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| **Direction Decision** |
| **by Laura Renaudon LLM LARTPI Solicitor** |
| **an Inspector on direction of the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 20 January 2025** |

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| **Ref: ROW/3345226**  **Representation by Ian Witham**  **Norfolk County Council**  **Application to upgrade to a restricted byway the footpath in the parish of Overstrand from the Cromer Road, running southwards then south eastwards crossing the railway to join the northern end of the Public highway at the parish boundary and adding to the particulars of the aforementioned 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; and adding the byway open to all traffic in the parish of Northrepps from the southern end of the aforementioned way, running broadly south-westwards to meet a metalled a section of road, at the grid reference TG 2460 3974 (OMA ref 71574/HP334/3)** |
| * 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 Norfolk County Council to determine an application for an Order, under Section 53(5) of that Act. |
| * The representation is made by I M Witham, dated 16 February 2024. |
| * The certificate under Paragraph 2(3) of Schedule 14 is dated 21 August 2021. |
| * The Council was consulted about the representation on 30 May 2024 and the Council’s response was made on 30 August 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 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 application is dated 15 April 2021 and nearly 140 applications precede it in accordance with the Council’s stated priorities which are to deal with applications received in chronological order unless specific considerations arise. That is not an unreasonable approach, but the Council explains that it is dealing with a considerable increase in modification applications without the increase in resources to match.
4. The consequence of a direction would potentially be to delay other applications. In relation to this particular application, the Council say that part of the route is already recorded as an unclassified road and therefore a successful application would not result in the recording of any greater public rights than already exist. There is therefore no reason to prioritise the application.
5. Nonetheless the application is currently awaiting ‘sign-off’ and a decision is expected shortly. No particular timescale has been indicated, although the table of applications sent by the Council indicates that a report is being drafted.
6. The applicant states that part of the route which is the subject of the application has been signposted by the council as a footpath, thus giving the impression to other categories of public user that they may not necessarily be able to use the route. The route is of a high amenity value, not least because it lies within the statutory Norfolk Coast Area of Outstanding Natural Beauty, and the application to clarify the route's correct status now needs to be determined as a matter of urgency.
7. The applicant also expresses a general concern that the Council appears to be falling behind in dealing with Definitive Map applications, even those already subject to directions. Without a direction, the applicant considers that there can be no expectation of a decision in the reasonably near future.
8. The Council has a duty to keep the Definitive Map and Statement up to date and Circular 1/09 makes it clear that authorities should ensure that sufficient resources are allocated to meeting their statutory duties with regards to the protection and recording of public rights of way. A lack of resources would not be considered to be an exceptional circumstance for not determining applications. It is appreciated that if a direction is given in this case, then the determination of other applications might be affected, although it appears from the Council’s representation that a decision is expected reasonably soon.
9. 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, nearly four years have passed since the application was submitted and, although the Council is dealing with a marked increase in the number of applications, these do not in themselves amount to exceptional circumstances. It is appreciated that the Council will require some time to complete its investigation and make a decision on the application. A further period of six months has been allowed.
10. 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 application not later than six months from the date of this decision.

Laura Renaudon

INSPECTOR