



**NOTTINGHAM CITY COUNCIL**  
**DEFINITIVE MAP AND STATEMENT FOR NOTTINGHAM**  
**GUIDANCE NOTES FOR APPLICATION FOR A MODIFICATION ORDER**

## INTRODUCTION

The Definitive Map and Statement (DM&S) for Nottingham provide conclusive evidence, in law, to the existence of a public right of way. Nottingham City Council as the Surveying Authority (“the Authority”) for Nottingham has a statutory duty under the Wildlife and Countryside Act 1981 to keep its DM&S under continuous review. This means that the Authority must consider all the evidence that has been discovered or presented to them and, where the evidence supports it, make a Definitive Map Modification Order (DMMO) to either (1) add a route to the DM&S (2) delete a route from the DM&S (3) upgrade or downgrade a route already recorded on the DM&S, for example, from a footpath to bridleway (or vice versa) or (4) vary or add to the particulars of a route already recorded on the DM&S.

Anyone may make an application for a DMMO. Although it is difficult to generalise on the type of evidence needed to support an application, before the Authority can make a decision on whether or not the claimed route is a public right of way, they must see the evidence.

**Please send the completed main Application Form, the Application Map, the Certificate of Service of Notice and copies of all your supporting evidence and other documents to:- John Lee, Public Rights of Way, Nottingham City Council, Traffic and Safety, Loxley House, Station Street Nottingham NG2 3NG. You may also email these to [john.lee@nottinghamcity.gov.uk](mailto:john.lee@nottinghamcity.gov.uk).**

**Please do not send the Notice of Application to the Authority – you / the applicant must send this to all the owners and occupiers of the land affected by the application.**

## WHAT EVIDENCE DO I NEED TO SUPPORT MY APPLICATION?

Generally, there are two types of evidence and an application may be supported by one or both; **USER EVIDENCE** (you will find a Public Rights of Way User Evidence Form in the application pack) and/or **DOCUMENTARY EVIDENCE** (see below).

### User Evidence (the Public Rights of Way User Evidence Form)

Generally, this is the easiest information to collect using the **PUBLIC RIGHTS OF WAY USER EVIDENCE FORM**. This form is completed by all historic and/or current users of the claimed route. If necessary, please photocopy the user evidence form for other users of the claimed route to complete and ask them to mark the claimed route on the map, and then put their name on the map and sign and date it. The applicant may then submit the user evidence form(s) and map(s) in support of the application, or they may be sent direct to the Authority by those completing them.

### Documentary Evidence

This is not an exhaustive list and an application may be supported by some or all of these or others not listed.

- Ordnance Survey / historic maps
- Quarter Session Records
- Estate records
- Railway and Canal records and plans

- Tithe Awards and Maps / Inclosure Awards and Maps
- Finance Act records
- Parish Council records and maps
- Aerial photographs
- Property deeds, conveyances
- Building plans
- Published articles and books

Documents may be viewed and some copied (depending on copyright) at the Nottinghamshire Archives Office, County House, Castle Meadow Road, Nottingham NG2 1AG (telephone 0115 9581634 / <https://www.inspireculture.org.uk/heritage/archives/visiting-archives/>). You could also contact the Ramblers Association head office on 020 7339 8500 or the British Horse Society head office on 02476 840 5115 who may be able to offer help and advice on the application process.

## THE TYPES OF PUBLIC RIGHTS OF WAY YOU MAY CLAIM

**Footpath:** the public have a right of way on foot

**Bridleway:** the public have a right of way on foot, horse, leading a horse and on a pedal cycle

**Byway open to all traffic (BOAT):** is a carriageway and therefore a right of way for vehicles, but one used mainly for the purposes for which footpaths and bridleways are used

**Restricted Byway:** the public have a right of way on foot, on horse back and leading a horse and on vehicles other than mechanically propelled vehicles (i.e. pedal cycles and horse drawn carriages)

## WHAT HAPPENS WHEN THE AUTHORITY RECEIVES THE APPLICATION?

When the Authority has received a duly made application and supporting evidence they will undertake independent investigations, including site visits, talking to local residents and landowners/occupiers, researching historic documents and interviewing relevant parties to establish the existence, public use, alignment and status of the claimed route. This process is concerned only with existing public rights, not with creating new rights. Evidence must therefore show that the claimed route already exists on the ground and was being used by the public before the date of the application. The Authority has 12 months from the date they receive the application to make its decision, and the decision will be to either (1) make a DMMO or (2) not make a DMMO or (3) offer the applicant additional time to collate further evidence before making its decision. If the Authority fails to make a decision within 12 months the applicant may appeal to the Secretary of State who may instruct the Authority to make its decision without further delay. The 12 month period may be extended with the approval of the applicant.

