

Introduction to applying for a definitive map modification order

These notes contain information about the formal application process that is the first step towards recording a route as a public right of way. The information is intended as a guide to help you decide whether the route that you have in mind fits the criteria that are required for an application to be made. If you decide to make an application, please contact us for an application pack. Our contact details are at the end of these notes.

The definitive map and statement is the legal record of public rights of way (PRoW), showing all those routes where the public have the right to walk, ride, cycle and drive. If you believe that a route should be added to the definitive map and statement or that the definitive map and statement is incorrect and you have evidence to support your belief, you may apply for a definitive map modification order (DMMO).

Making such an application is sometimes referred to as 'claiming' a public right of way. Under the provisions of the Wildlife and Countryside Act 1981, an application for a DMMO may be made by any person, or body (such as a parish council), who believes that a route which is not currently recorded as a public right of way should be recorded as a public right of way, or where it is believed that a route that is recorded on the definitive map is recorded incorrectly.

DMMO applications must be based on evidence. This evidence can be user evidence and/or documentary evidence.

User evidence

User evidence is provided by people who have used the route. To record their evidence they will need to complete a user evidence statement for each route you want to add to the definitive map. These statements will be provided as part of your application pack should you decide to go ahead. This type of evidence can be used for ways to be added to the definitive map, or for ways already recorded on the definitive map to be changed. You cannot use a user evidence statement to remove a route from the definitive map.

You need to collect evidence from people who have used the way to demonstrate a collective minimum of 20 years usage by the public at large. It is not necessary for each of the people to have used the way for 20 years themselves, rather it is when everybody's evidence is put together, it shows that the way has been continuously used for a span of 20 years. The public at large means the route could be used by everyone, not a specific group. For example, a route that was only ever used by allotment holders to access their allotments is not use by the public at large because the users are a specific group of people (allotment holders) using the route for a specific purpose (getting to their allotments).

You should collect as many completed statements as possible from people who have used the route. There is no minimum or maximum number of statements required. However there are a number of points to bear in mind when collecting user evidence.

1. The public cannot claim a right to wander over an area of land. An application can only be made for specific route.
2. The route being applied for must link at both ends to a public highway, i.e. a public footpath, public bridleway, restricted byway, a byway open to all traffic or a road. There are exceptional circumstances where a public right of way may end in a cul-de-sac such as at a point of interest like a viewpoint or lakeside.
3. A public right of way is a route over which the general public has a right to pass and re-pass at any time. It should not be confused with a private right of way, which is a right that exists between two or more private individuals. Nor should it be confused with use of a route "by licence" where there is presumed permission granted for use by, for example, the Royal Mail and other delivery services, or by family and friends.

Documentary evidence

Historical documentary evidence can be relevant for applications to add, delete or alter ways on the definitive map. It would not necessarily be relevant to routes that may have arisen from recent use only. With regard to applications based on documentary evidence, you will need to supply copies of all the historical and archival information you have collected. These can include tithe maps, inclosure/enclosure awards, old Ordnance Survey maps, property deeds, documents relating to the building of railways (if there is a railway near the application route), parish council minutes, and many other sources. Many of these documents are available at local public record offices.

Further information on historical evidence will be provided with the application pack.

The application

As the applicant you will be the promoter of the application. You will be required to provide the evidence to support the application being made and you may be required to support the application through its various stages. As the applicant your responsibility does not necessarily stop with the submission of the application form as it may be necessary for us to contact you to carry out further investigations into the evidence, answer queries, and, in the event of objections to the application, to call on you and other witnesses to give evidence at a local public inquiry. However, should the council decide to make an order the necessary work to publish and defend it at any public inquiry will be undertaken by the authority.

If you decide to make a formal application you will need to:

1. Complete the application forms, including a plan of the route.
2. Provide evidence to support your application; i.e. user evidence in the form of completed user evidence statements, and/or historical documentary evidence.
3. Identify and serve notice on all affected landowners and occupiers to inform them that you have submitted the application.

If the application is seeking to delete a right of way from the definitive map or change the status of an existing right of way it is necessary to provide evidence to prove that a mistake was made when the right of way was first recorded in the 1950s. The authority does not need to demonstrate that the map is correct; it is for the applicant to show that an error was made.

Please note: DMMO applications are a public process, therefore any evidence submitted in support of the application will be made available for public inspection. For example, completed forms will be used to formulate a recommendation in a report to the appropriate council decision-making panel, and as such would be made available for public inspection. People who fill out user evidence statements should also be prepared to attend any future local public inquiry to support their evidence if required.

Things to do before making a DMMO application

1. Take lots of photographs/video of the route as it is now. Once an application is made gates and gaps could be blocked preventing access. Make sure you take photographs/videos in both directions of travel and note down when you took them.
2. Talk to other users of the route to find out if there are enough people to provide evidence of use of the route.
3. Carefully examine the route for existing signs and note down or photograph the exact wording on them. It is also a good idea to look out for any evidence that signs may have been present on the route in the past. Make sure you check for signs in both directions of travel. A sign that is invisible when travelling in one direction might be perfectly plain when travelling the other way.
4. Use the route at different times of day and on different days to find out whether or not a land owner is locking a gate across the route at certain times.
5. Contact us to check whether or not any part of the route has ever been subject to a section 31(6) declaration made under the Highways Act 1980 as this will prevent users of the route from acquiring rights over it.

Next step

If you would like to make a DMMO application contact us and we will send you an application pack including user evidence statements where necessary. Our contact details are below.

Contact details

You can get in touch with us in the following ways:

By email: rightsofway@york.gov.uk

By telephone: 01904 551550

By letter: The Rights of Way Officer, Rights of Way, City of York Council, West Offices, Station Rise, YORK, YO1 6GA.