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| **Order Decision** |
| Inquiry opened on 15 November 2022  Site visit made on 14 November 2022 |
| **by Alan Beckett BA MSc MIPROW** |
| **An Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 22 December 2022** |

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| **Order Ref: ROW/3262504** |
| * This Order is made under Section 119 of the Highways Act 1980 (‘the 1980 Act’) and is known as Leicestershire County Council (Public Bridleway D6 (part) and D43 (part) at Quenby Hall, in the Parish of Hungarton and the District of Harborough) Public Path Diversion Order 2019. |
| * The Order is dated 7 November 2019 and proposes to divert the public rights of way shown on the Order plan and described in the Order Schedule. |
| * There were 18 objections and 14 representations in support outstanding at the commencement of the inquiry. |
| **Summary of Decision: The Order is confirmed subject to the modification set out in the formal decision.** |
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Procedural Matters

1. I opened an inquiry into the Order at County Hall, Glenfield, Leicester on Tuesday 15 November 2022 which concluded the following day. I made an unaccompanied inspection of the Order routes on the afternoon of Monday 14 November. I was not required to make a further inspection following the close of the inquiry.
2. The Order as drafted contains one minor error in relation to the grid reference for an equestrian gate at point G on the proposed alternative route of bridleway D6. In Part II of the Schedule, the grid reference of point G is given as 47011 30606, whereas in Part III the new gate is described as being at 47011 30656. Miss Varia for Leicestershire County Council (‘the Council’) confirmed that the correct grid reference was that found in Part II of the Schedule and requested that the Order be modified accordingly.
3. Although the Order proposes the diversion of part of bridleway D6 and bridleway D43, the principal areas of dispute between the parties all related to bridleway D6. Only a short section of bridleway D43 is at issue and its diversion has been proposed to ensure that a cul-de-sac would not result were the diversion of bridleway D6 to be successful.

The Main Issues

1. Section 119(6) of the 1980 Act requires that I must be satisfied that three separate tests are met before the Order can be confirmed. These are:

TEST 1: whether the diversion is expedient in the interests of the owner, lessee or occupier of land crossed by the path or of the public. 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 would not be 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 deciding expediency at the Test 3 stage, (a)-(c) are mandatory factors. Other factors are not excluded from consideration and could, for instance, include those pointing in favour of confirmation. 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 path must be taken into account where applicable.
2. In reaching my decision I am also required to have regard to any material provision contained in a rights of way improvement plan (ROWIP) for the area. I must also consider whether the Public Sector Equality Duty (PSED) would be discharged by this proposal.
3. The Order has been made in the interests of the owner of the land (‘the Applicants’) crossed by those parts of the bridleways at issue.

Reasons

***Whether it is expedient, in the interests of the owner of the land crossed by the bridleways, that the bridleways in question should be diverted***

