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| **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: 25 March 2024** |

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| **Ref: ROW/3332506**  **Representation by Paul Howland**  **Hampshire County Council**  **Application to add a Restricted Byway from SU38423885 (Southern End of Ivy Farm Lane) to SU39933719 (Intersection of Chilbolton parish boundary with Winchester Street) and from SU39413772 to SU40403850 (Junction with Martins Lane)**  **(Application Ref: DMMO 1193)** |
| * 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 Paul Howard, dated 23 November 2023. |
| * The certificate under Paragraph 2(3) of Schedule 14 is dated 19 July 2017. |
| * The Council was consulted about the representation on 8 November 2023 and the Council’s response was made on 18 January 2024. |
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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 Council’s policy guidelines set out the criteria under which applications can be prioritised as follows: a) the extent to which the claimed route would improve public safety, b) the extent to which the route would provide a link between existing public highways, population centres, or places of interest, c) where the determination of the claim would contribute to resolving an anomaly on the DMS. An application can also be taken out of turn and processed immediately if it can be demonstrated that the route is at risk of being physically lost, for example to development. If none of these criteria apply, a claim may also be processed immediately if, under consideration of the circumstances, it is considered expedient to do so. I consider this to be a reasonable approach.
4. The application was ranked at number 9 in the historic evidence priority List B1 with the Council determining that it did meet the criteria to receive priority status. They listed it as compliant with Schedule 14 on 27 July 2017, although it was in fact compliant on 19 July 2017 when the service of notice was completed. In total there are 243 applications awaiting determination, some dating back to 2009.
5. The Council have received a large volume of applications in the last five years. They have recently recruited two additional officers to tackle the backlog which should have doubled their processing power. However, the Council have been hampered by the departure of two officers and the long-term sickness of another, which has meant that for the best part of the last year the Council has had only one officer processing applications. The Council advises that this application is anticipated to be determined within the next two years.
6. The Council have a duty to keep the Definitive Map and Statement up to date and Circular 1/09 makes it clear that authorities should ensure that sufficient resources are allocated to meeting their statutory duties with regards to the protection and recording of public rights of way. A lack of resources would not be considered to be an exceptional circumstance for not determining applications.
7. 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 6.5 years have passed since the application was submitted. No exceptional circumstances have been indicated.
8. 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 6 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 6 months from the date of this decision.

Charlotte Ditchburn

INSPECTOR