

Finding the Way Forward

December 2007

Final Report

Published By

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dialogue matters

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Acknowledgements Thanks to:

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Citation Pound, D. 2007.

Cover photo

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Explanation

This report is the result of a stakeholder participation process run over the summer of 2007 to help Natural England understand stakeholder perspectives as NE reviews its involvement in the Discovering Lost Ways (DLW) Project.

Sections 2 and 3 explain the background to the DLW project and how Lost Ways came about.

Sections 4 and following are the results of the stakeholder participation.

The style of the report

It is important to note that a report based on a stakeholder dialogue is different to most research reports. People's knowledge, views, experiences, and know-how are valued and provide a rich source of information. However it must be understood that this is tacit knowledge and opinion rather than 'hard' scientific fact or quantifiable data.

Sometimes stakeholder participation processes are referred to as process of 'social learning' because people hear other ways of understanding or perceiving the issues, as well as new facts and information. As a result the opinions and assumptions they bring into the discussion are likely to evolve through the process.

This report reflects stakeholder opinions and perspectives as they were expressed in workshops, and during telephone calls with those involved in the Pathfinder Projects. In a stakeholder process of this kind comments are not attributed so that people are free to speak openly. Direct quotes are in Italics.

A draft of this report was sent to participating stakeholders so that they could check that it expressed the main points that they raised during workshops and to clarify any text that needed it. The final report benefits considerably from these contributions.

Timing and Timeframes

The timing of the stakeholder process over the summer was necessary to meet Natural England's deadlines for internal discussion and submission to Defra.

However this meant that the process was less than ideal and it had an effect on attendance (the levels, continuity and balance). Most people were from Local Authorities, Professional Groups, Government and its Agencies, fewer people were from user and landowning groups and only one private landowner participated who had direct experience of the effect of DLW.

1 Introduction

1.1 Background to the Discovering Lost Ways Project

The project 'Discovering Lost Ways' (DLW) was set up to help with the challenge of identifying those historic footpaths and bridleways which are not currently recorded on Local Authorities' Definitive Maps and Statement of Rights of Way (DMS). This is in anticipation of the 2026 cut off date for recording such routes provided by the Countryside and Rights of Way Act 2000 (CROW).

The definitive map and accompanying Statement (DMS) is the legal record of public rights of way showing public footpaths, bridleways and byways. Although it is called the 'definitive map' many of the rights of way that were in existence before 1949 are not accurately recorded on the DMS. These rights of way are sometimes referred to as Lost Ways. (It is important to note that many of these so called 'lost' ways are in current use and so whilst deemed 'lost' from the map they are not necessarily lost to users but unrecorded or under recorded).

If a right of way that existed in 1949 is not correctly recorded on the map by the 1st January 2026 (or at least in the process of being put on the map) it will be extinguished.

In response to this situation the Government asked the Countryside Agency (now Natural England) to coordinate the research and work necessary to identify rights that will otherwise be extinguished. Highways Authorities (HAs) were also provided with funds to meet the extra requirements generated by the CROW Act.

The aims of the DLW Project are to develop a better rights of way network through ensuring that Rights Of Way that have been 'lost' are recorded on the map, and that those that have been under-recorded are also upgraded on the map to the appropriate status (eg where there is a footpath recorded that should have higher rights).

To help with this task the Discovering Lost Ways Project funded the setting up of an Archive Research Unit (ARU) to develop a robust and repeatable method of researching Lost Ways.

1.2 The Review of Natural England's Involvement in Discovering Lost Ways

Following the creation of Natural England a review of the Discovering Lost Ways (DLW) Project was called for. The aim is to consider the benefits and disbenefits of the current situation and develop options for delivery that are in line with Natural England's strategic objectives and which maximise public benefit.

The review is being undertaken by Natural England with the following aims:

- To review and evaluate the existing DLW delivery mechanisms
- To define Natural England's role in this work through analysis of evidence and through stakeholder engagement
- To define the optimal and most cost-effective approach to enable delivery of identified public benefits

The review has two main components:

1. The Pathfinder Projects – a series of these are designed to look at how research on Lost Ways can be transformed into routes on the definitive map, and to look at ways of refining the research so that public benefit is optimised; and
2. A structured programme of stakeholder engagement through a series of workshops, including a series of Technical Working Group (TWG) meetings to consider the technical aspects of researching Lost Ways (LWs).

1.3 How results of the review are to be used within NE

The outcome of the review will be presented by the DLW Project team to the Natural England Board and will form the basis for providing advice to Defra on the future direction of activity required in preparing for the cut-off date and confirming Natural England's role within it. Ministers will then decide on the future direction of the DLW Project.

Natural England is seeking to identify any changes that it should make in its contribution to DLW to ensure it delivers value for money, maximises public benefit, and is tuned to what stakeholders want to see happening both in terms of the process of identifying lost ways and the resultant national network on the definitive map.

1.4 This Report

This report includes the following:

- The methods and findings of the stakeholder engagement
- Information from the Technical Working Group
- Information from the Pathfinder Projects

The information drawn from these sources and contained within this report will be used by Natural England to inform its review of the role of Natural England in Discovering Lost Ways.

1.4.1 The stakeholder engagement

A series of three 'stakeholder dialogue' workshops were held over the summer drawing together a wide range of stakeholders to identify benefits and disbenefits of DLW and to discuss possible ways forward. The method and outputs from that process are considered in Sections 3, 4 and 5 of this report.

1.4.2 The Technical Working Group

Meetings of a Technical Working Group (TWG) were also held over the summer and autumn of 2007 with the aim of exploring the practicalities and technical aspects of the process involved with putting different types of lost way on the map.

The work of this group has been included in this report where it helps explain the reasons and causes of Lost Ways in section 2, and throughout the text where relevant.

1.4.3 The Pathfinder Projects

In 2007 Natural England started to test different approaches to DLW across five projects based on work undertaken so far. Each Pathfinder is designed to test an aspect of the research process or stakeholder engagement. No one approach alone is expected to provide a model,

but rather each contributes a test of a particular aspect. A summary of each of the approaches is detailed below.

