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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: 20 May 2025** |

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| **Ref: ROW/3359919**  **Representation by South Somerset Bridleways Association**  **Somerset Council**  **Application to add a restricted byway known as Sharpham Drove between Middle Drove and Hitchens Drove in Kingsbury Episcopi (Council Reference: 545M)** |
| * 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 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 29 January 2025. |
| * The certificate under Paragraph 2(3) of Schedule 14 is dated 7 December 2010. |
| * The Council was consulted about your representation on 3 February 2025 and the Council’s response was made on 17 March 2025. |
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Decision

1. The 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 12 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. 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.
4. Applications can 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 path is likely to be obstructed by development, an affected party can demonstrate they are experiencing exceptional problems due to an application that impacts on their property, the path is subject to a Section 130A notice or a direction made by the Secretary of State under paragraph 3(2) of Schedule 14 of the Wildlife and Countryside Act 1981, or the application is supported by five or more user evidence forms. Applications can also be considered out of turn as part of a batch to make more efficient use of resources.
5. The Council believes they are making reasonable progress in determining a significant backlog of applications, but they will take many years to process. They continue to seek and implement measures to improve the rate at which they determine applications. The application sits at number 117 in the prioritised list and the Council estimate it will be at least ten years before work begins on it.
6. When the application was made in July 2008 the applicant was advised that it would be dealt with in chronological order. The introduction of the scoring system moved their application down the list disadvantaging it. The application was submitted over 15 years ago and has not been determined. The applicant believes there are many more recent applications that will be determined before theirs, but Council dispute this. The route is still in use but is becoming less commodious due to vegetation and surface conditions. The applicants are willing to fund works but are unable to do so because the application route is in a SSSI and permission for is required. The Council or landowner would need to make the application, and the Council do not consider this appropriate.
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. In this case, 17 years have passed since the application was submitted (14 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 and a further delay of ten years would be unacceptable.
8. In the circumstances I have decided 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 directions outstanding. Therefore, I consider a period of 12 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** the Somerset Council to determine the above-mentioned application not later than 12 months from the date of this decision.

Claire Tregembo

INSPECTOR