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| **Direction Decision** |
| **by D. M. Young JP BSc (Hons) MPlan MRTPI MIHE** |
| **an Inspector on direction of the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 13 October 2022** |

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| **Ref: FPS/M1900/14D/32**  **Representation by Dr Philip Wadey**  **Hertfordshire County Council**  **application to add the restricted byway from Offley 14 FP and BW, to Chalk Hill (OMA ref. NH/253)** |
| * 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 Hertfordshire County Council to determine an application for an Order, under Section 53(5) of that Act. |
| * The representation is made by Dr Philip Wadey, dated 29 April 2022. |
| * The certificate under Paragraph 2(3) of Schedule 14 is dated 16 September 2013. |
| * The Council was consulted about your representation on 10 May 2022 and the Council’s response was made on 23 May 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 is reasonably practicable and, after consulting the relevant district and parish councils, decide whether to make an order on the basis of the evidence discovered. Schedule 14 to the 1981 Act, allows applicants to ask the Secretary of State for a direction following the expiration of 12 months from the date the certificate is served on the surveying authority.
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[[1]](#footnote-1).
3. The application to add a restricted byway from Offley to Chalk Hill is dated 20 June 2013. According to the Council the application is currently positioned 36 on the higher priority list. While no indication of when the application might be investigated has been given by the Council, there is nothing to suggest it will be imminent.
4. I appreciate the Council is doing the best it can with current levels of staffing. However, a wait nearly 10 years just simply cannot be right. In this case I understand the route has been obstructed and is not available for the public to use.
5. As confirmed by Circular 1/09, adequate resources should be provided to permit the Council to carry out its statutory functions. No exceptional circumstances have been put forward by the Council as to the cause of any delay in determining the application. Whilst I acknowledge, the existence of applications of longer-standing origin, this does not constitute a compelling reason for not dealing with this particular application within a reasonable timeframe.
6. Whilst a system of prioritisation is a good one, this does not absolve the Council of its statutory responsibilities to keep the Definitive Map and Statement up to date and to allocate sufficient resources to allow that to happen in a timely manner.
7. It is appreciated that the Council will require some further time to carry out its investigation and make a decision on the application. I have therefore decided that there is a case for setting a date by which time the application should be determined and I consider it appropriate to allow no more than a further 12 months for a decision to be reached.

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

D. M. Young

INSPECTOR

1. Rights of Way Circular 1/09 Version 2, October 2009. Department for Environment, Food and Rural Affairs. [↑](#footnote-ref-1)