

BUCKINGHAMSHIRE COUNTY COUNCIL

APPLICATION FOR A DEFINITIVE MAP AND STATEMENT MODIFICATION ORDER

APPLICATION PACK

What is a DMMO?

The Definitive Map and Statement is the legal record for all Public Rights of Way within the County of Buckinghamshire. The County Council has a duty to keep this record up to date and ensure that it shows the exact route of each Public Right of Way.

Any member of the public may make an application to modify the Definitive Map and Statement if they feel it is incorrect in some way. This type of application is seeking a Modification Order (DMMO). An application can either be User Evidence based (witnesses submit evidence that they have used the route) or Documentary based (historical documentary evidence is submitted), or it can be a mixture of both.

If you are planning on making such an application, please read these guidance notes carefully and if you are unsure about anything, then please contact the Definitive Map Team at the County Council who will be happy to discuss further.

Upon making an application, you must provide evidence telling us why you think the map should be changed. Such evidence could be:

- Documentary Evidence (maps)
- User Evidence forms
- Witness Statements
- Other information should in archives/libraries

Before making an application, please consider these points:

- **Has the route in question been used for a period of 20 years or more and is there substantial evidence to prove this?** (one person cannot raise the presumption that public rights have been dedicated – multiple people would be required to provide evidence)
- **If the route hasn't been used for 20 years or more, but instead for a shorter time period, do you have substantial evidence to prove this i.e. a high number of witnesses?**
- **If you are relying on historical evidence, do you have substantial documentary evidence to show that the map maybe incorrect?**
- **If you are relying on user evidence, has the use of the route been without force, without secrecy and without permission?**



- **Are you and other witnesses willing to provide evidence at a Public Inquiry and possibly be cross-examined by a barrister?**
- **If you are relying on User Evidence (which can also include documentary evidence) then only one person (or partnership) should lead on the application and co-ordinate gathering evidence so that it is delivered altogether and not by individuals**

The Legislation

Whilst this guidance will attempt to explain the process and background, applicants are advised to refer also to Part III of the Wildlife and Countryside Act 1981 (in particular section 53 and Schedule 14) and “The Wildlife and Countryside (Definitive Maps and Statements) Regulations 1993” S.I.1993 No. 12 as no responsibility can be accepted by the County Council for any errors or omissions from this guidance.

1. Section 53(5) of the Wildlife and Countryside Act 1981 (referred to from now on as “the Act”) enables any person to apply to the County Council for an Order to be made modifying the Definitive Map and Statement as a result of any of the “evidential events” specified in paragraphs (b) and (c) of Section 53 (3). Sections 53 (3) (b) and (c) of the Act are set out further below.

The procedure for the making and determining of applications is set out in Schedule 14. It includes the right for applicants to appeal to the Secretary of State against the refusal of the County Council to make an Order.

2. An application for a Modification Order must be in the appropriate form (or substantially in the appropriate form) as set out in Schedule 8 of “The Wildlife and Countryside (Definitive Map and Statements) Regulations 1993” S.I.1993 No.12 (referred to from now on as “the Regulations”) with such modifications as the circumstances may require. Application forms are available free of charge from the Definitive Map Team, County Hall, Aylesbury, Buckinghamshire, HP29 1UY (01296 382414) or maybe downloaded from the website.

3. Section 53 (3) (b) and (c):

(b) the expiration, in relation to any way in the area to which the map relates, of any period such that the enjoyment by the public of the way during that period raises a presumption that the way has been dedicated as a public oath

(c) the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows:

- (i) That a right of way which is not shown on the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way to which this Part applies
- (ii) That a highway shown on the map and statement as a highway of a particular description ought to be there shown as a highway of a different description

- (iii) That there is no public right of way over the land shown on the map and statement as a highway of any description, or any other particulars contained in the map and statement require modification

Making an Application

When making an application, there are certain requirements which need to be followed so that the application can be considered as duly made. Please see FORM 1 which needs to be completed when making an application.

