



# South Tyneside Council

## GUIDELINES

### FOR MAKING AN APPLICATION TO MODIFY THE DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY

**WILDLIFE AND COUNTRYSIDE ACT 1981 SECTION 53 AND  
SCHEDULE 14**

**“WILDLIFE AND COUNTRYSIDE (DEFINITIVE MAPS AND  
STATEMENTS) REGULATIONS 1993” S.I 1993, NO 12**

**Lisa Tracey  
Public Rights of Way Officer  
South Tyneside Council  
Town Hall and Civic Offices  
Westoe Road  
South Shields  
Tyne and Wear  
NE33 2RL**

**Telephone: 0191 424 7498**

Definitive Map Modification Orders do not extinguish, divert or create public rights of way, they simply seek to amend the legal records to ensure that they show the true existing situation.

**YOUR APPLICATION CAN REQUEST ONE OF THE FOLLOWING:**

1. To register a route considered to be a public right of way but not presently shown on the Definitive Map and Statement of Public Rights of Way.
  2. To ask that the status or route of a registered public right of way be changed because it is incorrectly shown on the Definitive Map and Statement of Public Rights of Way.
  3. To delete a registered right of way on the grounds that it is not, and has never been, a public right of way.
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Public Rights of Way fall into one of the following four categories:

- a) Public Footpath – routes used by the public on foot;
  - b) Public Bridleways – routes used by the public on foot, horseback and bicycle;
  - c) Restricted Byway – routes used by the public on foot, horseback and bicycle, and in non-mechanically propelled vehicles; and
  - d) Byway Open to All Traffic – routes that are highways for mechanically propelled vehicles, and available to all traffic, but are of a character that are mainly used routes as footpaths or bridleways.
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Before deciding whether to make an application, you should consider the following points:

Routes are likely to be public where:

- a) They have been used by the general public and not only tenants or employers of the land in question;
- b) Such use has been ongoing for many years;
- c) They lead from one road, or other public right of way, to another or to a place of public resort such as hilltop, coast or riverbank;
- d) There has been no history of objection to public passage being raised for many years;

- e) They have been provided with stiles, gates, footbridges or other means of passage.

Routes are **NOT** likely to be public when:

- a) Signs or notices have been erected and maintained clearly denying the existence of a public right of way.
- b) They have been obstructed, unless this has happened only recently.
- c) Only persons living or working on the land in question have used them.
- d) They are of no obvious use to the public as through-routes, leading only to private property.
- e) The public have been regularly turned back or allowed through only with the specific permission of the landowner.

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If you decide to make an application to modify the Definitive Map of Public Rights of Way, your submission should consist of four items:

1. An application form
2. A map showing the route
3. Evidence to support your proposal
4. A certificate confirming that the owners of the land in question have been informed

It is essential to use the attached forms, which are prescribed by the Wildlife and Countryside Act 1981, and give you certain rights of appeal, which otherwise would not be available. If an application is made other than the prescribed format, you will have no legal right to appeal if the Council fails to determine your application within twelve months or refuses the application. The Local Government Ombudsman is unlikely to investigate a complaint if the proper application process has been made available to you, but you have chosen not to use it.

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## **CONSIDERATION AND DETERMINATION OF APPLICATIONS**

Upon receipt of an application the Council will carry out an investigation with a view to determining whether or not to make the requested Definitive Map Modification Order.

This will usually involve a site inspection, an assessment of any user based evidence (including witness interviews), historical research, and consultations with user groups. Anyone with an interest in the land (e.g. a landowner or tenant) will also be given an opportunity to submit relevant evidence for consideration. Further information may also be requested from the applicant, or the supporting witnesses.

When the Council's investigations are complete, a decision report will be prepared in order to enable the application to be determined.

If this stage in the process has not been reached within twelve months of receipt of a properly made application, the applicant has a right to request that the Secretary of State directs the Authority to make a decision within a defined and specified timescale.

If the Council approves the application, a Definitive Map Modification Order will be made. Notices describing the effect of the Order will be displayed on site, in the local press and be sent to all the interested parties. The Notice will invite anyone who disagrees with the Order to make a formal representation or objection. If no objections are received, or any which are received, are subsequently withdrawn, the Council may confirm the Order itself. If objections are received, and not withdrawn, the Order must be referred to the Secretary of State, via the Planning Inspectorate, who will normally deal with it by appointing an Independent Inspector and calling a Public Inquiry.

