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| **Direction Decisions** |
| **by C Beeby BA (Hons) MIPROW** |
| **an Inspector on direction of the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 8 November 2022** |

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| **Ref: FPS/D3450/14D/168, ROW/D3450/14D/170 & ROW/D3450/14D/171**  **Representations by Ms J Shepherd**  **Staffordshire County Council (SCC)**  **FPS/D3450/14D/168 (SCC ref: 020625): Parish of Bagnall (“the Bagnall application”).** Application to add a public bridleway from Grid Reference SJ 93025 50864 (junction D1054 with the D1256) to Grid Reference SJ 93040 50890 (where Bagnall PF21(a) junctions with the D1256); and to upgrade to bridleway the footpath from Grid Reference SJ 93040 50890 (where Bagnall PF21(a) junctions with the D1256 to Grid Reference SJ 93336 51098 (junction of Bagnall PF21(a) with Bagnall BOAT 21 (b))  **ROW/D3450/14D/170 (SCC ref: 020107): Parishes of Warslow and Elkstones, and Fawfieldhead (“the Fawfieldhead application”).** Application to add a public bridleway from Leek Road, Warslow No C0016 Grid Ref SK 07810 59129 to Warslow and Elkstone FP37 Grid Ref SK 07818 59245; and to upgrade to a public bridleway the footpath from Blackton Moor at junction of two footpaths Warslow and Elkstones FPs 36 & 46 Grid ref SK 07708 58873 to the junction with Leek Road No C0016, Grid ref SK 07818 59245; and from Warslow and Elkstones FP37 Grid ref SK 07818 59245 along the line of FP37a as it crosses Revidge until the junction of Warslow & Elkstone FP38. It continues in a northwardly direction along the line of FP38 becoming Fawfieldhead FP81 which at its most northerly end is also Cuckoo Stone Road No D1011. The applied for route ends at the junction with Moor Road No C0193 Grid ref SK 07778 60909.  **ROW/D3450/14D/171 (SCC ref: 020114): Parish of Warslow and Elkstones (“the Warslow application”).** Application to upgrade to bridleway the footpath from Lower and Upper Elkstones Road No D1093 Grid ref SK 07528 57893 (Part of FP 36) to Leek Road Warslow No C0016 Grid ref SK 08250 58881 (Part of FP 46). |
| * Applications were made by Ms J Shepherd to Staffordshire County Council for orders to modify its Definitive Map and Statement of Public Rights of Way (DMS) under Section 53(5) of the Wildlife and Countryside Act 1981 (the 1981 Act). * The certificate attached to the Bagnall application, as required under Paragraph 2(3) of Schedule 14 of the 1981 Act, is signed and dated 14 July 2020. * The certificates attached to the Fawfieldhead and Warslow applications are unsigned and undated. * The representations have been made by the applicant under Paragraph 3(2) of Schedule 14 of the 1981 Act seeking a direction from the Secretary of State to be given to the Council to determine the applications. |
| * The Bagnall application representation is dated 3 October 2021. * The Fawfieldhead and Warslow applications representations are dated 8 October 2021. |
| * The Council was consulted about the representations on 31 January 2022 and its response is dated 23 February 2022. |
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Decision

1. The Council is directed to determine only the Bagnall application (FPS/D3450/14D/168) not later than 6 months from the date of this decision.

**Preliminary Matters**

1. Paragraph 2(4) of Schedule 14 of the 1981 Act states that a certificate of service of notice shall be in the prescribed form. This form is set out in Schedule 9 of the Wildlife and Countryside (Definitive Maps and Statements) Regulations 1993, which provides that such a certificate shall be dated and signed. As the Fawfieldhead and Warslow certificates are unsigned and undated they are not in the prescribed form. I am consequently unable to consider the direction requests for them. Thus, direction requests ROW/D3450/14D/170 and ROW/D3450/14D/171 are refused.