- | | | |
|---|--------------------|---|
| 1 | Cheshire | Natural England is working with Cheshire County Council to implement the results of research already completed. A small number of applications for modifications to the definitive map have been made using the existing statutory framework. |
| 2 | Shropshire | This project is working with Shropshire County Council to examine how routes might be implemented without making applications for DMMOs. The results of the research already completed in North Shropshire District are being passed to Shropshire County Council for their consideration and action. The project is monitoring, recording and evaluating this approach to implementation. |
| 3 | Nottinghamshire | Natural England is working with Nottinghamshire County Council and local stakeholders to examine and demonstrate ways of focusing research to obtain evidence of routes that would have potential public benefit. The project is monitoring, recording and evaluating implementation. The focus is on establishing evidence for 'lost ways' that will provide the greatest public benefits. |
| 4 | Herefordshire | In Herefordshire the Local Access Forum has set up a sub-group to prepare for the Discovering Lost Ways project before the Archive Research Unit enters the county. Natural England is working with this sub-group to help assess how early local consultation with local people could lead to a more efficient research process in terms of developing the base map by establishing local priorities and needs; identifying suspected lost ways; and, through identifying and working with local stakeholders. The overall aim of the work in Herefordshire is to determine how local stakeholders might assist in achieving DLW objectives. |
| 5 | Volunteer Projects | Natural England is exploring with local volunteer groups and LAFs, ways in which the activities of existing skilled researchers and interested local people can be accommodated in the overall development and delivery of DLW. This will link in to other work underway in developing a database of surveying authorities to provide a resource of capabilities reflecting local circumstances. |

Contributions from the Pathfinder Projects have been integrated into this report where relevant and particularly in the issues and disbenefits of the current situation (Section 4.3) and in Section 5.3 on how the process could be run more smoothly and effectively.

The information was gathered from NE staff and partners working on each Pathfinder through e-mail and telephone discussions, from face-to-face interviews, and from documents.

1.5 The style of the report

The depth and breadth of information shared in the workshops means that it is necessary to write in a succinct way and present information in summary tables and bullet lists. To aid understanding we have formatted sections of the text so that people can focus on the aspects that interest them. Where stakeholder quotes are used they are put in italics.

2 Background to Lost Ways

2.1 What is a Lost Way?

A Lost Way (LW) is a historic footpath, bridleway, or restricted byway, which is not recorded, or is under-recorded, on the definitive map of Rights of Way in England and Wales. Their lack of recorded status today results from three main factors:

1. Accuracy and completeness – variable in the original definitive map recording processes that began in the early 1950s and variable resourcing and approaches since.
2. The nature of the legislation and the way this has evolved to operate; and the related tensions amongst the multiple stakeholders and lack of consensus
3. The resourcing and priority given to Rights of Way by local and central government.

Some individuals and organisations (from the voluntary sector and local authorities) have researched routes that they believed are or were inadequately recorded on the DMS. However, there is now wide acceptance that many LWs remain undiscovered (in terms of their legal definition and maintenance) following the introduction of the National Target for Public Rights of Way (PROW), which was introduced by the former Countryside Commission in 1987. Later, in 1993 the Milestones Approach was introduced by the Countryside Commission and encouraged Highways Authorities to adopt a business planning approach to meet the national target. Despite these efforts many LWs have not been formally identified and mapped, and efforts have largely relied on the work of volunteers. As stated in Section 1.1 the DLW Project aims to research and map Lost Ways by 2026 when any unrecorded public rights to them will be extinguished.

Evidence from the Pathfinder Projects indicate that a significant number of Lost Ways are actually in use but either their status is under-recorded or they are not recorded at all.

2.2 Facts and Figures

There are approximately 190,000 km of recorded footpaths, bridleways, and byways forming the network of Rights of Way in England:

Figure 1: Table showing percentages of the different types of recorded rights of way that make up the total amount of existing routes on the DM (*Source: Robin Carr Associates, 2007*)

	Percent of the total
Footpaths	78%
Bridleways	17%
Restricted Byways	3%
Byways Open to All Traffic	2%

These Rights of Way serve recreational purposes, as well as being useful for local people to get to shops, school and work (Robin Carr Associates, 2007). They are both a cultural and a functional asset or resource.

The Countryside and Community Research Unit (2002) estimated there to be an additional 16,100 kilometres of unrecorded public rights of way or Lost Ways which so far are unrecorded on the definitive map. Recording these would result in an increase in recorded ways of around 8.5%. Without them the network is less accessible and usable.

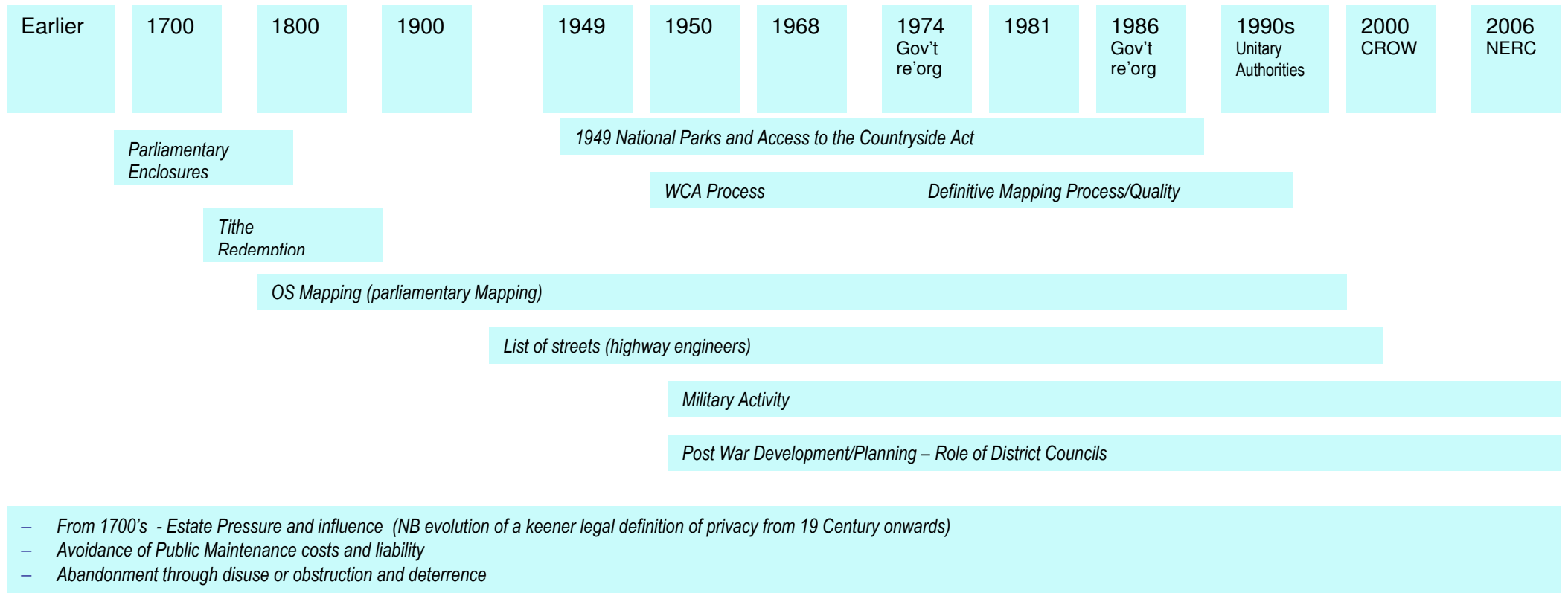
2.3 How lost ways came about

It is helpful to consider the chronology of events over the last 200 years when considering the background to Lost Ways.

