



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: 21 October 2020

Ref: FPS/M1900/14D/27

Representation by Mr R Pearman

Hertfordshire County Council

Application to add a Footpath from the junction of Chestnut Avenue (TQ 04124 95964) to the junction of Berry Lane (TQ 03830 95632); and a Byway Open to All Traffic from the junction of the un-made Footpath with gravel track at top end of South Park Avenue (TQ 03932 95889) to the junction of Berry Lane (TQ 03830 95632), Chorleywood (OMA ref. 3R/103/MOD)

- 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 Hertfordshire County Council to determine an application for an Order, under Section 53(5) of that Act.
 - The representation is made by Mr R Pearman, dated 2 July 2020.
 - The certificate under Paragraph 2(3) of Schedule 14 is dated 6 June 2019.
 - The Council was consulted about your representation on 29 July 2020 and the Council's response was made on 14 August 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 has stated that applications are dealt with in accordance with a set of policies which enable cases to be prioritised based on key principles. The authority has a large number of outstanding applications

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

awaiting action but is seeking to deal with the backlog in an ordered manner. The current application is given a relatively high priority under this system and is presently located at position 9 out of 291. Nevertheless, the council states that it is not likely that the application will start to be investigated until at least August 2021 and that once started the process may take several months before the application is determined.

4. 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, over 15 months have already passed since your application was submitted and it is likely to be a further 12 months or more before it is determined. 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.
5. It is appreciated that the Council will require some time to carry out its investigation and make a decision on the application. I also take into account the efforts being made to deal with the backlog of applications and I further 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 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 Hertfordshire County Council to determine the above-mentioned application not later than 12 months from the date of this Direction.

Barney Grimshaw

INSPECTOR