



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: 17 August 2020

Ref: FPS/D3450/14D/142-146

Representation by Staffordshire Moorlands Bridleways Group

Staffordshire County Council

Applications to:

Upgrade Footpath's 17, 42 and 18 to a Bridleway, Onecote (017059DW)

Upgrade Footpath 1(b) (part) and to add a currently undesignated route as a Restricted Byway, Waterhouses (017060DW)

Upgrade Footpath 41 to a Restricted Byway, Sheen (017286DW)

Upgrade Footpath 60 to a Bridleway, Waterhouses (017177DW)

Upgrade Footpath 10 to a Restricted Byway, Waterhouses (017595DW)

- 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 an application for an Order, under Section 53(5) of that Act.
 - The representation is made by Julie Turner on behalf of Staffordshire Moorlands Bridleways Group, dated 20 February 2020.
 - The certificates under Paragraph 2(3) of Schedule 14 are dated 26 October 2018, 7 November 2018, 30 November 2018, 4 July 2018 and 5 February 2019.
 - The Council was consulted about the representation on 17 March 2020 and the Council's response was made on 4 May 2020.
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Decision

1. The Council is directed to determine the above-mentioned applications 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
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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 the order of receipt subject to certain exceptions, none of which apply in these cases. There is currently a backlog of 234 applications awaiting decisions. In addition, the council has already been directed to determine 93 applications by the Secretary of State. In these circumstances the council states that it is not possible to estimate how long it will be before the current application is determined.
4. The council accepts that it has not been able to deal with applications within 12 months of receipt as a result of the limited resources allocated to rights of way matters. The directions already received will require significant staff resources to carry out the necessary investigations. The receipt of further directions will result in more delay in dealing with other applications some of which ought to be of higher priority. It is requested that these factors be taken into account when considering the current applications.
5. It appears that it could be many years before decisions are made on these applications unless the council gives greater priority to carrying out its duty with regard to determining such applications. 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 applications were submitted and no exceptional circumstances have been indicated other than the Council's failure to deploy sufficient resources to the determination of such applications. This is not an acceptable situation. Applicants should be able to expect a decision within a finite and reasonable time. I have therefore decided that there is a case for setting a date by which time these 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. I also recognise that restrictions currently in place as a result of the coronavirus outbreak might have a significant impact on all rights of way work. Accordingly, although under normal circumstances I would have allowed a further period of 6 months for decisions to be made, I propose to allow a period of 12 months in this case.

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 Direction.

Barney Grimshaw

INSPECTOR

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