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| **Order Decision** |
| Site visit made on 11 June 2024 |
| **by Claire Tregembo**  |
| **An Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs** |
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| **Decision date: 24 June 2024** |

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| **Order Ref: ROW/3304232** |
| * This Order is made under section 119 of the Highways Act 1980 and is known as the Norfolk County Council (Methwold Footpath No. 4) Diversion Order 2021.
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| * The Order is dated 14 April 2021 and proposes to divert the public right of way shown on the Order plan and described in the Order Schedule.
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| * 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.
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| **Summary of Decision: The Order is confirmed.** |
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**Preliminary Matters**

1. I will refer to various points shown on the Order plan. For ease of reference, a copy of the Order plan is appended to the end of my decision.
2. Concerns are raised about the lack of signposting, current, and past obstructions on the footpath. At the time of my site visit, a fence obstructed the existing footpath at point B. However, I was able to access the footpath to the side of the fence approximately 1m away from the legal line. Therefore, I consider the fence has limited impact on the use of the footpath. When making comparisons between the existing and proposed diversion, I will disregard any obstructions and consider the diversion as if the footpath is fully available for use.
3. Highway authorities are required to signpost footpaths where they leave the metalled road unless it has been agreed with the parish council that a signpost is not necessary. There is a waymarker attached to the fence indicating the location of the footpath which I consider to be a signpost. Inadequate signposting could potentially diminish the use of footpaths. I am unable to determine if a waymarker, rather than a post with a finger pointer, affects the use of the footpath. However, I will determine the Order as if the footpath is adequately signposted.
4. Methwold Footpath No. 4 (FP.4) continues through the churchyard as Methwold Footpath No. 5 (FP.5), and they effectively form a continuous route between Globe Street and Crown Street. The public can use either footpath to gain access to the churchyard, but they can also use both footpaths as a through route. The two footpaths have different characters with FP.4 running between buildings and property boundaries and FP.5 running through the churchyard. When considering the effect the proposed diversion will have on public enjoyment of the path as a whole, I will consider how it affects both footpaths.

**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. 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 owners or occupiers of the land that the path in question should be diverted***

1. The Order has been made in the interests of the owners and occupiers to enhance the privacy, security, and safety of the property.
2. The footpath passes through the rear garden, along a narrow path between the house and an outbuilding, and then through a courtyard in front of the house. The outbuilding has partially collapsed and in 2023 planning permission was granted to convert it into a dwelling. The family of the owners are currently living elsewhere due to concerns over the lack of private space and security caused by the footpath, and the collapse of the outbuilding.
3. The windows and doors of the house and outbuilding are directly adjacent to the footpath. Path users also have a clear view into the house through the rear patio doors. The courtyard and rear garden are small so walkers on the footpath are in close proximity to anyone using the outdoor space. I consider this adversely affects the privacy and security of the residents.
4. Plans of the proposed dwelling show windows, double doors, and parking directly adjacent to the footpath and the doors would open out onto it. Therefore, if the new dwelling is built, the privacy and security of it would also be affected by the existing footpath. However, the owners do not consider it viable or desirable to implement the planning permission unless the footpath is diverted.
5. If the footpath is diverted, the owners would be able to improve the security and privacy of the property by erecting gates at the boundaries, which could be locked.
6. I consider the proposed diversion would improve the privacy, security, and safety of the property. It would also make it viable to implement the planning permission benefiting the owners. I am satisfied that it is expedient to divert the footpath in the interests of the owners and occupiers of the land.

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

1. The western termination point is not affected by the proposed diversion. The eastern termination point moves approximately 7m to the north. I consider such a short distance to be substantially as convenient to the public.

