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| **Direction Decision** |
| **by C Beeby (BA Hons) MIPROW** |
| **an Inspector on direction of the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 16 October 2023** |

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| **Ref: ROW/3319362****Application to upgrade to restricted byway the bridleway from Lilley 23 BOAT and Hexton 8 BOAT at the county boundary with Herts to Barton Road (OMA ref. STR/DMMO-56/AM)** |
| * 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 Central Bedfordshire Council to determine an application for an Order under Section 53(5) of that Act.
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| * The representation is made by Dr P D Wadey and is dated 26 March 2023.
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| * The certificate under Paragraph 2(3) of Schedule 14 is dated 28 April 2019.
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| * The Council was consulted about your representation on 14 June 2023 and the Council’s response was made on 15 June 2023.
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Decision

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

Reasons

1. Schedule 14 of the 1981 Act sets out provisions for applications made under section 53(5) for a definitive map modification order (DMMO). Authorities are required to investigate applications as soon as reasonably practicable and, after consulting the relevant district and parish councils, to 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 Council’s Statement of Priorities for Processing Public Rights of Way Applications sets out a priority system for dealing with public rights of way orders and agreements. DMMOs are prioritised fourth for processing, after some types of public path orders, and orders related to quarry restoration. Further weighted criteria are applied to DMMO applications, as set out in the Council’s Order of Processing of DMMO Applications: Prioritisation and Ranking documents. Such an approach appears reasonable.
4. The DMMO application was placed 17th in the priority list at the time of the Council’s response. The Council does not refer to any actions taken in respect of the application, although it expected it to be determined within 6 months at the time of its response.
5. The applicant submits that parliament expected DMMO applications to be investigated promptly and decisions on these to generally be reached within 12 months. He stated that almost four years had passed since the application met the requirement of paragraph 2 to Schedule 14 of the 1981 Act, compared to the 12-month period referred to in legislation.
6. The applicant considers that part of the route lies within the neighbouring authority of Luton, which intends to publish a new definitive map for its area. He submits that it would be in the interests of efficiency if this DMMO application could be determined before this, as it may prevent the need for two separate investigations.
7. I note the Council’s view that the application would be determined by the end of the year. Nevertheless, this appears optimistic given that there are at least ten preceding undetermined applications in the list, although the Council’s response states that the list had not been updated since a number of applications were determined.
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 your case, more than four years have passed since your application was submitted and no exceptional circumstances have been indicated. In the circumstances, I have decided that there is a case for setting a date by which time the application should be determined.
9. It is appreciated that the Council will require some time to carry out its investigation and make a decision on the application. Accordingly, a further period of six months has 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** the Central Bedfordshire Council to determine the above-mentioned application not later than six months from the date of this decision.

*C Beeby*

INSPECTOR

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