1. Bridleway D6 commences on Barley Leas at the entrance to the Applicant’s property and runs in a generally easterly direction along the tarmac driveway which leads to Quenby Hall, a Grade I listed Jacobean mansion. At a point a little distance to the west of the Hall (point B on the Order plan), the bridleway turns south-east and then north-east making a curve to the south of the ha-ha before running to an access track to the east of the Hall (point D). The bridleway then continues in a generally easterly direction on the access track to point E and onwards until it reaches the Cold Newton parish boundary. The bridleway then continues eastward to make a junction with Hungarton Road.
2. It is that part of the bridleway which runs south of the ha-ha which gives the Applicants the greatest concern for their privacy and security. In her evidence, Mrs Allen described a number of incidents where pedestrian users of the bridleway had departed from the definitive line of the path and intruded into the garden to the west and south of the Hall. On one occasion, a group of walkers had climbed on top of the ha-ha wall and were resting on their walk in the garden; on being asked to leave and return to the path, this group became aggressive and abusive.
3. Other examples of the intrusion of privacy were given of individuals having entered the garden areas either on foot or on a pedal cycle or engaging in a picnic on the front lawn. On another occasion, two walkers sat on the ha-ha wall by the applicants’ garden gate and refused to leave. In all such examples, the individuals involved were some distance away from the bridleway. Mrs Allen stated that incidents such as these were a weekly occurrence.
4. As regards security, evidence was also given of unknown and unidentified persons standing at the rear of the Hall for around 15 minutes taking photographs of the house and pointing at the widows. Mrs Allen’s evidence was that following this incident, CCTV has been extended to cover all parts of the house and other buildings on the Estate as these two individuals had also been seen around the outside of the gatehouse at the western end of the drive. A further example was given of a walker standing against the ha-ha wall taking photographs of the house using a camera and large telephoto lens.
5. The incidents described to me have given rise to concerns about privacy and security arising through misuse of the bridleway, or from the bridleway being a pretext to access the house and its private amenity areas. Such instances were unsettling and worrying, given the isolated nature of the Hall. It is considered that the diversion of bridleway D6 to a new location further to the south into the wider parkland of the Hall would reduce the level of intrusion, increase the privacy of the Hall and the garden enclosed by the ha-ha, and reduce the likelihood of those of dubious or questionable intent from readily accessing the Hall and its gardens.
6. I also heard from the Applicant’s Head Gardner of the practical difficulties experienced in managing the gardens as additional care had to be taken when using power tools or chemical treatments due to people straying off the bridleway and being present within his working area.
7. The objectors submit that as bridleway D6 is located approximately 60 metres from the Hall, there is sufficient distance between the public and those resident in the Hall to provide adequate privacy; consequently, there was no need to divert any part of D6. It is also submitted that anyone walking along D6 would be below the height of the ha-ha wall and would not therefore be able to disturb the privacy of the owners. It is suggested that as equestrian users would be able to see over the ha-ha, disturbance by those users is likely to be more prevalent, but that pedestrian users should not be disadvantaged as a result.
8. I noted from my site visit that when walking along the arc of the definitive line of the bridleway, it was possible to see the ground floor windows of the house and although a view into the house through those windows was not possible, it is highly likely that anyone inside would have been able to see me walking along the bridleway. Although the definitive line curves away from the ha-ha wall, there is a gate at the western corner of the wall and a yellow marker post at its eastern end; consequently, path users are likely to follow the line of the wall and not the definitive line of the bridleway.
9. Whether a pedestrian walking parallel to the ha-ha wall would be able to see over it would be dependent upon the height of the individual. It is highly likely however, that people using the garden would be aware of people passing by due to the elevated position provided by the ha-ha. In such circumstances it is not difficult to comprehend how the privacy of the amenity areas to the south of the house may be impacted.
10. It was suggested by the objectors that improved or accurate waymarking of the bridleway would assist the Applicants as a more readily identifiable path would be easier to follow and would reduce the trespass complained of. It was suggested that the path could be marked by mowing the grass or lining the path with stakes and that spikes could be erected on top of the ha-ha wall to prevent people climbing or sitting on it.
11. The Applicants were of the view that waymarking the definitive line of the bridleway would not prevent or deter those who considered they could walk anywhere or who were using the bridleway as a pretext to get closer to the house or investigate its gardens. Whether the appropriate consents could be obtained for the erection of stakes or spikes in a listed parkland is debatable, but the Applicant’s concerns do not appear to relate to genuine users of the bridleway as Mrs Allen is on record as describing such individuals as being ‘an absolute delight’.
12. Those users who legitimately use the bridleway to pass and re-pass between Barley Leas and Hungarton Road are unlikely to cause the Applicants alarm and distress, although I can understand that it may be unnerving to have path users in the vicinity of an isolated dwelling at dusk or during the hours of darkness.
13. However, it is those who stray from the bridleway into the amenity areas of the house and are abusive when asked to leave which give rise to concerns about privacy. Similarly, it is those of questionable intent who may use the existence of the bridleway as a pretext to survey the house and its surroundings which give rise to concerns about security. Whilst the diversion of the bridleway may not deter those who are intent on criminal activity, the Applicants would be able to make a stronger challenge to the presence of unauthorised third parties found near to the house if the bridleway did not run along the driveway or in close proximity to its southern and eastern elevations.
14. One of the grounds of objection to the proposed diversion was that the Applicant would have known of the existence of the bridleway when purchasing the property and if they were unhappy about it, they were unwise to proceed with the purchase. This argument was rejected by Ouseley J, in *Ramblers Association v Secretary of State for the Environment, Food and Rural Affairs* [2012] EWHC 3333 (Admin); the Applicants awareness of the existence of the bridleway at the time they purchased their property is irrelevant to the question of whether it would be in their interests for the bridleway to be diverted.
15. Whilst it was suggested that the previous owners of the property did not experience the type of behaviour described by the Applicants and were seemingly content with the presence of the bridleway, the Applicants are of a different view.
16. I consider that the proposed diversion would be in the interests of the Applicants. As a result of the diversion, bridleway D6 would no longer be located close to the property and would enhance the amenity of the space between the house and the ha-ha wall. Furthermore, the diversion would also be in the Applicants’ interests as a means of enhancing the security of the property.
17. For these reasons, I am satisfied that it is expedient in the interests of the landowner that part of bridleway D6 should be diverted.
18. I am also satisfied that should bridleway D6 be diverted, it would be in the interests of the owner and the public to have part of bridleway D43 diverted to prevent a cul-de-sac from developing at point I.

