorset, a new unitary authority, Dorset Council, took over the functions of the former Dorset County Council and a number of the former non-metropolitan districts within the county. Dorset Council is now the Order Making Authority (OMA) for the purposes of this Order.
6. The OMA have advised that part of the land affected by the Order has no known or identified owner. Dispensation was sought from, and granted by, the Secretary of State in respect of the service of notice on the owners and occupiers of the land in question, as required by the Highways Act 1980, prior to the Order being submitted for confirmation.
7. The OMA supports the confirmation of the Order and there were no formal objections to it when it was originally made. No further objections or representations have been made. The OMA have requested that, if the Order is confirmed, that it be modified to reflect the changes to the numbering of the definitive route and the parish boundary changes that occurred in 2009. The new route remains the same as that originally proposed and the requested modifications are of a purely technical nature to update the Order in the light of changes that have occurred since it was made. As such, there is no requirement to advertise these modifications.

The Main Issues

1. Section 119 of the 1980 Act requires me, in this case, to determine:

* Whether it is expedient in the interests of the landowner for the path to be diverted;
* Whether the proposed diversion would not be substantially less convenient to the public;
* Whether the proposed new termination point is substantially as convenient to the public; and
* Whether it is expedient to confirm the Order having regard to the effect which: (a) the diversion would have on public enjoyment of the bridleway as a whole; (b) the coming into operation of the Order would have as respects other land served by the existing public right of way; and (c) any new public right of way created by the Order would have as respects the land over which the right is so created, and any land held with it.

1. In determining whether to confirm the Order, regard must also be had to any material provision contained in a rights of way improvement plan (ROWIP) for the area under Section 119(6A).

Reasons

*Whether it is* *expedient in the interests of the landowner that the path in question should be diverted*

1. The current definitive route of the bridleway runs across a golf course operated by the land owner. The aerial image included in the evidence clearly shows that the definitive route runs across a green and fairway. It is stated that the proposed diversion would allow for better land management. The diversion of the route to a new route, much of which consists of an existing surfaced track, would prevent damage to the green area, and allow for a more consistent surface to the fairway with reduced overall maintenance. It would also prevent any potential conflicts between users of the bridleway and users of the golf course.
2. The proposed diversion would prevent damage to the golf course, and I would agree that, from an operational point of view, it would be advantageous to divert the bridleway off the active playing area of the golf course.
3. Consequently, I find that it would be expedient in the interests of the landowner that the path in question should be diverted.

*Whether the new path would not be* *substantially less convenient to the public*

1. The Order proposes that the bridleway would be diverted to a new route to the south of the existing definitive route which would run north west from point A on the Order Map before turning generally northwards and passing close to the current termination point of the bridleway at Point B. From there, the existing track then runs generally north before turning northwest to meet the B3082 road (Wimbourne Road) at Point F.
2. A substantial proportion of the new route would be on a pre-existing, largely surfaced, track that is used by golfers to walk between holes. I am advised that this track is also used by walkers and horse riders on a permissive basis as an alternative route to crossing the green and fairway. The evidence sets out that the proposed new route would be approximately 50 metres longer than the current, definitive route.
3. From the Order Maps and the aerial image provided, it would appear that this refers to the length of the proposed diversion to the point where it passes the current termination point at Point B. The new route would, however, continue northwards to a new crossing point with an equestrian holding area. I am again advised that this part of the route is in use on a permissive basis and the photographic evidence submitted by the OMA shows that the holding area adjacent to the B3082, to allow riders to wait a safe distance off the carriageway before crossing, has already been constructed. This increases the overall length of the route.
4. Drawing these points together, the section of new path to the south of the existing definitive route is not significantly longer than the current defined route. This section of the route would improve safety for users of the bridleway by separating the route from the playing area of the golf course.
5. Taken as a whole the new route would not be significantly longer than the current route and would also be safer for users of the bridleway. Within this context, I find that the new route would not be substantially less convenient to the public.

*Whether the proposed new termination point is substantially as convenient to the public.*

1. The termination point of Bridleway 10 is being relocated from Point B on the Order Map to Point F, which is further north. However, both points are on the same highway.
2. Point F is opposite a termination point of bridleway 6 in Langton Long Parish. At present, users wishing to continue from Bridleway 10 to Bridleway 6, or vice versa, are required to transit the B3082 road which does not have footways and is unlit. From the evidence provided, there are no other potential onwards links from Bridleway 10 where it meets the B3082.
3. Whilst the termination point is being moved further to the north, from the submitted evidence, the only obvious onward connection from the current termination point is to join Bridleway 6. The new route would avoid users wishing to connect to or from Bridleway 6 from having to travel on the B3082 road and remove potential conflicts with vehicles using the road. It would also provide a safe crossing point on the B3082.
4. I therefore find that the proposed new termination point is substantially as convenient to the public.

*The effect of the diversion on public enjoyment of the bridleway as a whole*

1. The proposed diversion would have the effect of changing most, if not all, of the route of Bridleway 10 and extending it to the new termination point. Nonetheless, the new route would still be through the landscaped extent of the golf course and, as set out above, would remove the risks to users of the bridleway from crossing the playing area of the golf course and requiring users to be on the carriageway of the B3082 to connect with Bridleway 6. Although the route would be changed, the experience of using the Bridleway would be essentially similar to the present route.
2. The current definitive route of Bridleway 10 is, to all intents and purposes, an extension of Bridleway 1, which runs to the south east and then generally eastwards from Point A and was part of it until the numbering was altered to reflect the parish boundary changes in 2009. As such it forms part of a longer continuous route. However, there is no evidence before me that would indicate that the diversion would reduce the enjoyment of using this route when taken as a whole.
3. I therefore find that the diversion would have a neutral effect on the public enjoyment of the bridleway as a whole.

