

**Definitive Map Review 1989-94
Parish of Teignmouth**

Report of the Head of Highways and Traffic Management

Please note that the following recommendation is subject to consideration and determination by the Committee before taking effect.

Recommendation: It is recommended that Modification Orders be made to record the routes of Proposals 1 – 6 detailed in Appendix I and shown on drawing nos. ED/PROW/94/113 – 115 hereto as public footpaths.

1. Summary

This report examines six proposals arising from the Definitive Map Review in the Parish of Teignmouth in the District of Teignbridge.

2. Background

The Definitive Map Review commenced in Teignmouth in 1989 and produced seven valid proposals for modification of the Definitive Map. General consultations were carried out in 1991 and a report referred to the Public Rights of Way and Grants Sub-Committee on 22 November 1994. The report recommended that, subject to consultations with Teignbridge District and Teignmouth Town Councils, a modification order be made in respect of Proposals 1 – 6 and that the route of Proposal 7 be added to the County Roads Register. The report is included at Appendix I to this report. No objections were received in respect of these routes.

The Committee approved the recommendations and, at the subsequent meeting on 27 January 1995, the Committee resolved that, no objections having been received from the District and Town Councils, in respect of Proposals 1 – 6, the Modification Order as previously approved be made and published.

It has recently been brought to the attention of the County Council that, due to an administrative oversight, a Modification Order was not made and published. The routes themselves continue to be in regular and frequent use by the public, and have been accepted as public rights of way. There does not appear to have been any obstruction or challenge to their use in the intervening years and it is considered that they should be added to the Definitive Map as originally intended.

Given the length of time which has lapsed since the original approval, it is felt that re-approval is required from the present Committee to now make and publish Modification Orders in respect of these routes.

The route of Proposal 7 was added to the County Roads Register in December 1994 and is not therefore considered further in this report.

3. Conclusion

It is therefore recommended that Modification Orders be made to record the routes of Proposals 1 – 6 as shown on drawing nos. ED/PROW/94/113 – 115 on the Definitive Map as public footpaths.

4. Financial Considerations

There are no implications.

5. Sustainability Considerations

There are no implications.

6. Carbon Impact Considerations

There are no implications.

7. Equality Considerations

There are no implications.

8. Legal Considerations

The implications/consequences of the recommendation have been taken into account in the preparing of the report.

9. Risk Management Considerations

There are no implications.

10. Public Health Impact

Amendments to the Definitive Map will contribute to the County Council's health and well being agenda.

11. Reasons for Recommendation/Alternate Options Considered

To complete the parish by parish review of the Definitive Map in the Teignbridge district area.

Lester Willmington
Head of Highways and Traffic Management

Electoral Division: Teignmouth

Local Government Act 1972: List of Background Papers

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Background Paper	Date	File Ref.
Correspondence	1990-2012	DMR/Teignmouth

hc210113prw
sc/cr/dmr parish of Teignmouth
02 hq 140213

ED/94/426/HQ

PUBLIC RIGHTS OF WAY AND GRANTS SUB-COMMITTEE
22 November 1994

**DEFINITIVE MAP REVIEW 1989-94
PARISH OF TEIGNMOUTH**

Report of the County Environment Director

Recommendations: It is recommended that:

- (a) Subject to consultations with Teignbridge District and Teignmouth Town Councils, a modification order be made to record the routes of Proposals 1 - 6 detailed in Appendix I hereto as public footpaths;**
- (b) the County Solicitor be requested to amend the County Roads Register, so as to include the route of Proposal 7 detailed in Appendix I;**
- (c) the Sub-Committee note that to date there are no other valid proposals for modifying the Definitive Map in the Parish of Teignmouth.**

1. BACKGROUND

- 1.1 The original survey of public rights of way under s.27 of the National Parks and Access to the Countryside Act 1949 revealed ten footpaths in this parish (then and until 1974 part of an Urban District), these routes being recorded on the Definitive Map with a relevant date of 1 June 1957. Two further footpaths were added to the Map by modification orders made in 1987 and 1992. The Reviews under s.33 of the 1949 Act, which commenced in 1970 and 1977 but were never completed, produced various proposals for alterations to the Map as mentioned below.
- 1.2 The Ministry of Transport made an order stopping up part of Footpath No. 10 in 1958, and one of the newly added paths was the subject of a diversion order made in 1992; these legal events will need to be reflected on an updated Definitive Map.