**Whether the terminal point of the proposed bridleway would be substantially as convenient to the public as the terminal point of the existing bridleway**

1. There would be no alteration of the terminal points of Bridleway D6 arising from the proposed diversion; this aspect of the section 119 tests is therefore inapplicable to bridleway D6.
2. As regards bridleway D43, its current point of termination on bridleway D6 would be relocated to another point on that bridleway approximately 150 metres to the west. At the proposed new termination point (point J) there is a broad flat verge which would provide users with a suitable refuge from which to check for vehicular movements along the access driveway in either direction. The proposed diversion would also remove the bridleway from a ‘pinch point’ at I where users of the bridleway and vehicular users of the driveway currently coincide.
3. The proposed diversion would not prevent those who currently use bridleway D43 as part of a journey from Old Ingarsby to Hungarton or Cold Ashton from continuing to do so. I conclude that the proposed terminal point of bridleway D43 at point J will be substantially as convenient to the public as the current terminal point at point I.

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

1. The section of bridleway D6 proposed for diversion is approximately 925m in length whereas the proposed replacement would be approximately 1075m. The proposed alternative route would maintain a means of travel between Barley Leas and Hungarton Road.
2. The evidence before me suggests that the principal use of the bridleway is for recreational, as opposed to utilitarian purposes. I heard from a number of witnesses as to their use of the existing bridleway as part of a circular walk from Hungarton, and of the path forming part of local circular walk incorporating Quenby, Lowesby and Baggrave Halls. Whilst there would be an increase in the overall length of bridleway D6 as a result of the proposed diversion, an increase of approximately 160 metres is unlikely to inconvenience pedestrians or equestrians on a circular walk or ride from Hungarton (for example) which would involve a journey of approximately 6.4km.
3. In relation to the increased length of bridleway D6 that would result from the proposed diversion, the objectors challenged the assertion that this additional distance would result in an increase in journey times of approximately 2 minutes. The estimated journey time assumes the user would be walking at an average pace of 3mph (1.3m/s or 80.4m/min). Given the nature of the surface of the proposed alternative bridleway, this would not be an unreasonable pace for the average pedestrian user to proceed at.
4. A walking speed of 3mph also assumes that the user does not pause to take in a view of the surroundings; even if an allowance was made for such activities, the increase in journey time and distance on a recreational walk or ride is unlikely to inconvenience the majority of users.
5. The proposed alternative route would require users to negotiate equestrian gates at points F and G. I found these gates to be straightforward to open, and those horseriders I heard from at the inquiry were also positive as to the ease of use from horseback. The current route requires users to negotiate a gate on the bridge at point I, a gate just to the south of the western end of the ha-ha wall, and a gate which marks the definitive line of bridleway D6 to the east of the ha-ha wall.
6. Whist these gates were relatively easy to negotiate on foot, I heard that the gate on the bridge at I was problematic for horseriders approaching from the east as it was adjacent to a cattle grid, or within the confines of the bridge when approaching from the west and was at a position where the available space had to be shared with vehicular traffic. The horseriders I heard from considered the gate at F to be preferable in comparison, particularly as it was likely to be little used by vehicular traffic.
7. The number of gates to be negotiated on the proposed alternative route will be reduced compared with the existing route, and gates are the least restrictive option which ensures that the livestock in the fields through which the bridleway passes can be kept in separate enclosures. Those who spoke in support of the Order made no adverse comment with regard to the gates which had been installed on the proposed alternative route, and I consider that users are unlikely to be inconvenienced by the infrastructure on the proposed route.
