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| **Order Decision** |
| Site visit made on 19 October 2022 |
| **by Claire Tregembo** |
| **An Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs** |
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| **Decision date: 18 November 2022** |

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| **Order Ref: ROW/3280782** |
| * This Order is made under Section 119 of the Highways Act 1980 and is known as the Norfolk County Council (Stoke Holy Cross Bridleway No. 7 (Part)) Diversion Order 2020. |
| * The Order is dated 30 July 2020 and proposes to divert the public right of way shown on the Order plan and described in the Order Schedule. |
| * There was one objection outstanding when Norfolk County Council 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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**Preliminary Matters**

1. None of the parties requested an Inquiry or Hearing. Therefore, I have considered this Order based on the written representations before me. I undertook an unaccompanied site visit on Wednesday 19 October 2022.

**Main Issues**

1. Section 119(6) of the Highways Act 1980 (the 1980 Act) involves three separate tests for an Order to be confirmed. These are:

Test 1: whether it is expedient in the interests of the landowner, occupier or the public for the path to be diverted. This is subject to any altered point of termination of the path being substantially as convenient to the public.

Test 2: whether the proposed diversion is substantially less convenient to the public.

Test 3: whether it is expedient to confirm the Order having regard to the effect which:- (a) the diversion would have on public enjoyment of the path 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 at Test 3 stage, (a)-(c) are mandatory factors. On (b) and (c) of Test 3, the statutory provisions for compensation for diminution in value or disturbance to enjoyment of the land affected by the new paths must be taken into account, where applicable.
2. 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) of the 1980 Act. Other relevant factors are not excluded from consideration and could, for instance, include those pointing in favour of confirmation.

**Reasons**

***Whether it is expedient in the interests of the owners and occupiers of the land that the path in question should be diverted***

1. The Order has been made in the interests of the landowners and occupiers (the applicants) of the farmyard and farmland crossed by the existing and proposed route of Stoke Holy Cross Bridleway No. 7.
2. The bridleway is part of the long-distance Boudicca Way which the applicants state is heavily used by walkers, cyclists and horse riders including families and groups of between five and ten horse riders. The bridleway currently runs along a track through the farmyard with several agricultural buildings on either side.
3. The applicants want to divert the bridleway out of the farmyard and away from the agricultural buildings because of significant safety concerns between path users and agricultural vehicles. They advise that there are at least ten to fifteen cars manoeuvring and parking in the area, use by forty-four-ton articulated lorries, constant movement of tractors and other large farm vehicles and transportation of materials including fertilisers and chemicals. The noise from vehicles and machinery could frighten horses. There is a crop dryer fan adjacent to the bridleway which is unpleasant for path users and could spook horses. Additionally, some members of the public walk or ride over the weighbridge to the side of the bridleway, which is not safe. They state that diverting the bridleway away from the busy working industrial area would lessen the burden on them as landowners and occupiers and improve public safety.
4. The bridleway is also adjacent to their private home, garden and an office. Their privacy and security would be improved by the diversion of the bridleway. The applicants state that the secluded location makes it vulnerable to illegal access by unauthorised vehicles. They claim that there have been incidents because the public have easy access, although no details are provided. The diversion would allow them to improve security as they would be able to close and lock gates to prevent unauthorised access to the farmyard and their home. The bridleway currently prevents them from securing this area.
5. The Open Spaces Society (OSS) argue that it is down to the applicants to ensure that the public are adequately safeguarded and not put at risk. Other steps could be taken to prevent the public straying into unsafe areas or committing crimes without it being necessary to divert the bridleway. On my site visit I observed agricultural buildings and equipment on either side of the bridleway. In my opinion, the location of these would make other measures difficult to implement and could be disruptive to farming operations.
6. The diversion of the bridleway away from the working area of the farm and a home would clearly be beneficial to the applicants in terms of safety, security, and privacy. I am satisfied that it would be expedient to divert the bridleway in the interests of the owners and occupiers.

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

1. The OSS object to the Order on the grounds that the altered point of termination is not substantially as convenient to the public.
2. The termination point of the bridleway will move approximately 97 metres to the east of the existing termination point. Currently the diversion joins at the junction with Brickle Road, Chapel Lane and Abbots Lane. There are no other public rights of way in the vicinity of this junction which means that bridleway users must continue their journey along the road network.
3. The Boudicca Way continues north along Brickle Road, therefore anyone following it would have 97 metres less distance to travel along the road network. For anyone wishing to travel south or east, they would need to travel 97 metres further along the road network. However, the road is quiet with few vehicles, good visibility and roadside verges. As this is a recreational route in a remote area, bridleway users would have needed to have travelled some distance to reach this point. I consider that the additional distance along the road is minor and would not be an issue.
4. I have no information about the actual usage of the bridleway before me but, based on the public rights of way and road network, it is more likely that the majority of bridleway users would be following the Boudicca Way. If this were the case the proposed diversion would be slightly more convenient to the majority of bridleway users.
5. Visibility at the existing termination point along Chapel Lane is limited due to the bend in the road. Visibility at the proposed termination point is better than the existing termination point.
6. I consider that the new termination point will be substantially as convenient to the public, and slightly more convenient for those using the Boudicca Way.

