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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: 16 January 2024** |

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| **Ref: ROW/3325068**  **Representation by Michael J Peachey**  **Suffolk County Council**  **Application to add a restricted byway from Ferry Lane to Church Lane, Worlington (Council Ref: CPM 1008)** |
| * 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 Suffolk County Council to determine an application for an Order, under Section 53(5) of that Act. |
| * The representation is made by Michael J Peachey, dated 24 February 2023. |
| * The certificate under Paragraph 2(3) of Schedule 14 is dated 17 February 2022. |
| * The Council was consulted about the representation on 8 August 2023 and their response was made on 18 September 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 12 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 (DM) 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 particular circumstances.
3. Suffolk County Council’s (the Council) Statement of Priorities for determining definitive map modification order applications is contained within its Green Access Strategy 2020. Their objective is to make orders in the public interest. To achieve this the Council prioritises DM casework with the aim of delivering a public rights of way network that meets the needs of today’s users.
4. The Council meets six times a year to consider and prioritise new claims and public path order requests. Applications are prioritised using nine criteria. These criteria are 1) threat to existing or unrecorded route, 2) level of public interest, 3) value for money, 4) network improvement, 5) safety, 6) strength of evidence, 7) resolves problems, 8) residential obstruction and 9) proposed development affecting route. Each criterion is scored out of ten and a weighted score is also allocated where applicable. The final priority score is the sum of both scores. These are used to rank each application as low, medium, or high.
5. This application was given a score of 78.4 which places it in the high priority category. The Council have 139 formal applications, including 52 where the landowner has not been informed of the application, and 87 informal claims. There is only one application with a higher priority rating which has not been started and this is on hold whilst additional evidence is submitted. Therefore, this application will be the next one to be allocated for investigation.
6. The appellant considers the application route to be an important connection between two villages particularly given the volume of evidence, including 120 user evidence forms. They are concerned that, as time passes, witnesses will no longer be available to provide evidence. The appellant believes the Council does not have sufficient resources to deal with applications within 12 months.
7. However, Authorities have a duty to keep the DM up to date and Circular 1/09 makes it clear 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.
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 two years have passed since the application was submitted and no exceptional circumstances have been indicated.
9. The Council commenced its investigation of the application on 1 December 2023. The Council have not advised how long they expect their investigation will take but they will require some time to reach a decision on the application. To give certainty to the applicant, I will allow a period of six months by which time the application should be determined.

**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 Suffolk County Council to determine the above-mentioned application not later than six months from the date of this decision.

Claire Tregembo

INSPECTOR