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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: 26 March 2024** |

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| **Ref: ROW/3336751, ROW/3336752, ROW/3336753 and ROW/3336755****Representation by Venetia Craggs****North Somerset Council****Application to upgrade to bridleway the footpath which runs from county road at Long Acre to Barton Camp and Barton Hill (OMA ref, MOD 115)****Application to upgrade to bridleway the footpath which runs from Barton Drove via Compton Way to West Mendip Way bridleway (OMA ref. MOD 114)****Application to upgrade to bridleway the footpath which runs from Bardon Drove via Barton Way to Waverleg Down Hill Farm (OMA ref. MOD 113)****Application to upgrade to bridleway the footpath which runs from Winscombe Hill to Barton (Barton Drove) (OMA ref. MOD 111)** |
| * 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 North Somerset Council to determine applications for Orders, under Section 53(5) of that Act.
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| * The representation is made by Venetia Craggs, dated 29 December 2023.
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| * The certificates under Paragraph 2(3) of Schedule 14 are dated 14 March 2022 and 6, 7 and 9 April 2022.
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| * The Council was consulted about the representation on 19 January 2024 and the Council’s responses were made on 15, 22 and 26 February 2024.
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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. As required by Rights of Way Circular 1/09 (Version 2, October 2009, Department for Environment, Food and Rural Affairs) 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.
3. The Council deals with applications in chronological order of receipt unless there are circumstances affecting the claimed route that show an application needs to be taken out of sequence.
4. The Council has a backlog of applications following a reduction in staffing levels and recruitment delays. They intend to deal with the backlog by submitting outstanding cases to the Secretary of State, followed by reporting applications to their public rights of way sub-committee.
5. Issuing a direction would delay applications which have been awaiting determination for a much longer period. The Council considers this would be a miscarriage of justice to the parties involved in those applications, many of which have already been delayed by 21 directions issues in 2017.
6. The applications before me concern connecting routes, so need to be determined together. The Council believes the investigation will take a lot of time that they currently do not have with current resources and staff training. They anticipate the applications will be investigated in 2026, subject to other more urgent orders being taken out of sequence, appeals, or directions.
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 12 months under normal circumstances. Circular 1/09 makes it clear that Authorities should ensure sufficient resources are devoted to meeting their statutory duties with regard to the protection and recording of public rights of way. A lack of resources is not considered to be an exceptional circumstance.
8. In this case, two years have passed since the applications were submitted and no exceptional circumstances have been indicated. Furthermore, the council do not anticipate dealing with them for at least another two years. I appreciate a direction to make a determination on the applications before me would disadvantage applicants who have been waiting longer. However, I do not consider this should be grounds to justify not giving a direction when the 12 month determination period has passed.
9. 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 carry out its investigation and make a decision on the applications. A further period of 12 months has been allowed.

**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 North Somerset County Council to determine the above-mentioned applications not later than 12 months from the date of this decision.

Claire Tregembo

INSPECTOR