If the Council refuses the application, the applicant has a right of appeal to the Secretary of State. The Secretary of State will consider the case, and decide whether to direct the Council to make an Order.

**ITEM 1 – THE APPLICATION FORM**

A completed example is shown below

**APPLICATION FOR MODIFICATION ORDER**  
**WILDLIFE AND COUNTRYSIDE ACT 1981**

Definitive Map and Statement of Public Rights of Way for South Tyneside

To: The Director of Neighbourhood Services

of: South Tyneside Council  
Town Hall & Civic Offices  
Westoe Road  
South Shields  
NE33 2RL

I/~~We~~ (Name) MR. S. SMITH of (address) 24 HORTON ROAD  
SOUTH SHIELDS, TYNE AND WEAR

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:

~~{deleting the {footpath} {bridleway} {byway open to all traffic}}~~  
from ..... }

{adding the {footpath} {bridleway} {byway open to all traffic}}  
from HORTON ROAD to BYMACK DRIVE }

~~{upgrading / downgrading} to a {footpath} {bridleway} {byway open to all traffic} the {footpath} {bridleway} {byway open to all traffic}}~~  
from ..... to .....

~~{varying / adding to} the particulars relating to the {footpath} {bridleway} {byway open to all traffic}~~  
from ..... to .....  
by providing that .....  
and shown on the map accompanying this application.

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

List of documents:

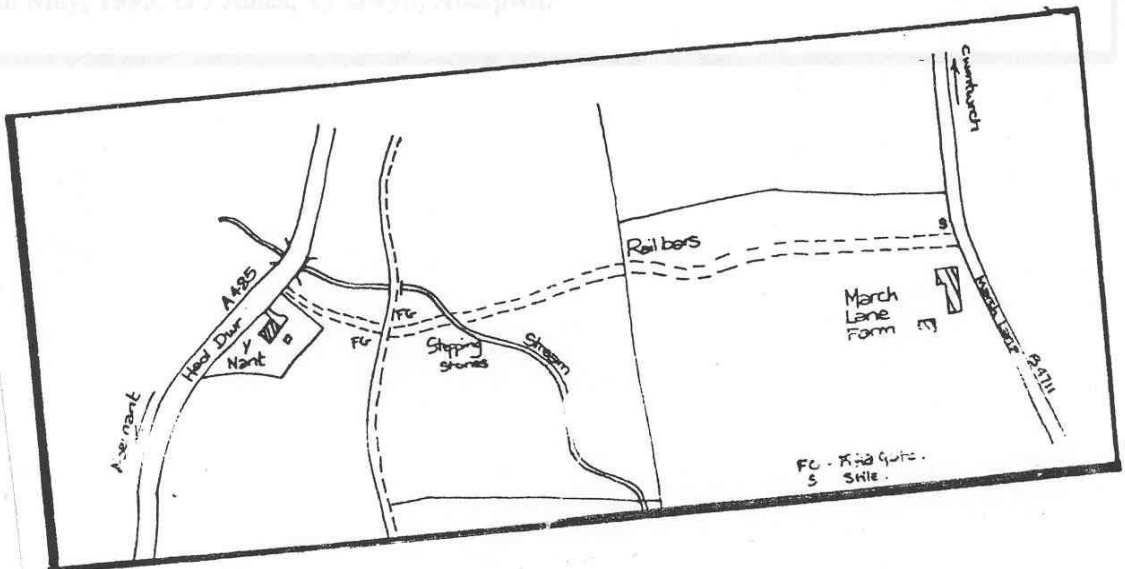
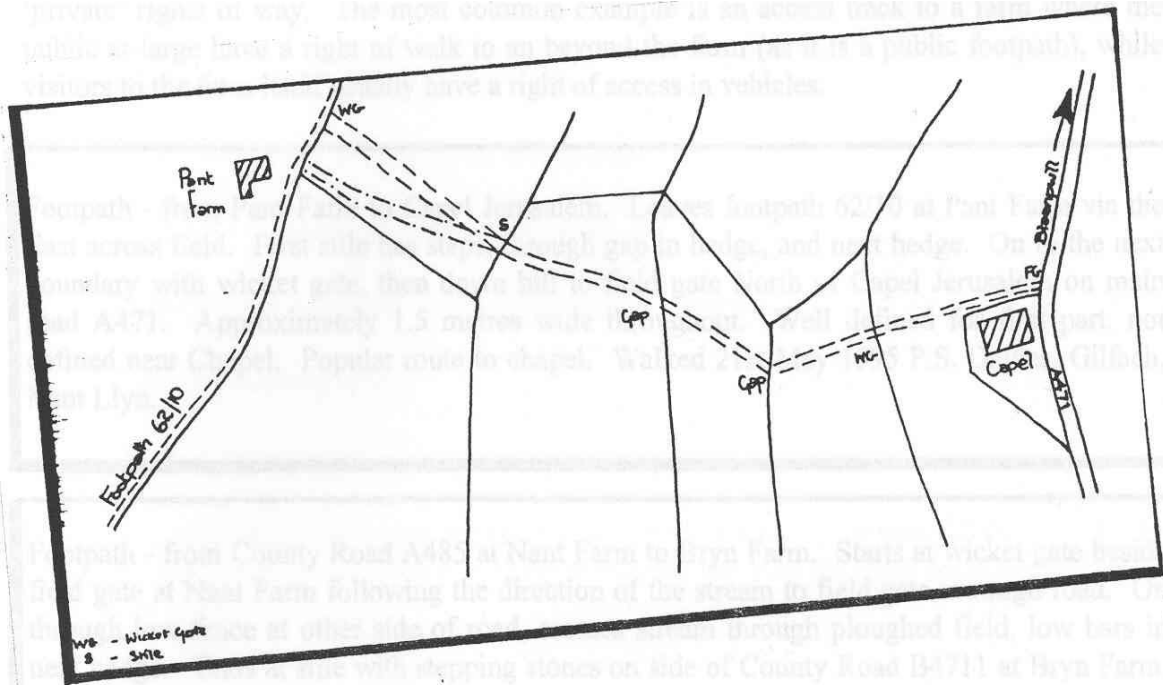
6. SIGNED STATEMENTS
- MINUTES OF MEETING OF BOROUGH COUNCIL SEPT 1965
- 1965 OS MAP
- .....
- .....

