



Direction Decision

by **Martin Elliott BSc FIPROW**

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

Decision date: 29 March 2019

Ref: FPS/G1440/14D/3-10

Representation by Mr Christopher Smith

East Sussex County Council

FPS/G1440/14D/3 Addition of a footpath from Brighton Road Lewes at grid reference 540308 109850 (point A) to Barons Down Road Lewes at grid reference 540345 109735 (point B) (OMA ref. RWO 196)

FPS/G1440/14D/4 Addition of a Restricted Byway from Robert Post Lane (Long Man 16) grid reference 556846 (point A) to the Lewes/Polegate Road grid reference 556169 104741 (point E) (OMA ref. RWO 199)

FPS/G1440/14D/5 Addition of a Restricted Byway from point A on the Street in Piddinghoe at Molly's Seat at grid reference 543614 102811 to point B on footpath Piddinghoe 9 at grid reference 544154 102745 (OMA ref RWO 197)

FPS/G1440/14D/6 Addition of a Restricted Byway from the Beddingham to Newhaven Road at grid reference 544542 106923 (point A) to the South Downs Way at grid reference 544593 105505 (point B) (OMA ref. RWO 200)

FPS/G1440/14D/7 Addition of a Restricted Byway from the Beddingham/Newhaven Road at grid reference 544352 103597 (point A) to point C at a junction with the claimed Byway Beddingham D at grid reference 543566 and addition of a Footpath from grid reference 544302 104603 (point B) to the South Downs Way at grid reference 543566 105135 (point D) (OMA ref. RWO 202)

FPS/G1440/14D/8 Addition of a Footpath running from Ashcombe Lane at grid reference 539241 108452 (B) to a junction with the western end of Lewes Footpath 37 at the Parish Boundary at grid reference 539602 108721 (A) (OMA ref. RWO 198)

FPS/G1440/14D/9 Upgrading to a Bridleway the Footpath from Folkington Road grid reference TQ 564037 to grid reference TQ 583034. Addition of a Bridleway from TQ 583034 to Wannock Road at TQ 576036. Addition of a Bridleway from TQ 583034 to Jevington Road at grid reference TQ 574034. Upgrading to a Bridleway the Footpath from Old Mill Lane at grid reference TQ 575035 to Jevington Road at grid reference TQ 576035 (OMA ref. RWO 207)

FPS/G1440/14D/10 Addition of a Byway from Folkington Road at grid reference 556582 104042 to grid reference 556670 103950, add a Bridleway from grid reference 556670 103950 to grid reference 556535 103714 and add a Byway from grid reference 556535 103714 to junction with Byway Willingdon and Jevington 34a at grid reference 556373 103436 (OMA ref. RWO 204)

- The representations are 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 the applications for Orders, under Section 53(5) of that Act.
 - The representations are made by Mr Christopher Smith, 26 July 2018 (FPS/G1440/14D/3-8) and 10 August 2018 (FPS/G1440/14D/9-10).
 - The certificates under Paragraph 2(3) of Schedule 14 of the 1981 Act are dated 26 January 2017, 3 March 2017, 8 February 2017, 9 March 2017, 26 May 2017, 10 February 2017, 31 May 2017 and 31 May 2017 respectively.
 - The Council was consulted about your representations on 25 September 2018 and the Council's response was made on 1 November 2018.
-

Decision

1. The Council is directed to determine the above-mentioned applications.

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 expressed intentions of further action on the application in question, the circumstances of the case and any views expressed by the applicant¹.
3. The Council determines applications for definitive map modification orders in chronological order of receipt unless:
 - i) A successful order would significantly enhance public safety;
 - ii) The claimed route is threatened by imminent development
 - iii) Demand for the claimed route is particularly high or would form part of a recognised strategic link in the network

The Council do not consider that any of the applications meet any of the above criteria and therefore are determining the applications in chronological order of receipt. The Council anticipate that the applications will be determined in a timescale of between 6 and 24 months.

4. 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 circumstances². In respect of the above applications over 12 months have passed since the applications were submitted and it is anticipated that determination of some of the applications will take up to a further 24 months.

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

² The 12 month period commences on the date a valid certificate is submitted to the order-making authority in accordance with paragraph 2(3) of Schedule 14

5. It is reasonable for the Council to determine applications in chronological order of receipt with priority given to certain applications meeting relevant criteria. However, it is unreasonable, given the expectation of a determination within 12 months, for the determination of an application to take in excess of 12 months. No exceptional circumstances have been put forward by the Council as to the cause of any delay in determining the applications. I do note that the Council have met with members of the 'Don't Lose Your Way Project' group, of which the applicant is said to be a member, who understood that applications may take longer than 12 months to determine. Further, that the applications have been made in order to be registered before the cut-off date of 2026. Nevertheless I consider that there is a case for setting a date by which time the applications should be determined. It is appreciated that the Council will require some time to carry out its investigations and make a decisions on the applications. A further period of 12 months is appropriate.

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** East Sussex County Council to determine the above-mentioned applications not later than 12 months from the date of this direction decision.

Martin Elliott

INSPECTOR