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| **Direction Decision** |
| **by A Behn Dip MS MIPROW** |
| **an Inspector on direction of the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 27 March 2025** |

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| **Ref: ROW/3357515**  **Representation by Peter Gallagher on behalf of the Ramblers**  **Swindon Borough Council**  **Application to add a footpath between FPHH37 and Shrivenham Road, Highworth (Council ref. HH40)** |
| * 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 Swindon Borough Council (the Council) to determine an application for an Order, under Section 53(5) of that Act. |
| * The representation is made by Peter Gallagher on behalf of the Ramblers (the applicant) and is dated 10 December 2024. |
| * The certificate under Paragraph 2(3) of Schedule 14 is dated 15 January 2021. |
| * The Council was consulted about the representation on 24 December 2024 and the Council’s response was made on 3 February 2025. |
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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 the 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 in question was made on 15 January 2021 following obstruction of the claimed footpath by the landowner in 2020. The applicant, whilst appreciating the limited Council resources for determining such applications, is concerned that should the application result in the need for a public inquiry, there needs to be a sufficient number of footpath users still available to be heard by an Inspector.
4. The Council advised that they have not adopted a Statement of Priorities to rank applications, but deal with them in chronological order of receipt. They have 5 applications outstanding, of which this case is second in line to be determined.
5. Whilst the Council acknowledge the reason for the Ramblers seeking a direction, they state that all of their registered applications are user evidence based and can see no reason why this application should be dealt with out of line. They consider that the application can be described as partially determined, in that the new landowner has been approached with regard to the possibility of the application route being dedicated.
6. The Council only have one officer dealing with rights of way as well as managing other highway responsibilities, a workload that was previously undertaken by 2.5 people. The Council’s current budget situation does not allow additional resources to be allocated to public rights of way and they feel that a direction will redirect scarce officer resources. The Council commented that statute does not specify timescales for fulfilling statutory duties, or the level of resources required, however 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. The Council have a statutory duty to keep their Definitive Map and Statement up to date and although I appreciate the budgetary constraints, difficulty complying with this duty due to restricted officer time is not an exceptional circumstance, as proportionate resources should be in place to deliver this statutory duty.
8. More than four years have passed since the application was submitted and no exceptional circumstances have been indicated. I acknowledge the Council’s request for the Secretary of State to defer any direction decision for 12 months, to enable continued discussions with the new landowner, however the prospective wait of a further year is well beyond the expectation of determination under the legislation, and the applicant is entitled to expect their application to be determined within a finite and reasonable period.
9. Correspondingly, 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 time to carry out its investigation and make a decision on the application and taking this into consideration, 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** Swindon Borough Council to determine the above-mentioned application not later than 6 months from the date of this decision.

A Behn

INSPECTOR