



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: 15 January 2021

Ref: FPS/E0535/14D/3

Representation by Claire Topping

Cambridgeshire County Council

Application to upgrade to a Bridleway the Footpath from Witcham Road, Mepal, along the full length of the Rushway to the intersection with Footpath Mepal 9 (OMA ref. M080)

- 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 Cambridgeshire County Council to determine an application for an Order, under Section 53(5) of that Act.
 - The representation is made by Ms Claire Topping, dated 14 August 2020.
 - The certificate under Paragraph 2(3) of Schedule 14 is dated 12 August 2019.
 - The Council was consulted about this representation on 8 October 2020 and the Council's response was made on 27 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 a Statement of Priorities adopted in March 2018. This means that applications are dealt with in chronological order subject to six exceptional circumstances, none of which is considered to apply to this application.

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

4. The Council states that it currently has a backlog of 17 applications awaiting determination in addition to this one which is situated at 13th in the queue. It is estimated that it will be determined within the next 3 years although there is uncertainty regarding the recruitment of an additional member of staff and the possible redeployment of existing staff to assist in response to the COVID-19 outbreak.
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 16 months have already passed since the application was submitted and it is estimated that it could be a further 3 years or more 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 Cambridgeshire Council to determine the above-mentioned application not later than 12 months from the date of this Direction.

Barney Grimshaw

INSPECTOR