



Direction Decision

by **Helen Slade MA FIPROW**

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

Decision date: 9 April 2020

Ref: FPS/D3450/14D/116-125 & 127 (but not 126)

**Representation by Mr Martin Reay
Staffordshire County Council**

OMA REF:	PINS REF:	APPLICATION
LG615G	FPS/D3450/14D/116	To add a footpath from Jolpool Lane to Hardiwick Wood and from Hardiwick Wood to crossroads of B5066 and B5027
LH607G	FPS/D3450/14D/F117	To add a BOAT from highway next to Brann Farm to highway north east of chapel
LH615G	FPS/D3450/14D/118	To add a BOAT from public road at Hill Chorlton to public path next to rail bridge
LH629G	FPS/D3450/14D/119	To add a footpath from B5404 to A51
LH631G	FPS/D3450/14D/120	To add a footpath from road at Blymhill Marsh to Bridleway 14 at the east
LJ608G	FPS/D3450/14D/121	To add a footpath from Marston Lane to bridleway at Marstongate Farm
LJ626G	FPS/D3450/14D/122	To add a BOAT from Public Footpath 62 to highway south of Burley Cottage
LJ629G	FPS/D3450/14D/123	To add a footpath from Hollyhurst Lane to highway east of Blythe Bridge Mill
LJ649G	FPS/D3450/14D/124	To add a footpath from Basford Lane to existing public path (Public Footpath 33)
LJ666G	FPS/D3450/14D/125	To add a footpath from Mill Lane to public path to NW (Public Footpath No 12)
LQ603G	FPS/D3450/14D/127	To add a footpath from Public Footpath No 10 Stafford to Lammascote Road/Queensway

- The representation is made under Paragraph 3(2) of Schedule 14 of the Wildlife and Countryside Act 1981 ('the 1981 Act') seeking directions to be given to Staffordshire County Council ('the Council') to determine several applications for Orders, under Section 53(5) of that Act.
- The representation is made by Mr Martin Reay, and is dated 9 April 2019.
- The certificates under Paragraph 2(3) of Schedule 14 are dated on various dates ranging between 26 June 1997 and 17 May 2005.
- The Council was consulted about your representation on 25 September 2019 and the Council's response was made on 28 October 2019.

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 has submitted a statement which sets out its criteria for dealing with Section 53 applications. This policy provides for the processing of applications in order of the date of receipt, with following exceptions:-
 - (a) where delay would threaten the loss of a claimed right of way due to development which has received permission and all attempts to divert or otherwise cater for the route have been exhausted;
 - (b) where in the case of a claimed right of way, there is evidence of severe hardship caused by the existence of an application to the owner/occupier of the land;
4. In this instance, the Council states no request for priority has been made and thus the applications will be dealt with in accordance with the date of receipt. No timescale can be provided due to the complexity of the claims, and the deadlines for 87 directions which have previously been issued by the Secretary of State in respect of other applications. The dates given for complying with those directions range from June 2018 to May 2020. Should directions be given in the case of the present applications, it would result in over 40% of current applications being required to be determined within a very short timescale. This would further increase the waiting times for those applications for which no direction has been issued. Whilst the Council will do its utmost to meet the deadlines imposed, it considers that setting deadlines without taking into account outstanding directions that have already been made is unreasonable, and cannot realistically be met.
5. Older claims than the ones which are the subject of this application exist, and there are no special reasons why these applications should take precedence. If directions are given in this case, it is requested that consideration be given to the number of directions and the deadlines already issued.
6. Mr Reay, the applicant, has indicated that the claims were made to the Council over a period from 1999 to 2005 and that unless a direction is given it may be many more years before the claims are processed.

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

7. It seems to me that whilst the Council has a priority system of its own which is, on the face of it, a reasonable approach, it has not been able to implement it in a timely manner, resulting in delays which are, in themselves, unreasonable. All these claims are based on documentary evidence, much of which should be available to the Council in its own archives. The fact that some applicants have declined to exercise their right to seek a direction from the Secretary of State should not impact on the fact that Mr Reay has chosen to do so.
8. 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, 15 to 21 years have passed since the applications were submitted and no exceptional circumstances have been indicated by the Council for not dealing with them. However, it is appreciated that the Council will require some time to carry out its investigations and make a decision on the applications, and in the present situation of restrictions due to the outbreak of COVID-19 virus, it would seem that exceptional circumstances have arisen which could not have been foreseen.
9. In the circumstances I have decided that, although there is a case for setting a date by which time the applications should be determined, the present exceptional circumstances demand that a little flexibility should be given. A further period of 12 months has therefore been allowed.

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 above-mentioned applications not later than 12 months from the date of this decision.

Helen Slade

INSPECTOR