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| **Order Decision** |
| Site visit made on 21 November 2023 |
| **by Graham Wyatt BA (Hons) MRTPI** |
| **an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 05 March 2024** |

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| **Order Ref: ROW/3292724** |
| * The Order is made by under Section 119 of the Highways Act 1980 and is known as the Cambridgeshire County Council (Lode Public Footpaths No. 7 (part) and No. 9 (part)) Public Path Diversion Order 2020
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| * The Order is dated 22 July 2020and proposes to divert the footpaths shown on the Order Plan and described in the Order Schedule.
* There were two objections outstanding when Cambridgeshire 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 objectors to the Order did not request to be heard, I made an unaccompanied site visit, taking into account the written representations. The effect of the Order would be to divert part of Footpath No. 7 (FP7) and Footpath No. 9 (FP9) from their current routes to new routes 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 footpaths at issue.

Reasons

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

1. The route of FP7 runs diagonally (northeast/southwest) through a small, wooded area that contains a pond known as Norman Moore Pond. The pond covers most of the wooded area and the current route of FP7 crosses over it from Point H to Point G. Given the pond is an obstacle to passing through the wooded area and along FP7, I am satisfied that it is in the interest of the land owner and indeed the public that the footpath be diverted around the wooded area and pond from Points Q-P-N.
2. The route of FP7 and FP9 also cross a small part of a further wooded area to the south of Norman Moore Pond which contains a smaller pond. FP9 crosses through the wooded area from Point F-K and at the southern end of the wooded area it crosses through a small pond. Again, as the current route of FP9 crosses through a pond, I am satisfied that it is in the interest of the land owner and indeed the public that the footpath be diverted around the wooded area and pond from Point M-L-J.
3. As it would be prudent to divert the route of FP9 from its current route, the remaining small part of FP7 that crosses the northern part of the wooded area along its northern boundary also needs to be considered. The landowner grants permission for wildlife monitoring and motion photography in these areas and I accept that it would be in the interest of the landowner to remove access through the wooded area from point F-E and re-route it from point M-L-E-J.

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

1. The Order route will result in the termination points at Point H and J remaining unaltered. Consequently, I am satisfied that the termination points are as substantially as convenient to the public.

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

1. The routes offer users the opportunity to walk to the same points over fields, with vistas across the landscape. This would be achieved without the need to enter the wooded areas which contain bodies of water. The Order route for FP7 would be some 21m longer and the Order route for FP9 would be some 43m shorter. I do not consider these to be significant distances and consequently, I am satisfied that the new footpaths would not be substantially less convenient to the public.

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

1. It is readily accepted that the diversion of FP7 around the Norman Moore Pond is advisable as the majority of the footpath crosses the pond. From my reading of the duly made representations, there is no substantive objection to the Order route for FP7. I see no reason to disagree with this assessment and on the matters relating to FP7 at Norman Moore Pond, I am satisfied that the public enjoyment of this particular element would not be diminished as it would be reckless to continue with the original footpath route.
2. Turning to FP9, this is a larger wooded area within the Fenland, which itself is an area that is generally flat, with extensive views across the landscape that contains open and arable fields. The objectors argue that there is sufficient space to divert FP9 around the edge of, but within, the wooded area, thus avoiding the pond and allowing users to continue to experience the parcel of woodland.
3. However, there is no requirement that users of the footpaths should be able to experience the same amenities as the existing footpaths provide. Therefore, notwithstanding the alternative route suggested by an objector, it is the effect of the diversion on the enjoyment of the path as a whole and I must consider the Order as proposed.
4. The Order route is the diversion of a longer footpath for both FP7 and FP9 and would result in users no longer being able to walk through the woodland areas. However, both of the areas are relatively small clusters of trees that are an anomaly in this relatively open and flat landscape. Whilst both FP7 and FP9 may give some relief and variation to the Fen landscape, the current route through the wooded area for FP7 only allows access to the northwestern edge of this particular wooded area. The current route of FP9 does not take in all of the wooded area either, but a short route running north to south.
5. The proposed routes would also be easier to navigate than through an area containing bodies of water, trees, and undulating grassed areas. This would be beneficial to those with lower mobility. The proposed diversions are also a very small part of a longer rights of way network and would nonetheless provide similar amenities and vistas across a landscape of open pasture fields and the wooded areas. Thus, in my view, the diversions proposed would not have a 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. Objective SOA1:Making the Countryside More Accessible of the Cambridgeshire Rights of Way Improvement Plan Update April 2016 (CRWIPU) seeks to improve public rights of way so that they are physically accessible to the widest range of people. Objective SOA6:Better Land Management of the CRWIPU states that the management and improvement of countryside access should consider, amongst other things, the needs of land management whilst Objective SOA7:Develop Definitive Map and Other Records also states that the definitive map should be up to date and accurate.
2. The Order routes would divert walkers away from bodies of water that are currently impassable. This would increase the accessibility of the footpaths and thus, would be in general conformity with SOA1 and SOA6 of the CRWIPU. Furthermore, the Order allows the route and width of the footpaths to be recorded which is currently absent from the Definitive Statement. As such, the Order would be in general conformity with SOA7 of the CRWIPU.
3. Thus, in my view, the proposed Order route complies with the aims of the CRWIPU.

***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**

**ORDER MAP - COPY NOT TO SCALE**

