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| **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: 26 April 2024** |

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| **Ref: ROW/3317062****Representation by Stephen Parkhouse****Nottingham City Council****Application to add a Bridleway from City Boundary (SK548362) to Nottingham Footpath 303 Grove Cottage (SK557364) and upgrade Nottingham Footpaths 303 and 275 to Bridleway between Grove Cottage and Lenton Lane (previously known as Trent Lane) (from SK557364 to SK561368) (OMA ref. ROW/DMMO29/Lenton-Beeston)** |
| * 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 Nottingham City Council to determine an application for an Order, under Section 53(5) of that Act.
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| * The representation is made by Stephen Parkhouse, dated 20 February 2023.
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| * The certificate under Paragraph 2(3) of Schedule 14 is dated 4 March 2020.
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| * The Council was consulted about the representation on 17 October 2023 and the Council’s response was made on 17 November 2023.
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Decision

1. The Nottingham City Council (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 12 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’s Statement of Priorities for investigating applications is set out in their Rights of Way Improvement Plan. Generally, applications will be dealt with in order of receipt. Priority may be given to applications in the following circumstances; (1) applications to add pre-1949 ways where the application is supported by documentary evidence only, (2) ways that are regularly used for recreation or physical exercise, (3) ways that are used for commuting (4) where applications are received in close succession, the application supported by the higher number of user evidence forms, and (5) ways which are either obstructed, at risk of obstruction, or otherwise not open to the public. I consider this is a reasonable approach.
4. There are 34 applications on the Council’s Register of Applications. The application before me sits at number 29 (App.29) on the list. However, most of the applications above it and four received after it have already been determined. Therefore, there are only seven applications awaiting determination.
5. The evidence in support of App.29 is based on pre-1949 documentary evidence. A small section of App.29 is obstructed by a building but access around it is still possible, and a diversion has been discussed with the landowner. Application number 34 (App.34) is under threat of closure following the erection of a notice stating the bridge will be closed. The other undetermined applications are open and available for use. Therefore, the Council believe that App.34 should have priority and they intend to investigate this first followed by App.29. They hope to determine App.29 in November 2024.
6. The applicant considers everyone is entitled to a fair and public hearing within a reasonable amount of time by an independent and impartial tribunal, as enshrined in the Human Rights Act 1998.
7. Furthermore, 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 four years have passed since the application was submitted and no exceptional circumstances have been indicated. In the circumstances I have decided that there is a case for setting a date by which time the application should be determined.
8. The Council intends to determine this application by the end of the year. To give certainty to the applicant that this will be achieved, I will issue a direction for the application to be determined by the end of 2024.

**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 Nottingham City Council to determine the above-mentioned application not later than 31 December 2024.

Claire Tregembo

INSPECTOR