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| **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: 22 July 2022** |

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| **Ref: FPS/Q2500/14D/8**  **Representation by Peter Hughes**  **Lincolnshire County Council**  **Application to add a Footpath from the ford at Ings Lane to Public Footpath 27 in the parish of Belchford, Lincolnshire (OMA ref. 421)** |
| * 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 Lincolnshire County Council to determine an application for an Order, under Section 53(5) of that Act. |
| * The representation is made by Peter Hughes, dated 31 March 2022. |
| * The certificate under Paragraph 2(3) of Schedule 14 is dated 16 November 2020. |
| * The Council was consulted about this representation on 12 May 2022 and the Council’s response was made on 20 May 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 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 states that applications are dealt with in accordance with a Statement of Priorities adopted in March 2018. This means that applications are dealt with in chronological order subject to eight exceptional circumstances, none of which appear to have been considered to apply to this application.
3. The Council states that it currently has a backlog of 217 applications awaiting determination in addition to this one of which 15 are currently being actively progressed. This application is situated at number 151 in the queue and it is further stated that, unless it is given a higher priority, it will not be possible to provide an estimate of when it will be determined within the next 12 months.
4. The applicant has requested that his application be given high priority as the owner of the land crossed by the claimed route has been hostile and abusive to people attempting to use it. The Council has stated that a direction to determine this application in advance of another made by the same applicant, which it has been directed to determine by 23 January 2023, might delay progression of that case.
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, more than 20 months have already passed since the application was submitted and no estimate can be given as to when it will be determined although it would appear that this might be a considerable time in the future. This would suggest that the Council is failing to deploy sufficient resources to the determination of such applications. 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.
6. It is appreciated that the Council will require some time to carry out its investigation and make a decision on the application. Accordingly, 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 Lincolnshire 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)