



## Direction Decision

by **Rory Cridland LLB (Hons), Solicitor**

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

Decision date: 18 December 2020

---

**Ref: FPS/A0665/14D/5**

**Representation by Richard Bennion**

**Cheshire West & Chester Council**

**Application to vary the particulars of Footpath no. 7 Cuddington (OMA ref. CWAC/016/DMMO)**

- 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 Cheshire West & Chester Council to determine an application for an Order, under Section 53(5) of that Act.
  - The representation is made by Mr Richard Bennion, dated 29 April 2020.
  - The certificate under Paragraph 2(3) of Schedule 14 is dated 14 November 2018.
  - The Council was consulted about your representation on 7 October 2020 and the Council's response was made on 10 November 2020.
- 

### Decision

1. The Council is directed to determine the above-mentioned application within a period of 12 months from the date of this decision.

### 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.
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<sup>1</sup>.
4. The Council states that under its current priority rating this application would not have been processed until November 2021. However, it has indicated that it now considers it possible to determine it by April 2021 and has identified a specific resource to do so. This is welcomed.

---

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

---

5. Nevertheless, 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, almost double that amount of time has already passed, and it appears that little, if any, progress has been made.
6. In normal circumstances, taking account of the Council's anticipated timescales, I consider a direction to determine within a further period of 6 months would be appropriate. However, I am mindful of the challenges currently faced by local authorities and the restrictions imposed in response to the COVID-19 pandemic. I have therefore reached the view that extending the period to 12 months would be appropriate to take account any unforeseen circumstances which may arise over the coming months.

### **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** Cheshire West and Chester Council to determine the above-mentioned application not later than 12 months from the date of this decision.

*Rory Cridland*

INSPECTOR