



Direction Decision

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: 8 May 2019

Ref: FPS/P0240/14D/2

Representation by Dr Philip Wadey

Central Bedfordshire Council

Application for the addition of a Byway Open to All Traffic from Hyde 6 BW at the county boundary with Bedfordshire to the junction of Hyde Lane and Farr's Lane (OMA ref. HYD/DMMO_53/AM)

- 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 Central Bedfordshire Council to determine an application for an Order, under Section 53(5) of that Act.
 - The representation is made by Dr Philip Wadey, dated 20 January 2019.
 - The certificate under Paragraph 2(3) of Schedule 14 is dated 23 January 2018.
 - The Council was consulted about your representation on 23 January 2019 and the Council's response was made on 15 February 2019.
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Decision

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

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 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 form to add a byway is dated 11 December 2017. The application was made on the basis of new documentary and user evidence. In accordance with its Prioritisation Policy, the Council assigned the application a low priority and it is currently positioned 19 in a list of 19 outstanding cases. No timescales have been provided by the Council as to when the application might be determined. According to the applicant the Council is currently processing DMMO applications at a rate of 1 per year. Accordingly, even though the backlog in Central Bedfordshire is relatively small, it will be 2036 before the applicant can expect a decision.
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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 a system of prioritisation is a good one, this does not absolve the Council of its statutory responsibilities to keep the Definitive Map and Statement up to date and to allocate sufficient resources to allow that to happen. 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 Central Bedfordshire 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.