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| **Direction Decision** |
| **by J Ingram LLB (Hons) MIPROW** |
| **an Inspector on direction of the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 25 March 2024** |

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| **Ref: ROW/3315784****Representation by Michael J Peachey****Suffolk County Council****Application to add a footpath from Mildenhall Bridleway 23 to the Centre of the public footway at Laburnum Avenue (Council ref. CPM 1000)** |
| * 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 Suffolk County Council (the Council) to determine an application for an Order, under Section 53(5) of that Act.
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| * The representation is made by Michael Peachey, dated 26 January 2023.
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| * The certificate under Paragraph 2(3) of Schedule 14 is dated 8 January 2022.
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| * The Council was consulted about the representation on 29 June 2023 and the Council’s response was made on 8 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. Initial checks have been made by the Council to ensure compliancy of the application and it has been duly registered. The case now awaits allocation to an Officer and investigation. To ensure consistency, the Council operates a policy of prioritisation for all Definitive Map Modification Order (DMMO) applications to establish the order in which applications shall be determined. The Council places emphasis on prioritising definitive map case work that is in the public interest. As well as the level of public interest, applications are scored against the following criteria: threat to an existing or unrecorded route, value for money, network improvement, safety, strength of the evidence, resolves a problem, residential obstruction and proposed development affecting the route. The score an application receives is used to determine the place on the Council’s list of DMMO applications outstanding.
4. The application from Michael Peachey was made on 18 December 2021. It was duly weighted using the above criteria and given a score of 18, the Council state this places the application in the low priority category. The Council include other areas of work on their prioritisation scheme spreadsheet including Public Path Orders. Taken altogether there are currently 77 order making cases ranked above this application. With regard to the formal DMMO cases there are currently 56 applications that are assigned a higher priority. There is nothing to suggest that the scoring system employed is unreasonable, or that the application has been scored incorrectly.
5. The Council have indicated that the application is unlikely to be determined for a considerable time. The Council does not consider the claimed path would provide a significant improvement to the existing rights of way network. Although it is recognised that it would provide a quicker link to bridleway 23 and the surrounding woodland, the Council state this would only have very local amenity value. From an initial assessment of the evidence provided by Mr Peachey, Officers do not consider it to be particularly strong.
6. I do recognise that there are a large number of applications awaiting determination, and that there is a policy of prioritisation to ensure fair ranking. However, the applicant is entitled to expect their application to be determined within a finite and reasonable period.
7. As the Council’s scoring system does not take account of the length of time an application has been waiting, there is the possibility of other higher scoring applications overtaking those that are already on the list awaiting determination. As low priority cases would only be commenced once the high and medium priority cases have been completed, there is a likelihood that this application would remain undetermined for a considerable amount of time.
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 2 years has passed since the application was submitted and no exceptional circumstances have been indicated.
9. In the circumstances I have decided that there is a case for setting a date by which time the application should be determined. It is appreciated that the Council will require some time to carry out its investigation and make a decision on the application. 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 Suffolk County Council to determine the above-mentioned application not later than 12 months from the date of this decision.

J Ingram

INSPECTOR