



Direction Decision

by **Martin Elliott BSc FIPROW**

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

Decision date: 11 SEP 2017

Ref: FPS/A4710/14D/4

**Representation by Shibden & District Bridleways Association
Calderdale Metropolitan Borough Council**

**Application to Upgrade route from SE110255 to SE110252 (known as
Footpath Brighouse 24, Pump Lane, Southowram) to a Bridleway**

- 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 7 June 2017, is made by Shibden and District Bridleways Association.
- The certificate under Paragraph 2(3) of Schedule 14 is dated 12 February 1998.
- The Council was notified of the representation on 29 June 2017 and submitted its response on 21 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. The application was made in 1998 and the Council hope that the application will have been determined by the end of the current financial year and certainly within 12 months of the date of their response to the representation.
3. 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

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

normal circumstances². In this case, nineteen years have passed since the application was submitted. It is appreciated that staff resources are currently limited but it is unreasonable for an applicant to wait more than 19 years for an application to be determined.

4. I note the Council expect to be determine the application in the next 12 months. However, the submissions from the applicant suggest that despite a report being compiled in 2008 the matter remains unresolved. The Council do not appear to dispute that the committee reports were produced in 2008 but indicate that varying degrees of redrafting was required. It is appreciated that the Council will require some time to redraft any committee reports but given the apparent delay I am not persuaded that the Council will necessarily meet its aspirations to determine the application this financial year or in the next 12 months.
5. Given that 19 years have passed since the application and my doubts as to whether the application will be determined within the next 12 months I have decided that there is a case for setting a date by which time the application should be determined. I consider it appropriate in the circumstances to set a deadline of 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

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