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| **Order Decision** |
| Site visit made on 15 November 2023 |
| **by Charlotte Ditchburn BSc (Hons) MIPROW** |
| **An Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 18 December 2023** |

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| **Order Ref: ROW/3290583** |
| * This Order is made under Section 118 of the Highways Act 1980 (the 1980 Act) and is known as Bedford Borough Council (Bedford (Former Excluded Area): Public Right of Way on Foot between Maitland Street and Costin Street) Public Path Extinguishment Order 2020. |
| * The Order is dated 29 July 2020 and proposes to extinguish the public right of way shown on the Order plan and described in the Order Schedule. |
| * There were two objections outstanding when Bedford Borough 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 Matters

1. None of the parties requested an inquiry or hearing into the Order. I have therefore considered this case based on the written representations forwarded to me. I made an unaccompanied site inspection on Wednesday 15 November 2023.
2. As I have found it convenient to refer to points along the route as shown on the Order Map, I attach a copy for reference purposes.

The Main Issues

1. The order is made on the grounds that the path is not needed for public use. By virtue of Section 118(2) of the 1980 Act, before confirming the Order, I must be satisfied that it is expedient to extinguish the path having regard to:
2. the extent (if any) to which it appears that the path would, apart from the Order, be likely to be used by the public, and
3. the effect that the extinguishment of the path would have as respects land served by the path, having regard to the provisions for compensation.
4. In accordance with section 118(6) any temporary circumstances preventing or diminishing the use of the path or way by the public shall be disregarded.
5. I also need to have regard to any material provision contained in a rights of way improvement plan (ROWIP) for the area. There are no material provisions for me to consider in this case.

Reasons

1. The Order relates to the proposed extinguishment of a Public Footpath in the former excluded area of Bedford Town commencing from a Point A at the junction of publicly maintained road, Maitland Street, running in a north-easterly direction for approximately 33 metres to Point B at the junction of publicly maintained road, Costin Street.

***The extent that the path would, apart from the order, be likely to be used by the public***

1. In making this order it was necessary for the Council to conclude that the Order route is not needed for public use. Due to the highway network in the particular area of Castle Ward, the Council states that Bedford offers various and numerous connections, which may be walked in every direction. It is the Council’s view that there are convenient routes that act as alternatives to the path to be stopped up by the Order therefore it is not needed for public use.
2. The two objections to the order are on the grounds that the route is needed. My task is not to examine the question of need, but to assess the extent to which the route might be used by the public. When assessing the extent which the path might be used by the public, it is appropriate for me to have regard to the utility the route would provide, and how this utility is currently met.
3. Point A and B are on the margins of publicly maintainable roads, the route is 35 metres in length with reasonably convenient alternative routes. The most obvious route to reach Point A from Point B (and vice versa), one would follow the road to the north that links Maitland Street and Costin Street. When journeying across the block of streets consisting of Prebend Street, Western Street, Battison Street and Costin Street that might involve use of the footpath, there are a number of routes that could be taken. I consider that in a wider sense there are numerous alternatives to the path proposed to be stopped up. In essence this is all down to the grid nature of the residential streets in this part of Castle Ward. Effectively, to pass through the area, the length of the streets and the width of the blocks must be negotiated whichever way one chooses to go.
4. Whilst I consider it is possible the route 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.

***The effect that the extinguishment of the path would have as respects land served by the path***

1. In addition to providing a recreational route it provides private access to the rear of properties on Maitland Street and Costin Street. The Order will not prevent this access. 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.

***Expediency of confirming the Order***

1. Having reached a conclusion about the extent to which the public would be likely to use the Order route, I must consider whether it is expedient for the Order to be confirmed. The ordinary definition of ‘expedient’ is ‘suitable and appropriate’. The requirement for expediency therefore permits me to bring into account other relevant factors to arrive at a balanced conclusion.
2. I cannot conclude that, if available, the Order route would not be used at all. It is however my finding that any such use would be very limited and that the route would not add any benefit to the network of public rights of way in the vicinity. Accordingly, the extinguishment of the route will not, in my judgement, be disadvantageous to the public.
3. As set out in my considerations above, the location of the route with no connecting right of way network means that it is most unlikely to be used to any significant extent by the public in the future. There is benefit to the owners of the land crossed by the Order route in having it extinguished, by improving security to their properties and the possibility of incorporating the order route into their gardens.
4. Having regard to all relevant factors, I conclude that it is expedient for the Order to be confirmed. In reaching this conclusion I have had regard to the findings I have outlined above, and I have given due weight to the issues raised in the written representations received.

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.

Charlotte Ditchburn

INSPECTOR

Order Map - Copy Not To Scale

order map 
