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| **Direction Decision** |
| **by C Beeby BA (Hons) MIPROW** |
| **an Inspector on direction of the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 9 May 2024** |

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| **Ref: ROW/3321042**  **Representation by Dr Philip Wadey**  **Hertfordshire County Council**  **Application to add a bridleway from Rickmansworth BW 19 to Shepherd’s Lane (OMA ref. 3R/102)** |
| * 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 Hertfordshire County Council to determine an application for an Order, under Section 53(5) of that Act. |
| * The representation is made by Dr P D Wadey, dated 26 March 2023. |
| * The certificate under Paragraph 2(3) of Schedule 14 is dated 7 June 2019. |
| * The Council was consulted about your representation on 14 June 2023 and the Council’s response was made on 27 June 2023. |
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Decision

1. The Council is directed to determine the above-mentioned application.

Reasons

1. Authorities are required to investigate definitive map modification order (DMMO) applications as soon as reasonably practicable and, after consulting the relevant district and parish councils, to 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 authority has submitted a copy of its Statement of Priorities in respect of DMMO and public path orders, a list of outstanding DMMOs and a copy of its DMMO Prioritisation Form showing the criteria by which applications are prioritised. These indicate that applications are dealt with according to three key principles, which are where public safety could be substantially improved, according to the level of use and where the Council’s actions could result in a significant positive impact on the network. DMMO applications are additionally prioritised subject to three further criteria, namely where a route’s physical existence is threatened, where substantially the same evidence as another route would be considered and hence cost or efficiency savings would apply, and where there is only user evidence available. Such an approach appears reasonable.
4. At the date of the authority’s response the application in question was 29th in the priority list, out of 339 applications. The Council does not refer to any actions having been taken to investigate the application, and states that it cannot provide an accurate timescale for its investigation and determination due to various factors.
5. The applicant submits that Schedule 14 of the Wildlife and Countryside Act 1981 clearly envisages a timescale in the order of a year for the determination of DMMO applications. He cites guidance within Circular 1/09 referring to the need to investigate applications as soon as reasonably practicable. He considers that no scheme of prioritisation can prevent the loss of evidence as time goes on.
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 your case, almost four years have passed since your certificate under paragraph 2(3) of Schedule 14 was submitted and no exceptional circumstances have been indicated. In the circumstances, I consider that there is a case for setting a date by which the application should be determined.
7. It is appreciated that the Council will require some time to carry out its investigation and to make a decision on the application. Accordingly, 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** the Hertfordshire County Council to determine the above-mentioned application not later than six months from the date of this decision.

C Beeby

INSPECTOR