

Norfolk County Council

Note for Applicants Seeking to Modify the Definitive Map and Statement of Public Rights of Way (“DM&S”)

A Definitive Map Modification Order is a way of changing the Definitive Map and Statement. It can be changed by adding, deleting, upgrading or downgrading a public right of way or by varying/adding to the wording of the Definitive Statement.

Informative Note - Claiming a route for mechanically propelled vehicles:

Since 2nd May 2006, a public right of way for mechanically propelled vehicles (“MPVs”) (eg motor cars, 4x4 vehicles) cannot be recorded except in very limited circumstances. These are set out in section 67 of the Natural England and Rural Communities Act 2006. If your claim is for a vehicular route please contact the Definitive Map Officers at Norfolk County Council who will supply you with a different application pack.

Informative Note – Applications to **downgrade** an existing public right of way

If you are applying to downgrade a Restricted Byway please contact the Definitive Map Officers at Norfolk County Council. If the Restricted Byway was a former RUPP (road used mainly as a public path) and was statutorily reclassified as a restricted byway (by sections 47-51 of the Countryside and Rights of Way Act 2000) then it cannot be downgraded through the definitive map modification process. The Definitive Map Officers will be able to confirm whether this is the case.

This advice is general guidance only. It is not a complete statement of the law. You may wish to take your own independent legal advice.

Questions which must be answered before you apply to amend the DM&S:

Q.1 How can I apply to have the Definitive Map and Statement modified?

Any person can ask the County Council to consider making a Modification Order (under s.53 of the Wildlife & Countryside Act 1981) to change the Map or the Statement, or both. However:

- you must collect and send with your application evidence to support your case.
- people’s preferences or concerns about safety or the environment, or concerns about impact on enjoyment, will not affect the application. The law does not permit the County Council to consider any of these things. Your application can be decided only on the evidence regarding use/depiction on historic maps.

Q.2 I want to make an application for a modification order. what forms and documents do i need to submit?

The application forms are included in the application pack. **Please do not complete the forms before reading the advice on the following pages.** A complete application must include the following items (except Form 2).

- i) **Form 1** - The completed application form

(**Form 2** – is a Notice for you to serve on owners/occupiers. You do not need to return a copy of this form to the County Council.)
- ii) **Application Map** – Please use an Ordnance Survey map at a scale of not less than 2.5 inches to 1 mile (or 1/25,000) and draw on the application route.
- iii) **Form 3** - The completed **Certificate of Service of Notice** on owners and occupiers. Please also complete the schedule attached to Form 3 with the names and addresses of affected land owners and/or tenants on whom you served Notice (Form 2) of your application. A map indicating the extent of land owned or occupied by each land owner and/or tenant listed above should also be provided.

The Land Registry may be able to help if you cannot identify owners and occupiers (Telephone 01482 223244).

iv) **User Evidence Forms**

Please send your completed application (excluding Form 2) along with all the evidence and other relevant information which you have collected to:

**The Senior Definitive Map Officer,
Environment Transport and Development
Norfolk County Council,
County Hall,
Martineau Lane,
Norwich, NR1 2SG.**

If any of these documents are not submitted with your application then it will be returned and will not be registered.

Q.3 Does my application need to show the right of way in question on a map?

- Yes. The application should be accompanied by an up-to-date Ordnance Survey map that clearly identifies the right of way affected by your application. You may be able to obtain one from a library or a commercial supplier.
- The application map must show the route in question clearly marked and must be on a scale of not less than 2.5 inches to 1 mile (or 1/25,000). Larger scale maps are acceptable, if that shows the location and application route more clearly.

- The map must be shown to all witnesses making statements in support of your claim; see user evidence form attached.

Q. 4 What evidence do I need in support of my application?

Your application will need to be accompanied by relevant evidence. If you are submitting the standard **User Evidence Forms** with your application, please ensure that these are filled in correctly.

There is no set minimum number of the evidence forms that must accompany applications, but if you are seeking to register the route as a Public Right of Way, you should aim to submit at least twelve (12) user evidence forms. One form is included in the pack for you to photocopy and use.

Q.5 What type of information do witnesses need to give on their user evidence forms?

The questions in **Section A** are intended to establish how the route has been used by the person giving the evidence. The questions in **Section B** are designed to establish the physical details of the route.

Answers should be as full and as specific as possible. Please use **one** form per witness. Members of the same household should complete separate forms even if their use is similar.

Please make sure that a copy of the application map is attached to each witness form, and that the line shown on it is the route that the witness has followed (which may not be exactly the same as the application route). Please make sure that the witness has signed the **front** of the map as well as their form. Please do not use highlighter pens to mark the used route as these will not show up when the maps are photocopied.

Witnesses who fill in a form do not have to give evidence in person if there is a public inquiry. However, evidence given in person is usually given more weight than written evidence, because other people can then question the witness if they wish.

Q.6 Do I need to research the history of the right of way for further evidence of its use?

You may find it useful to look for documents which may show that the route has been in existence before the memory of your witnesses. Inclosure Awards, Tithe Maps, old Estate plans and past editions of the Ordnance Survey Maps etc. often prove helpful.

The Norfolk Record Office (in the grounds of County Hall), the Norfolk Heritage Centre (at the Millennium Library in Norwich), the National Archives (at Kew, London) may hold these documents and other documents giving information about the past existence or status of the right of way.

