



Directions Decision

by **Mark Yates** BA (Hons) MIPROW

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

Decision date: 31 August 2017

Refs: FPS/D3450/14D/8 & 9

**Representation by Mrs C. Towle
Staffordshire County Council**

**Application to add a footpath from Draycott Cross/Cheadle Road to New Haden Road, in the parish of Cheadle, to the definitive map and statement
Application to add a footpath from Coney Greave Lane to Footpath No. 19, in the parish of Cheadle, to the definitive map and statement**

- The representation is made under Paragraph 3(2) of Schedule 14 to the Wildlife and Countryside Act 1981 ("the 1981 Act") seeking directions to be given to Staffordshire County Council ("the Council") to determine applications for Orders, under Section 53(5) of that Act.
 - The representation, dated 12 May 2017, is made by Mrs Towle.
 - The certificates under Paragraph 2(3) of Schedule 14 are dated 17 March 2009.
 - The Council was notified of the representation on 9 June 2017 and submitted its response on 7 July 2017.
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Decision

1. The Council is directed to determine the above-mentioned applications.

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 applicant asserts that the Council is determining one application a year and she believes it could take a further 113 years for her applications to be determined. She states that even if there is an increase in resources it will be a number of years before these applications are considered. They are currently ranked at 215 and 216 out of the 241 applications awaiting determination. In

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

this respect, the applicant may have underestimated the potential period for the applications to be determined. The Council is unable to give an estimate of when the applications will be investigated but accepts that it is likely to be some time before this commences. There is a significant risk in such circumstances of valuable evidence being lost and the applicant says that three witnesses have already passed away.

4. Applications to modify the definitive map for Staffordshire are determined in chronological order unless one of the specified exceptions is applicable. Whilst I have no reason to believe that the Council's policy for prioritising applications is unreasonable, it cannot be said that the Council is making adequate progress in carrying out its statutory duty to keep the definitive map under continuous review. What is reasonably practicable for an authority to achieve will inevitably be affected by the resources allocated to dealing with applications to modify the definitive map. The Council acknowledges that it has limited resources available.
5. I am not satisfied that it has been shown that the applications to be considered by the Council are likely to be any more time consuming than would normally be expected for this type of casework. Such work will inevitably require at times the need to interview witnesses and consider complex legal issues.
6. Each application for a direction needs to be considered on its own merits. It is clear that if a direction is given, other applications may suffer unless the Council is prepared to allocate resources commensurate with the length of its waiting list. Nonetheless, 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 twelve months under normal circumstances. In this case, eight years have passed since the certificates were served and the investigations of the applications are unlikely to commence for a number of years. I do not view such a delay to be reasonable.
7. In the circumstances I have decided that there is a case for setting a date by which time the applications should be determined. It is appreciated that the Council will require some time to carry out its investigations and make decisions on the applications. I consider it appropriate to allow a further year for decisions to be reached in relation to these applications.

Directions

On behalf of the Secretary of State for Environment, Food and Rural Affairs and pursuant to Paragraph 3(2) of Schedule 14 to the Wildlife and Countryside Act 1981, **I HEREBY DIRECT** Staffordshire County Council to determine the above-mentioned applications not later than one year from the date of this decision.

Mark Yates

INSPECTOR