



## REGULATORY SERVICES

# MODIFICATION ORDER PACK

For applications to modify the  
Definitive Map & Statement in  
Cornwall

### PUBLIC RIGHTS OF WAY & ACCESS MANAGEMENT TEAM

PO Box 676, Threemilestone, Truro, Cornwall TR1 9EQ

Tel: 0300 1234202 [www.cornwall.gov.uk](http://www.cornwall.gov.uk)

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## **1. Advice to applicants**

A modification order application provides a mechanism by which any member of the public can make a claim to add a path to the network of Public Rights of Way, or upgrade the status of an existing path. It can also be used to delete, or downgrade, a Public Right of Way and to vary how a path is described in the Definitive Statement. However, if you want to divert a path that already exists that would require a [Public Path Order](#).

### **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. It 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 any other unrecorded rights that might exist, or the existence of higher rights over a particular way. For example a way shown as a public footpath may have accrued equestrian rights and therefore need to be recorded as a public bridleway.

### **What is the Definitive Map?**

Cornwall Council as the relevant 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 origins of the Definitive Map date back to the early 1950s when it 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 stages of its compilation and the various opportunities to challenge the map's content is available to consult.

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. It is a Legal Order, made as a result of a successful application, containing a description and map identifying the changes necessary to modify the Definitive Map and Statement. Formal notice of the Order must be served, so it can be subject to objection, which would require the Order to be submitted to the Secretary of State for confirmation.

### **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 appropriate 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 an attempt to correct the legal record and Cornwall Council has a duty to ensure that the Definitive Map and Statement is an accurate and up to date document. However,

an applicant is expected to submit proper evidence to support their application and this will involve some research.

### **When can an application be made?**

An application can be made at any time evidence is discovered. However, it is very important to realise that where the application seeks to secure a realignment, downgrade or deletion of an existing right of way these claimed revisions must be supported by evidence that is new, cogent and sufficient to rebut the presumption that the definitive map is correct. Simply asserting that the Definitive Map is incorrect is not enough.

**Please Note:** Provisions in the Countryside and Rights of Way Act 2000 set a 'cut off' by which date claims for historical rights of way must be made. This means unrecorded footpaths and bridleways created before 1949 will be extinguished, unless an application to include them in the Definitive Map and Statement based solely on evidence contained in historical documentary sources, is received by the Council before 1 January 2031.

### **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.

A right of way comes into existence by a landowner giving the public the right to use a way over their land. This can be expressly, or impliedly, but 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 dedication can be inferred. It is a long established principle of common law that dedication of right of way can be implied from the actions of users and landowners and from information contained in maps and documents. In Section 31 of the Highways Act 1980 this principle is enshrined in statute.

### Use by the public

If a path is not shown on the Definitive Map but the public has been using the route over a sufficient period of time rights will have accrued and 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 in the form of completed Public Path User Forms 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, for example by a landowner challenge such as preventing access to a path that people previously enjoyed using. 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. However, statutory dedication was established by Parliament to run parallel with common law dedication.

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 at the time the document was produced it was considered 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. All applications for a modification order which rely on documentary sources must include copies of the evidence and an accurate list of all the documents on the application form indicating where they can be located.

Many of the relevant historical documents are available for inspection at [Kresen Kernow](#) the home of Cornwall's archive currently based in Redruth. Amongst other resources you will be able to consult the following useful material here:

- **Inclosure Awards** – from the 18<sup>th</sup> & 19<sup>th</sup> century provide some of the best sources of evidence available, although coverage is limited in extent in Cornwall.
- **Tithe Awards** – from the 19<sup>th</sup> century provide detailed large scale parish maps which though concerned solely with identifying titheable (taxable) land and not with roads or their status, did produce maps that mark roads quite accurately.
- **Commercial Maps** – from the 18<sup>th</sup> & 19<sup>th</sup> century such as the Martyn, 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 18<sup>th</sup> & 19<sup>th</sup> 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 19<sup>th</sup> & 20<sup>th</sup> 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 records and the evidential weight given to each historical source in terms of determining whether a right of way exists, the Planning Inspectorate has produced a detailed summary of this type of evidence in [Definitive Map Orders: Consistency Guidelines](#).

## 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 three 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**. 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**;
- third, finally certifying that notice has been served by completing **Form 3**.

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.

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. Original copies of all the forms must be submitted BY POST, but the Council can accept copies of any documentary evidence by email. It is helpful for all 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.

### Investigating Landownership

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.

