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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: 11 August 2023** |

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| **Ref: ROW/3312988**  **Representation by John Andrews on behalf of Ramblers Suffolk Area**  **Suffolk County Council**  **Application to add a restricted byway known as Six Tree Road from the B1112 at TL 766738 to the A11 at TL 774768, in the parish of Icklingham (OMA ref. CPM994)** |
| * 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 the Suffolk County Council to determine an application for an Order, under Section 53(5) of that Act. |
| * The representation made by John Andrews is dated 9 December 2022. |
| * The certificate under Paragraph 2(3) of Schedule 14 is dated 9 December 2021. |
| * The Council was consulted about the representation on 20 December 2022 and the Council’s response was made on 24 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 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, in 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 circumstances.
3. Suffolk County Council’s (the Council) Statement of Priorities for determining definitive map modification order applications is contained within its Green Access Strategy 2020 which is the second Rights of Way Improvement Plan. Their objective is to make orders in the public interest. To achieve this the Council prioritises definitive map casework with the aim of delivering a public rights of way network that meets the needs of today’s users.
4. The Council meets six times a year to consider and prioritise new claims and public path order requests. Applications are prioritised using nine criteria. These criteria are 1) threat to existing or unrecorded route, 2) level of public interest, 3) value for money, 4) network improvement (ROWIP), 5) safety, 6) strength of evidence/ tests met, 7) resolves problems, 8) residential obstruction and 9) proposed development affecting route. Each criterion is scored out of ten and a weighted score is also allocated where applicable. The final priority score is the sum of both scores. These are used to rank each application as low, medium, or high.
5. This application was given a score of 14 which places it in the low priority rating. The Council has a total of 131 formal applications and 87 informal claims. There are 84 applications with a higher priority rating which have not been started, 65 of these are formal applications. Due to the number of higher priority applications, the Council advise that this application is unlikely to be determined for a considerable time. The British Horse Society also made an application for the same route, although they have not served notice on the landowner.
6. I recognise the Council has a significant number of applications before them and resources are limited. This makes it necessary to prioritise applications and the approach used appears to be reasonable. The applicant is concerned that some factors within the scoring system have nothing to do with public benefit. I consider that most of the criteria do relate to public benefit. The strength of evidence and value for money criteria appear to have less of a direct benefit in terms of recording paths but the Council must spend public money wisely. These are only 2 criteria out of 9 considered.
7. Nevertheless, the Council has a statutory duty to keep the definitive map and statement up to date and Circular 1/09 makes it clear they should ensure sufficient resources are allocated to meeting their statutory duties with regard to the protection and recording of public rights of way. As noted by the applicant, a lack of resources is not considered to be an exceptional circumstance for not determining applications. The applicant considers the Council should not plead a lack of resources whilst at the same time expending them on things it does not have to do.
8. I appreciate a direction to make a determination on the application before me would disadvantage applicants who have been waiting longer and delay applications with higher priority ratings. However, I do not consider these higher scoring applications should be grounds to justify not giving a direction when the 12 month determination period has expired. Furthermore, newer applications with a higher score could further delay the determination of this application.
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 this case, 18 months have passed since the application was submitted and no exceptional circumstances have been indicated.
10. In the circumstances I have decided there is a case for setting a date by which time the application should be determined. I appreciate the Council will require some time to carry out its investigation and make a decision on the application. I note an earlier application for this route has previously been investigated which would suggest the determination process would be quicker and easier this time. A period of 18 months would give the applicant assurance that this application will be determined within a reasonable timescale whilst also allowing time for other higher priority applications.

**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 Suffolk County Council to determine the above-mentioned application not later than 18 months from the date of my decision.

Claire Tregembo

INSPECTOR