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| **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: 26 April 2022** |

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| **Ref: FPS/D0840/14D/43****Representation by Sally Ross, Catherine Richards and Susan Stewart-Jacks****Cornwall Council****Application for the addition of a Bridleway from BW33 at Webbs Down, Bolventor to BW32 at Hendra Down in the Parish of Altarnun (OMA ref. WCA 697)** |
| * 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 Cornwall Council to determine an application for an Order, under Section 53(5) of that Act.
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| * The representation is made bySally Ross, Catherine Richards and Susan Stewart-Jacks, received 7 June 2021.
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| * The certificate under Paragraph 2(3) of Schedule 14 is dated 24 October 2019.
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| * The Council was consulted about your representation on 12 November 2021 and the Council’s response was made on 16 December 2021.
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Decision

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

Reasons

1. 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 applicant[[1]](#footnote-1).
2. The application seeks to add a Bridleway to the Definitive Map which, because an existing Bridleway has become blocked, would represent the only route to link East Moor with West Moor for horse riders and walkers. The Council has given no reasons why the application has not been determined, and no target date has been set for when the application will be determined. The applicants understand that the Council will be taking no further action on the application until it reaches the top of the priority list.
3. The Council explains that it operates a two-tier system for allocating the priority to be given to applications. The higher priority is given to cases that have a preferential status under the Council’s current priority statement and which meet a defined set of criteria. Cases which do not meet the criteria in the policy are afforded a lower priority. The Council confirm that this application meets the criteria set out in the priority statement and has accordingly been allocated a higher priority.
4. The Council explains that, on the date of its response, this application was positioned at number 112 on the priority list, having moved up from number 117 when first submitted. The Council currently anticipates determining approximately 20 applications per year, and on that basis predicts that this application will be determined in approximately 4 to 5 years from now. Even taking the earlier of these dates, this would mean that the application would have been outstanding for some seven years by the time it was determined. This assumes, of course, that in the interim its place on the priority list was not overtaken by other applications afforded a higher priority.
5. The Council is aware of the issues currently affecting the existing Bridleway and continues to work toward opening that route as soon as possible. The Council does not, however, consider this to be a mitigating factor that would justify promoting that application above similar cases that remaining outstanding.
6. 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, more than two years have already passed since your application was submitted and, on the Council’s own estimate, a determination is unlikely for at least a further four years. The limited progress towards reaching the top of the priority list in the 2½ years or so since the application was first submitted reinforces my conclusion that, as things stand, the application is unlikely to be determined for many years to come. No exceptional circumstances have been indicated. It is appreciated that the Council will require some time to carry out its investigation and make a decision on the application. In view of the higher priority already assigned to this application by the Council’s own prioritising scheme, a further period of 6 months has been allowed.
7. In the circumstances I have decided that there is a case for setting a date by which time the application should be determined.

**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 Cornwall Council to determine the above-mentioned application not later that than six months from the date of this decision.

Paul Freer

INSPECTOR

1. Rights of Way Circular 1/09 Version 2, October 2009. Department for Environment, Food and Rural Affairs. [↑](#footnote-ref-1)