

|  |
| --- |
| **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: 25 March 2024** |

|  |
| --- |
| **Ref: ROW/3335881**  **Representation by K J Brockway**  **Derbyshire County Council**  **Application to add a footpath from Riber Road to Matlock Footpath 44 (OMA REF: 104496)** |
| * 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 Derbyshire County Council to determine an application for an Order, under Section 53(5) of that Act. |
| * The representation made by K J Brockway, is dated 20 December 2023. * The certificate under Paragraph 2(3) of Schedule 14 is dated 31 October 2022. |
| * The Derbyshire County Council was consulted about the representation on 31 January 2024 and their response is dated 14 February 2024. |
|  |

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 Council deal with applications in chronological order of receipt unless there is a valid reason to prioritise them. The applicant considers the application before me should be prioritised because many of those providing witness statements are elderly and their evidence could be lost if they are no longer able to provide it. A local resident has also been intimidating path users and the police have become involved.
4. The Council is dealing with 342 applications, 143 of which are waiting to be allocated to an officer for investigation. The Council has no comments to make on the special circumstances identified by the applicant. However, the application before me has been allocated ahead of the unallocated applications. The Council estimate it will take six to eight months to determine the application.
5. Authorities have a duty to keep the definitive map and statement up to date and Circular 1/09 makes it clear they should ensure that 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.
6. 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 15 months have passed since the application was submitted and no exceptional circumstances have been indicated.
7. In the circumstances, I have decided that there is a case for setting a date by which time the application should be determined. Given the Council’s estimated timescale for determining the application, a further period of eight 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 Derbyshire County Council to determine the above-mentioned application not later than eight months from the date of this decision.

Claire Tregembo

INSPECTOR