



Direction Decision

by **Martin Elliott BSc FIPROW**

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

Decision date: 31 July 2019

Ref: FPS/V3500/14D/16

Representation by Mr John Andrews

Suffolk County Council

Application to add a Public Footpath from a minor road at grid reference TL 913 626 in a generally north-easterly direction to another minor road at grid reference TL 919 629 (Parish of Rougham) (OMA ref. CPM906)

- 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 Mr J Andrews, dated 26 May 2019.
 - The certificate under Paragraph 2(3) of Schedule 14 is dated 23 May 2018.
 - The Council was consulted about the representation on 31 May 2019 and the Council's response was made on 10 June 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 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 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. Suffolk County Council's Statement of Priorities is contained within its Rights of Way Improvement Plan. Changes to the network are prioritised on the basis of those that provide greatest public benefit. The Council has a prioritising scheme which was introduced in 2013. The current claim is at the top of the medium priority category for investigation and the Council estimates that the application is likely to be determined in late 2020 or early 2021.

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

4. 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. In this case 14 months have passed since the Council received the certificate under paragraph 2(3) of Schedule 14 to the 1981 Act and the Council do not anticipate the determination of the application for a further 18 months or thereabouts.
5. It is reasonable for the Council to determine applications in accordance with its policies. However, it is unreasonable, given the expectation of a determination within 12 months, for the determination of the application to take around 30 months. No exceptional circumstances have been put forward by the Council as to the cause of any delay in determining the application. Consequently, I have decided that there is a case for setting a date by which time the application should be determined. It is appreciated that the Council will require some time to carry out its investigations and make a decision on the application. A further period of 6 months is appropriate.
6. I note that there is a need for the Council to prioritise potential order making work due to an environment of limited resources. Circular 1/09 makes it 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.

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 application not later than 6 months from the date of this direction decision.

Martin Elliott

INSPECTOR