



## 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

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**Ref: FPS/L3055/14D/16**

**Representation by Hilda Levine**

**Nottinghamshire County Council**

**Application to add a Footpath situated in the Parish of Finningley and Misson and running from A614 to Misson Village (OMA ref. 1191)**

- 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 Nottinghamshire County Council to determine an application for an Order, under Section 53(5) of that Act.
  - The representation is made by Hilda Levine, dated 19 June 2020.
  - The certificate under Paragraph 2(3) of Schedule 14 is dated 4 April 2019.
  - The Council was consulted about this representation on 5 October 2020 and the Council's response was made on 13 November 2020.
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### Decision

1. The Council is directed to determine the above-mentioned application not later than 18 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. The Council states that applications are dealt with in the order of receipt subject to certain exceptions, one of which applies in this case. Nevertheless, the Council does not see a case for expediting consideration of this application. The Council has a backlog of 161 applications awaiting a decision and the current application is number 121 in the queue. The Council estimates that it will take approximately 13 years before a decision is made on this application.

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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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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, more than 21 months have already passed since the application was submitted and it is estimated that it will be a further 13 years 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.
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 recognise that restrictions currently in place as a result of the coronavirus outbreak might have a significant impact on all rights of way work. In particular, the Council has pointed out that it is not currently possible to consult documentary evidence held in the County Records Office or the National Archives.
6. Also, on a procedural matter, the Council points out that the original application included a small area in a neighbouring authority. It is also stated that in respect of a previous application the neighbouring authority gave delegated authority to Nottinghamshire County Council, but similar authority has not yet been given in this case.
7. 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 18 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 Nottinghamshire County Council to determine the above-mentioned application not later than 18 months from the date of this Direction.

*Barney Grimshaw*

INSPECTOR