



NEIGHBOURHOODS

MODIFICATION ORDER PACK

**For applications to modify the
Definitive Map & Statement
in Cornwall**

THE COUNTRYSIDE ACCESS TEAM

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1. Advice to applicants

The pack provides guidance about how to make a modification order application. This legislative process is not about creating new rights, but recording rights of way that already exist, that have not yet been included on the Definitive Map and Statement. Further information about how Cornwall Council processes applications and the evidence required upon which the Surveying Authority will base a decision about whether to add rights to the Definitive Map can be found below and on the [Public Rights of Way](#) pages of Cornwall Council. However, it is also recommended that prospective modification order applicants read the advice provided by:

- Natural England – particularly the publication '[A guide to definitive maps and changes to public rights of way](#)'
- Department of Environment, Food & Rural Affairs (Defra) – especially [Circular 1/09](#)
- The Planning Inspectorate ([PINS](#)) – for details about how evidence is evaluated

How are Public Rights of Way recorded?

The Definitive Map and Statement provides a record of public rights of way in Cornwall and under Section 56 of the Wildlife & Countryside Act 1981 is conclusive evidence that at the Relevant Date the public had, at least, the rights shown on the Map without prejudice to the possibility of the existence of higher rights over a particular way.

What is the Definitive Map?

Every Surveying Authority must keep a Definitive Map and accompanying Definitive Statement. This is a document recording public rights of way. In Cornwall it exists as a series of 1:10,000 scale maps showing the paths by way of standard symbols. It includes four categories of right of way, which are all public highways:

- Footpath (FP) – a public right of way on foot only
- Bridleway (BR) – a public right of way on foot, horseback or bicycle
- Restricted Byway (RB) – a public right of way including all the above in addition to non-motorised vehicles
- Byway Open to All Traffic (BOAT) – a public right of way open to all the above and motor vehicles

There are also a matching series of written statements that describe the ways shown on the maps. Copies of the [Definitive Map and Statement](#) can be viewed from the Cornwall Council website.

The Definitive Map was first prepared under the provisions of the National Parks and Access to the Countryside Act 1949. A short [History](#) of the Definitive Map in Cornwall describing the various legal processes the map has been the subject of is available.

The Definitive Map is concerned with Public Rights of Way and therefore the existence or otherwise of any private right of way or easement is not a matter for the Council in its role as Highway Authority.

What is a Modification Order?

Where rights are alleged to exist over a way that are not shown on the Definitive Map, or the Map includes rights that allegedly do not exist, procedures in the Wildlife & Countryside Act 1981 enable those allegations to be tested, by making

it possible to apply for a Modification Order to amend the Definitive Map and Statement to ensure that it is a correct record of public rights of way.

Grounds for making a Modification Order application

An application has to be made on the basis of the discovery of evidence that the map should be amended, or 'modified'. Applications can be made for the following modifications:

- **adding** a path to the Definitive Map and Statement where evidence has been discovered which shows that public rights exist over a route that is not currently shown on the Definitive Map.
- **recording additional rights** and thereby changing the status of a right of way so it is shown differently on the map i.e., by **upgrading** a path perhaps because higher rights have been shown to exist over a route that is already recorded.
- **removing some recorded rights** where evidence shows that rights included in the Definitive Map and Statement were wrongly recorded, thereby **downgrading** the status of a route that is already recorded
- **deleting** a path which is recorded in the Definitive Map and Statement, but which evidence shows to have been recorded in error. Further information on [downgrading or deleting a path](#) has been produced.
- **altering other particulars** contained in the Definitive Map and Statement, for example to modify the recorded width of a path.
- **realigning** the route of a path already included in the Definitive Map and Statement where evidence shows that the line of the path should be recorded differently. This is, in effect, applying for the deletion of one path and the addition of another path and evidence needs to be provided to support both claims.

Modification Orders are not about whether it is a good thing or a bad thing that the path should be added or deleted, but about whether particular rights exist. The suitability of a claimed path for people likely to use it is irrelevant. If someone wishes to divert a path, there are separate procedures for this. [For example, if a landowner wishes to re-position a path for a valid reason then they would have to apply for a [Public Path Order](#) under the provisions of the Highways Act 1980 or the Town and Country Planning Act 1990].

Who can apply?

