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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: 2 August 2021** |

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| **Ref: FPS/L3055/14D/22****Representation by Stephen Parkhouse for British Horse Society****Nottinghamshire County Council****Application to upgrade to bridleway the Footpaths Farnsfield FP5 running from Combs Lane at SK644558 to its junction with FP6 at SK639553 and then Farnsfield FP6 to Robbs Lane (Edingley BOAT21) at SK640547 (OMA ref. 1196)** |
| * 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.
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| * The representation is made by Stephen Parkhouse, dated 4 February 2021.
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| * The certificates under Paragraph 2(3) of Schedule 14 are dated 25 April 2019.
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| * The Council was consulted about your representation on 11 February 2021 and the Council’s response was made on 3 March 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 Council deals with applications such as this in accordance with its Rights of Way Management Plan which states that applications are processed in chronological order of the date of their receipt subject to a number of exceptions. One specified exception applies to the current application, but this is not considered sufficient to warrant expediting its determination.
3. The application was located at position 106 out of 165 awaiting determination and the Council estimates that it will be approximately 13 years before it is determined.
4. The Council further states that only 2 officers work on these applications and they do not work on them full time. It was also pointed out that as a result of the COVID 19 outbreak access to council offices is restricted and the Records Office was closed making the determination of applications more difficult.
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 2 years have passed since the application was submitted and it is estimated that a further 13 years will pass before it is determined. This would suggest that the Council is failing to deploy sufficient resources to the determination of such applications.
6. 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.
7. 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 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 Nottinghamshire 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)