

|  |
| --- |
| **Direction Decision** |
| **by Claire Tregembo BA (Hons) MIPROW** |
| **an Inspector on direction of the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 20 May 2025** |

|  |
| --- |
| **Ref: ROW/3356465****Representation by Lynn Lewin, Maun Valley Community Group****Nottinghamshire County Council** **Application to add a footpath from New Mill Lane to Warren Farm, Spa Ponds (OMA Ref: 1329)**  |
| * The representation is made under paragraph 3(2) of Schedule 14 of the Wildlife and Countryside Act 1981 seeking a direction to be given to the Nottinghamshire County Council to determine an application for an Order, under section 53(5) of that Act.
 |
| * The representation made by Lynn Lewin is dated 15 November 2024.
* The certificates under paragraph 2(3) of Schedule 14 are dated 20 February 2023 and 6 June 2023.
 |
| * The Nottinghamshire County Council was consulted about the representation on 24 January 2025 and their response is dated 26 March 2025.
 |
|  |

Decision

1. The Nottinghamshire County Council (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 12 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 currently sits at number 216 out of 230 applications awaiting determination. The Council estimates it will be 13 years before they begin investigating it.
4. The Council’s Rights of Way Management Plan 2018-2026 sets out that applications will be determined in chronological order or receipt unless certain exceptions are made. The exceptions are: 1) where the public benefit to be gained is of more than limited impact, 2) where a claim affects a householder in proving the existence or non-existence of a right of way, 3) where a claimed route is triggered by an event such as fencing off the line of a regularly used path, 4) where an application is claimed on 20 years use the personal circumstances of path users will be taken into account, 5) where a claimed route is under threat due to development or major road scheme.
5. The Council considers this application meets exceptions 1, 3, and 4. However, other applications also meet these exceptions, and the Council does not see a case for expediating it over older applications. Furthermore, the three officers dealing with applications are currently working on older cases and directions.
6. Authorities have a duty to keep the definitive map and statement up to date and Circular 1/09 makes it clear they should ensure sufficient resources are allocated to meeting their statutory duties with regard to the protection and recording of public rights of way. A lack of resources is not considered to be an exceptional circumstance for not determining applications.
7. 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, more than two years have passed since the application was submitted and no exceptional circumstances have been indicated. I do not consider that the current 13 year timescale to determine this application is reasonable.
8. I appreciate a direction to make a determination on the application before me would disadvantage applicants who have been waiting longer. However, I do not consider older applications should be grounds to not justify giving a direction when the 12 month determination period has passed.
9. 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. A further period of six 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** the Nottinghamshire County Council to determine the above-mentioned application not later than six months from the date of this decision.

Claire Tregembo

INSPECTOR