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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/3346383****Representation by Ian Witham****Norfolk County Council****Application to add a restricted byway from St. Villiers Road (U19233), in the parish of Honing, at the grid reference TG 3365 2732 to Honing Common at grid reference TG 3375 2700; and upgrading to a restricted byway the footpath from Honing Common Road north-eastwards as far as where the path turns to head south-eastwards, at the grid reference TG 3382 2716, in the parish of Honing; and adding to the particulars of the said ways 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 61354/HP3/1)** |
| * 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.
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| * The representation is made by I M Witham, dated 8 June 2024.
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| * The certificate under Paragraph 2(3) of Schedule 14 is dated 24 April 2021.
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| * The Council was consulted about the representation on 14 June 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 was made in March 2021, and according to the Council is registered and ready for consultations to begin. However, based on the Council’s statement of priorities and workload list, a decision is not imminent.
4. The Council’s priorities are to deal with such applications in chronological order unless specific considerations apply. None of those do apply here: there is no claim that the route is threatened by development or that a determination would progress any particular target of the Council’s Access Improvement Plan. Nor does it rely on the evidence of users, which would potentially be another reason for prioritising a determination.
5. The operational need identified by the applicant is that the route leads directly to an area of registered common land over which the public enjoy a statutory right of access, and connects a route presently recorded on the Definitive Map as a cul-de-sac footpath. On the information before me it is not possible to say that these operational needs are overriding, which would be another reason for prioritising the consideration of the application. The applicant nonetheless expresses a general concern that the Council appears to be falling behind in dealing with Definitive Map applications, including those already subject to directions. He does not anticipate that a decision will be forthcoming on the application in the reasonably near future in the absence of a direction.
6. In the light of the factors identified in the Council’s statement of priorities that would justify an early consideration of the application, the Council’s decision not to prioritise this application appears to me reasonable. Nonetheless 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.
7. A lack of resources would not be considered to be an exceptional circumstance for not determining applications. 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. In this case, almost four years have passed since the application was submitted and no exceptional circumstances have been indicated. 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 12 months has been allowed in view of the Council’s current shortfall in resources which will take some time to fill.
8. 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 12 months from the date of this decision.

Laura Renaudon

INSPECTOR