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| **Order Decision** |
| Site visit made on 26 September 2023 |
| **by Graham Wyatt BA (Hons) MRTPI** |
| **an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 9 November 2023** |

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| **Order Ref: ROW/3306615** |
| * The Order is made by under Section 119 of the Highways Act 1980 and is known as the North Yorkshire County Council Public Bridleway No. 30.53/034 and Public Footpath No. 30.53/031 Mulgrave Farm, Ugthorpe Diversion Order 2022. |
| * The Order is dated 11 March 2022 and proposes to divert the bridleway and footpath 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.   **Summary of Decision: The Order is confirmed.** |
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Procedural Matters

1. As the objector to the Order did not request to be heard, I made an unaccompanied site visit, taking into account the written representations. I was able to conduct my visit along both the existing and proposed routes.
2. The effect of the Order would be to divert Bridleway No. 30.53/034 from its current route to a new route to the south and divert Footpath No. 30.53/031 from its current route to a new route to the west.

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 reaching my decision I am also required to have regard to any material provision contained in a rights of way improvement plan for the area.
2. The Order has been made in the interests of the owner of the land (‘the Applicants’) crossed by those parts of the Footpath and Bridleway at issue.

Reasons

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

1. The route of Bridleway 30.53/034 (the Bridleway) currently loops around Mulgrave Farm from Point B where it travels in a westerly direction, turning northwards around the back of the property and then southwards passing Point F, which is close to the entrance into Mulgrave Farm, to reach Point A and then continues southwards. Footpath 30.53/031 (the Footpath) itself travels in a north-westerly/south-easterly direction from Point F to Point G.
2. The Order seeks to divert both the Bridleway and Footpath away from Mulgrave Farm and its farmhouse. At the time of my visit, there were several workers actively repairing the main farmhouse, with scaffolding erected around the building. There was a number of metal shipping containers on the site as well as other outbuildings. The current route of the Bridleway passes the rear of the Farmhouse and then through the yard area, continuing down the access into the farm complex where it links with the Footpath. Thus, the current route of the Bridleway and Footpath affect a property where there is a possibility that users could disturb and distress livestock that may be kept in the fields and farm buildings.
3. Notwithstanding that a risk assessment has not been provided, there is a potential danger that public users of the Bridleway and Footpath could come into conflict with very large vehicles. There is also the matter of privacy with users of the Bridleway currently being able to effectively walk around the property at close quarters. It is not inconceivable that users may stray from the rights of way into areas that are private. The farmhouse and outbuildings are also within a remote and rural location and there is evidence that thefts have occurred in the area. In such circumstances I find it reasonable for occupiers of such remote properties to be concerned about security. These are matters that I find in favour of Order.
4. Moreover, although there has been a previous Order at the site to divert the bridleway, there is nothing to prevent the applicant from seeking additional diversions. Thus, I consider that the proposed diversions would be in the interests of the Applicants. As a result of the diversions, the Footpath and Bridleway would no longer be located close to the property and would enhance the amenity of its occupiers. Furthermore, the diversion would also be in the Applicants interests as a means of enhancing the security of the property and farmyard.

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

1. The Bridleway currently runs from Point A to point B and meets the Footpath at Point F. It is proposed to divert the Bridleway to the south of the farm complex, so it crosses a field eastward from Point C across the margins of a field to Point D, where it then heads northward to Point E then onto Point B where it connects to the remainder of the Bridleway.
2. The Footpath currently runs in a south-easterly direction from Point G to Point F, where it connects to the Bridleway. It is proposed to divert the Footpath form Point G, so it heads southwards to Point H, then diagonally across a field passing Points I and J to reach Point K, where there is a convergence of Points A, C and K, the Bridleway and Footpath 30.53/036.
3. The proposed diversion will result in users of the Footpath and Bridleway no longer being able to access Point F on the Proposals Map. However, as Point F is only a short distance from the convergence of Points A, C and K and the terminal points of the proposed routes are on the same highway as the Footpath and Bridleway to be diverted, I am satisfied that they are as substantially as convenient to the public.

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

1. The routes offer users the opportunity to walk to the same points over open fields, with vistas across the landscape. This would be achieved without the need to enter an area where large vehicles and animals are to be kept. Moreover, the turns within the diverted Footpath and Bridleway are not so challenging to the point that they become less convenient than walking the original route.
2. Even if I was to accept the Objectors calculation of an increase of some 270m between Points B and G, the route would be across open fields where one can enjoy the vistas and countryside. Moreover, it is a very small increase over a much larger Rights of Way network around Mulgrave Farm.
3. The proposed diversions would not prevent those who wish to use the Footpath and Bridleway as part of a journey across this part of North Yorkshire and the terminal points of the proposed routes are on the same highway as the Footpath and Bridleway to be diverted. Although I acknowledge the heritage that is conveyed through the use of public rights of way, the test is whether the proposed route would be substantially less convenient to the public. Consequently, I am satisfied that it would not be substantially less convenient to the public.

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

1. There is no requirement that users of the Bridleway and Footpath should be able to experience the same amenities as the existing footpath provides. The diversion of the Bridleway and Footpath would take users further south where one would then travel between Point B and G, via point A (and vice versa), across open fields where views across the landscape are extensive and one can appreciate the open and rural qualities of the area. The proposed diversion is a small part of a longer rights of way network and would nonetheless provide similar amenities and vistas across an undulating landscape of open fields, hedgerows, farmland, and buildings.
2. Moreover, the diverted Bridleway would be provided at a satisfactory width of some 5m and the Footpath to a width of 3m. I note that the diverted Bridleway will be fenced either side to allow the movement of livestock and to ensure that they do not mix with users of the Bridleway. Moreover, there is nothing substantive before me demonstrate that the proposed route of the Bridleway would be damaged by horses to the extent that it would be become unusable or require extensive repairs.
3. Thus, in my view, the diversions proposed would have no significant adverse effect on the public enjoyment of the rights of way as a whole.

***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. No relevant issues have been raised regarding this matter.

***The consideration of the order in light of any material provision contained within a Rights of Way Improvement Plan***

1. None of the parties suggest that the Order is contrary to any material provision contained in a rights of way improvement plan for the area.

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

1. I have found that the diversions are expedient in the interest of the landowner and the public and that the new termination points to be substantially as convenient to the public. I am also satisfied that it is expedient that the Order is confirmed having regard to its effect on public enjoyment. Nothing in the submissions presented or from my site visit leads me to conclude that it would not be 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.

Graham Wyatt

**INSPECTOR**

