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| **Direction Decision** |
| **by Claire Tregembo BA (Hons) MIPROW** |
| **an Inspector on direction of the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 12 January 2023** |

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| **Ref: ROW/3308465**  **Representation by Mr Peter Dawson**  **West Sussex County Council**  **Application to add a bridleway known as Sheepwash Lane from Redlands Lane to the B2179 at Malthouses, West Wittering (WSCC Ref: 3/19)** |
| * The representation is made under Paragraph 3(2) of Schedule 14 of the Wildlife and Countryside Act 1981 seeking a direction to be given to West Sussex County Council to determine an application for an Order, under Section 53(5) of that Act. |
| * The representation made by Peter Dawson, is dated 30 September 2022. * The certificate under Paragraph 2(3) of Schedule 14 was dated 26 February 2019. |
| * The West Sussex County Council was consulted about the representation on 20 October 2022 and their response was dated 31 October 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 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. 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, at paragraph 4.9, that 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. Each case must therefore be considered in light of its particular circumstances.
3. West Sussex County Council’s (WSCC) ‘Statement of Priorities for investigation of applications’ sets out its approach for determining the order in which they should be determined. Generally, applications are determined in order of receipt but there is discretion to take an application out of turn when delay could have consequences. Applications may also be taken out of turn if there is potential to satisfy an application by other means such as landowner agreement or when there is minimal workload involved. I consider this to be a reasonable approach.
4. The application currently sits at number two out of eighty three applications awaiting determination and it is anticipated it will be determined within the next twelve months. However, WSCC have previously been directed to determine another application which now has priority and further directions would cause additional delay. Two other applications were submitted to the Planning Inspectorate with a request for determination in the same week as this one.
5. The application is supported by user evidence but relates to a ‘G-Class highway’. WSCC advise that is a route recorded on their List of Streets and is maintained to a bridleway standard but currently has no confirmed status, therefore full documentary research must be undertaken. The Covid-19 pandemic led to the closure of West Sussex Records Office leading to delays in investigating applications requiring archival research. The appellant accepts that Covid-19 intervened but should not have caused a delay of three and a half years.
6. WSCC have lost three staff who investigate applications within the last year causing additional delays. However, authorities have a duty to keep the definitive map and statement up to date and circular 1/09 makes it clear that they should ensure that sufficient resources are allocated to meeting their statutory duties with regards to the protection and recording of public rights of way. A lack of resources is not considered to be an exceptional circumstance for not determining applications.
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 twelve months under normal circumstances. Almost four years have passed since the application was registered and, although the Covid-19 pandemic delayed the archival research, it should not have taken so long to commence investigation. I acknowledge that WSCC have been directed to determine another application and other direction requests have been made. However, it is likely that this application will be further delayed if I do not set a date for determination. It is appreciated that the Council will require some time to carry out its investigation and make a decision on the application. Therefore, I consider it appropriate to direct WSCC to determine the application within six months.

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

Claire Tregembo

INSPECTOR