



## 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: 19 JUNE 2020

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**Ref: FPS/L3245/14D/3**

**Representation on behalf of Telford Bridleways Association  
Shropshire County Council**

**Application to upgrade Footpath 67 to Restricted Byway from The Wyke to Footpaths 65-66 Benthall Edge (Parishes of Much Wenlock and Benthall) and to upgrade the Footpath in the Parish of Buildwas and Sheinton to a Bridleway from GR 6190 0370 to GR 6410 0390.**

- 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 Shropshire County Council to determine an application for an Order, under Section 53(5) of that Act.
  - The representation is made by Sally-Anne and Jan-Mees Robinson on behalf of Telford Bridleways Association, dated 20 January 2020.
  - The certificates under Paragraph 2(3) of Schedule 14 are dated 5 June 2017 and 18 January 2018.
  - The Council was consulted about the representation on 5 February 2020 and the Council's response was made on 23 March 2020.
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### Decision

1. The Council is directed to determine the above-mentioned application 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 applicant<sup>1</sup>.
3. In this case, the Council states that applications are dealt with in accordance with a published policy adopted in 2018. This indicates that applications are

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

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- dealt with in accordance with a programme of priorities based on their location and nature.
4. The Council further states that an application regarding the route identified in this application to upgrade Footpath 67 to Restricted Byway was investigated in 2003 and it was decided that there was insufficient evidence to justify upgrading the route. The evidence now submitted has also been looked at and it is not felt that this would alter the Council's view. The route does not appear to be included in the Council's programme although it is stated that it is being further considered. As the evidence relating to this part of the current application has already been considered it may be that this means that it might be able to be determined relatively quickly.
  5. The other part of the application is included in the list of applications to be dealt with and appears at number 130 in the programme.
  6. The Council has provided no indication of when the application is likely to be determined.
  7. 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 2 years have already passed since the application was submitted and no indication has been given of when it is likely to be determined. The applicants also suggest that this application should be determined as a matter of urgency as they believe the application routes to be threatened by proposed development.
  8. This is not an acceptable situation; applicants should be able to expect a decision within a finite and reasonable time. In the circumstances, I have therefore decided that there is a case for setting a date by which time this application should be determined. However, it is appreciated that the Council will require some time to carry out its investigation and make a decision on the application. 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 Shropshire County Council to determine the above-mentioned application not later than 12 months from the date of this Direction.

*Barney Grimshaw*

INSPECTOR