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| **Direction Decisions** |
| **by J Ingram LLB (Hons) MIPROW** |
| **an Inspector on direction of the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 1 April 2025** |

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| **Ref: ROW/3355205****Representation by Nicola Binns (on behalf of the British Horse Society)****Worcestershire County Council****Application to add a bridleway from SO 662703 on the County boundary with Shropshire to SO 663698 at the junction with the A456 in the parish of Lindridge (Council ref. M2040 Lindridge)** |
| * 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 Worcestershire County Council (WCC) to determine an application for an Order, under Section 53(5) of that Act.
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| * The representation is made by Nicola Binns, dated 4 November 2024.
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| * The certificate under Paragraph 2(3) of Schedule 14 is dated 7 July 2020.
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| * WCC was consulted about the representation on 28 November 2024 and the Council’s response was made on 28 November 2024.
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| **Ref: ROW/3355119****Representation by Nicola Binns (on behalf of the British Horse Society)****Shropshire County Council****Application to add a bridleway from SO 662709 in the parish of Neen Sollars to SO 662703 on the County boundary with Worcestershire (Council ref. 160)** |
| * 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 Shropshire County Council (SCC) to determine an application for an Order, under Section 53(5) of that Act.
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| * The representation is made by Nicola Binns, dated 4 November 2024.
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| * The certificate under Paragraph 2(3) of Schedule 14 is dated 7 July 2020.
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| * SCC was consulted about the representation on 28 November 2024 and the Council’s response was made on 9 January 2025.
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Decisions

1. WCC and SCC are 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. 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.
3. This application for the addition of a bridleway is essentially one route, it does however, cross the County boundary, therefore the applicant has applied to both WCC and SCC for the sections in their respective counties. Initial checks have been made by WCC and SCC and the applications have been duly registered. The cases now await investigation.
4. The applicant states that the case is supported by both historical and user evidence. However, many of the witnesses are elderly, one has passed away. The applicant is concerned that other witnesses may pass away or be too frail to give their evidence in the future if they are required to do so.
5. Both Councils operate a policy of prioritisation for all Definitive Map Modification Order (DMMO) applications to establish the order in which applications shall be determined. WCC places emphasis on prioritising definitive map case work that is affecting the most people or has the greatest potential effect on the network.
6. WCC states applications are scored against the following criteria: conflict resolution, proposed development affecting the route, effective use of resources, the level of support the application has received, the effect on the wider public rights of way network and the objectives of the Rights of Way Improvement Plan (ROWIP). The score an application receives is used to determine the place on the list of outstanding DMMO applications.
7. SCC have three priority areas, which area an application is placed is dependant on the location of the claim and whether or not the parish has been reviewed. In addition, applications within the three areas are prioritised in accordance with key local demands identified through the Shropshire’s Great Outdoors Strategy. These are: high priority missing links; an omnibus order for routes with unrecorded outlets which are clearly used, signed and available on the ground; prioritisation of higher status claims; and key routes which provide strategic links and are evidenced by strong historical evidence. Further, it is stated that there may be occasions when public interest applications are dealt with outside of this programme. For example, when a claimed route is threatened by development, or the application would significantly improve public safety; such applications are dealt with in order of receipt.
8. The application from Nicola Binns was made on 1 June 2020. It was duly weighted using the above criteria by each authority. WCC state with a score of 9, this places the application at number 25 out of 75 applications on the register. SCC state that due to other priority applications and the resources available this application is not considered to be a priority. It is placed within priority area 3 as it is within an area which has already had a full parish review. On their register the application is ranked at number 94 out of 176 applications. There is nothing to suggest that either priority system employed is unreasonable, or that the application has been incorrectly ranked.
9. WCC have indicated that the application is unlikely to be determined for at least 7 years. They acknowledge there is a benefit to talking to witnesses who have provided evidence and agree that the passage of time can mean that some people are no longer available. However, they state that many applications rely on user evidence, they do not believe that talking to users quickly is any more of a priority than any other higher priority application on the register. SCC have confirmed to the applicant that no action is likely on this application in the coming years.
10. I do recognise that there are a large number of applications awaiting determination, and that both WCC and SCC have a policy of prioritisation to ensure fair ranking. However, the applicant is entitled to expect their applications to be determined within a finite and reasonable period.
11. As neither Council’s priority system does not take account of the length of time an application has been waiting, there is the possibility of other higher scoring applications overtaking those that are already on the list awaiting determination. There is a likelihood that these applications could remain undetermined for a considerable amount of time.
12. 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, almost 5 years has passed since the applications were submitted and no exceptional circumstances for the delay have been indicated.
13. In the circumstances I have decided that there is a case for setting a date by which time the applications should be determined. It is appreciated that WCC and SCC will require some time to carry out their investigations and make decisions on the applications. A further period of 6 months has been allowed.

**Directions**

**ROW/3355205**

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 Worcestershire County Council to determine the above-mentioned application not later than 6 months from the date of this decision.

**ROW/3355119**

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 Shropshire County Council to determine the above-mentioned application not later than 6 months from the date of this decision.

J Ingram

INSPECTOR