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| **Direction Decision** |
| **by R J Perrins MA** |
| **an Inspector on direction of the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 13 October 2023** |

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| **Ref: ROW/3311715****Representation by Trevor Boxer, Sandbach Footpath Group****Cheshire East Council****Application to add a footpath from Wrights Lane to FP14 Sandbach (OMA ref. CO/8/56)** |
| * 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 Cheshire East Council to determine an application for an Order, under Section 53(5) of that Act.
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| * The representation is made by Sandbach Footpath Group, dated 14 November 2022.
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| * The certificate under Paragraph 2(3) of Schedule 14 is dated 29 September 2021.
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| * The Council was consulted about your representation on 29 November 2022 and the Council’s response was made on 5 January 2023.
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Decision

1. The Council is not 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. 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[[1]](#footnote-1).
3. The application is for a definitive map modification order (‘DMMO’) to add a footpath to the Definitive Map and Statement of Public Rights of Way in the parish of Sandbach Heath, Sandbach. The Council confirm the application has been accepted and it is one of 44 DMMO applications on the Council’s list awaiting determination as of 5 January 2023. The application was prioritised at number 41. The Council advises that it is difficult, due to the Statement of Priorities, to give a timescale.
4. That is at a time when current staff resources are at a level where there will be an increase in the number of applications being processed. That should see a similar rate to pre-pandemic being achieved.
5. Against that background I accept that the route known as *Wrights Lane* may be under threat from development. A planning application (ref:22/0882C) includes the route within the site boundaries. The application proposes housing to the west of the proposed route and at the south-western end of the site, a proposal to build a road over it. The remainder of the path may also be enclosed by high boarded fences.
6. However, as the applicant sets out, it is not clear exactly what the developers have in mind for *Wrights Lane*. Moreover, the Council set out, and I agree, that there is no proposal to alter or construct anything on the claimed route that would obstruct it. The first part of the route is adopted and would be used as access to the development site and other properties.
7. Therefore, on the information currently available, it seems to me that the route is highly unlikely to be blocked. Furthermore, should any planning permission be granted the Council would review the DMMO in line with the Statement of Priorities and take it out of turn if necessary and deal with it as a priority, if the route was to be threatened by the development. For these reasons, I see no justification at this stage in prioritising the application.
8. In addition, there is no suggestion that the Council’s prioritisation system is unreasonable. I daresay that most, if not all, applicants would consider their application is important and deserving of priority. There are many other applications ranked higher in the Council’s list which are ‘high’ priority. To issue a direction to make a determination would disadvantage those who have been waiting longer. It would also invariably delay other applications warranting greater urgency under the Council’s prioritisation system.
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. However, in the current circumstances, which are it seems beginning to improve in terms of applications being processed, I have decided that there is not a case for setting a date by which time the application should be determined.
10. However, that will not preclude the applicant from making further representations to the Secretary of State in future if his application remains undetermined for an unreasonable period of time.

RJ Perrins

INSPECTOR

1. Rights of Way Circular 1/09 Version 2, October 2009. Department for Environment, Food and Rural Affairs. [↑](#footnote-ref-1)