



Direction Decision

by **D. M. Young BSc (Hons) MA MRTPI MIHE**

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

Decision date: 2 October 2018

Ref: FPS/G3300/14D/38

Representation by Ivor Sutton, Ramblers' Association West Somerset Group

Somerset County Council

Application to add a footpath running from ST 02156-43479 in front of WL/3/19 north-facing chalets to ST 01526-43596 railway crossing WL/3/3

Council ref. RW/848M

- 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 Somerset County Council (the Council) to determine an application for an Order, under Section 53(5) of that Act.
- The representation is made by Ivor Sutton on behalf of the Ramblers' Association West Somerset Group, dated 18 May 2018.
- The certificate under Paragraph 2(3) of Schedule 14 is dated 29 May 2017.
- The Council was consulted about your representation on 22 May 2018 and the Council's response was made on 9 July 2018.

Summary of Decision: The Council is directed to determine the above-mentioned application.

Decision

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

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 12 months of the authority's receipt of certification that the applicant has served notice of the application on affected landowners and occupiers.
3. 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.

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

4. In this case, the applicant submitted an application to add a footpath to the Definitive Map and Statement on 2 May 2017. The Council explains that since the application was submitted it has been held in abeyance pending further information about the impact of the Deregulation Act 2015. It has not therefore been scored in accordance with its Statement of Priorities. Despite that, the Council estimates that based on current work rates it will be at least 15 years before work commences on the application. By any measure I find that to be completely unacceptable bearing in mind and cannot reasonably be considered "...as soon as reasonably practicable...".
5. Whilst I have some sympathy for the position the Council finds itself in, adequate resources should be provided to permit the Council to carry out its statutory functions within reasonable timescales. I have carefully considered the applicant's supporting arguments. Whilst it is not necessary for me to repeat these again here, there appears to be public safety grounds for expediting the application something which would be consistent with the Council's scorecard. The existence of applications of longer-standing origin does not constitute a compelling reason for not dealing with this particular application within a reasonable time-frame. I also share the applicant's concerns that important user evidence could be lost or degraded given that many witnesses are elderly. Landowner testimony could be similarly affected.
6. As the Council has a statutory duty to keep the Definitive Map and Statement up to date, the work involved in doing that cannot, in itself, be considered to be an exceptional circumstance. The Council argue that many other applications submitted before this one would offer greater or more urgent safety benefits. However no specific details of these cases have been provided. In any event, as the Council has failed to score the current application against its Statement of Priorities, it is not clear how it is able to make such a claim. Overall the Council's submissions do not provide a compelling reason not to deal with this particular application.
7. 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 12 months have passed since the application was submitted and the Council estimates that it will be a further 15 years before work commences. Therefore taking account of all the circumstances, I have decided that there is a case for setting a date by which time the application should be determined. I consider it appropriate to allow a further 12 months for a decision to be reached.

Direction

8. 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 application not later than 12 months from the date of this decision.

D. M. Young

INSPECTOR