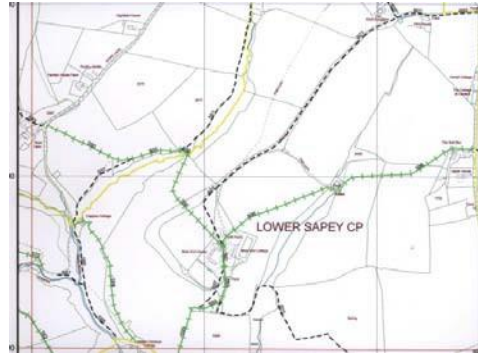




Advice and Guidance on Making Changes to the Definitive Map and Statement

What is the Definitive Map and Statement?

Worcestershire's Definitive Map and Statement of public rights of way is a record of the location and status of public rights of way in the county. It is maintained by the County Council's Countryside Service and can be inspected at our offices at County Hall. The Definitive Map is conclusive evidence of the existence of the rights of way shown on it and also recorded in the written Statement.



Extract of current Definitive Map

Changing the Definitive Map.

Anyone can apply to amend the Definitive Map and Statement if they have evidence which proves that the map is inaccurate or incomplete. For instance, it may not show a new public footpath, or a path regularly used by horse riders is recorded as a footpath instead of a bridleway. This note explains the procedure for making, or opposing, an application to change the Definitive Map.

Making an Application, Who Can Apply?

An individual can apply on their own behalf, or on behalf of an organisation, such as a Parish Council, or user group. Please note Modification Orders should **not** be applied for because you feel that a right of way should be closed because it is no longer useful to the public, or you feel that a right of way should be diverted to a different route. This type of change is covered by separate legislation.

How to Apply.

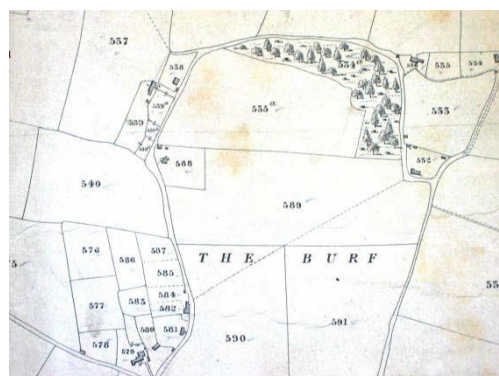
Application forms can be obtained from the Countryside Service Mapping Team. The completed forms must be returned with a map or plan showing the claimed route and copies of the evidence that supports the application. The evidence may be in the form of statements, copies or transcripts of documents, or archive references where it is not possible to reproduce the original.



Applicants must inform every owner and occupier of affected land about the claim and certify to us that this has been done. Landowner's details may be available from the Land Registry if they cannot be obtained by local inquiry. If after extensive inquiries landowners cannot be traced, we can in exceptional circumstances allow applicants to post notices at each end of the route in question.

Documentary Evidence.

If you believe that the claimed route is an historic right of way, your evidence may include Ordnance Survey maps, inclosure awards and maps, tithe awards and maps, title deeds, statutory orders and plans, Parish Council minutes, photographs, reference books and published material that refers to the route in question. All maps should be photocopied or traced, and written records should be transcribed or copied, or references given. We need to know where the original records can be found, and which parts are relevant to the application.



Extract of Tithe map dated 1836

User Evidence.

If you believe that a right of way has been created in recent years, you will need to collect evidence from people who have used the route concerned. We can supply forms asking how and when the route was used, and what users may have seen. Witnesses are asked to give full answers to the questions and to not hold back information whether it appears to be for, or against, the application. They should also mark the route they have used on a map and sign and date it.

If the application is based on user evidence, as many forms as practicable should be submitted and we may interview the witnesses personally to obtain more detail about their use of a claimed route. It should be noted that user evidence forms and statements can be inspected by landowners and other interested members of the public and so the forms cannot be completed anonymously.

Opposing an Application.

