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| **Direction Decision** |
| **by Claire Tregembo** **BA (Hons) MIPROW** |
| **an Inspector on direction of the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 08 March 2023** |

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| **Ref: ROW/3310436****Representation by Jeffrey Wilson****City of Bradford Metropolitan District Council** **Application to add a footpath from Huddersfield Road SE 1531 2718 to Woodside Road SE 1528 2720, Former Wyke Library Site (OMA REF: 66650/T33)**  |
| * The representation is made under Paragraph 3(2) of Schedule 14 of the Wildlife and Countryside Act 1981 seeking a direction to be given to the City of Bradford Metropolitan District Council to determine an application for an Order, under Section 53(5) of that Act.
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| * The representation made by Jeffrey Wilson, is dated 4 November 2022.
* The certificate under Paragraph 2(3) of Schedule 14 is dated 18 August 2021.
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| * The City of Bradford Metropolitan District Council was consulted about the representation on 9 November 2022 and their response is dated 21 December 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. Current guidance is contained within Rights of Way Circular 1/09 Version 2, October 2009 published by the Department for Environment, Food and Rural Affairs. This explains, at paragraph 4.9, that 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. Each case must therefore be considered in light of its particular circumstances.
3. The City of Bradford Metropolitan District Council (the Council) determines applications in accordance with its Policy Statement for the Definitive Map contained within its Rights of Way Improvement Plan. Priority is given to applications where there is a potential strategic value resulting from the application, or where lack of action could result in the permanent loss of the route. Other applications are then programmed in chronological order. In practice, this prioritisation is only applied once officer time becomes available to start processing an application.
4. The Council has forty eight applications awaiting determination, forty two of which were received before this one. The application route does not have any strategic value. Although it is proposed to develop the former library site, the developer intends to retain the path on its current alignment or divert it to a new line. No planning applications requiring the diversion of the application route have been submitted, therefore it is not currently threatened by development.
5. Since 2018 a dedicated Definitive Map Officer has been working on applications in accordance with the Policy Statement. Prior to this, progress on determining applications was slower than anticipated due to limited staff resources. However, authorities have a duty to keep the definitive map and statement up to date. Circular 1/09 makes it clear that they should ensure that sufficient resources are allocated to meeting their statutory duties with regard to the protection and recording of public rights of way. A lack of resources is not considered to be an exceptional circumstance for not determining applications.
6. I understand that the Council is trying to be fair to all applicants, particularly those who have been waiting the longest. A direction to determine this application would disadvantage those who submitted older applications. However, this does not justify a direction not being given when the twelve month period has expired.
7. Due to the backlog of applications and limited staff resources, the Council advise that a decision is unlikely to be made before 2030. This is far longer than the twelve months anticipated by the legislation. The applicant is entitled to expect a decision within a finite and reasonable period.
8. 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. A further period of six months has been allowed to make a determination.

**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 City of Bradford Metropolitan District Council to determine the above-mentioned application not later than six months from the date of this decision.

Claire Tregembo

INSPECTOR