



Parish Councils and Rights of Way

Rights and Powers of Parish Councils / Meetings

The Definitive Map

Finding Lost Rights of Way

Adding Lost Rights of Way To The Map

Issues

Somerset County Council Active Travel Initiative



- In Somerset, we have ambitious aspirations for active travel improvements.
- Our vision is to see healthy and active communities, with a good-quality cycling and walking experience for all users.
- We want Somerset to be a County where everyone feels welcome and comfortable, whichever mode of transport they use.
- We understand the positive links between active travel, our physical and mental health, the environment, air quality and climate change.

Rights & Powers of Parish Councils/ Meetings



Parish Councils Can (Highway includes all Rights of Way)

- Undertake maintenance of any publicly maintainable footpath, bridleway or restricted byway within the parish (this does not remove the duty on the highway authority) – Highways Act 1980, Sections 43 and 50
- Install and maintain lighting on any public footpath or bridleway
Parish Councils Act 1957, Section 3
- Provide or contribute to signage warning of danger (with permission from landowner)
Road Traffic Regulation Act 1984, Section 72
- Prosecute anyone who wilfully obstructs the highway – Highways Act 1980, Sections 137 and 137A
- Prosecute anyone who has unlawfully disturbed a highway, or ploughed a footpath or bridleway without remaking the surface (Highways Act 1980, Sections 131A and 134)
- Signpost and waymark on behalf of the local highway authority – Countryside Act 1968, Section 27
- Create, by agreement with the landowner, new highways in the parish or adjoining parishes – Highways Act 1980, Section 30
- Install and maintain seating or shelter in convenient places on land abutting any highway in the parish
– Parish Councils Act 1957, Section 1



Rights & Powers of a Parish Councils/ Meetings

Parish Councils or Parish Meetings where there is no Parish Council (Highway includes all Rights of Way

- Make representations to the local highway authority of an unlawful obstruction, which the highway authority has a duty to remove – Highways Act 1980, Section 130(6)
- Hold a copy of the Definitive Map and Statement for public inspection
– Wildlife and Countryside Act 1981, Section 57(5)
- Veto proposals by the highway authority to apply to the magistrates' court for a stopping up or diversion
– Highways Act 1980, Section 116
- Refuse a proposal from the local highway authority to agree to not installing and maintaining a signpost where a right of way leaves a metalled road – Countryside Act 1968, Section 27(3)
- Additionally, parish councils and parish meetings (where there are no councils) must be consulted at various stages of the Definitive map Modification Order process.
- They must also be served notice of any orders made to divert, create or extinguish public path orders.
- Finally, they can also support and object to any Definitive Map Modification Order or Public Path Order.

The Definitive Map



- The 1949 Act required all public rights of way to be recorded,
- A survey was done by parish councils who then sent their results to their local highway authority who created a definitive map of these.
- There were omissions and mistakes in the information provided. Drafting errors also occurred in the transfer of information onto the Definitive Map.
- The 1981 Act laid out the process for making changes to this map. This is called a Definitive Map Modification Order (DMMO) Application.
- 2000 Act stated that all mistakes had to be rectified by 2026. So if a right of way was missed off an application had to be made by Jan 1 2026. The government said they were going to repeal this but have not yet done so.



The Definitive Map and Statement

- The Definitive Map and Statement (DMS) is the legal record of public rights of way
- The map shows PROW with certain specified line styles
- The statement provides written information about paths – may provide detail on route / location and any limitations or conditions
- It provides conclusive evidence of what is shown (not of what is not shown)
- There is a complex process for changing the DMS – a Definitive Map Modification Order
- “Once a highway, always a highway”

How Can Parish Councils Help Keep Their Rights of Way in Good Order?



- Check on Roam and be aware of all the faults in your parish
- Can any of these be resolved by the Parish?
e.g. asking a landowner to clear a cropped path, getting a volunteer to clear or pay a lengthman to clear a right of way. Fix a simple step.
- Walk paths that are cropped when the crops are young. They will not grow then.
- Work with your SCC Rights of Way Warden to better understand the issues and seek ways of resolution
- Use the Parish Web Site and Parish Magazine to explain to people how to report faults.
- Encourage locals to carry secateurs and clear brambles as they walk.
- Create a set of village walks. Document the routes and put it on the Parish Web Site.
- Make use of your local walking group or set one up.
-

