



Appeal Decision

by **Martin Elliott BSc FIPROW**

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

Decision date: 18 January 2016

Appeal Ref: FPS/J1155/14A/8

- This Appeal is made under Section 53(5) and Paragraph 4(1) of Schedule 14 of the Wildlife and Countryside Act 1981 (the 1981 Act) against the decision of Devon County Council not to make an Order under section 53(2) of that Act.
- The Application dated 28 April 2008 was refused by Devon County Council on 24 June 2015.
- The Appellant, Rosemary Kimbell, on behalf of East Devon Group, Ramblers, claims that the appeal route, between the lane southwest of Combe Raleigh village and the junction of Duck's Path with Limer's Cross to Tracey Road, should be added to the definitive map and statement for the area as a public footpath.

Summary of Decision: The appeal is allowed.

Preliminary matters

1. I have been directed by the Secretary of State for Environment, Food and Rural Affairs to determine an appeal under Section 53(5) and Paragraph 4(1) of Schedule 14 of the Wildlife and Countryside Act 1981.
2. I have not visited the site but I am satisfied I can make my decision without the need to do so.
3. In April 2008 the Ramblers submitted twelve applications under Section 53(5) and Schedule 14 of the 1981 Act for routes in Combe Raleigh parish. Seven of the applications were considered in a report to the Council's Public Rights of Way Committee on 24 June 2015 and were rejected. The routes subject to these applications are identified on the plan produced by the Council HTM/PROW/14/81 dated July 2014 (proposals 1 to 6a). This appeal relates to proposal 3 shown F-G-D-H on that plan.

Main issues

4. Section 53(3)(c)(i) of the 1981 Act provides that an order should be made if the Authority discovers evidence which, when considered with all other relevant evidence available to them, shows that a right of way subsists or is reasonably alleged to subsist over land in the area to which the map relates. In considering the evidence under this section there are two tests which need to be applied, as set out in the case of *R v Secretary of State ex parte Mrs J Norton and Mr R Bagshaw (1994) 68P & CR 402 (Bagshaw)*:

Test A: Does a right of way subsist on the balance of probabilities? This requires clear evidence in favour of public rights and no credible evidence to the contrary.

Test B: Is it reasonable to allege that a right of way subsists? If there

is a conflict of credible evidence but no incontrovertible documentary evidence that a right of way cannot be reasonably alleged to subsist, then I should find that a public right of way has been reasonably alleged.

5. Section 32 of the Highways Act 1980 provides that a court or other tribunal, before determining whether a way has or has not been dedicated as a highway, or the date on which such dedication, if any, took place, shall take into consideration any map, plan or history of the locality or other relevant document which is tendered in evidence, and shall give such weight thereto as the court or tribunal considers justified by the circumstances, including the antiquity of the tendered document, the status of the person by whom and the purpose for which it was made or compiled, and the custody in which it has been kept and from which it is produced. Section 32 is declaratory of the common law.
6. The main issue is whether the evidence indicates that a right of way subsists, or is reasonably alleged to subsist, such that an order should be made to add the claimed route to the definitive map and statement for the area. The appellant relies on documentary evidence in support of the claim.
7. I note the submissions of the Council as to the tests which should be applied to the evidence. However, the tests are those set out above. In respect of a reasonable allegation this is a lower threshold than on the balance of probabilities.

Reasons

Greenwood's map 1827

8. The route is not shown on the 1827 Greenwood's map.

Ordnance Survey mapping

9. The route is not shown on the 1806/7 Ordnance Survey surveyors drawings or on the 1809 1 inch to the mile first edition map.
10. The 1887 25 inch to the mile first edition map shows the section of the claimed route in Awliscombe parish as an enclosed track and is labelled 'Duck's Path'. The route is identified with a parcel number and acreage. There are lines across each end of the route which might suggest the existence of gates or other barriers; this would not preclude the existence of public rights. The continuation is depicted by double-dashed lines and is annotated 'f.p.' The revised New Series 1 inch to the mile 1898-1900 shows the section of the route within the parish of Awliscombe as a track with the remainder being shown as a dashed line.
11. The second edition 25 inch to the mile map of 1903 shows the route in the same way as the 1887 map. A footbridge is marked on the route where it crosses the parish boundary. The 1910 1 inch to the mile map, although not particularly clear, appears to show the section of the claimed path in Awliscombe as a track with part of the remainder being shown as a footpath. The 1 inch to the mile maps from 1919 to 1946 show the route as a footpath or bridle path/road with the 1960 edition showing the route as a track. The 1:25000 maps from 1948 show the route within Awliscombe as an 'other road' with the remainder being shown as a footpath. The 'A' edition Ordnance Survey map of 1959/60 shows the section of the claimed route within Awliscombe parish as a track. From the parish boundary to the route of

