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Mr J Sparshatt  
30A Sandholme Drive  
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Ilkley  
West Yorkshire  
LS29 7RQ

Your Ref:  
Our Ref: FPS/W4705/14D/2  
Date: 8 June 2015

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Dear Sir

## WILDLIFE AND COUNTRYSIDE ACT 1981 SECTION S14

City of Bradford Metropolitan District Council

Route along disused railway line from Heather Rise to Leeds Road Burley in Wharfedale  
BMDC reference 66660/T46

1. I am directed by the Secretary of State for Environment, Food and Rural Affairs to refer to your application on 12 February 2015 for a direction to be given to the City of Bradford Metropolitan District Council under paragraph 3(2) of Schedule 14 to the Wildlife and Countryside Act 1981. 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 record a public footpath from Heather Rise to Leeds Road in Burley in Wharfedale via the dismantled railway line.
2. The Council was notified of your request for a direction on 4 March 2015 as required by the Act. The Council's formal response was received on 7 April 2015.
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.

### Your case

4. You made an application to the City of Bradford Metropolitan District Council on 4 December 2005 seeking a modification to the definitive map and statement so as to add a public footpath.

5. Your application included evidence from 19 local people who had used this route and who could therefore offer direct evidence of using what you consider has become established as a public right of way.
6. It is your intention to complain to the Local Authority Ombudsman about the lack of progress in dealing with your application but you wish first to seek a direction to require the Council to determine it.

### **The Council's Case**

7. The City of Bradford Metropolitan District Council has confirmed that your application has been logged in its Register of Applications under Section 53(3) of the Wildlife and Countryside Act 1981 but that it remains in its backlog of cases awaiting attention. Whilst the Council responds to general enquiries about the claimed route and the application, it has not yet commenced any substantial investigation into the case and consultation procedures have not yet begun.
8. The Council has a 'statement of priorities' for dealing with applications for changes to the definitive map and statement; this is currently contained within Chapter 4.5 of its Rights of Way Improvement Plan which was adopted in April 2007. Section 4.5.6 explains how the Council prioritises its definitive map casework. When applications for definitive map modification orders (such as your own) are received, the Council gives priority to applications where there is a potential strategic value resulting from the application, or where a lack of action could result in permanent loss of a route. All other applications are programmed in chronological order of receipt.
9. The Council states that your claimed route does not currently have any particular strategic value and there is no known immediate threat to the route which could result in its permanent loss. Consequently, in line with its stated priorities, the Council advises that your application will be dealt with along with other non-priority cases in chronological order.
10. However since the Rights of Way Improvement Plan was published, the resources available to deal with this casework have been reduced so that progress in dealing with this work is slower than was anticipated in 2007. Currently, of the 34 cases awaiting investigation, 17 of these are ahead of your application in the queue. Given this backlog, the Council estimates that with the present level of resources available, it is unlikely to reach a decision on your application before 2023.

### **Consideration**

11. The Secretary of State recognises the scale of the task facing the City of Bradford Metropolitan District Council in dealing with its considerable backlog of definitive map modification order and other rights of way cases. She accepts the need for a system for prioritising this work and acknowledges the Council's publication of a statement of priorities for addressing this task. In general, she considers this a reasonable approach to take in the circumstances.
12. The Council does not regard your application as a priority case since it considers that neither of its criteria for urgent attention are met. Although it is arguable that the route claimed by you could have strategic value as a key link in the rights of way network or that, if your witnesses are elderly, there might be a danger that vital

evidence will be lost with the passage of time, you have not advanced any arguments to explain why you think the Council should give priority to your case.

13. Nevertheless, the Secretary of State is aware that the legislation leads applicants to expect a decision within 12 months under normal circumstances. In your case, more than 9 years have passed since your application was submitted and the Council has advised that it is unlikely to be processed for another 8 years.
14. Although no grounds have been put forward to justify giving priority to your application over others that have also waiting for an unacceptably long period, the Secretary of State does not consider it reasonable for an authority to take 17 years to determine this type of application.
15. Nevertheless, the Secretary of State accepts that the Council will require some time to carry out its investigations and to make a decision on the application. The Secretary of State therefore proposes to allow the Council a further 12 months to investigate and to determine the application.

### **Decision**

16. 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 the City of Bradford Metropolitan District Council to determine your application not later than 1 July 2016.
17. 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**

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