8. The proposed route would follow a purpose made track which would provide a relatively level walking and riding surface which would even out the undulations in the ground caused by the ridge and furrow through which the proposed bridleway would run. One of the grounds of objection to the diversion was that the drainage installed under the new track was inadequate and would lead to the proposed route being unsuitable for riders and impassable for walkers during winter months.
9. I heard that since embarking on the process to secure a diversion of the bridleway, the Applicants have undertaken additional land drainage works within the wider parkland to address any potential for the proposed route to become waterlogged or founderous. The day of my site visit was one notable for low cloud and some rain, and I heard that there had been considerable rainfall in the area during the previous fortnight. Given such conditions, I found the surface of the proposed route to be dry and firm underfoot and less wet than the existing bridleway which runs over the same ridge and furrow.
10. The nature of the proposed route would provide equestrian and pedestrian users with a broad, firm and relatively dry walking and riding surface. At the time of my site visit there was evidence on the ground in the form of hoofmarks that the alternative route was being used by horseriders. Those horseriders who spoke in support of the Order considered the alternative to be preferable to the current route of bridleway D6; the surface was firm, and the additional length provided the opportunity for the horse to canter.
11. The objectors also raised concerns about the gradient and slope of the proposed bridleway and considered that it would be unsuitable for use those with impaired mobility or by parents with children in push chairs. The proposed route descends approximately 20 metres in altitude from point A to point G before rising up the same incline to point E.
12. The gradient to the west of point G is greater than that to the east, where there would be a more gradual increase in altitude. Although there is a steeper section of the path immediately to the west of point G, I did not consider either section to be particularly onerous or challenging. However, the gradients on the proposed route are steeper than on the existing route which is at a generally uniform altitude.
13. Nonetheless, the evidence I heard was that the proposed route was not unsuited to use by those with reduced mobility; one witness spoke of having inspected the proposed route and had observed a manual wheelchair user being able to negotiate the entire route without assistance. Another witness spoke of a family member being able to traverse the alternative route in a powered wheelchair. It is highly likely that those users with access to a Tramper outdoor mobility vehicle would also be able to make their way along the proposed alternative.
14. I note that, if confirmed, the Order would only become operative once the Council certifies that the alternative route has been brought into a fit condition for use by the public. I also note the Applicant’s willingness to undertake any further works which the Council may require in this regard. The Applicants have committed themselves to the ongoing management and maintenance of the proposed route through a section 106 undertaking made to Harborough District Council as part of the Landscape Management Plan associated with planning permission for new agricultural buildings to the north of the Hall. I consider that such undertakings should allay any concerns the objectors may have with regard to the suitability of the proposed alternative path for public use.
15. I saw that the proposed route had been set out at a width of at least 4 metres and was unenclosed by fences or hedges. The available width is such that two horseriders, or a horse rider and pedestrian, could pass each other in reasonable comfort; the available width is unlikely to inconvenience those who would seek to use the bridleway.
16. On balance, having given consideration to the matters raised, I do not consider that the length, width, surface, gradient, method of construction or infrastructure of the proposed alternative route for D6 is likely to inconvenience those who seek to use it.
17. Depending on the direction of travel and the ultimate destination, a user of the proposed alternative to D43 would find their journey reduced by approximately 150 metres (on a journey between Old Ingarsby and Hungarton) or increased by 150 metres (if travelling between Old Ingarsby and Cold Ashton). The use of D43 appears to be primarily for recreational purposes and the difference in journey times and distances is unlikely to inconvenience such users.