*The effect of the Order in respect of other land served by the existing public right of way* and *the effect of the new public right of way created in respect of the land over which it is to be created, and any land held with it.*

1. The existing and proposed routes are both wholly within land which is owned by Ashley Wood Golf Club. What is now Bridleway 10 does not serve any other land. I am advised that the proposed diversion was sought by the golf club and that the club supports the Order being made.
2. I therefore find that the effect of the diversion on other land served by the existing path, and on the land over which the new path would be created, would be a neutral one.

*Rights of Way Improvement Plan*

1. The evidence sets out that at the time the Order was made, Dorset’s ROWIP had not been published. The OMA’s submissions state that the proposed diversion fulfils various aspects of the, now published, ROWIP including improving accessibility to the network; protecting and enhancing natural and cultural heritage; and addressing road severance and road safety. I have no reason to believe that this is not the case.

**Other matters**

1. There is also no evidence that would suggest that the proposed diversion would have any adverse effect on agriculture, forestry, flora, fauna, or geological and physiographical features.

Conclusions

1. Based on the evidence I have been provided with, I have found that the Order is expedient in the interests of the landowner. The proposed route would not be substantially less convenient, and the proposed new termination point would be substantially as convenient to the public as the current one. I am also satisfied that it is expedient for the Order to be confirmed having regard to its effect on public enjoyment and upon other land served by the existing bridleway and that land over which the new bridleway would be created. Consequently, the Order would meet the relevant tests set out in Section 119 of the 1980 Act and there is nothing that I have read that would lead me to conclude that it would not be expedient to confirm the Order.
2. As set out in the procedural matters at the beginning of this decision, the OMA has requested, if the Order is to be confirmed, that it be modified to reflect the changes to the numbering of the definitive route and the parish boundary changes that occurred in 2009. As these modifications would result in the Order accurately reflecting the current circumstances, I have modified the Order accordingly. I have also modified the Order to change the authority responsible for certifying that the work has been carried out to bring the new highway into a fit condition from Dorset County Council to Dorset Council, the latter now being the Highway Authority for the area.

**Formal decision**

1. I confirm the Order subject to the following modifications:

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* In the title of the Order after the word “Bridleway” delete the numeral “1” and replace with the numeral “10”, and after the word “Tarrant” delete “Keyneston” and insert “Rawston”.
* In Paragraph 1, line 1 following the word “Tarrant”, delete “Keyneston” and insert “Rawston”.
* In Paragraph 1, line 4 delete the words “Dorset County Council” and insert “Dorset Council”.
* In Paragraph 2, line 2 after the words “Tarrant Keyneston”, insert “and Tarrant Rawston”.

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* In Part 1 to the Schedule (Description of the site of existing path or way), in line 1 after “Bridleway” delete the numeral “1” and insert the numeral “10”, and following the word “Tarrant” delete “Keyneston” and insert “Rawston”.
* In Part 1, line 5, after “Bridleway”, delete the numeral “1” and insert the numeral “10”.
* In Part 1, line 6, following the word “Tarrant” delete “Keyneston” and insert “Rawston”.
* In Part 2 to the Schedule (Description of site of new path or way) delete the first paragraph and replace with “Part of Bridleway 1, Tarrant Keyneston and Bridleway 10 Tarrant Rawston parish (one continuous route) in North Dorset District.
* In paragraph 2 (Bridleway 1 Tarrant Keyneston) following National Grid Reference ST 91980585) delete the comma and replace with a full stop and delete the words “ then north and north westerly along the meandering track through Buzbury Rings ramparts to the parish boundary with Tarrant Rawston at Point D on the map attached to the Order (National Grid Reference ST 91910604)”.
* In paragraph 2, line 8, following the words “3 metres”, delete the comma and replace with a full stop and delete the words “except where passing through the ramparts, where it is 1.8 metres at its narrowest point”.
* Delete paragraphs 3 and 4 (headed “A new Bridleway in Tarrant Rawston”, and “A new Bridleway in Langton Long Parish” respectively) and replace with the following paragraph:

“Bridleway 10 Tarrant Rawston

From its junction with the parish boundary with Tarrant Keyneston at Point C on the map attached to the Order (National Grid Reference ST 91980585, then north and north westerly along the meandering track through Buzbury Rings ramparts to the parish boundary with Tarrant Rawston at Point D on the map attached to the Order (National Grid Reference ST 91910604) and then north and north westerly across Ashley Wood Golf Course to Point E on the map attached to the Order (National Grid Reference ST 91870613) and west north westerly across Ashley Wood Golf Course to its junction with the B3082 at Point F on the map attached to the Order (National Grid Reference ST 91840615) opposite Bridleway 6, Langton Long. The width of the Bridleway is 3 metres, except where passing through the ramparts, where it is 1.8 metres at its narrowest point.”

Order Map

* In the title block below “Section 119, Highways Act 1980”, delete “Proposed Diversion of BR1 (Part), Tarrant Keyneston” and replace with “Proposed Diversion of BR10 (Part), Tarrant Rawston”.
* In the Map key, above the solid line annotation, following “BR” delete the numeral “1” and replace with “10”.
* On the Ordnance Survey base map delete the words “Parish Boundary” and the arrow above the long dash and dot line indicating the pre-2009 parish boundary and delete the long dash and dot line indicating the pre-2009 boundary.
* Indicate the present parish boundary that runs along the field boundary line parallel and to the north to the route of the proposed diversion before turning north west and following the line of the B3802 road with a long dash and dot line and annotate as “Parish Boundary”.
* Above the route to be diverted, alter the annotation from “BR1” to “BR10”.

John Dowsett

INSPECTOR