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

1. The OSS considers that the diversion would be substantially less convenient to the public. No reasons are specified in their objection letter, but they refer to their pre-order consultation comments. In these they state that the proposed bridleway would be narrower than the existing farm track which has a firm metalled surface. By comparison the diverted route would be along a firm surface along a field edge which would be less convenient for cyclists. Any increased maintenance burden would fall on the council. The proposed diversion would also have a significant bend unlike the existing route. Anyone travelling to or from the east along Abbots Lane would have to double back on themselves.
2. No width was given for the existing bridleway, with the Order stating that the ‘full width’ was to be extinguished. During my site visit, I noted that the unaffected bridleway to the west of the farmyard was approximately 3 metres wide. Through most of the farmyard, there was a tarmac surface with a width of approximately 3 metres which could be clearly distinguished from the adjoining metalled farmyard areas. From point A for approximately 50 metres, the tarmac surface was wider, to a maximum width of approximately 4.5 metres.
3. Originally the diverted bridleway had a proposed width of 3 metres, but the applicants agreed to the wider width of 4 metres included in the Order. I consider that this is sufficient width for bridleway users to be able to easily pass each other.
4. The surface of the bridleway is not included in the Order. The applicants have advised that the surface will be a hardcore crushed concrete surface dressed with road plainings suitable for use by equestrians and cyclists. The surface will be agreed and certified by the Council. I consider that, provided the surface is compacted and firm this would be a suitable surface for all bridleway users.
5. Currently the bridleway to the west of the farmyard runs between fields with hedges or plantations alongside in places. In my opinion, a diversion around a field edge instead of through the farmyard, would make no difference to the convenience of bridleway users including cyclists.
6. The existing bridleway currently has three bends similar to those proposed on the new section of bridleway. These all have a width of approximately 3 metres and are surfaced with tarmac with some loose stone on them. The applicants have advised that the bends will not be at right angles and will be curved to ensure that cyclists and horse riders are able to turn easily. As the new bends would be a meter wider than the existing bends, I do not consider that they would make the diverted route substantially less convenient than the existing route.
7. For those using the Boudicca Way, the diversion would reduce the distance walked by approximately 39 metres overall and would reduce the amount of road walking by approximately 97 metres. This would result in a slightly more convenient route for those using the Boudicca Way. For those heading south or east, the distance travelled would be approximately 155 metres longer, including an additional 97 metres along the road. As this is a recreational route in a remote area, most bridleway users would already have travelled some distance to reach it. I do not consider that this additional distance is substantially less convenient to the public.
8. For the reasons given above at paragraph 14, I consider that the proposed diversion would be slightly more convenient to the majority of bridleway users.
9. Overall, I find that the diversion would not lead to the bridleway being substantially less convenient for the public.

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

1. The OSS consider that the diversion would be less enjoyable to members of the public as it would shift the bridleway away from its old and very well-established route through the farmyard. They argue that farmyards are a key feature of the countryside and moving the bridleway out of it would lead to a reduction in the overall enjoyment for the public.
2. The applicants consider that reduced contact with farm traffic and the relocation away from a noisy working industrial area would enhance the enjoyment of the public. They believe that some users feel uncomfortable crossing the industrial area and privately used land, although the OSS argue that there is no evidence for this. The applicants advises that the public would still be able to view the farmyard from the diverted bridleway and would have the added enjoyment of more scenic views across the field.
3. The farmyard was made up of modern agricultural buildings, weighbridge, silos and crop dryer fans. There were numerous items of agricultural machinery and vehicles in this area. There were some older brick-built buildings, stables, and a farmhouse near the roadside. In my view, most of the farm buildings were not particularly attractive, and those with more appeal can be viewed from the roadside.
4. It was clearly a working area with the potential to be busy at peak farming times. I consider that there are likely to be walkers, cyclists and horse riders who would feel uncomfortable or unsafe walking through this area. The crop dryer fans were not working at the time of my visit, but from their size and position adjacent to the bridleway, if they were running they are likely to have a negative impact on those using the bridleway. It would probably still be possible to hear them from the diverted route, but they would not be blowing directly over the bridleway as they currently are.
5. By comparison, the diverted route would offer pleasant views over the fields and wider countryside which are not available from the existing bridleway through the farmyard. There may be some bridleway users who have an interest in agricultural machinery and practice, but a quieter, safer, traffic free route with pleasant landscape views is likely to be more enjoyable to the wider public.

***The effect of the diversion on other land served by the existing paths and the land over which the new paths would be created***

1. The applicants own and occupy the land affected by the existing and diverted bridleway. They requested the diversion to improve their security and privacy and to improve farm safety for their benefit. There is no evidence that the diversion would have a negative impact on the land served by the existing or diverted bridleway.

***Rights of Way Improvement Plan (ROWIP)***

1. The Council have prepared a ROWIP. There is nothing in it that has particular relevance to this case.

***Interests of Agriculture***

1. The applicants run an arable farm and the farmyard is used to store farming equipment, fertilisers, chemicals, and crops. There is a crop dryer and weighbridge in the farmyard. They have concerns about public safety and security in this area, particularly with the manoeuvring of large vehicles and at harvest time. The diversion of the bridleway out of the farmyard would improve farming operations and reduce the burden on the applicants.

***Conclusions on whether it is expedient to confirm the Order***

1. I have concluded above that it is expedient that the Order should be confirmed in the interests of the landowners and occupiers of the bridleway. I have also concluded that the change in termination point would be substantially as convenient to the public, and slightly more convenient for those using the Boudicca Way. I consider that the diversion will not be substantially less convenient to the public. There is no evidence that the diversion would have a negative impact on the land served by the existing or diverted bridleway and it would have a positive impact on farming operations within the farmyard. There is nothing before me that leads me to conclude that it is not expedient to confirm the Order.

**Overall Conclusion**

1. Having regard to these and all other matters raised in the written representations, I conclude that the Order should be confirmed.

**Formal Decision**

1. I confirm the Order.

*Claire Tregembo*

INSPECTOR

