



Direction Decision

by **Barney Grimshaw BA DPA MRTPI (Rtd)**

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

Decision date: 2 March 2020

Ref: FPS/D3450/14D/131

Representation by Harry Scott, Open Spaces Society

Staffordshire County Council

Application to add

(a) a footpath from the easterly termination on the Definitive Map of footpath Biddulph Town 89 (GR SJ 8972 5977) approx 20m SW of Mill Cottage proceeding 40m NNW through the cottage garden and forecourt to a junction with the driveway 15m N of the cottage (GR SJ 8973 5982) thence for 60m along the driveway to its junction with Hurst Road (GR SJ 8975 5985);

(b) a spur proceeding SW for 45m along the driveway to a junction GR 8969 5978 with footpath 89 3m E of the steel footpath gate adjoining the crossing of the stream; and

varying the Definitive Map to agree with the Definitive Statement by extending footpath Biddulph Town 89 along the route AXC to its presently stated termination - Road, about 150 yards NW of Elmhurst. (OMA ref. 015804)

- 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 Staffordshire County Council to determine an application for an Order, under Section 53(5) of that Act.
 - The representation is made by Harry Scott on behalf of the Open Spaces Society, dated 27 November 2019.
 - The certificate under Paragraph 2(3) of Schedule 14 is dated 2 September 2017.
 - The Council was consulted about the representation on 3 December 2019 and the Council's response was made on 29 January 2020.
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Decision

1. The Council is directed to determine the above-mentioned application not later than 6 months from the date of this Direction.

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
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- 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. With regard to this representation the surveying authority, Staffordshire County Council, has stated that it currently has a backlog of 235 applications waiting to be determined. The authority's policy is to deal with applications in order of receipt subject to certain exceptions in respect of priority criteria which do not apply to the applications referred to in this representation.
 4. The current application stands at no. 215 in the list of applications awaiting determination. The authority states that it is unable to give an estimate of when the application will be dealt with, but it seems likely that it could be a considerable time before it is determined.
 5. The authority further points out that it has already been directed by the Secretary of State to determine 87 applications and requests that further directions are not issued as this will undermine the authority's own prioritisation system.
 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, over 2 years has passed since the application was submitted and no exceptional circumstances have been indicated other than the fact that the authority has allowed a considerable backlog to build up. Furthermore, the authority can still not give a date by which the application will be determined. This is a totally unacceptable situation which would seem to indicate that the authority is failing to devote sufficient resources to the determination of applications.
 7. In the circumstances I have decided that there is now a case for setting a date by which time the application should be determined. It is appreciated that the Council will require some time to carry out its investigation and make a decision on the application and I therefore propose to allow a further 6 months for a decision to be reached.

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 Staffordshire County Council to determine the above-mentioned application not later than 6 months from the date of this Direction.

Barney Grimshaw

INSPECTOR

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