



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

Ref: FPS/L3055/14D/4

Representation by Elkesley Parish Council

Nottinghamshire County Council

Application for the addition of a Bridleway along Battery Lane, a lane leading from Brough Lane to the River Poulter (Parish of Elkesley)(OMA ref. 1168)

- 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 Nottinghamshire County Council to determine an application for an Order made under Section 53(5) of that Act.
- The representation, dated 19 October 2017, is made by on behalf of Elkesley Parish Council.
- The certificate under Paragraph 2(3) of Schedule 14 is dated 19 July 2016.
- The Council was notified of the representation on 21 November 2017 and submitted its response on 13 December 2017.

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

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 application was made on 21 June 2016. The County Council operates a prioritisation policy for dealing with applications such as this in accordance with its Rights of Way Improvement Plan. The current application meets 2 of 5 criteria stated in the Plan for applications to be processed other than in chronological order of receipt and is currently positioned No.99 out of

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

- 111 outstanding applications. The council estimates that with the resources currently available for this work it will be another 5-10 years before this application is determined.
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 circumstances². In this case, over 18 months have passed since the application was submitted and it is estimated that it will be another 5-10 years before a decision is made. No exceptional circumstances have been indicated except the insufficiency of currently allocated resources to enable an earlier decision to be made. In the light of the reasonable expectation of a decision within 12 months which is raised by the legislation, it is not in my view acceptable for applicants to have to wait up to 10 years or more.
 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** Nottinghamshire County Council to determine the above-mentioned application not later than 6 months from the date of this direction.

Barney Grimshaw

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