Anyone may apply for a Modification Order. This includes both individuals and groups of people such as The Ramblers, or a Parish Council. If after reading the guidance provided a prospective applicant has concerns about the work involved in the Modification Order process, does not have easy access to the Internet, will be unable to print off the relevant forms, or might struggle to produce the plans required, it is recommended that in the first instance they contact the local branch of the organisation most pertinent to the claim of rights they wish to make, either [The Ramblers](#) for a Footpath, or [British Horse Society](#) for a Bridleway. Alternatively, a member of the public is also welcome to approach the Parish Clerk for the area in which rights are claimed. A [List of Parishes](#) including contact details can be found on the Cornwall Council website.

If further assistance applying this guidance is required, Cornwall Council suggests that advice from a consultant specialising in rights of way might be an option. Without making a direct recommendation or endorsement of their work the Institute of Public Rights of Way and Access Management (IPROW) website contains a [list](#) of registered experts who may be in a better position to help in regard to Modification Order enquiries. Please note Cornwall Council accepts no

liability for the consequences of advice offered by people in an independent capacity and any decision to use consultants is taken at an applicant's own risk.

Is there a cost for making an application?

There is no charge for making a Modification Order application because it represents in effect an attempt to correct the Definitive Map and Statement and Cornwall Council has a duty to ensure that the Definitive Map and Statement is an accurate and up to date record. However, an applicant is expected to submit proper evidence to support their application and this will involve them in some research.

When can an application be made?

An application can be made at any time evidence is discovered, but it is very important to realise that where the application seeks to secure a change in the location or even the deletion of an existing right of way that this claimed revision must be supported by evidence that is new, cogent and sufficient to rebut the presumption that the definitive map is correct. The mere assertion that the Definitive Map is incorrect is not enough.

Evidence

Evidence is the key and it is therefore important to submit as much relevant evidence as possible in support of the application as the decision whether or not to make an Order will be based on the evidence provided and any other available evidence.

In all cases the Council requires evidence that dedication has occurred. This is unlikely to be direct evidence (i.e., a statement from a landowner who had the capacity to dedicate the way) and is more likely to be evidence from which the fact of dedication can be inferred. It is a long established principle of common law that dedication of right of way can be inferred from the actions of users and landowners and from information contained in important maps and documents. This principle has been more recently enshrined in statute.

Use by the public

If a path is not shown on the Definitive Map but the public have been using the route over a sufficient period of time it may become established as a right of way. A modification order application made on the basis of use will need to be accompanied by witness statements containing evidence from people who have used the route. It is not sufficient for witnesses to say that others have been seen using the way, they must have actually used the way themselves for their evidence to count. To meet the legislative tests contained in Section 31 of the Highways Act 1980, evidence of use will need to show the following:

- the way has been used by the public for a continuous period of twenty years or more;
- the route has been used 'as of right' which means that the public used the path as if it were a highway, that is to say openly, without secrecy, or the use of force and not needing to seek or be granted permission from the landowner;
- that it has been the public at large who have used the route rather than any 'special' group of people such as employees of the landowner, or in exercise of a private right to gain access to property;
- that the way must have followed a defined route rather than the public wandering freely at will over land in general;
- and use will have been without interruption, that is to say there has been no action taken to show the landowner's intention during the relevant

period not to dedicate a right of way to the public, i.e., by preventing people from using the way.

The period of twenty years is counted back from the date when the public's right was first brought into question. However, statutory deemed dedication was established by Parliament to run parallel with common law dedication and dedication can still be inferred if one part of the statutory test fails but the facts indicate that, in all of the circumstances, deemed dedication has occurred. For example, significant use by the public for a shorter period than 20 years can be sufficient to satisfy the test of inference of deemed dedication at common law.

Public Path User Forms for completion by members of the public are supplied as part of this application pack. These forms must be accompanied by a map marked by each path user to show the position of the path they are referring to in the form. These Forms and Maps should be submitted with the application.

Please note the following in respect of collecting evidence:

- Witnesses are encouraged to supply as much information as possible and the Forms are there to guide them, but they must as a bare minimum include details of the years they used the route, the frequency and type of use (walking; horse riding etc.).
- Users should be asked to complete their own witness forms.
- Cornwall Council may contact witnesses to clarify their evidence at some point in the future.
- It is not necessary for each individual witness to have used the way for the whole of the claimed period but the totality of the evidence should be enough to demonstrate use by the public
- There is no legal minimum for the number of witness statements submitted in support of an application, but if only small numbers of witnesses have used an alleged path on an infrequent basis, Cornwall Council may ask the applicant to supply more evidence before validating their application.
- If the application involves claiming more than one simple route with a single start and termination point please contact Cornwall Council before you begin collecting evidence as the surveying authority may require separate applications for each route.
- Applications for Definitive Map Modification Orders can take a long time to be processed and applicants might want to consider taking in depth statements from key witnesses and having these witnessed by a commissioner of oaths in the form of a statutory declaration.

