PINS logo (black) (A4 sizing)

|  |
| --- |
|  |

**Direction Decision**

**by Grahame Kean** **B.A. (Hons), Solicitor HCA**

**an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs**

**Decision date: 28 May 2021**

|  |
| --- |
|  |

**Appeal Ref: FPS/A4710/14D/14**

**Representation by Sheila Greetham**

**Calderdale Metropolitan Borough Council**

**Application for the addition of a Footpath from Footpath 40 by Tenterfields Footbridge eastward through field edge to Rochdale Canal Towpath, Luddenfoot and back to Footpath 40 along north of same field (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 (the “Council”) to determine an application for an order, under s3(5) of that Act.
* The representation is made by Sheila Greetham, dated 21 November 2020
* The certificate under Paragraph 2(3) of Schedule 14 is dated 2 June 2017.
* The Council was consulted about the representation on 10 March 2021 and the Council’s response was made on 10 March 2021.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Decision**

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

**Reasons**

1. Local authorities are required to investigate applications as soon as reasonably practicable and, after consulting the relevant district and parish councils, to decide whether to make an order on the basis of the evidence discovered.
2. Applicants have the right to ask the Secretary of State to direct the Council as the surveying authority to reach a decision on an application if no decision has been reached within twelve months of the Council’s receipt of certification that the applicant has notified the application to affected landowners and occupiers.
3. In considering w• hether I should direct the Council to determine an application for an order within a specified period, account is taken of any statement made by the Council as to its priorities for bringing and keeping the definitive map up to date; the reasonableness of such priorities; any actions already taken by the local authority or expressed intentions of further action on the application in question; the circumstances of the case; and any views of the applicant.[[1]](#footnote-1)
4. The Applicant in this case has expressed concerns as to the Council’s inability to provide an estimate for the determination of the Application. The application has been outstanding for some four years.
5. The Council’s policy is to determine applications in chronological order. However, the Council has confirmed that there are currently some 80 applications to be considered, and the Application is at number 65 on this list. The Council’s officer stated “*I cannot give a specific time for determination. Likely to take many years due to current workload and lack of resources*”.
6. There is no reason to believe that the Council’s policy for prioritising applications is unreasonable. However, an applicant’s right to seek a direction from the Secretary of State gives rise to the expectation that their Application should be determined within twelve months under normal circumstances.
7. Allowance should be made having regard to the difficulties experienced by the Council’s staff to access their offices due to the Covid-19 pandemic. However, it is unreasonable not to provide a more specific estimate of when the Application will be determined, particularly as I note that the same formula of *Likely to take many years* is applied by the Council irrespective of where on the priority list the applications sit.
8. I consider in all the circumstances that a further period of six months should be granted to determine the Application and I will make a direction to that effect.

**Direction**

1. 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 Calderdale Metropolitan Council to determine the Applications not later than six (6) months from the date of this Decision.

Grahame Kean

INSPECTOR

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