Applications must be accompanied by:

- (i) A map on the scale of not less than 1:25,000 showing the ways or ways which are subject of the application
- (ii) Copies of any supporting documentation (including completed user evidence forms)
- (iii) A Certificate confirming that notice of the application has been served on the owners and occupiers of the land involved

The applicant must serve notice that an application for an Order has been made on every owner and occupier of any land to which the application relates - please see FORM 2. A certificate needs to be completed proving that notice has been served on the landowner – please see FORM 3. Please note, notice needs to be served only once (by the applicant) and not by every witness. Only the applicant needs to complete Forms 1, 2 and 3.

If you are unable to locate the landowner, you may be able to conduct a search of the land by referring to the Land Registry. All attempts should be taken to find the landowner. If you are still unsuccessful in locating the landowner, then you may apply to the County Council's Legal Services (County Hall, Aylesbury 01296 383634) for exemption from the requirement to serve a personal notice and for consent to serve notice instead by addressing it to the owner or occupier of the land (as described in the notice) and attaching it to a conspicuous object on the land. The appropriate form for the notice is set out in Schedule 8 of the Regulations.

Once an application has been received, we will make an assessment that it has been duly made and it will then be added to our list of applications which are dealt with in chronological order. Schedule 14 of the Act indicates that properly submitted applications should be determined within 12 months of their receipt and the County Council endeavours to comply with this wherever possible.

In order for an application to be duly made and to provide as much detail about the claim as possible, please read the following:

- A. Forms and User-evidence forms maybe photocopied as necessary.
- B. As far as possible, the witness should complete the form.
- C. Each witness should complete a separate form, even if from the same household.
- D. A plan clearly showing the claimed route must be attached to each for, and be signed and dated by that individual with initials at the start and end points of the route.

- E. The route should be described as accurately as possible on the User Evidence Form and include details of any structures, limitations, surface condition, width etc.
- F. The witness should be willing to be personally interviewed by the County Council to discuss their evidence.
- G. The details contained in the forms may be used as evidence in future proceedings and the witnesses should be prepared to support the information by giving verbal evidence, or by providing a statutory declaration at a later date, or other written confirmation of the details supplied, at any local public inquiry that maybe held.
- H. Witnesses should indicate whether they are prepared to give evidence either in court or at a public inquiry. If a witness is unable/unwilling to give evidence in person, his/her statement will be taken into account, although the evidential value of a statement is considerably reduced if it cannot be subject to cross-examination.
- I. If a witness would be unable to give evidence at an inquiry because of ill health, age, etc. she/he should indicate this on the form.
- J. The information given on this form, maybe copied to landowners or objectors and become available for public inspection.

When we are in a position to investigate your application, we will make an assessment of all the information provided within. We will then arrange an interview with yourself to discuss the application and the evidence you provided, including your own User Evidence Form. We will also take a cross-section of User Evidence Forms and invite a selection to an interview. We will also carry out our own research into the route and look at historical documents that we feel maybe advantageous.

Once the investigation is completed, we will write a report with a recommendation which is then presented to the Rights of Way Committee at the County Council. If the application is rejected, you do have ground of appeal. If the application is accepted, then an Order will be made and advertised for 6 weeks. If no objections are received, then the Order will be confirmed and public rights recorded on the Definitive Map. If objections are received, then the matter will be referred to the Secretary of State to determine either by written representations, a public hearing or a public inquiry.

Checklist

Before submitting your application, please use this checklist to ensure everything is included:

- Form 1 Form 2 Form 3
- User Evidence Forms which are accompanied by maps of the route
- Documentary evidence (if available)
- Map of claimed route to 1:25,000 and no less

Please send your application to:
THE DEFINITIVE MAP & LOCAL LAND CHARGES TEAM
BUCKINGHAMSHIRE COUNTY COUNCIL
7th FLOOR - COUNTY HALL
AYLESBURY
BUCKINGHAMSHIRE
HP20 1UY

