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| **Direction Decisions** |
| **by Laura Renaudon LLM LARTPI Solicitor** |
| **an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 18 April 2024** |

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| **Refs: ROW/3336398, 3336399, 3336400, 3336401, 3336403 & 3336404****Representations by Caroline Bradley of the British Horse Society****North Yorkshire Council (‘the Council’)****Applications to modify the Definitive Map and Statement by:****ROW/3336398 (App. Ref. HAR-2017-10-DMMO)** |
| * Upgrade to bridleway Footpath 15.32 & 15.119 from the U2941 at Eavestone to Topham Close (U2947) & Skelding at Bridleway 15.119.

**ROW/3336399 (App. Ref. RICH-2018-02-DMMO)** |
| * Add a bridleway from Barden Lane (U1118) to Garriston (U1119) and
* Upgrade to bridleway the Footpaths 20.5/1/1, 20.71/1/2 & 2/2 and 20.31 from Barden Lane to Garriston.

**ROW/3336400 (App. Ref. RICH-2018-03-DMMO)*** Add a bridleway from Barden Lane (U1118) to West Hauxwell (C127) and
* Upgrade to bridleway the Footpaths 20.5/1/1, 20.71/1/2 & 2/2 & 4/2 & 4/3 from Barden Lane (U1118) to West Hauxwell (C127).

**ROW/3336401 (App. Ref. RICH-2018-04-DMMO)** |
| * Add a bridleway from Footpath 20.31.2.1 to C127 road from Hauxwell and
* Upgrade to bridleway the Footpath from grid 4162 4928 on 20.31/2/1 to the U1119/9/50 and U1119/1/80.

**ROW/3336403 (App. Ref. RICH-2020-11-DMMO)*** Add a bridleway from Footpath 20.25 Witton Moor and
* Upgrade to bridleway the Footpath 20.25 from the U1156 to grid 4163 4838.

**ROW/3336404 (App. Ref. RICH-2020-13)*** Upgrade to restricted byway Footpaths 20.78/58 and 20.42/9 from the C109 at New Close Bank along Fremington Edge Top to Bridleway 20.17/15 at Fell End.

 * The representations are made under paragraph 3(2) of Schedule 14 to the Wildlife and Countryside Act 1981 seeking directions be given to North Yorkshire Council to determine 12 applications for Orders under section 53(5) of that Act. This decision relates to six of those 12 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 are dated 4 July 2017 (HAR-2017-10-DMMO), 23 February 2018 (RICH-2018-02-DMMO), 23 February 2018 (RICH-2018-03-DMMO), 15 March 2018 (RICH-2018-04-DMMO), 28 July 2020 (RICH-2020-11-DMMO) and 23 July 2020 (RICH-2020-13).
* The Council were consulted about the representations on 15 January 2024 and their response was made on 5 February 2024.
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**Decisions**

1. The Council are 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. Schedule 14 Direction Guidance issued by the Planning Inspectorate, reflecting the content of Defra’s Rights of Way Circular 01/09, sets out that anyone who has applied to the local highway authority for a modification to the area’s definitive map and statement and has not been advised of the authority’s decision within 12 months can apply in writing to the Secretary of State for a direction. The Secretary of State may direct the authority to decide the application by a certain date.
2. It goes on to advise that Secretary of State takes several issues into account in considering how to respond to such requests and whether they should direct an authority to determine an application for an order within a specific period. These issues include:
* 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 that the authority has taken or expressed intentions to take or further action on the application in question; and
* the circumstances of the case, and any views expressed by the applicant.
1. The applications here have been on the Council’s Register for between around four and seven years. They constitute six of the 219 undetermined applications at the time of the Council’s response, the oldest application having been made more than 35 years ago.
2. The Council have no statement of priorities as such. They have however recently begun prioritising applications in accordance with the date received, rather than according to other criteria, and take applications ‘out of turn’ only in exceptional circumstances including when directed to do so by the Secretary of State. The Council are evidently conscious of the need to grapple with the backlog of undetermined applications and claim significant recent investment in its Definitive Map Team in order to deal with applications relating to the Definitive Map.
3. The Council concede that the present size of the team will allow them merely to keep the backlog of applications more or less static or rising very slowly. It is clear that the recent investment in the team will not ameliorate the overall backlog of undetermined applications and at best will prevent the list from growing further.
4. The immediate consequence for the present applications of the Council’s new approach is that, barring a direction being made, they cannot expect to be dealt with for at least the next three years. The oldest application here will be ‘outranked’ by 50 other applications.
5. That oldest application here is already nearly seven years old, and on the Council’s estimate it will not be brought forward for investigation until around a decade has elapsed since its submission. The Council anticipate that applications will be considered at a rate of 14-20 each year. Notwithstanding the reasonableness of the Council’s current system of prioritising applications, a system that results in any Definitive Map application waiting over a decade for consideration, as is the Council’s own prediction, cannot realistically be said to result in applications being investigated and determined as soon as reasonably practicable, as the 1981 Act requires. On the Council’s lower estimate, the most recently-made applications will not be dealt with for 15 years and on their higher estimate not for 10.
6. The Council’s response invites me to take as a fact that directions in these cases will necessarily mean disadvantaging other, older, applications. However, Circular 01/09 explains that that authorities should ensure that sufficient resources are devoted 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.

1. The applicant seeks directions because otherwise she sees no real prospect of the applications being dealt with in her natural lifetime. Should they be opposed, it will be necessary to see them ‘through the Inspectorate process’. She would like to see them to a conclusion and understands they are good quality applications that should not be difficult to assess.
2. Because the application constitutes a request for directions, I have not had sight of the underlying applications to modify the Definitive Map and Statement save in the form of the completed WCA Forms A, the accompanying maps, and the relevant paragraph 2(3) certificates. From those completed forms, it is clear that one of the applications has involved submitting user evidence forms completed by others, and most of them involve historic documents personally explained by the applicant. I have not been informed about what the applicant’s ‘natural lifetime’ can be expected to be, and nor do I know whether any applications relying on user evidence are likely to be contentious or require testing under cross-examination. Nonetheless I accept that with the passage of time the risk of the applicant, and others, becoming unavailable personally to deal with matters arising from the applications can only increase.

**Conclusions**

1. For the above reasons I find that these are appropriate applications on which to make directions giving dates by when the applications should be determined. It is appreciated that the Council will require some time to carry out their investigations and make decisions on the applications. Four of the applications were made six years ago or more, and I shall direct that each of these be determined within 12 months. The remaining two are more recent, being submitted a few months after the 2020 lockdown during a period of relative inundation. I shall therefore direct that these be determined within 18 months.

**Directions**

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/3336398 – App ref. HAR-2017-10

ROW/3336399 – App ref. RICH-2018-02

ROW/3336400 – App ref. RICH-2018-03

ROW/3336401 – App ref. RICH-2018-04

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/3336403 – App ref. RICH-2020-11

ROW/3336404 – App ref. RICH-2020-13

Laura Renaudon

INSPECTOR