The applicant **must make reasonable enquiries to trace a Landowner**. A useful source is [Land Registry](#). If the Landowner(s) is/are registered for the whole of the application route, then each landowner should be sent a copy of FORM 2 above, together with the map showing the extent of the application. If any of the Land is not registered on Land Registry, then the applicant must additionally erect notices on the route of the application to help to identify the landowners, as well as sending a FORM 2 to every registered landowner. Putting notices up on the application route is known as 'serving notice on the land impersonally' and first requires permission to do this by completing a FORM 4 and sending to Cornwall Council.

**FORM 4** [Permission to Serve Notice Impersonally] must be completed where it has not been possible to trace a landowner. FORM 4 should indicate what actions applicants have already taken to identify landowners and **MUST** be accompanied by a map excerpt from Land Registry which locates what part of the land is unregistered. Once FORM 4 is submitted to Cornwall Council, you will receive a letter granting permission to put up notices on the land. These notices must be similar to FORM 2 but addressed to 'The Landowner or Occupier of this Land' and be kept in situ for of 6 weeks. Once this period has expired, FORM 3 should be completed and sent to Cornwall Council along with photographic proof that shows the notices on site.

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.

Cornwall Council has introduced a priority policy for DMMO applications that will promote claims for paths that offer the most benefit to users of the rights of way network. This means the information you provide on FORM 5 may elevate your application resulting in it being determined sooner, so you are strongly encouraged to complete and submit it with your application.

DMMO Officers are happy to discuss an application and respond to specific queries around content or process. However, it is not possible to provide significant support for every application and the Council may recommend that applicants with ongoing requirements that the authority is unable to fulfil to consider contacting the Ramblers, BHS, or seek independent legal advice. The Institute of Public Rights of Way and

Access Management (IPROW) provide a [list](#) of expert consultants who would be able to help.

*Remember to make copies of your application documents for your own record.*

### **3. What happens next?**

#### Validating the Application

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.

#### Making a Determination

The application will be held on file until such time that it can be dealt with in accordance with the Council's published [policy statement](#). There is currently a large backlog of outstanding modification order claims, so this is likely to take several years. 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 within 12 months. In this case Cornwall Council has delegated authority to determine modification order applications to the Natural Environment Manager. If you have not been advised of the authority's decision by that point you have the opportunity to [appeal](#) to the Secretary of State to direct the authority to make a determination within a set time frame.

A report recommending whether to modify the Definitive Map and Statement will be written and published on the Council's DMMO webpage. If the authority determines that an Order should be made, Notice of its making will be advertised widely including being served personally on all interested parties, posted on site and published in the local newspaper. A period will be allowed for objections or representations to be made. If objections are received, then the Order 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. Further information**

The pack provides guidance about how to make a modification order application. Remember, DMMO process is defined very clearly in law and 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

## 5. 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:

Definitive Map Officer  
Public Rights of Way & Access Management Team PO  
Box 676,  
Threemilestone,  
Truro  
TR1 9EQ



**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 .Cheryl Bailey, Carmen Hunt, Debbie Mynott, Trustees .....

of ....Liskerrett Community & Arts Centre, Varley Lane, Liskeard PL14 4AP .....

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: .....Varley Lane .....Grid Ref.....SX 29421 66410.....

to: ...Town Centre via Cattle Market Car Park . Grid Ref...SX 25011 64414 .....

(c) **Upgrading / downgrading 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:

.....Witness statements from local residents who have used the path regularly for more than 20 years

.....Extract from Cornwall Council Interactive Map showing route concerned .....

.....Witness statements from other regular users (acknowledged one is not >20 years use).....

.....Mains water works map from 2000 showing path clearly marked.....

.....Photocopy of Deeds from 1997 showing path clearly marked.....

.....Copy of Aerial Photograph from 2000 showing path clearly visible.....

.....Personal statement and map from user Ann Salisbury  
 .....  
 Interactive map copy – showing route with grid references signed by C Bailey

**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 in fulfilling 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, New County Hall, Treyew Road, 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:** .....Cornwall Council .....

