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| **Direction Decision** |
| **by Martin Small BA(Hons) BPl DipCM MRTPI** |
| **an Inspector on direction of the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 21 July 2022** |

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| **Ref: FPS/D0840/14D/44****Representation by Lucy Wilson****Cornwall Council****Application to add a bridleway from Roads C0275 + U6186 to Road B3254 (OMA ref. WCA 648)** |
| * 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, made by Lucy Wilson, is dated 4 February 2022.
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| * The certificate under Paragraph 2(3) of Schedule 14 is dated 3 December 2018.
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| * The Council was consulted about the representation on 17 March 2022 and the Council’s response was made on 27 April 2022.
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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.
2. 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).
3. The applicant notes that Cornwall Council originally gave a target date for the determination of the application as 7 December 2019, but that at the date of the representation, over 2 years had passed since then. The applicant contends that the application route was frequently accessed by local people for walking and riding a few years ago but that the route is currently obstructed. There are no nearby bridleways and very few footpaths. Consequently, walkers and riders are forced to use extremely narrow lanes with high hedge banks and few verges or passing places, which is extremely dangerous. Increasing numbers of local residents wish to walk or ride locally.
4. In response, the authority has provided a copy of its current policy statement which sets out a two tier priority system with higher priority given to cases that have a preferential status under the policy and meet a defined set of criteria. The application has not met the criteria and has thus been given a lower priority. The authority’s prioritised list indicates that it has 256 cases to determine, with this application at number 205 on the list, having slipped from number 137 due to a significant number of successful appeals to the Secretary of State and the volume of new applications received.
5. The authority understands the issues with the route but contends that there are many similar issues in various locations across the county. The authority does not consider that the circumstances of this application merit its promotion above outstanding similar cases. In particular there are cases that are still awaiting their turn for processing, having been on the list much longer and which rely on the evidence of witnesses which may be lost by any further delay.
6. However, 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 3.5 years have passed since the application was submitted and no exceptional circumstances have been indicated. The authority estimates that at the current levels of resource this case would be determined in approximately 10 years’ time, although the applicant suggests potentially 22 years before it reaches the top of the priority list at the current rate of determinations. Either way it is unlikely that a determination will be made in the near future without intervention.
7. Given the lapse of time since the application and no indication of a decision in the near future, I consider that the applicant should be afforded greater certainty. It is appreciated that the authority will require some time to carry out its investigation and make a decision on the application. In the absence of any exceptional circumstances to justify a longer period, a further period of 6 months has been allowed.
8. In the circumstances I have decided that there is a case for setting a date by which time the application should be determined and I consider it appropriate to allow a further 6 months for a decision to be reached.

**Direction**

1. 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 than 6 months from the date of this direction.

Martin Small

INSPECTOR

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