The Technical Working Group developed the chronology in Figure 2 during their first workshop. It could no doubt benefit from further work and refinement; however, it shows the main events that have happened with regard to PROW and their 'mapping' since the eighteenth century.

Figure 2: Chronology from historic to contemporary

a) Chronology - historic to contemporary -



b) Ways routes can occur ordered chronologically (Please note, the Technical Working Group developed this in a workshop. It requires further refinement and checking before other use).

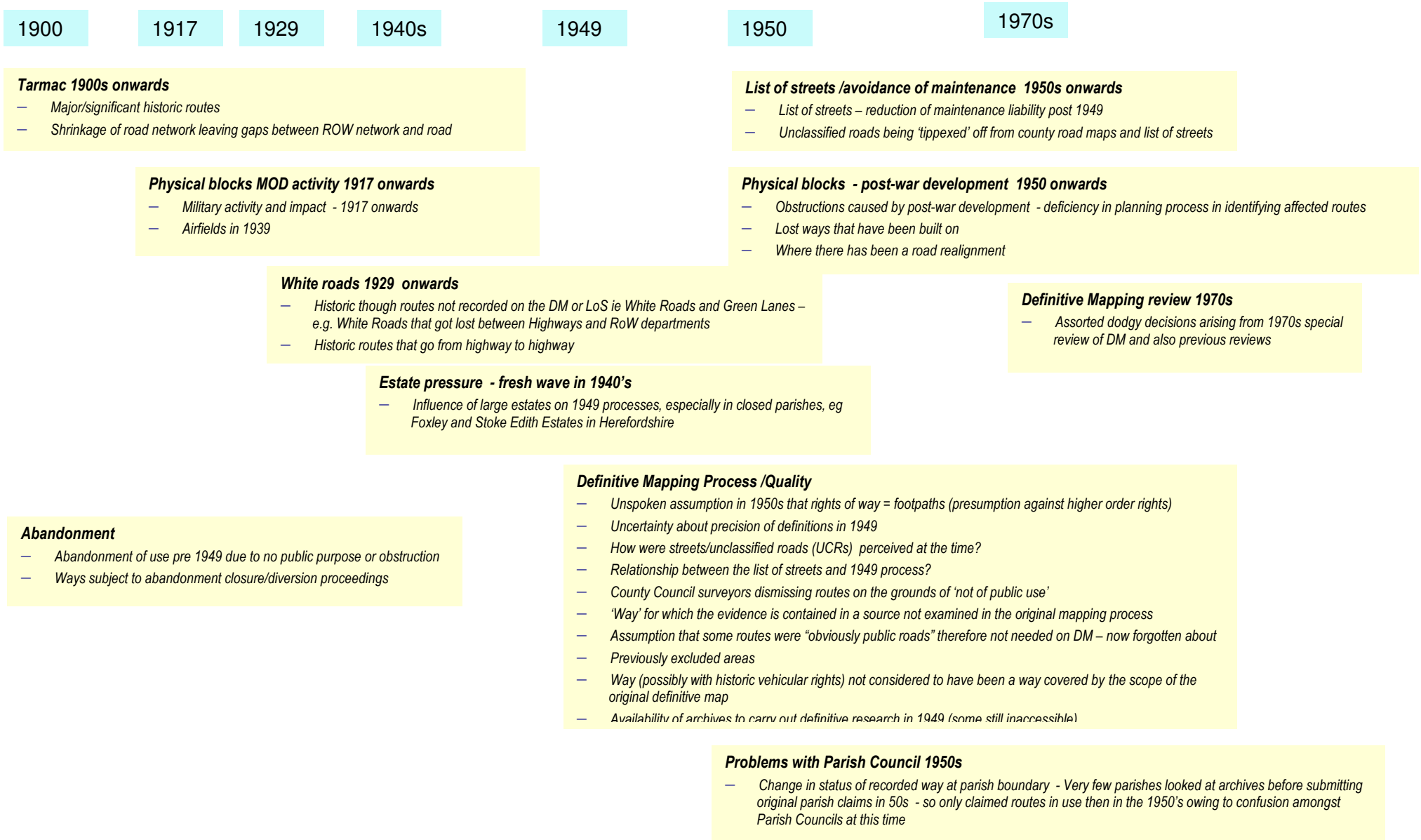


Figure 3: Other reasons that lost ways occur. (Please note, the Technical working group developed this in a workshop. It requires further refinement and checking before other use).

Research Issues

- Rights indicated by the finance Act of 1910 within and without the hereditament
- Ways indicated by symbology on mapping evidence (statutory and non-statutory) which indicates (Balance of Probabilities) Public Status
- Ways recorded as Public in Ordinance Survey Book of Reference
- Effects of Parliamentary Inclosure in relation to truncated roads where downgrading had taken effect.
- Ways recorded in parliamentary book of reference
- Connections with other neighbouring parish routes at Parliamentary Inclosure – inconsistency
- Ways recorded as Public Ways in returns to Parliament eg 1815 Act
- Ways recorded in Dumter Sessions and other legal proceedings
- Ways shown on administrative highway maps – handover
- Rights awarded under the provision of an inclosure award statutory and non-statutory
- Tithe maps Ways where shown consistent with public status
- Ways for which the evidence is contained in a source not available in the 1950s
- Not occupation roads
- Guidance on Carriage Roads –bridleways (CRBs), and Carriage Road-footpaths (CRFs), led to confusion over showing Roads used as Public Paths (RUPPs) on definitive maps
- Difficulty of establishing road highway network in parishes inclosed outside the parliamentary process

Unrecorded or under-recording

Under-recording of rights because people concerned about the higher rights weren't interested or organised when the maps were drawn up

- Under-recorded routes currently shown on DM
- Non Records
 - not vulnerable but unrecordable (DMS) 2026
 - extinguishments vulnerable
- Under records
 - Extinguishment vulnerable

ORPAs

- Ways subject to lawful provision of public expenditure
- Routes recorded on Lists of Streets that are shown not to carry vehicular rights

Alleyways

- Urban Ginnels
 - On Lists of Streets
 - Not on definitive map and LoS
 - On definitive map and LoS
- Way in an urban area not covered by the original definitive map process and not recorded since the process became compulsory in 1983
- Insufficient attention to urban allewwavs and minor routes

2.4 How lost ways are put on the map

The process by which a lost way is identified and goes through the complete process to be put on the definitive map is highly complex.

