



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: 09 December 2022

Ref: ROW/3298321

Representation by J. P. Matthews, Clerk to Twyford Parish Council

Hampshire County Council

Application to add a footpath from the B3335 at Hockley Cottage GR SU 48152 25717 to White Lane GR SU 48388 25806 (HCC Ref: 1179)

- 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 Hampshire County Council to determine an application for an Order, under Section 53(5) of that Act.
 - The representation made by J. P. Matthews, Clerk to Twyford Parish Council is dated 4 May 2022.
 - The certificate under Paragraph 2(3) of Schedule 14 was dated 28 May 2020.
 - Hampshire County Council was consulted about the representation on 19 August 2022 and their response was dated 13 September 2022.
-

Decision

1. Hampshire County Council (HCC) is directed to determine the above-mentioned application.

Reasons

2. Schedule 14 of the Wildlife and Countryside Act 1981 sets out provisions for applications made under section 53(3) for orders to amend the definitive map and statement (DMS). An application was completed by Twyford Parish Council for a modification order to add a footpath between Hockley Cottage and White Lane.
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.
4. Current guidance is contained within Rights of Way Circular 1/09 Version 2, October 2009 published by the Department for Environment, Food and Rural Affairs. This explains, at paragraph 4.9, that 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. Each case must therefore be considered in light of its particular circumstances.

5. HCC's policy guidelines set out the criteria under which applications can be prioritised as follows: a) the extent to which the claimed route would improve public safety, b) the extent to which the route would provide a link between existing public highways, population centres, or places of interest, c) where the determination of the claim would contribute to resolving an anomaly on the DMS. An application can also be taken out of turn and processed immediately if it can be demonstrated that the route is at risk of being physically lost, for example to development. If none of these criteria apply, a claim may also be processed immediately if, under consideration of the circumstances, it is considered expedient to do so. I consider this to be a reasonable approach.
6. Walkers have contacted Twyford Parish Council about abuse and intimidation when using the claimed footpath. They are concerned that if the application is not determined in the near future there could be confrontation and potentially physical injury. The application is ranked at 22 in the user priority A1 List with HCC determining that it meets the criteria necessary to receive priority status. In total there are 245 applications awaiting determination, some dating back to 2008.
7. HCC have received approximately 150 applications in the last five years. They have recently recruited two additional officers to tackle the backlog which doubles their processing power. However, even with priority status, HCC advises that it is unlikely that this application will be determined within the next two to three years.
8. HCC have a duty to keep the DMS up to date and circular 1/09 makes it clear that authorities should ensure that sufficient resources are allocated to meeting their statutory duties with regards to the protection and recording of public rights of way. A lack of resources would not be considered to be an exceptional circumstance for not determining applications. Even with the additional officers, this application is not expected to be determined within the next few years.
9. 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 twelve months under normal circumstances. In this case, two and a half years have passed since the application was registered and no exceptional circumstances have been indicated.
10. 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 HCC 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 Hampshire County Council to determine the above-mentioned application not later than six months from the date of this decision.

Claire Tregembo

INSPECTOR