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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: 09 July 2025** |

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| **Ref: ROW/3348627****Representation by Alan Kind****Northumberland County Council****Application to upgrade Footpath 20 (now Footpath 21) Bamburgh to Byway Open to All Traffic (BOAT) from Fowberry (BOAT 20) to Greenhill (BOAT 22)**  |
| * 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 Northumberland County Council to determine an application for an Order, under Section 53(5) of that Act.
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| * The representation made by Alan Kind, is dated 23 July 2024.
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| * The certificate under Paragraph 2(3) of Schedule 14 is dated 18 July 2023.
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| * Northumberland County Council was consulted about the representation on 22 May 2025 and their response is dated 23 June 2025.
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Decision

1. Northumberland County 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. The applicant made a request for a direction in July 2024. In September 2024, after being advised by the Council that their application would be determined in 2025, they asked for the direction to be paused. However, the application has not been determined and the Council now states it is now pencilled in for June 2026. On 22 May 2025 the applicant asked for a direction for their application to be determined by 31 December 2025.
4. The applicant considers the application depends on their close involvement and they are not getting any younger or healthier. They also understand that the landowners want this application resolved.
5. The Council deals with applications in chronological order of receipt unless there are strategic benefits to the network or other legal factors which dictate otherwise. They will also give higher priority to claims based on user evidence, particularly when the public are prevented from using a route. The Council considers this is a fair and reasonable approach. If they were to determine the application sooner, it would mean older applications would be delayed.
6. The Council also advises that an earlier Modification Order for a BOAT included the application route. Objections were made and the Order was submitted to the Secretary of State for determination. The application route was only confirmed as a footpath with the sections at either end confirmed as BOATs.
7. The Council has 54 applications awaiting determination. This application sits at number 22 on that list. Only two more recent applications are based on user evidence.
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, two years have passed since the application was submitted and no exceptional circumstances have been indicated.
9. I agree that the Councils approach is fair and reasonable, and I appreciate a direction to make a determination on the application before me would disadvantage applicants who have been waiting longer. However, I do not consider that older applications should be grounds to not justify giving a direction when the 12 month determination period has passed. Furthermore, the earlier Modification Order which required investigation for the same route would suggest the determination process would take less time.
10. In the circumstances I have decided 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 investigation and make a decision on the application. I would normally direct a decision to be determined within six months of my decision (January 2026). However, the date requested by the applicant is at most a few weeks earlier. Furthermore, the direction request was delayed due to the Council advising that the application would be determined in 2025.

**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** Northumberland County Council to determine the above-mentioned application not later than 31 December 2025.

Claire Tregembo

INSPECTOR