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| **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: 16 September 2021** |
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| **Ref: FPS/Z4718/14D/20****Representation by Mr S Noble, Green Alert in Lepton Team****Kirklees Council****Applications to modify the Definitive Map and Statement for the District of Huddersfield by the addition of:****A Footpath which starts at Hermitage Park and ends at KIR/85/10;****A Footpath which starts at KIR/65/10 and ends at KIR/65/10;****A Footpath which starts at KIR/85/10 and ends at KIR/85/10 (OMA ref. 224, 225 & 226)** |
| * 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 Kirklees Council to determine an application for an Order, under Section 53(5) of that Act.
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| * The representation is made by Mr s Noble on behalf of Green Alert in Lepton Team, dated 14 April 2021.
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| * The certificates under Paragraph 2(3) of Schedule 14 are dated 13 and 14 October 2019.
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| * The Council was consulted about the representation on 17 May 2021 and the Council’s response was made on 21 June 2021.
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Decision

1. The Council is directed to determine the above-mentioned applications not later than 18 months from the date of this Direction.

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-2).
2. In this case, the Council deals with applications such as these in accordance with an approved priority matrix and scoring sheet
3. The Council currently has 200 applications awaiting determination and the current applications are in positions 118, 122 and 123 in the prioritised list. The Council states that, given the changing nature of the priority scoring system and the current positions of these applications, expected determination dates cannot be estimated. However, an additional member of staff has recently been recruited to improve the Council’s ability to determine such applications. Work has not yet commenced on these applications and the Council requests that any direction to determine them allows at least a further 24 month period, taking account of directions already received.
4. The applicant has stated that the land crossed by the claimed paths has been let to a new tenant who has taken to physically threatening and stopping local people using the paths.
5. An applicant’s right to seek a direction from the Secretary of State gives rise to the expectation of a determination of an application within 12 months under normal circumstances. In this case, almost 22 months have already passed since the applications were submitted and the Council cannot provide an estimate of when they will be determined. However, it would appear that this could be a considerable time in the future. This would suggest that the Council has been failing to deploy sufficient resources to the determination of such applications.
6. 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 these application should be determined.
7. It is appreciated that the Council will require some time to carry out its investigation and make a decision on the applications. I also recognise that restrictions in place as a result of the coronavirus outbreak have had a significant impact on all rights of way work and I note that the Council is taking steps to improve its performance. 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 18 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 Kirklees Council to determine the above-mentioned applications not later than 18 months from the date of this Direction.

Barney Grimshaw

INSPECTOR

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