The former Countryside Agency produced a Guide to Definitive Maps and Public Rights of Way in 2003 which can be found at <http://naturalengland.twoten.com/naturalenglandshop/docs/CA142.pdf> and gives detail on the process of making a Modification Order, and the role of different organisations.

For the purposes of this report, and working with stakeholders, the complexity was simplified to the broad steps in Figure 4. (For a full understanding of the procedures and alternatives please refer to the reference above or direct to Natural England).

Figure 4: Broad Steps in the process for mapping Lost Ways

1. Research the evidence
2. Submit evidence or application to the Surveying Authority
3. Surveying Authority considers results and consults
4. Decision making
5. Confirmation
6. Map amended
7. Make changes on the ground

The process is the same for Natural England as for any other applicant.

Where a route is submitted for consideration it is subject to Local Authority procedures for making a definitive map Modification Order (DMMO). Once evidence has been submitted to a Local Authority for a Modification Order it can be some time (possibly many years) before the map is altered. Anyone with evidence of a LW can make an application to the Surveying Authority for the map to be altered to indicate historic rights. During the process, landowners are informed as a requirement of normal statutory procedures. Each Surveying Authority (SA) provides a list of applications for DMMOs, which can be inspected by the public and shows the progress of each claim.

2.5 Researching Lost Ways

The Archive Research Unit (ARU) is a team of researchers that was established in 2004 by the (then) Countryside Agency to take a systematic approach to researching the principal historic sources of evidence of potential lost ways. The Unit was set up under contract with LandAspects (Mouchel Parkman Group) which specialises in land and property information management. This Unit typically looks at documents such as Inclosure records, Tithe records, Finance Act 1910 maps, railway and canal Acts, turnpike records and estate maps. These are held in national collections (such as the National Archives) and at county Archive Services.

Initially five stages to the research process were planned to be carried out in each county: (<http://www.countryside.gov.uk/LAR/Access/DLW/ARU.asp>).

The outcomes from the research are now being applied through the Pathfinder Projects and the research method is being examined in order to prove and refine the methodology as part of the current review.

Figure 5: Stages of research for each county

Stages in research process	What happens and who is involved
1) Business readiness	<ul style="list-style-type: none"> ▪ SAs and County Archive Services develop effective working relationships with ARU. The ARU gathers information about the type and format of information held by the SA prior to conducting research in the county. Links are made with stakeholders.
2) Scoping Exercise	<ul style="list-style-type: none"> ▪ Historic sources of evidence are catalogued, further information is identified such as LA datasets. A county research plan is developed in consultation with the relevant SA, the county Archive Service and local researchers.
3) Base Map	<ul style="list-style-type: none"> ▪ A base map is developed in consultation with LAs. This is updated as research progresses. Includes information on paths that are already on the DM; the wider roads network; highways shown on List of Streets; other highway records including outstanding modification order applications. Also includes routes suggested by LA and local people.
4) Archive Research	<ul style="list-style-type: none"> ▪ ARU examines selected sources of historic evidence in National Archives; the British Library; House of Lords Records Office; and, each county Archive Service office. The research is organised for the 39 historic counties of England as most historic collections are organised in such a way. Once research for a given area is complete, the ARU undertakes an initial assessment to categorise cases and divide them into processing streams depending on type and amount of evidence found.
5) Case Evaluation	<ul style="list-style-type: none"> ▪ Once all evidence has been collected and evaluated for each route, a case file is assembled for examples where significant evidence for existence of unrecorded rights has been found. Files contain the information collected during the research and summarise the status of public rights identified and an assessment of strength of evidence found.

3 How the stakeholder engagement was carried out

3.1 The approach

The stakeholder engagement was undertaken using a best practice approach to participation called Stakeholder Dialogue. This approach places an emphasis on a good understanding of the context, careful design of the overall process, design of each workshop using tools and techniques that help people to talk about what matters to them, and impartial facilitation so that all participants have the opportunity to express their views.

For this process three stakeholder workshops were held between July and September 2007 to:

- Identify and clarify the potential benefits (and disbenefits) of the project;
- Build understanding of the existing situation and explore possible ways forward;
- Have the opportunity to ask stakeholders to help identify what needs to change to enable the project to achieve the benefits that are needed.

The workshops were designed to operate as a series so that the outputs from one fed into the next. **dialogue matters** acted as impartial facilitators to ensure that everyone had the opportunity to contribute. Through the workshops the potential benefits of the project were identified including ways in which these could be realised.

During the workshops opinions were recorded on post-it notes or on flip charts. These were then typed up 'word for word' and then sorted so that similar statements were grouped together and ideas and shared views could be identified through 'emergent analysis'. Since conversations do not progress in a linear fashion but go off at tangents, circle back and change direction suddenly, it can be difficult to make sense of a dialogue when it is reported in the sequence in which it occurs - often important themes and ideas can be obscured. This is why the sorting and grouping of views and comments was an important process following each workshop. Rather than using a pre-determined set of themes the process enabled the consultants to identify these as they emerged through the coding and sorting of statements.

The agenda for each workshop can be seen in Annex 5.

