



Direction Decision

by **Helen Slade** MA FIPROW

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

Decision date: 4 August 2017

Ref: FPS/A0665/14D/3

Representation by Linda Mayhew

Cheshire West & Chester Council

Application to Upgrade Footpath 52A Neston to Bridleway - Haddon Lane to Flashes Lane (CWAC010FP52A)

- 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 and Chester Council to determine an application for an Order made under Section 53(5) of that Act.
- The representation, dated 6 June 2017, is made by Ms Linda Mayhew.
- The certificate under Paragraph 2(3) of Schedule 14 is dated 1 June 2016.
- The Council was notified of the representation on 20 June 2017 and submitted its response on 12 July 2017.

Summary of Decision: The Council is not directed to determine the above-mention 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. In this case, the certificate under Paragraph 2(3) of Schedule 14 of the 1981 Act was received by Cheshire West and Chester Council ('the Council') on 6 June 2016 and the application was registered on 7 June 2017. Thus the appeal, dated 6 June 2017, has been made in accordance with the requirements of Schedule 14 of the 1981 Act, but only just.
3. The Council has provided a statement setting out its priorities in dealing with applications made under Section 53(5) of the 1981 Act and has indicated that,

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

given the circumstances of this Order, it has been given a priority over a number of other applications on the backlog of applications that the Council has to deal with. The application assessment indicates that it met two of the priority categories used by the Council to assess the urgency of dealing with applications.

- The route would deliver a priority from the Corporate/Greenspace strategy;
 - The route would deliver higher rights and/or increase accessibility.
4. There are currently two applications in front of this appeal application, both of similar intent. The chart provided by the Council headed 'DMMO workload Priority rating and determination 2017 (draft)' shows that they intend to determine this application on 1 March 2018.
 5. The applicant has identified special circumstances which she believes exist in relation to this route. She states that it has been used as a bridleway for generations and it joins a route already designated as a bridleway. She draws attention to the fact that it links two villages, and that there are several riding schools and livery yards in the area. Ms Mayhew questions the Council's priorities in obstructing access to the route for equestrians.
 6. 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, barely one year has passed since the application was submitted and the Council has given the application a priority determination date of less than two years from receipt. It is appreciated that the Council will require some time to carry out its investigation and make a decision on the application.
 7. Given that many other applications on the Council's backlog have considerably longer estimated timescales for determination, the priority assigned by the Council to this case is significant. It would seem that the potential advantages arising from determining this application, including those pointed out by the applicant, have been recognised by the Council and taken into consideration. I have therefore decided that there is not a case for setting a date by which time this application should be determined, as the Council's own estimate appears to be reasonable.

Helen Slade

INSPECTOR

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