



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: 28 May 2021

Ref: FPS/Z4718/14D/18

**Representation by Mark Corrigan - Kirklees Bridleways Group
Kirklees Council**

Application to Upgrade Footpaths 59 & 24 to a Bridleway. A route running from Huddersfield Road to Mean Lane, Meltham. (OMA ref. File No. 198)

- 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 Kirklees Council to determine an application for an Order, under Section 53(5) of that Act.
 - The representation is made by Mark Corrigan on behalf of Kirklees Bridleways Group, dated 31 December 2020.
 - The certificate under Paragraph 2(3) of Schedule 14 is dated 28 June 2017.
 - The Council was consulted about your representation on 26 February 2021 and the Council's response was made on 31 March 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 applicant¹.
3. In this case, the authority states that applications are dealt with in accordance with an approved set of priorities. The current application is in position 116 out of 193 outstanding applications although several recent applications have not yet been assigned priority scores.
4. The authority feels unable to estimate a date by which this application is likely to be determined although an additional member of staff is currently in the

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

- process of being recruited to improve the authority's ability to determine applications.
5. The authority has requested that, if it is directed to determine this application, a period of at least 18 months should be allowed taking into account other directions already received.
 6. The applicant has stated that, since the application was made, building has started on two new housing developments adjacent to the route and a field gate has been locked.
 7. 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 4 years have already passed since the application was submitted and no date can be given as to when it will be determined. However, from its position in the priority list it appears that it is likely to be a considerable further time before it is dealt with.
 8. 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. 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 might 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 Kirklees Council to determine the above-mentioned application not later than 12 months from the date of this Direction.

Barney Grimshaw

INSPECTOR