The Ramblers Don't Lose Your Way Project Finding Lost Rights of Way



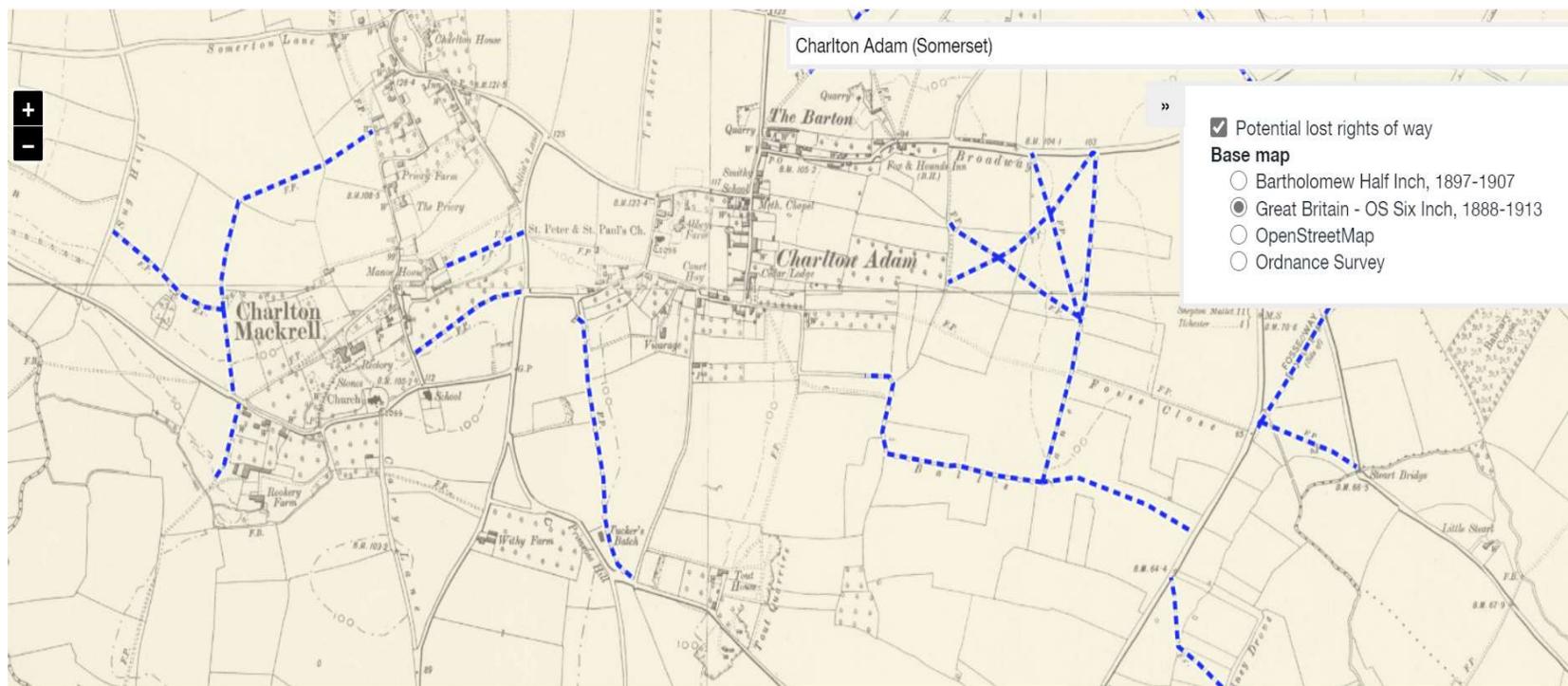
- The ramblers used volunteers to compare the 1888 to 1913 OS map and the Bartholomew map with the 2020 OS map and draw in the missing Footpaths and Bridleways.
- Volunteers looked at every square in England and Wales.
- The rights of way found were then validated by a different volunteer
- Many are not lost. They exist on the ground and are used regularly. However they are not on the Definitive Map and are therefore at risk.
- Many rights of way were recorded as footpaths when they could have higher rights and be bridleways or restricted byeways.

