



3/25 Hawk Wing
Temple Quay House
2 The Square
Bristol, BS1 6PN

Direct Line: 0303 444 5226
Customer Services: 0303 444 5000
Fax No: 0117 372 6153
e-mail: caroline.baylis@pins.gsi.gov.uk

Mr R Lane
Town Clerk, Saltash Town Council
The Guildhall
Lower Fore Street
SALTASH, Cornwall
PL12 6JX

Your Ref:
Our Ref: FPS/D0840/14D/10
Date: 8 June 2016

Dear Sir

WILDLIFE AND COUNTRYSIDE ACT 1981 SCHEDULE 14
Cornwall Council
Adding a Footpath from Waterside to Coombe Road, Saltash

1. I am directed by the Secretary of State for Environment, Food and Rural Affairs to refer to your application on 29 January 2016 for a direction to be given to the Cornwall Council ("the Council") under paragraph 3(2) of Schedule 14 to the Wildlife and Countryside Act 1981. The direction you have sought would require the Council to determine your application for an order, under Section 53(5) of the Act, to modify the Council's definitive map and statement of public rights of way for the area so as to add a footpath between Waterside and Coombe Road, Saltash.
2. The Council was consulted about your request for a direction on 18 February 2016 as required by the Act. The Council's formal response was received on 11 March 2016.
3. The Secretary of State takes a number of issues into account in considering how to respond to such requests and whether she should direct an authority to determine an application for an order within a specific period. These issues include 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 that the authority has taken or expressed intentions to take or further action on the application in question; the circumstances of the case; and any views expressed by the applicant.

Your Case

4. Reliance is placed on the evidence of public use of the claimed footpath for a period in excess of twenty years. It is considered that the evidence is sufficient to demonstrate that a public footpath should be added to the definitive map and statement. The fact that a way has been obstructed for a number of years should be disregarded. This application remains undetermined by the Council after many years.

5. Recently, the Secretary of State has considered that taking several years or more to come to a decision is unreasonable and has issued directions that a decision must be made within a specified period. It is requested that the Secretary of State directs the Council to make a decision within a specified period of time.

The Council's Case

6. The Council's policy statement contains a two tier system with higher priority given to cases that have preferential status under the policy and meet a defined set of criteria. Cases which do not meet the criteria in the policy are given a lower priority. This application does not meet any of the criteria set out in the policy for higher priority and has thus been given a low priority.
7. This application is currently positioned at number 1 on the lower priority list and sits at position 70 of the 105 cases in total. In a review of the priority list the position of this application has changed as orders have taken some off the list and those remaining, or new applications, have been given a higher priority. The Council has updated its systems to streamline throughput of cases and now employs 2 full time staff whose role is almost exclusively dedicated to resolving such applications. The current estimate is 8-10 modification orders per year. With that as a guide it is predicted that this case will be determined in approximately 7-8 years.
8. Receipt of the application was acknowledged by the Council in May 2001. However, it was not until June 2004 that the applicant supplied a full list of all of the landowners affected by the application which delayed the necessary consultations. The applicant will have been informed at the time that there was a very large backlog of such applications and this application would be held on file until it could be processed in accordance with the Council's published policy statement.
9. The Council is unaware of any directive from the Secretary of State regarding the length of time to determine applications and does not consider that any mitigating factors or exceptional circumstances have been presented to merit the promotion of the application. The claimed footpath is available for the public to use except at times around high tide with viable alternative options. Furthermore, a previous request for a direction for the same application was declined by the Secretary of State in 2009.
10. A direction to make a decision would be to the detriment of other cases in the priority list and the applicant has failed to provide sufficient grounds to justify why this application should be elevated above others.

Consideration

11. It would not be appropriate for the Secretary of State to comment on the merits of the application to modify the definitive map. Nor is there anything apparent to suggest that the Council's adopted policy as a whole is unreasonable. In terms of decisions by the Secretary of State on applications for a direction to be given to an authority, each case is determined on its own merits.
12. The delay in providing details of the landowners is noted. However, this information was provided to the Council in 2004 and it is anticipated that the application will not be determined until 2023 or 2024. This means that a period of twenty years would have elapsed since the Council was furnished with the information regarding

landowners. It is also apparent that the position may change if other cases are upgraded or additional higher priority applications are received. Should an order be made and opposed, a further period of time will elapse before the matter is finally determined.

13. Whilst the applicant has not specifically raised this issue, the Secretary of State considers that there is a significant risk of valuable evidence from witnesses being lost if the determination of this application is further delayed. It should be borne in mind that the evidence is likely to cover events dating back over a number of years prior to the submission of the application in 2001.
14. Having regard to the above, the Secretary of State is of the view that the anticipated length of time to determine this application is not reasonable. In reaching this conclusion it is appreciated that sufficient time should be allowed for the Council to investigate the application, carry out the required consultations and complete the decision making process. The Secretary of State takes the view that a period of 18 months should be allowed for the determination of the application.

Decision

15. In the circumstances the Secretary of State has decided that there is a case for setting a date by which time the application should be determined. In exercise of the powers vested in her by paragraph 3(2) of Schedule 14 to the Wildlife and Countryside Act 1981, the Secretary of State has directed the Cornwall Council to determine this application not later than 3 December 2017.
16. A copy of the Secretary of State's letter of direction to the authority is enclosed, and a copy of this letter is being sent to the authority.

Yours faithfully

Mark Yates

Authorised by the Secretary of State for Environment, Food and Rural Affairs to sign in that behalf

DIR DL1