2. REVIEW

- 2.1 The current Review commenced in 1989, and discussions were held with Members of Teignmouth Town Council. It was established that one of the proposals made during the earlier Reviews had a sufficient basis in public usage to justify its inclusion on the Proposals Map, this being examined as Proposal 1 in the appendix. Five further routes were claimed as being well used by the public; two of these proved on investigation to have been adopted as highways already, the other three are examined as Proposals 2 - 4 in Appendix I.
- 2.2 The Review was then advertised in the town and local press, and general consultations were undertaken as follows:

County Councillor Mrs S Russell- no response
Teignbridge District Council - no proposals
Country Landowners Association - no proposals
National Farmers Union - no response
Open Spaces Society - no response
Byways and Bridleways Trust - no response
British Horse Society - no response
Ramblers' Association - support proposals

- 2.3 Teignmouth and Shaldon Environment Society identified several routes as possible public rights of way, though some proved to have been recorded as highways for many years and

others to have been adopted in recent times. There were also a number of routes which formed part of recreation areas and public open spaces owned by the District Council, and are thus used by general permission rather than by dedication. Three of the claims did however appear to be validly based, and these are examined as Proposals 5 - 7 in Appendix I.

3. BASIS OF CLAIMS

3.1 A highway may be created through dedication by the landowner of a public right of passage across his land, coupled with acceptance by the public. Such dedication may occur through some overt act of the landowner; alternatively it may be presumed from a period of undisputed use by the public, or from documentary evidence recording at some time in the past the status then attributed to the way concerned.

3.2 If the evidence is such as to show that a right of way which is not shown on the Definitive Map subsists or is reasonably alleged to subsist, then an order may be made to modify the Map accordingly.

4. CONCLUSION

4.1 There appears to be sufficient evidence to show that public rights of way on foot exist over the routes of Proposals 1 - 6, and that the route of Proposal 7 should be recorded as a county road.

4.2 No recommendation is made at present concerning any further routes, but should any valid claim be made in the next six months it will be investigated and made the subject of a supplementary report.

