



Direction Decision

by **Barney Grimshaw BA DPA MRTPI (Rtd)**

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

Decision date: 02 October 2020

Ref: FPS/A4710/14D/12

Representation by Sheila Greetham (Calderdale Saddle Club)

Calderdale Metropolitan Borough Council

Application to upgrade to a Restricted Byway the Footpath shown as Ripponden 51 from its junction with Ripponden Old Bank to Highlee Lane at Little Haven (junction with Ripponden 62)

- 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, under Section 53(5) of that Act.
 - The representation is made on behalf of the Calderdale Saddle Club, dated 10 July 2020.
 - The certificate under Paragraph 2(3) of Schedule 14 is dated 7 June 2017.
 - The Council was consulted about the representation on 28 July 2020 and the Council's response was made on 1 September 2020.
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Decision

1. The Council is directed to determine the above-mentioned application not later than 12 months from the date of this Direction.

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. In this case, the Council states that applications are dealt with in accordance with a priority assessment. This application is currently in position 73 out of 78 awaiting determination and the council states that it is likely to be many years before it can be dealt with.

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

4. The applicant has stated that there is now some urgency regarding the determination of this application. The route was the subject of applications some 20 years ago as it had been obstructed by a cattle grid since the 1970s. The applications were only partly successful and the cattle grid is still in place. More evidence is now available but many people who have submitted evidence forms are of advancing years and it is therefore important that the application is processed as soon as possible.
5. 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 3 years have already passed since the application was submitted and the Council expects that it will be many more years before it is determined. No exceptional circumstances have been indicated other than the Council's failure to deploy sufficient resources to the determination of such applications. This is not an acceptable situation. Applicants should be able to expect a decision within a finite and reasonable time. I have therefore decided that there is a case for setting a date by which time this application should be determined.
6. It is appreciated that the Council will require some time to carry out its investigation and make a decision on the application. I also recognise that restrictions currently in place as a result of the coronavirus outbreak might have a significant impact on all rights of way work. Accordingly, although under normal circumstances I would have allowed a further period of 6 months for a decision to be made, I propose to allow a period of 12 months in this case.

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 Calderdale Metropolitan Borough Council to determine the above-mentioned application not later than 12 months from the date of this Direction.

Barney Grimshaw

INSPECTOR