If the Authority is satisfied that the available evidence as a whole shows that a public right of way may be “reasonably alleged to subsist” over the claimed route, it has a duty to record these public’s rights on the DM&S by making a DMMO. This part of the process involves publishing the DMMO by Notice in a local newspaper and at the site of the claimed route. A Notice of the DMMO is also sent to the landowners and occupiers, if known. If no objections are received during the statutory consultation period (42 days from when the DMMO is first published) the Authority will confirm the DMMO and the DM&S modified to show the changes.

Anyone may object to a DMMO. If objections are received and not withdrawn the Authority does not have the power to confirm an opposed DMMO. The DMMO along with the objections must be referred to the Secretary of State who will then appoint a Planning Inspector to consider the DMMO and the evidence at a Public Inquiry or Hearing. The Inspector will then consider on the “balance of probability”

whether the route is or is not a public right of way and will either confirm or not confirm the DMMO (please see [www.gov.uk/guidance/rights-of-way-online-order-details](http://www.gov.uk/guidance/rights-of-way-online-order-details)).

## HOW DO I FIND THE LANDOWNERS / OCCUPIERS OF THE LAND?

- make enquires locally - someone local may know the landowner(s)/occupier(s)
- make a search of the Electoral Register held by the City Council
- make a search at the Land Registry (a fee is applicable)

For Nottingham the Land Registry office is:-

Land Registry Nottingham Office  
Castle Wharf House  
2 Canal Street  
Nottingham  
NG1 7AU  
Telephone: 0300 006 0411

[www.gov.uk/government/organisations/land-registry/about/access-and-opening](http://www.gov.uk/government/organisations/land-registry/about/access-and-opening)

## HOW TO COMPLETE THE FORMS, NOTICE, CERTIFICATE AND MAP

### The Main Application Form

**The main Application Form** must be completed by the applicant and returned to the Authority at the above address (there **only** needs to be one applicant). There are **four** options on the Form, but you only need to complete **one**.

**Option1:** a route should be deleted from the DM&S

**Option2:** a route should be added to the DM&S

**Option3:** the classification of a route recorded on the DM&S is incorrect and should be either upgraded from a footpath to a bridleway **or** downgraded from a bridleway to a footpath, etc

**Option4:** either or both the options below apply

- (a) where a route already recorded on the DM&S is no longer situated on the line on the ground; and/or
- (b) where the details of a route (length / width, etc) already recorded on the DM&S are incorrect and require amending

The **Application Map:** A clear and legible map showing the position of the claimed route must be submitted with the application. Using a solid black line, please mark clearly the full length of the claimed route on the map using a ink pen or other permanent marker (not a pencil or highlighter pen because these do not show up when the map is photocopied). Please put your name on the map and sign and date it.

### Notice of Application for a Modification Order

It is the applicant's responsibility to identify, as far as practically possible, all the owners and occupiers of the land crossed by the claimed route. The applicant must then insert the owners and occupiers details in the space at the top of the **Notice of Application for Modification Order** and then send it to the owners and occupiers (one notice per owner and one notice per occupier, so if there are 10 owners you have to send 10 different Notices addressed accordingly to the individual owners and then do the

same for the occupiers). The remainder of the Notice should be completed with the identical information you have put on the main Application Form. **Please do not send this Notice to the Authority.**

Please also send a copy of the Application Map (the same map you send to the Authority with the main Application Form) to all the owners and occupiers, so they know where the claimed route is.

If the applicant can demonstrate that after reasonable efforts, they have failed to identify the owners and/or occupiers of all the land crossed by the claimed route, then the applicant should include a written statement explaining this with the application. In these cases, the applicant may post notices on site addressed to "any owners and occupiers" of the land.

