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| **Direction Decision** |
| **by A Behn Dip MS MIPROW** |
| **an Inspector on direction of the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 08 March 2023** |

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| **Ref: ROW/3309393**  **Representation by Steyning Parish Council**  **West Sussex County Council**  **Application to add a footpath with two extensions connecting Steyning Rifle Range, Footpath 2715, and Bridleway 2714 (Council ref. 4/21)** |
| * 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 West Sussex County Council (the Council) to determine an application for an Order, under Section 53(5) of that Act. |
| * The representation is made by Steyning Parish Council, dated 19 October 2022. |
| * The certificate under Paragraph 2(3) of Schedule 14 is dated 2 February 2021 and was served on 4 March 2021. |
| * The Council was consulted about the representation on 10 November 2022 and the Council’s response was made on 17 January 2023. |
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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 contained within the Rights of Way Circular 1/09 Version 2, October 2009 and published by the Department for Environment, Food and Rural Affairs details the following: 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.
3. To ensure consistency, the Council has a Statement of Priorities for investigation of Definitive Map Modification Order applications to establish the order in which they shall be determined. The Council normally investigates applications in chronological order of receipt although it exercises discretion to prioritise applications where delay could have consequences, and in the following circumstances: (i) there is a potential to satisfy an application by other means such as agreement with the landowner for a dedication or permissive path; or (ii) the extent of evidence and / or lack of opposition would involve minimal workload to conclude the matter.
4. The application from Steyning Parish Council was received by the Council on 5 March 2021 and is currently situate at number 19 on the Councils’ register of outstanding applications. There is nothing to suggest that the system employed by the Council is unreasonable, or that the application has been ranked incorrectly.
5. The Council have indicated that although it is difficult to provide a timeframe for determination, it is likely to be a further three years before this case is investigated. The Council also advised however, that as user evidence applications are given priority, it is possible that a determination on this case could be made before this. Steyning Parish Council are concerned that the application does not seem to be progressing up the list however the Council have advised that the application has moved forward six places, albeit then dropped two places due to the Council having received Directions for other applications. The Parish Council are also concerned that as time elapses, the likelihood of those able to take the case forward or give evidence will reduce in number, a concern that is acknowledged by the Council to unfortunately be the case with user evidence-based applications.
6. I do recognise that the Council has a Statement of Priorities to ensure fair ranking. I also appreciate that the issue of a direction would disadvantage those applications that have been waiting longer, as well as those that rank higher on the priority list. However, the applicant is entitled to expect their application to be determined within a finite and reasonable period and the Council have a statutory duty to keep their Definitive Map and Statement up to date. Difficulty complying with this due to a backlog or staff shortage is not an exceptional circumstance, as sufficient resources should be in place to deliver this statutory duty.
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, nearly two years has passed since the application was submitted and no exceptional circumstances have been indicated.
8. Correspondingly, I have decided that there is a case for setting a date by which time the application should be determined. I am mindful that the Council has recently lost three members of staff who held responsibility for investigating these applications and it is appreciated that due to this, the Council will require some extra time to conduct its investigation and make a decision on the application. A further period of 15 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** West Sussex County Council to determine the above-mentioned application not later than 15 months from the date of this decision.

A Behn

**INSPECTOR**