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| **Order Decision** |
| Site visit made on 18 April 2023 |
| **by Claire Tregembo** |
| **An Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs** |
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| **Decision date: 12 May 20223** |

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| **Order Ref: ROW/3302343** |
| * This Order is made under Section 119 of the Highways Act 1980 and is known as the North Yorkshire County Council, Public Bridleway No. 25.122/622, Oak House, Hawnby, Helmsley Diversion Order 2021. |
| * The Order is dated 12 October 2021 and proposes to divert the public bridleway shown on the Order plan and described in the Order Schedule. |
| * There was one objection outstanding when North Yorkshire 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. I will refer to various points and sections of the Order route using the letters shown on the Order map. I have appended a copy to the end of my decision.

**Main Issues**

1. Section 119(6) of the Highways Act 1980 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). 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 owner that the path in question should be diverted***

1. The Order has been made in the interests of the landowner to enhance the privacy, safety, and security of their property and to enable the safe movement of livestock within the yard. It will also help to ensure the safety of users when vehicles are manoeuvring in the yard.
2. The bridleway runs up a track and through the yard of Oak House a short distance away from it. There are large open windows in the front of the property and path users can easily see in. The proposed diversion would take the bridleway out of this area into fields to the east and north of the property. The existing hedges would screen the property from the bridleway enhancing privacy for the residents.
3. The close proximity of the bridleway to the house impacts on the sense of security of the property. Whilst crime levels are low, there have been several thefts of farm machinery in the area. The diversion of the bridleway would enable the landowner to improve security and feel safer in the property.
4. At the time of my site visit there was a caravan and trailer within the yard area which would need to manoeuvre across the bridleway when parking and leaving. There were no moving vehicles or livestock within the yard area at the time of my site visit. However, caution would need to be exercised by both path users and those driving when present due to the limited space available.
5. It is suggested that moving the bridleway to the most easterly and northern boundary of the track would improve safety from vehicles. However, the bridleway does not have a recorded width, and the full width of the track is currently available to the public. Without separate fencing, which is not practical, the public are likely to continue to use the full width of the track. This would not resolve the landowner’s privacy, security, or livestock concerns.
6. I consider that the diversion of the bridleway would improve the privacy, safety, and security of Oak House. It would also separate the public from manoeuvring vehicles and livestock in a confined area. I am satisfied that it is expedient to divert the bridleway in the interests of the landowner.

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

1. The bridleway is on a steep hill and rises from the B1257 to point A. The bridleway rises steeply between A and B and continues to rise between B and C. The proposed diversion has a very slight gradient between D and F and then rises steeply between F and C. I found the gradient between F and C to be comparable to the gradient between A and C. When using the Order route from the B1257, section D to F gives path users a break from the continuous steep rise from the road. The gradient on the connecting sections of bridleways to Laskill Farm and Feather Holme Farm, and on the footpath onto the moor, have steep sections comparable to the Order route. I consider that the gradient of the proposed route would not adversely affect the convenience to the public in comparison to the existing bridleway.
2. The existing bridleway runs along a concrete track and the proposed bridleway would run along a grass surface. It has been suggested that the grass surface would get churned up by horses and cyclists becoming slippery, difficult, and unpleasant to use. The concrete track withstands this use. Alternatively, it is suggested that metalled surfaces can be slippery, particularly in winter whereas the proposed route is over a well-drained meadow. There is also limited, if any, use of the bridleway by horses as it can only be reached from the B1257, which is dangerous for riders.
3. The bridleway continues south from C down to Laskill Farm and Feather Holme Farm. The surfaces on these sections are natural through woodland and across fields. They were in good condition at the time of my site visit, despite overhanging vegetation within the woodland and a spring flowing over one section. I consider that the proposed surface is suitable for a bridleway and would withstand use by horses and cyclists.
4. Horse riders prefer natural surfaces and can find metalled surfaces too hard and slippery. Cyclists are likely to find a metalled surface easier to use. As the Order route continues along natural surfaces, cyclists are likely to be using bicycles with appropriate tyres. Therefore, I consider that the change in surface would not make the Order route substantially less convenient for any of the expected users, including walkers.
5. The proposed diversion is 46 metres longer than the existing bridleway according to the Order, although I note that the parties refer to it being 15 metres longer. The overall length of the bridleway is stated to be approximately 960 metres long. As the Order route is recreational, I consider this increase in length does not make the Order route substantially less convenient.

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

1. I have considered in paragraphs 10 to 13 above, that the gradient, surface, and length would not affect the convenience of the Order route. For the same reasons, I do not consider they would affect the enjoyment of the Order route by the public.
2. It has been suggested that the views along section A to F are less attractive than along section B to C because it crosses the valley at a lower level. Other parties consider the views to be better. The existing hedge along the north side of section B to C limits views over the valley. The hedge along section A to F is on the south side allowing unimpeded views over the valley. Section A to B of the existing bridleway is enclosed by hedges on both sides, whereas section C to F only has a hedge along the western side. This enables longer, unimpeded views along the valley. In my opinion, views are better from the proposed bridleway, than the existing one. Those wishing to enjoy the scenery are likely to find it more enjoyable due to fewer hedges restricting views. Therefore, I consider that the diversion will not affect the enjoyment of the 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 existing bridleway provides access to Oak House, but this would still be available if the diversion is confirmed. The proposed diversion would run across fields, through existing gates and gaps. The same person owns all the land affected by the Order route and they have requested the diversion in their interests. Therefore, the proposed diversion will not adversely affect the land served by it.

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

1. I have not been provided with a copy of the ROWIP, but none of the parties have raised any matters relating to it.

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

1. I consider that the proposed diversion is in the interests of the landowner. The proposed bridleway will not be substantially less convenient to the public. I consider that the proposed bridleway will be as enjoyable to the public and some people will find it more enjoyable due to improved views. It will not affect the land served by the existing or proposed routes. I conclude that it is expedient to confirm the Order.

**Overall Conclusion**

1. Having regard to the above, 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

Order Plan - Copy Not to Scale

