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| **Direction Decision** |
| **by Susan Doran BA Hons MIPROW** |
| **an Inspector on direction of the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 28 January 2025** |

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| **Ref: ROW/3352112****Representation by Diana Mallinson and Susan Hemingway on behalf of Pendle and District Bridleways Group****Lancashire County Council****Application to add a Bridleway from SD 844 387, the junction of Sandy Hall Lane and Wheatley Lane Road to SD 841 390 and to upgrade to Bridleway the footpath from SD 841 390 to SD 839 394, the junction of Sandy Hall Lane, Noggarth Road and Ridge Lane (OMA ref. 804-761)** |
| * 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 Lancashire County Council to determine an application for an Order under Section 53(5) of that Act.
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| * The representation, dated 18 September 2024, is made by Diana Mallinson and Susan Hemingway.
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| * The certificate under Paragraph 2(3) of Schedule 14 is dated 13 December 2022.
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| * The Council was consulted about the representation on 25 September 2024 and their response is dated 6 November 2024.
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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 12 months of the authority’s receipt of certification that the applicant has served notice of the application on affected landowners and occupiers.
2. As required by Rights of Way Circular 1/09 (Version 2, October 2009, Department for Environment, Food and Rural Affairs) 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 applicants.
3. The Council’s Strategic Statement of Priorities for Public Rights of Way (version 5, September 2013) indicates that applications will be processed in chronological order of receipt, unless they meet one or more of 5 special factors, in which case they are given greater priority.
4. The applicants are aware that the Council has a backlog of definitive map modification order applications: this amounts to some 60 applications awaiting determination of which this one is listed as number 24 with a priority score of 2. However, they maintain that this application satisfies 4 of the special factors so should be accorded higher priority, although the Council disagrees.
5. The special factors they say apply are:
* *Health and Safety Danger to the public, posing a significant risk of injury…Addition of an alternative to a hazardous route.* The applicants say it would provide a safe off-road alternative for horse riders to get between connecting roads, avoiding busy narrow roads with blind bends. The Council points out that whilst Sandy Hall Lane itself would provide a safe route for horses, there are no bridleways or safe connecting roads.
* *Rights of Way Improvement Plan Applications which…meet an objective of the ROWIP…Addition/amendment of an alternative to a road without…a verge* The applicants believe this factor is met as the application route provides a short cut alternative to roads which mostly do not have a verge which horses and riders can use. However, the Council’s ROWIP objective is to develop a strategy and provide information as well as to make verges better, not specifically about prioritising routes to avoid roads without verges.
* *Reduction of Conflict Applications which seek to regularise or clarify rights in order to reduce the likelihood of conflict. Such conflict could be between users and land managers, other users or local residents. Likely conflict as a result of attempts to use a claimed public right of way denied by the landowner*  Processing the application, the applicants argue, would regularise and clarify rights, and conflicts between land managers and users who are now prevented from using the application route would be resolved. The Council agrees their argument attracts some validity as regards this factor, but it is limited.
* *Large numbers of People Where a route…affects a large number of landowners…*  Twelve properties are affected by the application, although the Council says these are householders who may be presumed to have private rights along part of the route. Further, that whilst their access would be shared with any bridleway users, it is already shared with a greater number of walkers.
1. The application is based on user evidence before 2021. Four of those who submitted evidence are aged over 70 or will be 70 in 2025, of whom 2 are willing for their evidence to be tested at inquiry. If the application is not expedited, there is a risk that older witnesses will no longer be able to take part in an inquiry due to death or incapacity. This is something the Council is aware of but comment it is a factor common to many user-based or user-supportedapplications outstanding and is not a reason for this application to take priority over others.
2. I understand that the Council received extra resources to help deal with a backlog of opposed definitive map modification orders awaiting submission to The Planning Inspectorate. However, this funding was due to run out by the end of 2024. Whilst the applicants hoped this would have freed up staff time for determining applications, instead the Council says this has not been the case. They are currently progressing around 4 definitive map modification order applications from the backlog of applications awaiting determination each committee meeting, with the Regulatory Committee held 5 times a year. This application, they say, will be considered in due course according to priority status.
3. I consider the Council’s system of prioritising applications to be fair and reasonable. It also provides an opportunity for applications to move up the list if they meet some or all the special factors identified above. It appears that this application does meet some of those factors, albeit perhaps not strongly. I am mindful of the Council’s request that no direction be given in this case as it should not have priority over others solely by reason of an application for a direction. I note also that no order was made further to an application submitted in 1996 for a definitive map modification order at this location. Nevertheless, an applicant’s right to seek a direction from the Secretary of State gives rise to the expectation of a determination of their application and the evidence submitted with them within 12 months under normal circumstances.
4. No exceptional circumstances have been indicated by the Council for the application not having been determined within the timeframe. Therefore, 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 investigations and make a decision on the application. A further period of 6 months has been allowed.

**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 Lancashire County Council to determine the above-mentioned application not later than 6 months from the date of this decision.

S Doran

**Inspector**