

PROCEDURE FOR A MAP MODIFICATION ORDER

1. Claimants submit evidence and an application under the Wildlife and Countryside Act 1981 for a Map Modification Order. If they wish to have the right to appeal to the Secretary of State for the Environment against any formal decision made by the County Council, they must make the application in the manner prescribed in Schedule 14 of the Wildlife and Countryside Act 1981.
2. The County Council consults with landowners, occupiers, District, and Parish Councils.
3. The landowners and occupiers present their evidence to the County Council. Ideally all evidence against the application should be presented to the County Council at this stage, so that it can be investigated at the same time as that supporting the claim, and taken into account when the Council Committee considers the matter. Landowners can successfully rebut a claim if they can prove either that the way was used with their express permission only, or that they have otherwise prevented the 20 year period from accruing by effectively restricting access, or by erecting notices to counter any suggestion that there was any intention to dedicate the route as a public right of way. They could also have given notice of their lack of intention to dedicate a right of way by making a formal declaration and depositing a plan with the Highway Authority.
4. The County Council will consider the evidence of all parties (landowners, occupiers and claimants). Please note that in the interests of open government objections or representations cannot be treated as confidential and will be publicly available and summarised for inclusion in committee reports. All relevant documents will be publicly available whether or not the matter goes to committee. If no objections are raised, the order will be made without the matter being considered by the Local Committee.
5. If objections are made or no rights are found, then the County Council will advise the claimants of the recommendations to the County Council's relevant Committee. This will enable the applicants to make a formal application and gain the right of appeal to the Secretary of State.
6. The matter is taken to the relevant Local Committee who will consider whether or not to make an Order.
 - i. If the County Council decide not to make an Order, the interested parties will be informed by letter and if a formal application has been made the claimants may lodge an appeal to the Secretary of State within 28 days of being informed.
 - ii. In considering the appeal the Secretary of State may direct the County Council to make an Order or concur with the County Council's decision not to make an Order in the former case, see procedures given in 8(a) i and ii. In the latter case see footnote.
7.
 - i. If the County Council decide to make an Order, notice of the Order will be served on all persons affected, displayed on site and published in the Local Press.
 - ii. Persons affected may lodge an objection within 42 days of service and display of the notice. Members of the public are also given the opportunity to object within this statutory period.

If objections are not resolved the Secretary of State will then hold a Public Inquiry or deal with it by exchange of written representations before determination.

NB: The above does not include possible High Court challenge to decisions.

PLEASE NOTE : THE HIGHWAYS ACT 1980 EMPOWERS OFFICERS OF THE COUNCIL TO ENTER ON LAND AFFECTED BY THE ABOVE FOR THE PURPOSE OF SURVEYING OR OTHER PURPOSES IN CONNECTION WITH THIS PROCEDURE.

IF A PUBLIC INQUIRY IS HELD THEN SITE INSPECTIONS WILL BE CARRIED OUT BY OFFICERS OF THE COUNCIL TOGETHER WITH THEIR LEGAL REPRESENTATIVES IN ADDITION TO AN INSPECTION MADE BY AN INDEPENDENT INSPECTOR APPOINTED BY SECRETARY OF STATE TO HOLD THE INQUIRY.