Date: 25/10/04 Signed S. Smith  
On behalf of .....

\*Delete any words in brackets which do not apply

## ITEM 2 – A MAP OF THE ROUTE

The route should be clearly and accurately shown on the largest scale Ordnance Survey Map you can find, at a scale of at least 1:25,000. Ideally, the position of any field gates / stiles / pedestrian gates / bridges / gaps / obstructions, and other points of note should be marked on the map. All supporting witnesses should be shown the map, so that they are able to agree to its contents.



### **ITEM 3 – SUPPORTING EVIDENCE**

You should acquire as much documentary evidence as possible. This may include:

- a) Supporting statements (an example of which is attached) – An absolute minimum of six is recommended, however the Authority may request you to provide more as part of their investigation. Each one should be completed by the person who signs it.
- b) Letters from local people, describing their knowledge of the route in their own words.
- c) Affidavits or statutory declarations prepared with the assistance of a solicitor.
- d) Extracts from parish council records, for example, minute book
- e) Maintenance records
- f) Estate Management records, including deeds.
- g) Enclosure Awards / Tithe apportionments.
- h) Extracts from historical accounts / guide books / articles.
- i) Old maps / photographs.
- j) Any documents of a legal nature (agreements, court decisions, etc.)

Those who complete supporting statements (a), write letters (b), or sign affidavits (c) must be shown the map of the route (item 2)

**ITEM 4 – A CERTIFICATE OF SERVICE OF NOTICE**

Before submitting this final item, you must notify every owner and occupier of the land affected by the route. This must be done using the form entitled “**Notice of Application for Modification Order**”. The Certificate is then completed, listing those persons notified.

If you cannot find the landowner after reasonable enquiries, inform the Council, giving details of the steps taken. The Council may then allow you to address the Notice to “The Owner / Occupier of the land” and place it in a conspicuous location on the land. When this has been done, you must certify that fact to the Council, giving details of where and when the Notices were so placed.

