



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: 09 SEPTEMBER 2020

Ref: FPS/N5090/14D/3

Representation by Barbara Jacobson

London Borough of Barnet Council

Application for the addition of Public Footpaths:

From Totteridge Green Access Land alongside Coppice Walk at TQ25140 93500 (point A) into the grounds of Totteridge & Mill Hill Cricket Club, along its southern edge to the SE corner at TQ25193 93490 with exit to Totteridge Green Access Land (point B)

From Totteridge Green Access Land alongside Coppice Walk at TQ25193 93490 (point B) along the eastern edge of the grounds of Totteridge & Mill Hill Cricket Club to the NE corner at TQ25210 93610 where it joins the path to Elmstead Close (point C)

From the path to Elmstead Close at TQ25210 93610 (point C) along the northern edge of the grounds of Totteridge & Mill Hill Cricket Club to the NW corner and thence through the car park and beside the exit gate at TQ25070 93610 to Totteridge Green (point D)

- 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 the London Borough of Barnet Council to determine an application for an Order, under Section 53(5) of that Act.
 - The representation made by Barbara Jacobson is dated 16 June 2020.
 - The certificate under Paragraph 2(3) of Schedule 14 is dated 3 May 2019.
 - The Council was consulted about your representation on 25 June 2020 and the Council's response was made on 6 August 2020.
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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
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- 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 Applicant is concerned that access points to the claimed routes are, or have been, blocked; and the Council has not demonstrated a firm commitment to completing work initially undertaken in examining the application.
 4. Prior to July of this year the Council had carried out an initial site visit and a small amount of historic and current mapping research towards progressing the application. The Council has no Statement of Priorities for dealing with such applications, and currently this is the only application outstanding. Having received few definitive map modification order applications, the Council's officer resource dedicated to dealing with such matters had been limited. However, the Council indicates that additional resources are now being sourced to support this area of work, and support has been received from another local authority to deal with public rights of way issues.
 5. Accordingly, the Council is to undertake further investigations including contacting those with an interest in the land, or occupying adjacent land, as well as path users. Allowing time for this and for additional information to be gathered, the Council envisages that the minimum period within which they can prepare a report for decision is three months. This would enable a decision to be reached at the Environment Committee Meeting scheduled for November 2020.
 6. 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, a year has passed since the application was submitted and it is the only one currently being dealt with by the Council. In the circumstances I have decided that there is a case for setting a date by which time the application should be determined. It is appreciated that the Council will require some time to carry out its investigation and reach a decision on the application. However, with restrictions in place due to the outbreak of the Covid-19 virus, it would seem that exceptional circumstances have arisen which could not have been foreseen. Accordingly, to give the applicant some certainty that this application will be determined in the near future, and guided by the Council's own estimates, a further period of 6 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 London Borough of Barnet Council to determine the above-mentioned application not later than 6 months from the date of this decision.

S Doran

Inspector

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