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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: 06 July 2023** |

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| **Ref: ROW/3318471**  **Representation by Thomas A Pritchard**  **Shropshire Council**  **Application to add a footpath from the County Road by the Village Hall to Footpath 6 (OMA REF: 112)** |
| * 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 Shropshire Council to determine an application for an Order, under Section 53(5) of that Act. |
| * The representation made by Thomas A Pritchard, is dated 10 March 2023. * The certificate under Paragraph 2(3) of Schedule 14 is dated 21 February 2014. |
| * The Shropshire Council was consulted about the representation on 19 April 2023 and their response is dated 12 May 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, 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 circumstances.
3. Shropshire Council’s (the Council) Policy Statement No. 8 Definitive Map and Statement Modification Orders sets out its approach for determining the order in which applications should be determined. Applications are prioritised as follows: Priority Area 1 - North Shropshire and unreviewed parishes within Oswestry District, Priority Area 2 - all other outstanding areas which have not been reviewed, and Priority Area 3 - the rest of the county in relation to key historic documents.
4. Within these priority areas applications will be prioritised in accordance with key local demands identified through Shropshire’s Great Outdoor Strategy. These are high-priority missing links in the north of the county identified by the Discovering Lost Ways project, unrecorded routes which are clearly used, signed, and available on the ground where an omnibus order can be made, higher status claims, and key routes which would provide strategic links and are supported by strong historical evidence.
5. The application is within Priority Area 2 and sits at number 52 in the list of 177 awaiting determination. The Council accepts the application has been waiting for a significant amount of time and would prefer to resolve it, but it is not considered to be a high priority. They intend for one of their officers to commence investigation as they expect to be directed to make a determination. They request a reasonable amount of time to determine this application due to the resources available, other higher-priority claims, other directions and applications that are currently being investigated.
6. Authorities have a duty to keep the definitive map and statement (DMS) up to date and Circular 1/09 makes it clear that they should ensure sufficient resources are allocated to meeting their statutory duties with regard 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. The applicant is concerned by the lack of progress since 2013.
8. 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, almost 10 years have passed since the application was submitted and no exceptional circumstances have been indicated. It is appreciated that the Council will require some time to carry out its investigation and make a decision on the application, particularly given the other cases that are currently being investigated.
9. In the circumstances I have decided there is a case for setting a date by which time the application should be determined. I consider it appropriate to allow a further 9 months for a decision to be reached.

**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 Shropshire Council to determine the above-mentioned application not later than 9 months from the date of this decision.

Claire Tregembo

INSPECTOR