



Direction Decisions

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

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

Decision date: 18 February 2020

Ref: FPS/D3450/14D/136-141

Representation by Martin Reay

Staffordshire County Council

Applications to add a footpath/bridleway/BOAT from Hixon to Stowe (OMA ref. LG607G); to add a byway open to all traffic from Pool Lane to Walton Lane (OMA ref. LH638G); to add a footpath/bridleway from Corporation Street to Gaol Square (OMA ref. LG648G) ; to add a footpath from existing path at Seabridge to Mersey Road/Kensworth Close, Clayton (OMA ref. LG660G); to add a footpath from Peacock Lane, Hanchurch to Guernsey Drive, Seabridge (OMA ref. LG662G) and to add a footpath from bridleway at 008206 to bridleway at 003204 (OMA ref. LH622G)

- 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 Staffordshire County Council to determine applications for Orders, under Section 53(5) of that Act.
 - The representation is made by Martin Reay, dated 21 December 2019.
 - The certificates under Paragraph 2(3) of Schedule 14 are dated between 5 May 1997 and 4 January 1999.
 - The Council was consulted about the representation on 24 December 2019 and the Council's response was made on 16 January 2020.
-

Decision

1. The Council is directed to determine the applications Ref: LG607G and LG648G not later than 6 months from the date of this Direction, applications Ref: LG660G and LG662G not later than 9 months from the date of this Direction and applications Ref: LH622G and LH638G not later than 12 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. With regard to this representation the surveying authority, Staffordshire County Council, has stated that it currently has a backlog of 234 applications waiting to be determined. The authority's policy is to deal with applications in order of receipt subject to certain exceptions in respect of priority criteria which do not apply to the applications referred to in this representation.
 4. Although the applications were made over 20 years ago, the authority is still unable to give an estimate of when the applications will be dealt with, but it seems likely that it could be a considerable time before they are determined.
 5. The authority further points out that it has already been directed by the Secretary of State to determine 83 applications and requests that further directions are not issued as this will undermine the authority's own prioritisation system.
 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, more than 20 years have passed since the applications were submitted and no exceptional circumstances have been indicated other than the fact that the authority has allowed a considerable backlog to build up. Furthermore, the authority can still not give a date by which the applications will be determined. This is a totally unacceptable situation which would seem to indicate that the authority has failed to devote sufficient resources to the determination of applications.
 7. In the circumstances I have decided that there is now a case for setting a date by which time the applications should be determined. It is appreciated that the Council will require some time to carry out its investigation and make decisions on the applications. Normally I would suggest that a further period of 6 months should be sufficient for this but, in this case, rather than set the same date by which all six applications should be determined, I propose to stagger the dates between 6 and 12 months.

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 Staffordshire County Council to determine the applications Ref: LG607G and LG648G not later than 6 months from the date of this Direction, applications Ref: LG660G and LG662G not later than 9 months from the date of this Direction and applications Ref: LH622G and LH638G not later than 12 months from the date of this Direction.

Barney Grimshaw

INSPECTOR

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