



# Direction Decision

by **Martin Elliott BSc FIPROW**

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

Decision date: 5 February 2020

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**Ref: FPS/J1155/14D/8**

**Representation by Honiton Town Council**

**Devon County Council**

**Application to add a Footpath from A375 Sidmouth Road to Whitmore Way, Honiton**

- 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 Devon County Council to determine an application for an Order, under Section 53(5) of that Act.
  - The representation is made by Honiton Town Council, dated 23 September 2019.
  - The certificate under Paragraph 2(3) of Schedule 14 is dated 12 September 2018.
  - The Council was consulted about the representation on 7 November 2019 and the Council's response was made on 21 November 2019.
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## Decision

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

## 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 applicant<sup>1</sup>.
3. The Council carries out its statutory duty to keep the definitive map and statement under continuous review by undertaking a parish-by-parish review. The completion date for the parish-by-parish review is 1 January 2025. The review of the parish of Honiton was carried out between 2005 and 2012. In accordance with the Council's policies this application will be held on file pending the completion of the parish review process as the application does not meet the criteria for taking the application out of turn.

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

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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 circumstances<sup>2</sup>. In respect of the above application over 12 months have passed since the application was submitted and it appears likely that the application will not be determined until after 1 January 2025 when the parish-by-parish review is completed.
5. It is reasonable for the Council to determine applications in accordance with its approved policies. However, it is unreasonable, given the expectation of a determination within 12 months, for the determination of an application to take in excess of 7 years. No exceptional circumstances have been put forward by the Council as to the cause of any delay in determining the application.
6. Bearing in mind the above I consider that 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 investigations and make a decision on the application. A further period of 6 months is appropriate.
7. It is noted that, as with other local authorities, the Council is facing significant budget cuts and, having lost two full-time definitive map officer posts, this places an increased demand on staff resources. The diversion of resources may have an impact on the review programme for the remaining parishes. However, Circular 1/09 makes it clear that Authorities should ensure that sufficient resources are devoted to meeting their statutory duties with regard to the protection and recording of public rights of way.

### **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 Devon County Council to determine the above-mentioned application not later than 6 months from the date of this Direction Decision.

*Martin Elliott*

INSPECTOR

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<sup>2</sup> 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