proposal 2 the route is not shown but from there the route is shown by a double pecked line annotated '*f.p.*' The 1:50000 map of 1974 shows the route as a path and the 1976 1:25000 map shows the route in Awliscombe as a minor road with the remainder identified as a path. The claimed route is not shown on the 1:25 000 'Explorer' series map of 2006.

12. Ordnance Survey maps were produced to record topographical features and not the status of any routes shown thereon. The maps show the physical existence of a route corresponding with the claimed route from 1887. However, the maps do not evidence the existence of a public footpath.

Tithe Map and Apportionment documents

13. The claimed route within Awliscombe is shown on the tithe map of 1840 as a track continuing just over the parish boundary into Combe Raleigh. Where the route enters Combe Raleigh parish the route is annotated 'To Comberawleigh'. The 1841 tithe map for Combe Raleigh does not show the claimed route. However, tithe maps do not usually show footpaths, or bridleways, as their effect on the tithe payable was likely to be negligible.
14. The Awliscombe tithe map is suggestive of a public route, continuing from the track within Awliscombe, to Combe Raleigh. However, this evidence needs to be considered with all other available evidence.

1910 Finance Act records

15. Within Awliscombe the claimed route passes through the hereditament numbered 115. No deduction is identified in the field book for any public right of way. Whilst the records do not provide any evidence of public rights this does not preclude their existence.
16. The claimed route continues into Combe Raleigh parish passing through hereditament number 58, The Glebe, and hereditament 8, Barton Farm. For hereditament 58 the field book, under 'Charges, Easements and Restrictions...' identifies 'Rts of way' through Ordnance Survey parcels 260 and 264 for which the sum of £50 is recorded. The field book identifies a deduction of £50 in respect of 'Restrictions'.
17. The appellant makes the point that £50 is not inconsiderable for public rights of way across only two fields. It is contended that this deduction probably takes into account two sections of footpath over Ordnance Survey parcel 260 and three sections across parcel number 264. Whilst I note this point, there is nothing from the field book to identify which route or routes the deduction relates. Given that the deduction is for £50 it is quite possible that part of the deduction relates to the claimed route but no clear conclusions can be reached on the basis of the evidence contained in the form. It is also noted that whilst the initial deduction is identified as for 'Rts of way' under 'Charges, Easements and Restrictions' the field book records the deduction being made for 'Restrictions'. The deduction is not identified under 'Public Rights of Way or User'. It is normally expected that any deductions in respect of public rights of way are under the latter category.
18. In respect of hereditament 8 the field book identifies that a deduction is made for 'R of Way' in respect of Ordnance Survey field parcels 311, 353 and 225. A deduction of £75 is made for 'Public Rights of Way or User'. The appellant observes that field parcel 353 is a very small copse in the middle of field 352

and that no path runs through the copse. It is considered obvious that the intention was to record the right of way through field 352.

19. From my examination of the records a deduction of £75 is made for public rights of way or user in respect of routes passing through the field parcels identified. The claimed route does not pass through the parcels identified. However, whilst it would be expected that the records were compiled with due diligence it does appear to be an anomalous situation. A deduction for a right of way is recorded as passing through field parcel 353, a very small copse, where no route is shown. In contrast no deductions are made in respect of field parcel 352 which shows three routes. Nevertheless, even if it was the intention to identify field parcel 352 it cannot be concluded that any deduction related to the claimed route. The deduction could have been in respect of the other routes identified.
20. Overall, the 1910 Finance Act records suggest the existence of a right of way over the land crossed by claimed route although in the absence of further information it cannot be concluded that the evidence from the field books was from information provided by the landowner. The evidence is by no means unambiguous and needs to be considered with all other available evidence.