Edward Chorlton

Electoral Divisions: Teignmouth

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1. PROPOSAL 1

- 1.1 The route of this proposed footpath is shown on the attached drawing number ED/PROW/94/113 between points "a - g". It lies along the river frontage of the southern part of Teignmouth, between the western ends of a series of small streets. From Osmonds Lane (point "a") the route traverses a concrete ramp to the river beach, passes south along the top of that beach adjoining the New Quay Hotel, and ascends a few stone steps to meet the end of New Quay Street ("b"). The route continues south across the base of the New Quay (built c.1820) to the end of Queen Street ("c"), thence over another concrete ramp and along a further stretch of the beach to the end of Ivy Lane ("d").
- 1.2 The route continues on the sand, first above mean high water mark to the end of Foresters Terrace ("e"), then over a wide concrete apron built on the foreshore as far as a flight of eight steps ("f"). These steps lead to a boarded walkway 2 - 4 metres wide in front of a block of flats called Morgans Quay, which the route traverses before crossing a paved area at the top of an old slipway. At the southern end of this area there are two steps down to the sand at point "g". This point marks the northern end of Footpath No. 10, Teignmouth, which continues south to the end of Lifeboat Lane.
- 1.3 This river side of Teignmouth lies to the west of the area now known as The Den, but in former times Teignmouth Den was the name of the whole area between sea and estuary, being a large sandbank formed of river and sea borne sediment. The then separate communities of East and West Teignmouth lay to the north, and there were few impediments to general public access over the entire sandbank. The only buildings here in the mid 18th Century were the remains of some saltworks and a windmill, a small fort erected to deter the French during the War of the Austrian Succession, and a few houses on an area called Rat Island (near point "a") including a public house of dubious repute, one landlady of that period being known as the Queen of Hell.
- 1.4 Teignmouth then became however one of Devon's earliest seaside resorts, second only in time to Exmouth, and also saw a steady increase in its fishing and maritime trade. The late 18th and early 19th Centuries thus saw an encroachment of villas, lodging houses, shipbuilding yards and cottages onto The Den southward from West Teignmouth. The main north - south access road was Northumberland Place and The Strand, with a series of lanes running thence westward to the river beach. These lanes have been variously named over the years, and (from north to south) are as named above. There is no dispute that the road and lanes were for public use, and have been in such use continuously ever since; all were regarded by Teignmouth UDC as highways, and were handed over to the County Council as such in 1974.
- 1.5 Equally there appears to have been a constant public traffic along the beach between the western ends of these lanes, though the earliest official recognition of the existence of a highway here too seems to have been in 1941. An Admiralty Order was then made to stop up part of the route between Foresters Terrace and Lifeboat Lane, because of naval construction work at the adjoining Morgan Giles shipyard. The route is described in the Order as a highway; and when this temporary order was made permanent by the Minister of Transport, in the Stopping up of Highways (County of Devon) (No. 3) Order 1958, the route was more fully described as a highway consisting of a footpath. This section corresponds with that shown on the drawing between points "f - g".
- 1.6 In the circumstances it is not surprising to find that this river beach route was proposed by Teignmouth UDC in the 1950s, for inclusion as a footpath on the Definitive Map then in preparation. The County Council agreed to this proposal in 1958, with two exceptions. The first was the section in front of the Morgan Giles shipyard ("f - g"), in view of the stopping up order mentioned above. The second was the short section between the northern end of the

shipyard and Forester's Terrace ("e - f"); this lay just below high water mark across the foreshore, and the Crown Estate Commissioners as owners of the foreshore objected to its inclusion.

- 1.7 Unfortunately a clerical error occurred when the proposal was amended to take account of this second exception. Instead of deleting only the short section north of the shipyard, the entire length northward to Osmonds Lane was removed from the Draft Map. This error does not seem to have been detected by the UDC or anyone else; consequently the only part of the path eventually recorded on the Definitive Map, as Footpath No. 10, Teignmouth, was the section south of the shipyard to Lifeboat Lane. To correct this error it appears expedient to add the section shown on the drawing between points "a - e". Teign Fishermen and Watermen's Association supports such action, which it describes as merely consolidating what has been considered public access since time immemorial, as do the Ramblers' Association.
- 1.8 It also appears that the section "f - g" can now be formally recorded as a right of way, on the basis of its re-dedication and acceptance. The Stopping up Order in 1958 was expressed to be in the interests of the public, continued operations at the shipyard making it dangerous to cross the slipways which had been built out over the beach on this section. The Morgan Giles shipyard closed in the 1960s however, and the site has since been subject to residential development. In accordance with a planning agreement between the developer and the District Council, the walkway described above was provided along the river frontage of the development, on the line of the former footpath. This walkway was intended for public use, and has been continuously so used for several years now.
- 1.9 It further appears expedient that the section "e - f" should be added to the Map. The earlier objection to this part of the route, by the Crown Estate Commissioners in 1958, was not based on lack of evidence of public use, but rather on the simple fact that the land was foreshore. This objection might well have been queried at the time, as public rights of way can exist over the foreshore provided a clear route is involved; indeed one quite lengthy example exists nearby in Footpath No. 9, Teignmouth. It appears that the only reason for not disputing the objection was that, even if recorded, the section would at that time have been a cul de sac in highway terms, given the stopping up of the adjoining section "f - g". Since the construction of the walkway this section "e - f" has again been in continuous public use.