If you do use such documents to support your evidence please provide the catalogue references.

Q.7 Do I need to serve notice of my application on the land owners or occupiers of any land which would be affected ?

It is a legal requirement that you must notify all the land owners and tenants/occupiers who own or occupy land on or adjacent to the route or whose access is along the route in question or who will be affected by your application.

- **You must serve a completed copy of your application notice (using Form 2 - you may make as many copies as you need) on each and every owner and occupier who will be affected by your application.**
- **You must then certify (using Form 3) to the County Council that you have served notice to all owners and occupiers affected. Please note that if inaccurate or incomplete information is submitted by you then this may have cost implications.**
- **Please make sure you complete the schedule attached to Form 3 listing the names, addresses and status (e.g. whether owner, tenant or other occupier) of all affected landowners, tenants and other occupiers.**
- **Please provide a map showing the clear boundaries of the ownerships/areas of occupation for each person that you have listed in the schedule. We suggest that you colour this map in different colours to reflect different ownerships/occupations affected.**

In some cases where we believe that other owners or occupiers exist we will ask you to make further enquiries and to issue another certificate of service of notice (Form 3). This will delay your application. In some circumstances we will ask you to erect a notice on the land to satisfy the requirements.

Q.8 How will my application be dealt with?

If your application is incomplete in any way the County Council will contact you. If it is complete the claim will be formally registered and an acknowledgement sent to you.

The County Council carries out a full consultation exercise. This involves contacting various organisations and interested parties, including land owners and/or tenants. The Council will also undertake research of available records and archive. We look for all relevant evidence whether it could help to support or overturn your claim.

When the County Council is satisfied that it has considered all the relevant and available evidence and has established (as far as is possible) the history of the route then we will have to consider whether your application meets the legal tests. You will then be notified of our decision.

Q.9 If the council decides not to make the order I applied for can I challenge the decision?

- a) If the County Council decides not to make any Order at all, only the applicant has the right of appeal. Appeal is to the Secretary of State for Environment, Food and Rural Affairs. Your notice of intention to appeal must be made to the Secretary of State (address below) within 28 days of service of notice of the Council's decision on your application.

Rights of Way
The Planning Inspectorate
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN
Tel: 0117 372 8064
email: RightsOfWay@pins.gsi.gov.uk

At the same time your notice of intention to appeal **must** be sent to the County Council.

- b) If an Order is made which does not exactly reflect your application (eg it follows a slightly different route, or it is for lower/higher rights than you were seeking) you may wish to object. Other people may also object. Objections are made to the County Council and, if not resolved by discussion, the application is sent to the Secretary of State for a final decision.
- c) If the Order you wanted is made, clearly you will not object but others may. A 6 week period is allowed for objections or representations. If not resolved by discussion, the application is sent to the Secretary of State for a final decision.

If you object or appeal, you may wish to seek legal/professional advice first.

If the application does eventually go to the Secretary of State, s/he will usually appoint an Inspector to hold a local Public Inquiry although, where possible, objections and appeals are dealt with by an exchange of written statements. More information can be obtained from:

Department of Environment, Food and Rural Affairs
Rights of Way Branch, Zone 1 / 02
Temple Quay House, 2 The Square
Temple Quay, BRISTOL BS1 6EB
Tel. 0117 372 6274
www.defra.gov.uk/rural/countryside/prow/index.htm

As an applicant you will be expected to take an active part in the inquiry process. This includes attending the inquiry and providing some witnesses (who completed evidence forms) to speak in support of your application. It may also require the preparation and submission of statements in support of your case to the Planning Inspectorate.

Q.10 How long will it take to decide my application?

The County Council has to come to the best decision it can on the evidence. We have to do a great deal of work to make sure that all the possible available evidence has been found, and that everyone who may be interested has had an opportunity to comment. Please note that it is not unusual, especially if the application goes to the Secretary of State, for applications to take many years before a final decision is delivered.

Note: This note is general guidance only on law and procedure. You may wish to take your own independent legal advice, particularly about the specific facts of your case.

Further information on modifications may be obtained from

Natural England Tel. 0845 600 3078

(<http://naturalengland.etraderstores.com/NaturalEnglandShop/Product.aspx?ProductID=8f4433c1-0c14-488e-96b6-b7d67bacbfd4> (A guide to Definitive Maps and changes to public rights of way 2008 Revision),

The Department of Environment, Food and Rural Affairs (www.defra.gov.uk/rural/countryside/prow/index.htm): or

The Planning Inspectorate (www.planning-inspectorate.gov.uk).

Disclosure of information you send: *Any information you return to us will be held by Norfolk County Council and will be used for any purpose associated with the application to amend the Definitive Map and Statement or associated with issues relating to your concerns. This is very likely to mean that this information, including your name and address will, at some point, be released to others interested in the claim. This information will be held for as long as is necessary for the purposes set out above. You are entitled to access any information held on you by Norfolk County Council in relation to this claim.*

Electronic Register: Government legislation requires that a copy of any application registered by Norfolk County Council be made available for viewing by the public on the authority's website (www.norfolk.gov.uk). This will include all the information on Forms 1 and 3 (including the applicant's name and address) together with the application map. The Register will be updated as the application progresses. The paper copy of the Register is also available at County Hall.



If you need this document in large print, audio, Braille, alternative format or in a different language please telephone 01603 224253 and ask for the Definitive Map Officers. We will do our best to help.

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