###### *Whether it is expedient to confirm the Order having regard to*

*(a) the effect the diversion would have on public enjoyment of the path as a whole*

1. The enjoyment derived from the use of a public right of way is, to a large extent, a personal and therefore subjective matter. For example, enjoyment can be influenced as much by the weather during a walk as by individual personal preferences. However, I have attempted to address this question objectively, comparing such matters as the characteristics of both routes and the views afforded by both routes.
2. The current line of bridleway D6 passes close to Quenby Hall and provides the user with a close view of the western façade of the Grade 1 listed building. The objectors contend that diverting the bridleway along the proposed alternative route would remove the enjoyment to be derived from a walk along the bridleway as the views of the Hall would for the most part be lost. It is acknowledged that a view of the west front would remain (albeit at a distance) from the driveway west of the bridge at point A where the new bridleway would leave the access driveway.
3. The Applicants submit that whilst the existing close view of the west front of the hall and its gates would be reduced, the proposed alternative route would provide views of the Hall within the setting of the wider parkland as part of the early seventeenth century planned development. The proposed route would allow users to view the Hall in its planned setting along with bringing users closer to the site of the former mediaeval village of Quenby. The proposed alternative route would also offer far-reaching views to the east, west and south of this part of High Leicestershire.
4. I noted at my site visit that from the proposed alternative route that the Hall appeared as a feature on the skyline due to its position relative to the altitude of the proposed bridleway. Views of the Hall were available from the majority of the proposed alternative with the exception of at point G and immediately to the east of point G. Between F and G when looking north it was also possible to make out the undulations in the land which marked the site of the former village of Quenby. Although the views of the Hall were at a greater distance than currently available, it would still be possible to obtain views of the east, south and west fronts form the proposed route.
5. The ability to view the Hall in its planned landscape along with the deserted village site was described as ‘time depth’ by the Applicants’ landscape architect. Having taken the relevant OS map with me as part of my site inspection, I was able to appreciate this concept as the Hall and the deserted village are clearly marked on the map. I fully appreciate that there will be some users (like the objectors) who consider that the ability to view the Hall from close range to be of value and interest and which contributes to the enjoyment of a walk along bridleway D6. Equally, there will be those who are likely to derive interest and enjoyment from the ability to see the Hall within the wider landscape as an example of early seventeenth planned landscape.
6. Whilst a close view of the hall would not be available from the proposed alternative, views of the hall within its planned landscape would provide a different perspective. It is difficult to determine whether the impact upon enjoyment would be negative or positive, as that is likely to differ between individuals. However, views of Quenby Hall would not be lost as a result of the proposed diversion, they would simply be of a different nature. In this respect, I consider the impact upon enjoyment to be neutral; those users who do derive enjoyment from seeing old buildings within the landscape are unlikely to be adversely affected by the proposed diversion.
7. The views to be had of the countryside to the east, south and west from the proposed route are extensive, whereas the views from the current route are constrained by the mature and maturing trees which surround the Hall. For those users who feel uncomfortable with walking or riding close to residential property, the proposed route is likely to give greater enjoyment than the current route.
8. This was the impression I received from some of the members of the public who spoke at the inquiry. One horse rider spoke of not wanting to invade the privacy of the Applicants by riding close to the ha-ha as she could clearly see the garden and the ground floor windows of the house; others considered their enjoyment of bridleway D6 would not be diminished by it being further from the house. Other witnesses stated that the proposed route was preferable for cycling, particularly with children, as the current route over ridge and furrow was often waterlogged and unsuitable - bicycles would ‘grind to a halt’ on the current route.
9. On balance, I feel the enjoyment of those who seek pleasure from informal recreation on bridleway D6 would not be diminished as a result of this Order.
10. From point H the proposed alternative route for bridleway D43 would run over a shallower gradient than the current route. The more elevated position of the proposed route would provide far reaching views of the surrounding countryside when heading towards Old Ingarsby which are not available from the current alignment. On balance, I feel the enjoyment of those who seek pleasure from informal recreation on bridleway D43 would not be diminished as a result of this Order.
11. *The effect the coming into operation of the Order would have with respect to the land served by the existing bridleways*
12. There is no evidence before me that the Order would have, in this respect, any effect separately identifiable from those considered above in relation to the other requirements of Section 119 of the 1980 Act.

