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| **Direction Decision** |
| **by Claire Tregembo BA (Hons) MIPROW** |
| **an Inspector on direction of the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 21 April 2023** |

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| **Ref: ROW/3305734, ROW/3305735 & ROW/3305736**  **Representation by Sarah Bucks, South Somerset Bridleways Association**  **Somerset County Council**  **Application to upgrade to bridleway the footpath from 482234 on the south bank of River Yeo to 478221 at Witcombe Farm (OMA Ref: 558M)**  **Application to upgrade to restricted byway the footpath from 487219 at the junction with Ash Drove to 477221 at the junction with Witcombe Drove (OMA Ref: 559M)**  **Application to upgrade to restricted byway the footpath known as Ash Drove from 486219 to 480208 (OMA Ref: 560M)** |
| * The representations are made under Paragraph 3(2) of Schedule 14 of the Wildlife and Countryside Act 1981 seeking directions to be given to Somerset County Council to determine three applications for Orders, under Section 53(5) of that Act. |
| * The representations made by Sarah Bucks of South Somerset Bridleways Association, are dated 15 July 2022. * The certificates under Paragraph 2(3) of Schedule 14 are dated 17 August 2011. |
| * The Somerset County Council were consulted about the representations on 8 September 2022 and their responses were dated 21 September 2022. |
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Decision

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

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. Current guidance is contained within Rights of Way Circular 1/09 Version 2, October 2009 published by the Department for Environment, Food and Rural Affairs. This explains, at paragraph 4.9, that 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. Each case must therefore be considered in light of its particular circumstances.
3. When South Somerset Bridleways Association (SSBA) made the applications in 2008 and 2010 they were advised that they would be dealt with in chronological order. Somerset County Council (the Council) advised that this was the case for all applications received before 2008. However, this was revised in 2008 and applications were prioritised according to a scoring system.
4. A new Statement of Priorities was adopted on 19 December 2018. This sets out that applications received before 28 November 2011 will be investigated first according to the score they received under the previous Statement of Priorities. Applications received after 28 November 2011 will then be investigated in chronological order. Applications can be taken out of turn in the following circumstances; the path is subject to a Small Improvement Scheme or is identified or affected by a Future Transport Scheme, the claimed rights are likely to be obstructed by development, an affected party can demonstrate that they are experiencing exceptional problems due to an application that impacts on their property, the path is subject to a Section 130A notice or the application is subject to a direction made by the Secretary of State under paragraph 3(2) of Schedule 14 of the Wildlife and Countryside Act 1981. Applications can also be considered out of turn as part of a batch to make more efficient use of resources.
5. The Council has a significant backlog of applications awaiting determination. These will take many years to process, even with additional staffing which has increased the rate that they can determine applications. However, the applications are at the top of the list and are under investigation alongside three others for connecting routes to the north of the river, which the Council have previously been directed to determine.
6. SSBA are concerned that it has been more than twelve years since the applications were made and that policy changes have disadvantaged their applications. The application routes are the only ones in the parish that can be ridden. However, their use has since been called into question increasing the urgency to have them determined. The directions to determine the applications on the north side of the river were issued in 2017 and 2020. However, the Council have not determined them and have said that there is no penalty for ignoring the directions. They would like to have the applications determined within a reasonable timescale so that fundraising can begin to upgrade the bridge over the river if the routes are successfully recorded.
7. 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 twelve months under normal circumstances. In this case, more than eleven years have passed since the certificates under Paragraph 2(3) of Schedule 14 of the 1981 Act were served. This is well beyond that anticipated by the legislation.
8. In the circumstances, I have decided that there is a case for setting a date by which time the applications should be determined. It is appreciated that the Council will require some time to complete its investigations and make decisions on the applications. A further period of six months has been allowed to make the determinations.

**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 application not later than six months from the date of this decision.

Claire Tregembo

INSPECTOR