



Direction Decision

by Helen Heward BSc (Hons) MRTPI

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

Decision date: 4 February 2019

Ref: FPS/P0430/14D/3

Representation by Terence Sharkey

Buckinghamshire County Council

Application to upgrade to a Byway Open to All Traffic the footpath which joins the two adopted made-up sections of Princes Road from junction with Groves Close (at eastern end) to junction with made-up (adopted) section at western end (OMA ref. 16855WDJ)

- 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 Buckinghamshire County Council to determine an application for an Order, under Section 53(5) of that Act.
 - The representation made by Terence Sharkey is dated 7 September 2018.
 - The certificate under Paragraph 2(3) of Schedule 14 is dated 26 February 2016.
 - The Council was consulted about the representation on 24 September 2018 and the Council's response was made on 24 and 30 October 2018.
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Decision

1. The Council is not directed to determine the above-mentioned application.

Reasons

2. Subject to certain provisions authorities are required to investigate applications as soon as reasonably practicable and 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.
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 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. A previous application was made on 6 March 2017. In his decision¹ the Inspector found nothing to suggest that the Council's revised Statement of Priorities was unreasonable. He noted that, subject to certain exceptions, the Council dealt with applications in chronological order and that although they had informed Mr Sharkey previously that his application would be dealt with in approximately 2019, they hoped to determine it by the middle of 2018.

¹ FPS/P0430/14D/1 dated 13 July 2017

5. In that application the Inspector concluded that there wasn't a case for setting a date by which the Council should determine that application and noted that there was nothing to prevent the applicant from applying again for the Council to be directed to make a decision should there be a significant delay beyond the estimated timeframe provided for the determination of the application.
6. The applicant states that a number of Council meetings have been delayed or cancelled and there has been no 'movement'. The Council acknowledges the delay in processing applications over the past couple of years, partly due to staffing resource issues. They advise that a new member of staff has now been appointed and training takes time. Subsequent to implementing the revised Statement of Priorities applications supported by user evidence, as is the case here, have been prioritised. Consequently, Mr Sharkey's application should be the next to be investigated, hopefully in spring 2019.
7. A lack of progress within the timescale that the Council previously indicated possible is regrettable. Nonetheless, spring 2019 is not significantly beyond the estimated timeframe previously stated, the reasons given by the Council are reasonable and indicate that there should not be any further significant delay in this case.
8. Moreover, the applicant's main argument regarding urgency is about the condition and maintenance of the way. Maintenance and status are distinct issues and, as the Council point out, even if the application to upgrade the footpath to a Byway Open to All Traffic were successful, this would not compel the Council to provide a metaled carriageway for the passage of vehicles.

Conclusion

9. I do not consider that there is a case for setting a date by which this application should be determined.

Helen Heward

INSPECTOR