



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: 23 November 2020

Ref: FPS/L3245/14D/6

Representation by Dr Carol Small

Shropshire County Council

Application to modify the Definitive Map and Statement by the addition of a Footpath from the junction with Footpath Bucknell 5 to the county boundary and the junction with Footpath BC1 (Buckton and Coxall) (Parish of Bucknell).

- 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 Dr Carol Small, dated 4 October 2020.
 - The certificate under Paragraph 2(3) of Schedule 14 is dated 18 June 2016.
 - The Council was consulted about this representation on 8 October 2020 and the Council's response was made on 4 November 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 applicant¹.
3. In this case, the Council states that applications are dealt with in accordance with an approved Statement of Priorities. This application has a low priority as it relates to an area which has already been subject to a full Parish Review. Accordingly, it is currently number 63 out of 90 applications awaiting

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

determination. There are also a further 57 applications in the process of being added to the register.

4. The council states that due to other priority applications and the resources available this application is not considered to be a priority and has requested that no direction to determine it be issued but no estimate is provided of when it is likely to be determined.
5. 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 4 years have already passed since the application was submitted and it appears likely that it will be a considerable further time before it is determined. This would suggest that the council is failing 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 this application should be determined.
6. 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 a decision 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