1888 to 1913 OS Map



MAP

SUPPORT US



Potentially Lost Rights of Way



- 1,496 miles of lost rights of way were found in Somerset
- Not all the rights of way that were found can be claimed.
- They may have been legally stopped up, diverted, built over, lost due to quarrying or at the bottom of a reservoir



Getting a Potentially Lost Rights of Way on the Definitive Map

- The simplest way to create a right way is by using section 25 of the Highways Act 1980, The landowner can dedicate it, <https://www.ramblers.org.uk/advice/paths-in-england-and-wales/changes-to-the-path-network/creating-a-right-of-way.aspx>
- Essentially it involves the landowner and the highway authority signing a legal document which, generally, the highway authority will draw up. There is no prescribed form for such a document, but typically it includes a map showing the route, and the form describes the route with reference to points on the map, and states what status the path is (footpath, bridleway, etc), and what its width is, and if any limitations or conditions apply to the public right (e.g, gates or stiles).
- Assuming that the public take up the dedication by using the route, the highway authority then has the duty to put the route on the definitive map.
- It does not make it maintainable at the public expense

Be Wary of Landowners Creating Permissive Paths



- Permissive paths are the farmer's preference, but they need to be strongly encouraged to dedicate instead.
- Permission can be rescinded at any time
- Permissive paths do not go on the Definitive Map and therefore do not go on the OS Map

How Do We Get a Lost Right of Way Onto The Definitive Map



- The Definitive Map Modification Order Application
- We either have to prove 20 years of use without force, without secrecy and without permission. The evidence goes back 20 years from the date of challenge and does not have to be 20 years by the same person
- Or find sufficient new evidence to show, on a balance of probabilities, that the right of way existed in the past, has never been legally stopped up or diverted and it should have been recorded when the definitive map was first created.
- There is a benefit of putting an application based on both historical evidence and usage as these are likely to be dealt with quicker than historical evidence only.
- Once a highway always a highway

Where Do we Get The Evidence From



- Historical documents held in archives
 - Inclosure Orders
 - Tithe Maps
 - Parish and Estate Maps
 - Inland Revenue Land Valuation 1910 Maps
 - Canal / Rail/ Turnpike Maps
- Usage Evidence Over The Last 20 Years
This needs to be at least 5 people who between them have walked the path over a 20 year period.

