

# Luton local access forum

## Definitive map modification orders (DMMO)

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## Introduction

A definitive map is a map prepared by a surveying authority which is a legal record of the public's rights of way in one of four categories (footpath, bridleway, restricted byway or byway open to all traffic). The definitive map is accompanied by a statement which describes each right of way in greater or lesser detail.

If a way is shown on the map, then that is legal, or conclusive, evidence that the public had those rights along the way at the relevant date of the map (and has them still, unless there has been a legally authorised change). But the reverse is not true.

Rights may exist over a way not shown on the map at all, or additional rights may exist over a way shown on the definitive map, even though they are not recorded there. Where such rights are alleged to exist, there are procedures to enable the allegations to be tested. These are set out in the Wildlife and Countryside Act 1981. They allow for a surveying authority to make an order, known as a definitive map modification order, to amend the map and statement to ensure that it is a correct record of the public's rights.

## Definitive map modification orders

Definitive map modification orders are about whether rights already exist, not about whether they should be created or taken away. The suitability of a way for users who have a right to use it, or the nuisance that they are alleged to cause, or to be likely to cause, are therefore irrelevant.

Section 53 of the Wildlife and Countryside Act 1981 provides for six types of modification order:

- To add a way based on evidence that the right of way has come into being through presumed dedication.
- To add a way based on evidence that the right of way exists or has been reasonably alleged to exist.
- To record additional rights over a way based on evidence that they exist.
- To remove some recorded rights based on evidence that they were wrongly recorded.
- To delete a way based on evidence that the right of way was wrongly recorded.
- To amend the particulars based on evidence that the amended particulars will be a correct record of the public's rights.

## Current modification orders

Currently there is a single modification order on the register in Luton.

It is to modify the definitive map to record the footpath No. L075 from the side of 39 and 41 Stanmore Crescent to the side of 35 and 37 Icknield Road. Information relating to the order is on the council's website.

The council received objections to the order.

Opposed modification orders are sent to the Secretary of State for determination, the decision is normally delegated to an Inspector from the Planning Inspectorate (PINs). In this case, a public inquiry will take place in December 2024 to consider the evidence.