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| **Order Decision** |
| Site visit made on 10 May 2022 |
| **by Graham Wyatt BA (Hons) MRTPI** |
| **an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 21 July 2022** |

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| **Order Ref: ROW/3285372** |
| * The Order is made under section 257 of the Town and Country Planning Act 1990. It is known as (Footpaths 2 and 3) Aylmerton Public Path Diversion Order 2021. |
| * The Order is dated 14 July 2021 and proposes to divert the public footpaths shown on the Order plan and described in the Order Schedule in consequence of planning permission being granted. * There was one objection outstanding when Norfolk County Council submitted the Order to the Secretary of State for Environment, Food and Rural Affairs.   **Summary of Decision: The Order is confirmed.** |
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Procedural Matters

1. The Order has been made because Norfolk County Council (the Council) is satisfied that it is necessary to divert the footpaths to enable development to be carried out in accordance with the planning permission which has already been granted in relation to Beeston Regis Quarry (BRQ). The works in question consist of the extraction of 1.0 million tonnes of sand and gravel, which had not started at the time of my visit.
2. There was one objection to the Order. However, as the objector did not request to be heard, I carried out an unaccompanied visit on Tuesday 10 May 2022 where I was able to walk the existing and proposed route of the footpath in question.
3. The objector has raised the matter of the width of the existing Aylmerton footpath 2 (FP2) and footpath 3 (FP3). The Definitive Map and Statement does not record the width of the existing FP2 and FP3 and the Schedule to the Order indicates that the “entire length” of FP2 and FP3 as detailed therein, will be stopped up. Thus, I am bound to consider the matters before me, weighing the disadvantages against the advantages which would include whether I find the proposed width of the diverted footpaths to be appropriate. However, if the objector contends that the width of FP2 and FP3 should be recorded for the remainder of the footpath outside the scope of the Order, then that is a matter for action under section 53 of the Wildlife and Countryside Act 1981.

**Main Issue**

1. In deciding whether to confirm the Order or not, I have discretion to consider the interests of the general public and the potential effects of the Order on particular members of the public. I must weigh any such disadvantages against the advantages of the proposed Order.

Reasons

*Whether it is necessary to divert the footpath to enable development to be carried out*

1. Section 257(1) of the Town and Country Planning Act 1990 (the Act) provides for an Order to be made authorising the stopping up or diversion of a footpath if it is necessary to do so in order to enable a development to be carried out in accordance with planning permission already granted under Part III of the Act.
2. Planning permission was granted under application FUL/2019/0001 for the extractionof 1.0 million tonnes of gravel and sand as an eastern extension to the existing BRQ on 23 October 2020. On completion of the sand and gravel being extracted from the site, the land will be restored at a lower level. This development has not been implemented.
3. It needs to be determined whether it is necessary to divert the footpaths to enable this development to be carried out in full. It is evident from the plans approved for the eastern extension to BRQ, that parts of both FP2 and FP3 would be affected by the extraction of the sand and gravel from the site. Therefore, until such time as FP2 and FP3 are diverted, it would not be possible to extract the sand and gravel from the eastern extension of BRQ. Thus, I consider that it is necessary to divert FP2 and FP3 to enable the development to be carried out.

*The disadvantages or loss likely to arise as a result of the diversion*

1. FP2 currently travels in a northerly direction from Holt Road where it curves to the northeast at Point A, and then continues in an easterly direction to Point F. FP3 also runs in a northerly direction from Holt Road from Point D to Point G, to the east of FP2. It proceeds in a north-westerly direction, intersecting with FP2 and continuing northwards.
2. Walkers of the diverted footpaths would arrive at their intended destinations via a slightly altered route around the periphery of the mineral extraction area. There are no residential properties affected by the diversion and the proposed routes would retain a rural ambience, with views across the open countryside. Moreover, given the totality of length of both FP2 and FP3 I do not find the increase in distance to represent an irresistible reason to hinder the extraction of minerals from the planning application site.
3. Furthermore, it is evident that following the mineral extraction, the land will be left with a very large depression in the landscape. I am not persuaded that the restoration of the original route of FP2 and FP3 through the importation of material to regrade the land would be beneficial, given the relatively short diversion of the footpaths as described above. Additionally, the Order makes it clear that the new footpaths would be 3.0m in width, which I consider appropriate for the location and the proposed routes for FP2 and FP3 and would adequately allow two people to pass one another in opposing directions without the need to yield.
4. Additionally, I acknowledge that the current route of FP2 sweeps across the landscape in an arc and that FP3 is a more direct linear footpath. However, although the proposed routes would require some changes in direction across the landscape, I am not persuaded that this would harm one’s experience of walking across the countryside and open fields. Moreover, there is no requirement for the proposed route to bear a resemblance to the one it replaces, and the changes in walking direction caused by the proposed routes would not result in a diminished experience for its users. Thus, the public would still be able to undertake a journey along FP2 and FP3 and connect with other footpaths within the local rights of way network if they so wish.
5. Therefore, for the above reasons, I conclude that the proposed diversions would not result in disadvantage or loss to members of the public who seek to use FP2 and FP3.

*Impact upon persons whose properties adjoin or are near the footpath*

1. There is no evidence before me from which I could conclude that persons whose properties adjoin or are near the existing right of way would suffer loss or inconvenience as a result of the proposed diversion.

***Whether the Order should be confirmed***

1. The Order has been made to enable the extraction of minerals which has an extant planning permission. It is clear that the development would obstruct part of FP2 and FP3 and I have concluded that the proposed diversion would not result in an inconvenience or loss to the public in general.
2. The advantage of the Order is that planning permission already granted on the site can be carried out whilst retaining FP2 and FP3. I conclude that there would be no disadvantage or loss to other parties which would outweigh the advantages conferred by the Order.

**Conclusion**

1. I do not consider that there are any disadvantages to outweigh the benefits of the Order which will allow the development to take place in accordance with the planning permission. Having regard to this and the matters raised in the written representation, I conclude that the Order should be confirmed.

**Formal Decision**

1. The Order is confirmed.

Graham Wyatt

**INSPECTOR**