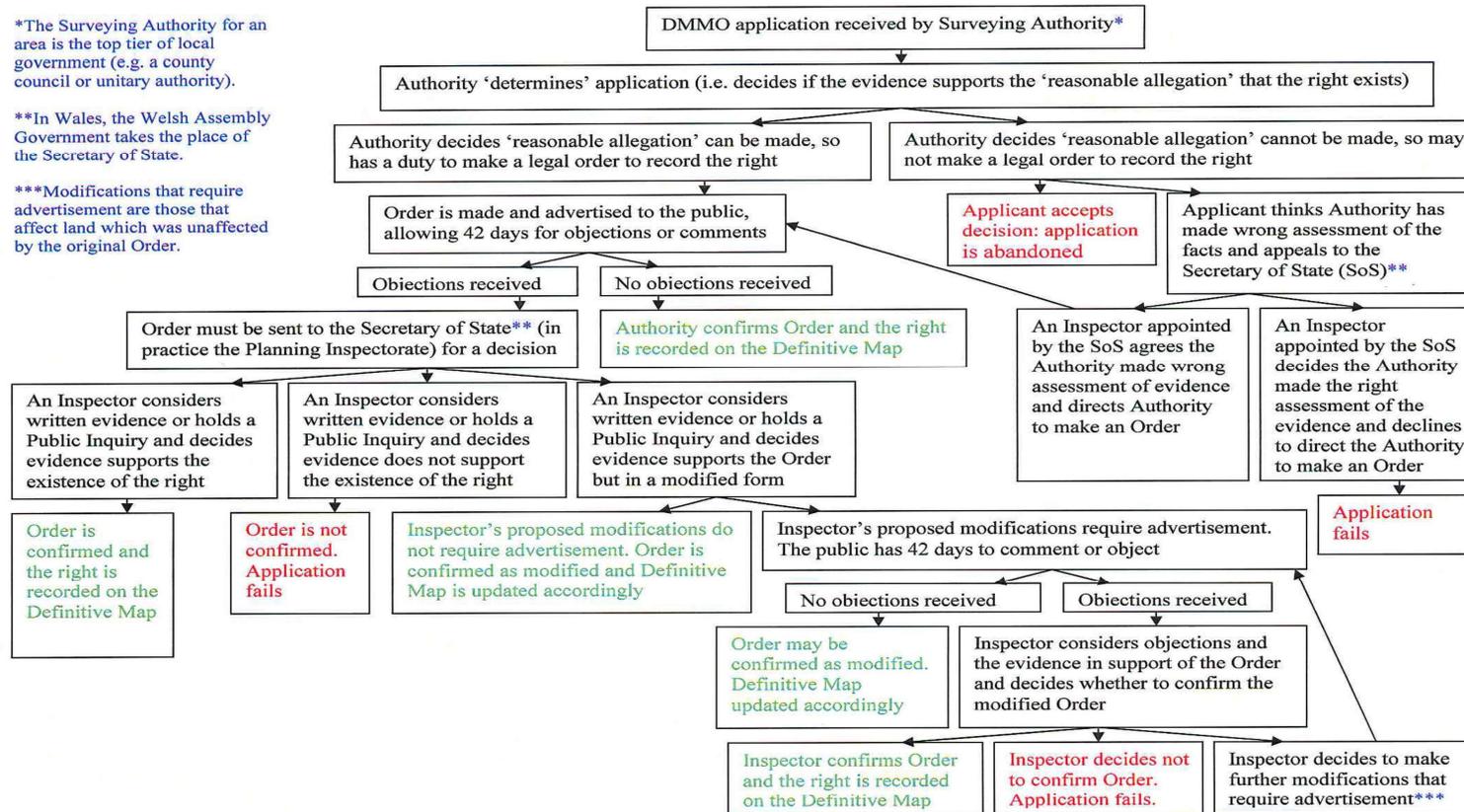


SCC's DMMO Application Process

*The Surveying Authority for an area is the top tier of local government (e.g. a county council or unitary authority).

**In Wales, the Welsh Assembly Government takes the place of the Secretary of State.

***Modifications that require advertisement are those that affect land which was unaffected by the original Order.





- We have our forebears to thank for the wonderful work they did creating the definitive map which protects our rights of way. It is up to us now to take this last opportunity to put right any mistakes that were made and protect these rights for the benefit of our descendents.
- All we are doing is checking to see if any mistakes were made. We did not ask the government to set the 2026 deadline but we have to work to it. Even if the 2026 deadline is repealed we need to claim and protect these rights of way.
- We want to work collaboratively with all parish councils. They know their rights of way and were responsible back in the 1950s for either putting them on the definitive map or leaving them off.

Somerset Ramblers DLYW Process



- Review the Ramblers DLYW map parish by parish to identify potential lost rights of way
- Exclude all rights of way that have been diverted, closed or would now go through quarries or lakes.
- Produce a document for each parish showing each potentially lost right of way and request their comments on whether it is walked and would it be useful.
- Ask the parish council if we have missed any rights of way that are walked.
- Does the parish have anybody we could work with to help produce the DMMO Application

It is down to us...



- Government has not delivered on its commitments
- The only protection we have against the loss of valuable routes in 2026 is to ensure Definitive Map Modification Order applications are made to record them
- ...but there are many organisations with a common aim

The logo for The British Horse Society, consisting of a red square with the text 'The British Horse Society' in white.

The logo for Open Spaces Society, featuring a stylized green figure and the text 'Open Spaces Society'.

The logo for 'we are cycling UK', with 'we are' in yellow, 'cycling' in blue, and 'UK' in yellow.

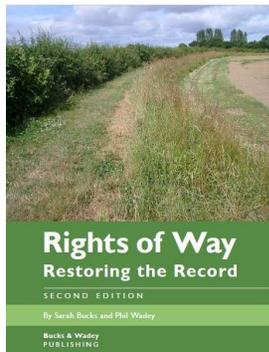
The logo for British Canoeing, featuring a stylized red and blue figure and the text 'BRITISH CANOEING'.

The logo for BMC, featuring a red stylized 'M' shape and the text 'BMC' in red.

The logo for TRF, featuring the text 'TRF' in green inside a green shield with the tagline 'CONSERVING GREEN ROUTES' below it.

What is being done now?

Many people are already busy researching and submitting DMMO applications, some as individuals, most as part of a group. Many people are using the Rights of Way book to guide them through the process



<http://www.restoringtherecord.org.uk/>



Further info

Brian Lucas

(Somerset Ramblers Don't Lose Your Way Coordinator)

Telephone: 07856 975976

Email: DLYWsomerset@gmail.com

Les Stather

(Somerset Ramblers Area Footpath Officer)

Telephone: 07768556735

Email: les@mendipramblers.co.uk

Website: <https://dontloseyourway.ramblers.org.uk/>