

|  |
| --- |
| **Direction Decision** |
| **By Nigel Farthing Solicitor** |
| **an Inspector on direction of the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 23 January 2023** |

|  |
| --- |
| **Ref: ROW/3300945**  **Representation by John Bell and Alan Raynor**  **Nottinghamshire County Council**  **Application to add a footpath from Farnsfield Road (point A) to points B, C & D (see application map), parish of Bilsthorpe.**  **(OMA ref. 1291)** |
| * 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 Nottinghamshire County Council (‘the Council’) to determine an application for an Order, under Section 53(5) of that Act. |
| * The representation is made by John Bell and Alan Raynor and is dated 10 June 2022. |
| * The certificates under Paragraph 2(3) of Schedule 14 are dated 9 June 2021. |
| * The Council was consulted about the representation on 26 July 2022 and the Council’s response was made on 2 December 2022. |
|  |

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. This application was made in June 2021. The application seeks to record two linked footpaths giving access between a housing estate and an existing public right of way. The application is supported by 41 user evidence forms, 24 of which attest to use for a period of 20 years or more. Most forms refer to use up to 2021 being the date of the application. I am not told by the applicant that use of the route has been prevented, but I note from the Council’s response that the path has been blocked by a fence.
3. The Council acknowledge that no progress has been made towards the determination of the application. It is the Council’s policy to deal with applications in chronological order according to the date of receipt. The policy details what exceptions can be made to this basic policy and these can be summarised as public benefit, householder detriment, blocking of path, claim based solely on long use and threat to use from development. The Council accept that three of these criteria are met but do not consider the impact sufficient to give the application priority over similar applications which have been waiting longer for determination.
4. 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 12 months have passed since the application was submitted. 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.
5. It is appreciated that the Council will require some time to carry out its investigation and make a decision on the application. In order to allow a reasonable time for the investigation and decision making procedures to be completed, I propose to allow a further period of 12 months for a decision to be made.

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

Nigel Farthing

**Inspector**

1. [↑](#footnote-ref-1)