Bartholomew's Map

21. The ½ inch to the mile map of 1960 does not show the claimed route and does not assist in determining the appeal.

Parish records

Combe Raleigh Parish Meeting

22. At the first parish meeting held in December 1894 it was resolved to make an archway in the '*Church path near Woodhayne ... and ... an archway on the stile in Henley*'; the parish meeting considered that a third archway was private property. The appellant contends that the stile in Henley may refer to the claimed route or another claimed route (proposal 4). However, in the absence of further details as to its location I am unable to reach any conclusions.
23. In March 1895 the parish meeting sought to apply to the County Council for the power to undertake the repair of footpaths in the parish. A minute from 30 September 1895 confirms that the powers had been conferred on them by the County Council. The minutes of that date also refer to the decision to make two new gates for the church path; the minutes from March 1896 confirming that the gates were ordered to be made. In May 1897 the parish meeting resolved to repair the path across the field at Newton Knap. The appellant contends that the minutes show the parish meeting considered that Church paths and their maintenance and repair were the responsibility of the parish. I accept that the minutes suggest an understanding as to the parish meeting's responsibilities but do not assist in determining the status of the claimed route.
24. At a meeting on 10 April 1913 the parish meeting passed a resolution that a small committee be appointed to make a schedule of public footpaths in the parish. The committee was empowered to carry out maintenance of paths and fences for which the parish meeting was responsible. Present at the meeting was the Reverend James and Mr Bernard who respectively proposed and seconded the motion to appoint the committee with the Reverend James subsequently being appointed to the subcommittee. The appellant suggests it

- is reasonable to presume that Mr Bernard was Arthur Frances Bernard of Barton Farm as identified in the 1910 Finance Act valuation book.
25. The schedule of public paths was presented to the annual parish meeting on 24 March 1914. Path three is identified as '*From Duck Path over Rectory Fields and Henley to the village*'. The entry is annotated '264, 260 and 352' the field parcels over which the claimed route passes in the parish. It is not clear who made these annotations and whether they form part of the original minute/schedule and therefore it is difficult to attach any weight thereto. Field parcels 264 and 260 were identified in the 1910 Finance Act records as the Rectory Glebe belonging to the Rector. Although I have not seen any evidence that these field parcels comprised the Rectory Fields it would be reasonable to presume that these fields did form part of that land as they formed the Rectory Glebe. The appellant refers to the Coombe Raleigh tithe map and the apportionments which indicate that field parcel 352 was called Great Henley. In my view the path identified in the schedule is more likely than not to be the route of the claimed path. There is no evidence of any other route proceeding from the Duck's Path.
26. The appellant makes the point that, given Mr Bernard owned Barton Farm at the time of the 1910 Finance Act valuation, Mr Bernard was, in 1914, fully aware and accepted the presence of a public footpath along the line of the claimed route. Further, that the Reverend James was aware of a public footpath through his glebe (rectory) fields and clearly accepted the existence of the claimed path. It is suggested that there is no evidence from the minutes that Mr Bernard or the Reverend James gave anything less than their full support to their proper recording of public rights of way and to the existing public footpaths across Barton Farm and the Glebe.
27. Whilst it is likely that the A F Bernard identified in the minutes was the owner of Barton Farm, it does not necessarily follow that there was an open acknowledgement of the existence of the path. Nevertheless, there is nothing from the minutes provided to demonstrate any dissent by A F Bernard. As regards the Reverend James it is of some significance that he was involved in the committee which identified the claimed route, which passed through his land, as a public footpath. The minutes indicate that the schedule was presented to the parish meeting by him and Mr Blackmore and that the report was approved unanimously. It would seem unlikely that the Reverend James would have identified a route over his land as being a public footpath if he did not consider it to be public.
28. At a parish meeting on 9 February 1934, following a request from the Honiton Rural District Council for information on public rights of way as affected by the Rights of Way Act 1932, the meeting proposed that some of the paths listed in the 1914 schedule came under the 1932 Act. Under the heading of public footpaths is described the route '*From Duckpath over Rectory Fields and Henley to village. (Fields 264. 260. 352)*'. The minutes identify the claimed route as being a public footpath. Those which were considered not to be public were removed from the 1914 schedule. I therefore do not regard the evidence from these minutes to be repeating the schedule for 1914; it is clear that the parish meeting reviewed the status of the routes previously listed.
29. In March 1946 reference is made to the state of some of the footpaths in the parish and that stiles on some routes had been fenced off with barbed wire. In May 1946 the Chairman informed the meeting that the barbed wire on the stile

