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Mr C Richardson  
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Your Ref:  
Our Ref: FPS/W1850/14D/6  
Date: 22 February 2017

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Dear Sir

## **WILDLIFE AND COUNTRYSIDE ACT 1981 SCHEDULE 14 Direction Herefordshire Council**

### **Application to add two footpaths from public footpath EE5 to the Road A4111 and Road A438 in the parishes of Eardisley, Willersley and Winforton DMMO application (M319)**

1. I am directed by the Secretary of State for Environment, Food and Rural Affairs to refer to your application on 17 March 2014 for a direction to be given to Herefordshire 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 your application for an order, 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 two footpaths from public footpath EE5 to the Road A4111 and Road A438 in the parishes of Eardisley, Willersley and Winforton.
2. The Council was consulted about your request for a direction on 29 November 2016 as required by the Act. The Council's formal response was received on 5 December 2016.
3. The Secretary of State takes a number of issues into account when 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.
4. Authorities are required to investigate applications for modifications to their Definitive Map and Statement of public rights of way as soon as reasonably practicable and, after various consultations, decide whether to make an order on the

basis of the evidence discovered.

5. I note that the Council has attached priority rankings to some 92 outstanding applications, some of which have been outstanding for over 20 years. I also note that the Council has a comprehensive policy for prioritising its substantial backlog, based upon whether the application may result in a useful addition to the network and the quality of evidence. The Council has assessed your application as a low priority, which would not establish a useful route but has very robust evidence. Accordingly the application falls 89th on the priority list of 92 applications, whilst it would rank at 86 on the basis of date order. I also note that you dispute the Council's assessment and that, on your assessment, the application should fall into the category establishing a useful route with very robust evidence. On that basis your application would be 14th on the priority list.
6. The Council have indicated that they have increased the staff resources allocated to the definitive map modification order team over the last 18 months. However, there is no clear indication beyond 'a number of years' as to when the Council would determine your application. Regardless of the ranking of the application on the Council's priority list, an applicant's right to seek a direction from the Secretary of State gives rise to the expectation of a decision within 12 months under normal circumstances. In your case, more than 2 years have passed since your application was submitted and no exceptional circumstances have been indicated. It is appreciated that the Council will require some time to carry out its investigation and make a decision on the application. A further period of 6 months has been allowed.

## **Decision**

7. 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 Schedule 14 to the Act, the Secretary of State has directed Herefordshire Council to determine this application not later than 1 September 2017.
8. A copy of the Secretary of State's letter of direction to the Council is enclosed, and a copy of this letter is being sent to the Council.

Yours faithfully

*Michael R. Lowe*

### **Michael R. Lowe**

an Inspector authorised by the Secretary of State for Environment, Food and Rural Affairs to sign in that behalf

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