APPLICATION FOR A MODIFICATION ORDER

THE WILDLIFE AND COUNTRYSIDE ACT 1981

**THE BUCKINGHAMSHIRE COUNTY COUNCIL
DEFINITIVE MAP AND STATEMENT**

To: Director Environment Services, Buckinghamshire County Council

Of: County Hall, Aylesbury, Buckinghamshire, HP20 1UY

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:

(PLEASE DELETE THE WORD IN THE BRACKETS WHICH DO NOT APPLY)

1. Deleting the (footpath) (bridleway) (restricted byway) (byway open to all traffic)

From: _____ **To:** _____

2. Adding the (footpath) (bridleway) (restricted byway) (byway open to all traffic)

From: _____ **To:** _____

3. (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:** _____

4. (varying) (adding to) the particulars relating to the (footpath) (bridleway) (restricted byway) (byway open to all traffic)

From: _____ **To:** _____

by providing that as shown on the map accompanying this application (to a scale of 1:25,000 or greater).

I/We attach copies of documentary evidence including witness statements, in support of this application. Please attach a separate sheet, listing the documents/statements.

Dated: **Signed:**

Signed (on behalf of)

The Freedom of Information Act 2000 provides a general right of access to all information held by Buckinghamshire County Council and the Environmental Information Regulations 2004 give a similar right of access to environmental information held by this Council. This means that the information that you supply may be disclosed to any individual making the appropriate request and will be included in the Register of Definitive Map Modification Order Applications.



NOTICE OF APPLICATION FOR A MODIFICATION ORDER

**THE WILDLIFE AND COUNTRYSIDE ACT 1981
SECTION 53(5) AND SCHEDULE 14**

**THE BUCKINGHAMSHIRE COUNTY COUNCIL
DEFINITIVE MAP AND STATEMENT**

To:

Of:

I/We:

Of:

Hereby give notice that on [Insert date] I / we made application to the Buckinghamshire County Council, County Hall, Aylesbury, Buckinghamshire, HP20 1UY that the definitive map and statement for the area be modified by:

(PLEASE DELETE THE WORD IN THE BRACKETS WHICH DO NOT APPLY)

1. Deleting the (footpath) (bridleway) (restricted byway) (byway open to all traffic)

From: To:

2. Adding the (footpath) (bridleway) (restricted byway) (byway open to all traffic)

From: To:

3. (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:

4. (varying) (adding to) the particulars relating to the (footpath) (bridleway) (restricted byway) (byway open to all traffic)

From: To:

By providing that:

Dated: **Signed:**

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THE WILDLIFE AND COUNTRYSIDE ACT 1981

**THE BUCKINGHAMSHIRE COUNTY COUNCIL
DEFINITIVE MAP AND STATEMENT**

Certificate of Service of Notice of Application for Modification Order

To: Director Environment Services, Buckinghamshire County Council

Of: County Hall, Aylesbury, Buckinghamshire, HP20 1UY

I/We*:

Of:

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

Dated: **Signed:**

Signed (on behalf of)

*Insert name(s) and address(es) of all applicant(s)

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DEFINITIVE MAP MODIFICATION ORDER APPLICATION

USER EVIDENCE FORM

Please Read Carefully

Why am I completing this form?

An application is to be made to Buckinghamshire County Council to modify the Definitive Map and Statement by potentially recording Public Rights along a particular route. You have been asked to complete this form to provide information on your use of the route to help to establish whether use by the public is sufficient for the Council to be able to deem or infer that a particular route has been dedicated by the landowner as a public right of way. Please answer the questions below with as much detail and accuracy as possible.

Your Personal Details

All Personal information is handled by the County Council in accordance with Data Protection legislation. Before an Order is made, your personal information will remain confidential but your described use of the route maybe made known to affected landowners upon their request. Once an Order has been made, your personal details will be made known to any party who may request it. Contact details such as telephone numbers and email addresses will however be with-held. There is a separate section at the end of the form where you can provide contact details which will be detached from your form. By providing this information, it will enable us to contact you to discuss the evidence you have provided.

