



Direction Decision

by **Barney Grimshaw BA DPA MRTPI(Rtd)**

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

Decision date: 20 December 2018

Ref: FPS/G3300/14D/39

**Representation by South Somerset Bridleways Association
Somerset County Council**

Addition of Restricted Byway, Sixteen Acre Lane, Parish of Combe St Nicholas, Somerset (OMA ref. RW/629M/ED)

- 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 to determine an application for an Order, under Section 53(5) of that Act.
 - The representation is made on behalf of South Somerset Bridleways Association, dated 3 September 2018.
 - The certificate under Paragraph 2(3) of Schedule 14 is dated 15 February 2009.
 - The Council was consulted about the representation on 13 September 2018 and the Council's response was made on 23 October 2018.
-

Decision

1. The Council is directed to determine the above-mentioned application not later than 6 months from the date of this Direction.

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. In this case the Council states that it has a considerable backlog of applications which are dealt with in accordance with a Statement of Priorities which was adopted in 2011. This application is currently ranked 114th in the list of cases awaiting determination. The council estimates that at the current rate of dealing with applications it will be at least 11 years before this application will be determined.

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

4. The council has already been directed by the Secretary of State to determine 26 applications by the end of 2021 and has requested that the cumulative effect of these directions should be taken into account.
5. 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, almost 10 years have passed since the application was submitted and the council estimates that it will be at least another 11 years before it is likely to be determined.
6. This is not an acceptable situation; applicants should be able to expect a decision within a finite and reasonable time. In the circumstances, I have therefore decided that there is a case for setting a date by which time this application should be determined. However, it is appreciated that the Council will require some time to carry out its investigation and make a decision on the application. I therefore propose to allow a further period of 6 months for a decision to be made.

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 Somerset County Council to determine the above-mentioned application not later than 6 months from the date of this Direction.

Barney Grimshaw

INSPECTOR