**Reasons (Application FPS/D3450/14D/168 only)**

1. Schedule 14 of the 1981 Act sets out provisions for applications made under section 53(5) for a definitive map modification order (DMMO).
2. Authorities are required to investigate applications as soon as reasonably practicable and, after consulting the relevant district and parish councils, to decide whether to make an order on the basis of the evidence discovered. Applicants have the right to ask the Secretary of State to direct a surveying authority to reach a decision on an application if no decision has been reached within twelve months of the authority’s receipt of certification that the applicant has served notice of the application in accordance with paragraph 2(3) of Schedule 14.
3. Current guidance is contained within Rights of Way Circular 1/09 Version 2, October 2009 published by the Department for Environment, Food and Rural Affairs. This explains the matters that the Secretary of State will take into account in considering whether, in response to such a request, to direct an authority to determine an application for an order within a specified period. These are any statement made by the authority setting out its priorities for bringing and keeping the definitive map up to date, the reasonableness of such priorities, any actions already taken by the authority or expressed intentions of further action on the application in question, the circumstances of the case and any views expressed by the applicant.
4. The Council processes DMMO applications by order of receipt, with two exceptions, where cases will be given priority. These are, in certain circumstances, where planning permission for development of the land concerned has been received, or where there is evidence of severe financial hardship caused by the existence of an application for an addition of a route to the owner/occupier of the land. Such an approach appears reasonable.
5. In this case the application has not been prioritised and the Council considers that it should not be prioritised over other applications which have been awaiting determination for longer, and that there are many other applicants who have similar concerns. The Council does not refer to any actions taken in respect of the application and, due to a number of factors, is unable to estimate the length of time it would be before the application receives attention. It states that it has recently amended the way it deals with directed applications by the introduction of a deadline for the receipt of pre-meeting submissions.
6. The applicant states that the Council is only progressing DMMO applications which are subject to a direction under Paragraph 3(2) of Schedule 14 of the 1981 Act. She states that a number of these have passed the date by which a decision was directed to be due. She consequently considers that the Council is unlikely to meet any direction date set as a result of this request.
7. The applicant sets out that the Council’s Rights of Way Improvement Plan includes an aim to review its current prioritisation system for dealing with DMMOs, so that priority is given to applications for multi-user routes in order to address shortfalls in access provision for horse riders and cyclists. Nevertheless, the current application to record a bridleway has not been prioritised as planned. She considers that, without a direction date, there is no prospect of the application being determined for a considerable period as a result of these factors.
8. The Council sets out that it has been directed by the Secretary of State to determine some 73 applications. It considers that if determination requests currently with the Secretary of State are subject to a direction, along with those directions already issued, it would effectively set the Council a target to determine over 40% of current applications within a very short timescale.
9. I note that the Council considers that such a scenario would result in a further period of waiting for those applications not subject to a direction, and would in effect introduce a new system of prioritisation which is outside the Council’s control. Nevertheless, the Council has a statutory duty to keep the DMS up-to-date. Circular 1/09 is clear that authorities should ensure that sufficient resources are devoted to meeting their statutory duties with regard to the protection and recording of public rights of way.
10. An applicant’s right to seek a direction from the Secretary of State gives rise to the expectation of a determination of that application within 12 months under normal circumstances. In this case, over two years have passed since the application was submitted and no exceptional circumstances have been demonstrated by the Council. There is no indication of when the decision on the matter may be taken, although I acknowledge the Council’s efforts to expedite the processing of directed applications. In the circumstances I have consequently decided that there is a case for setting a date by which time the application should be determined.
11. It is appreciated that the Council will require some time to carry out its investigation and to make a decision on the application. Accordingly, a further period of 6 months has been allowed.

**Direction**

On behalf of the Secretary of State for Environment, Food and Rural Affairs and pursuant to Paragraph 3(2) of Schedule 14 of the Wildlife and Countryside Act 1981, **I HEREBY** **DIRECT** the Staffordshire County Council to determine the Bagnall application FPS/D3450/14D/168not later than 6 months from the date of this decision.

*C Beeby*

INSPECTOR