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| **Direction Decisions** |
| **by J Ingram LLB (Hons) MIPROW** |
| **an Inspector on direction of the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 26 March 2024** |

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| **Ref: ROW/3336390 to ROW/3336395**  **Representations by Caroline Bradley (The British Horse Society)**  **North Yorkshire Council**  **ROW/3336390 (App. Ref. HAM-2017-09):** |
| * **Application to add a bridleway along Greengate Lane, from the County Road C36 to Footpath 10.31/9/2** * **Application to upgrade to bridleway Footpath 10.31/9 from Greengate Lane to the junction with the U591**   **ROW/3336391 (App. Ref. HAM-2020-06):**   * **Application to add a bridleway from the C115 in Gatenby, along the U1447 to Footpath 10.54/1/1** * **Application to upgrade to bridleway Footpath 10.54/1/1, from the U1447 to Bridleway 10.144/2/1 at Swainby Lane**   **ROW/3336392 (App. Ref. HAM-2021-03):**   * **Application to add a (unspecified) from Swainby Lane along Swale Lane to Footpath 10.146/7** * **Application to upgrade to bridleway part of Footpath 10.146/7 and Footpath 10.144/1, from Swale Lane to Bridleway 10.144/2**   **ROW/3336393 (App. Ref. HAR-2017-07):**   * **Application to add a byway open to all traffic from Footpath 15.114/34/1 on the U8089 to the U2941 in Eavestone** * **Application to upgrade to a restricted byway, Footpaths 15.114/34/ (1, 3 and 4) from the C/31/2 near Grantley Hall to the U8089**   **ROW/3336394 (App. Ref. HAR-2017-08):**   * **Application to upgrade to bridleway Footpath 15.7 from the U2734 in Azerley to Bridleway 15.7 north of Cow Myers**   **ROW/3336395 (App. Ref. HAR-2017-09):**   * **Application to add a bridleway from Footpath 15.7/13 at the corner of Eight Acre Wood, to Bridleway 15.102 on Cock Shaw Bank Lane** * **Application to upgrade to bridleway part of Footpath 15.7/13 from the U2737 in Azerley to the corner of Eight Acre Wood** * The representations were made under Paragraph 3(2) of Schedule 14 of the Wildlife and Countryside Act 1981 seeking directions to be given to North Yorkshire Council to determine twelve applications for Orders, under Section 53(5) of that Act. This decision relates to six of the twelve applications. |
| * The representations are made by Caroline Bradley of The British Horse Society on 4 January 2024. |
| * The certificates under Paragraph 2(3) of Schedule 14 were dated 18 January 2017 (HAM-2017-09), 13 November 2020 (HAM-2020-06), 11 June 2021 (HAM-2021-03), 17 April 2017 (HAR-2017-07), 2 May 2017 (HAR-2017-08 and HAR-2017-09). |
| * The Council was consulted about the representations on 15 January 2024 and their response was made on 5 February 2024. |
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Decisions

1. North Yorkshire Council (the Council) is directed to determine the above-mentioned applications.

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 Council has recently implemented a new system of prioritisation for applications, and they are now considered in the order that they were received. Previously, applications were given a score according to certain criteria. However, it was found that low scoring applications were displaced by newer ones with higher scores. This resulted in a backlog of very old, low scoring applications which are generally found to have poorer quality evidence than more recent applications. Considering applications in order of receipt assures applicants that their applications will be dealt with and enables the Council to give greater clarity as to when investigations will commence.
4. The Council considers applications should only be taken out of turn in exceptional circumstances. The Council considers exceptional circumstances to be when directed to determine an application or make an Order by the Secretary of State, where two or more applications make use of the same historical evidence and connect to form a local network of paths, or for training purposes in relation to staff development.
5. The Council has invested significantly in the Definitive Map team to enable resources to be specifically allocated to dealing with applications. They currently have seven Definitive Map Officers which they believe makes them one of the largest teams in the country. However, a large number of applications were submitted during the Covid-19 lockdowns. Whilst they consider they should have sufficient resources to deal with applications in a timely manner, they are only able to keep the backlog static or rising very slowly. Therefore, they must rely on a fair and rational system when dealing with applications.
6. There are currently 219 applications awaiting determination. The oldest application submitted (HAM-2017-09) is at number 46 on the waiting list. The other applications submitted in 2017 (HAR-2017-07, HAR-2017-08 and HAR-2017-09) are at numbers 48, 49 and 50 respectively. The application submitted in 2020 (HAM-2020-06) is at number 111; and the application submitted in 2021 (HAM-2021-03) is at number 137.
7. The applicant states that all of these routes form a missing link in the bridleway or byway network. They are routes that horse riders would use on a regular basis but are currently denied access, the routes would also benefit cyclists. The applicant states, at the current rate the Council are progressing applications, there is no real prospect of these applications being determined in her lifetime. Furthermore, should the applications be opposed, she would like to be able to see them through to their conclusion. She fears that if the applications are not determined soon then this will not be possible.
8. The Council states they do not believe that any exceptional circumstances apply in this instance, which justify taking the applications out of sequence. They state that 80% of their applications are from the British Horse Society and the Byways and Bridleways Trust and relate to claims for bridleway rights or a higher status. The Council believes the applicant is not subject to any disadvantage by the prioritisation system.
9. It is now 7 years since the first of these applications was submitted, indeed four of six the applications were all submitted in the first half of 2017. The Council has indicated that it is likely to be 3 to 4 years before investigations begin into the oldest application (HAM-2017-09). This means the total waiting time for this application will be at least 10 years. It is likely to be many more years before the Council is in a position to investigate all of these applications.
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. Whilst it is reasonable for the Council to determine applications in accordance with its scheme, it is unreasonable, given the expectation they will be addressed within 12 months, for their determination to take at least a further 3 to 4 years. Therefore, I have decided that there is a case for setting a date by which time the applications should be determined.
11. It is appreciated that the Council will require some time to carry out its investigations and make decisions on the applications. A further period of 12 months has been allowed in respect of 4 of the applications, those submitted in 2017, as they have been on the waiting list the longest. A further period of 18 months has been allowed in respect of 2 of the applications, those submitted in 2020 and 2021.

**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 North Yorkshire Council to determine the applications mentioned below not later than 12 months from the date of this decision.

ROW/3336390 – App. ref. HAM-2017-09

ROW/3336393 – App. ref. HAR-2017-07

ROW/3336394 – App. ref. HAR-2017-08

ROW/3336395 – App. ref. HAR-2017-09

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 North Yorkshire Council to determine the applications mentioned below not later than 18 months from the date of this decision.

ROW/3336391 – App. ref. HAM-2020-06

ROW/3336392 – App. ref. HAM-2021-03

J Ingram

INSPECTOR