**Of:** .....County Hall, Truro TR1 3AY .....

**I/We** .....Cheryl Bailey, Carmen Hunt, Debbie Mynott, Trustees .....

**of** .....Liskerrett Community & Arts Centre, Varley Lane, Liskeard .....

hereby give notice that on ..... I/We made application to Cornwall Council, New County Hall, Treyew Road, Truro TR1 3AY 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: ...Varley Lane via Ramp .....Grid Ref...SX 24921 66410.....  
 to: Town Centre via Cattle Market Car Park .....Grid Ref.....SX 25011 64414.....
- (c) **Upgrading / downgrading 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. Further information can be found on the following webpage: <https://www.cornwall.gov.uk/environment/countryside/definitive-map-modification-orders/>

Please note until the above application is validated you will not be able to view any details about it on Cornwall Council's website. The authority will contact landowners in due course once the claim of rights has been added to the DMMO Register.



**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.

**We** (Applicant) .... Cheryl Bailey, Carmen Hunt, Debbie Mynott, Trustees.....  
**of** (Address) .....Liskerrett Community & Arts Centre, Varley Lane, Liskeard.....

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):**

	<b>Name</b>	<b>Address</b>
1.	Cornwall Council .....	County Hall, Truro TR1 3AY .....
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

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- request a copy of what we hold about you and in commonly used electronic format if you wish;
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**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  
Public Rights of Way & Access Management Team  
PO Box 676,  
Threemilestone, Truro,  
TR1 9EQ

**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

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

Name & Address of Applicant .....Cheryl Bailey, Carmen Hunt, Debbie Mynott, Trustees of Liskerrett

Community & Arts Centre, Varley Lane, Liskeard. PL14 4AP .....

Date of Application .....11<sup>th</sup> October 2024 .....

Cornwall Council has introduced a priority policy for DMMO applications that will promote claims for paths that offer the most benefit to users of the rights of way network. The information you provide here may elevate your application meaning that it could be determined sooner. The Council would therefore strongly encourage you to complete Form 5 and submit it with your application.

**Purpose of Application**

*Please explain why you consider the route is important and what benefit it will have for the rights of way network, or the community e.g., is it part of a local strategic plan, will it promote sustainable travel, or how does it fit into the Local Walking and Cycling Infrastructure Plans etc. [Please speak to the relevant Town or Parish Council, or User Groups to help answer this question, contact details can be found in the Pack]*

...This footpath has been in existence for over 50 years. Currently it provides safe access between Varley Lane , the cattle market Car park and onwards into the town centre. The path is used by local residents, many of whom have permits to park in the Cattle market car park. It also provides access to the Liskerrett Community and Arts Centre as well as the family hub. The current Neighbourhood plan (TC4.2) mentions this route "maintain or improve permeability of access to the Liskerrett Centre". We estimate that this path is used by several hundred people each week. These users include those with disabilities, chronic health problems, visual impairment, vulnerable people, those with special needs, parents and children. The Liskerrett Community and Arts Centre is considered a lifeline for many of its users and provides a wide range of services and activities including health screening, illness prevention, mental health support, wellbeing events etc. We work closely with social prescribers and Volunteer Cornwall. The Centre also has a thriving Vegetarian Café which attracts visitors to the area from miles around. This route is important as it provides easy access into Varley lane and the Community Centre. The alternatives suggested are a much longer route and include walking in a narrow roadway which is a long steady incline. This route has no footpath or streetlighting. Those forced to use Westbourne Car Park additionally need to cross a busy main road where there is no crossing nearby.

**Time Sensitivity**

*Please make the Council aware whether the route is currently available or if access has recently been prevented.*

...This is urgent - Access to this route has been prevented since 22<sup>nd</sup> July 2024. The Closure Notice says it will be closed for 60 weeks until the end of 2025 .....

**Safety**

*Please alert the Council to whether the route offers a useful alternative to using a road to reach a destination such as a school, place of work, land that currently enjoys public access, or other point of interest.*

...As above – this route is a safe route for local residents between their homes, the car park and the town centre. It is a safe route for users of the Liskerrett Community & Arts Centre and the Family Hub. It provides access from the town centre and the Cattle Market Car Park. It is a better route for people carrying shopping or other goods, or those with mobility issues. It is a much safer route for children and their carers than the proposed alternative .....

**Accessibility**

*Is the claimed way more accessible than other ways close by, e.g., does it provide an alternative route that avoids steps or stiles?*

Yes. This route is considerably shorter and safer than the alternative. It is acknowledged that this route does have a slope that is perhaps steeper than current recommendations, however it is short in length and has a handrail. Current users are very familiar with the route as it has been present and used for well over 20 years .....

