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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: 13 May 2024** |

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| **Ref: ROW/3336754**  **Representation by Venetia Craggs**  **North Somerset Council**  **Application to upgrade to bridleway the footpath which runs from Whitley Head County Road to the County Road at Wint Hill (OMA Ref. MOD 112)** |
| * 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 North Somerset Council to determine an application for an Order, under Section 53(5) of that Act. |
| * The representation is made by Venetia Craggs, dated 29 December 2023. |
| * The certificate under Paragraph 2(3) of Schedule 14 is dated 20 February 2022. |
| * The Council was consulted about the representation on 19 January 2024 and the Council’s response was made on 22 February 2022. |
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Decision

1. The North 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 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 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. Following an earlier application to upgrade this footpath an Order was made which received objections. A public inquiry was held to determine the Order. The Inspector found there to be insufficient evidence of higher public rights, so the Order was not confirmed. I am unable to comment on that decision or the evidence. However, the research undertaken as part of the earlier application should aid the investigation of the current application reducing the amount of work required to determine it.
7. The applicant is concerned that delays could result in them being unable to undertake further action to aid in the recording of this route. They would also like to see the outcome of the application within their lifetime.
8. 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.
9. In this case, over two years 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.
10. 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 I am aware of several other recent directions and requests for directions. A further period of nine 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 Council to determine the above-mentioned application not later than nine months from the date of this decision.

Claire Tregembo

INSPECTOR