

|  |
| --- |
| **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: 17 June 2024** |

|  |
| --- |
| **Ref: ROW/3344411**  **Representation by South Somerset Bridleways Association**  **Somerset Council**  **Application to add a bridleway from 473146 to 476147 (Old Road, Chiselborough) (OMA Ref. 640M)** |
| * 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 Somerset Council to determine an application for an Order, under Section 53(5) of that Act. |
| * The representation made by South Somerset Bridleways Association is dated 12 May 2024. |
| * The certificates under Paragraph 2(3) of Schedule 14 are dated 8 March 2011 and 5 July 2013. |
| * The Council was consulted about the representation on 15 May 2024 and the Council’s response was made on 21 May 2024. |
|  |

Decision

1. 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. Prior to 2008, applications were dealt with in chronological order. Applications received between 2008 and 28 November 2011 were assessed against criteria set out in a score card. The scores were used to produce a prioritised list.
4. A new Statement of Priorities was adopted on 19 December 2018. This sets out that applications received before 28 November 2011 will be investigated first according to the score they received under the previous Statement of Priorities. Applications received after 28 November 2011 will then be investigated in chronological order.
5. 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.
6. The Council believe they are making reasonable progress in determining the significant backlog of applications, but it will take many years to process them. Staffing levels have recently increased and the rate at which they are determining cases is increasing. The application sits at number 94 in the prioritised list. The Council estimate it will be five years before work begins on determining it.
7. When the application was made, the applicant was informed it would be dealt with in chronological order. They consider the change to the scoring system to prioritise applications disadvantaged their application. The applicant states there are newer applications which have a higher priority score that will be determined before their application, although the Council dispute this. The application route is currently unavailable to horse riders following the erection of a stile.
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 15 years has passed since the application was submitted (11 years since the final certificate under Paragraph 2(3) of Schedule 14) and no exceptional circumstances have been indicated. I consider this delay to be unreasonable, especially when detailed evidence has been submitted in support of the application.
9. In the circumstances I have decided that there is a case for setting a date by which time the application should be determined. The Council requests consideration be given to the cumulative effects of directing them to determine multiple applications in a short period. However, they have not provided details of the number of other outstanding directions or direction requests. I am aware of several other outstanding directions which need to be determined by January or April 2025. Therefore, I consider a period of 18 months should be given to investigate the application and make a decision.

**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** Somerset Council to determine the above-mentioned application not later than 18 months from the date of this decision.

Claire Tregembo

INSPECTOR