



Direction Decision

by **Martin Elliott BSc FIPROW**

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

Decision date: 9 October 2017

Ref: FPS/A4710/14D/3

Representation by Mrs J Bird

Calderdale Metropolitan Borough Council

Application to add a footpath from Lees Lane to Whitehall Road (A58)(Parish of Lightcliffe)

- 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 Calderdale Metropolitan Borough Council to determine an application for an Order made under Section 53(5) of that Act.
- The representation, dated 30 May 2017, is made by Mrs J Bird.
- The certificate under Paragraph 2(3) of Schedule 14 is dated 27 June 2013.
- The Council was notified of the representation on 3 July 2017 and submitted its response on 22 August 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 applicant¹.
2. 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 circumstances². In this case, 4 years have passed since the application was submitted. It is anticipated by the Council that the application will not be determined until the financial year 2030/31 a further 13 years.

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

² 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

3. It is noted that the Council is dealing with applications in accordance with its Statement of Priorities and that staff resources are extremely limited. I also note that there are other applications that have been waiting significantly longer. However, a delay of four, and indeed as much as 17 years, in determining the application is unreasonable.
4. It is appreciated that the Council will require some time to carry out its investigations and make a decision on the application. However, in the circumstances I have decided that there is a case for setting a date by which time the application should be determined. 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** Calderdale Metropolitan Borough Council to determine the above-mentioned application not later than 12 months from the date of this direction decision.

Martin Elliott

INSPECTOR