*(c) The effect any new right of way created by the Order would have as respects land over which the new right is created together with any land held with it, account being taken of the provisions as to compensation*

1. I understand that both the current and proposed routes lie on land in the ownership of the Applicants and that there would be no impact upon the land crossed by the new path. Compensation issues are therefore not relevant.

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

1. For the reasons given above, I do not find that there would be any detrimental impact upon the enjoyment to be derived from a walk or ride along the bridleway at issue, and that there would be no adverse impact upon the land currently served by the bridleway or the land which the diverted bridleways would cross. Consequently, there is no conflict between the outcomes of Test 3 and Tests 1 and 2. It follows that I conclude that it would be expedient to confirm the Order.

***Consideration given to the provisions of a ROWIP***

1. The Leicestershire Rights of Way Improvement Plan Action Plan 2011 – 16 sets out broad strategic actions to identify improvements to the rights of way network within the area of the plan. The proposed diversion does not appear to conflict with the policies set out in the Council’s ROWIP.

***Consideration given to the needs of agriculture and forestry and the conservation of biodiversity and natural beauty***

*Agriculture and forestry*

1. The land crossed by the proposed path is currently grazed by livestock but is not used for forestry. Consequently, I consider it unlikely that there would be any negative impact upon agricultural or forestry operations arising from the proposed diversion.

*Biodiversity*

1. The land crossed by the proposed path is not classified as a Site of Special Scientific Interest and is not covered by any other local designations aimed at conserving habitat types or species diversity. There is no evidence before me that the proposed diversion would have any adverse impact upon biodiversity.

*Natural beauty*

1. The land crossed by the current and proposed path is located in an attractive rural setting in High Leicestershire. Quenby Hall is a Grade 1 listed building with its historic parkland being Grade 2 listed. The diversion of either bridleway is unlikely to have any adverse impact upon the conservation of the natural beauty of the area.

*Public Sector Equality Duty*

1. The proposed alignment for bridleway D6 would slope south-east towards point G before rising uphill to point E. There are two bridle gates which users would have to negotiate at points F and point G; both have been provided with latching mechanisms which are straightforward to use. Whilst the proposed alternative would increase the overall length of the path by approximately 160 metres, the alternative has been constructed in such a way that would provide a suitable walking or riding surface for most users and would not be an issue for current users of the bridleway. I heard evidence that the proposed route is suitable for, and has been used by, wheelchair users.
2. Although not all disabilities are visible, the proposed alternative route should not introduce any disproportionality to persons with protected characteristics (over and above the effects likely to be experienced by the rest of the population). I conclude that the PSED would be discharged by the proposal.

**Other matters**

1. The objectors sought the retention of a public right of way on foot over the current alignment of bridleway D6 and suggested that the equestrian right of way only should be diverted. If it were not possible to achieve this as a diversion, then the Council should have sought the extinguishment of bridleway rights over D6 with the creation of a new bridleway over the proposed alternative route.
2. I know of no mechanism whereby the equestrian and pedestrian rights which define a public bridleway can be separated out in the manner contended for by the objectors. Although it may have been possible for the public rights over D6 to be adjusted using orders made under sections 118 and 26 of the 1980 Act, the Order which I am required to consider is solely for the diversion of part of bridleway D6.

