



Direction Decision

by **Helen Slade** MA FIPROW

an Inspector on direction of the Secretary of State for Environment, Food and Rural Affairs

Decision date: 6 September 2019

Ref: FPS/D3450/14D/109-112

Representation by Cheddleton Parish Council

Staffordshire County Council

Application to add a Public Footpath Deep Haye and Crown Point, Cheddleton (LA647G)

Application to add a Public Footpath between Hollow Lane & Footpath No. IR2248, Cheddleton (LE617G)

Application to add a Public Footpath at rear Ox Pastures to Ostlers Lane, Cheddleton (LE614G)

Application to add a Public Footpath between Footpath No. 28 Longsdon & St Edwards Hospital, Cheddleton (LG659G)

- 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 Staffordshire County Council ('the County Council') to determine four applications for Orders, under Section 53(5) of that Act.
 - The representation is made by Louise Eyre on behalf of Cheddleton Parish Council ('the Parish Council') and is dated 18 January 2019.
 - The certificates required under Paragraph 2(3) of Schedule 14 are dated 18 September 1990; 24 November 1995; 24 October 1995; and 22 February 1998 respectively.
 - The Council was consulted about the representation on 23 January 2019 and the Council's response was made on 5 March 2019.
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Decision

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

Reasons

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. 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
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- expressed intentions of further action on the application in question, the circumstances of the case and any views expressed by the applicant¹.
3. In this case, all the applications were made over 20 years ago. All of them rely to some extent on evidence of use of the ways concerned and the applicant has indicated that many of the witnesses may now be difficult or impossible to contact. Consequently, there is a significant risk of the evidence being eroded. There is also an indication amongst the papers that one of the applications (LG614G) may be threatened by proposed development.
 4. The County Council has submitted its current list of applications awaiting investigation and has explained the way in which it deals with such applications, including how it applies its policy of priorities. It is clear that the County Council has also implemented a policy over recent years of reducing resources for this type of work, resulting in a significant backlog of cases (almost 240). The County Council also points out that a number of directions have been issued to it by the Planning Inspectorate over recent months. The County Council claims, in its submission, that if directions are issued in respect of these claims it will have the effect of requiring the determination of over 40% of current outstanding applications within a very short timescale; an objective which it is considered cannot realistically be met.
 5. The County Council points out that the quasi-judicial nature of the process, and the differing circumstances of each case, means that complex issues are involved and it is difficult to provide clear timescales for determining a particular case.
 6. The County Council has a statutory duty to keep the Definitive Map and Statement up to date and the work involved in performing that role cannot be considered to be an exceptional circumstance justifying any delay. Adequate resources should be provided to permit the execution of statutory functions in a timely manner.
 7. These applications have been made by the Parish Council; a body which is democratically elected to deal with matters of concern to the local population it represents. Whilst the County Council has its own priority system, which sets out what appears to be a reasonable approach, it is not being implemented in a timely manner. Consequently, delays are being experienced well beyond that which an applicant has a right to expect. Furthermore, as these cases are principally based on user evidence, I agree with the applicant that the delays may result in the loss of the relevant information due to the inevitable consequences of the passing of time. The longer the delay the more difficult it will become to properly investigate the claims, making it harder for the County Council to discharge its duties effectively.
 8. 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 20 years have passed since the applications were submitted (in one case almost 30 years) and no exceptional circumstances have been indicated to justify their non-determination. It is inevitable that the Council will require some time to carry out its investigations and to make decisions on the applications. Nevertheless, due to the excessive delay already experienced by the applicant, I have decided that there is a case

¹ Rights of Way Circular 1/09 Version 2, October 2009. Department for Environment, Food and Rural Affairs.

for setting a date by which time these applications should be determined. A further period of no longer than 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 Staffordshire County Council to determine the above-mentioned applications not later than six months from the date of this decision.

Helen Slade

INSPECTOR