



## Direction Decision

**by Barney Grimshaw BA DPA MRTPI (Rtd)**

**an Inspector on direction of the Secretary of State for Environment, Food and Rural Affairs**

**Decision date: 28 February 2020**

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**Ref: FPS/G1440/14D/23**

**Representation by Mr C Smith, Open Spaces Society  
East Sussex County Council**

**Application to amend the Definitive Map and Statement by:**

- (a) Changing the particulars for Byway Beddingham 8 so that it runs from grid reference 445068 to grid reference 457072**
- (b) Adding to the particulars for Byway Beddingham 8 from grid reference 445068 to grid reference 457072 by specifying a width of 18 feet**
- (c) Adding to the particulars for Byway Beddingham 9 from grid reference 457071 to grid reference 462071 by specifying a width of 14 feet**
- (d) Adding to the particulars for Byway Firle 14 from grid reference 462071 to grid reference 465072 by specifying a width of 14 feet**

**[OMA Ref: RWO237/sc14]**

- 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 East Sussex County Council to determine an application for an Order, under Section 53(5) of that Act.
  - The representation is made by Mr C Smith, on behalf of the Open Spaces Society, dated 13 December 2019.
  - The certificate under Paragraph 2(3) of Schedule 14 is dated 12 December 2018.
  - The Council was consulted about this representation on 18 December 2019 and the Council's response was made on 3 February 2020.
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### Decision

1. The Council is directed to determine the above-mentioned application not later than 9 months from the date of this Direction.

### Reasons

2. 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. 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
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expressed intentions of further action on the application in question, the circumstances of the case and any views expressed by the applicant<sup>1</sup>.

3. The surveying authority, East Sussex County Council, states that it's policy is to determine applications in order of receipt subject to certain exceptions none of which apply in this case. This application is currently at number 48 in the register of applications and the authority estimates that it will be determined within the next 18-24 months at the earliest.
4. The authority also points out that it currently has 11 directions to be complied with by 16 October 2020 and states that further directions to determine applications before this date will delay work on older claims. It asks that this be borne in mind if a direction is to be made in respect of the current application.
5. 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 12 months have passed since the application was submitted and no exceptional circumstances have been indicated other than the fact that the authority has allowed a backlog to build up. Furthermore, the authority can still not give a clear date by which the application will be determined. This is not an acceptable situation and would seem to indicate that the authority is failing to devote sufficient resources to the determination of applications.
6. In the circumstances, I have decided that there is a case for setting a date by which time this 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 and I therefore propose to allow a further 9 months for a decision to be reached

### **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 east Sussex County Council to determine the above-mentioned application not later than 9 months from the date of this Direction.

*Barney Grimshaw*

INSPECTOR

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<sup>1</sup> Rights of Way Circular 1/09 Version 2, October 2009. Department for Environment, Food and Rural Affairs.