Documents and old maps

Section 32 of the Highways Act 1980 permits a court or tribunal to take into consideration any map, plan or history of the locality, or other relevant document tendered in evidence before determining whether a way has been dedicated as a highway. Old maps and other historical documents collectively known as documentary evidence can provide evidence of the physical existence of a way and whether it was considered at the time of the production of the document to be a public highway. This is important because the general common law principle of 'Once a Highway Always a Highway' can be used to infer that, unless a highway was legally stopped up after dedication occurred, it remains a highway to this day. An application for a modification order based solely on documentary evidence alone will need to provide a list of all the relevant documents, copies of the documents being relied upon and a note indicating where each has been sourced.

Many of the relevant historical documents are available for inspection at the [Cornwall Record Office](#) currently based at Old County Hall in Truro. Amongst other resources you will be able to consult the following useful material here:

- Inclosure Awards – from the 18th & 19th century provide some of the best sources of evidence available, although their coverage is limited in extent in Cornwall.
- Tithe Awards – from the 19th century provide detailed large scale parish maps which though concerned solely with identifying titheable land and not with roads or their status, did produce maps that mark roads quite accurately.
- Commercial Maps – from the 18th & 19th century such as the Greenwood and Bryant maps can provide useful supporting evidence to show whether or not a way existed at a given date.
- Deposited Plans – produced in connection with Canal, Turnpike Road & Railway Acts from the 18th & 19th century, often quite scarce but can show the legal creation of a way as a highway.
- Maps & Schedules compiled under the Provisions of the Finance Act 1910 – produced for land tax purposes as part of the Incremental Value Duty Records, Section 35 excluded public vehicular roads & Section 25 allowed deduction for rights of way so can usefully show the reputation of a way as a highway.
- Ordnance Survey Maps – from the 19th & 20th centuries do not provide evidence of the status of a right of way, but as reliable and accurate topographic surveys of what was on the ground can be used as evidence of the physical existence of a way.
- Other Records – including Parish Minute Books, Quarter Sessions Records, & Estate Plans may all be available depending on the location.

If an applicant requires more information about [documentary evidence](#) and the relative value of each historical source in terms of determining whether a right of way exists, Cornwall Council has produced a more detailed summary of this type of evidence.

2. How to apply

An application should be made on the appropriate forms, available at the end of this pack, and it is important that it is completed correctly in the 'prescribed form' as it could fail in law if it is not. The application essentially consists of two parts:

- first, making the application by completing Form 1 identifying the change that is being requested and showing the claimed route on an accompanying map, enclosing copies of the evidence that will be relied upon to support the allegation of rights.
- second, serving notice of your intention by identifying landowners, then notifying them using Form 2 and finally certifying that notice has been served by completing Form 3. In the event that it is not possible to establish the landowners affected you must request approval from Cornwall Council to serve notice impersonally on the land by completing Form 4.

The following Forms are included to help you do this:

FORM 1 [Application for Modification Order] is to be completed and returned to the Countryside Access Team. Please provide as much detail as possible on the route being claimed, especially if this comprises a network of paths, explaining

clearly what it is you are applying for (addition; deletion; upgrade/downgrade; varying the particulars) and how this affects the status of the way.

The Application must be accompanied by a map at a scale of not less than 1:25,000 (two and a half inches to one mile) – larger if possible e.g., 1:10,000 or 1:2,500 – which should clearly show the path or way in question marked by a continuous line. Plans can be printed from the [Interactive Mapping](#) page on the Cornwall Council website.

If you require help with grid references, or producing a map at a suitable scale on which to mark the application route, please contact The Countryside Access Team.

A list and copies of the evidence upon which your application relies also needs to be provided, ensuring that Public Path User Forms have a map attached marked by the witness to show the route they have used. Both form and map must be signed and dated. It is helpful for witness evidence to be collated and sent with the application, although additional completed forms can be added to the case file later.

FORM 2 [Notice of Application for Modification Order] is to be completed and then sent to every Owner or Occupier (including those with a private right over the way in question) of any land to which the application relates. A map clearly showing the effect of the application should accompany the Notice. A copy of these documents should be retained and included with your application to enable the surveying authority to verify that Notice has been served correctly.

