

Item 8a - Highways Act 1980 - The Wiltshire Council Burbage 6 (Part) Extinguishment Order 2020

Statements of Objection

None received

Statements of Support

Adrian Noviss on behalf of Blake Morgan (Agent for Applicant) – Support – Received on 06/07 at 10:03

Dear Sirs

Burbage 6 Extinguishment Order 2020

Eastern Area Planning Committee Meeting Thursday 9 July 2020 2.00 pm

1. We act for Zoe Turner, the applicant who has requested the above Public Path Extinguishment Order ("the Order") and provide this statement on Ms Turner's behalf in support of the Order. Ms Turner respectfully requests that the Committee support the confirmation of the Order in accordance with the Officer's recommendation and forward the Order to the Secretary of State for confirmation.
2. As explained in paragraph 38 of the Officer's Report and in the covering letter dated 3 July 2019 that accompanied Ms Turner's original application, the Order seeks to extinguish only a part of the width along a short section of Footpath BURB 6 ("the Footpath"), not the entirety of the Footpath. The effect of the Order, if confirmed, would be to reduce the width by 3.3 metres along a 21 metre section of the Footpath.
3. The current width of the Footpath along this section is 8 metres wide, compared with a width of approximately 4.2 metres along the preceding section of the Footpath that leads from the junction of Eastcourt Road. The width of that preceding section was itself reduced to 4.2 metres following a previous stopping up order granted on 16 April 2012.
4. If the Order is confirmed, the remaining width of the Footpath along this section will still be 4.7 metres wide, which is a considerable width for a public right of way of this class with more than ample room for pedestrians to comfortably pass each other in opposite directions, an opinion which is endorsed at paragraphs 15 and 38 of the Officer's Report.
5. The Council has made the Order under section 118 of the Highways Act 1980 because it appeared expedient that the path should be stopped up on the ground that it is not needed for public use. At the next stage, in deciding whether to confirm the Order the Secretary of State must be satisfied that it is expedient to do so having regard to the extent that this part of the Footpath is likely to be used by the public.
6. Following the publication of the Order, the Council received just one objection. Of the many matters raised in the objection, the only relevant issue to be considered by the Council relates to whether this part of the Footpath is needed for public use. In other words therefore whether the full width of 8 metres is required.

7. Ms Turner wishes to confirm that the public do not pass or repass over that part of the width of the Footpath that is subject to the Order ("the Order Area"). This is because the most direct and natural route involves members of the public walking along a straight line from the Footpath's junction with Eastcourt Road to the gate at the end of the track (where the Footpath continues across the fields beyond) and vice versa. The gate is located at the south-eastern corner of the track. Members of the public passing over the Footpath in either direction do not need to travel over the Order Area because this would involve them deviating away from the most direct and natural route by several metres. This is a view that is also shared by the Council's Definitive Map Officer in paragraphs 15 and 38 of the Officer's Report.

8. The objector is the sole person who has claimed to have actually used that part of the Footpath to be extinguished, but no evidence of use has been provided. The objector also alleges that other members of the public use it but, similarly, provides no evidence of actual use in terms of numbers of people and frequency of use of the full 8 metre width. Furthermore, no explanation has been provided by the objector as to why members of the public would deliberately deviate by several metres away from the most direct and natural route. Our client reiterates the statement made in the covering letter that of the approximately 30 to 40 people who use the Footpath each day, none have been witnessed walking over the full width of the Footpath.

9. It is also pertinent to note that the Ramblers who represent Wiltshire's walking community have expressly stated that they do not object to the proposed extinguishment of the Order Area and the wider local community have not objected to the Order.

10. For the reasons outlined above, this part of the Footpath is unused and therefore not needed for public use on account of the fact that the most direct and convenient route involves walking along a straight line along the Footpath. Furthermore, upon extinguishment of the Order Area, the remaining width of 4.2 metres along this section of the Footpath will be commensurate with the width of the rest of the Footpath that runs from Eastcourt Road.

11. Accordingly, Ms Turner respectfully requests that the Committee supports the confirmation of the Order and forward the Order to the Secretary of State for confirmation.

12. We also note that under the alternative, temporary arrangements that have been put in place by the Council during the current Covid-19 pandemic to enable the Committee meeting to proceed by way of a virtual hearing, there is limited opportunity for live public participation and no formal right of reply to respond to any further representations that may be submitted. As Ms Turner is the applicant in this matter who has requested the Order, it is submitted that she is entitled to be given the same fair opportunity to make her application and to respond to any matters that are raised as would be available during a normal committee meeting.

13. As the subject matter to be decided by the Committee is predominantly fact driven and not one relating to policy, the Committee must be afforded the opportunity to consider all of the material considerations including Ms Turner's response to any further assertions of

public use of the Order Area. Our client therefore requests that she be given an opportunity to consider and respond (following a deferral if appropriate) to any statements received by the Committee alleging public use of the Order Area – although only if Ms Turner considers it necessary to provide a detailed response on issues that are fundamental to the Committee's decision.

Yours faithfully

Blake Morgan LLP

Parish Council Statements

None received