



# The Planning Inspectorate

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Mr P Houghton  
35 Main Road  
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TOWCESTER  
NN12 7RU

Your Ref:  
Our Ref: FPS/K2800/14D/5  
Date: 1 February 2016

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Dear Sir

## WILDLIFE AND COUNTRYSIDE ACT 1981 SECTION S14

Northamptonshire County Council

Application for a Definitive Map Modification Order, Parish of Stoke Bruerne, to add a public footpath from Blisworth Crossroads to the junction with public footpath RZ8

1. I am directed by the Secretary of State for Environment, Food and Rural Affairs to refer to your application on 2 November 2015 for a direction to be given to Northamptonshire County Council (the Council) under paragraph 3(2) of Schedule 14 to the Wildlife and Countryside Act 1981. The direction you have sought would require the Council to determine your application for an order, under section 53(5) of the Act, to modify the Council's Definitive Map and Statement of public rights of way for the area so as to add a public footpath from Blisworth Crossroads to the junction with public footpath RZ8.
2. The Council was consulted about your request for a direction on 20 November 2015 as required by the Act. The Council's formal response was received on 1 December 2015.
3. The Secretary of State takes a number of issues into account in considering how to respond to such requests and whether she should direct an authority to determine an application for an order within a specific period. These issues include 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 that the authority has taken or expressed intentions to take or further action on the application in question; the circumstances of the case; and any views expressed by the applicant.

### Your case

4. You advise that on 25 July 2014 the Secretary of State issued a direction to the Council to determine an earlier application, lodged in September 2010, in respect of

the claimed route. The direction required the Council to determine the application no later than 23 September 2015. You contend that the direction has not been complied with.

5. On 12 October 2014 you submitted the current application, on the advice of the Council, so as to enable the serving of the relevant notices on several persons who enjoy rights of access along the Park road. This was to remove any doubt as to the validity of the original application as, in respect of that application, notice had not been served on those with rights over the land. Although you consider that it was unnecessary to serve notice on those with a right of access it appeared to you to be easier to submit a fresh application than to contest this aspect.
6. You were assured that the resubmission of the application would not impact on the processing of the application and that this would progress as originally planned. You therefore do not see the resubmission as a significant cause for delay. In July 2015 you were informed that the investigating officer was leaving their post and was unable to confirm if the application would be completed by the due date. Subsequent correspondence informed that the application was on hold and that the Council were not in a position to provide a date when investigations into the application would be resumed.
7. You respect the Council's genuine difficulties and would be prepared to countenance further delays. However, you find it unacceptable that an application lodged five years ago should be delayed indefinitely with no indication as to when investigations are likely to resume. The resubmission of the application does not provide grounds for stopping work or failing to give a date for the resumption of investigations. You also note that correspondence from the Council makes no reference to the direction of the Secretary of State or any indication as to the outstanding work to be carried out on the application. In your view, if the original application was valid, the direction given to determine the application by 23 September 2015 is still relevant.
8. Despite what the Council say in their letter of 21 October 2015 you contend that they are not investigating the application and no investigating officer has been designated.
9. You request that the Secretary of State reminds the Council of their duties and issue a direction for the application to be determined within six months.

### **The Council's Case**

10. The Council indicates that the definitive map team consists of one full time officer, one part time definitive map officer and one Definitive Map Technician not involved in definitive map modification order (DMMO) work. In addition to the normal definitive map work they are due to consolidate the definitive map which will take resources away from the day-to-day work.
11. The Council has a DMMO claims Prioritisation Scoring. However, as the application is currently under investigation it no longer has a prioritisation ranking. Unfortunately due to staff resources there are a number of applications for which investigations have commenced but have not yet been completed. The Council would wish to see outstanding applications properly determined before commencing investigations into new applications.

12. As regards the application in question the applicant is querying whether the original application should have been rendered invalid (as detailed in the letter dated 21 October 2015) and hence the original date for determination no longer applicable. The Council has made a decision based on the best available information. The Council has formed an opinion that those with private access rights have an interest in the land and should therefore be notified of any application.
13. It was the Council's intention to continue with the investigations into the 2010 application as planned. However, had they known about future resourcing of the department it may have made a different decision and placed the 2014 application into the prioritisation scheme.
14. The Council notes the number of ageing witness but advises that this is the case with the majority of DMMO applications. The investigating officer has interviewed all the witnesses she intends to but acknowledges that, in the event of a public inquiry, it would be advantageous for witnesses to be available for cross examination. Having interviewed ten of the users of the way the Council considers that this would be sufficient for cross examination in due course.
15. The Council notes the observation of the applicant that the application is of local importance. However, the relevant Parish Council has written to the Council on several occasions to state that they do not support the application. The Council state that this has no bearing on the progress of investigations.
16. In terms of investigations, the Council has completed all of the intended witness interviews and have commenced the historic investigation. The investigating officer is currently drafting the decision report and drawing together all of the evidence. The draft report will be circulated and a decision to make an order will be made by the Officer with delegated powers. As the investigating officer only works 7.4 hours a week, and has input into other case work, this clearly makes progress slow. Presuming that the current situation remains the Council envisages that a decision, although not guaranteed, should be made within six months.

## **Consideration**

17. The Secretary of State notes that a direction has previously been given in respect of an application for a DMMO made in September 2010 to add the claimed route to the definitive map and statement. She also notes the background to that application. However, the Secretary of State is now required to consider an application for a direction in respect of the application for a DMMO made on 12 October 2014.
18. Although you contend that the Council are not investigating the claim, and have not appointed an investigating officer, the Council state, in their letter 1 December 2015, that investigations are ongoing and that they are in the process of drafting the decision report. The Council indicate that the application will be determined within 6 months. The Secretary of State is aware that this timescale is nevertheless not guaranteed. Given that the application is intended to be determined within the next six months the Secretary of State does not consider that any direction could reasonably provide for an earlier determination.

## **Decision**

19. In the circumstances, the Secretary of State has decided not to issue a direction to the Council.

20. A copy of this letter is being sent to the Council.

Yours faithfully  
*Martin Elliott*

**Inspector**

Authorised by the Secretary of State for Environment, Food and Rural Affairs to sign in that behalf

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