**CERTIFICATE OF SERVICE OF NOTICE OF  
APPLICATION FOR MODIFICATION ORDER**

**THE WILDLIFE AND COUNTRYSIDE ACT 1981**

Definitive Map and Statement of Public Rights of Way for South Tyneside

To: The Director of Neighbourhood Services

of: South Tyneside Council  
Town Hall & Civic Offices  
Westoe Road  
South Shields NE33 2RL

I/~~We~~: (name of applicant) ..... MR S. SMITH .....

of: (address of applicant) ..... 24 MORTON ROAD, SOUTH SHIELDS .....

HEARBY CERTIFY that the requirements of paragraph 2 of Schedule 14 to the Wildlife and Countryside Act 1981 have been complied with.

Date: ..... 25/10/04 ..... Signed ..... S. Smith .....

On behalf of .....

| Number<br>on Map | Name and Address of people notified        |
|------------------|--|
| 1.               | <u>MR M. COVENDALE, MARSH FARM, BOLDON</u> |
| 2.               | <u>MR D. WESTER, TOWN FARM, BOLDON</u>     |
| 3.               | .....                                      |
| 4.               | .....                                      |
| 5.               | .....                                      |
| 6.               | .....                                      |



**APPLICATION FOR MODIFICATION ORDER**  
**WILDLIFE AND COUNTRYSIDE ACT 1981**

Definitive Map and Statement of Public Rights of Way for South Tyneside

To: The Director of Regeneration and Environment

of: South Tyneside Council  
Town Hall & Civic Offices  
Westoe Road  
South Shields  
NE33 2RL

I/We (Name)..... of (address) .....

.....  
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:

{deleting the {footpath} {bridleway} {restricted byway} {byway open to all traffic}  
from ..... to ..... }

{adding the {footpath} {bridleway} {restricted byway} {byway open to all traffic}  
from ..... to ..... }

{upgrading / downgrading} to a {footpath} {bridleway} {restricted byway} {byway open to  
all traffic} the {footpath} {bridleway} {restricted byway} {byway open to all traffic}  
from ..... to ..... }

{varying / adding to} the particulars relating to the {footpath} {bridleway} {restricted  
byway} {byway open to all traffic}  
from ..... to .....  
by providing that .....  
and shown on the map accompanying this application.

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

List of documents:

1. ....
2. ....
3. ....
4. ....
5. ....

Date: ..... Signed .....  
On behalf of .....

**NOTICE OF APPLICATION FOR MODIFICATION ORDER**

**SECTION 53 OF AND SCHEDULE 14 TO  
THE WILDLIFE AND COUNTRYSIDE ACT 1981**

Definitive Map and Statement of Public Rights of Way for South Tyneside

I/We: (name of applicant) .....

of: (address of applicant) .....

Hereby give notice that on ..... I/We made an Application to:

The Director of Regeneration and Environment  
South Tyneside Council  
Town Hall & Civic Offices  
Westoe Road  
South Shields NE33 2RL

That the Definitive Map and Statement for the area be modified by:

{deleting the {footpath} {bridleway} {restricted byway} {byway open to all traffic}  
from ..... to .....

{adding the {footpath} {bridleway} {restricted byway} {byway open to all traffic}  
from ..... to .....

{upgrading / downgrading} to a {footpath} {bridleway} {restricted byway} {byway open to all  
traffic} the {footpath} {bridleway} {restricted byway} {byway open to all traffic}  
from ..... to .....

{varying / adding to} the particulars relating to the {footpath} {bridleway} {restricted byway}  
{byway open to all traffic}  
from ..... to .....  
by providing that .....

Date: ..... Signed .....  
On behalf of .....

This notice must be served on every owner and occupier of any land to which the  
Application relates

**CERTIFICATE OF SERVICE OF NOTICE OF  
APPLICATION FOR MODIFICATION ORDER**

**THE WILDLIFE AND COUNTRYSIDE ACT 1981**

Definitive Map and Statement of Public Rights of Way for South Tyneside

To: The Director of Regeneration and Environment

of: South Tyneside Council  
Town Hall & Civic Offices  
Westoe Road  
South Shields NE33 2RL

I/We: (name of applicant) .....

of: (address of applicant) .....

HEARBY CERTIFY that the requirements of paragraph 2 of Schedule 14 to the Wildlife and Countryside Act 1981 have been complied with.

Date: ..... Signed .....  
On behalf of .....

Number  
on Map

Name and Address of people notified

1. ....
2. ....
3. ....
4. ....
5. ....
6. ....

