



Direction Decision

by **Susan Doran BA Hons MIPROW**

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

Decision date: 1 September 2017

Ref: FPS/Z0116/14D/1

Representation by Tim Parkinson

Bristol City Council

Application to add a footpath which runs from Crow Lane to Machin Road, Henbury

- 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 Bristol City Council to determine an application for an Order made under Section 53(5) of that Act.
- The representation, dated 26 April 2017, is made by Tim Parkinson.
- The certificate under Paragraph 2(3) of Schedule 14 is dated 5 November 2013.
- The Council was notified of the representation on 4 May 2017 and submitted its response on 27 July 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. Currently the Council has 9 claims awaiting determination of which this is numbered 7. Their practice is to determine applications in chronological order of receipt unless they are affected by a planning application in which case they are prioritised. Officers are currently processing two such claims made in 2007 and 2011. However, as these were submitted before this application, it will not drop further down the list. A landowner has been contacted with regard to another claim. As this application is not affected by a development proposal, the Council has no policy reason to prioritise it over other cases on its list of pending claims.

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

3. The application is based on user evidence. The applicant points to the impact of the closure of the path which he says provided a short, convenient access between a supermarket and public car park well used by elderly customers avoiding the need to walk an additional 200 metres or so with heavy bags of shopping.
4. On average the Council determines one or two claims a year. However, the Council's team dealing with such matters is small and due to a recent lack of staff resources the rate of determining claims has reduced.
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 circumstances². The Council has given no indication as to when it expects to be able to determine this application. Given that its processing of claims has reduced to below one or two a year, and that the application does not satisfy the Council's scheme of prioritising claims, there would appear to be no likely prospect of this claim being determined for another 5 to 7, or more, years. By this time potential witnesses may no longer be available for a variety of reasons. In this case almost 4 years have passed since the application was submitted. I do not consider that such a combined delay can be regarded as reasonable.
6. 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 investigation and make a decision on the application. I consider it appropriate to allow a further 12 months for a decision to be reached.

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

S Doran

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