



Direction Decision

by **Helen Slade** MA FIPROW

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

Decision date: 20 September 2019

Ref: FPS/G1440/14D/16

Representation by Mary Parker

East Sussex County Council

Application to add Bridleway from Barcombe Mills Road (TQ 433147) to western end of Hayes Lane (TQ 432149) and to Byway Barcombe 25a (Parish of Barcombe) (OMA ref. RWO 213)

- 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 East Sussex County Council ('the Council') to determine an application for an Order, under Section 53(5) of that Act.
 - The representation is made by Mary Parker and is dated 17 May 2019.
 - The certificate under Paragraph 2(3) of Schedule 14 is dated 3 May 2018.
 - The Council was consulted about the representation on 21 June 2019 and the Council's response was made on 30 July 2019.
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Decision

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

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 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, the Council has stated that the application meets one of the criteria that it applies in determining priority for dealing with such applications. The claimed route is part of the waymarked Sussex Ouse Valley Way and forms a strategic link in the network. As such, initial investigation work has been carried out in the form of consultation with the landowners and the statutory undertakers, and the resulting report has been started. The applicant was also consulted as part of this process and is aware that the application has been

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

- prioritised. Work on this process has been paused to deal with other applications for which the Council has already received directions, but it is intended that this application will be determined within the next 12 to 18 months. The Council does not consider that the delay in determining the application would threaten the loss of the claimed route.
4. The application is principally based on user evidence and the applicant is concerned that many witnesses, like herself, are of advance age. She considers that there is a risk that evidence will be lost as a consequence. She is also concerned about the risk of the public rights over the claimed route being lost as a result of the introduction of the cut-off date of 1 January 2026 for such applications.
 5. I note that the route is currently in use and is very popular. I also acknowledge that, as the application has already been registered, there should be no threat to it caused by the cut-off date, which in any case applies to applications based on historical evidence alone. I also acknowledge that the Council has indicated that this case merits prioritising, and that the investigation has already been commenced.
 6. 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, a period of just over 12 months has passed since the application was submitted and the Council has commenced its investigation. It is appreciated that the Council will require some time to complete its investigation and make a decision on the application; a process which the Council itself estimates to be within the next 12 to 18 months.
 7. In the circumstances I consider that it would not be unreasonable to formalise that undertaking and a further period of 12 months has therefore been allowed by which time the application should be determined.

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 East Sussex County Council to determine the above-mentioned application not later than 12 months from the date of this decision.

Helen Slade

INSPECTOR