

# GUIDANCE NOTES: FOR APPLICATIONS TO MODIFY THE DEFINITIVE MAP AND STATEMENT

## SCHEDULE 14

### WILDLIFE & COUNTRYSIDE ACT 1981 DEFINITIVE MAP MODIFICATION ORDERS

**NOTE: These notes are intended for guidance only and do not represent a complete statement of the law.**

#### INTRODUCTION

The Definitive Map and Statement came into being following the National Parks and Access to the Countryside Act 1949 when it was decided that there should be a formal record of the different types of routes that the public had the right to use.

Information was collected from Parishes in the 1950s, and each local authority produced a Definitive Map and Statement. The Definitive Map and Statement is the legal record, which is maintained by the Surveying Authority (Middlesbrough Council) of Public Rights of Way within its area, and is available for public inspection during normal office hours at Vancouver House.

It is recommended that before beginning any application, you view Middlesbrough's Definitive Map and Statement and discuss the application process with the Council's Public Rights of Way Officer.

#### PUBLIC RIGHTS OF WAY

The Definitive Map & Statement shows the following categories of Public Right of Way:-

- i. Footpath – for people on foot only.
- ii. Bridleway – for people on foot, riding or leading a horse, with or without the right to drive cattle, or riding a bicycle.
- iii. BOAT (Byway Open to All Traffic) – for people on foot, riding or leading a horse, with or without the right to drive cattle, riding a bicycle, driving a horse-drawn vehicle or driving a motor vehicle.
- iv. Restricted Byways (RB) - for people on foot, riding or leading a horse, with or without the right to drive cattle, and driving a vehicle other than a mechanically propelled vehicle.

#### DEFINITIVE MAP MODIFICATION ORDER ('DMMO')

Under Section 53 (5) of the Wildlife and Countryside Act 1981, any person can apply to the Surveying Authority (Middlesbrough Council) for an order to modify the Definitive Map and Statement. 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 if you have evidence to support your belief, you may apply for a Definitive Map Modification Order (DMMO), which, if made and confirmed, will change the Definitive Map & Statement.

The Countryside & Rights of Way Act 2000 has set a 'cut-off' date of 1 January 2026 after which applications cannot be made to record rights of way that came into existence prior to 1949. This will not, of course, exclude the recording of ways that have been established in recent decades by public use.

The grounds for applying for a DMMO are varied, but an application must fall into one or more of the following categories:

1. That a right of way exists but is not shown on the Definitive Map and Statement.
2. That a right of way shown on the Definitive Map and Statement with a particular status ought to be shown with a different status.
3. That a right of way shown on the Definitive Map and Statement does not exist and ought to be removed.
4. That any other particulars contained in the Definitive Map and Statement needs modification (e.g. the width of a right of way).

**Note: DMMO's are about whether or not public rights exist. You may not use this procedure to alter a right of way just because you would like it, or think a different route would be better. There are separate procedures for altering existing Public Rights of Way.**

## EVIDENCE

To change the Definitive Map and Statement the Council must see evidence to prove the case. It is for the applicant to produce evidence to the Council before a DMMO can be made to modify the Definitive Map & Statement.

The Council will carry out its own investigations into the application and consult with other councils, user groups, landowners and other interested parties, as appropriate. This may well include interviewing the applicant's witnesses who completed the User Evidence Forms in order to draw up a more complete statement.

It is difficult to generalise about the evidence needed because each case is different, and will be judged on its own merits. However, evidence can consist of information gained from either or both of the following sources:

### User Evidence

User evidence is evidence provided by people who have used a route, by the completion of User Evidence Forms, supplied by the Council. This type of evidence can be used to add ways to the Definitive Map, or for ways already recorded on the Definitive Map, to be upgraded.

As many forms as possible should be completed, by those people (witnesses) who have used the way. The witness should also mark the route they have used, on a plan and attach it to the form.

