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| **Direction Decision** |
| **by A Behn Dip MS MIPROW** |
| **an Inspector on direction of the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 17 November 2023** |

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| **Ref: ROW/3293295 (FPS/D3450/14D/169)**  **Representation by Keele Parish Council**  **Staffordshire County Council**  **Application to add a public footpath between Quarry Bank Road and Staveley Place, Silverdale (Council ref. LH620G)** |
| * 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 Staffordshire County Council (the Council) to determine an application for an Order, under Section 53(5) of that Act. |
| * The representation is made by Keele Parish Council and is dated 16 November 2021. |
| * The certificate under Paragraph 2(3) of Schedule 14 was submitted 18 August 1998. |
| * The Council was consulted about the representation on 18 July 2023 and the Council’s response was made on 2 August 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 contained within the Rights of Way Circular 1/09 Version 2, October 2009 and published by the Department for Environment, Food and Rural Affairs details the following: 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.
3. The application from Keele Parish Council (the applicant) was submitted on 18 August 1998 and is ranked 60 of the 287 applications outstanding on the priority list. As the application is based on user evidence, the applicant is concerned that given the long period of time that has already elapsed since submission, many of the users may have moved away, become uncontactable or sadly passed away. As time progresses, they feel that there will be an increasing loss of first-hand evidence.
4. The applicant also submitted that the Council are only determining one application per year, a submission that the Council refute, advising they have presented 13 applications to its Countryside and Rights of Way Panel so far this year. Although sympathetic to the concerns of the applicant, the Council are unable to give an indication of when the application is likely to be determined, due to the backlog of applications awaiting determination, with 57 of these having already been subject to a Direction.
5. To ensure consistency, the Council applies priority criteria to all Definitive Map Modification Order (DMMO) applications in order to establish the order in which they shall be determined. The priority criteria state that DMMO applications should be investigated and determined in the order in which they are received, except where there are exceptional circumstances.
6. The first exceptional circumstance concerns cases where land affected by the route has received permission for development, the implementation of which, would mean the claimed way would be lost; and that all attempts to divert or otherwise cater for the route within the development have been exhausted. The second exceptional circumstance is where there is evidence of severe financial hardship caused to the owner / occupier of land from the existence of an application for addition of a route to the Definitive Map. There is nothing to suggest that the criteria employed for determining DMMO’s is unreasonable, or that this application meets the exceptional circumstances.
7. I do recognise that there are a large number of applications awaiting determination and that the Council has priority criteria to ensure fair ranking. I also appreciate that the issue of a direction would disadvantage those applications that have been waiting longer, as well as those that rank higher on the priority list. I also acknowledge that the Council are having to focus their attention on Directions rather than the priority criteria and I understand their concern that this is undermining their system. Nevertheless, the applicant is entitled to expect their application to be determined within a finite and reasonable period and the Council have a statutory duty to keep their Definitive Map and Statement up to date. Difficulty complying with this due to a backlog is not an exceptional circumstance, as sufficient resources should be in place to deliver this statutory duty.
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, more than 25 years have passed since the application was submitted and no exceptional circumstances have been indicated. Correspondingly, I have decided that there is a case for setting a date by which time the application should be determined. I am mindful that the Council has a backlog of Directions and that time will be required to carry out its investigation and make a decision on the application. Accordingly a further period of 18 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** Staffordshire County Council to determine the above-mentioned application not later than 18 months from the date of this decision.

A Behn

INSPECTOR