

Changes to the Definitive Map

Landowner Guidance

INFORMATION FOR LANDOWNERS

FORMAL APPLICATIONS TO AMEND THE DEFINITIVE MAP

WILDLIFE AND COUNTRYSIDE ACT 1981

These guidance notes explain the procedure for applications to add rights of way to the Definitive Map. 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, for example, to show a change in status from footpath to bridleway.

How can anyone claim that they have used a right of way on your land?

The applicant must provide evidence to support the claim. This evidence must be sufficient to show that public rights already exist along the route, and can include evidence that public rights existed in the past which have not been legally extinguished.

Suitable evidence can be statements from people claiming use of the route for a period of twenty years or more without interruption; it can also be evidence recorded in historical documents.

Notice to landowners of an application to add a right of way to the Definitive Map

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, e.g. footpath or bridleway.

Sometimes it becomes apparent that the land is not owned by anyone, for example, it may be an old, hedged track or lane, and sometimes the applicant cannot find out who the landowner is. In these cases, 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.

Changes to the Definitive Map

Landowner Guidance

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 the County Council's Statement of Priorities (this is because we receive a large number of applications but only have limited resources to deal with them). 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 20 applications held on file. We have to obtain authority from our Rights of Way Committee to proceed with an application as a priority. You will be informed when the Committee meeting will take place and will have an opportunity to comment.

Investigating the application

When we investigate the application we will do the following:

1. We will informally consult you for any comments you may wish to make. The County Council can provide a form to assist you to submit the relevant information.
2. In accordance with the legislation, we will also consult your district council and parish council.
3. We will consult user groups such as the Rambler's Association and the British Horse Society.
4. We will research any available historical evidence of the claimed route: this usually includes any documents held in this office relating to the drafting of the Definitive Map, plus old maps and other documents held in Shropshire Archives.
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.

Please note: any comments which you provide to us will be included in the report. In accordance with the terms of the legislation, 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, however, 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 because ALL available evidence should be looked at to help determine the issue.

The report is presented to our Rights of Way Committee with a recommendation whether to publish an Order to add a right of way to the Definitive Map or not. You will be informed when this will take place and will have an opportunity to speak to the Committee or present written comments.

Changes to the Definitive Map

Landowner Guidance

Publishing a legal Order to add a right of way over your 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.

Objections to the 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. Under the terms of the legislation, the following matters are examples of issues which cannot be considered when reaching a decision:

- The suitability of the route
- Invasion of privacy
- Security risks to property
- Potential effects on the value of property
- Damage to the environment (unless the area is a Site of Special Scientific Interest)
- Loss of tranquillity
- Dog or horse excrement deposited on the route
- Health and safety issues
- Nearby, existing public rights of way
- Preferential, alternative routes
- Maintenance of the route
- Potential, additional costs to the County Council

If objections to the Order are received and not withdrawn, the County 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.

Please note: Although the matters listed above cannot be considered when reaching a decision as to whether a right of way exists, you are nevertheless entitled to pursue such an objection at a public inquiry if one is held into the Order. However, if the Inspector concludes that your objection is irrelevant (i.e. not within the scope of the legislation), others who attend the inquiry may make an application to the Secretary of State asking you to contribute to the additional costs they may have incurred in dealing with your objection.