FORM 3 [Certificate of Service of Notice of Application] must be completed by listing the names and addresses of those Owners and Occupiers who have been served notice of the application. It should be returned to the Countryside Access Team together with FORM 1 and FORM 2.

It is a requirement of Paragraph 2 of Schedule 14 to the Wildlife and Countryside Act 1981 that an applicant for a Modification Order shall serve a Notice stating that the application has been made on every Owner and Occupier of any land to which the application relates. It is the duty of the applicant to investigate the ownership and occupation of the land so that the necessary Notice may be served.

Where it proves impossible for the applicant to trace any Owner or Occupier affected by the application **if after reasonable enquiries have been made**, which as a minimum must include a [Land Registry](#) search, and Cornwall Council is satisfied that it is not practicable to ascertain the name and address of an Owner or Occupier, Cornwall Council may direct that the Notice may be served by posting it on the land. Applicants may therefore apply to the Countryside Access Team [by completing and returning **FORM 4** along with evidence to show that reasonable enquiries have been made] to dispense with a personal notice and serve notice instead by addressing it to the Owner or Occupier and affixing it to some conspicuous object on the land.

The Certificate that notice has been served is essential, without it Cornwall Council is under no obligation to consider the application. **Failure to serve Notice on any owner and occupier may invalidate an application.**

FORM 5 [Survey of the Modification Order Application Route] should be completed where possible to provide a description of the way being claimed at the time of the application. This is expected to include a detailed survey of the route from highway to highway, any notable features along the way, the nature of the

surface of the path and the location of any structures (stiles, gates, bollards, fences, barriers). An estimation of the length of the path and the width being claimed also needs to be recorded on this form. Width can be defined by the distance between hedges, or that which has been habitually used by the public, but can vary along the length of the path so might need to be described in sections. Photographs will help with this part of the process and should be attached to the form.

Remember to take copies of your application documents for your own record.

3. What happens next?

Once the application has been submitted to the Countryside Access Team and receipt has been acknowledged, it will be examined to check whether or not there are any omissions or discrepancies that might challenge its validity.

If an application fails to meet the necessary tests for verification any evidence submitted in support will not be examined, but will be returned to the applicant with a letter explaining the reasons why, alongside a request that the whole application be resubmitted once the matters of concern have been addressed.

Upon confirmation as legally valid an application will be given a WCA case number and added to the [modification order register](#) from which progress can be viewed.

The application will be held on file until such time as it can be dealt with in accordance with the Council's published [policy statement](#). However, in the meantime, Cornwall Council will consult the appropriate Parish Councils, the local Cornwall Councillor and relevant user groups such as the Ramblers' and the British Horse Society. In order to investigate the application fully and come to a decision based on all the available evidence, landowners/occupiers affected will also be given an opportunity to submit their evidence.

Under Schedule 14 of the Wildlife & Countryside Act 1981, properly made applications should be determined by the relevant surveying authority. In this case Cornwall Council has delegated authority to determine modification order applications to the Natural Environment Manager, who considers applications at regular meetings.

Once an application is determined, if the decision is that an Order should be made, the Order will be published at a later date. Copies of the Order will be served on the applicant, landowners/occupiers and other interested parties. Notices will also be posted on site and in the local newspaper. A period will be allowed for objections or representations to be made. If objections are received, then the matter has to be passed to the Secretary of State for the Environment who normally determines the matter by holding a Local Public Inquiry.

If the decision is taken not to make an Order, the applicant has a right to appeal to the Secretary of State who will consider all the evidence and direct Cornwall Council whether or not to make an Order accordingly.

4. Checklist of items to be submitted

Please make sure that the following forms have been completed before submitting your application.

- FORM 1
- A signed APPLICATION MAP at a scale of 1:25,000 or larger which is marked clearly to show the alleged route
- FORM 2 – as an example to show how Notice of your application has been served on affected landowners
- FORM 3
- FORM 4 – if you have received direction from the Council to serve impersonal notice on unidentified owners of the land
- FORM 5 – accompanied by photos of the application route
- Public Path User FORMS each with a signed map which clearly shows the alleged route.
- Any other EVIDENCE, including documentary, to support the claim

Once you are satisfied that your application is complete, please send completed forms to:

Countryside Access Records Officer
Countryside Access Team
County Hall
Treyew Road
Truro
Cornwall
TR1 3AY



Cornwall Council
FORM OF APPLICATION FOR MODIFICATION ORDER
Wildlife and Countryside Act 1981

Definitive Map and Statement for the former District / Borough* of Penwith / Kerrier / Carrick / Restormel / North Cornwall / Caradon*

To: Cornwall Council
of: New County Hall, Treyew Road, Truro TR1 3AY

I/We
of

hereby apply for an Order under section 53(2) of the Wildlife and Countryside Act 1981 modifying the definitive map and statement for the area by:

(a) **Deleting** the *footpath / bridleway / restricted byway / byway open to all traffic**
from:Grid Ref.....
to:Grid Ref.....

