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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: 30 July 2024** |

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| **Ref: ROW/3345290**  **Representation by Kenneth Sharp**  **Cornwall Council**  **Application to add a restricted byway from Bridleway Sennen No 14 to Sennen at junction with the A30 (OMA ref. WCA 721)** |
| * 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 Cornwall Council (‘the Council’) to determine an application for an Order, under Section 53(5) of that Act. |
| * The representation is made by Kenneth Sharp, dated 29 May 2024. |
| * The certificate under Paragraph 2(3) of Schedule 14 is dated 14 September 2020. |
| * The Council was consulted about the representation on 30 May 2024 and the Council’s response was made on 8 July 2024. |
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Decision

1. The Council is directed to determine the above-mentioned application.

Reasons

1. On 17 May 2020 Kenneth Sharp made an application to Cornwall Council. This sought to record on the Definitive Map and Statement (DMS) a restricted byway from Bridleway Sennen No 14 to Sennen at the junction with the A30. The evidence adduced in support of the claimed route includes historical documentary evidence.
2. Schedule 14 of the 1981 Act sets out provisions for applications made under Section 53(5) for an Order which makes modifications to the DMS.
3. 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.
4. 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.
5. The Council’s statement of priorities expresses that priority will be given to applications where the effect of the path is: to enhance the safety of the user by providing off road connections to centres of work and schools including links to the school transport network; to provide links with existing public rights of way, enhancing the path network or offering onward connections to nearby communities; to maximise sustainable transport links; to promote and encourage healthy active lifestyles by forming part of a longer recreational route; to improve access to nature, including green and blue spaces and public interest points for both local communities and visitors; to potentially offer a more accessible route to users; and has a time sensitive element. It also states that applications supported by evidence of use should be expedited. It operates a two-tier system whereby higher priority is given to routes which meet these defined criteria.
6. The applicant states that the application is rated Bronze by the Council but believes through the determination process the status of the application will become Gold. Currently the application is positioned at 233 on the priority list and the Council anticipates that it will take 3-4 years to clear the backlog of user evidence-based cases, so it will be longer than this time period for this application to be determined. The applicant estimates it will take 10-12 years for the application to be determined based on the current progress.
7. The application is based on documentary evidence and was made as a result of obstruction of the path due to overgrown vegetation. The Council has been served a Section 130A notice to clear Bridleway Sennen No 14 but has not completed the works as the route is a cul-de-sac. Determination of the application route would bring clarity and certainty to all interested parties and possibly resolve an anomaly on the DMS resolving a dead-end route.
8. The applicant also considers that there is a breach of the European Convention under Article 6: The Right to a Fair Trial, due to the determination being beyond ‘a reasonable time’.
9. Authorities are expected to allocate sufficient resources to fulfil their statutory duty to keep the DMS up to date and applicants should be able to expect a decision within a finite and reasonable time. In the circumstances, I have therefore decided that there is a case for setting a date by which time this application should be determined. However, it is appreciated that the Council will require some time to carry out its investigations and make a decision on the application. Accordingly, I propose to allow a further period of 6 months for a decision to be made.

**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** Cornwall Council to determine the above-mentioned application not later than 6 months from the date of this Decision.

Charlotte Ditchburn

INSPECTOR