**Unilateral Undertaking**

1. On the second day of the inquiry, the Applicants delivered a s106 Unilateral Undertaking obligating themselves and their successors in title to the provision in perpetuity of a section of permissive path (point A to point I) (‘the Permissive Path Obligation’), an information panel at or near to point F (‘the Information Panel Obligation’) and two bench seats, one to the west of point G and one to the east (‘the Benches Obligation’).
2. The Applicants submitted that the Obligations committed to were material to the statutory tests to be considered including the question of the quality of the diverted route for users. The Council’s view was that the obligations set out in the Unilateral Undertaking were separate from and independent of the tests to be applied and that such matters could be given further consideration if the Order were to be confirmed.
3. I am satisfied that the deed delivered at the inquiry accords with the formalities identified in section 106 (9) of the Town and Country Planning Act 1990 (‘the 1990 Act’) and is valid for the purposes of section 106 of that Act. Paragraph 57 of the National Planning Policy Framework (‘NPPF’) states that planning obligations should only be sought where they meet all of the following tests; (a) necessary to make the development acceptable in planning terms; (b) directly related to the development; (c) fairly and reasonably related in scale and kind to the development.
4. Although the 1990 Act and the NPPF address obligations in relation to planning matters, I have given consideration to this matter as if the terms ‘development’ and ‘planning’ used in paragraph 57 of the NPPF equated to the proposed diversion of bridleway D6 and D43 despite it being unlikely that the diversion of a public bridleway could be considered to be ‘development’ as described in section 55 of the 1990 Act.
5. I do not consider that the Obligations itemised in the unilateral undertaking meet all the three tests set out in paragraph 57 of the NPPF. I have already concluded that the proposed diversion meets the statutory tests set out in section 119 of the 1980 Act. Consequently, it has not been demonstrated that the Obligations are necessary to make the diversion acceptable under the terms of the 1980 Act.
6. In the light of my conclusion that the statutory tests found in section 119 have been met, Cluse 6 of the Deed (‘the Blue Pencil Clause’) sets out that the Permissive Path Obligation and the Information Board Obligation shall cease to have effect and that the Applicants shall be under no obligation to comply with those Obligations. Whether the Council and the Applicants wish to give consideration to these matters at some future date is a matter for the parties to determine.

**Overall** **Conclusion**

1. Having regard to these and all other matters raised at the inquiry and in the written representations, I conclude that the Order should be confirmed subject to the modification outlined in paragraph 2 above.

Formal Decision

1. I confirm the Order subject to the following modification: in the Schedule, Part III, amend Grid Reference ‘40711 30656’ to read ‘40711 30606’.

Alan Beckett

Inspector

APPEARANCES

For Leicestershire County Council

Nisha Varia Solicitor

who called:

Edwin McWilliam

For the Applicants

Douglas Edwards KC of Counsel instructed by Shakespeare Martineau LLP

who called:

Joanne Allen

Jon Golby BA (Hons) DipLA MA CMLI UDGRP Landscape Architect, Golby & Luck

Robin Carr FIPROW Robin Carr Associates

Interested Parties in support

Nancy Parker

Catherine Wood-Collins

Philip Cox

Debbie Tamblyn-Jones

Tom Fuller

Tony Prikockis

Martyn Gower

Heather Cooil

In Objection:

Averil Brooker (representing Laurence Faulkner)

Geoffrey Barnett

Heather Mac Dermid

Roy Denny Chairman, Leicestershire Footpaths Association

Other interested Party:

Michael Charlesworth County Councillor, Leicestershire County Council

Inquiry documents

1. Clip of emails and documents relating to site meetings between the Applicants and Leicestershire Footpaths Association, April & October 2017.
2. Letter of support from Lori King 14 November 2022.
3. Letter of support from Kiki Everard 13 November 2022.
4. Opening statement on behalf of Leicestershire County Council.
5. Opening statement on behalf of the Applicants.
6. Draft of proposed information panel.
7. Note on the Unilateral Undertaking relating to the timescales for delivery of the Landscape Management Plan for Quenby Hall and continued maintenance thereof.
8. Speaking notes of Nancy Parker.
9. Errata sheet regarding paragraph 41 of Mr Carr’s Proof of Evidence.
10. Bundle of additional documents submitted by Averil Brooker (i) email from Laurence Faulkner regarding distances from various Halls to the nearest public footpath/bridleway or public road; (ii) emails regarding the withdrawn objection from Disabled Ramblers; (iii) copy extracts from Historic England’s comments on an application for planning permission (date in margin of 21 08 2020).
11. Speaking notes of Roy Denny.
12. Closing submissions of Geoffrey Barnett.
13. Unilateral Undertaking dated 15 November 2022
14. Closing submissions on behalf of the Applicants
15. Closing submissions on behalf of Leicestershire County Council.

