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“Changing the map”

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The Charles Close Society was founded in 1980 to bring together all those with an interest in the maps and history of the Ordnance Survey of Great Britain and its counterparts in the island of Ireland. The Society takes its name from Colonel Sir Charles Arden-Close, OS Director General from 1911 to 1922, and initiator of many of the maps now sought after by collectors.

The Society publishes a wide range of books and booklets on historic OS map series and its journal, *Sheetlines*, is recognised internationally for its specialist articles on Ordnance Survey-related topics.

***Changing the map – a brief introduction to
Definitive map modification orders***

Anthony Francis-Jones

Ever wondered why rights of way (RoW) on Ordnance Survey maps (eg *Explorer/Landranger* series) are described as having been ‘Taken from local authority definitive maps and later amendments?’ A RoW is defined in common law as “a way over which there exists a public right of passage, that is to say a right for all of Her Majesty’s subjects at all seasons of the year freely and at their will to pass and re-pass without let or hindrance,” and if the OS map is not necessarily correct, what is? The answer is the Definitive map and statement, which has its roots back in 1949 in the *National Parks and access to the countryside act* and is a legal record as to which RoW exist.

After the war there was an attempt to produce a definitive map of all public rights of way; typically what most people would know as footpaths (FP) and bridleways (BW), with a new class of RoW introduced by the *Natural environment and rural communities act 2006*, the restricted byway (RB).

Back in the 1950s parish councils were tasked with the job of surveying their own area to produce a map of known RoW on public and private land called the Draft Definitive map. This immediately led to a number of problems. Nepotism and Nimbyism were rife and when landowners were approached and asked for information about the RoW on their land many replied, “No, definitely none on my land!” or, “Oh, that old track. It’s only used by people walking. Never seen horses on it.” This approach resulted in many omissions from the provisional Definitive map as well as the incorrect recording of the status of other routes, for example a bridleway being mapped as a footpath. Often two different parishes’ surveys would not agree and routes would stop at a parish boundary or change status at this point, turning with no warning into a footpath from a bridleway. The observant user of maps will notice many of these anomalies. So what can be done to correct the errors and omissions on the current OS and Definitive map?

County councils and Unitary authorities (Highways authorities) have a statutory requirement to keep the Definitive map under review (*s.53 Wildlife and Countryside Act 1981*). The accompanying statement, if it exists, can list such things as the route’s start and finish points, general direction, width, surface and location of any gates and stiles. It is estimated that over ten per cent of the RoW network is not on the Definitive map and there are many more cases of incorrect recording of the status of a route, typically bridleway recorded as footpath. With cuts to RoW departments’ staff and budgets, and general apathy, many County councils have just stuck their heads in the sand and ignored the problem. It has been left to volunteers to address some of these problems, and a formidable force they are, expert in historical research, and use of archives, as well as the highway law needed to make changes to the Definitive map.

Section 53 (5) of the *Wildlife and countryside act 1981* allows anyone to apply to make a change to the Definitive map. A Definitive map modification order (DMMO) is one process that can be used by the public to amend the

Definitive map and local authorities have to action applications within a year, although this almost never happens. The scale of the problem is vast. Thousands of DMMOs are outstanding nationwide and whilst one waits more and more RoW are lost, obstructed, or quite simply built over. In law the statement, “Once a highway, always a highway” (*Harvey v Truro RDC [1903]*) applies but if a housing estate or supermarket has been built over a route that was not correctly recorded it is difficult to turn back the clock even if Enforcement orders are used. Often Diversion orders have not been signed and published leading to some annoying



but quite amusing anomalies on OS maps (see *footpath across Newdale Pool at SJ 677094, left*).

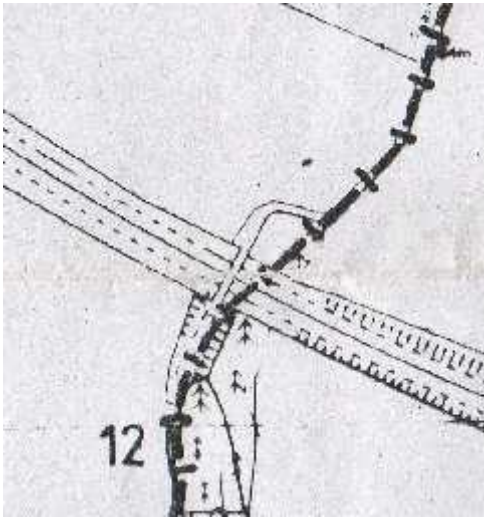
The *CROW act 2000* proposes to close the Definitive map and statement to the addition of rights of way that were legally in existence before 1949 in 2026 (*the cut-off date*), which has led to a rush in applications for DMMOs, but currently this section of the act has not been made into law even though many web sites would have you believe that it has.

The DMMO application is a complex process. It states the route in question and what change to the map should be made if the application is successful. It can be supported by various forms of evidence from users as well as that from archives and Ordnance Survey records. This might include documents such as old maps, handover records, entries in Object names books, and Survey boundary records, to name just a few. One can also use OS maps without infringing copyright rules (*s.46 (1) Design and patents act 1988*) though interestingly OS maps are not seen as irrefutable evidence at public enquires. Making a DMMO application is not an easy task, as it has to follow a defined process, and it may well have to stand up to the scrutiny of a public enquiry where objectors could put up a very convincing case. A planning inspector will decide the claim ‘on the balance of probabilities,’ but more often it feels like, ‘beyond reasonable doubt.’

Once the order is confirmed a series of processes take place with the result that the Definitive map and statement are updated and OS informed of the change made so it can appear on the latest versions of their maps; one of the many reasons that paper maps can go out of date very quickly for the RoW user. This updating process is vital, not only for the users of RoW, but it can also have a huge impact on planning applications on land with RoW crossing it.

You can ask your local authority to view the Definitive map and statement and some even place it online for free (Shropshire County Council for example). Don’t expect it to be ‘definitive’; after all these years there are masses of outstanding DMMOs and the map is still in the provisional form.

Whilst this is a very brief overview at the way one can change what is recorded permanently on an OS map it is a very rewarding (and frustrating) area for volunteers to work in. Why not have a go yourself? You will learn more about maps and your local history than you would ever have imagined!



Top left: SJ 787071, Definitive map not updated at Tong; bridge and motorway built but bridleway not rerouted over the bridge

Top right: SJ 612136, OS 1:25,000 at Isombridge change from bridleway to footpath mid-route (just under the power cables)

Middle left: SJ 641096, Definitive map; Wrekin Ercall, FP55 turns into RB65 and FP71 stops due to old quarrying activity and possible incorrect status of FP55 and FP71

Middle right: OS 1:25,000 Wrekin Ercall, FP55 turns into RB65 and FP71 stops due to old quarrying activity and possible incorrect status of FP55 and FP71

Lower left: SJ 601139 at Roddington, dead end footpath (continuation north missing since canal was filled in)