The witnesses should be made aware that the completed form could be used to formulate a recommendation in a report to the Council's Rights of Way Panel. As such it would be designated a "background paper" and become available for public inspection. The witness should also be prepared to attend any future local Public Inquiry to support their evidence, if called upon to do so.

## **Documentary Evidence**

Documentary evidence would be relevant for claims to add, delete or alter ways on the Definitive Map where a route is believed to have existed for many decades or more. It would not necessarily be relevant to routes that may have arisen from recent use only. With regard to claims based on documentary evidence, you will need to supply copies of historical and archival information collected.

Historical records may include any of the following:

- Old maps
- Inclosure Awards
- Quarter Session records
- Estate maps
- Railway and Canal records and plans
- Tithe Maps
- Finance Act 1910 records
- Parish Council minutes
- Ordnance Survey maps

The above records can often be viewed at the Teesside Archives Office located at Exchange Square, Middlesbrough, TS1 1DB. The telephone number is 01642 248321.

More recent records can also be a useful way of finding evidence, such as: -

- Property Deeds
- Building plans
- Published articles & books

Attached to these Guidance Notes are several pages, which provide information on historical evidence, providing a background to documents, which can be used to supply valuable evidence to support an application. It is recommended that as many of these as possible should be examined and copied as part of the research towards a claim. It is possible that some documents will not exist for some parts of the borough, and that some documents will not be relevant to certain claims, e.g. railway deposited plans.

## **MAKING AN APPLICATION**

The Applicant will need to do the following

1. Form A, Application Form – Complete this fully.
2. Form B, Notice to Landowners and Occupiers – Send a completed copy of Form B (together with a map showing the claimed route), to everyone believed to own or occupy the affected land. If that information is not available, the applicant may consider posting notices on site, addressed to the owner and/or occupier.
3. Form C, Certificate of Services of Notice – Complete this fully, to show all the owners and occupiers who have been served with Form B. The date on which the Council receives the Form is the formal start date of the application.
4. User Evidence Forms – Give a User Evidence form, together with a map, to each person able to give evidence about use of the way. The Council will provide sufficient copies of User Evidence forms and maps, for each user. It is for each user to mark on the map the route they have used.

5. **Prepare a Map Showing the Route(s) & Ownership** – This map should be of a scale not less than 1:25,000 and must be signed and dated by the applicant.

**The applicant must return the following documentation to the Council:**

Form A, Form C and maps(s) stated in No. 5, along with any relevant documentary evidence and, where appropriate, the completed User Evidence Form .

**WHAT HAPPENS NEXT**

Applications received by the Council will be recorded in a register of applications. This register can be viewed on the Council's website ([www.middlesbrough.gov.uk](http://www.middlesbrough.gov.uk)) or at the Council's offices at Vancouver House. Applications are processed in order of the date received.

Schedule 14 indicates that properly submitted applications should be determined within 12 months of their receipt, and the Council will endeavour to comply with this wherever possible.

As soon as the Rights of Way Officer completes the investigation, a report will be produced. The Council's Rights of Way Panel then considers the report, and a decision is made whether or not to make a DMMO, based on the evidence.

**Note:-** If after twelve months no decision had been made you may, as the applicant, make representations to the Secretary of State (Government Office for the north east) for a direction, which may require the authority to determine the application by a specified date.

If a **DMMO is made**, a period of 42 days is then allowed for objections or representations to be lodged. If any objections to the order are made, the Council will try to resolve them. If they are unable to do so, all the associated papers will be forwarded to the Secretary of State for determination.

If **no objections are made against the order**, the Council will confirm the order, making it effective.

If the **Council's Rights of Way Panel decides not to make a DMMO**, the applicant can appeal against the decision to the Secretary of State. The appeal must be made within 28 days of receiving the notice of the decision not to make an order and must also be sent to the local authority, stating the grounds of the appeal.

**Adresse**

Public Rights Of Way Officer  
Middlesbrough Council  
Highways & Transportation Services  
PO Box 502  
Vancouver House  
Gurney Street  
Middlesbrough  
TS1 9FW