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| **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: 28 May 2021** |

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| **Ref: FPS/Q1770/14D/5**  **Representation by** **Mrs M Henstock & Mr N Pope**  **Hampshire County Council**  **Application to amend the Definitive Map and Statement for the area by the addition of four Bridleways in Long Copse woodland and upgrading part of Footpath 7 to a Bridleway, Parish of Smannell (OMA ref: 1234)** |
| * 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 Hampshire County Council to determine an application for an Order, under Section 53(5) of that Act. |
| * The representation is made by Mrs M Henstock and Mr N Pope. It is not dated but was forwarded to the Secretary of State on 11 November 2020. |
| * The certificate under Paragraph 2(3) of Schedule 14 is dated 13 November 2018. |
| * The Council was consulted about the representation on 26 February 2021 and the Council’s response was made on 14 April 2021. |
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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

1. 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[[1]](#footnote-1).
2. In this case, the authority states that applications are dealt with in accordance with policy guidelines which set out criteria under which they can be prioritised. It has been determined that this application meets the criteria to receive priority status and is currently ranked 17th in the council’s priority list. Nevertheless, it is stated that the application is unlikely to be determined in the next 2-3 years given the number of other claims ahead of it in the queue.
3. The applicants have expressed concern that the land crossed by the claimed routes has changed ownership and the routes have been obstructed by fencing.
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 2 years have already passed since the application was submitted and no date has been given as to when it will be determined except that this is unlikely to be in the next 2-3 years.
5. 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. 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 Hampshire County Council to determine the above-mentioned application not later than 12 months from the date of this Direction.

Barney Grimshaw

INSPECTOR

1. Rights of Way Circular 1/09 Version 2, October 2009. Department for Environment, Food and Rural Affairs. [↑](#footnote-ref-1)