



3/25 Hawk Wing
Temple Quay House
2 The Square
Bristol, BS1 6PN

Direct Line: 0303 444 5226
Customer Services: 0303 444 5000
Fax No: 0117 372 6153
e-mail: caroline.baylis@pins.gov.uk

Mrs S Hughes
Clerk to Kenton Parish Council
16 Westwood Cleave
Ogwell, Newton Abbot
Devon
TQ12 6YE

Your Ref:
Our Ref: FPS/J1155/14D/3
Date: 7 October 2015

Dear Madam

WILDLIFE AND COUNTRYSIDE ACT 1981 SECTION S14
Devon County Council
Footpath from Church Street to Torrington Place in the Parish of Kenton

1. I am directed by the Secretary of State for Environment, Food and Rural Affairs to refer to your application on 14 June 2015 for a direction to be given to Devon County Council ('the Council') under paragraph 3(2) of Schedule 14 to the Wildlife and Countryside Act 1981. The direction you have sought would require the Council to determine your application for an order, under section 53(5) of the Act, to modify the Council's Definitive Map and Statement of public rights of way for the area so as to add a public footpath from Church Street to Torrington Place, Kenton.
2. The Council was consulted about your request for a direction on 9 July 2015 as required by the Act. The Council's formal response was received on 19 August 2015.
3. The Secretary of State takes a number of issues into account in considering how to respond to such requests and whether she should direct an authority to determine an application for an order within a specific period. These issues include 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 that the authority has taken or expressed intentions to take or further action on the application in question; the circumstances of the case; and any views expressed by the applicant.

Your case

4. On behalf of Kenton Parish Council, you made an application to Devon County Council on 15 November 2013 seeking a modification to the definitive map and statement so as to add a public footpath. Whilst you provided relevant information in November 2012 and February 2013, the application was not completed in full until November 2013 and acknowledged by the Council by letter dated 24 April 2014.

5. Your application included user evidence forms from 13 local people who had used this route and who could therefore offer direct evidence of using what you consider has become established as a public right of way.
6. You are now seeking a direction from the Secretary of State to require the Council to determine your application.

The Council's case

7. Devon County Council has been carrying out its statutory duty to keep the definitive map and statement under continuous review by undertaking a parish by parish review. It aims to complete this work by 1 January 2020 (Policy DM1A/3).
8. Its Statement of Priorities is published as Definitive Map Review Policy Statements within its Rights of Way Improvement Plan and is updated by revised policy statements approved by the Council's Public Rights of Way Committee.
9. It is the Council's current policy that applications for definitive map modification orders should be dealt with as part of this systematic review (Policy DM1B/2). However new claims which arise in a parish where the review has been completed (which includes Kenton) will be deferred until the whole of the County has been reviewed. Exceptions are made for particularly contentious claims that are supported by a large amount of user evidence and where there is no nearby alternative route available, or where a route is likely to be affected by development, or where a route will result in significant road safety benefits.
10. There are currently 220 applications on Devon County Council's register awaiting determination, some of which will be dealt with as part of the parish by parish review. However there are just 24 (including Kenton Parish Council's application) which are 'duly made' and ready to be processed once the systematic review is complete. As the Council gets closer to completion, it may be possible to allocate staff to start dealing with these outstanding applications ahead of the 2020 target.
11. The review of the Parish of Kenton in Teignbridge District began in July 1989 and was completed in 1991. In accordance with its current policy, the Council is holding Kenton Parish Council's application pending completion of the county-wide parish by parish review. Kenton Parish Council has not provided details of any special circumstances which apply in this case that might justify giving priority to this case. The Council understands that the route is currently open and available to the public and does not meet any of the criteria for taking it out of turn.
12. Along with other local authorities, the Council is currently facing significant budget cuts which have resulted in a loss of staff available to undertake definitive map work. Diverting resources to determine applications out of turn will have a detrimental impact on the progress of the review programme for the remaining parishes across the county.

Consideration

13. The Secretary of State recognises the scale of the task facing all local authorities in dealing with definitive map modification order and other rights of way casework. She accepts the need for a system for prioritising this work and acknowledges the methodical approach adopted by Devon County Council in reviewing its definitive map and statement and considers this to be an entirely reasonable approach to take.

She recognises that the Council's policies seek to press ahead with its programme on a parish by parish basis whilst allowing other urgent applications to be dealt with out of turn only where exceptional circumstances warrant priority being given to the case.

14. The Council does not regard your application as a priority case since it considers that none of its criteria for urgent attention are met. Indeed you have not advanced any arguments to explain why you think the Council should give priority to your case.
15. Having regard to the Council's stated priorities and method of working, the anticipated timetable for completion of its systematic review, after which your application will be considered is regarded as reasonable.
16. If your application remains undetermined after the date on which the Council anticipates completing its parish by parish review (1 January 2020), you will be entitled to make a further request to the Secretary of State for a direction.

Decision

17. In the circumstances, the Secretary of State has decided not to issue a direction to the Council.
18. A copy of this letter is being sent to the Council.

Yours faithfully

Sue Arnott

INSPECTOR

Authorised by the Secretary of State for Environment, Food and Rural Affairs to sign in that behalf