- on Duck's Path had been removed. Although no precise location is given of the stile it would appear most likely that the stile would have been on the parish boundary given that maps show the Duck's Path to be in Awliscombe parish.
30. Correspondence from the parish meeting 19 May 2008 to a Mr Rugg, the Ramblers' Footpath Secretary at the time, is a response to a number of applications to the Council to add a number of routes, including the appeal route, to the definitive map. The letter states that the matter was last considered in 1956 when there was a decision to close the claimed paths and that no evidence has come to light in the last fifty years to indicate that the routes were required. It is the view of the parish meeting that the routes claimed should remain closed.
31. The correspondence does not dispute the existence of the claimed routes but refers to a decision to close the claimed routes in 1956. This suggests that the routes were in existence in 1956 and, although the routes were said to have been closed at that time, there is no evidence that the routes have been closed by legal order. The fact that the routes were not recorded following the survey under the 1949 Act would not have stopped up any existing rights. Whilst the routes were not considered to be required this does not demonstrate that public rights do not exist.

Awliscombe Parish Council

32. At the meeting held in July 1913 it was brought to the attention of the Council that the footpath leading towards '*Coombraleigh*' was in need of repair; a committee was set up to investigate the matter. At the meeting in September it was reported that the work had been done. Although the minutes are lacking in detail it is possible that the footpath identified is the claimed route.
33. In April 1914 it was reported that the gate at the Awliscombe end of Duck's Path was in a very bad state of repair. It was agreed that three members of the parish council be empowered to obtain an estimate and have the gate repaired. That the parish council was prepared to spend public funds on the repair of the gate suggests that they considered the route to have some public status.
34. At a meeting of Awliscombe parish council in November 1933 the members drew up of a list of '*the only rights of way in the Parish in general use at the present day*'. The parish had been requested by Honiton Rural District Council to provide a list of ways claimed as public rights of way. The parish council identified '*The footpath which runs from Greenway Lane via Wessington, Ivedon Farm, Pulshayes and the Duck's Path to the Combe Raleigh Boundary*'. However, in February 1935 the parish council decided unanimously not to spend money in repairing the Duck's Path as '*it is never used by the public*'. Whilst the parish council were no longer prepared to spend money on repairing the path the minutes do not suggest that the way was not public, only that it was never used by the public. Some two years previously the way was identified to be a public footpath in general use.
35. In February 1942 the parish council discussed the upkeep of the stiles on the path from Awliscombe Church to Combe Raleigh; the appellant considers this to include the Duck's Path. At the next meeting in April 1942 it was considered that the cost of repairing the stiles was excessive and it was resolved that a '*closure order be applied for to close this path as it was very rarely used*'. It is not clear to me whether this route included the Duck's Path but, if it did, then

the need to apply for a closure order suggests that the parish council considered the way to be public. No evidence has been submitted which indicates that an order was made to close the path.

36. On 25 August 1950 a public meeting was held to discuss the '*Rural Footpath Survey*'. A Mr Willmington suggested that the Duck's Path be closed as a public path as it was considered to be a church path; there was general agreement. Although referred to as a church path it was nevertheless identified as a public path.

Survey of Public Rights of Way

37. Under the survey carried out under the National Parks and Access to the Countryside Act 1949 the claimed route is identified with the number 3 in Combe Raleigh parish. The route is described on the survey form as from Duck's Path over the rectory fields and Henley to the road south west of Combe Raleigh. The grounds for believing the route to be public is on the basis that the route is shown on the Ordnance Survey map. However, a handwritten addition under this section states that '*The Parish withdraws its claim to this footpath*'. The survey form describes the path as being overgrown in the vicinity of Duck's Path and identifies that the path is very boggy. It is understood that Awliscombe parish council did not propose to maintain the path within that parish and the survey for Awliscombe does not include the continuation of the route. The Rural District Council comments that the path was shown on the 1932 Rights of Way Act plan and the Ordnance Survey map but it was the view of the Rural District Council that the route was not retained as a public right of way.
38. The evidence from the survey indicates that the claimed route was considered to be a public right of way otherwise it would not have been claimed. However the claim appears to have been withdrawn. No reason has been given to explain the withdrawal but it appears that the decision to claim the route relied to some extent on whether or not Awliscombe parish required the route. Although the path was not recorded on the definitive map this would not have extinguished any pre-existing rights.
39. I note the observations made by the Council that the reason for Combe Raleigh parish considering the way to be public was not on the basis of long use by the public. Whilst the parish may not have referred to use of the way in the survey they clearly considered the way to be public; some weight should be given to the view of a public body.

