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| **Direction Decision** |
| **by Martin Small BA(Hons) BPl DipCM MRTPI** |
| **an Inspector on direction of the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 31 May 2022** |

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| **Ref: FPS/Z4718/14D/22**  **Representation by Kirklees Bridleways Group**  **Kirklees Council**  **Application to modify the Definitive Map and Statement by Upgrading Footpaths HOL/54 & 99 & 101 & 100 to a Bridleway (OMA ref. 196)** |
| * 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. |
| * The representation, made by Kirklees Bridleways Group, is dated 1 November 2021. |
| * The certificate under Paragraph 2(3) of Schedule 14 is dated 30 January 2017. |
| * The Council was consulted about the representation on 3 December 2021 and the Council’s response was made on 17 January 2022. |
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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.
2. 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).
3. The applicant notes that the application is 5 years old and that part of the route K to E has a locked gate which the applicant contends denies legal access to legitimate users. In response, the Council explains that it prioritises the consideration of applications for modifications to its Definitive Map and Statement (DMS) through a scoring matrix based on 13 priority themes for bringing and keeping up to date the DMS.
4. The application is number 53 in the Council’s prioritised list of August 2021 based on its score of 9 and the date of the original application. At the time of its response, the Council had not commenced work on the application and it did not estimate an expected determination date. However, the Council requested a period of not less than 24 months should a direction be made taking into account directions already received and disruptions due to the recent Covid-19 pandemic.
5. The prioritised list indicates that the Council has over 200 cases to determine, with additional directions and applications received since the list was last updated in August 2021. It therefore appears unlikely that a determination will be made in the near future without intervention.
6. 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 5 years have passed since the application was submitted. Given this lapse of time, I consider that the applicant should be afforded greater certainty.
7. It is appreciated that the Council will require some time to carry out its investigation and make a decision on the application. Whilst normally 6 or 12 months would be sufficient, I accept that the Council has a substantial backlog and that delays will have been caused by the Covid-19 pandemic. In these circumstances I find that a longer period is justified but given the length of the delay so far in determining this application I consider that 18 months would be reasonable.
8. In the circumstances I have decided that there is a case for setting a date by which time the application should be determined and I consider it appropriate to allow a further 18 months for a decision to be reached.

**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** the Kirklees Council to determine the above-mentioned application not later than 18 months from the date of this direction.

Martin Small

INSPECTOR

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