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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: 09 May 2024** |

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| **Ref: ROW/3337455**  **Representation by Julia Willerton**  **Nottinghamshire County Council**  **Application to add a Footpath from Misson Bridleway No.2 to Station Road and from Station Road to Misson Footpath No.3 at Bryan's Close Lane**  **(Application Ref: [1291])** |
| * 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 Nottinghamshire County Council to determine an application for an Order, under Section 53(5) of that Act. |
| * The representation is made by Julia Willerton, dated 22 January 2024. |
| * The certificate under Paragraph 2(3) of Schedule 14 is dated 22 January 2019. |
| * The Council was consulted about the representation on 7 February 2024 and the Council’s response was made on 19 March 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 12 months of the authority’s receipt of certification that the applicant has served notice of the application on affected landowners and occupiers in accordance with paragraph 2 of Schedule 14.
2. As required by Rights of Way Circular 1/09 (Version 2, October 2009: Department for Environment, Food and Rural Affairs at paragraph 4.9) 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. Thus, each case must be considered on its individual facts.
3. This application was made in December 2018 and seeks to record a footpath giving access between Misson Bridleway No.2 to Station Road and from Station Road to Misson Footpath No.3 at Bryan’s Close Lane. The application is supported by user evidence forms.
4. The Council acknowledge that no progress has been made towards the determination of the application. It is the Council’s policy to deal with applications in chronological order according to the date of receipt. The policy details what exceptions can be made to this basic policy and these can be summarised as public benefit, householder detriment, blocking of path, claim based on long use and threat to use from development. The Council accept that two of these criteria have met but do not consider the impact sufficient to give the application priority over similar applications which have been waiting longer for determination. The Council estimates, given its current resources, that this application will take at least 10 years to be decided.
5. It is appreciated that if a direction is given in this case, then the determination of other applications will be affected. However, I do not consider that the current delay in determining this application, and the likely future delay, can be viewed as reasonable. 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, notwithstanding the issues raised by the Council, no exceptional circumstances have been indicated by them for not determining it. The current timescale to determine this application cannot be considered to be reasonable.
6. 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** Nottinghamshire County Council to determine the above-mentioned application not later than 6 months from the date of this decision.

Charlotte Ditchburn

INSPECTOR