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| **Direction Decision** |
| **by C Beeby BA (Hons) MIPROW** |
| **an Inspector on direction of the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 06 May 2022** |

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| **Ref: FPS/L3245/14D/10**  **Representation by Cound Parish Council**  **Shropshire Council**  **Application to add a bridleway known as Church Lane, Cound from Cound/Harnage Road, Cound village to Upper Cound Village (Order Making Authority ref. No. 94)** |
| * An application was made by Cound Parish Council to Shropshire Council for an order to modify its Definitive Map and Statement of Public Rights of Way (DMS) under Section 53(5) of the Wildlife and Countryside Act 1981 (the 1981 Act). * The certificate attached to the application, as required under Paragraph 2(3) of Schedule 14 of the 1981 Act, is dated 22 June 2009. * A representation has been made by the applicant under Paragraph 3(2) of Schedule 14 of the 1981 Act seeking a direction from the Secretary of State to be given to the Council to determine the application. |
| * The representation is dated 2 November 2021. |
| * The Council was consulted about the representation on 3 December 2021 and its response is dated 21 January 2022. |
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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 decision.

**Reasons**

1. Schedule 14 of the 1981 Act sets out provisions for applications made under section 53(5) for a definitive map modification order (DMMO).
2. Authorities are required to investigate applications as soon as reasonably practicable and, after consulting the relevant district and parish councils, to 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 in accordance with paragraph 2(3) of Schedule 14.
3. Current guidance is contained within Rights of Way Circular 1/09 Version 2, October 2009 published by the Department for Environment, Food and Rural Affairs. This explains the matters that the Secretary of State will take into account in considering whether, in response to such a request, to direct an authority to determine an application for an order within a specified period. These are 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.
4. The Council determines applications in accordance with its Statement of Priorities, which sets out its approach to dealing with such applications. Applications are dealt with according to a number of criteria, including location and the type of evidence/route concerned, and with reference to key local demands within the Shropshire’s Great Outdoors Strategy. Such an approach appears reasonable.
5. The Council’s list of DMMOs outstanding does not record any actions having been carried out on the application. At the date of its response the Council had 171 DMMO applications outstanding. Twenty of these had been determined or were in the process of being determined. The application was ranked 49th in the priority list. The Council considers that the application has been awaiting determination for a significant period of time. The Council refers to potential future work on the application, although the ability of this matter to expedite its processing is unclear.
6. Whilst I sympathise with the pressures that the Definitive Map service is under, the Council still has a statutory duty to keep the DMS up-to-date. Circular 1/09 is clear that authorities should ensure that sufficient resources are devoted to meeting their statutory duties with regard to the protection and recording of public rights of way.
7. 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 13 years have passed since the application was submitted and no exceptional circumstances have been demonstrated by the Council. Furthermore, the number of preceding applications within the Statement of Priorities suggests that this application is unlikely to be determined soon. In the circumstances I have consequently decided that there is a case for setting a date by which time the application should be determined.
8. It is appreciated that the Council will require some time to carry out its investigation and to make a decision on the application. Accordingly, a further period of 12 months has been allowed. This includes an allowance to address working constraints arising from the coronavirus pandemic.

**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 Shropshire Council to determine the above-mentioned application not later than 12 months from the date of this decision.

C Beeby

INSPECTOR