



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: 26 September 2019

Ref: FPS/G1440/14D/17

Representation by Christopher Smith

East Sussex County Council

Application for the addition of 3 public footpaths in the parish of Chailey (OMA ref. RWO 213)

- 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 East Sussex County Council to determine an application for an Order, under Section 53(5) of that Act.
 - The representation is made by Christopher Smith, dated 10 June 2019.
 - The certificate under Paragraph 2(3) of Schedule 14 is dated 30 May 2018.
 - The Council was consulted about your representation on 24 June 2019 and the Council's response was made on 30 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 applicant¹.
3. In this case, the Council states that applications are dealt with in order of receipt unless there are exceptional circumstances, none of which apply to this application. The application is currently ranked at 37 on the Council's list of outstanding applications and the Council is unable to give an accurate timescale of when it will be determined. However, the Council also states that in the last 2 years it has determined 11 applications which would tend to

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

suggest that it may be several years before the current application is determined.

4. The Council has further stated that the issue of a direction in this case might undermine the priority system and result in the consideration of higher priority cases being delayed.
5. 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. It also appears that it may be several years before the application is determined under the Council's current procedures.
6. This is not an acceptable situation; applicants should be able to expect a decision within a finite and reasonable time. In the circumstances, I have therefore decided that there is a case for setting a date by which time this application should be determined. However, it is appreciated that the Council will require some time to carry out its investigation and make a decision on the application. Accordingly, I propose to allow a further period of 6 months for a decision to be made.

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 East Sussex County Council to determine the above-mentioned application not later than 6 months from the date of this Direction.

Barney Grimshaw

INSPECTOR