

|  |
| --- |
| **Direction Decision** |
| **by Laura Renaudon LLM LARTPI Solicitor** |
| **an Inspector on direction of the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 22 January 2025** |

|  |
| --- |
| **Ref: ROW/3348916****Representation by Will Steel (BHS)****Leeds City Council** **Adding a bridleway along a section of a route known as Sandbeck Lane, Wetherby (SE 4228 4975 and SE 4340 5017).** **(Application Ref: CH/55)** |
| * 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 Leeds City Council to determine an application for an Order, under Section 53(5) of that Act.
 |
| * The representation is made by Will Steel of the British Horse Society, dated 26 July 2024.
 |
| * The certificate under Paragraph 2(3) of Schedule 14 is dated 13 July 2023.
 |
| * The Council was consulted about the representation on 2 August 2024 and the Council’s response was made on 20 August 2024.
 |
|  |

Decision

1. The Council is directed to determine the above-mentioned application.

**Preliminary Matters**

1. The request for a direction was made by Will Steel, of the British Horse Society (‘BHS’). Subsequently on 27 July 2024 the original applicant, Tricia Heaps, confirmed that the BHS were authorised to proceed with the case (described as the ‘appeal’) on her behalf.
2. The certificate of service of notice of the application on affected landowners and occupiers, dated 13 July 2023, was signed by a different person, Hilary Carroll. The certificate was signed ‘for and on behalf of the British Horse Society’ and thus, although made retrospectively, I am satisfied that this is within the ambit of the applicant’s general authorisation to the BHS given on 27 July 2024.

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. 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 applicant.
3. The application in question was dated 11 March 2009, although recorded by the Council as dated November 2009, and is presently 15th on the Council’s chronological list of outstanding applications, together numbering 56. Although the relevant certificate was not given until 2023, just over 12 months before making the present representation, the Council take no point about the age of the application. The application form itself states that the matter had been ongoing since 1997, although I do not understand this to mean that the Council had any notice of it before the application was made in 2009.
4. The Council’s stated priorities are to deal with such applications in chronological order unless special circumstances apply. The claimed route here spans different order making authority areas, with the adjoining North Yorkshire (formerly County) Council having confirmed an order in 2019. The applicant appears to have been informed that this would lead to the prioritisation of this application, but the Council have since decided that would not be appropriate because it would disadvantage other, older, applications. It is not explained how either decision (to prioritise the application, and then not to) was affected by the adoption of the Council’s Statement of Priorities, if at all.
5. The Council’s aimed rate of progress is to dispose of six applications each year, although it is said that resources are such that it might be another five years before this application arises for determination. This indicates that the present rate of progress is around three applications each year. Circular 01/09 explains that funding for rights of way functions is provided to local authorities through the revenue support grant; and 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. To deal with only three applications each year would fail to reduce the backlog, based on the historic number of applications, suggesting that the Council’s rights of way functions are under-resourced. Thus although the Council’s Statement of Priorities is an inherently reasonable approach, the resources presently devoted to it suggest that it will not effectively discharge the Council’s obligation to bring and keep the Definitive Map and Statement up to date.
6. 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. In this case, more than fifteen years have passed since the application was submitted and no exceptional circumstances have been indicated. The applicant explains that the route in question is the central section of a longer route that has bridleway rights recorded at either end of it, and that it is in the interests of users for a determination to be made. The application is said to rely largely on user evidence, and the risk of those users being unable to deal with matters arising out of the application increases with the passage of time.
7. The application to North Yorkshire in relation to the adjoining section was made in 2000, some nine years prior to this one. That order has now been confirmed and hence any advantage that might have arisen from the simultaneous consideration of the applications by the adjoining authorities has now been lost. Thus the fact of the adjoining application to North Yorkshire is no longer a good reason to take the present application out of turn. Nonetheless the length of time that has elapsed since the application was made, the risks inherent in delaying the determination of an application relying on user evidence, and the Council’s need to devote resources to its rights of way functions if it is to bring and keep the Definitive Map and Statement up to date all indicate that a direction should be made.
8. 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 12 months has been allowed.
9. In the circumstances I have decided that there is a case for setting a date by which time the application should be determined.

**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 Leeds City Council to determine the above-mentioned application not later than 12 months from the date of this decision.

Laura Renaudon

INSPECTOR