



Direction Decision

by **Helen Slade** MA FIPROW

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

Decision date: 13 May 2019

Ref: FPS/P2745/14D/3

Representation by Mrs Sheila Vickers

North Yorkshire County Council

Application to direct North Yorkshire County Council to determine an application for a Definitive Map Modification Order to add a footpath from Oriel Close and Weaponness Valley Close to Seamer Road and Queen Margaret's Road, Scarborough

(Order Making Authority reference: SCAR/2017/04/DMMO/PJN)

- The representation is made under Paragraph 3(2) of Schedule 14 to the Wildlife and Countryside Act 1981 ('the 1981 Act') seeking a direction to be given to North Yorkshire County Council ('the Council') to determine an application for an Order, under Section 53(5) of that Act.
 - The representation is made by Mrs Sheila Vickers, dated 15 October 2018.
 - The certificate under Paragraph 2(3) of Schedule 14 is dated 13 October 2017.
 - The Council was consulted about the representation on 24 December 2018 and the Council's response was made on 28 January 2019.
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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 expressed intentions of further action on the application in question, the circumstances of the case and any views expressed by the applicant¹.

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

3. In this case the application was made to add a footpath from a housing estate in the north running across a field and beyond to link to two roads: Seamer Road in the west and Queen Margaret's Road in the south. In fact, the path as shown on the application map is forked where it leaves the housing estate, and also forked where it joins Queen Margaret's Road, so that there are, in reality, a number of routes, some of which have parts in common.
4. The applicant draws attention to the fact that an earlier application, made in 2007 by another party, affected a path in the same vicinity, and that many of the witnesses are elderly. A recent obstruction to the route, and the presence of discouraging signs, are preventing the previously unhindered use of the route by local residents, and that the dispute has involved the police on one or two occasions. For this reason, she considers that the determination of the application is a priority.
5. The Council has responded by acknowledging that the application was highly scored on their priority list but that, due to a shortage of resources and other competing work, the determination of Definitive Map Modification Order applications has been in abeyance for a few years. However, an indication has been given that the investigation of the application (currently third on their priority list) will commence by the end of May and that a determination would be anticipated by the end of August.
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, just over a year has passed since your application was submitted, and no exceptional circumstances have been indicated by the Council for failing to deal with it. The Council has a statutory duty to keep the Definitive Map and Statement up to date and the work involved in performing other aspects of that role cannot be considered to be an exceptional circumstance. Adequate resources should be provided to permit the authority to carry out its statutory functions in a timely manner.
7. I am unable to take into account the older application, although the Council has stated that the evidence in relation to the 2007 application will be considered along with the more recent evidence. It is appreciated that the Council will require some time to carry out its investigation and make a decision on the application. However, given the timescale indicated by the Council in their response 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 period of 6 months, which should adequately encompass their own proposed objective.

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 North Yorkshire County Council to determine the above-mentioned application not later than six months from the date of this decision.

Helen Slade

INSPECTOR