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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: 16 August 2022** |

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| **Ref: FPS/M5450/14D/1**  **Representation by Mr I Fahiye**  **London Borough of Harrow**  **Application to add a public footpath from 82 De Havilland Road, HA8 5PA to 21 & 23 Lawrence Crescent, HA8 5PB** |
| * An application was made by I, S and S Fahiye to Harrow 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 4 October 2020. * 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 12 October 2021. |
| * The Council was consulted about the representation on 24 November 2021 and its response is dated 7 March 2022. |
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Decision

1. The Council is directed to determine the above-mentioned application not later than 6 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 has prepared a report on the matter, and a draft DMMO in respect of the application route. It states that it is additionally seeking legal advice on potential stopping up and public space protection orders. It anticipated that these matters would be determined at a committee meeting in May. Nevertheless, no determination has been made.
5. The applicant considers that the route’s closure has adversely affected local residents.
6. The Council 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 two years have passed since the application was submitted and no exceptional circumstances have been demonstrated by the Council. The anticipated decision date has passed and there is no indication of when the decision on the matter may be taken, although a report and draft DMMO have been produced and the case is evidently at a late stage in the determination process. 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 arrange the necessary committee meeting. Accordingly, a further period of 6 months has been allowed.

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

C Beeby

INSPECTOR