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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/3336756****Representation by Venetia Craggs****North Somerset Council****Application to upgrade to restricted byway the footpath known as Havage Drove, Puxton (OMA Ref. MOD 30)** |
| * 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.
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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 6 April 2022.
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| * The Council was consulted about the representation on 19 January 2024 and the Council’s response was made on 22 February 2024.
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Decision

1. The North Somerset 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 application is at the top of the list of applications to be determined and is under investigation. The Council is preparing a report which they intend to take to the PROW Sub Committee in July. They originally intended to take it to the PROW Sub Committee in March but missed the submission deadline.
5. The Register of Section 53B Applications submitted by the Council states no formal application has been submitted. However, historical and user evidence for Havage Drove appears to have been submitted at the same time as three other applications for paths in Congresbury and Puxton in 1994. The applicant was asked by the Council to make an application which they made on 6 April 2022.
6. 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.
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, more than two years have passed since the application was submitted and no exceptional circumstances have been indicated. The Council is progressing the application and intends to take it to the next PROW Sub Committee but has missed an earlier one.
9. To give certainty that the application will go to the PROW Sub Committee and will not be delayed further, I have decided that there is a case for setting a date by which time the application should be determined. A further period of four 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 four months from the date of this decision.

Claire Tregembo

INSPECTOR