



# 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: 28 November 2017

---

**Ref: FPS/V4250/14D/1**

**Representation by Peak & Northern Footpaths Society  
Wigan Council**

**Application to add a Footpath from SJ 6752 9964, adjacent to definitive Footpath Leigh 137, to SJ 6744 9954 on the Bridgewater Canal (Wigan Council ref. RD/LS/SYF/CL43.21/)**

- 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 Wigan Council to determine an application for an Order made under Section 53(5) of that Act.
- The representation, dated 7 August 2017, is made by the Peak & Northern Footpaths Society.
- The certificate under Paragraph 2(3) of Schedule 14 is dated 6 January 2016.
- The Council was notified of the representation on 11 August 2017 and submitted its response on 9 October 2017.

**Summary of Decision: The Council is directed to determine the above-mentioned application.**

---

## Reasons

1. Authorities are required to investigate applications as soon as reasonably practicable and, after consulting the relevant district and parish councils, to 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 applicant<sup>1</sup>.
2. In March 2015 the Council identified new criteria for determining the backlog of Definitive Map Modification Order (DMMO) applications including, contribution to the overall public rights of way network, relevance to the Rights of Way Improvement Plan and other strategic objectives, improvement to accessibility of the network, and the quality of the evidence. This claim has been assessed against the new scoring system and is ranked as 16 (of 20) on the Priority List. Officers are currently processing two DMMO applications both of which have

---

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

---

- been expedited due to additional special circumstances: one by planning applications affecting the route, and the other in the public interest.
3. However, the Council does not consider that there are any special circumstances affecting this claim that warrant it being considered out of turn. Whilst some resources have already been applied to the claim it does not consider these have been extensive. The Council seeks to apply its resources appropriately and fairly when considering applications, and submits there is nothing that merits special consideration in this case.
  4. The applicant points out that with the aim of determining two applications a year, it will be some 8 years before this application is processed by the Council. The application is based on user evidence and the applicant believes it to be a strong case in evidential terms.
  5. It is not my role to consider the merits of the evidence in this case. However, 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<sup>2</sup>. In this case, the application was submitted in January 2016. However, it is unlikely that a decision on the application will be reached for a further 8 years. I do not consider that such a delay can be viewed as reasonable.
  6. 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 make a decision on the application. I consider it appropriate to allow a further 12 months for a decision to be reached.

### **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** Wigan Council to determine the above-mentioned application not later than 12 months from the date of this decision.

*S Doran*

**Inspector**

---

<sup>2</sup> The 12 month period commences on the date a valid certificate is submitted to the order making authority in accordance with paragraph 2(3) of Schedule 14