



## Direction Decision

by **Barney Grimshaw BA DPA MRTPI (Rtd)**

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

Decision date: 19 February 2018

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**Ref: FPS/D3450/14D/46**

**Representation by Louise Redfern**

**Staffordshire County Council**

**Application to upgrade to a bridleway the footpath from Church Lane map ref 0152 5046 (FP28) to Sharpcliffe Lodge map ref 0204 5165 (FP29) (OMA ref. 011818DW)**

- 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 Staffordshire County Council to determine an application for an Order made under Section 53(5) of that Act.
- The representation, dated 23 October 2017, is made by Louise Redfern.
- The certificate under Paragraph 2(3) of Schedule 14 is dated 4 February 2016.
- The Council was notified of the representation on 13 November 2017 and submitted its response on 4 January 2018.

**Summary of Decision:** The Council is directed to determine the above-mentioned application not later than 6 months from the date of this Direction.

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### 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 applicant<sup>1</sup>.
2. In this case the application was made on 4 February 2016. The County Council operates a prioritisation policy for dealing with applications such as this and the current application has been given a relatively low priority and is currently positioned No.236 out of 241 outstanding applications. The council states that since April 2014 it has determined 8 such applications and 11 since January 2008. This suggests that only 1 or 2 applications per year are being determined

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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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which would mean it could be 200 years before the present application is dealt with even if no higher priority applications are submitted in the meantime.

3. 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 this case, 2 years have already passed since the application was submitted and the council has indicated that it is unlikely to be determined in the foreseeable future. Although I have no reason to question the council's system of prioritisation, it is not acceptable for applications to have to wait indefinitely to be determined. It would appear that the council has for some time failed to allocate sufficient resources to dealing with applications and has still not taken any steps to deal with the consequent backlog that has accrued.
4. Accordingly, I have decided that there is now a case for setting a date by which time this 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 and I therefore propose to allow a further 6 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** Staffordshire County Council to determine the above-mentioned application not later than 6 months from the date of this direction.

*Barney Grimshaw*

INSPECTOR

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<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