

|  |
| --- |
| **Direction Decision** |
| **by Charlotte Ditchburn BSc (Honours) MIPROW** |
| **an Inspector on direction of the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 14 March 2024** |

|  |
| --- |
| **Ref: ROW/3308467**  **Representation by Loggerheads Parish Council**  **Staffordshire County Council**  **Application to add a footpath/bridleway from Hollins Bridge 58 on Shropshire Union Canal at the county boundary, to Tyrley Road at map reference SJ 6969 3293 (OMA ref. 018990)** |
| * 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 Loggerheads Parish Council, dated 6 October 2022. |
| * The certificate under Paragraph 2(3) of Schedule 14 is dated 22 October 2019. |
| * The Council was consulted about the representation on 6 December 2023 and the Council’s response was made on 11 December 2023. |
|  |

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 Loggerheads Parish Council (the applicant) was submitted on the 22 October 2019. The application was made as a result of obstruction of the path and is based on the evidence of 10 witnesses. As time progresses it is likely that there will be a loss of first-hand evidence.
4. The Council processes DMMO applications by order of receipt, with two exceptions, where cases will be given priority. These are, in certain circumstances, where planning permission for development of the land concerned has been received, or where there is evidence of severe financial hardship caused by the existence of an application for an addition of a route, to the owner/occupier of the land. Such an approach appears reasonable.
5. In this case the application has not been prioritised, it is ranked 255 of the 281 applications outstanding on the priority list. and the Council considers that it should not be prioritised over other applications which have been awaiting determination for longer, and that there are many other applicants who have similar concerns.
6. The applicant submits that the Council are not willing to provide an indicative date for determination of the application. The applicant also states that the Council is only progressing DMMO applications which are subject to a direction under Paragraph 3(2) of Schedule 14 of the 1981 Act. 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 52 of these having already been subject to a Direction.
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 4 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 12 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 Staffordshire County Council to determine the above-mentioned application not later than 12 months from the date of this decision.

Charlotte Ditchburn

INSPECTOR