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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: 29 April 2024** |

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| **Ref: ROW/3334854**  **Representation by Sarah Bucks of South Somerset Bridleways Association**  **Somerset Council**  **Application to upgrade footpath CH5/33A to bridleway in the parish of Combe St. Nicholas. Nimmer to New England to Cuttisford Door. (OMA ref. 525M)** |
| * The representation is made under Paragraph 3(2) of Schedule 14 of the Wildlife and Countryside Act 1981 seeking a direction to be given to Somerset Council to determine an application for an Order, under Section 53(5) of that Act. |
| * The representation is made by Sarah Buck of South Somerset Bridleways Association, dated 11 December 2023. |
| * The certificate under Paragraph 2(3) of Schedule 14 is dated 17 February 2011. |
| * The Council was consulted about the representation on 11 December 2023 and the Council’s responses were made on 29 and 30 January 2024. |
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Decision

1. Somerset Council (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 12 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 application was made in February 2009, although the certificate of service of notice was not served until 17 February 2011. The Council states that applications received before 2008 were dealt with in chronological order. The Statement of Priorities was revised in 2008 and applications were then prioritised according to a scoring system. 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.
4. Applications can also 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 but the Council considers they are making reasonable progress. Staffing levels have increased to five full time officers in recent years and the rate at which they are determining cases is increasing. The application sits at number 27 in the prioritised list. The Council estimate it will be three years before work begins on it.
6. The applicant states they were told applications were determined in chronological order when they made their application. They consider the policies introduced in 2008 and 2018 have disadvantaged their application and there are many newer applications which will be determined before it. The application route would make a useful off road route for riders and the historical documentary evidence and the report they have provided on it should make assessing the application easier.
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. In this case, more than 15 years have passed since the application was submitted and no exceptional circumstances have been indicated. This is well beyond that anticipated by the legislation and I consider this timescale to be unacceptable.
8. In the circumstances I have decided that there is a case for setting a date by which time the application should be determined. The Council requests consideration be given to the cumulative effects of directing them to determine multiple applications in a short period. However, they have not provided details of the number of other outstanding directions or direction requests. I am only aware of one outstanding direction and one other request for a direction. The outstanding direction is for determination by January 2025 and is likely to only need one officer to investigate it. Therefore, I consider a period of 12 months should be sufficient time to investigate the application and make a decision.

**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 Council to determine the above-mentioned application not later than 12 months from the date of this decision.

Claire Tregembo

INSPECTOR