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| **Direction Decisions** |
| **by Paul Freer BA (Hons) LLM PhD MRTPI** |
| **an Inspector on direction of the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 3 June 2024** |

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| **Ref: ROW/3334162, 3334192, 3334201, 3334205, 3334369 & 3334471**  **Representation by Ian Witham, Open Spaces Society**  **Norfolk County Council**  **ROW/3334162: application to add to the particulars of that part of the footpath, in the parish of Mattishall, starting from Thynne Lane and running northwards, crossing Footpath No. 12 to join Footpath No. 5, from where it crosses the Mattishall Footpath No. 12 to where it joins the Mattishall Footpath No. 5, by adding a width and providing a statement as to limitations or conditions on the public's rights (OMA ref. 72169/HP292/2)**  **ROW/3334192: application to add to the particulars of the footpath, in the parish of Worstead, from a point on the west side of C397 Frogs Lane near Sandy Hill, skirting the periphery of the poultry units/dwelling site on the northeast and east side, running along the top of the embankment of the A149 North Walsham Bypass, then running down the embankment and crossing the bypass, continuing north westwards to the Parish Boundary, and, in the parish of North Walsham, commencing from Yarmouth Road, just south-east of Scarborough Hill House, and running southwards to the former Urban District Southern Boundary, by adding a width and providing a statement as to limitations or conditions on the public's rights (OMA ref. 72163/HP528/1)**  **ROW/3334201: application to add to the particulars of the footpath, in the parish of Cley-next-the-Sea, from Blakeney Footpath No. 15 at its junction with the parish boundary to Footpath No. 5 in the parish of Wiveton by adding a width and providing that there are no limitations or conditions on the public's rights (OMA ref. 71548/HP99/7)**  **ROW/3334205: application to add the byway open to all traffic from a point just to the north-east of 1 Tower Lane, at the grid reference TG 2569 4014, running in a broadly easterly direction as far as the route's physical end, in the parish of Sidestrand, and application to add to the particulars of the said way by providing that the width is that shown excluded from the hereditaments on the Finance Act 1910 Valuation Plan and that there are no limitations or conditions on the use of the route by the public (OMA ref. 71769/HP393/1)**  **ROW/3334369: application to add the restricted byway from Church Road (C418) at the grid reference TG 3358 3355 to the south-west corner of the church yard of St. Andrew's Church at the grid reference TG 3356 3364 in the parish of Bacton (OMA ref. 71547/HP21/8)**  **ROW/3334471: application to add the restricted byway from the Corner Common Road, in the parish of Honing, at the grid reference TG 3180 2816 to reach a point level with the Old Corner Common at grid reference TG 3153 2814, and continuing westwards and north-westwards as far as a point level with a parcel of common land at grid reference TG 3121 2828 in the parish of Honing (OMA ref.** **72153/HP233/5)** |
| * The representations are 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 Norfolk County Council to determine an application for an Order, under Section 53(5) of that Act. |
| * The representations are made by Ian Witham, dated 31 October 2023 (3334162, 3334192, 3334201 and 3334205), 1 December 2023 (3334369) and 4 December 2023 (3334369). |
| * The certificates under Paragraph 2(3) of Schedule 14 are dated 12 June 2021 (3334369), 21 August 2021 (3334201 and3334205), 24 September 2012 (3334162), 2 October 2021 (3334192),and 9 October 2021 (3334471). |
| * The Council was consulted about your representations on various dates during November and December 2023, and the Council’s joint response was made on 18 January 2024. |
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Decision

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

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. These applications have been outstanding for periods of between 24 and 32 months. The Council confirms that the applications have all been registered and, with the exception of one (3334471), consultations have been sent out. The Council also confirms that, on the date of its response, there were 201 applications to modify the Definitive Map pending determination. The applications to which the representations relate are listed at positions between 137 and 152 on that list. The Council concedes that, if the applications on that list are determined in accordance with its prioritisation policy, it is likely that it will be some considerable time until these cases are addressed. The Council sets out no precise timescale for the determination of these applications.
4. The consistent theme of the Direction requests is that of defining the width, obstructions or maintenance of the routes. These are clearly matters of importance to the applicant but, from the representations made, it does not appear necessary to address these matters with the utmost urgency. Moreover, there is nothing before me to suggest that these applications have any inherent value which is any greater than other applications ahead of them on the Council’s list. But that does not mean that the applications should be left dormant for a long period. A balance needs to be struck.
5. The Council indicates that it is experiencing a great increase in modification applications, citing a 500% increase in workload but with only a 25% increase in resources to deal with them. The Council considers that the workload is therefore not sustainable.
6. I am also mindful that these applications were all made after the Coronavirus pandemic in and around 2020. The Coronavirus pandemic inevitably delayed the investigation and consideration of applications that were already in the system at that time. It follows that applicants whose proposals for modifying the Definitive Map were already in the system at that time have already experienced a delay in their applications being processed. That delay was out of the Council’s control.
7. The applicant has submitted the representations for directions to be made on all 6 applications at the same time. Investigating and processing these applications will require considerable time spent on them and will have significant implications for the limited resources available to the Council. Directing that these applications should be determined will also have significant implications for the considerable number of applicants whose applications are chronologically and sequentially ahead of these applications in the queue.
8. 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, between two and three years has passed since the applications were submitted. It is appreciated that the Council will require some time to carry out its investigation and make a decision on the applications. Taking into account all the circumstances, including the lingering impact of the Coronavirus pandemic, a further period of 18 months has been allowed.
9. In the circumstances I have decided that there is a case for setting a date by which time the application should be determined.

**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 Norfolk County Council to determine the above-mentioned applications not later than eighteen (18) months from the date of this letter.

Paul Freer

INSPECTOR