



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: 16 March 2018

Ref: FPS/R0660/14D/3

**Representation by Cranage Parish Council
Cheshire East Council**

Application for the addition of a Footpath from Carver Avenue / Crescent Road, Cranage to Byley Lane, Cranage (OMA ref. CO/8/34)

- 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 Cheshire East Council (the Council) to determine an application for an Order made under Section 53(5) of that Act.
- The representation, dated 25 October 2017, is made on behalf of Cranage Parish Council.
- The certificate under Paragraph 2(3) of Schedule 14 is dated 16 March 2007.
- The Council was notified of the representation on 21 November 2017 and submitted its response on 8 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.

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 Council states that applications are dealt with in accordance with a Statement of Priorities which was reviewed in 2011. This application is currently ranked joint 3rd out of 34 outstanding applications. However, despite this apparently high priority, the Council states that it is difficult to give an estimate of when a decision will be made as new applications may be made which are ranked higher. It is also stated that staff resources available for this

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

work are to be cut for the coming year and that accordingly it will be approximately 18-24 months before investigations can commence with regard to the current application.

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, almost 11 years have passed since the relevant certificate was submitted, no exceptional circumstances have been indicated and no date can be given with regard to when the application will be determined. This is a totally unacceptable situation which would seem to indicate that the authority has failed to devote sufficient resources to the determination of applications and now proposes to devote even less.
4. Accordingly, I have decided that there is 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** Cheshire East 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