

**LEICESTERSHIRE LOCAL ACCESS FORUM – 23 OCTOBER 2007**

**REPORT OF THE DIRECTOR OF COMMUNITY SERVICES**

**DISCOVERING LOST WAYS REVIEW**

**Purpose of Report**

1. To inform members of the results of the Discovering Lost Ways (DLW) review.

**Background Information**

2. The Countryside and Rights of Way Act 2000 (CROW) imposed a deadline for the recording of all historic rights of way on Definitive Maps. After 2026 certain types of routes not recorded were to be extinguished. This would require a commencement order for the relevant part the Act. As yet no such order has been made. The duty to maintain and modify the Definitive Map rests with the County Council as a surveying authority.
3. Government tasked Natural England with implementing the new proposals and the Discovering Lost Ways project was established. A newly formed Archive Research Unit (ARU) was to investigate each county systematically and then provide the results to the respective surveying authority. This was to identify the routes under threat and provide historical evidence for orders to be made adding them to the Definitive Map.

**The Review**

4. In February 2007 the Executive Board of Natural England instigated a fundamental review of the project. This was concluded in February 2008. Attached as appendix A is the Outcome review document from Natural England.
5. The report notes that the project has cost to date £2.7m and to complete the initial ARU targets would cost a further £8.4m. Routes investigated by the ARU still resulted in considerable work and research by surveying authorities who proceeded with any cases. A national programme would have resulted in generating Definitive Map claims that would require Local Authorities to spend £80m to process. This figure does not include any works to bring the routes into use or provide any form of maintenance.
6. Natural England concluded that the completion of Definitive Maps and Statements by 2026 is not a practicable proposition. To complete the task within the timescale set out in the CROW act would require a streamlining of current law and procedures.
7. Accordingly Natural England recommended to DEFRA that with the advice of the Rights of Way Review committee it proposed to establish an independently chaired stakeholder working group charged with a re-evaluation of the relevant law and procedures to agree a way forward. In addition Natural England proposes to withdraw from the programme of archive research and request government to not proceed with enacting the cut off provisions until the review is complete.

## **Ministerial Decision**

- Jonathan Shaw the Minister for Marine, Landscape and Rural Affairs has agreed to the recommendations put to him by Natural England. Attached as appendix B is a confirmation letter from the Recreation & Access team at DEFRA. The Minister has confirmed that the implementation of parts of the CROW act that would extinguish historic rights will not be pursued until the stakeholder group has reported to DEFRA.

## **Local Policy Framework**

- The duties placed on the County Council as a surveying authority remain unchanged. At the time of the production of the Rights of Way Improvement Plan (ROWIP) for Leicestershire, the ARU was carrying out a pilot in two counties and intended to be complete in all counties by 2012. Policy M8 of the plan sought to programme a date to engage with the ARU. The plan also noted that the original timetable for the ARU had slipped.
- Policy M11 commits the authority to continue to review the Definitive Map and Statement to ascertain the extent of both anomalies and potential lost routes. Further policies seek to ascertain the scale of the task and prioritise accordingly. Part of this process is establishing the processes and resources required to implement a programme of modifications. The possibility of legislative and process change makes long term planning challenging at this stage. A simplification of the process could result in substantial savings and a change of approach being taken.
- The demise of the ARU has removed the immediate issue of having to deal with a number of case files arriving in a short period. In addition, had the ARU carried out a Leicestershire survey this would have required officer input from the Rights of Way team in a support role. Leicestershire is now better placed than many authorities, due to only having a small number of current claims and having initiated a preliminary study.
- If the review results in the abandonment of the cut off date, the pressure regarding lost ways would lessen further, albeit the authority still has 18 years to resolve the matter. At this stage it is not possible to predict if the review will result in legislative change. Policy M10 did urge government to streamline the process and amend legislation to speed up and reduce the costs of making Definitive Map Modification orders. This is what is now proposed.

## **Recommendation**

- That members note the end of the Discovering Lost Ways project, the current suspension of the cut off provisions and the proposals for the establishment of a stakeholder group to review legislation and procedures.

## **Appendices**

Appendix A – Discovering Lost Ways (Outcome of Review)

Appendix B – Letter from DEFRA

## **Officer to Contact**

Edwin McWilliam, Policy Officer (ROW)

Tel: 0116 305 7086

Email: [emcwilliam@leics.gov.uk](mailto:emcwilliam@leics.gov.uk)