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Mr R Donoyou
Elton Parish Council, Vice Chair
c/o 13 Dovecote
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Your Ref: NCC no 116
Our Ref: FPS/K2800/14D/7
Date: 25 November 2016

Dear Sir

WILDLIFE AND COUNTRYSIDE ACT 1981 SCHEDULE 14 Northamptonshire County Council

Direction to add to the Definitive Map and Statement a Footpath from Footpath MY8 south west of Elton Lock to Footpath MY5 at Warmington Lock

1. I am directed by the Secretary of State for Environment, Food and Rural Affairs to refer to your application on 31 July 2016¹ for a direction to be given to Northamptonshire County Council ("the Council") under paragraph 3(2) of Schedule 14 to the Wildlife and Countryside Act 1981 ("the 1981 Act"). The direction you have sought would require the Council to determine the application for an order, made under Section 53(5) of the Act, to modify the Council's Definitive Map and Statement of public rights of way for the area so as to add a public footpath along the western bank of the River Nene between Elton Lock and Warmington Lock.
2. The Council was consulted about your request for a direction on 2 August 2016 as required by the Act. The Council's formal response was received on 12 September 2016.
3. The Secretary of State takes a number of issues into account in considering how to respond to such requests and whether she should direct an authority to determine an application for an order within a specific period. These issues include 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 that the authority has taken or expressed intentions to take or further action on the application in question; the circumstances of the case, and any views expressed by the applicant.

¹ Although your initial application was forwarded on 14 April 2016, essential information was not received until 31 July 2016.

Your case

4. An application for a definitive map modification order was submitted to Northamptonshire County Council on 29 January 2011 on behalf of the Elton Women's Institute in respect the route at issue. This was initially noted as a priority by the Council but after one year there had been no progress and the matter lay unresolved.
5. In 2012, an appeal was made to the Secretary of State requesting that the Council be directed to determine the application. In that instance, the Inspector concluded that, as the application was then third in line, a direction would not be issued as the Council would take forward the claim within a reasonable time.
6. Some 4 years have since elapsed and again there appears to have been no progress towards determining this application; it no longer has a case officer and the claim has slipped further down the Council's list of priorities.
7. Meanwhile, the landowner continues to obstruct the claimed footpath, the original applicant has left the area and three people who volunteered witness evidence have died. However you have pointed out that the landowning estate which initially obstructed the path has since indicated that it does not object to the claimed footpath.
8. Elton Women's Institute has confirmed its agreement to Elton Parish Council pursuing the application and this appeal on its behalf.

The Council's Case

9. Northamptonshire County Council has confirmed that your application is logged in its Register of Applications held under Section 53(3) of the 1981 Act. Following its latest prioritisation of outstanding applications for definitive map modification orders, using a points-based system, your application has been put at the head of the queue for processing.
10. The application is now the Council's number one priority claim and a new case officer has been appointed. Work will start on processing the claim very shortly but it is anticipated that it may be at least six months before the application is formally determined.

Consideration

11. The Secretary of State recognises the scale of the task facing the Council in dealing with its backlog of definitive map modification order cases with limited resources. She accepts the need for a system for prioritising this work and acknowledges the Council's "DMMO Claims Prioritisation Scoring Sheet" for addressing this task. In general, she considers this a reasonable approach to take in the circumstances.
12. Due to a recent review, it now appears that your application has risen to the top of the Council's priority list and therefore it is to be processed sooner rather than later. The Council anticipates this to be within 6 months.

13. The Secretary of State is aware that the legislation leads applicants to expect a decision within 12 months under normal circumstances and that your case has been awaiting determination for over 5 years already.
14. Nevertheless, even at the top of the list of priorities and given the apparent lack of opposition that you have indicated, the Secretary of State accepts that the Council will require some time to carry out its investigations into the case and to make a decision on the application. Notwithstanding the Council's commitment to do so within 6 months, the Secretary of State proposes to direct the Council to determine the application within one further year to ensure the case does not again slip down the priority list.

Decision

15. In the circumstances the Secretary of State has decided that there is a case for setting a date by which time the application should be determined. In exercise of the powers vested in her by paragraph 3(2) of the Schedule 14 to the 1981 Act, the Secretary of State has directed Northamptonshire County Council to determine this application not later than 1 December 2017.
16. A copy of the Secretary of State's letter of direction to the authority is enclosed, and a copy of this letter is being sent to the authority.

Yours faithfully

Sue Arnott

INSPECTOR