



Direction Decision

by Paul Freer BA (Hons) LLM PhD MRTPI

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

Decision date: 3 April 2019

Ref: FPS/V3500/14D/13,14 & 15

Representation by John Andrews

Suffolk County Council

Application to add a public footpath from Dalham Footpath No. 8 at grid reference TL 751607 in a north-north-easterly direction to meet the U7042 road at grid reference TL 753612 (Parishes of Dalham and Denham) PINS ref: FPS/V3500/14D/13, Suffolk CC ref: CPM899

AND

to add the public footpath from the south-western end of Bridleway No. 2 in a south-westerly direction to meet the southern end of Footpath No. 3 (Parish of Lidgate) PINS ref: FPS/V3500/14D/14, Suffolk CC ref: CPM898

AND

to add public footpaths from Blo Norton Footpath No. 5 at grid reference TM 027788 to Hinderclay Footpath No. 13 at grid reference TM 026787 and from Blo Norton Footpath No. 5 at grid reference TM 027788 to Hinderclay Footpath No. 13 at grid reference TM 028787 (Parish of Hinderclay) PINS ref: FPS/V3500/14D/15, Suffolk CC ref: CPM894

- 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 Suffolk County Council to determine an application for an Order, under Section 53(5) of that Act.
 - The representation is made by John Andrews, dated 27 November 2018.
 - The certificate under Paragraph 2(3) of Schedule 14 in relation to CPM899 is dated 27 November 2017.
 - The certificate under Paragraph 2(3) of Schedule 14 in relation to CPM898 is dated 20 November 2017.
 - The certificate under Paragraph 2(3) of Schedule 14 in relation to CPM894 is dated 30 October 2017.
 - The Council was consulted about the representations on 5 December 2018 and the Council's response was made on 23 January 2019.
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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 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
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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. The representation is briefly stated and expresses the opinion that the Council's approach is unlawful.
4. In response, the County Council explains that a Statement of Priorities is contained within its Rights of Way Improvement Plan 2006-16 (ROWIP) and that this document remains extant at this time. Objective E in the ROWIP is to provide an up to date and publicly available digitised Definitive Map for the whole of Suffolk. In the supporting text to Objective E, it is explicitly stated that changes to the network need to be prioritised in favour of those that give the greatest public benefit. I am advised that, in order to achieve that objective, officers of the County Council meet regularly to consider and prioritise new claims. Each of the three applications covered by this representation have accordingly been scored against the County Council's current prioritising scheme
5. The claimed public footpath in the parishes of Dalham and Denham scored 55.8, placing it in the high priority category. The County Council explains that there are 10 other applications that fall within this category that it must also investigate but, nevertheless, it estimates that the Dalham/Denham application is likely to be determined within the next 2 years.
6. The claimed public footpath at Lidgate scored 48.3, placing it towards the top of the medium priority category. The County Council estimates that this application is likely to be determined within the next 3 years.
7. The claimed public footpath at Hinderclay scored 31, placing it in the medium priority category. The County Council estimates that this application is likely to be determined within the next 4 years.
8. 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. However, in considering this request for directions, I must also take into account the guidance set out in Circular 1/09. In that context, the County Council has in the ROWIP adopted a statement that clearly sets out its priorities for bringing and keeping the definitive map up to date. Moreover, the County Council has put into place mechanisms to achieve those priorities, such as the regular assessment of new claims against the Statement of Priorities. The priorities in the ROWIP are predicated on securing the greatest public benefit which, in my view, is an eminently reasonable approach.
9. The County Council has already actioned the applications to some extent, insofar as it has scored them against the priorities set out in the ROWIP. From the explanations provided to me, it is apparent that this scoring exercise constituted a considered initial assessment that included an appreciation of the scope of the evidence that might be available to inform consideration of the applications. The County Council has also clearly expressed its intentions of

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

taking further action on the applications in question, including an honest and realistic estimate of the timescale within which the applications are likely to be investigated.

10. Nevertheless, Schedule 14 requires applications to be determined as soon as reasonably practicable. Although the County Council estimates that the Dalham/Denham application is likely to be determined within the next 2 years, such a timetable cannot be regarded as being as soon as reasonably practicable by any standard and the other applications are expected to take longer to determine. I have not been made aware of any exceptional circumstances that would have prevented the applications from being determined within the 12 month period envisaged in paragraph 3(2) of Schedule 14 of the 1981 Act. Moreover, whilst I have taken into account the guidance in Circular 1/09 and have applied that guidance to the facts of this case, there is nothing arising from that exercise that would justify determination beyond the 12 month period set out in paragraph 3(2) of Schedule 14.
11. In the circumstances I have decided that there is a case for setting a date by which time the applications should be determined. It is appreciated that the County Council will require some time to carry out its investigation and make a decision on the applications. I also note that the County Council already has other applications to which it attached priority and which will also need to be investigated. For those reasons, a further period of 12 months has been allowed.

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 Suffolk County Council to determine the above-mentioned applications.

Paul Freer

INSPECTOR