#### Certificate of Service of Notice of Application for a Modification Order

On this **Certificate** the applicant should list the names and addresses of all the owners and occupiers that they have sent the **Notice of Application for a Modification Order** to. Please send this **Certificate** to the Authority at the above address (or email to [john.lee@nottinghamcity.gov.uk](mailto:john.lee@nottinghamcity.gov.uk)). This confirms that you have served notice on all the owners and occupiers.

**Please Note:** if you are intending to post your application documents to the Authority, it is recommended that you photocopy them for future reference, and you may wish to post these by recorded delivery.

For general advise on the application process, please contact John Lee on 0115 8765246 or email [john.lee@nottinghamcity.gov.uk](mailto:john.lee@nottinghamcity.gov.uk).

NOW USE THE CHECK LIST BELOW

**CHECK LIST FOR APPLICATION FOR MODIFICATION ORDER**

To check you have completed the main Application Form, Notice, Certificate and Application Map correctly and that you return each to the correct person(s)/place, please read and tick the check boxes below.

	<b><u>What to do with the Forms</u></b>	<b><u>Please tick <math>\checkmark</math> below when you have completed "what to do with the Forms"</u></b>
<p><b>The main Application Form</b>  (includes 2 pages)</p>	<p>In the spaces provided at the top of the main Application Form, write your name and address.</p> <p>Now complete One of the four options (<u>one option only</u>). Return this Form and copies of your documentary evidence and/or user evidence to the above address.</p> <p>In the table on page 2 of the Form, list all documentary evidence and/or user evidence that you have supplied.</p> <p>Don't forget to sign and date it.</p>	<p>Tick here <input type="checkbox"/></p> <p>Tick here <input type="checkbox"/></p> <p>Tick here <input type="checkbox"/></p>
<p><b>Notice of Application for Modification Order</b>  (includes 1 page)</p>	<p>At the top of this Notice write the name and address of the owner and occupier of the land crossed by the claimed route. Use ONE Notice per landowner and ONE Notice per occupier. (i.e 10 owners = 10 different Notices all individually addressed).</p> <p>Now insert the date and your name and address in the spaces provided.</p> <p>Now complete ONE of the four options which must be identical to the ONE option you completed on the main Application Form.</p> <p>Now send this Notice (and the application map) to all the owners and occupiers. Don't forget to sign and date it.</p> <p>Please photocopy the application map that you are returning to the Council and send this map with this Notice to all the owners and occupiers.</p> <p>Don't forget to sign and date it.</p>	<p>Tick here <input type="checkbox"/></p> <p>Tick here <input type="checkbox"/></p> <p>Tick here <input type="checkbox"/></p> <p>Tick here <input type="checkbox"/></p>

<p><b>Certificate of Service of Notice of Application for Modification Order</b></p> <p>(includes 1 page)</p>	<p>Insert your name and address in the spaces provided at the top of the Certificate.</p> <p>Now complete the details (full names and addresses) of all the owners and occupiers that you sent the Notice to and then send this Certificate to the above address.</p> <p>Don't forget to sign and date it.</p>	<p>Tick here <input type="checkbox"/></p> <p>Tick here <input type="checkbox"/></p>
<p><b>Public Rights of Way User Evidence Form</b></p> <p>(includes 1 page)</p>	<p>Complete <u>all</u> the questions and return this to the address above.</p> <p>Don't forget to sign and date the User Evidence Form. If someone has completed any of the questions on your behalf, they must also sign and date the User Evidence Form.</p> <p>If you are willing to attend a hearing or inquiry to give evidence in support of your application, if it proves necessary, please indicate this on the Form.</p>	<p>Tick here <input type="checkbox"/></p> <p>Tick here <input type="checkbox"/></p> <p>Tick here <input type="checkbox"/></p>
<p><b>Application Map</b></p>	<p>Using an ink pen or permanent marker pen (not a pencil or a highlighter pen) please mark clearly on the map the route that you are claiming as a public right of way. Print your name on the map and sign and date it.</p> <p>Return the map with the main Application Form and the Certificate and any documentary evidence and/or user evidence to the above address.</p>	<p>Tick here <input type="checkbox"/></p> <p>Tick Here <input type="checkbox"/></p>