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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: 23 May 2024** |

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| **Ref: ROW/3343079****Representation by Alan Woodford****Wiltshire Council****Application to upgrade to restricted byway bridleway RAMS9A, footpath RAMS9B from footpath RAMS9A to footpath RAMS44 at Hens Wood, and footpath RAMS9B from RAMS44 at Hens Wood to a track (OMA ref. D/2019/01)** |
| * 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 Wiltshire Council to determine an application for an Order, under Section 53(5) of that Act.
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| * The representation made by Alan Woodford is dated 22 April 2024.
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| * The certificate under Paragraph 2(3) of Schedule 14 is dated 14 January 2019.
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| * The Council was consulted about the representation on 7 May 2024 and the Council’s response was made on 14 May 2024.
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Decision

1. The Wiltshire 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 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 has a large backlog of applications awaiting determination. To make the best use of limited staff resources, a prioritisation scheme has been produced. Applications are allocated a score based on factors relating to public benefit. Applications supported by user evidence are given the highest priority and applications affected by development or close to another application which could be done at the same time may also be given priority.
4. The application is based on historical and user evidence. It has been allocated a score of 70 and sits at 32 on the list of user evidence applications. Officers deal alternatively with user and historical evidence based applications. This means the application sits at number 64 on the list of applications awaiting determination. The Council determines between six and ten applications a year. Therefore, the Council estimates it will be between six to ten years before this application is determined, assuming current resource levels and no additional higher-scoring applications.
5. The applicant is concerned that no action has been taken to investigate the application. Delays in determining it could result in them being unable to aid the recording of the route or make appeals and witnesses may not be able to provide evidence in person. One of the historical documents is in a poor state of repair and, if it deteriorates further, may become unusable. A decision on submitting applications for other routes depends on the weight given to the Axford Inclosure Agreement. Delays could result in these applications not being made.
6. The prioritisation system appears to be a reasonable approach to dealing with the large backlog of applications when resources are limited. However, sufficient resources should be in place to determine applications within a finite and reasonable period. I note that some applications have been waiting for longer than 20 years for determination.
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 five years have passed since the application was submitted and no exceptional circumstances have been indicated. I consider it would be unreasonable for the applicant to wait another six to ten.
8. 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 and make a decision on the application. 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 Wiltshire Council to determine the above-mentioned application not later than six months from the date of this decision.

Claire Tregembo

INSPECTOR