



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: 4 February 2019

Ref: FPS/D0121/14D/23

**Representation on behalf of Woodspring Bridleways Association
North Somerset Council**

Application to upgrade to a bridleway, footpaths AX10/38 and AX14/3 (part) and the addition of a bridleway between Stoney Lane and the junction with footpath AX14/3 north east of Mendip Lodge on the land at Mendip Lodge Wood Burrington (OMA ref. MOD 24)

- 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 North Somerset Council to determine an application for an Order, under Section 53(5) of that Act.
 - The representation is made by Venetia Craggs on behalf of Woodspring Bridleways Association, dated 7 November 2018.
 - The certificate under Paragraph 2(3) of Schedule 14 is dated 13 January 1998.
 - The Council was consulted about the representation on 6 December 2018 and the Council's response was made on 7 January 2019.
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Decision

1. The Council is directed to determine the above-mentioned application not later than 12 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 applications are normally dealt with in the order of receipt unless special circumstances apply. The Council has accepted that its performance in dealing with applications has not been satisfactory and has taken steps to speed up the process and get rid of a backlog of undetermined applications. However, because of 21 directions issued by the

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

Secretary of State in March 2017, priority has had to be given to these cases in order to meet the deadlines set. These cases have now largely been determined but this has led to several Orders being made which have attracted objections and another four applications have pending appeals against the decisions made. These cases will need to be dealt with before outstanding applications can be determined. Nevertheless, there are only two applications awaiting determination ahead of the current one and it is hoped that investigation of this application will be able to commence soon. The Secretary of State is therefore requested not to issue a direction in this case.

4. Although the Council's action taken to improve performance is welcome, an applicant's right to seek a direction from the Secretary of State gives rise to the expectation of a determination of an application within 12 months under normal circumstances. In this case, more than 21 years have passed since the application was submitted, no exceptional circumstances have been indicated and the Council has still not given an estimate of when the application will be determined.
5. 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. Also, the applicant has indicated that she has sympathy with the Council's situation and would not object to a further delay of 12 months in this case. This seems very reasonable in my view. Accordingly, I propose to allow a further period of 12 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 North Somerset Council to determine the above-mentioned application not later than 12 months from the date of this Direction.

Barney Grimshaw

INSPECTOR