



Direction Decision

by **Martin Elliott BSc FIPROW**

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

Decision date: 14 September 2017

Ref: FPS/C1245/14D/2

**Representation by Carol J Shoopman, The British Horse Society
Dorset County Council**

**Application for Restricted Byway from Catherine's Well to Hilton Road,
Milton Abbas, Dorset [T491]**

- 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 Dorset County Council to determine an application for an Order made under Section 53(5) of that Act.
- The representation, dated 3 May 2017, is made by Carol Shoopman.
- The certificate under Paragraph 2(3) of Schedule 14 is dated 17 September 2009.
- The Council was notified of the representation on 26 May 2017 and submitted its response on 27 July 2017.

Summary of Decision: The Council is directed to determine the above-mentioned application.

Reasons

1. Authorities are required to investigate applications as soon as reasonably practicable and, after consulting the relevant district and parish councils, to 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.
2. The application was made in September 2009 and the Council indicate that the application is currently under investigation. The Council hope to present the matter to Committee for a decision in spring 2018.
3. 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 circumstances². In this case, nearly 8 years have passed since the

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

² The 12 month period commences on the date a valid certificate is submitted to the order-making authority in accordance with paragraph 2(3) of Schedule 14

application was submitted and it is unreasonable for the determination of an application to take more than 8 years. The Council are currently investigating the application and a committee report is in the process of being compiled; the Council hope to present the matter to their Committee in spring 2018. However, this is an expectation and no firm date has been provided as to when the matter will be taken to committee.

4. Given that 8 years have lapsed since the application and no date, other than spring 2018, has been provided as to when the application will be determined I consider that there is a case for setting a date by which time the application should be determined. I consider that the application should be determined within 8 months. Such a timescale will enable the Council to complete their investigations and report the matter to committee.

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** Dorset County Council to determine the above-mentioned application not later than 8 months from the date of this direction decision.

Martin Elliott

INSPECTOR