

Applications For Modifications of The Definitive Map and Statement

APPLICATIONS FOR MODIFICATIONS OF THE DEFINITIVE MAP AND STATEMENT

WILDLIFE AND COUNTRYSIDE ACT 1981

Guidance Notes:

Introduction

These notes are intended for guidance only and do not represent a complete statement of the law. Should you require any further information or explanation of any point, please contact the Rights of Way Unit.

Part III of the Wildlife and Countryside Act, 1981 came into force in this area on the 28th February, 1983 and it allows Gwynedd Council to update and review the Definitive Map and Statement for Gwynedd on a continuous basis by means of Modification Orders.

1. Applications for Modification Orders may be made by any person (or groups of persons) in respect of a public footpath, bridleway or byway open to all traffic/road used as public path. You will have to produce evidence to show that your application falls into one or more of the following categories:
 - a) A right of way shown on the present Map and Statement does not legally exist.
 - b) A right of way legally exists, but is not shown on the present Map and Statement.
 - c) A right of way is given a particular description in the Map and Statement, e.g. footpath, but should be given a different description, e.g. bridleway.
2. Modification Orders should not be applied for if:
 - a) you feel that a right of way should be closed because it is not longer useful to the public, or
 - b) You feel that it would be beneficial to move a right of way from its present line.

Advice on Orders to make these type of changes should be sought from the Rights of Way Unit at the address indicated on the website.

The Application for a Modification Order

1. To apply for a Modification Order you will need to follow the procedure laid down in the Wildlife and Countryside Act, 1981. To assist you the Council produces a set of application forms which may be obtained from the Rights of Way Unit or on line. Your application must be accompanied by a map of not less than 1:10,000 (6" to 1 mile), preferably based on an Ordnance Survey Map showing the present situation and the proposed modification.
2. You will need to support your application with evidence which may include any of the following documents or copies of documents (where possible):

Inclosure Awards and Maps, Tithes Awards and Maps, Old County Maps, Title Deeds, Statutory Orders, Court Judgements and signed statements from local inhabitants and/or landowners affected by your application. (The Council produces forms which may be used for statements from such witnesses.)

Procedure After Your Application is Received

1. Receipt of your application will be formally acknowledged by Gwynedd Council.
2. The Gwynedd Council will determine your application as soon as possible and will endeavour to do so within 12 months of receiving it. In investigating the application the Council will consult the Community/Town Council and other groups/societies and will approach any affected landowners for their views and seek any evidence relevant to the application that they may have. The evidence you have produced will be examined and the Council may wish to interview any witnesses from whom you have obtained statements. The Council is obliged to determine your application on the basis on the available evidence and may, should it see fit, seek additional further evidence from any appropriate source.
3. When the Council have determined your application, you and any others or occupiers who were served with the Notice of Application will be notified of the decision.
 - a) If the Council decide to refuse your application and not to make any Order you have 28 days from service of the Notice of Decision to appeal to the Secretary of State for Wales, who will appoint an Inspector to consider the appeal.
 - b) If the Council decide to grant your application, an Order will be made and published in a local newspaper and posted on site. The Owners and Occupiers of land affected and the Community/Town Council will also be served with a copy of the Order. There will be a period for representations and objections to be made of not less than 42 days.
 - c) If there are no such representations and objections the Council will confirm the Order. If there are representations or objections or any amendment to the Order is necessary then the matter will be referred to the Secretary of State for Wales who will appoint an inspector to consider the issues and evidence in the form of written submissions or a public inquiry. He may then confirm the order with or without alterations to it.
 - d) When an Order is confirmed a Notice will be published in a local newspaper and posted on site and all interested parties will be notified. Any person aggrieved by the confirmation of an Order may question its validity in the High Court within 42 days of the notification. The grounds for such an application must be that the order is not within the powers of the 1981 Act or that the Act has not been complied with. The High Court may quash an order in whole or in part if it is satisfied that this is the case.

If your Modification Order is confirmed and not quashed by the High Court, it will become part of the Definitive Map and Statement for the area and read with them as one document.