



## Direction Decision

by Mark Yates BA (Hons) MIPROW

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

Decision date: 13 July 2017

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**Ref: FPS/P0430/14D/1**

**Representation by Mr Sharkey**

**Buckinghamshire County Council**

**Application to upgrade Wooburn Footpath No. 3 between Princes Road and Groves Close to a byway open to all traffic (Council ref. 16855WDJ).**

- The representation is made under Paragraph 3(2) of Schedule 14 to the Wildlife and Countryside Act 1981 ("the 1981 Act") seeking a direction to be given to Buckinghamshire County Council ("the Council") to determine an application for an order, under Section 53(5) of that Act.
  - The representation, received on 6 March 2017, is made by Mr Sharkey.
  - The certificate under Paragraph 2(3) of Schedule 14 is dated 26 February 2016.
  - The Council was notified of the representation on 13 March 2017 and submitted its response on 6 April 2017.
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### Decision

1. The Council is not directed to determine the above-mentioned application.

### 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 applicant<sup>1</sup>.
3. Whilst I note the applicant's concerns about the current condition of the way, the determination of its status is distinct from the issue of maintenance. Nor is it my role to comment on the merits of the application.
4. The Council has a Statement of Priorities for prioritising applications to modify the definitive map and statement which has recently been reviewed. There is nothing to suggest that the Council's revised Statement of Priorities is unreasonable. Subject to certain exceptions, applications are dealt with in

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

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chronological order. As this application is supported by user evidence, the Council hopes to determine it by the middle of 2018. Mr Sharkey had previously been informed that his application would be dealt with in approximately 2019.

5. 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, the application was submitted in the early part of 2016 and the Council estimates it will be determined by the middle of next year. I do not consider that the determination of the application within such a period is unreasonable given the issues outlined by the Council in terms of the absence of members of staff and the increased levels of casework. Further, there is nothing to suggest that there are any exceptional circumstances which should lead to the application being promoted above other cases which also rely upon user evidence.
6. For these reasons I am not satisfied that there is presently a case for setting a date by which time the application should be determined. However, this conclusion would not prevent the applicant from applying again to the Secretary of State for the Council to be directed to make a decision should there be a significant delay beyond the estimated timeframe provided for the determination of the application.

*Mark Yates*

INSPECTOR