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| **Direction Decision** |
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| **by A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practicing)** |
| **an Inspector on direction of the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 28 July 2023** |

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| **Ref: ROW/3322572**  **Representation by Sharon McSherry**  **Derbyshire County Council**  **Application to modify the Definitive Map and Statement for the area by the upgrade of footpath no. 46 to a bridleway and to add a bridleway to Dove Head (OMA Ref: MH/100860)** |
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| * 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 Derbyshire County Council to determine an application for an Order, under Section 53(5) of that Act. |
| * The representation made by Sharon McSherry is dated 26 May 2023. |
| * The certificate under Paragraph 2(3) of Schedule 14 is dated 30 January 2021. |
| * The Council was consulted about the representation on 1 June 2023 and the Council’s response was made on 9 June 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. 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, 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 Council advises that it is currently dealing with over three hundred applications under section 53 of the 1981 Act, and that such applications are considered and determined in chronological order unless there is a valid reason to prioritise a particular application. In this instance, whilst providing no details of whether this application accords with any of the Council’s requirements for prioritising cases, the Council confirms that this application has been moved ahead of sixty-four older application cases.
3. The Council have put it to me that such applications are dealt with by a small team which makes every effort to determine these applications within twelve months of receipt. For the application that is the subject of this decision, the Council have advised that it is proposed to commence the necessary research to allow for determination of the application between December 2023 and February 2024.
4. Whilst I have noted and considered the information before me with regards to the substantial number of applications which are currently awaiting consultation and determination, 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 twelve months, under normal circumstances. In this case, more than two years has passed since the application was submitted and no exceptional circumstances have been identified by the Council, other than the lack of resources allocated to the determination of such applications.
5. I recognise that officers dealing with definitive map modification orders have other duties alongside determining such applications, and that to issue a Direction on this case could potentially delay the determination of other applications that have also been awaiting a decision. However, it is clear that Order Making Authorities should ensure that sufficient resources are devoted to meeting their statutory duties with regards to the protection and recording of public rights of way.
6. In the circumstances, I consider that there is a case for setting a date by which time the application should be determined. Given that the Council will require some time to carry out its investigations and make a decision on the application, it is reasonable to allow a period of six months to determine this application.

Direction

1. 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** Derbyshire County Council to determine the above-mentioned application no later than six months from the date of this decision.

Mr A Spencer-Peet

INSPECTOR