

Public Guidance Note 13

Applications to Change the Definitive Map Landowner Guidance

This guidance note explains the procedure for evidence-based applications to add Public Rights of Way to the Definitive Map and Statement, or to alter those that are already recorded. If an application has been made which claims a Public Right of Way on your property, this note will explain the process and your role within it.

What is the Definitive Map & Statement of Public Rights of Way?

The Definitive Map and Statement (DMS) is the legal record of Public Rights of Way. Not all paths and ways used by members of the public as Public Rights of Way are recorded on the DMS; therefore, it is only a minimum record.

Under the provisions of the Wildlife and Countryside Act 1981, anyone may apply to have a Public Right of Way added to the DMS, or have it altered in some way (e.g. to show a change in the status of a Public Right of Way from Public Footpath to Public Bridleway). This is known as a Schedule 14 application, or more commonly a 'Formal Application'. Formal 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 Alternatively historical documents may show that public rights existed in the past and have not been legally extinguished.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 a Public Right 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 the status claimed.

Where there is no known landowner, or where an applicant is unable to identify who the landowner 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 may also serve notice on anyone who lives alongside the route.

When will the application be dealt with?

When an application is received by the Rights of Way Team, we must determine whether it should be investigated as a priority, according to our Statement of Priorities (Policy Statement No. 8). Those that are deemed to be a priority are dealt with sooner; those that are not priority applications are filed and dealt with in order of receipt.

How is the application investigated?

When we investigate the application, the investigating officer will do the following:

1. Informally consult you and other landowners, for any comments you may wish to make.
2. Consult the parish or town council, in accordance with the legislation.
3. Consult user groups, such as the Ramblers and the British Horse Society, and any other parties who we think may have an interest in the application.
4. Research any available historical and documentary evidence of the claimed route.
5. Examine any user evidence that is submitted in support of the application.

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

When the investigating officer has completed their investigation, they will make a recommendation as to whether a Public Right of Way appears to exist along the claimed route. A summary of the evidence, consultations and the recommendation will be written in a report. The draft report passes through a process within the Council, to ensure it complies with the relevant legislation and Council policy. The final report will be considered by a senior officer with delegated powers¹, who will consider the case and decide whether a Legal Order will be made, or whether the application is rejected. You will be sent a copy of this final report.

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

What happens if a Legal Order is made to add a Public Right of Way over my property?

If the Council make a Legal Order, you will be sent notice of this the day the Legal Order is made. You will also be sent a copy of the Legal Order and a guidance note on how to formally object to the Legal Order, should you wish to do so. The order will 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 making the Legal Order, you or anyone else may submit objections or other representations, to the making of the Legal Order.

How can someone object to a Legal Order?

Under the terms of the legislation, a Public Right of Way can only be added to the DMS if evidence shows that public rights already exist at the claimed location. To object to a Legal Order, you must submit comments or evidence which show that public rights do not exist at the location in question. Other concerns may not be relevant in deciding the case.

¹ Authority given to an individual officer to make certain specified decisions normally made by a committee.

If objections to the Legal Order are received and are not later withdrawn, then we must refer the matter to the Secretary of State who will appoint an independent Planning Inspector to make a decision on the case. A decision can be arrived at via written representations, at a hearing or at a public inquiry. These are usually held in a local village hall.

For further information see:

Public Guidance Note 12: Formal Application Process for Definitive Map Modification Orders

Public Guidance Note 17: Objecting to Definitive Map Modification Orders

