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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: 25 March 2024** |

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| **Ref: ROW/3336749****Representation by Venetia Craggs****North Somerset Council****Application to add a restricted byway running from the A370 ASD Metal Services, Hewish Old Stables, to Dolemoor Farm and Dolemoor Lane, Congresbury (Horsecroft Lane) (OMA ref. MOD 116)** |
| * 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 an application for an Order, 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 certificate under Paragraph 2(3) of Schedule 14 is dated 14 September 2022.
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| * The Council was consulted about the representation on 19 January 2024 and the Council’s response was made on 15 February 2024.
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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. 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 deal 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 that 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 issued in 2017.
6. The claimed route was included in an earlier application for a bridleway which the Council determined in 2009. I make no comment on that decision, or the evidence submitted. However, the research undertaken as part of the earlier application should aid the investigation of the current application reducing amount of work required to determine it.
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, 18 months have passed since the application was submitted and no exceptional circumstances have been indicated. I appreciate a direction to make a determination on the application before me would disadvantage applicants who have been waiting longer. However, I do not consider these applications 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 application should be determined. It is appreciated that the Council will require some time to carry out its investigation. A further period of six 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 application not later than six months from the date of this decision.

Claire Tregembo

INSPECTOR