2. PROPOSALS 2 & 3

- 2.1 These proposals involve two separate but proximate footpaths, whose routes are shown on the attached drawing number ED/PROW/94/114 between points "h - i" and "j - k". Each path runs for 30 metres between Willow Street (a county road) on the north, and Old Quay Street (here part of Footpath No. 9) on the south. A flight of 14 stone steps at "h" is followed by a tarmac and concrete surfaced passageway about 4 metres wide between industrial premises. A flight of 3 stone steps at "j" leads to a tarmac path, widening from one to two metres as it runs between an old warehouse and a wall. Neither route is officially recorded as a public right of way or maintainable highway of any other type.
- 2.2 These two routes seem to have a similar origin as the series of lanes mentioned in Proposal 1 above, giving access to the waterside from one of the main streets of the town, but may have existed from a much earlier time. This area was part of the medieval borough of West Teignmouth, and the now humble Willow Street was once with Teign Street the maritime centre of the town. Plots were enclosed on the south side of these streets, with passageways between leading to the river beach. Before Eastern Quay was built in the 1880s points "i" and "k" lay at the top of the beach, the town's earliest recorded quay (c.1650) being immediately east of the latter point while the Old Quay to the south west was begun in 1817.
- 2.3 Both routes were certainly in existence by the late 19th Century, when expansion of the town's quays would have led to increasing use of these and other accesses to the area. A public house called the Old Quay Inn, which stood just west of point "i" until the 1970s, appears to have generated further traffic, and some pedestrian use of the paths has continued to the

present time. There is no evidence that either route has ever been obstructed or public use thereof been challenged, so these claims by the Town Council are recommended for acceptance.

3. PROPOSAL 4

3.1 The route of this proposed footpath is shown on the attached drawing number ED/PROW/94/114, between points "l - m - n" and "m - o". It starts at the A379 Bitton Park Road ("l"), where a "town centre" sign directs pedestrians around two concrete bollards and down a tarmac path 2 metres wide. There is a further bollard and overlapping railings at point "m". From this point the tarmac path continues east a short distance to the end of Parson Street ("o"), while a paved path 1 metre wide runs south and then descends a flight of 12 concrete steps with metal handrail to the end of Willow Street ("n"). The road and streets are county roads, but the pathways have no recorded public status.

3.2 This area of Teignmouth south of Bitton Park Road was developed during the 19th Century as a number of small streets of terraced houses, including Willow Street and Parson Street. Both streets formerly connected at their northern ends with the main road, but bomb damage during the last War and re-development since have involved closure and re-alignment, such that the currently recorded northern limits of those highways are at points "n" and "o" respectively. The proposed footpath was provided by the local authority to maintain a through route for pedestrians, but has never been formally adopted.

3.3 The route has been in continuous and very frequent use for many years, without obstruction or challenge. This claim by the Town Council is therefore recommended for acceptance.

4. PROPOSALS 5 & 6

4.1 The routes of these proposed footpaths are shown on the attached drawing number ED/PROW/94/115 between points "p - q" and "r - s". The first comprises a short length of tarmac path less than 1 metre wide, followed by a flight of 16 concrete steps with a metal handrail, while the second is an equally narrow concrete pathway. Both routes form part of longer paths, which provide pedestrian access between modern residential estates and pre-existing public roads. There are no obstructions on the routes, nor any notices suggesting a private status.

4.2 The adjoining estate roads and the remaining parts of the paths were adopted some years ago, in accordance with standard agreements between developer and highway authority. It is not clear why the claimed routes were not included in that process, as they were certainly provided by the developer at the same time and as integral parts of the estate layout. Both routes have been in continuous public use ever since, and these claims by the local environment society are therefore recommended for acceptance.

