

|  |
| --- |
| **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: 17 November 2021** |

|  |
| --- |
| **Ref: FPS/Q1770/14D/7**  **Representation by Mr J Tinkler, The Ramblers**  **Hampshire County Council**  **Application to amend the Definitive Map and Statement by the addition of a Footpath between Footpath 19 and Footpath 20 Parish of Pamber.** |
| * 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 Mr J Tinkler on behalf of The Ramblers, dated 9 August 2021. |
| * The certificate under Paragraph 2(3) of Schedule 14 is dated 19 May 2020. |
| * The Council was consulted about the representation on 2 September 2021 and the Council’s response was made on 5 October 2021. |
|  |

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 chronological order of their receipt unless they meet one of the exceptional circumstances listed in approved policy guidelines. The current application does not meet any of these.
3. The application is currently ranked 18th in the Council’s waiting list of claims based on user evidence. It is stated on behalf of the council that this means the application is unlikely to be determined within the next 2-3 years given the number of claims ahead of it in the queue.
4. The applicant has stated that the route was extensively used by local residents to gain access to Pamber Forest but has now been closed and alternative routes are much longer and impassable for much of the year.
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, almost 18 months have passed since the application was submitted and it is stated that it is unlikely to be determined within the next 2-3 years. 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 that have been in place as a result of the coronavirus outbreak have had 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)