



Direction Decision

by Sue Arnott FIPROW

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

Decision date: 28 October 2019

Ref: FPS/C2741/14D/3

Representation by Mr D Jackson

CITY OF YORK COUNCIL

Application to record a public footpath between the Village Green and Moorlands Road at Skelton

- The representation is made under Paragraph 3(2) of Schedule 14 of the Wildlife and Countryside Act 1981 seeking a direction to be given to the City of York Council to determine an application for an Order to be made under Section 53(5) of that Act.
 - The representation, dated 12 July 2019, is made by Mr D Jackson.
 - The certificate under Paragraph 2(3) of Schedule 14 is dated 19 June 2018.
 - When notified of the representation, the Council submitted a response on 24 July 2019.
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Decision

1. The Council is directed to determine the above-mentioned application.

Reasons

2. Mr Jackson submitted an application in January 2018 to record three routes in the parish of Skelton. The route at issue here extends from Skelton Village Green to Moorlands Road to the north east of the village. The evidence adduced in support of the claimed right of way is based on the 1807 Skelton Enclosure Award and related historical Court records. The applicant highlights the Council's lack of progress in determining this and other applications for definitive map modification orders.
3. 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.
4. 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 circumstances. In this case 16 months have passed since the Council received the certificate under paragraph 2(3) of Schedule 14 to the 1981 Act.

5. The City of York Council is aware of the problems which have led to delays in processing applications for definitive map modification orders in the past but revised its Statement of Priorities for dealing with such applications on 18 July 2019. As a result, the Council anticipates it will determine Mr Jackson's application before the end of 2019 but in any event no later than 28 February 2020.
6. Whilst that is a reasonable timetable given the necessary investigations to be carried out by the Council in order to reach a decision on the application, there is still a case for setting a date by which time the application should be determined. In the circumstances I consider it appropriate to allow a further 6 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** the City of York Council to determine the above-mentioned application not later than 6 months from the date of this decision.

Sue Arnott

Inspector