

|  |
| --- |
| **Direction Decision** |
| **by Susan Doran BA Hons MIPROW** |
| **an Inspector on direction of the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 13 April 2021** |

|  |
| --- |
| **Ref: FPS/A4710/14D/13****Representation by Sheila Greetham****Calderdale Metropolitan Borough Council****Application to upgrade to a Bridleway the Footpath shown as Sowerby Bridge 107 (part) from west end of Wine Tavern Lane (grid ref 027233) to the west end of Wine Tavern Road (grid ref 027232) (Parish of Sowerby Bridge)**  |
| * 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 dated 7 August 2020 is made by Sheila Greetham.
 |
| * The certificate under Paragraph 2(3) of Schedule 14 is dated 26 September 2007.
 |
| * The Council was consulted about your representation on 12 August 2020 and the Council’s response was made on 11 March 2021.
 |
|  |

Decision

1. 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, 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 applicant[[1]](#footnote-1).
2. The Council applies a ‘priority matrix’ to definitive map modification applications scoring them against a range of criteria. This application, which the applicant says seeks to establish bridleway rights providing an off-road route for horse riders, is placed at number 49 of 80 applications. However, the Council is unable to give a time by which it expects to determine the application, considering it is likely to take many years due to current workloads and lack of resources.
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 normal circumstances. Whilst it is reasonable for the Council to determine applications in accordance with its policies, it is unreasonable in my view, given the expectation of it being addressed within 12 months, for the determination of the application to take a further unspecified number of years. In this case more than 13 years have already passed since the application was submitted and, whilst the applicant indicates that strong documentary evidence to support the claim has been added, it is supported by user evidence. Accordingly, there is a risk that further delay may impact on the ability to investigate and test such evidence. Indeed, the applicant has advised that some of those who completed user evidence forms have sadly died, and many others are elderly.
4. In the circumstances I have decided that there is a case for setting a date by which time the application should be determined. It is appreciated that the Council will require some time to carry out its investigation and make a decision on the application. Given the exceptional circumstances currently being experienced as a result of the coronavirus (Covid-19) outbreak, a further period of 12 months has been allowed.

**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 decision.

S Doran

**Inspector**

1. Rights of Way Circular 1/09 Version 2, October 2009. Department for Environment, Food and Rural Affairs. [↑](#footnote-ref-1)