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| **Order Decision** |
| Site Visit undertaken on 5 November 2024 |
| **by Gareth W Thomas BSc(Hons) MSc(Dist) DMS MRTPI** |
| **an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 15 January 2025** |

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| **Order Ref: ROW/3326125** |
| * This Order is made under Section 119 of the Highways Act 1980 (the 1980 Act) and is known as The North East Lincolnshire Council Public Footpath No 162, Beelsby, Public Path Diversion Order 2023.
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| * The Order is dated 4 January 2023 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 North Lincolnshire 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. The case concerns the proposed diversion of that part of Public Footpath No.162 Beelsby which traverses grazing land from a field gate along a farm lane past two ponds to a kissing gate at point A on the Order map. The definitive route heads south-west and cuts through the middle of a large agricultural grain store building, which was erected on the site of two former piggery buildings which received planning permission in 2011. The Order Making Authority (the OMA) explains the planning background and that the approved plans contained a notation that the public footpath would need to be diverted before any works commenced on site. The plans depicted a suggested alternative diversion route alongside and at the same level as the proposed building, which would be cut into the sloping land at a point close to a mature woodland immediately to the east. A further planning application for retrospective permission for an extension to the grain store was submitted in 2021 and again pointing out that the public footpath issue still required to be resolved. This Order now seeks to resolve the anomaly.
2. The farm complex at this location also contains a heavy goods haulage business. The combined business is busy with much vehicle activity. The proposed diversion would see the path diverted eastwards into the woodland area at point C before heading south-eastwards into an adjoining field at point D. The route would then proceed in a south-westerly direction for a short length to point F before heading south-east to follow the edge of a track and natural contours through points G and H and to re-join Public Footpath 162 as it heads into open countryside to the south-east. It would therefore meet the requirement of terminating at another point on the same highway as a matter of principle.
3. I undertook an unaccompanied site visit on a sunny afternoon of the 6 November 2024.

The Main Issues

1. The Order is made in the interests of the owner of the land crossed by the Footpath. Section 119 of the 1980 Act requires that, before confirming the Order, I should be satisfied that:
2. It is expedient, in the interests of the owner, that the footpath in question should be diverted;
3. The new footpath will not be substantially less convenient to the public;
4. It is expedient to confirm the Order having regard its effect:
5. On the public enjoyment of the path as a whole;
6. The effect the coming into operation of the Order would have with respect to the land served by the existing path and the land over which the new path is created together with any land held with it, having regard to the provisions as to compensation.
7. In addition, I am required to take into consideration any material provisions of any Rights of Way improvement Plan (‘ROWIP’) prepared by the Council.

Reasons

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

1. The Order is made to address the concerns that the landowner has in terms of properly securing the land. It is clear that there are potentially serious health and safety issues associated with this heavily trafficked business complex. The landowner is rightly concerned that members of the public can presently walk freely around this building and within an area where heavy plant and machinery are stored. The landowner suggests that the diversion would secure a definitive route, which would avoid walkers wandering across his land at will. It seems to me that this proposal would lead to significantly improved security levels.
2. Having regard to the above, I am satisfied that sufficient evidence has been tabled to demonstrate that it would be expedient in the interests of the landowner that the Footpath be diverted.

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

1. At present, the walked route fails to offer an understandable and direct route through this complex. Of course, the existing alignment of the legal route once provided a more straightforward route than the proposed route that follows the edge of the field boundary and partly within a woodland. Although the proposed route appears to take on awkward changes in direction by comparison, the actual alignment takes account of land formations and new boundaries to the business on site. The difference in distance between points A, C, D, E, F, G, H and B of the proposed route and A to B of the proposed route would not be noticeably different despite its apparent inferior alignment on paper.
2. The objector suggests that the proposed alignment breaks the principle of direct point to point routing, which creates irrational twists and turns to avoid a building built on the definitive route. Consequently, it is suggested that additional land is taken to accommodate a more direct route so that the existing route of the path is not degraded to the detriment of footpath users. The OMA rightly points out that the present arrangement forces users to navigate around the building and plant and machinery. This results in walkers already having to take indirect and circuitous routes involving decisions to navigate off the line of the official route.
3. Accordingly, the proposed route will be no longer in distance than the existing routing and will take a reasonable alignment. On balance, having regard to what I observed during my site visit, I would agree with the OMA that the new footpath would not be substantially less convenient to the public, which is the test I must apply.

***Whether it is expedient to confirm the Order having regard firstly, to the effect the diversion would have on public enjoyment of the path as a whole and secondly, the effect which the coming into operation of the Order would have with respect to the land served by the existing right of way and the land over which the right is so created and any land held with it, having regard to the provision of compensation***

*Public Enjoyment*

1. From point A, the existing path slopes very gently up to point C and thereafter through an attractive woodland to point D whereupon it would follow the boundary of an open arable field with attractive views over open countryside. The route forms part of an attractive wider network of footpaths with intermittent open views of the surrounding mainly arable farmland. To my mind views of the wider landscape would provide for a pleasant walking experience.
2. Consequently, I find that public enjoyment of the route would be somewhat enhanced, and this element of the test would therefore be met.

*Effect with respect to the land*

1. Both the land over which the existing and proposed route pass is in the same ownership. My attention has not been drawn as to whether other land not in the same ownership is required to facilitate the proposed route. No adverse effects have been raised as regards the land served by the existing right of way or the land over which the proposed route will pass. Compensation issues have not been raised. No detrimental impact has been identified as regards the land. I conclude that this part of the test is met.

***ROWIP***

1. The OMA confirms that the Order is compatible with the Council’s ROWIP and will help resolve a longstanding anomaly caused by the obstruction.

***Whether it is expedient to confirm the Order***

1. I have concluded above that confirming the Order would be expedient in the interests of the landowner. The proposed route would not be substantially less convenient and would have a positive effect on the public enjoyment of the route in question. I find that the proposed route would have a beneficial impact on amenity and enjoyment that would lead me to conclude that it would be expedient to confirm the Order in relation to the proposed diversion.

**Conclusion**

1. For the reasons given above, I would confirm the Order.

**Formal Decision**

1. The Order is confirmed.

Gareth W Thomas

INSPECTOR

 