



Direction Decision

by Mark Yates BA(Hons) MIPROW

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

Decision date: 19 March 2020

Ref: FPS/L3055/14D/10

**Representation on behalf of the Nottinghamshire Area Ramblers
Nottinghamshire County Council**

Applications to add new public rights of way and upgrade existing rights of way in the parishes of Cuckney, Norton and Warsop (Council Ref: 1113)

- 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 Nottinghamshire County Council ("the Council") to determine applications for orders, under Section 53(5) of that Act.
 - The representation, dated 18 September 2019, is made by Mr S. Parkhouse on behalf of the Nottinghamshire Area Ramblers.
 - The certificates under Paragraph 2(3) of Schedule 14 are dated 20 July 2012 and 14 October 2013.
 - The Council was consulted on the representation on 7 October 2019 and the Council's response was made on 22 October 2019.
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Decision

1. The Council is directed to determine the above-mentioned applications.

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. The Council's policy is to determine applications chronologically, but officers have a discretion to take them out of order if certain criteria are applicable. Although three of the five criteria are met, the Council points to there being a

¹ Department for Environment, Food and Rural Affairs Rights of Way Circular 1/09

number of much older applications that need to be determined which also meet the criteria. The applications are to be determined together and sit at number 85 out of the 130 cases awaiting determination.

4. There is no reason to believe that the Council's method for prioritising applications is unreasonable. However, 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 twelve months under normal circumstances. Further, it is apparent that user evidence has been provided in support of the applications and the applicant asserts that the status of the main route was brought into question in 2005. There is a risk in such circumstances that valuable evidence will be lost if the applications are not determined reasonably promptly.
5. It is over six years since the last of the applications was submitted and the Council estimates that it will take at least a further nine years to determine them. I do not view this to be reasonable. Therefore, I have decided that there is a case for setting a date by which time the applications should be determined. I consider a further period of nine months should be allowed to determine them.
6. The applicant refers to their rights under Article 6(1) of the Human Rights Act 1998. This provides that in the determination of their civil rights and obligations...everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. However, my decision as to whether the authority has investigated and determined the applications as soon as reasonably practicable in accordance with paragraph 3(1) of Schedule 14 of the 1981 Act does not amount to a determination of the applicant's civil rights and obligations. Article 6(1) is not applicable to this decision.

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** Nottinghamshire County Council to determine the above-mentioned applications not later than nine months from the date of this decision.

Mark Yates

INSPECTOR