



Direction Decisions

by **Michael R Lowe** BSc (Hons)

an Inspector on direction of the Secretary of State for Environment, Food and Rural Affairs

Decision date: 14 November 2017

Ref: FPS/G3300/14D/27, 28 & 29

Representations by South Somerset Bridleways Association

Somerset County Council

FPS/G3300/14D/27 Application for the addition of a Restricted Byway for a route known as Charmoor Drove (Parish of Combe St. Nicholas) (Council ref. 630M)

FPS/G3300/14D/28 Application for the addition of a Restricted Byway for a route known as Hamway Lane (Parish of Combe St. Nicholas) (Council ref. 632M)

FPS/G3300/14D/29 Application for the addition of a Restricted Byway for a route known as Charmoor Lane (Parishes of Broadway and Combe St. Nicholas) (Council ref. 633M)

- The representations are made under Paragraph 3(2) of Schedule 14 of the Wildlife and Countryside Act 1981 (the 1981 Act) seeking directions to be given to Somerset County Council to determine various applications for Orders, under Section 53(5) of that Act.
 - The representations are made by the South Somerset Bridleways Association and dated 16 May 2017.
 - The certificates under Paragraph 2(3) of Schedule 14 are dated 30 June 2011.
 - The Council was consulted about your representations on 14 June 2017 and the Council's response was made on 25 July 2017.
-

Decisions

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

Reasons

2. 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. 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 applicant¹.
3. The Council has a policy statement for prioritising applications under section 53(5) of the 1981 Act. This policy gives priority to those applications which, if successful, would be of most benefit to people wishing to use the wider rights

¹ Rights of Way Circular 1/09 Version 2, October 2009. Department for Environment, Food and Rural Affairs.

of way network. The applications in question are ranked jointly 108th on a list of 145 cases. The Council estimates that it will be 10 years before work begins on the application.

4. 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 circumstances². In this case, the applicants for the Order have waited more than 5 years before seeking a direction from the Secretary of State. The statutory duty is to investigate applications as soon as reasonably practicable. The statement by the authority setting out its priorities for bringing and keeping the definitive map up to date is only reasonable if it is able to implement those priorities in accordance with the statutory duty and, under normal circumstances, within 12 months. The Council has not indicated any exceptional circumstances as to why the application has not been determined.
5. In the circumstances, I have decided that there is a case for setting a date by which time the applications should be determined. It is appreciated that the Council will require some time to carry out its investigation and make a decision on the applications. A further period of 6 months has been allowed.

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

Michael R Lowe

INSPECTOR

² The 12 month period commences on the date a valid certificate is submitted to the order-making authority in accordance with paragraph 2(3) of Schedule 14.