



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: 25 November 2019

Ref: FPS/M1900/14D/25

**Representation by Bushey & District Footpaths Association
Hertfordshire County Council**

**Application to add the footpath from Bushey Grove Road to Ashlyn Close,
Bushey (OMA ref. HTM/160/MOD)**

- 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 Hertfordshire County Council to determine an application for an Order, under Section 53(5) of that Act.
 - The representation is made on behalf of the Bushey and District Footpaths Association, dated 26 August 2019.
 - The certificate under Paragraph 2(3) of Schedule 14 is dated 24 August 2018.
 - The Council was consulted about the representation on 4 September 2019 and the Council's response was made on 24 September 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 accordance with a Statement of Priorities adopted in 2011. This gives priority to routes which are in danger of being lost, are improving public safety, are used by a large number of users and/or are significantly improving the network. The current application has received a low priority score under the system.

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

4. The Council has a backlog of 287 cases awaiting investigation and the current application is presently located at position 140 in the list. In addition, 53 applications are currently under investigation and a large number of new applications are received each year. Despite this backlog, the Definitive Map Team has recently been reduced in size.
5. The Council states that it cannot estimate how long it will be before this application is determined but it is expected that investigation of it is unlikely to be started for a number of years.
6. 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, the applicant points out that the application was made in 2004 although the certificate required under Paragraph 2(3) of Schedule 14 to the 1981 Act was not submitted until 2018. Nevertheless, more than 12 months have passed since the certificate was submitted and no exceptional circumstances have been indicated other than the fact that the Council appears to allocate insufficient resources to dealing with such applications.
7. 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 Hertfordshire County Council to determine the above-mentioned application not later than 6 months from the date of this Direction.

Barney Grimshaw

INSPECTOR