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| **Direction Decision** |
| **by R J Perrins MA** |
| **an Inspector on direction of the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 15 September 2023** |

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| **Ref: ROW/3319912**  **Representation by Elaine Chappell**  **Wakefield Metropolitan District Council**  **Application to add footpaths in Holmes Plantations** |
| * 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 Wakefield Metropolitan District Council to determine an application for an Order, under Section 53(5) of that Act. |
| * The representation is made by Elaine Chappell, dated 4 April 2023. |
| * The certificate under Paragraph 2(3) of Schedule 14 is dated 26 March 2022. |
| * The Council was consulted about your representation on 17 May 2023 and the Council’s response was made on 27 June 2023. |
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Decision

1. The Council is not 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 application is for a definitive map modification order (‘DMMO’) to add footpaths to the Definitive Map and Statement of Public Rights of Way in the parish of Kettlethorpe. The Council confirm the application is one of 31 DMMO applications on the Council’s list awaiting determination as of 27 June 2023; 8 top priority applications; 14 medium priority; and 9 low priority, this application being one of the low priority applications. The Council advises that it is difficult, due to the fluctuation in demand for public path orders, to give an accurate assessment of timescale.
4. That is at a time when current staff resources are at a level where between 12 and 16 applications per year can be processed to order making stage. It is likely therefore that a significant time will pass before the application is looked at.
5. Against that background, I accept concerns regarding safety issues and unauthorised vehicles mixing with pedestrians on the proposed footpath routes. That is evidenced by way of photographs, and there is no dispute that lorries and minibuses are parking in the area and matters have been reported to the police. In addition, there is no lighting, and the routes are used by school children. Residents have had to put up cameras because of alleged drug use.
6. However, as the applicant sets out, the majority of the footpaths are installed and advertised as footpaths. There is nothing before me to suggest that is going to change; nothing to suggest that the footpaths would be closed or blocked or diverted. Whilst I have a great deal of sympathy for the applicant with regards to the matters described, these are matters for the relevant landowner and/or police.
7. Moreover, if this application was made a priority and the footpaths were recognised sooner, as the applicant desires, that would not resolve the issues. Landownership would not change and there would be no powers beyond what already exists to deal with anti-social behaviour, or parking, or conflict between users or to erect lighting.
8. Therefore, on the information currently available, it seems to me that the footpaths are highly unlikely to be blocked and will remain available for use. For these reasons, and having considered all matters raised, I see no justification at this stage in prioritising the application.
9. In addition, there is no suggestion that the Council’s prioritisation system is unreasonable. I daresay that most, if not all, applicants would consider their application is important and deserving of priority. There are many other applications ranked higher in the Council’s list which are ‘high’ priority. To issue a direction to make a determination would disadvantage those who have been waiting longer. It would also invariably delay other applications warranting greater urgency under the Council’s prioritisation system.
10. 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. However, in the current circumstances, I have decided that there is not a case for setting a date by which time the application should be determined.
11. However, that will not preclude the applicant from making further representations to the Secretary of State in future if his application remains undetermined for an unreasonable period of time.

RJ Perrins

INSPECTOR

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