



## 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

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**Ref: FPS/M1900/14D/15**

**Representation by Dr P D Wadey**

**Hertfordshire County Council**

**Application to add a Restricted Byway from Meadway to a junction with Stevenage 35 BW thence to a junction with Ippollitts 24 BW thence to a junction with Stevenage 98 BW, 37 BW and 38 BOAT (OMA ref. STEV/31/MOD)**

- 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 Hertfordshire County Council to determine an application for an Order, under Section 53(5) of that Act.
  - The representation is made by Dr PD Wadey on behalf of the British Horse Society, dated 28 July 2018.
  - The certificate under Paragraph 2(3) of Schedule 14 is dated 20 May 2011.
  - The Council was consulted about the representation on 2 August 2018 and the Council's response was made on 30 August 2018.
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### Decision

1. The Council is directed to determine the above-mentioned application not later than 6 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 applicant<sup>1</sup>.
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 268 applications awaiting investigation and 64 currently being investigated. At present roughly 33 applications per year are 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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but on average 25 new applications per year are received, some of which may be afforded a higher priority than the current application. This application is positioned at number 215 on the waiting list which clearly means that it is likely to be many years before it is dealt with.

4. This application was originally assigned a high priority and a detailed investigation report was prepared in October 2013. This concluded that the application route was already recorded as an unclassified county road able to be used by all types of user. It also revealed that the application had been incorrectly given a high priority and further consideration was deferred.
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 circumstances. In this case, more than 7 years have already passed since the application and it seems unlikely that a decision will be made for some years to come. There are some unusual circumstances in this case with regard to the fact that an investigation has already been carried out and that the route is already recorded as an unclassified county road. Nevertheless, applicants should be able to expect a decision within a finite and reasonable time. I have therefore decided that there is a case for setting a date by which time this application should be determined.
6. It is appreciated that the Council will require some time to carry out any further investigation needed and make a decision on the application. I therefore propose to allow a further period of 6 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 Hertfordshire County Council to determine the above-mentioned application not later than 6 months from the date of this Direction.

*Barney Grimshaw*

INSPECTOR