## **SOUTH TYNESIDE COUNCIL**

### **REGENERATION AND RESOURCES**

#### **PUBLIC RIGHT OF WAY EVIDENCE FORM**

The object of this inquiry is simply to reach the truth of the matter whatever it may be. Witnesses are therefore asked to answer the questions as fully as possible and not to leave out any relevant information, whether for or against the claim. This is of particular importance if the information is to be of real value in establishing the status of the way

#### **Definitions**

Public Right of Way – A way over which the public have a right to pass and re-pass, on either public or private land.

Footpath – Right of way on foot only.

Bridleway – Right of way on foot, bicycle, horseback or leading a horse or right to drive animals.

Restricted Byway – routes used by the public on foot, horseback and bicycle, and in non-mechanically propelled vehicles

Byway Open to All Traffic – A carriageway which is mainly used on foot, horseback or by bicycle but can be used by through vehicular traffic.

Please answer all the questions on the following form as fully as possible; mark N/A where necessary. Additional sheets may be used. Please bear in mind that the existence of private rights of way, for example farm access to fields, householders' access to their property, does not prove the existence of public rights.

Please return completed forms to the Public Rights of Way Officer, Town Hall and Civic Offices, Westoe Road, South Shields, Tyne and Wear, NE33 2RL, enclosing any other information you feel is relevant.

**PLEASE NOTE THAT ANY INFORMATION YOU MAY GIVE ON THESE SHEETS MAY BE MADE PUBLIC, PRESENTED AT ANY INQUIRY OR MEETING OR DISCLOSED TO ANY OBJECTOR, AT ANY TIME.**

# Public Right of Way Evidence Form

BEFORE COMPLETING THIS FORM PLEASE SEE THE NOTES AT THE END

## Personal Details

Name: .....

Address: .....

.....

Post Code: .....

Telephone No: ..... Date of Birth: .....

Occupation: .....

(if retired, give former occupation) .....

## Identification of the Alleged Route

Description of the Route: .....

(mark route on map) .....

.....

Start Grid Reference: .....

End Grid Reference: .....

Name of Route (if named): .....

Believed Status of the Route .....

(Footpath, Bridleway, Restricted Byway or Byway Open to All Traffic)

Has the route always run on the same route? .....

(If not provide details) .....

## Your Use of the Alleged Route

When did you first use the route? .....

When did you last use the route? .....

Was there a period between those .....

dates that you did not use the route .....

(If yes, when & why?) .....

How did you use the route? .....

(e.g. foot, horse, cycle, carriage, motor vehicle)

How often did you use the route? .....

If you have stopped using the route, .....

why did you stop? .....

## The Nature of Your Use

What was the purpose of your journeys? .....

|   |                |
|---|----------------|
| Did you see other people using the route?   | .....          |
| Did other people see you using the route?   | .....          |
| Did you encounter or have to remove any obstructions when using the route?<br>(e.g. fences, locked gates etc) (If yes give details) | .....<br>..... |
| Did you ever ask for permission to use the route? (If yes give details)   | .....<br>..... |
| Were you ever given permission to use the route? (If yes give details)  | .....<br>..... |
| Have you ever owned/occupied land crossed by the route?   | .....<br>..... |
| Have you ever worked for the owner/occupier of the land?  | .....<br>..... |
| If yes, were you ever given any instructions regarding the route? (If yes give details)   | .....<br>..... |

Additional Information

Were there any stiles, gates or bridges along the route? (If yes, show locations on map) .....

Were there any signs along the route? (If yes, give details & show locations on map) .....

Were you ever stopped, prevented or turned back from using the route? (If yes, give details) .....

Any other information you consider relevant .....

.....

.....

.....

.....

I hereby certify that to the best of my knowledge and belief the facts that I have stated are true.

Signature: ..... Date: .....

Signature of person taking statement: .....  
(If applicable)

Print Name: .....

**Note:**

1. You may be interviewed by the investigating Authority to confirm the content of this form
2. You may also be asked to attend a public inquiry to give evidence
3. The information contained within this form will be in the public domain, and may be disclosed to other parties with an interest in this case. By completing this form you are confirming you consent for such disclosure. This includes the personal details given.
4. If your recollections of dates and other details are approximate or to the best of your recollection, please say so.