



Direction Decision

by Paul Freer BA(Hons) LLM PhD MRTPI

an Inspector on direction of the Secretary of State for Environment, Food and Rural Affairs

Decision date: 11 March 2021

Ref: FPS/V3500/14D/21

Representation by David and Leone Rush

Suffolk County Council

Application to delete part of Public Footpath 57 from Rackhams Corner to Caterpole Corner (OMA ref. CPM737)

- 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 Suffolk County Council to determine an application for an Order, under Section 53(5) of that Act.
 - The representation is made by David and Leonie Rush dated 2 September 2020.
 - The certificates under Paragraph 2(3) of Schedule 14 is dated 16 January 2012.
 - The Council was consulted about your representation on 26 October 2020 and the Council's response was made on 9 December 2020.
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Decision

1. The Council is directed to determine the above-mentioned application.

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. The application listed above was submitted some 9 years ago now. The route of Public Footpath 57 currently follows the boundary with the residential garden of Redhouse Farm and the farmyard associated with that property. The applicants explain that, with a recent increase in the use of the public rights of way, they have experienced significant issues with trespass, security, verbal

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

abuse and threats whilst trying to redirect walkers from the garden and farmyard.

4. In response, Suffolk County Council explains that it determines applications in accordance with a Statement of Priorities contained within its Green Access Strategy 2020. The Council refers me to Part 3 of that Green Access Strategy, entitled 'Delivery Plan', which indicates at paragraph 1.1.3 that one of the objectives is making Orders in the public interest. Pursuant to that objective, the Council considers that priority should be assigned to cases on the basis of potential public interest rather than the age of the application. The application to which this request relates has been placed in the medium priority category on the basis, in summary, that footpaths FPS56 and FPS63 provide a nearby alternative route, and that FP57 is not available on the ground.
5. The Council goes on to indicate that, as of December 2020, there were 39 Order making cases that were assigned a higher priority. In addition, there were 23 formal applications that had not been started but which were assigned a higher priority. The Council anticipates that the above application is unlikely to be determined before 2024.
6. Authorities are required to investigate applications as soon as reasonably practicable. 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 your case, some 9 years have passed since the application was submitted. A period of 9 years cannot be considered reasonable by any standard, even taking into account the Council's Statement of Priorities and the other considerations that the Council has outlined in its response.
7. It is appreciated that the Council will require some time to carry out its investigation and to make a decision on the application. I am also mindful of the restrictions currently in place resulting from the Coronavirus pandemic and all the implications that flow from that. Accordingly, a further period of nine months has been allowed.

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 Suffolk County Council to determine the above-mentioned applications not later than nine months from the date of this decision.

Paul Freer

INSPECTOR