



Direction Decisions

by **K R Saward Solicitor**

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

Decision date: 5 February 2019

Refs: FPS/D3450/14D/81-84

Representation by Martin Reay

Staffordshire County Council

Applications to:

Add a bridleway from Three Mile Lane to Netherset Hey Lane, Madeley & Whitmore (LJ665G)

Add a footpath from B5027 to footpath at The Bents, Leigh (LK600G)

Add a bridleway from road at Chipnall Mill to road at Glass Houses, Loggerheads (LK601G)

Add a footpath from Westhouse Lane to path at end of Green Lane, Ramshorn (LK602G)

- The four applications were made by Martin Reay to modify the Definitive Map and Statement of Public Rights of Way under Section 53(5) of the Wildlife and Countryside Act 1981 ('the 1981 Act').
 - The certificates attached to each application, as required under Paragraph 2(3) of Schedule 14 of the 1981 Act, are dated 15 February 2000 (LJ665G); 10 April 2000 (LK600G); 23 March 2000 (LK601G) & 9 March 2000 (LK602G).
 - The representation in each application, made by Martin Reay, is dated 2 March 2018.
 - The representation is made under Paragraph 3(2) of Schedule 14 of the 1981 Act seeking a direction to be given to Staffordshire County Council to determine the applications.
 - The Council was consulted about the representation on 3 May 2018 and its response is dated 12 June 2018.
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Decision

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

Preliminary matters

2. Four separate applications were made by the same applicant to Staffordshire County Council to modify its Definitive Map and Statement of Public Rights of Way under Section 53(5) of the 1981 Act in respect of four claimed routes.
3. The representation relates to all four cases and the Council has made a single response. Therefore, I address the issues together but clearly they are separate applications and I have considered whether or not a direction should be given in each case.

Reasons

4. Schedule 14 of the 1981 Act sets out provisions for applications made under section 53(5) for an order which makes modifications to the definitive map and statement.
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5. 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 12 months of the authority's receipt of certification that the applicant has served notice of the application on affected landowners and occupiers.
6. I note that the applicant has made a number of other direction requests, but that has no bearing on my decisions. 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.
7. 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.
8. The Council acknowledges that it has a backlog of 238 applications awaiting determination. Due to the sheer volume of outstanding applications and limited resources available the Council has found the 12 month period unachievable.
9. At the time of its response the applications were ranked at 132, 134, 135 and 136 on the Council's list awaiting determination.
10. The applicant claims that applications are being progressed at a rate of one per year. The minutes from a meeting of the Council on 12 October 2017 records that the Council's limited resources for rights of way are prioritised to keep open those routes that already exist rather than seeking to add new routes to the network. In its recent response, the Council says that it has decided to investigate and determine applications in the order of receipt with some limited exceptions.
11. No case has been made by the applicant to indicate that any of the current applications warrant priority status. Therefore, they will remain undetermined until progressing far enough up the list. So far the applicant has waited since the year 2000 for each of the four applications to be determined.
12. Attempts by the applicant to secure a response from the Council as to when it might determine the applications have apparently been unsuccessful. No indication of likely timescales is provided in the Council's response to the representation. Given their position on the waiting list and the Council's limited resources it appears most unlikely that the applications will be determined within the foreseeable future.
13. I appreciate that many of the applications may involve complex issues and/or require interviewing a considerable number of witnesses. Nevertheless, that does not justify the very significant delay already encountered in these cases.
14. The Council has a statutory duty to keep the Definitive Map and Statement up-to-date. Difficulties complying with that duty due to lack of resources is not

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

sufficient reason to delay an application and cannot be considered as an exceptional circumstance. Circular 1/09 is clear that Authorities should ensure that sufficient resources are devoted to meeting their statutory duties with regard to the protection and recording of public rights of way.

15. I recognise that the Council has a substantial backlog with numerous directions issued already to determine other applications. However, almost 19 years have elapsed since the applications were made and no exceptional circumstances have been indicated. In the circumstances I have decided that there is a case for setting a date by which time the application should be determined.
16. It is appreciated that the Council will require some time to carry out its investigation and make a decision on the application. A further period of 6 months has been allowed.

Directions

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** Staffordshire County Council to determine the above-mentioned applications not later than 6 months from the date of these Decisions.

K R Seward

INSPECTOR