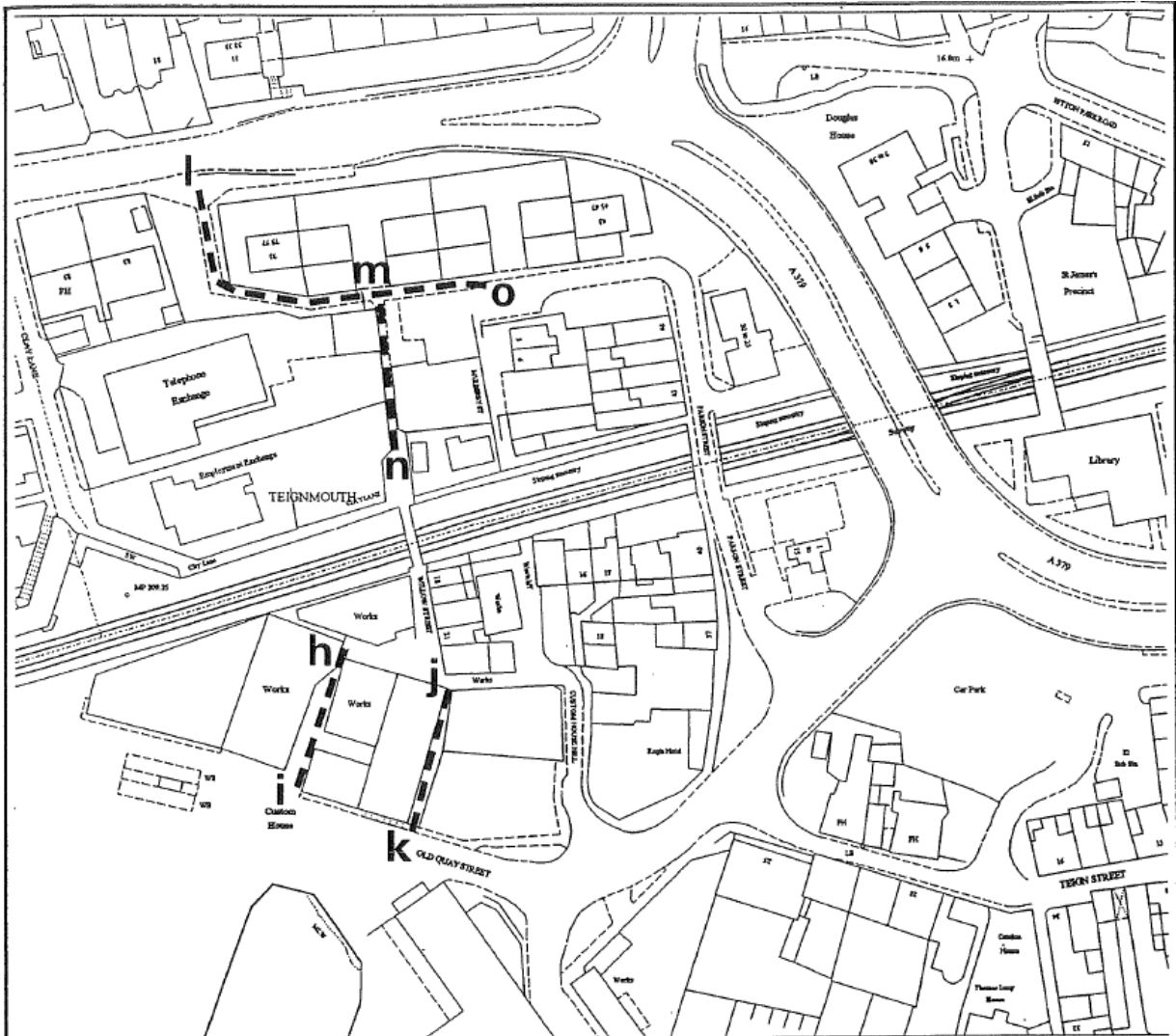
5. PROPOSAL 7

5.1 The route of this proposal is shown on the attached drawing number ED/PROW/94/116 between points "t - u". It consists of a track variously surfaced with gravel, earth and tarmac, and forms part of Broadmeadow Lane. That lane from point "t" south east to the A381 Bishopsteignton Road is recorded on the County Roads Register, while from point "u" north west to the parish boundary it is recorded on the Definitive Map as Footpath No. 1, Teignmouth. The intervening section has however no recorded public status.

