



## 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: 30 July 2018

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**Ref: FPS/M2460/14D/3**

**Representation by Trustees of AdamSmile  
Leicestershire County Council**

**Application to add a footpath running from Public Footpath A27,  
Lubham to Farndale View, Market Harborough (OMA ref. M970)**

- 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 Leicestershire County Council to determine an application for an Order, under Section 53(5) of that Act.
  - The representation, dated 8 November 2017, is made by the Trustees of AdamSmile.
  - The certificates under Paragraph 2(3) of Schedule 14 are dated 22 April 2013 and 2 April 2014.
  - The Council was consulted about the representation on 14 November 2017 and submitted its response on 11 December 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 applicant<sup>1</sup>.
3. Leicestershire County Council does not have a formally adopted Statement of Priorities. Its Officers maintain a working schedule of cases that are discussed monthly, currently comprising some 61 applications (of which this is fifth on the list). This application, it says, is complicated as it concerns a cross-border route requiring the agreement of both Councils in order to proceed. The Council says it has progressed as far as it can with the application and is awaiting a formal response from the second local authority, Northamptonshire

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

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County Council. A draft report on the application sent to Northamptonshire County Council on 5 October 2017 was received positively, although that Council is considering the implications of the claim. Consequently, Leicestershire County Council says it is unable to progress the matter further until they have received Northamptonshire County Council's formal agreement.

4. The Applicant ultimately seeks to establish a cycleway along the application route as a whole (in accordance with the Charity's constitution) so as to offer a safer route for users following a tragic accident on the local road network. Whilst I understand and appreciate the aims of the Charity, I agree with the Council that the creation of a cycle route is a separate matter to the application as made, and indeed the decision as to whether or not a direction should be made.
5. 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, more than 4 years have passed since the application was submitted. It is noted that the Council has already investigated the application so far as it is able given that it involves a cross-border route. It is also noted that the Council is simply awaiting a formal response from the neighbouring authority before progressing the matter further. In the circumstances, it would be in the interests of the public purse for one authority to deal with the route as a whole. It is appreciated that such an approach may require some further time for an agreement to be reached.
6. In the circumstances, and assuming that no agreement has already been reached on the route as a whole, I have decided that there is a case for setting a date by which time the application (insofar as it affects Leicestershire, or alternatively as a whole) should be determined and, given the progress made to date, consider it appropriate to allow a further 3 months for a decision to be reached on this application.

### **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 Leicestershire County Council to ensure determination of the above-mentioned application, themselves (insofar as it affects Leicestershire) or by agreement with the neighbouring authority, not later than 3 months from the date of this decision.

*S Doran*

**Inspector**