Aerial Photography

40. Aerial photographs from 1946-9 to 2007 do not show the line of Duck's Path clearly and no wear lines are shown on the remainder of the claimed route. The aerial photographs do not assist in determining the appeal as they only demonstrate that on the day the photographs were taken there was no visible worn line.

Landowner Evidence

41. The Council has considered evidence from landowners who own land crossing, or adjoining, the claimed route. The Council states that none of the landowners and tenants consider the claimed route to be public. They had not seen or been aware of the public using the route, or required people to ask for permission. The Council refers to some turning people back or advising people

that the way is not public. Reference is also made to the presence of notices indicating private land and gates on the route being wired shut. The Council refer to a deposit being made in 2003 under section 31(6) of the Highways Act 1980.

42. The Council states that the owner of the woodlands on the Duck's Path has provided correspondence from Awliscombe parish council relating to the repair of the path and procedures under the 1932 and 1949 Acts. Reference being made to the route being impassable in 1934 resulting in the route not being maintained and subsequently not being put forward for recording on the definitive map as a public footpath in 1950.
43. The Council do not give the evidence any significant weight as evidence against the claim except for elements indicating a recent lack of intention to dedicate. In my view, whilst the evidence does not support the existence of public rights it does not preclude the existence of such rights. Elements may show a more recent demonstration of a lack of intention to dedicate the route as a public right of way but this would have no effect on any pre-existing rights. The applicant is relying on historic documentary evidence in support of showing the existence of public rights, not recent use of the way. The Council notes concerns of landowners in respect of security and biosecurity but the Council have not given any weight to the desirability of the claimed route; such matters cannot be taken into consideration under the 1981 Act.

Representations from Interested Parties

44. The owner of the land crossed by the Duck's Path has made representations in respect of the appeal. Reference is made to the parish records from the 1930s and the 1950s recording that the path was no longer used or necessary. I have already considered the parish council minutes at paragraphs 22 to 36 above and the parish survey at paragraphs 37 to 39. It is also stated that the route is obstructed by a deep gully dug by the Council and that the route has in places become a stream. This does not preclude the existence of public rights.
45. The landowner refers to correspondence from 1934 describing the path as impassable and that no work was carried out for the next 15 years. The correspondence does indicate that the route was impassable. However, the route is identified in the correspondence as a footpath. Further, the correspondence refers to the maintenance of the route. It would not be expected that a local authority would be empowered to spend money on private routes and the correspondence suggests that the way was regarded as being public.
46. It is also noted that the claimed route within Awliscombe has become a stream during the winter months, is now mostly impenetrable and overgrown, and that in 1934 the route is identified as being a watercourse due to springs on St Cyres hill. I accept the evidence suggests that the route became impassable in the 1930s but this would not remove any existing public rights. It is suggested that a Miss Yolande Weldon, now deceased, could testify that the paths were never used in her living memory and, whilst I have no statement from Miss Weldon, this would be consistent with the route becoming impassable in the 1930s.
47. The landowner refers to Ordnance Survey maps dated 1959 and 1963 and whilst parts, or all, of the, route, are not shown this does not mean that public rights do not exist. As noted above, Ordnance Survey maps were produced to

record topographical features. The absence of the route within Combe Raleigh parish suggests that on the day of the survey there was no route which required surveying. From the evidence before me it appears that by at least 1959 the route would have fallen out of use; the absence of a marked route is therefore not unexpected. I note the routes shown on the 1959 map to the north and the south of the Duck's Path and the observation that these were created as private tracks because the Duck's Path was impassable. Again this does not preclude the existence of public rights along the claimed route.

48. The same landowner refers to the Combe Raleigh parish meeting of 2008 referring to the annual parish meeting of 28 March 1958 recommending the disestablishment of the route. It may well have been the case that parish meeting wished the route to be disestablished, however, this suggests that the parish meeting at the time still considered that the way was public otherwise such action would not have been considered.
49. Representations from Combe Raleigh parish meeting, dated 13 October 2015, make reference to the fact that the parish meeting in 1956 recommended that the claimed paths should be closed. The point is made that no evidence has come to light over the last 60 years to indicate that the paths are required. Further, that the footpath passes through land owned by residents who were unaware of these original footpaths ever existing.
50. Whilst in 1956 the parish meeting recommended that the path be closed there is no evidence of any order which would have stopped up the way. I note that the parish meeting is unaware of any evidence that the path is required. However, this is not a factor which can be taken into account in determining the appeal. The need for a path is not a matter which can be taken into account under the 1981 Act. The issue is whether rights subsist or are reasonably alleged to subsist such that an order should be made.
51. As regards some residents being unaware of the existence of the route, this does not preclude rights from being shown to exist at a later date.

