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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/V3500/14D/22**  **Representation by Joan Metcalfe, Playford Parish Council**  **Suffolk County Council**  **Application for the addition of a Public Footpath between Butts Road (grid ref TM214482) to Church Road (grid ref TM217482) (OMA ref. CPM876)** |
| * 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 Joan Metcalfe, dated 29 April 2021. |
| * The certificate under Paragraph 2(3) of Schedule 14 is dated 18 October 2016. |
| * The Council was consulted about your representation on 20 December 2021 and the Council’s response was made on 3 February 2022. |
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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, which seeks to add a footpath to the Definitive Map, was submitted in October 2016. The applicant complains that the application is repeatedly moved down the list of applications awaiting determination as more urgent cases are added to the list. The applicant is concerned that, should this continue to be the case, the application will never reach the top of the list and will never be determined.
3. In response, the Council refers to its Green Access Strategy 2020, its second Rights of Way Improvement Plan. One of the objectives set out in the Green Access Strategy is to develop a public paths and claims process that provides routes of public interest. In pursuance of that objective, the Council prioritises applications that are considered to offer the most public benefit. The priority afforded to applications is re-assessed regularly in accordance with the Council’s prioritising scheme introduced in 2013.
4. The Council explains that, as of the date of its response, there were 112 Definitive Map Modification Order applications yet to be determined. Of those applications, nearly half are incomplete. The Council explains that these applications will not be prioritised in their incomplete form.
5. I have also provided with a copy of the Council’s Case Progress Monitor, in which applications are ordered by priority score. This application has been assigned a score of 47.5, which places it in the medium priority category for future investigation. There are 31 order making cases assigned a higher priority, with a further 18 formal applications not yet started which are also assigned a higher priority. The Council estimates that this application is unlikely to be determined before 2025 which, assuming that was achieved, would by that time mean that the application had been outstanding for some nine years.
6. 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 five years have already passed since your application was submitted and, on the Council’s own estimate, a determination is unlikely for at least a further three years. No exceptional circumstances have been indicated. It is appreciated that the Council will require some time to carry out its investigation and make a decision on the application. In view of the medium priority assigned to this application by the Council’s own prioritising scheme, a further period of 12 months has been allowed.
7. 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 Suffolk County Council to determine the above-mentioned application not later than 12 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)