5.2 It appears that this anomalous situation arose through error twenty years ago. When the Definitive Map was prepared in the 1950s, Teignmouth UDC conducted the initial survey of reputed rights of way in its District. Footpath No. 1 was therein described as forming a combination with the public lane leading north west from the Bishopsteignton road, and as starting at the end of this metalled lane at the north west hedge of Field OS.15 opposite the allotments where the lane immediately narrows (i.e. point "u").

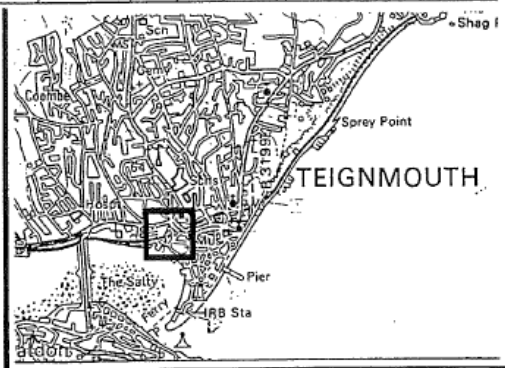
- 5.3 The County Surveyor, when drawing up the Draft Map in 1956, sought confirmation from the UDC that the lane was indeed a District Road up to that point, the UDC being responsible for the maintenance of all minor public roads in its area. The Clerk of the UDC duly replied that the lane known as Broadmeadow for a distance of approximately 250 yards from the A381 was shown on the list of District Roads, although no repairs had recently been carried out on it. On that basis Footpath No. 1 was recorded as originally described.
- 5.4 But in 1974, when responsibility for Teignmouth's minor roads passed to the County Council, the bundle of handing over maps showed (by a standard brown crayon colouring) that Broadmeadow Lane extended as a public road for only 80 yards from the main road (i.e. to point "t"). This termination appears quite arbitrary on the ground, and is in fact merely the point at which the lane passes from one O.S. sheet to another in the map bundle. It would therefore appear that a simple clerical error has been involved, in the failure to continue the relevant colouring onto the second sheet for the further 170 yards.

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NOTATION

PROPOSED FOOTPATHS - - - - -



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DEFINITIVE MAP REVIEW

TEIGNMOUTH - PROPOSALS 2, 3 & 4

DEVON
 COUNTY COUNCIL

Edward Chorlton

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<i>drawn/traced</i> MRM	<i>date</i> OCT. 1994
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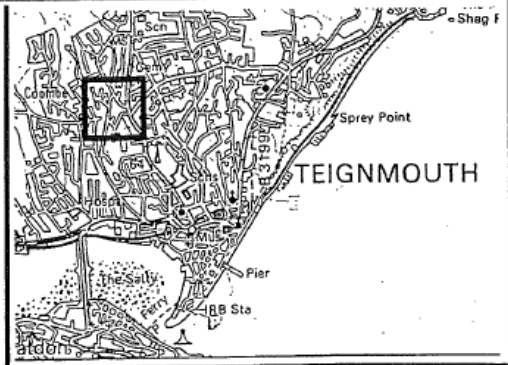
14 *drawing number* ED/PROW/94/114



NOTATION

PROPOSED FOOTPATHS - - - - -

ADOPTED PATHWAYS - - - - -



MAP REF: SX 9373/4

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DEFINITIVE MAP REVIEW

TEIGNMOUTH - PROPOSALS 5 & 6



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date OCT. 1994

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