3.2 The timeframes and timing

The timeframe for the stakeholder engagement was approximately two months with workshops held in July, August and September 2007. This was necessary because of the need to meet deadlines within Natural England and report to the Board and then Defra on time. However it was acknowledged by DLW staff, participants, and **dialogue matters** that whilst this was necessary it was not ideal for the following reasons:

- The timing of the dialogue over the summer holiday meant that overall attendance was lower than might otherwise have been the case. Consistency of attendance was also difficult to achieve with a good number unable to attend one or other of the workshops due to annual leave.
- The time-frames meant that processing outputs from one workshop in time to design and prepare for the next was challenging.
- People were told of the dates of all the workshops at the outset but it was not possible to get joining instructions and agendas to them well in advance of each workshop which also had an effect on attendance.
- Most importantly, building social capital (trust and goodwill) between participants, takes time. For a project of this complexity, and with a history of tensions between different interests,

giving time for understanding and trust to develop is of particular importance. With the tight time-frames necessary in this case the ability of people to find and agree a mutually acceptable way forwards will have been affected.

3.3 Who took part

Representatives from a wide range of stakeholder groups and organisations were invited to attend the stakeholder workshops, which were convened and designed by **dialogue matters**.

Figure 6: Table showing the number of people taking part in stakeholder workshops

Attended one workshop	15
Attended two workshops	13
Attended three workshops	8
Total who attended at least one workshop	36
People who were unable to attend but wished to be kept informed and to see the workshop and final report	20
Total number involved	56

Participants included people with interests in Rights of Way, the countryside, farming, walking, horse-riding and other outdoor pursuits relevant to Rights of Way. People from local authorities (including those involved with Pathfinder Projects and Rights of Way Officers); national recreational groups and federations; government Agencies; Defra; PINS; archivists; the National Farmers Union; Local Access Forums; and, the Open Spaces Society were invited, along with other independent individuals.

The overall balance and attendance at the workshop was better than might have been expected given the timing of the dialogue across the summer months. However, some people were concerned about the balance between the number of representatives with an interest in DLW going ahead and those who felt their interests could be negatively affected.

Landowning interests were represented by the NFU, CLA, MOD and a private landowner who had been directly affected by the issue. However, concern was expressed that the effects on landowners was surmised by participants who were not landowners themselves - and so there should have been more private landowners present, particularly those who had direct experience of the issues, to explain how DLW affected their interests (and potentially those of the many other landowners who may be affected by this issue in the future).

It was felt that discussions could have benefited with more representation from:

- Nature conservation interests regarding the effect of increased access on features of nature conservation importance;
- Riverine/waterway interests; and,
- Tourism aspects regarding the potential contribution of discovering lost ways to the local economy.

In light of the timing, notice, and timeframes, the input and effort of those who were able to attend was greatly appreciated and will form a valuable resource to build on in future discussions. Annex 2 shows the attendance at each workshop.

The Technical Working Group comprised of participants who had developed a high level of technical knowledge of the history and legislation surrounding DLW including both local authority and independent experts.

The attendance lists can be seen in Annex 3.

4 Review of the current situation

4.1 What people hope for

To start the dialogue off on a positive footing participants were asked what were their long-term hopes for the future:

It is 2020 and you have just come back from a day out with friends using the rights of way in your favourite bit of countryside. You were delighted with what you experienced. Why what did you experience?

The following quotes give a flavour of their responses:

- *The route I used linked well with other routes of the same status*
- *We rode from the urban fringe along a walled lane (that used to be a footpath). Our friends rode up from another village along a packhorse trail, the children were fascinated by its history*
- *Wide reaching routes into the countryside*
- *Blue skies, hundreds of shades of green, laughter and a sense of freedom. I hardly noticed the ROW network I used.*
- *The DLW Project was a resounding success and I walked without touching a road*
- *On the county council's website I created a walk to suit me, family friendly, circular, within 1 hour of my home. Therefore the walk was exactly what I wanted.*
- *Maps were accurate and up to date.*
- *No routes through gardens or farmyards*

4.2 Benefits of Discovering Lost Ways

People expressed the view that these benefits are undervalued because there has been insufficient research carried out and so there is a lack of quantitative and qualitative evidence.

Potential benefits identified by stakeholders of discovering lost ways

- | | |
|------------------------------------|---|
| Achieving a useable network | <ul style="list-style-type: none"> ▪ The Pathfinder Projects are demonstrating that many so-called 'lost ways' are not actually lost to users, but are not on the map, and without them the network is less accessible and usable. ▪ The public would be set to benefit from additional access. ▪ Also, if LWs are identified this would provide a significant contribution to providing community circuits now and in the future. Inevitably, there will be improved opportunities for people to access the outdoors and potentially more useable routes closer to where people live. |
| Physical and Mental Health | <ul style="list-style-type: none"> ▪ DLW would provide a significant contribution to government Public Service Agreements (PSAs) for health: for example, reducing obesity. Also, routes could be used for elongated green gyms. ▪ In essence, more useable routes means greater opportunity for people to exercise through walking, riding or cycling. ▪ There is also more opportunity to access areas of tranquillity and this has mental health benefits. |
| Sustainable Transport | <ul style="list-style-type: none"> ▪ A more joined-up network offers more opportunities for sustainable transport over a wider and more accessible area. This includes routes for people to walk or cycle to work and extension to the national cycle network. Potentially this will reduce the carbon footprint of parishes, urban areas and individuals. It could also result in reduced air pollution and congestion. |

- Tourism and Economic Benefit**
 - With more potential for people to access the outdoors there will be more opportunities for tourism in certain areas as routes can be promoted on the basis of 'joined-up networks' (including circular walks); better opportunities for cycling and horse-riding holidays; and, heritage and nature conservation tourism.
 - From opening up LWs there may be knock-on benefits to landowners and the local and regional economy. Rural residents may benefit from opportunities for diversification from historic routes that are fully opened up and from more use of their area (e.g. bed and breakfast; cream teas etc).
 - People in the first stakeholder workshop pointed out the importance of DLW in terms of economic benefits:
 - *'Routes that meet local needs and local priorities (e.g. tourism/economy/health'*
 - *'Don't overlook generic "pure" benefits, e.g. health/economy/tourism'*
- Certainty when its all done**
 - In the long term, the project will settle years of uncertainty: *'Certainty to landowners and users about the location and status of ROW'* and *'Benefit in reducing conflict in the longer term.'*
- Greater care and concern for local areas**
 - Greater access to the countryside will bring the advantages of increased appreciation and understanding of nature and landscape conservation.
- Social connectedness**
 - More routes on the map may make for improved relations between landowners and users.
 - Local ramblers or riders using the routes in groups.
- Animal welfare**
 - Responsible users report livestock in trouble to local farmers.
- Heritage/History**
 - People involved with the Pathfinders and stakeholder workshops emphasised the importance of DLW in relation to heritage and the fact that, *'historic routes are part of our national heritage'*
- Education**
 - Better access to the countryside provides increased opportunities for formal and informal education
- Avoidance of accidents**
 - If the networks were well connected there would be less need for people to walk or ride on roads to reach the next bit of the network and this would reduce accidents. An issue of particular concern to horse riders.

