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| **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: 22 July 2022** |

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| **Ref: FPS/D0840/14D/45****Representation by Kenneth Sharp for The Ramblers and West Penwith Bridleways Association****Cornwall Council****application to (a) Add a Bridleway from Bridleway Sancreed No 17 at OS Grid Reference SW 4049 2916 to Footpath Sancreed No 15 at OS Grid Reference SW 4022 2904; and (b) Upgrade a Footpath to a Bridleway from Footpath Sancreed No 15 at OS Grid Reference SW 4022 2904 to junction with Byway Sancreed No 43 at OS Grid Reference SW 4013 2902 (OMA ref. WCA 654)** |
| * 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 by Kenneth Sharp on behalf of The Ramblers and West Penwith Bridleways Association, dated 23 February 2022.
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| * The certificate under Paragraph 2(3) of Schedule 14 is dated 30 March 2019.
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| * The Council was consulted about the representation on 17 March 2022 and the Council’s response was made on 31 May 2022.
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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

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. In this case, the Council stated that applications are dealt with in accordance with an approved policy statement involving a two tier system. Those applications which have a preferential status under the policy and meet certain defined criteria are given higher priority. The current application meets the criteria and has been given a higher priority.
3. Nevertheless, the application was currently positioned at number 87 (out of 261) on the priority list and it was estimated that it will be approximately 5-8 years before it is determined.
4. The applicant states that the application is made on the basis of user evidence. Many of the witness statements were in fact completed several years before the application was submitted and therefore its early determination is most important. The Council points out that, in view of the large number of outstanding applications, a direction to determine this application sooner than it would otherwise be dealt with will be to the detriment of other cases.
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[[2]](#footnote-2). In this case, more than 3 years have passed since the relevant certificate was submitted, no exceptional circumstances have been indicated and it is estimated that it will be a further 5-8 years before the application will be determined. This would seem to indicate that the authority is failing to devote sufficient resources to the determination of such applications. This is not an acceptable situation. Applicants should be able to expect a decision within a finite and reasonable time. Accordingly, I have decided that there is a case for setting a date by which time this application should be determined.
6. It is appreciated that the Council will require some time to carry out its investigation and make a decision on the application and I therefore propose to allow a further 12 months for a decision to be reached.

**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 than 12 months from the date of this direction.

Barney Grimshaw

INSPECTOR

1. Rights of Way Circular 1/09 Version 2, October 2009. Department for Environment, Food and Rural Affairs. [↑](#footnote-ref-1)
2. The 12 month period commences on the date a valid certificate is submitted to the order-making authority in accordance with paragraph 2(3) of Schedule 14 [↑](#footnote-ref-2)