



Direction Decision

by **Martin Elliott BSc FIPROW**

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

Decision date: 30 JANUARY 2020

Ref: FPS/L3245/14D/1

**Representation by Greenfield's Community Group
Shropshire Council**

**Application to add a public footpath at Greenfields Recreation Ground
(Bagley Ward)**

- 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 Shropshire Council to determine an application for an Order, under Section 53(5) of that Act.
 - The representation is made by Greenfield's Community Group, dated 15 September 2019.
 - The certificate under Paragraph 2(3) of Schedule 14 is dated 30 August 2018.
 - The Council was consulted about the representation on 30 September 2019 and the Council's response was made on 4 November 2019.
-

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. The Council say that the application is number 75 out of 81 outstanding applications awaiting to be determined. The application does not fulfil any of the criteria for priority determination in accordance with the Council's Statement of Priorities. The application route is already recorded as an adopted cycleway under section 228 of the Highways Act 1980. The Council asks that the appeal for a direction is refused as the route is already protected and its status recorded.

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

4. 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 12 months have passed since the application was submitted and there is no indication as to when the application may be determined. No exceptional circumstances have been put forward by the Council as to the cause of any delay in determining the application. Whilst it is reasonable for the Council to determine applications in accordance with its approved policies, it is unreasonable, given the expectation of a determination within 12 months, for the determination of an application to take in excess of that time.
5. I acknowledge that the Council has asked that the appeal for a direction is refused on the basis that the route is already protected. Nevertheless an application has been made and awaits determination. It would appear that the Council have already reached a conclusion as to the status of the route such as to inform any decision on the application. In the circumstances I have decided that there is a case for setting a date by which the application should be determined. It is appreciated that the Council will require some time to make a decision on the application. A further period of 6 months has been allowed.

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** Shropshire Council to determine the above-mentioned application not later than 6 months from the date of this Direction Decision.

Martin Elliott

INSPECTOR