4.3 Issues and disbenefits

The issues and disbenefits are wide ranging. The source of this information is from the stakeholder workshops and, where relevant, the Pathfinder Projects.

4.3.1 Issues and disbenefits surrounding the complexity and scale of the task:

- Unforeseen consequences**
 - If not put on the definitive map by 2026, 'Lost Ways' currently in use will no longer be rights of way and will be extinguished. This will result in a net loss to the system.
- Slow progress to date**
 - There were concerns expressed at the stakeholder workshops over the slow progress that has been made in identifying and mapping Lost Ways.
 - Pathfinder 3 reported that there are concerns that it is nearly 2008 and little has been achieved. Whilst there is appreciation that NE has a new remit and needs to evaluate the DLW Project, there may be a pressing need to alter the legislation surrounding 2026. *'The fact that Lost Ways has, as far as I am aware, yet to*

produce a single addition to a definitive map anywhere after seven years speaks for itself. For the sake of comparison, between April 2006 and April 2007 alone, over 8.6 kilometres were added to the network in Nottinghamshire as a result of our own proactive research work’.

- A comment from the Pathfinder review was that, ‘*The Pathfinders or something similar should have been looked into from the start of the project as it has now been 4 years since the project started and no actual additions/amendments have been made to any public rights of way network.*’
- Complexity of the current legislation**
- The current legislation is built upon layers of previous legislation so it is complex and inefficient. Stakeholders felt that the legal process hampers progress and is ‘*incredibly long-winded and bureaucratic.*’
- The scale of the task**
- Evidence from earlier research and the Pathfinder Projects indicates that there may be approximately 20,000 lost ways across England averaging between 0.5 to 4 lost ways per parish. The research in Cheshire, Shropshire and Nottinghamshire to date has identified 252 cases (in 175 parishes) with evidence that historic rights exist. This provides an average of around 1.5 cases per parish which multiplied up across England would amount to around 14,000 cases. However some parishes have significantly more cases (an average of 3.6 in Shropshire) and because the sample is still relatively small the original estimate of around 20,000 cases across the whole of England still seems a reasonable working figure (ref Natural England).
 - Stakeholders are concerned that the task will take too long given the currently available resources and that, ‘*the huge volume of work will not be complete by 2026.*’ People were worried that the project will run out of time. A more pragmatic approach was seen by many as a better way forward.
- The time the task takes**
- It can take up to 6-7 years to reach the legal order-making stage.
 - There are concerns that it will not be possible to identify all LWs by 2026.
- Resources**
- There are not enough people or funds to carry out the work required. Resources are needed by Local Authorities, Surveying Authorities and the Local Access Forums.
 - Many of the people who are involved in this work (eg in Local Authorities and users groups) lack the training they need.
 - Resources also need to be sustained over time to do the task properly.
 - A finding from the Pathfinder Projects in Herefordshire was that if, as part of their brief, the Archive Research Unit were tasked to engage with parishes either on a one-to-one level or at a series of area meetings, they would not only come up with a great deal of local evidence, but also a clear idea of local priorities. To enable this to be developed country wide considerably more resources would be needed but the process could, in theory, be supported by electronic questionnaires.
 - A comment from the Shropshire Pathfinder was that ‘*once the project gets to the claim stage, funding should be made available via a grant or other suitable means to enable the authority to resolve the issues arising.*’
 - Pathfinders confirmed the research and claims process is involved and lengthy and requires a realistic estimate of staff time and resourcing. End-to-end funding must be thought about in detail.
 - A further comment from the Shropshire Pathfinder was that, ‘*In the Shropshire case there is likely to be around 600 cases for the whole of the county which could all be dealt with if we could fund two additional Map Review Officers for a period of 5 to 6 years. The approximate costs for year 1 would be 61k and about the same for the following years give or take increments and pay increases. In total around 350k over a five year period.*’

- Significant variation from county to county**
- In each county the approach to Lost Ways is carried out differently with different levels of competency and skill amongst each authority and different levels of involvement and skill by the user groups.
 - The Pathfinder Projects have allowed the DLW team to see how different authorities deal with claims to the definitive map and illustrates that all authorities approach it in a slightly different way depending on set-up, resources, and local and strategic policies.
- The effect of the 2026 deadline**
- There is debate over whether this should be repealed or retained. There are many issues around this, for example, scale of the task in the time available, the idea of a rolling programme/cut-off date, predicting and meeting future demand; mis-directing resources on routes that effectively are unwanted/unusable. Someone at the TWG said *'the cut off date was for landowners but meant that DLW became a major research and bureaucratic endeavour'* (TWG 2)
- Evidence base used for lost ways**
- There are drawbacks to the evidence base used for LWs according to some people: *'The type of evidence DLW is gathering is based on primary and secondary evidence but most cases are resolved based on other evidence'*. (Stakeholder Workshop 1)
 - There is opinion that ARU procedures and guidance are too *'soul-less'* and leave out common sense and *'the know-how, intuition and insight that comes from years of practice'* (TWG2). For example, sometimes factors such as the pattern of gates/stiles and field boundaries may be a good enough guide to get a sense of the route of a LW.
 - DLW evidence is seen as making up a small (though often crucial) part of the evidence.
 - The road maps and guidebook evidence is now more important since the NERC Act and shouldn't be overlooked.
 - People feel that there is a need for pragmatism in dealing with primary and secondary evidence. There was concern expressed from the Pathfinder review that ARU assessments lack context and this can lead to flaws in interpreting evidence. There is a need to bring in strong local knowledge and expert opinion which NE does not necessarily hold. This needs addressing through enhancement of standards
- All rights?**
- The *'pragmatic'* aim is for a joined-up network based on usefulness and the needs of users. People want ROW that are clear, open, easy to use, and well-maintained. They also want *'wide-reaching routes'* into the countryside.
 - The issue is whether all Lost Ways are needed or whether the focus should be on priorities in terms of well-used routes. In terms of putting all rights on the definitive map, there are advantages for local parish networks (circular walks and people using ROW for walking to work or for pleasure) and also advantages for long-distance riders and walkers. In terms of the bigger picture, mapping all rights gives information on the total amount of routes which means that there is more certainty. However, there are drawbacks in terms of the 2026 deadline and rights of access to land in the future.
 - Pathfinder Projects also identified a desire for improved network connectivity (e.g. Herefordshire) through mapping missing desired links.
 - Evidence from Pathfinder Projects showed that there was a lack of understanding about the difference between improvements in the Rights of Way network based on need, and DLW based on research evidence.
 - A lesson emerging from the Shropshire Pathfinder is that whole routes do need to be looked at – not just simply creating case files based on historical evidence.
- Bottle necks at the**
- There are bottle-necks at various stages in the process as illustrated by these

various stages in the process

quotes from the second stakeholder workshop:

