



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: 30 October 2018

Ref: FPS/D3450/14D/108

**Representation by Audley Rural Parish Council
Staffordshire County Council**

Application to add a footpath from Stephens Way to Footpath 31 (OMA ref. 013548DW)

- 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, under Section 53(5) of that Act.
 - The representation is made on behalf of Audley Parish Council, dated 6 July 2018.
 - The certificate under Paragraph 2(3) of Schedule 14 is dated 15 September 2016.
 - The Council was consulted about the representation on 4 September 2018 and the Council's response was made on 15 October 2018.
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Decision

1. The Council is directed to determine the above-mentioned application not later than 12 months from the date of this Direction.

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 applicant¹.
3. In this case the Council states that applications are dealt with in the order of receipt subject to certain exceptions, none of which apply in this case. There is currently a backlog of 235 applications awaiting decisions and the current application is positioned near the bottom of the list. The applicant states that in the last 10 years the council has only determined an average of 1 application per year. It therefore seems likely that, without intervention from the Secretary of State, it will be many decades before this application is dealt with,

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

- by which time people who have provided evidence of use of the route may no longer be able to be contacted.
4. The council accepts that it has not been able to deal with applications within 12 months of receipt as a result of the limited resources allocated to rights of way matters. It has already received directions to determine 67 applications and 41 other requests, including the present application are pending. Additional resources have been allocated to deal with these applications and 13 have been determined since May this year. Further resources are to be allocated but it is likely that newly appointed staff will need some time to develop expertise in this area of work.
 5. The council also points out that the determination of applications such as this often generates a considerable amount of further work in making orders and dealing with objections or dealing with appeals against refusal to make orders.
 6. 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. In this case, more than 2 years have already passed since the application was submitted and no exceptional circumstances have been indicated. The council has stated that it is unable to provide an estimate of how long it will take for this application to be processed. However, even with the extra resources said to have been allocated to dealing with outstanding applications, it seems likely that it will be many years before this application is dealt with.
 7. This is not an acceptable situation and, whilst the allocation of additional resources to this work is welcome, applicants should be able to expect a decision within a finite and reasonable time. In the circumstances I have therefore decided that there is a case for setting a date by which time this application should be determined.
 8. It is appreciated that the Council will require some time to carry out its investigation and make a decision on the application and I note the need for newly appointed staff to gain expertise in this work. I therefore propose to allow a further period of 12 months for a decision to be made.

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 Staffordshire County Council to determine the above-mentioned application not later than 12 months from the date of this Direction.

Barney Grimshaw

INSPECTOR