



Direction Decisions

by **Michael R Lowe** BSc (Hons)

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

Decision date: 19 April 2018

Ref: FPS/D3450/14D/22 - 36

Representations by Martin Reay

Staffordshire County Council

FPS/D3450/14D/22 Application for the addition of a footpath from B5404 to A51) (Council ref. LH629G)

FPS/D3450/14D/23 Application for the addition of a bridleway from highway at Blorepipe to bridleway at Bishops Wood (Council ref. LG641G)

FPS/D3450/14D/24 Application for the addition of a BOAT from A51 at Blackbrook to public path at Maer Hills (Council ref. LH614G)

FPS/D3450/14D/25 Application for the addition of a bridleway from A5 Water Eaton Road to highway next to Eaton Engleton (Council ref. LG620G)

FPS/D3450/14D/26 Application for the addition of a footpath from junction Fradswell 2,3 & 4 to Fradswell Church (Council ref. 009701)

FPS/D3450/14D/27 Application for the addition of a footpath from Marston Lane to bridleway at Marston) (Council ref. LJ607G)

FPS/D3450/14D/28 Application for the addition of a footpath from B5405 to path at Whitley Heath (Council ref. LL613G)

FPS/D3450/14D/29 Application for the addition of a footpath from B5405 to AA5013 (Council ref. LJ603G)

FPS/D3450/14D/30 Application for the addition of a footpath from FP11 to 0.1287 Castlechurch parish (Council ref. LR610G)

FPS/D3450/14D/31 Application for the addition of a BOAT from Hobstone Hill lane to Coulter Lane (Council ref. LJ619G)

FPS/D3450/14D/32 Application for the addition of a bridleway from Bent lane to highway at Hill Chorlton (Council ref. LJ639G)

FPS/D3450/14D/33 Application for the addition of a BOAT from Harley Thorn Lane to public road leading underneath A519 (Council ref. LH639G)

FPS/D3450/14D/34 Application for the addition of a bridleway from Blith Bury Road to bridleway at parish boundary (Council ref. LJ663G)

FPS/D3450/14D/35 Application for the addition of a footpath at Round House to public road at Gratwich (Council ref. LJ659G)

FPS/D3450/14D/36 Application for the addition of a footpath from FP15 to FP2 Leigh (Council ref. LM650G)

- The representations are made under Paragraph 3(2) of Schedule 14 of the Wildlife and Countryside Act 1981 (the 1981 Act) seeking directions to be given to Staffordshire County Council to determine various applications for Orders, under Section 53(5) of that Act.
 - The representations are made by Martin Reay and dated 25 October 2017.
 - The certificates under Paragraph 2(3) of Schedule 14 are dated 20 November 1998, 15 March 1999, 3 December 1998, 31 July 1997, 2 February 2015, 7 April 1999, 28 November 2001, 1 March 1999, 26 May, 2006, 8 July 1999, 18 January 1999, 14 September 1999, 1 February 2000, 7 December 1999 and 28 November 2002 respectively.
 - The Council was consulted about your representations on 27 October 2017 and the Council's response was made on 14 December 2017.
-

Decisions

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

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. Article 6(1) of The European Convention on Human Rights, enshrined in law in the United Kingdom by the Human Rights Act 1998, states: "In the determination of his civil rights and obligations ... everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law ...".
4. The Council has a policy statement for prioritising applications under section 53(5) of the 1981 Act. This policy processes applications in order of the date of receipt with following exceptions for:-
 - (a) where delay would threaten the loss of a claimed right of way;
 - (b) 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 detrimental effect on the health of the owner/occupier of the land;
 - (c) where in the case of an application for the deletion or downgrading of a right of way, delaying its determination will result in severe hardship to the owner/occupier of that land;
 - (d) where having regard to the 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 a highway, the application relates to a path of actual, or potential, regional or national significance; or
 - (e) where a route would be relevant to the achievement of another of the Council's statutory policy objectives.Priority is also given to such applications as are granted priority following a formal request.
5. The Council submits that the applications in question have not been the subject of any such request and do not meet any of the criteria set for priority. The Council have ranked the applications 94, 105, 88, 72, 232, 109, 153, 106, 201, 117, 123, 103, 132, 130 & 179 respectively out of 241 pending applications. The Council are not able to offer any estimate of time for determining the

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

applications and have received 20 previous directions with a further 13 pending.

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 circumstances². In these cases, the applicant has waited between 12 and 21 years before seeking a direction from the Secretary of State.
7. The statutory duty is to investigate applications as soon as is reasonably practicable. The statement by the authority setting out its priorities for bringing and keeping the definitive map up to date is only reasonable if it is able to implement those priorities in accordance with the statutory duty and, under normal circumstances, within 12 months. The Council has not indicated any exceptional circumstances as to why the applications have not been determined. Authorities should ensure that sufficient resources are devoted to meeting their statutory duties with regard to recording public rights of way³.
8. In the circumstances, I have decided that there is a case for setting a date by which time the applications should be determined. It is appreciated that the Council will require some time to carry out its investigation and make a decision on the applications. A further period of 6 months has been allowed.

Directions

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** Staffordshire County Council to determine the above-mentioned applications not later than 6 months from the date of this decision.

Michael R Lowe

INSPECTOR

² The 12 month period commences on the date a valid certificate is submitted to the order-making authority in accordance with paragraph 2(3) of Schedule 14.

³ Paragraph 1.8, Rights of Way Circular 1/09 Version 2, October 2009