



Direction Decision

by **Martin Elliott BSc FIPROW**

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

Decision date: 5 October 2017

Ref: FPS/U4610/14D/3

Representation by Mrs Hazel Hill

Coventry City Council

Application to add footpaths on Leaf Lane Open Space

- 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 Coventry City Council to determine an application for an Order made under Section 53(5) of that Act.
- The representation, dated 7 July 2017, is made by Mrs Hazel Hill.
- The certificate under Paragraph 2(3) of Schedule 14 is dated 4 July 2016.
- The Council was notified of the representation on 7 August 2017 and submitted its response on 1 September 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. 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. Although the application was made in July 2016 the Council expect that it will be a minimum of 5 years before the application will be considered and possibly longer.
3. I note that the Council has a backlog of 114 definitive map modification order applications, some of which over 10 years ago, and that the Council has

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

recently agreed a priority policy for such applications. It is also noted that the Council has limited resources for dealing with definitive map modification orders. Furthermore, as the former Borough of Coventry was originally excluded from the obligation to publish a definitive map there are a large number of unrecorded routes. I also understand, from the Council's submissions that the claimed routes are available, although this is disputed by the applicant who contends that paths in the 'top meadow' are currently not available. Notwithstanding the above, it is unreasonable for an applicant to wait 6, or more, years for an application to be determined.

4. In the circumstances I have decided that there is 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 investigations and make a decision on the application. I consider it appropriate to allow a further 12 months for a decision to be reached.
5. The applicant asserts that she has provided clear evidence as to the intentions of the landowner for the claimed routes to be walked and evidence of use of the claimed footpaths. The evidential merits of an application under Schedule 14 of the 1981 Act are not matters for consideration in respect of an application for a direction under the Schedule.

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** Coventry City Council to determine the above-mentioned application not later than 12 months from the date of this decision.

Martin Elliott

INSPECTOR