



## Direction Decision

by Paul Freer BA(Hons) LLM PhD MRTPI

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

Decision date: 11 March 2021

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**Ref: FPS/G3300/14D/42,43 & 44**

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

**Application for a route known as Common Lane which extends from the public road in Hardington Mandeville southwards to the start of 2 under-recorded bridleways to be shown as Restricted Byways (PINS ref: FPS/G3300/14D/42, SCC ref: MOD 589)**

**Application for a route from Common Lane southwards to Hardington Marsh to be shown as a bridleway (PINS ref: FPS/G3300/14D/43, SCC ref: MOD 590)**

**Application for a route which extends from Common Lane (point B) in Hardington Mandeville eastwards to the county road near the church in Pendomer (point C), now Closworth, to be shown as a bridleway (PINS ref: FPS/G3300/14D/44, SCC ref: MOD 591)**

- 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 by South Somerset Bridleways Association, dated 9 September 2020.
  - The certificates under Paragraph 2(3) of Schedule 14 are dated 8 March 2011.
  - The Council was consulted about your representation on 23 October 2020 and the Council's response was made on 10 February 2021.
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### Decision

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
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- expressed intentions of further action on the application in question, the circumstances of the case and any views expressed by the applicant<sup>1</sup>.
3. The applications listed above were submitted some ten years ago now. The applicant was advised at the time of submission that the applications would be progressed in chronological order but were advised subsequently that the policy had changed to priority being afforded according to a scoring system. The applicant considers that they have been disadvantaged by that change in policy. The applications are supported by the Parish Council, in part because the proposed routes would connect with other routes in the local network. The Parish Council has requested that the Order Making Authority progress the applications, but without success.
  4. In response, Somerset County Council confirms that the mechanism for prioritising applications was revised in 2008. Between that date and the adoption of a new Statement of Priorities in December 2018, all applications have been assessed against criteria set out in a scorecard (as I understand it, this would include the above applications). The resulting scores are then used to rank each application and produce a prioritised list, with those having the highest scores being investigated first. Under that system, the above applications are ranked joint 43<sup>rd</sup> in the Council's prioritised list. Based on current rates, the Council estimates that these applications are likely to be determined within the next four years.
  5. The Council acknowledges that the routes subject to these applications are close to routes put forward in other applications that are currently being processed. However, the Council points out that there is a significant backlog of applications, many of which have also been waiting longer than twelve months to be determined and for which similar arguments can be put forward to those advanced by the applicant in these cases.
  6. Authorities are required to investigate applications as soon as reasonably practicable. 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 your case, some 10 years have passed since the applications were submitted. A period of 10 years cannot be considered reasonable by any standard, even taking into account the Council's mechanism for prioritising applications and the other considerations that the Council has outlined in its response. Furthermore, the Council has indicated that it may be a further four years before the applications are likely to be determined, which is in itself considerably in excess of the period of 12 months within which the applicant might reasonably expect the applications to be determined.
  7. It is appreciated that the Council will require some time to carry out its investigation and to make a decision on the applications. The Council indicates that the resources available to it make it unfeasible to determine multiple applications within a relatively short period of time and accordingly has requested that consideration is given to the cumulative effect of directing the determination of multiple applications. Although not specifically raised by the Council, I am also mindful of the restrictions that are in place resulting from the Coronavirus pandemic and all the implications that flow from that. Accordingly, a further period of twelve months has been allowed.

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

**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 applications not later than twelve months from the date of this decision.

*Paul Freer*

INSPECTOR