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| **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: 26 April 2022** |

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| **Ref: FPS/U1050/14D/11**  **Representation by Joanne Mee**  **Derbyshire County Council**  **Application to modify the Definitive Map and Statement for the Parish of Heanor & Loscoe by modifying the particulars relating to Footpath 160 by the addition of a Footpath from Woodbridge Close / Avocet Close, Heanor (grid ref 444777 346301) to 57/59 Laceyfields Road, Heanor (grid ref 444725 346210);**  **AND**  **deleting Footpath 160 (formerly latter part of Footpath 84) from grid ref 444733 346271 to grid ref 444697 346238 (OMA ref. ROW/HR/100046 (No. 04486))** |
| * 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 Derbyshire County Council to determine an application for an Order, under Section 53(5) of that Act. |
| * The representation is made by Ms J Mee, dated 18 March 2021. |
| * The certificate under Paragraph 2(3) of Schedule 14 is dated 18 March 2020. |
| * The Council was consulted about your representation on 16 April 2021 and the Council’s response was made on 15 December 2021. |
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Decision

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

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. The application seeks recognition of a footpath from Woodbridge Close/Avocet Close to Laceyfields Road in Heanor, as well as deletion of footpath 160. The applicant explains that use of the current footpath 160 has resulted in instances of crime/antisocial behaviour, including drug use and vandalism to a gate/fence on her land. The applicant considers that this has had a serious impact on her personal safety. The applicant is also concerned that evidence/knowledge relating to the use of the proposed footpath held by a local resident of advancing years may be lost if the application is not determined expeditiously.
3. The Council explains that is currently dealing with a considerable number of applications: a total of 273 at the date of the Council’s response. It is the Council’s policy to determine these applications in chronological order of receipt. This application was received within days of the first national lockdown in March 2020 which, the Council explains, meant that it was not able to fulfil many of the functions required to correctly determine the application. This has resulted in a backlog and a delay to the applications awaiting determination.
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 your case, more than two years have passed since your application was submitted. I accept that the Coronavirus pandemic was an exceptional circumstance which understandably resulted in a delay in the investigation of evidence relating to this application. Nevertheless, restrictions associated with the Coronavirus pandemic have now been lifted and there is no reason why work on determining this application should not now commence. It is appreciated that the Council will require some time to carry out its investigation and make a decision on the application: the Council indicates in its response that it proposed to commence the necessary research into this application within 6-8 months from the date of that response. That was itself some four months ago. A further period of 6 months has therefore been allowed.
5. In the circumstances I have decided that there is a case for setting a date by which time the application should be determined.

**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 Derbyshire County Council to determine the above-mentioned application not later than 6 months from the date of this decision.

Paul Freer

INSPECTOR

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