



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: 03 July 2025

Ref: ROW/3361484

Representation by Emma Barnes

Warwickshire County Council

Application for the upgrading of footpath SM182 and footpath SM183 to bridleway (Council Ref: MZ919)

- 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 Warwickshire County Council (the Council) to determine an application for an Order, under Section 53(5) of that Act.
 - The representation is made by Emma Barnes, dated 26 February 2025.
 - The certificate under Paragraph 2(3) of Schedule 14 is dated 19 November 2023.
 - The Council was consulted about the representation on 3 March 2025 and the Council's response was made on 27 April 2025.
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Decision

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

Reasons

2. On 31 January 2024 Ms Barnes made an application to the Council. This sought to amend the record on the Definitive Map and Statement (DMS) by upgrading two public footpaths in the parish of Stockton to bridleway status. The evidence adduced in support of the claimed bridleways is user evidence, a total of 14 forms were submitted to the Council.
 3. 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.
 4. 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.
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5. 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. For applications made after 1 July 2011, the Council normally investigates applications in chronological order of receipt, unless prioritisation is justified by one of the exceptions listed in their Statement of Priorities – where the evidence is substantially the same as another application currently under investigation; evidence or an anomaly comes to light during a current investigation; where a route is threatened by development; where it is related to a specific action within the Rights of Way Improvement Plan (ROWIP); or where there is an overriding operational need to do so.
6. 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.
7. 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 87 out of a total of 243 applications, however, some applications on the Council's list appear to have been determined. The Council state they are unable to provide a likely timescale of when this case will be determined.
8. The application is based on the evidence of 14 witnesses. The applicant states that the routes have been used by horse riders for over 30 years, however, access is currently restricted due to the erection of a narrow pedestrian gate, making it difficult and unsafe for riders. The applicant states the route provides a safer alternative to a busy high-speed road with limited visibility for drivers.
9. In addition, the applicant raises concerns as she believes the delay will severely compromise the ability of older witnesses to give their evidence.
10. 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 DMS 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.
11. 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 12 months have now passed since the application was submitted and no exceptional circumstances for the delay have been indicated.
12. 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 6 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 Warwickshire County Council to determine the above-mentioned application not later than 6 months from the date of this decision.

J Ingram

INSPECTOR