(b) **Adding** the *footpath / bridleway / restricted byway / byway open to all traffic**
from:Grid Ref.....
to:Grid Ref.....

(c) **Upgrading / downgrading** to *footpath / bridleway / restricted byway / byway open to all traffic**
the *footpath / bridleway / restricted byway / byway open to all traffic**
from:Grid Ref.....
to:Grid Ref.....

(d) **Varying /adding to** the particulars relating to the *footpath/bridleway/restricted byway/byway open to all traffic **
from:Grid Ref.....
to:Grid Ref.....
by providing that

and shown on the map accompanying this application.

* Please delete text as applicable

I / We attach copies of the following documentary evidence (including statement of witnesses) in support of this application:

.....
.....
.....
.....
.....
.....
.....

Dated:

Signed:

Privacy Notice - General Data Protection Regulations

The Data Controller for all the information you provide on this form is Cornwall Council, New County Hall, Treyew Road, Truro TR1 3AY. Data Protection Registration Number: Z1745294

The information you provide on this form is collected for the purpose of carrying out the functions of the Council under its statutory duties under the Wildlife and Countryside Act 1981. Although it is not our preferred practice to share the information contained in your completed form with other parties before determining an application for a Definitive Map Modification Order, you should be aware that your completed form may be made available to other parties who have a right to see it under the Freedom of Information Act 2000. You should also be aware that the information contained in your completed form will be included in the appendices to a report prepared by officers of the Council and may also be made available as part of a bundle of papers prepared for a future Public Hearing or Inquiry.

Your data will be held within Cornwall Council's secure network and premises and will not be processed outside of the UK. Access to your information will only be made to authorised members of staff who are required to process it for the purposes outlined in this privacy notice.

In accordance with the Batchelor Retention Guidelines your information will be retained for the calendar year that we finish processing it and for two years thence.

Whilst your personal information belongs to you, you have the right to:

- be informed how we will process it,
- request a copy of what we hold about you and in commonly used electronic format if you wish,
- have it amended if it's incorrect or incomplete,
- have it deleted (where we do not have a legal requirement to retain it).

If you would like to access any of the information we hold about you or have concerns regarding the way we have processed your information, please contact the Data Protection Officer, Assurance, Cornwall Council, County Hall, Truro TR1 3AY. Tel: 01872 326424. Email: dpo@cornwall.gov.uk

We would prefer any complaints to be made to us initially so that we have the opportunity to see if we can put things right. However, if you are unhappy with the way we have processed your information or how we have responded to your request to exercise any of your rights in relation to your data, you can raise your concerns direct with the Information Commissioners Office. Tel: 0303 123 1113. <https://ico.org.uk/concerns/>



Cornwall Council
FORM OF NOTICE OF APPLICATION
FOR MODIFICATION ORDER

Section 53(5) of, and Schedule 14 to, the Wildlife and Countryside Act 1981

Definitive Map and Statement for the former District / Borough of Penwith / Kerrier / Carrick / Restormel / North Cornwall / Caradon

To:

Of:

I/We

of

hereby give notice that on I /We made application to Cornwall Council, County Hall, Truro TR1 3EA that the definitive map and statement for the area be modified by:-

(a) **Deleting** the *footpath / bridleway / restricted byway / byway open to all traffic*
from:Grid Ref.....
to:Grid Ref.....

(b) **Adding** the *footpath / bridleway / restricted byway / byway open to all traffic*
from:Grid Ref.....
to:Grid Ref.....

(c) **Upgrading / downgrading** to *footpath / bridleway / restricted byway / byway open to all traffic*
the *footpath / bridleway / restricted byway / byway open to all traffic*
from:Grid Ref.....
to:Grid Ref.....

