



Direction Decisions

by Susan Doran BA Hons MIPROW

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

Decision date: 27 February 2020

Ref: FPS/V3500/14D/19 & 20

Representation by John Andrews

Suffolk County Council

Application to add a restricted byway from the north-western end of the U8137 road at the Kettlebaston boundary, grid ref TL 954513, in a generally north-westerly direction to meet the U8132 road at grid ref TL 948516, Parish of Preston St Mary (OMA ref: CPM915) ('14D/19')

AND

Application to add a restricted byway from the south-western end of the U8133 road at grid ref TL 932498, in a generally westerly then southerly direction to meet Brent Eleigh Bridleway No. 7, Clay Lane, at grid ref TL 928492, Parish of Preston St Mary (OMA ref. CPM916) ('14D/20')

- 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 Suffolk County Council to determine applications for Orders under Section 53(5) of that Act.
 - The representation made by John Andrews, is dated 18 October 2019.
 - The certificate under Paragraph 2(3) of Schedule 14 in relation to 14D/19 is dated 15 October 2018.
 - The certificate under Paragraph 2(3) of Schedule 14 in relation to 14D/20 is dated 20 October 2018.
 - The Council was consulted about the representation on 20 November 2019 and the Council's response was made on 19 December 2019.
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Decisions

1. The Council is directed to determine the above-mentioned application, reference FPS/V3500/14D/19.
2. No direction is given as regards the above-mentioned application, reference FPS/V3500/14D/20.

Reasons

3. 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
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- 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.
4. The Council's Statement of priorities is contained within its Green Access Strategy 2020². Section 1.1 of Part 3 to the Strategy, the Delivery Plan, relates to 'Recording the Network', an objective being to make orders in the public interest, with the aim of delivering a public rights of way network that meets the needs of today's users. The Council currently has 55 formal definitive map modification applications yet to determine³, each with its own 'priority' assigned following scoring against a set of priority criteria. These include factors such as threat to an unrecorded route, level of public interest, network improvement, strength of evidence, and so forth. The Council's current prioritising scheme was introduced in 2013 when all formal applications outstanding were re-assessed, and all applications received since that date assessed using the scheme. A number of formal applications have been determined, are under investigation or in progress, and the Council anticipates the number outstanding will decrease when the Deregulation Act 2015 comes into operation. It estimates that 13 current applications will fail its preliminary evidential assessment test.
 5. As regards the present applications, the Council has recently commenced an investigation into 14D/20. However, application 14D/19 remains in their backlog of cases for future investigation. It has been assigned a score of 53 placing it in the high priority category for future investigation. There are 10 order making cases and 4 formal applications assigned a higher priority, with one of the latter currently on hold. Application 14D/19 scored highly for network improvement as it would create an opportunity for a circular walk. However, it did not score for strength of evidence as the supporting evidence for this application the Council considers to be weak. Accordingly, the Council estimates the application is likely to be determined in 2020-21. An earlier determination has not been possible due to directions given for the Council to determine other applications that did not score as highly as this one. Given the current environment of limited resources, the Council has prioritised potential order making work. It takes the view that priority should be assigned to cases on the basis of potential public benefit rather than on the age of the application. This inevitably leads to disappointment for applicants where an application has not scored as highly as they would wish.
 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 12 months have passed since the application was submitted and no exceptional circumstances have been indicated by the Council that prevented its determination within the expected timeframe. Whilst the Council anticipates application 14D/19 will be determined later this year or next, that would be up to, or more than, 2 years after it was submitted to the Council. In the circumstances I have decided that there is a case for setting a date by which time the application 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 has been allowed.

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

² The Council's second Rights of Way Improvement Plan

³ This does not include all the claims and other cases the Council has yet to assess

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 Suffolk County Council to determine the above-mentioned application, reference FPS/V3500/14D/19, not later than 6 months from the date of this decision.

S Doran

Inspector