



Direction Decision

by **Martin Elliott BSc FIPROW**

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

Decision date: 5 February 2020

Ref: FPS/T4210/14D/1-6

**Representation by Irene Pope, Rochdale & Bury Bridleways Association
Bury Council**

**Applications to upgrade Footpath 23SA (Higher Pit Lane) and part of
Footpath 10CC to a Bridleway from the junction of Higher Pit Lane with
Starling Road (SD774099) to the junction of Footpath 10CC with Sumner
Avenue (SD769100)**

AND

**upgrade Footpath 21SA (Moorgate Road) to a Bridleway from the junction
of Moorgate Road with Starling Road (SD773098) to the junction of
Moorgate Road with the A58 (SD777095)**

AND

**upgrade Footpath 33CC and part of Footpath 32CC and Footpath 42CC
(Knowsley Road) to a Bridleway from the end of the adopted section of
Knowsley Road (SD763103) to the junction of Footpath 33CC with Arthur
Lane (SD758108) passing through Barrack Fold Farm**

AND

**upgrade Footpath 29CC and Footpath 43SA and part of Footpath 139BUR
to a Bridleway from the junction of Footpath 29CC with Cockey Moor Road
(SD768103) to the junction of Footpath 139BUR with Lowercroft Road
(SD773106), crossing Cockey Moor**

AND

**upgrade Footpath 15CC (Ainsworth Hall Road) and Footpath 18CC (Old
Wood Lane and Vale Street) to a Bridleway from the junction of Ainsworth
Hall Road with Greenside (SD761100) to the junction of Footpath 18CC
with the A58 (SD753092)**

AND

**upgrade Footpaths 42CC, 30CC and 29CC from the end of the adopted
section of Knowsley Road (SD763103) to the junction of Footpath 29CC
with Church Street (SD768103) going past Knowsley Cottages and
Paddock Leach Farm**

- 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 Bury Council to determine applications for Orders, under Section 53(5) of that Act.
 - The representation is made by Irene Pope for the Rochdale & Bury Bridleways Association, dated 25 April 2019.
 - The certificate under Paragraph 2(3) of Schedule 14 is dated 15 February 2017.
 - The Council was consulted about the representation on 31 May 2019 and the Council's response was made on 12 July 2019.
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Decision

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

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.
3. At the date of the response from the Council they did not have a Statement of Priorities although a draft had been discussed with cabinet members. This draft was to be circulated to the Local Access Forum prior to a meeting to be held on 31 July 2019. The Council advise that applications are dealt with in chronological order of receipt. The applications concerned will be next to receive officer time on that basis and the Council expects to determine the applications within a two year period from July 2019.
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 normal circumstances. In this case, more than two years have passed since the applications were submitted and it seems that the applications may not be determined for up to another two years. No exceptional circumstances have been put forward by the Council as to the cause of any delay in determining the applications.
5. It is noted that there is only one officer dealing with the applications who also has to carry out other duties in respect of the management of public rights of way; this is said to be the cause of the delay. However, Circular 1/09 makes it clear that Authorities should ensure that sufficient resources are devoted to meeting their statutory duties with regard to the protection and recording of public rights of way. Lack of resources do not amount to exceptional circumstances and I do not consider that the applications have been dealt with as soon as reasonably practicable in accordance with the requirements of the 1981 Act.
6. In the circumstances I have decided that there is a case for setting a date by which time the applications should be determined. It is appreciated that the Council will require some time to carry out its investigations and make a decision on the applications. A further period of 6 months has been allowed.

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

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** Bury Council to determine the above-mentioned applications not later than 6 months from the date of this Direction Decision.

Martin Elliott

INSPECTOR