



Direction Decisions

by **D. M. Young BSc (Hons) MA MRTPI MIHE**

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

Decision date: 4 February 2019

Ref: FPS/M1900/14D/19

**Representations by Dr Philip Wadey
Hertfordshire County Council**

- 1. Adding Restricted Byway from the end of the houses on Dellsome Lane at Point A on the plan through a junction with North Mymms 22, to a junction with North Mymms 52;**
- 2. Upgrading the footpath (part of North Mymms 52) that runs along the line of Dellsome Lane, to restricted byway;**
- 3. Adding Restricted Byway from North Mymms 52 to the boundary of the A1(M) motorway;**
- 4. Adding Restricted Byway from the boundary of the A1(M) motorway to Tollgate Lane;**

AND

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**5. Upgrading the footpath (part of North Mymms 52) from Dellsome Lane to the A1001 to Restricted Byway
(OMA refs. W&H/83/MOD and W&H/48/MOD)**

- The representations are 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 [the OMA] to determine an application for an Order, under Section 53(5) of that Act.
 - The representation is made by Dr Philip Wadey (the applicant) on behalf of The British Horse Society
 - The certificates under Paragraph 2(3) of Schedule 14 are dated 1 & 2 February 2010.
 - The Council was consulted about your representations on 2 October 2018 and the Council's responses were made on 14 November 2018.
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Decision

1. The Council is directed to determine the above-mentioned applications.

Reasons

2. Authorities are required to investigate applications as soon as is reasonably practicable and, after consulting the relevant district and parish councils, decide whether to make an order on the basis of the evidence discovered. Schedule 14 to the 1981 Act, allows applicants to ask the Secretary of State for a direction following the expiration of 12 months from the date the certificate is served on the surveying authority.
 3. 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
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- 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.
4. The application forms to add restricted byways are dated 1 February 2010 (routes 1-4) and 2 February 2010 (route 5). The applications were made on the basis of the discovery of Inland Revenue Valuation Map evidence which the applicant states could not have been available to the Council at the time the Definitive Map was first prepared. In accordance with its Definitive Map Prioritisation Policy, the Council assigned a score of 7 to the application in July 2010. There are 65 modification orders currently under investigation with an additional 279 awaiting investigation. The above-mentioned applications are positions 120 and 177 on the list.
 5. Whilst I appreciate the Council is doing the best it can with current levels of staffing, as confirmed by Circular 1/09¹, adequate resources should be provided to permit the Council to carry out its statutory functions. It simply cannot be right that the Council cannot give any specific timescales in relation to the applications. Accordingly, I concur with the applicant that the Council should be prioritising its resources to ensure the current backlog is cleared before the approaching 2026 cut-off date.
 6. Whilst the principle of prioritisation is a good one, this does not obviate the requirement to investigate applications as soon as reasonably practicable. It has now been nearly 9 years since the applications were first made. By any measure and irrespective of the prioritisation policy, that is not acceptable bearing in mind that the Council has a statutory duty to keep the Definitive Map and Statement up to date. The existence of applications of longer-standing origin does not constitute a compelling reason for not dealing with these particular applications within a reasonable time-frame.
 7. It is appreciated that the Council will require some further time to carry out its investigation and make a decision on the application. Nevertheless, I have decided that there is a case for setting a date by which time the application should be determined and I consider it appropriate to allow no more than a further 12 months for a decision to be reached.

Direction

8. 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 12 months from the date of this decision.

D. M. Young

INSPECTOR

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