- 'Solicitors can be a bottle-neck in the system';
- 'Record offices – the ways they operate can hinder process';
- 'Public Inquiries take a huge amount of work';
- 'Cases are rejected too vexatiously';
- 'But there is blight in the process at the moment because DLW will pick things up eventually. We've had 7yrs of 'planning blight'.

- There was seen to be a Planning Inspector bottleneck and a Local Authority bottleneck.

Treatment of urban, urban fringe and rural areas

- Some stakeholders felt there was a need for more emphasis on urban areas with many un-recorded routes used for convenience by the public.
- The urban fringe should be a priority area since these areas are often used for routes and horse-riders also use areas around towns.
- The relationship between the Lists of Streets and the definitive map needs to be developed.
- There is a lack of research and evidence for urban LWs.
- There was perceived to be a need for even-handedness between rural and urban areas.
- Urban areas are not necessarily excluded from the DLW Project but many of the routes e.g. alleyways, do not feature in the documentary sources used by the ARU
- People at the workshops said that: '*urban areas 'really should not have been separated out, they are mostly a key part of the whole, as the NE -supported Greenway plans attest. Numerically they are very many and too important to be sidelined! They are mostly currently in use and that category is very important'*.

Future Proofing

- DLW does not help to 'future-proof' in that it is not necessary to look ahead to see which routes people might be using in 2026.
- Local and visitor demand for routes may change.
- Government and political direction may change.
- The effects of climate change are not fully understood.

Effects of finding evidence that is not progressed

- During the workshop people raised concerns about what happens to the evidence that is discovered but not progressed. The concern is that as soon as it is made public it could be taken forward at any time up to 2026. This has the potential to cause long-term uncertainty for landowners with associated difficulties in making land use decisions and the potential effect on land values.

4.3.2 Issues and disbenefits about communication

Contention

- The current procedures actively encourage adversarial behaviour and make it difficult for people to engage in principled negotiation.
- A non formal application approach being trialled in the Shropshire Pathfinder allows more flexibility in dealing with claims from the research (see Section 8)

Low profile of DLW

- Stakeholders were concerned that DLW was too low profile and that the name of the Project did not help this situation. The public were not aware enough of the Project. Comment was made on the '*Unsatisfactory title of DLW. It should be called 'avoiding destruction of PROW'*.

Political will and Potential Backlash in 2026

- The Project does not have enough political backing which also results in it being low profile: '*There is a lack of government will because the case hasn't been put convincingly'*.
- There is seen to be a lack of political will, and perhaps the project needs to be reviewed in terms of planning for a few years at a time to focus it and also to focus

Profile and understanding within Natural England

- political will.
- Politicians may well face a backlash in 2026 regarding public rights and landowners
- Some people felt that DLW even had a low profile within Natural England and that senior staff should have been involved in the workshops. One comment was: *'Accessible senior management would be helpful (but tricky until NE has settled down)'* (Stakeholder Workshop 1)
- People expressed concern that senior management might not have sufficient understanding to make informed decisions and felt that it was important for dialogue to take place between NE Board decision-makers and those working in more detail on the DLW process/benefits and the likely consequences of not 'doing DLW properly'
- It was also felt that other NE sections should be involved in DLW to a greater extent, particularly those on the nature conservation side.

Language

- There has been a problem identified with people not knowing exactly what a 'Lost Way' actually is and what the definition of a 'historic way' is.
- Difficulties were identified regarding public understanding of the terminology and also how the process, terminology and implications are communicated to landowners.
- The term 'Lost Ways' is thought to mean lost to use although it has emerged from the Pathfinders that many so-called 'lost ways' are in current use so the ways are lost from the map not necessarily to users.

Communication difficulties

- Communication between organisations was identified as a difficulty with a need for more regular updates. Stakeholders in the first workshop mentioned that there was a need for more contact between the DLW team and local authorities.
- This was borne out by Nottinghamshire's Pathfinder 3 view that it was important that there was regular, timely communication to all of the SA (not just the DM team involved in research) providing information about project progress and how the SA can help and get involved. It was seen as important to keep regional colleagues regularly informed and involved at early stages of project development to secure 'buy in' from them and their managers, but lack of national resource impacted on the availability of staff for briefings.
- A Communications Strategy has been written for the DLW Project in NE and those who knew about felt it was thorough but not being implemented.

Attitudes and Perceptions

- Throughout the workshops, different stakeholders gave accounts of blocks and hindrances encountered when dealing with the other interests and organisations involved including: obstructive LA officers, people (users or landowners) who initiated objections, people who challenged cases vexatiously; and, obstructive landowners.
- People felt that certain authorities were negative and that didn't progress matters positively.
- People were also concerned that the attitudes and emphasis in the DLW Project could lead to exclusion of some groups including users, landowners and the public in general. Some quotes illustrating these concerns from stakeholders are included below:
 - There was seen to be a risk of excluding, *'those whose voices are not heard'*.
 - There was concern that the, *'overemphasis on "rights" risks losing public "buy-in" and is a risk to the credibility/reputation of the project and its outcomes'*.
 - Also people said that: *'Access is basically thought of as walkers only'*.
 - Regarding landowners, there was concern about getting them on board: *'Need to encourage landowners to enter into negotiations. The strict nature of*

- *legislation is a turn-off and encourages entrenched views.*
- *'There is the challenge of understanding all those perspectives'*
- *'There are a lot of myths and misunderstandings'*
- *'Value judgements are brought in that should not be brought in'*
- *There was concern 'that NE are going to find a way to wrap it up or won't get round to a particular LA'.*
- *There was a view that there is a 'public perception that this project is a "goner".'*

