



Direction Decision

by **Susan Doran BA Hons MIPROW**

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

Decision date: 20 May 2021

Ref: FPS/Z4718/14D/19

**Representation by Oliver Taylor, Huddersfield Ramblers
Kirklees Council**

**Application to modify the Definitive Map for Moor Lane by the addition of a
Bridleway from Farnley Road Junction to Manor Road, Farnley Tyas,
Huddersfield (Parish of Kirkburton) (OMA ref. File no. 26)**

- 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 dated 16 January 2021 is made by Oliver Taylor, Footpaths Secretary, Huddersfield Ramblers¹.
 - The certificate under Paragraph 2(3) of Schedule 14 is dated 14 February 1996.
 - The Council was consulted about the representation on 17 February 2021 and the Council's response was made on 24 March 2021.
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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 applicant².
3. Kirklees Council prioritises definitive map modification applications according to a system approved by its Cabinet in 2012. Priority themes include paths under threat, those providing a range of public benefits, and the age of both applications and witnesses. This application scores 14 points and currently stands at position 3 on their prioritised list of applications. The list provided records 193 applications but was last updated in February 2021, so subsequent

¹ The Application had been made by a former Secretary of the Huddersfield Ramblers, since deceased

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

applications received by the Council have yet to be assigned priority scores and included in the list. In addition, the list does not take account of directions given by the Secretary of State to determine other cases, which are given priority by the Council. Despite this application being close to the top of the list, work has not yet commenced to determine it. Given the changing nature of their priority scoring system and the application's current position, the Council is unable to estimate a determination date for it. Nevertheless, it anticipates an increase in staffing levels to deal with rights of way matters in the near future.

4. Notwithstanding the above, it is more than 25 years since the application was submitted to the Council. 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. Whilst it is reasonable for the Council to determine applications in accordance with its policies, it cannot be reasonable, given that expectation, for such a long period to have elapsed since this application was lodged, and for its determination to take a further unspecified period of time. In the circumstances, I have decided that there is a case for setting a date by which time the application should be determined.
5. It is appreciated that the Council will require some time to carry out its investigation and make a decision on the application. Given the exceptional circumstances currently being experienced as a result of the coronavirus (Covid-19) outbreak, in this case a further period of 18 months has been allowed.

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 18 months from the date of this decision.

S Doran

Inspector