Please ensure this evidence form is accompanied by a map (scale of 1:10,000 or greater) showing the route clearly marked, and is sign and dated by yourself

About You

TITLE FIRST NAMES.....

SURNAME

ADDRESS

.....POSTCODE

DATE OF BIRTH

Have you personally used the route? Yes No

The Claimed Route

1. Details of the route:

Grid Reference for Start of the route:

Grid Reference for End of the route:



Please provide a written description of the route from start to finish, including any location points road names and points of interest and where you were going:

If possible, please draw a sketch map of the route showing any details you feel are relevant i.e. changes in width, structures etc

2. Has the route, to the best of your knowledge, always run on the same line?

Yes **No**

If your answer is No, please explain below, giving dates of when the route changed:

3. How wide is the route?

Has the route always been the same width?

Yes **No**

If No, how wide did it used to be and why did it change?

4. **Are there, to your knowledge, any structures along the route?** Gates, stiles etc.
Please explain what these are, where they are, and how long they have been there:

Your use of the Claimed Route

5. **Between what dates have you used the route?**

to

6. **Have there been any prolonged periods of time when you have not used the route?** Yes No

If Yes, what was the reason for not using the route?

7. **In what manner did you use the route?** (please tick all that apply)

On Foot

On Bicycle

On horse back

With a non-motorised vehicle

With a motorised vehicle

8. **Where were you going to and from when using the route? For what purpose did you use the route?** For example leisure, recreation, visiting family

9. During the time period stated in Q5, how frequently did you use the route?

	Please state number of times used per year:
On Foot	
On Bicycle	
On Horseback	
Non-motorised vehicles	
Motorised Vehicles	

10. Did you ever ask for permission to use the route? Yes No

If Yes, please explain overleaf:

11. Were you ever given permission by the landowner without asking i.e. did they display signs granting permission? Yes No

If Yes, please explain:

About the Landowner

12. When you used the route, were you connected with the landowner in any way?
(This includes District Councils as the landowner)

	Yes	No
Tenant (including Council tenants)		
Employee		
Family Member		
Friend		
Other (please state)		

13. If you have worked for any owner or occupier of the land crossed by the way at the time of you using it, or were a tenant, did you receive any instruction as to the use of the way by the public?

Yes No

If yes, please explain:

14. Have you ever been stopped or turned back when using the way, or do you know of or have heard of anyone else having been stopped or turned back?

Yes No

If yes, please explain:

15. Have there ever been any notices on or near the route?

Yes No

If Yes, please explain:

16. Has the route ever been obstructed? Please indicate how long the obstruction was there? i.e. a day, week, or longer

	Yes	No
Locked Gate		
Broken Structures		
Fencing		
Non-reinstatement of crop / plough		
Other – please describe		

17. Please provide any other information in support of this application (continue on a separate page if need be):

18. Are you prepared to be interviewed at your home or in an agreed location to discuss your evidence further? Yes No
(If you prefer, a telephone interview can be arranged)

19. If necessary, are you prepared to attend a Public Inquiry and give evidence on your use and information contained within this form? Yes No

If No, please give a reason:

I hereby certify that to the best of my knowledge and belief the facts that I have stated are true. I acknowledge this form may be copied to landowners or objectors.