Conclusions on the evidence

52. Part of the appeal route is shown on the Awliscombe tithe map of 1840, with the annotation 'To Comberawleigh' at its eastern end. This annotation is suggestive of public rights but needs to be considered with all other available evidence. The Ordnance Survey maps from 1887 show the physical existence of a route which corresponds with the appeal route; the maps do not provide information as to the status of the way. The 1910 Finance Act evidence does suggest the existence of a right of way over the various hereditaments. However, in the absence of further details it is not clear as to whether any deductions related to the claimed route or other routes. Nevertheless it is possible that some of the deductions were in respect of the claimed route.
53. In 1914 Combe Raleigh parish meeting prepared a schedule of public footpaths and authorised expenditure thereon to carry out minor repairs. The appeal route, in Combe Raleigh, is one of the routes identified as being a public footpath. In 1934 the parish meeting reviewed the schedule of public footpaths and, whilst some of the routes previously identified as public footpaths were removed from the schedule, the claimed route was identified as public. Some weight should be given to the view of a local public body that the route was considered to be a public footpath for which public funds were authorised for its repair.

54. It is noted that the 1934 schedule prepared by Combe Raleigh parish meeting was not compiled under any statutory process but it was prepared by the parish meeting through an agreed process. It appears from other minutes that the parish meeting were clearly aware of their duties and it is unlikely that the route would have been included in the absence of evidence that the way was public. The schedules of public footpaths, whilst not conclusive, are supportive of the existence of a public footpath.
55. The minutes of Awliscombe parish council indicate that the council was prepared to spend public funds on the repair of the Duck's Path. Repairs were not carried out because the way was not used, not because the way was not considered public. Awliscombe parish council also identified the route as being public in 1933. This evidence gives support to the way being public.
56. The evidence from the parish survey carried out under the National Parks and Access to the Countryside Act 1949 indicates that the claimed route was considered public by Combe Raleigh parish meeting but that Awliscombe parish council were no longer prepared to maintain the route. There is in my view a conflict of evidence in that it appears Combe Raleigh parish meeting subsequently withdrew the claim when they initially considered the way to be public. The decision also appears to conflict with other evidence that Combe Raleigh parish meeting considered the way to be a public footpath. That Awliscombe parish did not claim the route is also in conflict with the fact that the parish council were prepared to use public funds on the maintenance of the route and identified the route in 1933 as being a public footpath. It also conflicts with the evidence that at the time of the survey the parish council agreed that Duck's Path should be closed as a public path. There is no evidence that the path has been closed.
57. The Council point out that there is no indication as to public use of the way. However, the inference to be drawn from the evidence is that the way was considered to be public and therefore used as such. It should be noted that Awliscombe parish council included the route in the schedule in 1933 as a way in general use and identified the route as rarely used in 1942. However, this does conflict with the evidence from 1935 which indicates that at that time the route was never used.
58. Having regard to all of the above, the evidence is insufficient to show that a right of way subsist on the balance of probabilities. However, whilst there is some conflict in the evidence, there is no incontrovertible evidence that a right of way could not be reasonably alleged. As such I should find that a right of way is reasonably alleged to subsist. An order should be made so that the evidence can be tested at a public inquiry if necessary.

Other Matters

59. The appellant claims that the Council did not acknowledge the original application made in 2008 although the Council confirm and provide copies of correspondence which indicates that the application was acknowledged. Reference is also made to the administration of the various applications. These are not matters for my consideration.

Conclusion

60. Having regard to these and all other matters raised in the written representations I conclude that the appeal should be allowed.

Formal Decision

61. In accordance with paragraph 4(2) of Schedule 14 to the 1981 Act Devon County Council is directed to make an order under section 53(2) and Schedule 15 of the Act to modify the definitive map and statement for the area to add a public footpath between the lane southwest of Combe Raleigh village and the junction of Duck's Path with Limer's Cross to Tracey Road. This decision is made without prejudice to any decisions that may be given by the Secretary of State in accordance with her powers under Schedule 15 of the 1981 Act.

Martin Elliott

Inspector