(d) **Varying /adding to** the particulars relating to the *footpath/bridleway/restricted byway/byway open to all traffic*
from:Grid Ref.....
to:Grid Ref.....
by providing that

Signed: **Dated:**

Footpath - right of way on foot only; *Bridleway* - right of way on foot, horseback or with a cycle; *Restricted Byway* – a right of way for all traffic except motor vehicles; *BOAT* - right of way for vehicular traffic but used mainly for the purposes for which footpaths & bridleways are used.
If the above application is validated Cornwall Council will contact landowners in due course. Further information can be found on the following webpage: <https://www.cornwall.gov.uk/environment-and-planning/countryside/public-rights-of-way/definitive-map-and-statement/definitive-map-modification-orders/>



Cornwall Council
FORM OF CERTIFICATE OF SERVICE OF NOTICE
OF APPLICATION FOR MODIFICATION ORDER

Wildlife and Countryside Act 1981

Definitive Map and Statement for the former District / Borough* of Penwith / Kerrier / Carrick / Restormel / North Cornwall / Caradon*

This certificate may only be completed when notice of the application has been properly served on all owners and occupiers affected by the proposal. A list of the names and addresses of all individuals notified must be provided below. If you have been unable to identify all owners and occupiers affected by the proposal you must inform the County Council of this by completing and returning FORM 4. Subsequently you will receive direction to enable you to erect notices on the land affected by the proposal.

To: Cornwall Council
of: New County Hall, Treyew Road, Truro TR1 3AY.

I/We (Applicant)

of (Address)

hereby certify that the requirements of paragraph 2 of Schedule 14 to the Wildlife and Countryside Act 1981 have been complied with in relation to the attached application.

Signed: **Dated:**

Notice of Application for Modification Order (FORM 2) has been:

a) Served on the following Owner(s) and/or Occupier(s):

	Name	Address
1.
2.
3.
4.
5.
6.

(Please continue on an additional sheet if required)

b) In the case of unknown ownership, served with the agreement of Cornwall Council, by affixing the Notice to some conspicuous object or objects on the land (please provide a photograph as evidence of the serving of notice)

Privacy Notice - General Data Protection Regulations

The Data Controller for all the information you provide on this form is Cornwall Council, New County Hall, Treyew Road, Truro TR1 3AY. Data Protection Registration Number: Z1745294

The information you provide on this form is collected for the purpose of carrying out the functions of the Council under its statutory duties under the Wildlife and Countryside Act 1981. Although it is not our preferred practice to share the information contained in your completed form with other parties before determining an application for a Definitive Map Modification Order, you should be aware that your completed form may be made available to other parties who have a right to see it under the Freedom of Information Act 2000. You should also be aware that the information contained in your completed form will be included in the appendices to a report prepared by officers of the Council and may also be made available as part of a bundle of papers prepared for a future Public Hearing or Inquiry.

Your data will be held within Cornwall Council's secure network and premises and will not be processed outside of the UK. Access to your information will only be made to authorised members of staff who are required to process it for the purposes outlined in this privacy notice.

In accordance with the Batchelor Retention Guidelines your information will be retained for the calendar year that we finish processing it and for two years thence.

Whilst your personal information belongs to you, you have the right to:

- be informed how we will process it,
- request a copy of what we hold about you and in commonly used electronic format if you wish,
- have it amended if it's incorrect or incomplete,
- have it deleted (where we do not have a legal requirement to retain it).

If you would like to access any of the information we hold about you or have concerns regarding the way we have processed your information, please contact the Data Protection Officer, Assurance, Cornwall Council, County Hall, Truro TR1 3AY. Tel: 01872 326424. Email: dpo@cornwall.gov.uk

We would prefer any complaints to be made to us initially so that we have the opportunity to see if we can put things right. However, if you are unhappy with the way we have processed your information or how we have responded to your request to exercise any of your rights in relation to your data, you can raise your concerns direct with the Information Commissioners Office. Tel: 0303 123 1113. <https://ico.org.uk/concerns/>

Cornwall Council
FORM OF APPLICATION TO SERVE NOTICE BY IMPERSONAL MEANS
IN RESPECT OF A MODIFICATION ORDER APPLICATION

Wildlife and Countryside Act 1981

Definitive Map and Statement for the former District / Borough* of Penwith / Kerrier / Carrick / Restormel / North Cornwall / Caradon

From:

Of:

To: Definitive Map Officer
 Countryside Access Team
 New County Hall,
 Treyew Road,
 Truro TR1 3AY

PATH LOCATION DETAILS:

PARISH **DISTRICT**

CLAIMED STATUS OF WAY: Footpath / Bridleway / Restricted Byway / Byway Open to All Traffic

[delete as appropriate]

DESCRIPTION OF PATH

.....

POSTCODE

FROM:Grid Ref.....

TO:Grid Ref.....

