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| **Order Decision** |
| Site visit made on 28 September 2021 |
| **by Martin Small BA (Hons) BPl DipCM MRTPI** |
| **an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 28 October 2021** |

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| **Order Ref: ROW/3256201** |
| * This Order is made under Section 118 of the Highways Act 1980 (the 1980 Act) and is known as the Wiltshire Council Burbage 6 (Part) Extinguishment Order 2020. |
| * The Order is dated 13 January 2020 and proposes to extinguish part of the public right of way shown on the Order Map and described in the Order Schedule. |
| * There was one objection outstanding when Wiltshire Council submitted the Order to the Secretary of State for Environment, Food and Rural Affairs for confirmation. |
| **Summary of Decision: The Order is confirmed.** |
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Procedural Matter

1. As there were no requests for an accompanied site visit, I undertook the visit unaccompanied.

The Main Issues

1. The Order is made under Section 118 of the Highways Act 1980, the Council having concluded that this part of the public footpath was not needed for public use. However, at the confirmation stage, I must be satisfied that it is expedient to stop up that part of the footpath proposed in the Order having regard to the extent that it appears that it would, apart from the Order, be likely to be used by the public, and the effect which the extinguishment of the right of way would have as respects the land served by the footpath, taking into account provisions for compensation.
2. In reaching my decision, I am required to disregard any temporary circumstances preventing the use of this part of the footpath when determining the likely use that may be made of it.
3. I must also have regard to any material provisions contained in the Council’s Rights of Way Improvement Plan, known as the Wiltshire Countryside Access Improvement Plan.

Reasons

*The extent to which it appears that the part of the footpath would, apart from the Order, be likely to be used by the public*

1. Footpath 6 forms part of a network of rights of way within and around Burbage providing access to the surrounding countryside. The application to extinguish part of the width of the footpath was on the grounds that the part was not needed for public use, although from the evidence it is not disputed that the footpath as a whole is used by walkers for recreational use.
2. Whilst only one member of the public has indicated use of the area between points A and B on the Order Map, I consider that it is possible that there could be use of the full width of the footpath including the part to be extinguished, the indications being that it would serve a primarily recreational purpose.
3. However, the section of the footpath between points A and B is 8 metres wide. The part to be extinguished measures 3.3 metres wide by 21 metres long. A width of 4.7 metres would therefore be retained available to the public. This width would be more than adequate for the passing and re-passing of walkers using the footpath. I note that the OMA indicates that the Wiltshire Countryside Access Improvement Plan sets out that new footpaths should be a minimum width of 2 metres or 3 metres if fenced which indicates the acceptability of the width that would remain.
4. Furthermore, the natural continuation of the footpath is between its junction with Eastcourt Road approximately west-south-west of point A and a kissing gate approximately east-south-east of point B. The part between points A and B to be extinguished is outside this natural continuation and the use of this part would require a deviation from and a return to that natural continuation to access the kissing gate or to avoid a fence at point A. The part to be extinguished is a gravelled area in front of a private dwelling, No 39 Eastcourt Road, and offers no particular attractions or enjoyable features for the public.
5. There were no objections to the Order from the Ramblers’ Association, the Open Spaces Society, the North Wessex Downs Area of Outstanding Natural Beauty unit or Burbage Parish Council during the statutory consultation phase. Between them these represent users and local people. Scottish and Southern Electricity Networks has consented to the Order and no objections were made by any of the other utility companies.
6. Therefore, whilst I consider it possible that the part of the footpath to be extinguished would, apart from the Order, be used, the evidence does not support a demand for it. Accordingly, I find that likely use by the public is not such that the Order should not be confirmed, and I conclude that it would be expedient that this part of the footpath be stopped up.

*The effects which the extinguishment would have as respects land served by the footpath, account being taken of the provisions as to compensation.*

1. The section of the footpath between points A and B provides vehicular and pedestrian access to No 39 Eastcourt Road. I have no indication that the Order would prevent this access.
2. The Order contains provision for Scottish and Southern Electricity Networks to access any apparatus the company owns under, in, on, over, along or across the width of the footpath to be stopped up. I am satisfied therefore that there would be no adverse effect on land served by the footpath, and that it is expedient to confirm the Order in this regard.

**Other Matters**

1. The objector refers to the effect of the proposal on the ‘conservation zone’, subsequently confirmed to be the Eastcourt Conservation Area. As the footpath would be retained and not diverted from its original direct route. the Order would comply with section 2.2.8 of the Eastcourt Conservation Area Character Appraisal and Management Proposals. The Order would not affect the maintenance or the surface of the footpath and so would have no adverse effect on the character or the appearance of the Conservation Area.

Conclusions

1. Having regard to these and all other matters raised in the written representations, I conclude that the Order should be confirmed.

**Formal Decision**

1. I confirm the Order.

Martin Small

INSPECTOR

