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| **Direction Decision** |
| **by Ian Radcliffe BSc(Hons) MRTPI MCIEH DMS** |
| **an Inspector on direction of the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 28 April 2023** |

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| **Refs: FPS/D3450/14D/162-167**  **Representations by Staffordshire Moorlands Bridleways Group**  **Staffordshire County Council**  **Applications to:**   * **Upgrade PF10 Onecote (Wetley Lane) to a Byway Open to All Traffic (OMA ref. 020623)** * **Add a Bridleway (Prestwood Lane) Ellastone (OMA ref. 020624)** * **Add a Bridleway at Wetside Lane, Wootton & from Dale Lane to BW17 Wootton (OMA ref. 020551)** * **Add a Bridleway at Wildhay Lane, Wootton (OMA ref. 020626)** * **Add a Bridleway, Michaels Lane, Wootton (OMA ref. 020555)** * **Add a Public Bridleway from River at Steps Cottage to A523 & Upgrade PF140 Waterhouses (part) & PF66 Waterhouses (part) to Bridleways (OMA ref. 020627)** |
| * The representations are 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 Staffordshire County Council to determine six applications for Orders, under Section 53(5) of that Act. |
| * The representations are made by Ms Shepherd of Staffordshire Moorlands Bridleways Group and are dated 12 December 2021. |
| * The certificates under Paragraph 2(3) of Schedule 14 are dated 5 May 2020 (3293287), 6 July 2020 (3293288 & 3293292), 7 July 2020 (3293289) and 10 July 2020 (3293290 & 3293291). |
| * The Council was consulted about your representations on 26 January 2022 and the Council’s response was made on 22 November 2022. |
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Decision

1. The Council is directed to determine the above-mentioned applications.

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 Rights of Way Circular 1/09 Version 2, was published by the Department for Environment, Food and Rural Affairs in 2009. It advises that the Secretary of State in considering whether, in response to 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.
2. The requests to direct the surveying authority, Staffordshire County Council (‘the Council’), were made on the basis that over a year had passed since the applications for the Orders had been submitted. Two and a half years have now passed since the applications were made. The applicant describes the situation for dealing with the applications as dire due to the lengthy list of outstanding cases awaiting determination by the Council. Based on the current rate of determination of applications they are of the opinion that if directions are not made it will take decades, or more, before the applications are dealt with. The Rights of Way Improvement Plan published in 2007 identifies that the area has considerably fewer bridleways than other parts of the country and that, as a result, priority should be given to applications for multi-user routes such as bridleways. The applications fall into this category.
3. The Council’s approach to dealing with applications is generally to do so in order of receipt. Two exceptions exist to this approach. Firstly, where the implementation of planning permission would result in the loss of the claimed way and all attempts to divert the route have been exhausted. Secondly, where there is evidence that the application has caused severe financial hardship to those who occupy or own the land that the claimed route crosses. Neither of these exceptions apply to the six applications that are the subject of this decision. The Council advised that the closure of the Records Office during the COVID-19 pandemic limited its ability to investigate applications. These circumstances though have now passed.
4. Based upon the list submitted by the Council, there are 147 applications awaiting investigation and determination. This is lower than the 279 applications referred to by the Council in its written response to the request for a direction and lower than the 251 outstanding applications referred to by the applicant. Given that the Council’s submitted list contains no applications later than 2012, I consider the higher numbers over 200 to be a more accurate assessment of the number of outstanding cases.
5. The Council’s approach to dealing with applications in date order, unless one or more of two exceptions apply, is fair and reasonable. However, the Council has a very considerable number of applications outstanding to determine that, based upon its own evidence, appear to date back as far 1990.
6. The resources that the Council has allocated to deal with applications are limited. The Council though has a statutory duty to keep its Definitive Map and Statement up-to-date and should allocate resources accordingly. Difficulties complying with that duty due to resource issues therefore cannot be considered to be an exceptional circumstance and it is not unreasonable in such situations for a Direction to be considered. 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. There are a significant number of applications that the Council has already been directed by the Secretary of State to promptly determine. I appreciate that the issuing of a direction to make six further determinations would add to this list and would disadvantage those on the Council’s list that have been waiting longer. It could also potentially delay applications which warrant greater urgency under the Council’s prioritisation system. However, these factors do not justify directions not being given in this instance when the 12 month period has comfortably expired.
8. The Council is unable to give a deadline for when the six applications will be determined. On the basis of the submitted evidence, it appears that it will take many years for the applications to be determined. The applicant is entitled to expect their applications will be dealt within a finite and reasonable period.
9. 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 these cases, approximately 30 months has passed since the applications were submitted and no exceptional circumstances have been demonstrated.
10. Taking all of the above matters into account, I have decided that a date should be set by which the applications should be determined. It is appreciated that the Council will require some time to conduct its investigations and make decisions on the applications. A further period of 12 months has therefore 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** Staffordshire County Council to determine the above-mentioned applications not later than 12 months from the date of this decision.

Ian Radcliffe

Inspector