I have carried out an investigation in an attempt to discover the owners and occupiers of the land over which the alleged way runs. I have made enquiries from: *[delete those that are not applicable]*

- ◆ Land Registry *[compulsory]*
- ◆ Adjoining landowners
- ◆ Local inhabitants
- ◆ The Post Office
- ◆ The Parish Council
- ◆ Register of Electors
- ◆ Other appropriate sources *[please state]*

I have been unable to discover ownership of the land, and I request Cornwall Council to direct that Notice may be served by affixing it in a prominent position on that land.

Signed:

Dated:



Cornwall Council
SURVEY OF
MODIFICATION ORDER APPLICATION ROUTE
Wildlife and Countryside Act 1981

To: Cornwall Council, Countryside Access Team

of: New County Hall, Treyew Road, Truro TR1 3AY

Name & Address of Applicant

Date of Application

Description

Please describe the route from end to end noting any significant feature along the way such as landmarks, buildings etc., referencing any photos you may have taken

.....
.....
.....
.....

Nature of the Surface

Please describe the surface of the path grass, mud, made up track, across fields containing arable crops, noting any significant changes to the surface along the way

.....
.....
.....
.....

Location of Structures

Please identify and pinpoint any limitations such as stiles, gates, barriers, fences across the line of the path, either by providing a Grid Reference for each structure, or on a copy of the application map

.....
.....
.....
.....

Width of Path

Please indicate the full width of the path that is being claimed, understanding that if the width varies along the route of the path that the width of each section is described in turn

.....
.....
.....
.....

Signed:

Dated:

Privacy Notice - General Data Protection Regulations

The Data Controller for all the information you provide on this form is Cornwall Council, New County Hall, Treyew Road, Truro TR1 3AY. Data Protection Registration Number: Z1745294

The information you provide on this form is collected for the purpose of carrying out the functions of the Council under its statutory duties under the Wildlife and Countryside Act 1981. Although it is not our preferred practice to share the information contained in your completed form with other parties before determining an application for a Definitive Map Modification Order, you should be aware that your completed form may be made available to other parties who have a right to see it under the Freedom of Information Act 2000. You should also be aware that the information contained in your completed form will be included in the appendices to a report prepared by officers of the Council and may also be made available as part of a bundle of papers prepared for a future Public Hearing or Inquiry.

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In accordance with the Batchelor Retention Guidelines your information will be retained for the calendar year that we finish processing it and for two years thence.

Whilst your personal information belongs to you, you have the right to:

- be informed how we will process it,
- request a copy of what we hold about you and in commonly used electronic format if you wish,
- have it amended if it's incorrect or incomplete,
- have it deleted (where we do not have a legal requirement to retain it).

If you would like to access any of the information we hold about you or have concerns regarding the way we have processed your information, please contact the Data Protection Officer, Assurance, Cornwall Council, County Hall, Truro TR1 3AY. Tel: 01872 326424. Email: dpo@cornwall.gov.uk

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DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY

PUBLIC PATH USER FORM

PLEASE READ THE PRIVACY NOTICE AND NOTES BEFORE COMPLETING THIS FORM

The purpose of this form is to elicit information about your actual use of the way. Please answer all the questions as fully as possible ensuring that you don't withhold any information which could be relevant to the Council in considering whether the available evidence indicates that a public right of way subsists.

All Public Path User Forms must be accompanied by a map at a scale of greater than 1:25,000 indicating the way that you have used and must be signed and dated by you.

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Cornwall Council may approach you to act as a witness for the Council at a future Hearing or Inquiry. If this is required, we will ensure that you have plenty of advance warning.

1. DETAILS OF WITNESS

Full Name: Age:
Address: Tel No (day)
..... Tel No (eve)
Post Code Occupation

2. PATH DETAILS

Parish: District:
From :Grid Reference.....
To:Grid Reference.....

3. USE OF ALLEGED WAY

(a) Have you personally used the claimed way?

(b) Where were you going to and from?

(c) For what purpose?

(d) When did you last use it?

(e) Have you always followed the same route?.....

If not, state the year you changed your route and why

(f) Has your use of the way ever been in exercise of some private right? (For example to reach your own property) YES/NO*

If yes, please give full details including specific years and (if possible) dates during which you used it as a private right.

(g) Please complete the boxes below to show during which years you used the way as a public right of way, by what means you have used it and how many times a year you have used it.

By what means, over what period & how often did you use the way?			
Means	From (Year)	To (Year)	Times per Year
On Foot			
On Horseback			
By Bicycle			
By Motor Vehicle			
Other [please specify]			

(h) Were there any years during which you did not use the route at all? YES/NO*

If YES between which years and why?