**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*

...This route takes you from the footpath on Varley lane, up a concreted path and into the extensive Cattle Market Car Park. A key part of this route is a concreted ramp which connects the footpath to the Car Park. This is a concreted path approximately 20 feet in length and has a handrail to one side. It is 1 metre wide along its length. There is vegetation to the side opposite the handrail. The remainder of the route is across the Cattle Market Car Park.  
.....

**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*

...The ramp is constructed of Concrete. It does have some scored grooves to improve traction and has signs of repair. There are some defects in the surface but these have not prevented users from using the path quite safely for many years. This defect could be easily and cheaply repaired.  
.....

**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*

.....There are no styles, gates or barriers along this route. It is easily accessed by wheelchair and pushchair users. ....

.....

**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*

...The section of path that is of most concern is approximately 1 metre at its narrowest part

.....

.....

**Further Comments**

*If there is any other matter that you would like to draw the attention of the Council to in respect of prioritising your application, please include it here. Continue on a separate sheet if necessary.*

...It is clear to all concerned that this path has been an access route for over 50 years. This has been acknowledged by many council officers in conversation and in their correspondence with us on this matter. The fact that this path has not been given the status of a 'Public Right of Way' has led to inadequate consultation during the planning of the construction of the Integrated Services Hub.

.....

.....

**Signed:** .....

**Dated:** .....

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**DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY**

**PUBLIC PATH USER FORM**

**PLEASE READ THE NOTES ON THE BACK PAGE BEFORE COMPLETING THIS FORM**

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

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.

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.

This statement should be completed and returned to the person making the application so that it can be submitted with or form part of a claim which is seeking to change the Definitive Map and Statement of Public Rights of Way. Please Note the Council cannot accept Public Path User Forms without an application. If you complete and submit this Form, but it is not associated with a new or existing application it will be returned to you.

**1. DETAILS OF PATH USER**

**Full Name:** ..... **Age:** .....

**Address:** ..... **Tel No:** .....

..... **Email:** ..... **Post Code**

..... **Occupation** .....

Have you lived at any other addresses during the time you have used the path or way? If so, please provide full details and years [full addresses not required].....

.....

**2. PATH DETAILS (Please provide this information if you can)**

**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 & 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 & why .....

(f) Have you always used the whole length of the path? ..... If not, which part of the path did you use and why ..... (g) Please describe the application route (include the start and finish points and any other characteristic features worth noting) .....

.....

(h) 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.

<b>By what means, over what period &amp; how often did you use the way?</b>			
<b>Means</b>	<b>From (Year)</b>	<b>To (Year)</b>	<b>Times per Year [Please give a number]</b>
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 .....
- (d) What type of surface does the way have (for example grass, gravel, earth)? For varying surface please describe with reference to your map .....

**5. STILES**

- (a) Are there, or have there been, any stiles on the way? ..... If so, state where, how long they were in place and mark on the Map attached .....

**6. GATES**

- (a) Are there, or have there been, any gates on the way? .....  
If so, state where, when, whether they were ever locked and mark on the Map attached .....

**7. NOTICES**

- (a) Have you ever seen notices erected by the landowner 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) Has your use of the way ever been blocked? .....  
If so, state what those barriers were, when they were in place, where they were located 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. PRIVATE USE**

(a) Has your use ever been in exercise of a private right? (For example, do you live on the way, does that property have an easement, were you accessing your place of work) YES/NO\*

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

.....

**12. ADDITIONAL INFORMATION**

(a) Please 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 the application route should be recorded as a public right of way 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 and provide a separate sketch map if it helps]

(b) During the investigation the Council may want to interview some or all of the users in order to gather additional information. I am/am not\* willing to talk to an officer from the Council about your knowledge of the route? [\*Please delete as applicable].

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

**13. DECLARATION All users must complete the following Statement of Truth**

**I hereby declare that to the best of my knowledge and belief all the facts and matters contained in this statement including 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** .....

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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 Definitive Map Officer at Cornwall Council, Public Rights of Way & Access Management Team, PO Box 767, Threemilestone, Truro, TR1 9EQ, Tel: 0300 1234 202 who will be able to provide further information to help you complete a Public Path Evidence Form.
- III. **Please answer all questions as truthfully as possible. Witnesses are advised that this is a statutory process and as the outcome of any Definitive Map Modification Order application may depend on evidence you provide, you are aware that to dishonestly enter information or make a statement that is, or might be known to be, untrue or misleading, intending by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under Section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.**
- IV. 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.

- V. 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 2018. 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.
- VI. 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.
- VII. **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.**
- VIII. 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.
- IX. **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.**