



Direction Decision

by **D M Young BSc (Hons) MA MRTPI MIHE**

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

Decision date: 9 May 2019

Ref: FPS/D0840/14D/30

Representation by A & M McClary

Cornwall Council

Application to add a footpath which runs from Choone Farm Lane Footpath 52 (grid ref 4241 2461) to Quarry, Moorcroft Footpath 51 (grid ref 4224 2464) (Parish of St Buryan)

- 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 Cornwall Council to determine an application for an Order, under Section 53(5) of that Act.
 - The representation is made by A & M McClary, dated 30 December 2018
 - The certificate under Paragraph 2(3) of Schedule 14 is dated 18 August 2010.
 - The Council was consulted about your representation on 18 January 2019 and the Council's response was made on 14 February 2019.
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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 is reasonably practicable and, after consulting the relevant district and parish councils, decide whether to make an order on the basis of the evidence discovered. Schedule 14 to the 1981 Act, allows applicants to ask the Secretary of State for a direction following the expiration of 12 months from the date the certificate is served on the surveying authority.
 3. 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.
 4. The application form to add a footpath at Choone Farm, St Buryan, Cornwall is dated 18 August 2010. According to the Council the application is currently positioned 39 on the higher priority list. Based on the current rate of 10 cases per year, the application is likely to be determined in around 5 years or 15 years after it was submitted.
 5. Whilst I appreciate the Council is doing the best it can with current levels of staffing, a wait of 15 years just simply cannot be right. As confirmed by
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Circular 1/09¹, adequate resources should be provided to permit the Council to carry out its statutory functions. No exceptional circumstances have been put forward by the Council as to the cause of any delay in determining the application. Whilst I acknowledge, the existence of applications of longer-standing origin, this does not constitute a compelling reason for not dealing with this particular application within a reasonable time-frame

6. Whilst a system of prioritisation is a good one, this does not absolve the Council of its statutory responsibilities to keep the Definitive Map and Statement up to date and to allocate sufficient resources to allow that to happen in a timely manner.
7. It is appreciated that the Council will require some further time to carry out its investigation and make a decision on the application. I also appreciate that the Council has been the subject of other Direction Orders. Nevertheless, I have decided that there is a case for setting a date by which time the application should be determined and I consider it appropriate to allow no more than a further 12 months for a decision to be reached.

Direction

8. 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 Cornwall Council to determine the above-mentioned application not later than 12 months from the date of this decision.

D. M. Young

INSPECTOR

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