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| **Order Decision** |
| Site visit made on 25 June 2024 |
| **by Charlotte Ditchburn BSc (Hons) MIPROW** |
| **An Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 5 August 2024** |

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| **Order Ref: ROW/3316660** |
| * This Order is made under Section 119 of the Highways Act 1980 (the 1980 Act) and is known as the Public Bridleway No. 10.15/049 & Public Footpath No. 10.15/050, Ravensthorpe Manor, Boltby Diversion Order 2022.
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| * The Order is dated 29 April 2022 and proposes to divert the public rights of way shown on the Order plan and described in the Order Schedule.
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| * There was one objection outstanding when North Yorkshire County Council (now The North Yorkshire Council) (the 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 undertook an unaccompanied site visit on Tuesday 25 June 2024.
2. In this decision I have found it useful to refer to the various points annotated on the Order map. For ease of reference a copy of the map is attached hereto.

**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 owner of the land that the paths in question should be diverted***

1. The Order is made in the interests of the owner of the land that the bridleway and footpath in question should be diverted.
2. If confirmed the Order would benefit the landowner as it would improve privacy and security, improve health and safety of stud yard operations including the safe movement of large horse boxes and livestock and improve the surface conditions on the existing bridleway.
3. The objector questions the reason and necessity for the Order to be made following a previous order in 1988. Under section 119 of the 1980 Act, a landowner can apply to divert a public right of way if it is in their interests to do so, as discussed above this Order is in the interests of the landowner.
4. Having regard to the above and given that there is no evidence to the contrary, I am satisfied that it is expedient in the interests of the landowner that the bridleway and footpath should be diverted.

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

1. The western terminus of Bridleway 10.15/049 (Point A) will remain the same. The eastern termination point of the bridleway would be affected marginally in that the junction with Footpath 10.15/050 (Point M) will move northeast to Point D. Bridleway 10.15/049 continues beyond this point and the connection to the highway is thus unaffected.
2. The southeastern terminus of Footpath 10.15/050 (Point K) would remain the same. The northwestern termination point of the footpath would be affected marginally in that the junction with Bridleway 10.15/049 (Point C) will move southeast to Point D. Bridleway 10.15/049 continues beyond this point and the connection to the highway is thus unaffected.
3. I conclude that the terminal points of the proposed routes will remain connected to the same highways as the existing routes and will be substantially as convenient to the public.

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

1. It is necessary to consider whether, in terms of convenience, matters such as the length of the proposed path, the difficulty in using it and its purpose will render the path substantially less convenient to the public.
2. According to the Council, the proposed bridleway route is approximately 93m longer than the existing route. In my view, in this context a 93m increase would not be substantially less convenient to the public.
3. The topography of the existing and proposed routes are similar, with both routes having similar gradients. The proposed and existing routes start and end at the same points so there is no perceptible height gain, although the proposed route has approximately 20m in height gain compared to the existing route. When considering the landscape of the area and the routes in their wider context this is a comparable height gain and I do not consider this to be substantially less convenient to the public.
4. The existing bridleway route has three gates along it, whereas the proposed route will only have one gate. The existing footpath route has a gate and a stile along it, whereas the proposed route will have two gates. Reducing the number of structures along the routes and replacing the current stile with a gate will improve the accessibility of the proposed routes.
5. The surface of the existing bridleway route was very wet underfoot, there was clear evidence of deviation from the route by users trying to avoid the wettest areas at the time of my site visit, this issue will be exacerbated in the wetter winter months making the route difficult to use for walkers, cyclists, and horse riders. The proposed route is over higher ground, moving away from natural springs affecting the existing route, with a surface more able to withstand the use of the bridleway. Whilst there were some wet areas along the proposed route at the time of my site visit, overall, the surface had much better drainage. I am satisfied that for the Order to come into effect the surface would have to have adequate drainage installed and suitable surfacing in place over wet areas for the Council to be able to certify the route if the Order was confirmed. I am also satisfied that if the surface were to deteriorate in the future, it would be the Council’s responsibility to address this as they have a duty to keep the surface of public rights of way, which are maintained at public expense, in a fit state for public use. The applicant has also provided assurances that they will manage drainage issues on the proposed route if they arise, which would aid the Council in their duties.
6. The terminal points of the existing and proposed routes are substantially the same, such that the utility of the route would be unaffected by the diversion.
7. Having regard to these factors, I conclude that the Order route will be no less convenient to the public, and in various respects will be more convenient.

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

1. I must assess what effect the diversion would have on public enjoyment of the routes as a whole. This requires me to make a qualitative judgement as to the value to the public of the view available from the existing routes set against the proposed diversion. The view from the current routes is of woodland and of open countryside and farmland. There are no obvious features of interest to be seen, other than those forming part of the general landscape. I accept that the diversion would lead to some restriction of the attractive views across the open landscape due to a further distance within the woodland. Having considered the representations and after walking the full length of the current and proposed routes I accept that the view would be restricted, but it would not be lost altogether, as it can be seen from Point K to Point F and the views over the landscape are available and substantially unchanged as a result of the proposed diversion. I do not consider that those who seek pleasure from informal recreation on route such as these would be diminished due to the Order.
2. Overall, I accept that, in the absence of other factors, the retention of the view would carry significant weight. However, in this case there are other factors of significance relating to public enjoyment which I must weigh against the limitation of the view.
3. I have referred previously to the respective difficulties and merits of the surface and gradient of the existing and proposed routes. In my judgement these issues are just as relevant to the enjoyment as they are to the convenience of the user.
4. Taking account of all factors including view, surface and gradient of the current and proposed routes, I conclude that whilst the enjoyment for some may be reduced, on balance, public enjoyment of the routes will not be negatively affected by the proposed diversion.

***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. There is nothing to suggest that the proposed diversion will have any adverse effect on land served by the existing route or on the land over which the diverted route would be created as they are both within the same ownership.

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

1. The Order would improve accessibility by reducing the number of gates on the proposed bridleway to one from three gates on the existing alignment, as well as removing a stile which exists on the current footpath alignment and replacing it with a gate. The installation of such structures supports the view that the Council is complying with the ROWIP in seeking improvement to the network by requiring the removal of stiles and the installation of structures compliant with BS:5709 in compliance with the Council’s duties under the Equalities Act 2010.

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

1. I have concluded that it is expedient in the interests of the landowner to divert the path, and that the resulting diversion will not be substantially less convenient to the public. The proposed routes are likely to be as enjoyable to use for most people, and there would be no adverse impact upon the land currently served by the paths or the land which the diverted paths would cross. I am satisfied that it is expedient to confirm the Order.

**Other Matters**

1. The objector mentions a bench alongside the current alignment and the applicant mentions a proposed bench at Point E, these are not relevant matters before me for consideration under the legislation.
2. The objector also raises historical interest of the route and comparing the significance of this to a listed building. The current alignment was subject to a diversion order in 1988 so I would not consider this to be a historical route.
3. The objector states a preference for an alternative route; I must consider the order before me. The Council has investigated the suggested alternatives before the Order was referred to the Secretary of State. Clearly, if I reach a decision to not confirm the order, the parties may wish to consider whether an alternative course of action should be pursued.

**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.

*Charlotte Ditchburn*

INSPECTOR

 