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| **Direction Decision** |
| **by A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practicing)** |
| **an Inspector on direction of the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 21 March 2024** |

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| **Ref: ROW/3333480****Representation by Alasdair McEwan****Suffolk County Council****Application to add a footpath from TM 2416 48082 to TM 24205 47936 (Order Making Authority reference: 325/272/MG CPM901)** |
| * 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 Alasdair McEwan and is dated 17 November 2023.
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| * The certificate under Paragraph 2(3) of Schedule 14 is dated 10 March 2018.
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| * The Council was consulted about the representation on 17 January 2024 and the Council’s response was made on 19 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. As required by Rights of Way Circular 1/09 (Version 2, October 2009, Department for Environment, Food and Rural Affairs) 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 present application was made in March 2018. The Council acknowledges that it has not yet commenced a full investigation of the relevant application. The Council’s Statement of Priorities is contained within its Green Access Strategy 2020, which is the Councils’ second Rights of Way Improvement Plan. The Green Access Strategy provides that the Council ‘*will continue to prioritise definitive map case work in the public interest*’ with the aim of delivering ‘*a public rights of way network that meets the needs of today’s user*’. The Council confirms that officers meet six times per year to consider and prioritise new claims. The Council advises that, on receipt of a new application, confirmation of the date of the next prioritising meeting is provided to the Applicant and that, further to that meeting, the Applicant is informed as to priority assigned to their application.
4. At the date of their response, the Council’s register of Definitive Map Modification Orders shows there were 137 formal applications awaiting determination. Of those 137 cases, 52 comprise incomplete applications. The Council has put it to me that the number of outstanding applications is expected to decrease once the provisions of the Deregulation Act 2015 come into operation, and that the Council considers that approximately 15 of the 137 applications currently awaiting determination, would be unlikely to satisfy a preliminary evidential assessment test.
5. Using the current prioritising scheme, the Council assigned the present application a score of 48.4, and which placed the application at the top of the medium priority category for future investigation. At the date of the Council’s response there
were 31 cases which had been assigned a higher priority than the present application. The Council currently estimates that it is unlikely that the present application will be determined before 2027. The Council takes the view that, in an environment of limited resources, priority should be assigned to cases on the basis of potential public benefit rather than being based on the age of the application.
6. I acknowledge that the Council holds regular meetings to assess new claims, and I accept that the approach taken by the Council in prioritising cases is reasonable. Nevertheless, 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 5 years have passed since the application was submitted and, under the current priority system, it is likely to be 2027 before this present application is determined by the Council. Whilst I acknowledge the issues raised by the Council and the reference to having limited resources, the Council has a statutory duty to keep the DMS up to date, and no exceptional circumstances for the delay in determining the present application have been indicated.
7. In these circumstances, I have decided that there is a case for setting a date by which time the application should be determined. However, it is appreciated that the Council will require some time to carry out its investigation and make a decision on the application. Consequently, a further period of six 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** Suffolk County Council to determine the above-mentioned application not later than 6 months from the date of this decision.

Mr A Spencer-Peet

INSPECTOR