PRINT NAME

SIGNATURE

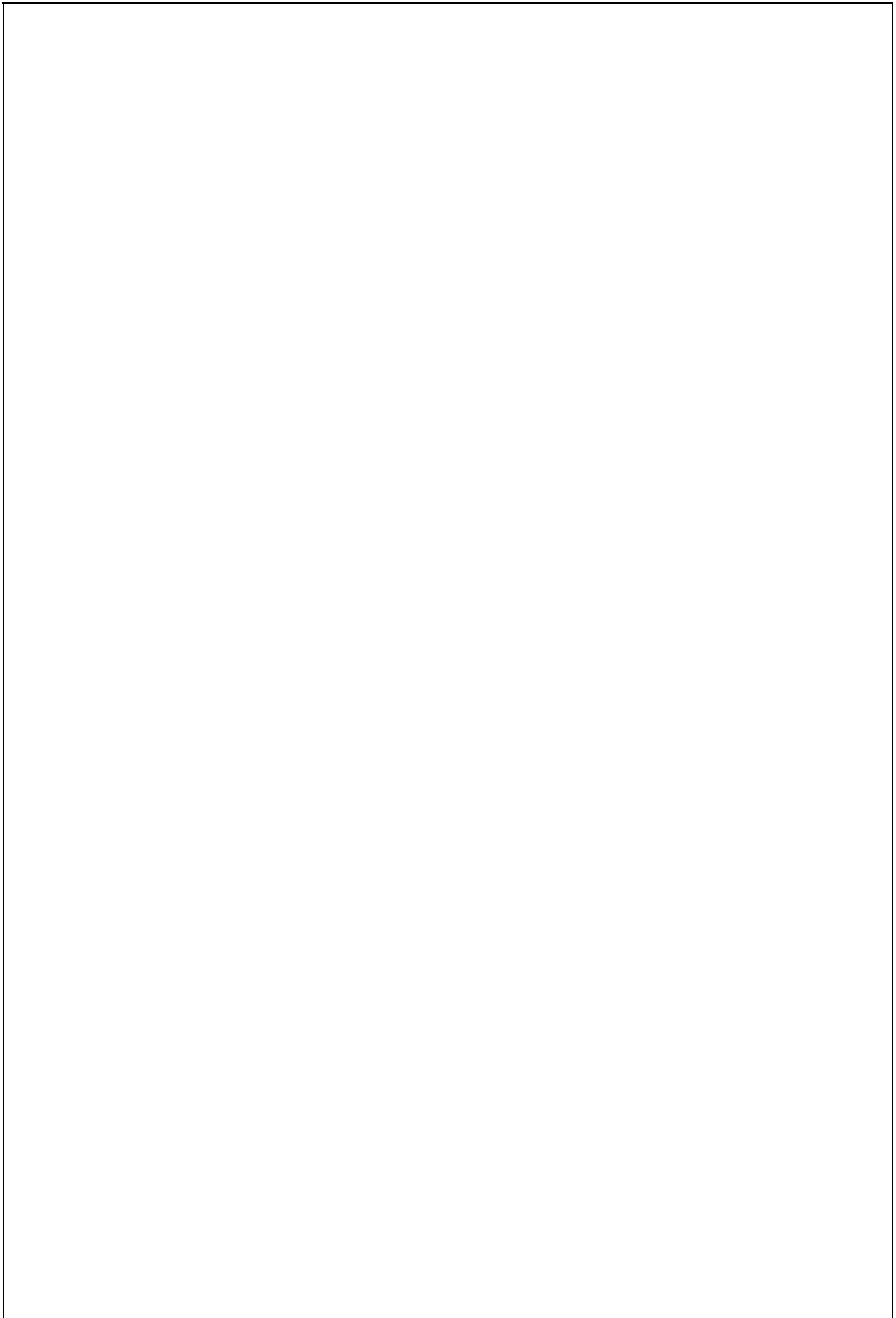
DATE

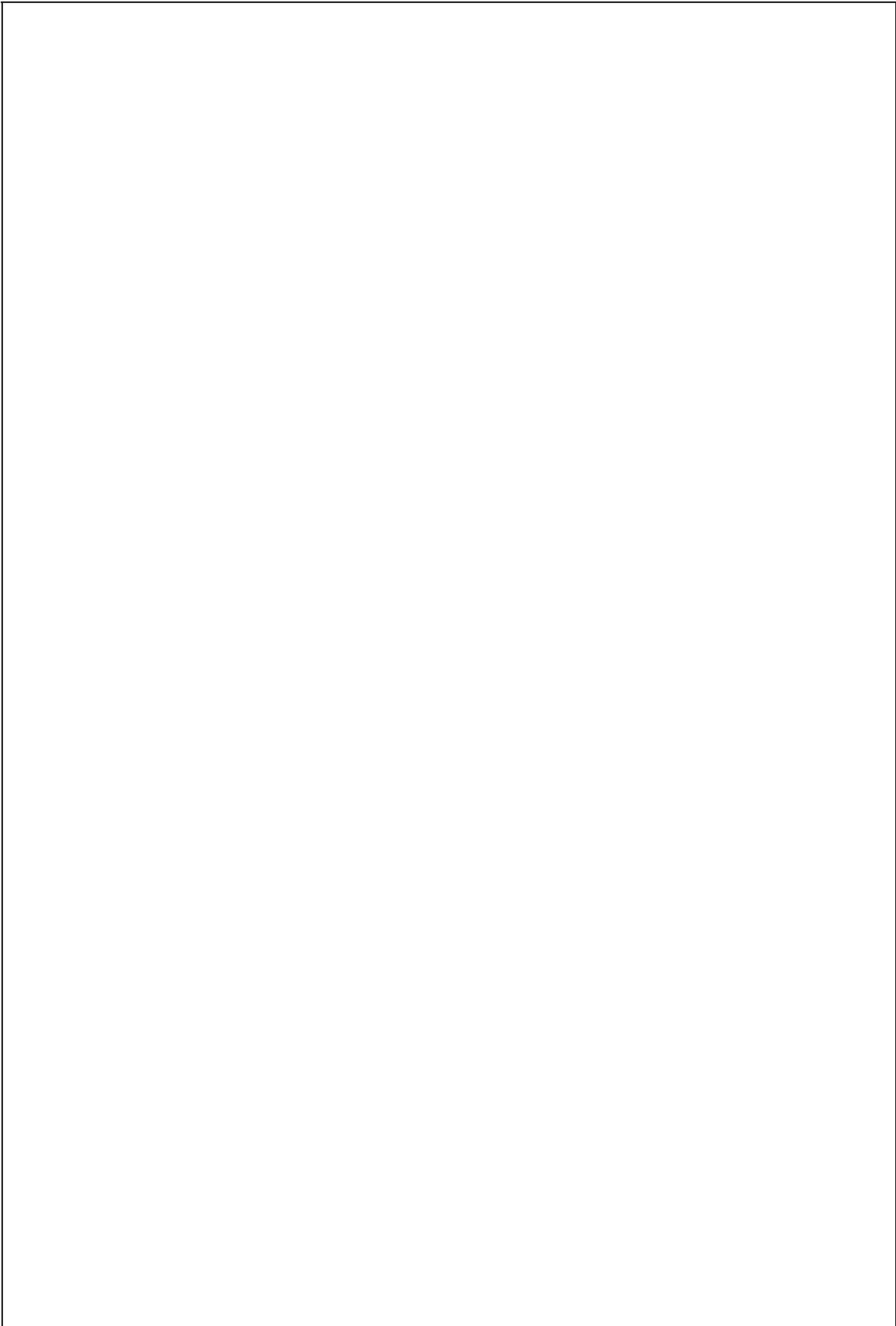
What Happens Next?

Once we have received the application for a Definitive Map Modification Order which includes your User Evidence Form, and others, we will carry out an assessment of the application to ensure it has been duly made. It will then be added to our list of applications and dealt with in chronological order. When we are ready to investigate the application, we will write to a cross-section of those who submitted evidence forms, which may include yourself, and offer to meet with you to discuss your evidence in more detail. This can be arranged to occur at your home or in an agreed location. Please do provide your contact details on the separate form so that we may contact you. Your contact details will not be disclosed.

The Freedom of Information Act 2000 provides a general right of access to all information held by Buckinghamshire County Council and the Environmental Information Regulations 2004 give a similar right of access to environmental information held by this Council. This means that the information that you supply may be disclosed to any individual making the appropriate request.

Blank Page - feel free to use this for further information





Your Contact Details

Your Name	
Address	
Phone Number (preferred) Not to be disclosed	
Email Address Not to be disclosed	
Parish (where claimed route exists)	

