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| **Direction Decision** |
| **by J Ingram LLB (Hons) MIPROW** |
| **an Inspector on direction of the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 3 April 2025** |

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| **Ref: ROW/3359044**  **Representation by Philip Johnson**  **West Sussex County Council**  **Application for the addition of a footpath along Springlands Lane between FP 2563/1 and FP 2566/1, Henfield (Council Ref: DMMO 6/24)** |
| * 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 West Sussex County Council (the Council) to determine an application for an Order, under Section 53(5) of that Act. |
| * The representation is made by Philip Johnson, dated 15 January 2025. |
| * The certificate under Paragraph 2(3) of Schedule 14 is dated 11 January 2024. |
| * The Council was consulted about the representation on 20 January 2025 and the Council’s response was made on 22 January 2025. |
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Decision

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

Reasons

1. On 11 January 2024 Mr P Johnson made an application to the Council. This sought to record on the Definitive Map and Statement a footpath in Henfield. The evidence adduced in support of the claimed footpath is user evidence, a total of 46 forms were submitted to the Council.
2. 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 in accordance with paragraph 2 of Schedule 14.
3. Current guidance contained within the Rights of Way Circular 1/09 Version 2, October 2009 and published by the Department for Environment, Food and Rural Affairs details the following: 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.
4. Initial checks have been made by the Council to ensure compliancy of the application and it has been duly registered. The case now awaits allocation to an Officer and investigation. The Council normally investigates applications in chronological order of receipt, unless prioritisation is justified by one of the circumstances listed in their Statement of Priorities – where there is potential to satisfy an application by another means such as landowner agreement for a dedication or a permissive path; or the extent of the evidence and/or the lack of opposition would involve minimal work to conclude the matter. Applications subject to a determination date provided by the Planning Inspectorate are also taken out of turn.
5. There is nothing to suggest that the chronological system employed is unreasonable, however, authorities are expected to allocate sufficient resources to fulfil their statutory duty to keep the Definitive Map and Statement up to date.
6. The Council state that the circumstances of this application, including the special circumstances highlighted by the applicant, do not currently warrant expedition according to their statement of priorities. The application is currently positioned at number 68 out of a total of 75 outstanding applications. The Council estimate it may be a further 10 years before this case will be determined.
7. The application is based on the evidence of 46 witnesses. The applicant refers to the long-established nature of the footpath, he claims the footpath has been in existence and used regularly by local residents in excess of 80 years. As access is currently being denied, the applicant states there are an estimated 1200 people adversely affected by the delayed determination of the application.
8. In addition, the applicant raises concerns as he believes the delay will severely compromise the ability of older witnesses to give their evidence. He further comments that the claimed route provides off road connections to several popular community amenities. The alternative route is a busy single track road and there is no room for pedestrians, this raises safety concerns in particular for the elderly, disabled and parents with pushchairs.
9. I do recognise that there are a large number of applications awaiting determination, and that there is a policy of prioritisation to ensure fair ranking. However, the applicant is entitled to expect their application to be determined within a finite and reasonable period and the Council have a statutory duty to keep their Definitive Map and Statement up to date. Difficulty complying with this due to insufficient staff and a backlog are not exceptional circumstances, as proportionate resources should be in place to deliver this statutory duty.
10. 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, 12 months have now passed since the application was submitted and no exceptional circumstances for the delay have been indicated.
11. In the circumstances 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 some time to carry out its investigation and make a decision on the application. Accordingly, I propose to allow a further period of 12 months for a decision to be made.

**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 West Sussex County Council to determine the above-mentioned application not later than 12 months from the date of this decision.

J Ingram

INSPECTOR