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| **Direction Decision** |
| **by Charlotte Ditchburn BSc (Hons) MIPROW** |
| **an Inspector on direction of the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 15 July 2024** |

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| **Ref: ROW/3342519**  **Representation by Hilary Power**  **North Somerset Council**  **Application to add footpaths 1) Cherry Wood to Jubilee Stone, Backwell 2) along the southern edge of Field ST226148 and 3) Cherry Wood to Backwell, Hill Road. (OMA ref. MOD118)** |
| * 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 (the Council) to determine an application for an Order, under Section 53(5) of that Act. |
| * The representation is made by Hilary Power, dated 12 April 2024. |
| * The certificate under Paragraph 2(3) of Schedule 14 is dated 15 November 2022. |
| * The Council was consulted about the representation on 13 May 2024 and the Council’s response was made on 24 June 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 acknowledge that the application has been registered but no further progress has been made towards the determination of the application. It is the Council’s policy to deal with applications in chronological order according to the date of receipt. 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.
4. 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. The application sits at number 118 in the prioritised list. The Council estimate it will be a further two years before work begins on it.
5. The Council requests consideration be given to the cumulative effects of directing them to determine multiple applications in a short period. I recognise that there are a large number of applications awaiting determination and that the Council are having to focus their attention on Directions, with 7 having been issued since March 2024.
6. Nevertheless, the applicant is entitled to expect their application to be determined within a finite and reasonable period and the Council have a statutory duty to keep their Definitive Map and Statement up to date. Circular 1/09 makes it clear that authorities should ensure that sufficient resources are allocated to meeting their statutory duties with regards to the protection and recording of public rights of way. Difficulty complying with this due to a backlog is not an exceptional circumstance, as sufficient resources should be in place to deliver this statutory duty.
7. It is appreciated that if a direction is given in this case, then the determination of other applications will be affected. However, I do not consider that the current delay in determining this application, and the likely further delay, can be viewed as reasonable.
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. In this case, more than 1.5 years have passed since the application was submitted and, notwithstanding the issues raised by the Council, no exceptional circumstances have been indicated by them for not determining it. The current timescale to determine this application cannot be considered to be reasonable.
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 investigations and make a decision on the application. A further period of 12 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 12 months from the date of this decision.

Charlotte Ditchburn

INSPECTOR