

Applications to Change the Definitive Map **Landowner Guidance**

These guidance notes explain the procedure for evidence based applications to add rights of way to the Definitive Map or to alter those that are already recorded. If an application has been made which claims a right of way on your property, these notes will explain what will happen and how you can comment on the application.

What is the Definitive Map of Public Rights of Way?

The Definitive Map & Statement is the legal record of public rights of way. Not all paths and ways used by members of the public as rights of way are recorded on the Definitive Map, therefore it is only a minimum record.

Under the provisions of the Wildlife and Countryside Act 1981, anyone may apply to have rights of way added to the Definitive Map or have it altered in some way (e.g. to show a change in status from footpath to bridleway) although applications must be supported by evidence.

What type of evidence might be used to support an application?

Evidence must be sufficient to show that public rights already exist along the route.

Suitable evidence can be statements from people claiming long use of the route as of right and without interruption. Alternatively historical documents may show that public rights existed in the past and have not been legally extinguished.

How do I know if someone is claiming public rights of way on my land?

The applicant must serve notice of the application on you and everyone else who owns land over which the claimed route runs. The notice must describe the claimed route and its status.

Where there is no owner or where an applicant is unable to identify who the owner is the applicant must fix a notice to something suitable such as a post in a visible place on the route. In some circumstances the applicant also serves notice on anyone who lives alongside such a route.

When will the application be dealt with?

When an application is received by us, we have to determine whether it should be investigated as a priority according to our statement of priorities. Those that are deemed to be a priority are dealt with within months; those that are not are filed and dealt with in order of receipt. At present, we have approximately 60 applications held on file.

How is the claim investigated?

When we investigate the application we will do the following:

1. We will informally consult you for any comments you may wish to make.
2. In accordance with the legislation, we will also consult your parish or town council.
3. We will consult user groups such as the Ramblers and the British Horse Society.
4. We will research any available historical evidence of the claimed route.
5. We will examine the user-evidence.

When we have done all of these things we will make a decision as to whether a public right of way appears to exist along the claimed route. A summary of the evidence, consultations and the decision will be written in a report.

Any comments which you provide to us may be included in the report. This report must be made available for public inspection on request and anyone can read your comments and take copies of the report. The same applies to all of the evidence and any comments made by the applicant, users and local councils.

This is your opportunity to present any information or evidence which you may have regarding the claim for the right of way. It is important that landowners provide us with such information. Holding back evidence that might change the outcome of a case might cause unnecessary expense for all parties and may result in a claim for costs, regardless of the outcome.

The report is usually presented to the Countryside Access Manager with a recommendation whether to make a legal order to change the Definitive Map or not. You will be informed when this will take place and will have an opportunity to comment.

What happens if a legal order is made to add a right of way over my property?

If we publish a legal order we will immediately send you a copy of the order and guidance notes on how to formally comment or object to the order. The order will also be advertised in at least one local newspaper and notices will be posted at each end of the route. For a period of 42 days from the date of publishing of the order, you or anyone else may submit comments or objections.

How can someone object to an order?

Under the terms of the legislation, a right of way can only be added to the Definitive Map if evidence shows that public rights already exist. To object to an order, you must submit comments or evidence which shows that public rights do not exist. Other concerns may not be relevant in deciding the case.

If objections to the order are received and not withdrawn, the council must pass the matter to the Secretary of State who will appoint a Planning Inspector to make a decision. This is done by written representations or at a hearing or public inquiry which is usually held in a local village hall.

For further information see Public Guidance Note 17: Objecting to Definitive Map Modification Orders