

|  |
| --- |
| **Direction Decision** |
| **by A L McCooey BA (Hons) MSc MRTPI** |
| **an Inspector on direction of the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 11 July 2022** |

|  |
| --- |
| **Ref: FPS/M2460/14D/4****Representation by Dominic Young****Leicestershire County Council****Application to add a footpath from Loughborough Road to Sibson Road, Birstall (OMA ref. M1213)** |
| * 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 Leicestershire County Council to determine an application for an Order, under Section 53(5) of that Act.
 |
| * The representation is made by Dominic Young, dated 26 June 2020.
 |
| * The certificate under Paragraph 2(3) of Schedule 14 is dated 26 June 2020.
 |
| * The Council was consulted about your representation on 23 December 2021 and the Council’s response was made on 12 January 2022 and 9 February 2022.
 |
|  |

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.
2. 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 (as set out in Rights of Way Circular 1/09 Version 2, October 2009. Department for Environment, Food and Rural Affairs).
3. Leicestershire County Council has supplied a copy of its rights of way priority framework and a list of outstanding cases. Seven applications appear to have been given priority as they appear at the top of the list. I note that these applications are dated from 2007 to 2021. The application before me is number 20 on the list. The Council states that the application is being processed and that evidence has been received that brings into question the uninterrupted use of the route. The Council has requested further information from the applicant and objector before considering how to proceed. No indication has been provided as to how long the process of seeking further information may take nor have any timescales been provided arising from this request. The applicant seeks that an Order be made as expeditiously as possible so that the witnesses (many of whom are elderly) can give evidence.
4. The Council’s states that the application has not been determined because of requests for further information from the applicant and others. No indication has been provided about how long this process has taken or will take. Obviously, this cannot continue to be a justification for lack of further action indefinitely. There is no indication of how the application has been assessed against the priority framework or when it is anticipated that a decision will be issued.
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 your case, more than two years have passed since your application was submitted and no exceptional circumstances have been indicated by the Council.
6. In the circumstances I have decided that there is a case for setting a date by which time the application should be determined. It is appreciated that the Council will require some time to carry out its investigation and make a decision on the application. A further period of 6 months is appropriate.

**Direction**

1. 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 Leicestershire County Council to determine the above-mentioned application not later six months from the date of this decision.

AL McCooey

INSPECTOR