We recognise that there are usually two sides to every story, and that applications to change the Definitive Map and Statement may not be supported by landowners or local people. We will ask landowners and Parish Councils if they have any comments or evidence relevant to the application and we also welcome relevant evidence from any third parties who may also be interested in the matter. We can supply forms for landowners to complete and we may ask to interview anyone whose evidence appears to be particularly important.



Relevant evidence is that which relates to the existence, status or extent of the right of way. Matters such as privacy or suitability cannot be taken into account because they do not demonstrate whether a legal right of way exists. We do need to know if a landowner has taken steps to stop the public using a route by turning people away, or putting up signs saying for example 'Private' or 'No Public Right of Way'. There may be deeds, maps or documents in private papers which show or refer to land over which a public right

of way has been claimed. Opponents may simply wish to present us with a different interpretation of the applicant's evidence. All of this material will help us to reach a fair and balanced decision if it is given to us during our investigations.

The County Council's Role.

All applications received by the County Council are recorded on a '*Register of Applications*' which can be viewed on the Countryside Service website. When the claim is investigated, a Definitive Map Officer will look at the evidence that has been submitted with the application and will also carry out any additional research necessary to find out whether the Definitive Map and Statement needs to be amended.

The County Council has a duty to examine all applications and we will endeavour to examine an application as soon as possible*, however in recent years legislative changes and the increasingly adversarial nature of many applications has meant that progress in resolving them has been slow and remains likely to be so for the foreseeable future. It is also very difficult to predict how long an application will take to complete once work on it has started. If all interested parties are in agreement, an application can be processed in about 11 months. However if there are objections which subsequently result in a public inquiry (see below) it can take up to three years, and in exceptional circumstances, even longer.

If after examining an application, researching the supporting evidence and taking account of representations from interested parties, it is concluded that the claimed public rights have been shown to exist, (or public rights shown on the definitive map have been wrongly shown, or should not be shown at all) a report containing an analysis and a recommendation on the application is drafted. A decision on this recommendation is then sought. Currently, decisions are delegated to the County Councillor (the Local Member) in whose area the application is located. If the Local Member does not agree with the recommendation, the application is referred to the County Council's Planning and Regulatory Committee for a final decision.

If a recommendation that an order be made is approved, a Definitive Map Modification Order will be made and advertised. If a recommendation to refuse an application is approved, the statutory procedure does include the right for an applicant to appeal to the Secretary of State. In such cases the Secretary of State can, in exceptional circumstances, direct the County Council to make and advertise an order.

The Order Making Process.

We will advertise the order by placing notices at each end of the route affected and in the local press. There then follows a statutory 42 day consultation period during which anyone can make representations or objections to the order.

If any objection is made, and we are unable to resolve them, we must refer the order to the Secretary of State. The Secretary of State will arrange for the order and the objections to be considered



by an independent Inspector, either at a local public inquiry, a hearing, or occasionally by exchange of correspondence. The Inspector will decide whether or not to confirm the order and will only take into account evidence that is relevant to the order. Objectors to the order and also supporters of the order all have a right to be heard in these proceedings. If after considering all the evidence and hearing from the objectors the Inspector concludes that the claimed rights exist (or do not exist) they will confirm that order. Notice that the order has

* The legislation provides for the applicant to appeal to the Secretary of State for a direction should a decision on an application not be reached within twelve months of its submission.

been confirmed will again be publicised in the press and with a notice on the route. Once the order is confirmed the Definitive Map and Statement can be amended to show the affects of the order.

It should also be noted that the Inspector can, if they conclude the evidence to be deficient, decide not to confirm an order; or direct that it is re-advertised with alterations: such as where they conclude that there is reasonable evidence to show that a claimed footpath should be shown as a bridleway, or vice versa.

Further information.

If you have any questions about the application procedure, or would like to discuss a potential claim in detail, or require application forms, please contact:

The Public Rights of Way Team
Worcestershire County Council
Wildwood
Wildwood Drive
Worcester
WR5 2QT

or telephone 01905 845617