



Direction Decision

by Mark Yates BA(Hons) MIPROW

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

Decision date: 28 September 2018

Ref: FPS/D3450/14D/89-93

Representation by Ms J.C. Ridley of the North Staffordshire Bridleways Association

Staffordshire County Council

Applications to upgrade Newcastle Town Footpath Nos. 54, 53, 52, 61 and 62 to Bridleway Status (Council Refs: LM622G – LM626G)

- The representation is made under Paragraph 3(2) of Schedule 14 to the Wildlife and Countryside Act 1981 ("the 1981 Act") seeking a direction to be given to Staffordshire County Council ("the Council") to determine applications for Orders, under Section 53(5) of that Act.
 - The representation, dated 2 April 2018, is made by Ms Ridley of the North Staffordshire Bridleways Association ("NSBA").
 - The certificates under Paragraph 2(3) of Schedule 14 are dated 27 July 2002.
 - The Council was consulted on the representation on 21 May 2018 and the Council's response was made on 29 June 2018.
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Decision

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. The Council is unable to give an estimate of when these applications will be determined. However, it does not challenge NSBA's assertion that this will take many more decades. Such a lengthy delay is unreasonable and means that valuable personal evidence from witnesses will be lost.

¹ Department for Environment, Food and Rural Affairs Rights of Way Circular 1/09

4. The Council determines applications to modify the definitive map in chronological order unless one of the specified exceptions is applicable. None of the exceptions are stated to apply in this case. Whilst I have no reason to believe that the Council's policy for prioritising applications is unreasonable, it cannot be said that the Council is making reasonable progress in carrying out its statutory duty to keep the definitive map under continuous review. It is apparent that the lack of progress in recent years highlighted by NSBA has triggered a number of similar representations to the Secretary of State.
5. I am not satisfied it has been shown that the applications to be considered by the Council are any more time consuming than would normally be expected for this type of casework. It is clear that if a direction is given, other applications may suffer unless the Council is prepared to allocate resources commensurate with the length of its waiting list. In this respect, there are currently 241 applications awaiting determination. The Council is concerned that its own prioritisation system could be undermined with applications effectively being prioritised by the Planning Inspectorate rather than the Council. However, NSBA has exercised their right to apply for a direction to the secretary of State and I have to consider this representation.
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, more than 16 years have passed since the applications were submitted and I do not view this to be reasonable. Therefore, I have decided that there is a case for setting a date by which time the applications should be determined. No distinction is made between these applications to suggest that they should be considered in a particular order. However, having regard to the fact that the representation involves 5 applications and the directions made for other cases, a further period of 12 months should be allowed to determine these applications.
7. A representation was made by NSBA to the effect that rights under Article 6 of the Human Rights Act 1998 are engaged and violated by the delay in determining these applications. Article 6 provides that in the determination of their 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. However, my decision as to whether the authority has investigated and determined these applications as soon as reasonably practicable in accordance with paragraph 3(1) of Schedule 14 to the 1981 Act does not amount to a decisive determination for the Applicant's civil rights and obligations. Article 6 is not applicable to this decision. Further, it is not for me to comment on the merits of the cases in support of the applications to modify the definitive map.

Direction

On behalf of the Secretary of State for Environment, Food and Rural Affairs and pursuant to Paragraph 3(2) of Schedule 14 to the Wildlife and Countryside Act 1981, **I HEREBY DIRECT** Staffordshire County Council to determine the above-mentioned applications not later than 12 months from the date of this decision.

Mark Yates

INSPECTOR