(i) Did you see anyone else using the path and by what means?

(j) Do you believe the owner/occupier was aware the public was using the way? YES/NO*

If YES, why?

[*Please delete as applicable]

4. DETAILS OF THE ALLEGED WAY

- (a) How wide is the way at its narrowest? Where is that point?
 - (b) How wide is the way at its widest? Where is that point?.....
 - (c) Has the way always run over the same route?
- If it has been diverted, give details and dates

5. STILES

- (a) Are there, or have there been, any stiles on the way?
- If so, state where, and mark on the Map attached

6. OPENABLE GATES

- (a) Are there, or have there been, any openable gates on the way?
- If so, state where, and mark on the Map attached

7. NOTICES

- (a) Have you ever seen notices on or near the way?
- If so, when and where (Please mark locations on Map) did you see these notices and what did they say?

8. OBSTRUCTIONS

- (a) Have you ever known any obstructions preventing use of the way?
- If so, state where, and mark on the Map attached

9. VERBAL NOTICE

- (a) Were you ever told by an owner or tenant of the land crossed by the path or anyone in their employment that the path was not public? YES/NO*
If YES, please give details?
- (b) Have you ever been stopped or turned back when using the way? YES/NO*
If YES, state when and by whom and where this took place and give particulars.
.....
- (c) Are you aware of anyone else being stopped or prevented from using the way?
.....

10. PERMISSIVE USE

(a) Were you working for any owner or occupier of land crossed by the way at the time when you used it, or were you then a tenant of any such owner? YES/NO*

(i) Give particulars and dates

(ii) Say whether the owner or occupier ever gave you instructions as to the use of the way by the public and, if so, what the instructions were.

(b) Have you ever obtained or been granted permission to use the route? YES/NO*

If so, from whom? When? For what purpose?.....

.....

11. ADDITIONAL INFORMATION

If you can provide any other particulars, information or documents in relation to the claimed right of way that you consider would be helpful in reaching a decision as to whether or not a Modification Order should be made refer to them here i.e., is there any documentary evidence, e.g. Enclosure Awards, Tithe Maps, Railway Maps, etc., which you think will support the claim? If so, give details.....

.....

[Continue on a separate sheet if necessary]

12. DECLARATION

I hereby declare that to the best of my knowledge and belief my answers to the above questions are true.

I am/am not* willing to attend a Hearing, Public Inquiry or Court to give evidence on this matter, if this should prove to be necessary. [*Please delete as applicable]

If you are unwilling to do so, please give reasons:.....

Signature **Date**

Witness to Signature

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NOTES

- I. You should complete this Public Path User Form personally. It is important that your answers relate only to your use and knowledge of the way
- II. Please answer all questions as fully as possible. If you are struggling to understand any of the questions please contact the Countryside Access Records Officer at Cornwall Council, Countryside Access Team, Level 4A, Pydar House, Pydar Street, Truro, TR1 1XU, Tel: 0300 1234 202 who will be able to provide further information to help you complete a Public Path Evidence Form.
- III. It is important that the way is shown to follow a defined route and not be an area over which the public have wandered at large.
- IV. You may be personally interviewed in connection with the information given in this Form. The data is collected by Cornwall Council ("the Council") in accordance with the data protection principles in the Data Protection Act 1998 and the General Data Protection Regulations. The purpose for collecting the data is to carry out the functions of the Council under its statutory duties under the Wildlife and Countryside Act 1981. The Council may disclose any information given by you on this Form including your personal details to third parties as required by the Freedom of Information Act 2002 or in pursuance of the Council's functions detailed above.
- V. In some cases people who apply for Definitive Map Modification Orders withdraw their applications for "personal" reasons after they have gathered user evidence and submitted it to Cornwall Council. In such circumstances we continue with the investigation to bring the case to a conclusion and you may still be contacted.
- VI. **The details contained in this Form may be used as evidence in further proceedings, and you should be prepared to support the information by being willing to attend to give verbal evidence, in the future, at a Hearing or Local Public Inquiry.**
- VII. A landowner can successfully refute a claim for the addition of a way if he/she can prove that either the way was used with his/her express permission only, or that he/she has prevented access to the way, or that he/she has erected notices to counter any suggestion that there had been any intention to dedicate the way as a public right of way.
- VIII. **A Map clearly showing the route of the alleged way must be attached to this Form. You must sign the Map to confirm that you have seen and understood it.**