

Discovering Lost Ways

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Discovering Lost Ways review

Welcome to the last edition of the DLW e-bulletin.

The project, as originally set up, is to close following Natural England's decision to withdraw from archive research activity. This will allow us to focus on championing and re-evaluation of the relevant law and procedures. We are confident that this is the only way to deliver real and lasting progress towards a Definitive Map and Statement that is a living record of a rights of way network that meet's people's needs and expectations .

We have reached this decision as a result of the fundamental review of the Discovering Lost Ways project (DLW), initiated by Natural England in February 2007

The review has resulted in a better understanding of:

- the scale of the task and estimated costs of researching historic routes and recording them on the definitive map
- the character of the historic routes - why they are not currently recorded on the definitive map, their physical characteristics, whether they are currently used and simply not recorded, and how often they might occur
- how far the Archive Research Unit is 'fit for purpose' in facilitating research
- other resources required to transform research into routes, for example setting priorities, identification of landowners and households affected, site visits etc.
- the contribution and role (actual or potential) of different players - Parish Councils (representing local people), landowners, users, volunteer researchers, Local Access Forums, highway authorities and the Planning Inspectorate
- identification of requirements for amended or new legislation to streamline processes.

The review, which was informed by the evidence gathered from Pathfinder projects, and by the discussions and contributions made by stakeholders, concluded in February 2008 when Natural England presented its recommendation to Defra.

For anyone interested in learning more about the review outcomes these will be made available via our website (www.naturalengland.org.uk/leisure/access) over the coming months

The way forward for DLW

Our recommendation to Defra is that we intend to

- withdraw from archive research and
- refocus effort towards a re-evaluation of the relevant law and procedures.

and is based on the understanding that despite investing huge effort in developing, testing and refining a systematic archival research approach, capable of application on a national scale, the inherent problems in translating this evidence into claims which can survive current practice and procedures, and achieve sensible amendments to the definitive map, are such that the system is in effect unworkable.

Natural England does not believe this situation is acceptable. All parties want a definitive map system that secures routes which enhance the rights of way network, and want this system to be:

- achieved within a realistic timescale
- delivered at a reasonable cost
- implemented without imposing an undue burden on property owners

We have received confirmation from Defra that the Minister has approved the approach and supports Natural England's proposal to withdraw from it's programme of active research, and establish an Advisory Group to explore possible ways in which completion of the Definitive Map could be made more feasible.

In addition Defra wishes Natural England to

- share it's knowledge with stakeholders and all those wishing to conduct their own research into lost ways and NE will undertake further work in this area.
- consider how to offer small scale assistance to specific voluntary groups engaged in creative and productive methods for getting un-recorded and under-recorded rights of way shown on the definitive map and statement.

As advised by Natural England, Defra will not proceed with implementation of sections 53 to 56 of the CROW Act 200 until the proposed Advisory Group has reported it's conclusions.

We are now able to move forward in this important area of work and having taken advice from the Rights of Way Review Committee at its meeting on 18 March, we intend to establish an independently - chaired Stakeholder Working

Group (SWG) charged with seeking to develop an agreed package of measures that would in the Group's view achieve real and lasting progress in recording rights of way.

Members of the RoWRC have been invited to put forward suggestions for membership of the SWG. Numbers will be limited but there will be equal representation from land management, user and highway authority interests.

Towards the end of April we are meeting with the stakeholders who participated in the review workshops. One of the topics we wish to discuss with them is how best to feed the views of the wider stakeholder interests into the SWG process.

Feedback from Local Access Forums (LAFs) during the DLW review on their potential role in the project

In the previous e-bulletin (number 5, September 2007), we asked for the views of LAF's on the future scope and direction of the Discovering Lost Ways project, to help inform the review of the project. The response to the survey was very high, particularly in view of the short timescale, so many thanks to all of you who took part and made valuable suggestions on the way forward. A summary of the responses is outlined below :

A total of 83 replies were received from LAFs, BHS, CLA, IPROW and individual LAF members. Many LAFs who responded stated they would be willing to work with the DLW project in order to share their extensive experience in research and expertise at a local level. However several LAFs felt that they wouldn't have the capacity to actually carry out research.

Primarily, LAFs felt their role could be to:

- Share their wealth of experience
- Play an advisory role
- Act as a filter to determine routes which would be selected for detailed investigation
- Share their good local knowledge and contact with local people
- Work closer with council officers
- Monitor progress, and help with field visits
- Take part in some negotiations with landowners
- Provide a strategic role to advise on policy and process
- Receive training which could then be passed on to others

The overall view was that DLW should focus on recording routes that have some benefit and would add to, or provide better links to, communities or to the existing rights of way network in order to create a cohesive and continuous network of routes. The heritage aspect of the rights of way network was also important to many users.

It was felt that user groups and local residents, including landowners, are probably in the best position to advise on routes to be researched.

Many respondents expressed the hope that a more streamlined, fast-track, less adversarial system for getting Definitive Map Modification Orders confirmed could be established. Some felt that trade offs and cost neutral compromises could be reached with landowners without recourse to lengthy and expensive litigation.

There was considerable concern that a lack of resources will prevent rights of way making it onto the Definitive Map before 2026. Many respondents felt that the 2026 cut off date should be extended or abolished altogether. However, some felt that the 2026 cut off date should be retained, with milestone targets set for research and claim processes.

Concern was expressed at the backlog and length of time it currently takes for highway authorities to process orders. Many thought that there needs to be a radical change in legislation and in the procedure for establishing new routes/ lost ways. It was recognised that Highway Authorities also need to have the resources to do the legal work involved.

As a way forward, many suggested a central source of information / guidance which they can access when carrying out research. This could include:

- a leaflet outlining how to make a claim (promoted by LAFs)
- an interactive website
- on-line mapping

The majority of respondents wanted to see clear objectives and measurable outcomes to take the project forward, along with input from the voluntary sector/LAFs.

Future communications

Although at the start of this e-bulletin we said it would be the last, this is not strictly the case. We intend to continue to use this method to communicate with you and keep you up to date with all Natural England's access and rights of way activity.

Contact details:

Please note that Gavin Stark, formerly the DLW research manager, will now be leading on the setting up and running of the SWG and any associated activity. All enquiries should now be directed to Gavin :

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