



## Direction Decision

by **Barney Grimshaw BA DPA MRTPI (Rtd)**

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

Decision date: 23 September 2019

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**Ref: FPS/A0665/14D/4**

**Representation by Mrs Patricia Whyte**

**Cheshire West & Chester Council**

**Application for the addition of a public footpath between St Bedes Drive and Wallerscote Road, Weaverham (OMA ref. CWAC015/DMMO)**

- 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 Cheshire West & Chester Council to determine an application for an Order, under Section 53(5) of that Act.
  - The representation is made by Patricia Whyte, dated 28 June 2019.
  - Certificates under Paragraph 2(3) of Schedule 14 are dated 8 May 2018 and 5 June 2018.
  - The Council was consulted about your representation on 3 July 2019 and the Council's response was made on 17 July 2019.
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### Decision

1. The Council is directed to determine the above-mentioned application not later than 6 months from the date of this Direction.

### 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 applicant<sup>1</sup>.
3. In this case, the Council states that under its current priority rating this application would not be processed until September 2021. However, it also states that its procedures are currently under review. Furthermore, having looked at the surrounding area it is considered that this application could be given a higher priority. Accordingly, it is proposed that determination of the application can be commenced on 1 November 2019.

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

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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, more than 12 months have passed since the application was submitted and no exceptional circumstances have been indicated. However, the Council has indicated that investigation of the application will commence in the near future.
5. Nevertheless, in view of the time that has already elapsed since the application was made, I have decided that there is a case for setting a date by which time it should be determined. 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 should therefore be 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 Cheshire West & Chester Council to determine the above-mentioned application not later than 6 months from the date of this Direction.

*Barney Grimshaw*

INSPECTOR