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

1. The existing footpath is very narrow for most of its length, and it would not be possible for two people to pass each other. The proposed footpath has a width of 2m and runs along one side of a wider access road.
2. The proposed footpath is 2m shorter than the existing footpath and the direction of travel is not affected by the proposed diversion.
3. Concerns are raised about the vehicles driving over the footpath, parking on it, and interaction between walkers and vehicles.
4. The private road is metalled and appears to have been constructed for vehicular use so vehicles driving along it will have limited impact on the surface of the footpath. The existing footpath is part metalled and part natural. Therefore, some path users may find the surface of the proposed footpath more convenient.
5. The private road abuts eight properties, including the proposed dwelling, but some of these properties do not have vehicular access from it. Its width and corner mean vehicles using it will be travelling at low speeds and visibility along the proposed footpath is good. I walked the existing and proposed footpaths several times during my site visit and no vehicles used the road.
6. The width of the private road means vehicles are unlikely to park on the proposed footpath. A photograph is provided of a vehicle parked on the other side of the road outside of a garage. However, most of the car is off the road on land to the side and none of it is on the line of the proposed footpath.
7. At the time of my site visit a vehicle was parked near point A, but it was not on the line of the proposed footpath. Photographs are provided of two vehicles parked near point A, with one appearing to be on the line of the proposed footpath. However, the photograph shows there was sufficient space for path users to walk around the cars. I also consider there is sufficient space for two vehicles to park without encroaching on the proposed footpath. If the Order is confirmed and parking on the footpath becomes an issue, measures could be put in place to prevent vehicles from parking there.
8. There is a vehicular access into the courtyard at the front of the existing dwelling between points B and C so vehicles can park in it. Any vehicle parked in the courtyard is likely to have a similar effect on the existing footpath as parking two cars at point A would have on the proposed footpath. There would be more impact if two vehicles parked in the courtyard.
9. I consider the increased width of the proposed footpath to be more convenient for path users. I do not consider the use of the private road by vehicles or the parking of vehicles near point A would make the footpath substantially less convenient to the public.

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

1. It was sunny during my site visit, but the existing footpath felt enclosed and dim due to its narrowness and the height of the buildings. By comparison, the proposed footpath is open and light. I consider this is likely to make the proposed footpath more enjoyable for path users.
2. The proposed diversion takes the footpath away from the windows and doors of the house and out of the private garden and courtyard. The diversion would also take the footpath away from the doors and windows of the proposed dwelling. I consider there will be walkers who will not feel comfortable passing so close to residential properties and through a small private garden and courtyard particularly if residents are using the outside space or if vehicles are parked there.
3. The objector considers the historic buildings to have attractive walls which give character and interest to the footpath. However, part of the outbuilding has collapsed reducing this enjoyment. The historic buildings and walls can also be viewed from Globe Street and the proposed footpath.
4. I found the derelict, partially collapsed building made the existing footpath feel unsafe and negatively affected my enjoyment. If the building is converted to a dwelling, this will be resolved. However, the owners have indicated they are unlikely to implement the planning permission if the Order is not confirmed. Furthermore, if the new dwelling is built, the new walls and fencing are likely to make the existing footpath feel more enclosed and darker.
5. The proposed footpath is used by vehicles, and this could affect the enjoyment of the footpath. However, vehicular use is low so encounters between vehicles and pedestrians will be limited. The existing route is not used by vehicles, but I consider other factors affect its enjoyment and convenience.
6. I do not consider the proposed diversion would affect the enjoyment of the footpath as a whole and some people may find it more enjoyable. This is the case if the whole path is considered to be only FP.4 or both FP.4 and FP.5.

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

1. The proposed diversion will improve the privacy and security of land served by the existing footpath.
2. No objections have been received from the owners of the land crossed by the proposed footpath or from the owners or occupiers of the properties abutting the private road. There is nothing to indicate that land served by the existing or proposed footpath would be adversely affected by the proposed diversion.

***Rights of Way Improvement Plan***

1. I have only been provided with a very limited extract of the ROWIP. However, none of the parties have raised any matters relating to it.

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

1. I have found above that the proposed diversion is in the interests of the owners and occupiers. I consider the new termination point to be substantially as convenient to the public. I do not consider the proposed diversion to be substantially less convenient to the public or less enjoyable, and some people may find it more convenient and enjoyable. The proposed diversion will have a positive effect on the land served by the existing footpath and there is no evidence that it would have a negative effect on land served by the existing or proposed footpath. Therefore, I consider 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**

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