



## Direction Decisions

by **Michael R Lowe** BSc (Hons)

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

Decision date: 8 December 2017

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**Ref: FPS/D3450/14D/13, 14, 15, 16 & 17**

**Representations by Martin Reay**

**Staffordshire County Council**

**FPS/D3450/14D/13 Application for the addition of a bridleway from Tixall Road to A51 (Parishes of Colwich, Ingestre and Tixall) (Council ref. LG602G)**

**FPS/D3450/14D/14 Application for the addition of a footpath from Lapely Lane, Stretton to highway east of Bickford Grange Farm, Penkridge (Parishes of Stretton and Penkridge) (Council ref. LG614G)**

**FPS/D3450/14D/15 Application for the addition of a footpath between A525 Keele Road and Lymes Road public byway (Parish of Keele) (Council ref. LH610G)**

**FPS/D3450/14D/16 Application for the addition of a bridleway from highway at Ladford Pool to A5013 opposite road to Chebsey (Parishes of Seighford and Eccleshall) (Council ref. LJ604G)**

**FPS/D3450/14D/17 Application for the additon of a footpath from A520 to footpath at Woodland Hall (Parish of Cheddleton) (Council ref. LJ648G)**

- The representations are made under Paragraph 3(2) of Schedule 14 of the Wildlife and Countryside Act 1981 (the 1981 Act) seeking directions to be given to Staffordshire County Council to determine various applications for Orders, under Section 53(5) of that Act.
  - The representations are made by Martin Reay and dated 25 August 2017.
  - The certificates under Paragraph 2(3) of Schedule 14 are dated 11 March 1997, 26 June 1997, 8 May 1998, 1 March 1999 and 2 November 1999 respectively.
  - The Council was consulted about your representations on 2 October 2017 and the Council's response was made on 14 November 2017.
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### Decisions

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 applicant<sup>1</sup>.

3. The Council has a policy statement for prioritising applications under section 53(5) of the 1981 Act. This policy processes applications in order of the date of receipt with following exceptions for:-
  - (a) where delay would threaten the loss of a claimed right of way;
  - (b) where in the case of a claimed right of way, there is severe hardship, or a risk of confrontation between the claimants and the owner/occupier of the affected land or there is evidence of detrimental effect on the health of the owner/occupier of the land;
  - (c) where in the case of an application for the deletion or downgrading of a right of way, delaying its determination will result in severe hardship to the owner/occupier of that land;
  - (d) where having regard to the Council's Sustainable Transport Policies, in the case of an application to add an additional public path to the Definitive Map or to upgrade the existing status of a highway, the application relates to a path of actual, or potential, regional or national significance; or
  - (e) where a route would be relevant to the achievement of another of the Council's statutory policy objectives.

Priority is also given to such applications as are granted priority following a formal request.

4. The Council submits that the applications in questions have not been the subject of any such request and do not meet any of the criteria set for priority. The Council have ranked the applications 65, 70, 86 107 and 127 respectively out of 241 pending applications. The Council are not able to offer any estimate of time for determining the applications.
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 12 months under normal circumstances<sup>2</sup>. In these cases, the applicant has waited between 18 and 20 years before seeking a direction from the Secretary of State.
6. The statutory duty is to investigate applications as soon as is reasonably practicable. The statement by the authority setting out its priorities for bringing and keeping the definitive map up to date is only reasonable if it is able to implement those priorities in accordance with the statutory duty and, under normal circumstances, within 12 months. The Council has not indicated any exceptional circumstances as to why the applications have not been determined and they do not appear to me to be unusually complicated. Authorities should ensure that sufficient resources are devoted to meeting their statutory duties with regard to recording public rights of way<sup>3</sup>.
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 investigation and make a decision on the applications. A further period of 6 months has been allowed.

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

<sup>2</sup> 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.

<sup>3</sup> Paragraph 1.8, Rights of Way Circular 1/09 Version 2, October 2009

## **Directions**

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** Staffordshire County Council to determine the above-mentioned applications not later than 6 months from the date of this decision.

*Michael R Lowe*

INSPECTOR