



Direction Decision

by **Susan Doran BA Hons MIPROW**

an Inspector on direction of the Secretary of State for Environment, Food and Rural Affairs

Decision date: 12 June 2017

Ref: FPS/D3450/14D/4

Representation by Helen Williams

Staffordshire County Council

Application to add a footpath from the gate on Gallowstree Lane to footpath Mayfield 21 by Stile Lane (near junction of Old Bank)

- The representation is made under Paragraph 3(2) of Schedule 14 of the Wildlife and Countryside Act 1981 (the 1981 Act) seeking a direction to be given to Staffordshire County Council to determine an application for an Order, under Section 53(5) of that Act.
 - The representation, dated 2 March 2017, is made by Helen Williams.
 - The certificate under Paragraph 2(3) of Schedule 14 is dated 21 September 2015.
 - The Council was consulted about the representation on 24 March 2017 and the Council's response was made on 11 May 2017.
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Decision

1. The Council is directed to determine the above-mentioned application.

Reasons

2. Authorities are required to investigate applications as soon as reasonably practicable and, after consulting the relevant district and parish councils, 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 on affected landowners and occupiers. The Secretary of State in considering whether, in response to such a request, to direct an authority to determine an application for an order within a specified period, will take into account 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 applicant¹.
3. In this case, the application was submitted some 20 months ago. Attention is drawn to the route² providing a safe, direct route for children in Upper Mayfield to reach the village school avoiding the need to walk along the single track lane or busy main road, or to be driven. In addition, it provides a short cut to the children's play area and a route to the village shop which encourages use of a safe crossing point of the main road. Further, it is considered to be a historical right of way that should be preserved for current and future generations.

¹ Rights of Way Circular 1/09 Version 2, October 2009. Department for Environment, Food and Rural Affairs.

² Connecting and together with Mayfield Footpath 21

Accordingly it is submitted that three of the Council's priority criteria are met. It is noted whilst a gate on the application route has occasionally been unlocked, thereby affording access, as of May 2017 it has again been locked.

4. Staffordshire County Council acknowledges the Applicant's concerns and her wish to resolve the matter as quickly as possible. However, it has a substantial backlog of claims waiting to be dealt with, many involving complex legal issues and/or large numbers of witness to be interviewed. It has limited resources allocated for this. Accordingly the Council's approach is to determine applications in order of receipt, unless they satisfy one or more priority exceptions which include, where delay would threaten the loss of the claimed right of way; where in the case of a claimed right of way there is severe hardship, or a risk of confrontation between the claimants and the owner/occupier of the affected land, or there is evidence of a detrimental effect to the health of the owner/occupier of the land; where having regard to the County Council's Sustainable Transport Policies, in the case of an application to add an additional public path to the Definitive map or to upgrade the existing status of the highway, the application relates to a path of actual, or potential, regional or national significance; and, where a route would be relevant to the achievement of another of the County Council's statutory policy objectives.
5. Presently, the application is ranked at number 235 out of a total of 241 applications awaiting determination: in this case the Council says it has not received a priority request with accompanying evidence. Accordingly, the application will remain on file until it reaches the requisite ranking. However, the Council is unable to give a clear timescale for determining the case, and does not consider there are any special reasons why this case should take priority over others that have been awaiting determination for a much greater length of time.
6. 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, whilst only 20 months have passed since the application was submitted, it is considered unreasonable that no indication has been given as regards when the Council expects to be able to determine the application. Taking into account its position within the Council's list of applications, this is likely to be several years hence. Determination of the application should therefore commence. However, it is appreciated that the Council will require some time to carry out its investigation and make a decision on the application.
7. In the circumstances I have decided that there is a case for setting a date by which time the application should be determined and consider it appropriate to allow 9 months for a decision to be reached.

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 above-mentioned application not later than 31 March 2018.

S Doran

Inspector