



## Direction Decision

by **Barney Grimshaw BA DPA MRTPI (Rtd)**

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

Decision date: 16 September 2021

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**Ref: FPS/G1440/14D/25**

**Representation by Mr C Smith, Open Spaces Society  
East Sussex County Council**

**Application to amend the Definitive Map and Statement for the Parish of Glynde by the addition of a Bridleway from Point D at Saxon Cross (grid ref 554202 110517) to Point F at the junction with the Ringmer/Glynde Road (grid ref 545528 109354) (OMA ref. RWO 232)**

- 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 to determine an application for an Order, under Section 53(5) of that Act.
  - The representation is made by Mr C Smith, dated 29 April 2021.
  - The certificate under Paragraph 2(3) of Schedule 14 is dated 10 September 2019.
  - The Council was consulted about your representation on 13 May 2021 and the Council's response was made on 21 June 2021.
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### Decision

1. The Council is directed to determine the above-mentioned application not later than 12 months from the date of this Direction.

### 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 applicant<sup>1</sup>.
3. In this case, the Council deals with applications such as this in chronological order of their receipt unless they meet one of the exceptional circumstances listed in a Priority Statement. The current application does not meet any of these.

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

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4. The Council currently has 57 applications awaiting determination and the current application is ranked at approximately 26<sup>th</sup> amongst these. The Council states that it is not realistically very possible to give an accurate timescale of when this application will be determined but it is estimated that this could be at least 4-5 years from now.
5. The applicant has pointed out that he is aware that a decision on making an order is likely to be only the first stage of a lengthy process before the claimed route might be recorded as a public right of way. The Council has stated that the same applicant has already submitted a number of applications which have resulted in directions being issued on behalf of the Secretary of State and caused the determination of other applications which should have received a higher priority being delayed.
6. Nevertheless, 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, almost 2 years have passed since the application was submitted and it is estimated that a further 4-5 years or more is likely to pass before it is determined. This would suggest that the Council is failing to deploy sufficient resources to the determination of such applications.
7. This is not an acceptable situation. Applicants should be able to expect a decision within a finite and reasonable time. I have therefore decided that there is a case for setting a date by which time this application should be determined.
8. It is appreciated that the Council will require some time to carry out its investigation and make a decision on the application. I also recognise that restrictions currently in place as a result of the coronavirus outbreak have a significant impact on all rights of way work. Accordingly, although under normal circumstances I would have allowed a further period of 6 months for a decision to be made, I propose to allow a period of 12 months in this case.

### **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 Direction.

*Barney Grimshaw*

INSPECTOR