4.3.3 Issues and disbenefits for the different organisations and interests

Local Authorities

- There are more and more statutory requirements for local authorities because the situation is so complex. *'Local government reorganisation has a knock-on effect to Rights of Way'*. LAs faced a lack of resources (including personnel) to deal with the increased workload that DLW requires.
- It was suggested that there should be a ROW agency independent of LA influence.
- It was noted that Local Authorities are not required to undertake research but they do have a duty to look at ROW and protect them.
- For Highways Authorities there are financial implications of Public Enquiries and not enough resources.
- A view from the Pathfinders was that, *'Ultimately if the responsibility of dealing with historic cut-off had been allocated to the authorities responsible for the definitive map in the first instance then a lot of time and expense could have been avoided'*

Effects on Landowners

- The effects on landowners are not well understood or documented. (This includes amongst landowners themselves many of whom are unaware of the issue): *'Historic Claiming is not accepted by farmers and landowners. They don't understand it; don't believe it can or shall happen. New rights created imply cost, hassle etc to them. They have nothing to gain from the process'*
- As soon as evidence (even weak evidence) is made public, it leads to *'Uncertainly for rural residents – firstly with claims and secondly with published evidence. These homes are instantly blighted'. 'Something needs to be done about the blight caused when finding a lost way on someone's land'*.
- When claims are dealt with by the local authorities and farmers and landowners are notified, it causes landowners significant *'Anxiety,' 'Uncertainty and worry'*.
- At workshop 2 during a discussion about the effects on landowners the following disbenefits were noted: *'loss of privacy, increased scope for trespass, loss of property values, loss of arable land (byways cannot be cultivated), loss of development potential and uncertainty, lack of biosecurity, costs of maintenance of gates and styles, and costs of maintenance of the route'*.
- Risks of stock escaping and issues with livestock and dogs were also noted. Of particular concern was the issue of not being able to gate byways: *'How will land managers control stock and fulfil legal obligations if they can't put gates across?'*
- There is the potential issue that new or increased access could undermine conservation actions taken by landowners and funded by agri-environment grants, thereby calling into question if the landowner is delivering what has been agreed.
- Some people believe that landowners should have a right to appeal and modern-day reasons why a LW may not be appropriate from their point of view should be considered and there should be opportunity for landowner to propose alternative routes

Effects in Higher Rights and Vehicles

- Higher Rights are under recorded and making claims for bridleways is more complex than for footpaths.

- There is a lack of recognition of the value of multi-user routes and the potential social, economic, landscape and heritage benefits.
 - There is a national body to help develop a national network for cyclists (Sustrans) but not for horse riders or horse drawn vehicles. However there are 4.3 million riders and there is the need for a national body like Sustrans.
 - There are not enough rights of way with Higher Rights. What there is, is badly fragmented. The fragments are often inaccessible or there is a significant risk of accidents when roads are used to link fragments to form a route.
 - There is a problem with the width of ways where there is shared use
 - Coastal bridleways are not being taken into account with DLW.
- PINS**
- There are too few Inspectors and this creates a huge bottleneck
- LAFs**
- Their role is not very well defined in terms of surveying and there is a need for guidance. Stakeholders felt that LAFs were not yet part of the process.
- Role of volunteers and user groups**
- Volunteers tend to be active in pockets around the country, which makes it difficult to develop a nationally consistent approach to their involvement and the extent to which they could or would want to do the work.
 - This means it would also be difficult to roll out nationally relevant guidance or training.
 - Volunteers could be engaged to help to raise public awareness however the lack of funding for volunteers is a problem.
 - Where voluntary groups have a lot of impetus they won't stop their research. Their role was seen as important in terms of the next five years: *'(we need) experienced volunteers engaging with wider community to raise awareness and understanding and helping develop consensus about where routes are most important'*.
 - User groups tend to be active where LAs are not particularly active.
 - There is a significant cost for volunteers to attend public inquiries but if they are not involved and present, the claims tend to be less strong.
 - In terms of engaging volunteer groups in the Pathfinder Projects it was found that the method of inviting them to meetings was very labour-intensive and alternatives such as electronic consultation were discussed.
- Role of parish councils**
- The Pathfinder Projects highlighted the lack of knowledge within Parish Councils both of DLW and Rights of Way issues generally.
 - Without understanding the risks to their local network of rights of way Parish Councils are not going to take action.
- Local/user Knowledge**
- Local user knowledge is overlooked and undervalued as a source of information for identifying Lost Ways. A comment from the Cheshire Pathfinder Project was that there was likely to be more potential routes but not enough information about user groups to consult people with views or local knowledge although user groups are now being provided with information on claims to see if they can provide further information.
 - All Parish Councils' representatives involved with the Herefordshire Pathfinder Project indicated that there are individuals within Parishes who would have knowledge which would be of use to the project

4.3.4 Issues about understanding each others roles and organisations

As part of building understanding between the different organisations people were asked to place what they did to contribute to Discovering Lost Ways onto a table. The results can be seen in Annex 7.

However following this activity some key points emerged.

- | | |
|---|--|
| Expectations and the Capacity of the DLW Project Team | <ul style="list-style-type: none"> ▪ People expressed surprise that the DLW Project team was so small (at the time of writing the DLW team comprises 12 people including part-time staff). ▪ Clearly expectations of what the DLW Project could achieve exceeded what people would have expected if they had realised the staff resources available to do the work. |
| Perspectives of stakeholders | <ul style="list-style-type: none"> ▪ The perspectives of stakeholders are inevitably strongly influenced by their own experience in their own locality; however, people had clearly assumed that their own experience was typical. This proved to be far from the case. For example, some user groups had assumed that all Local Authorities were difficult and uninterested whilst people from Local Authorities had assumed that user/volunteers groups were not well organised and not able to grapple with the issues. |
| Variation from area to area in the roles and activities of different organisations | <ul style="list-style-type: none"> ▪ The above point helped to flag up the significant differences in the way the DLW is tackled from area to area. In some areas volunteers are well informed, active and capable of undertaking the complex work needed to research and make a claim. Elsewhere user groups are non-existent or barely functioning. ▪ Likewise some Surveying Authorities are staffed by committed and enthusiastic teams who are working as effectively as possible, within the current statutory context, to make progress. Elsewhere, particularly in Unitary Authorities, there are few, if any, staff with the relevant skills to do the work. ▪ The extent of this local variation makes it difficult for firm conclusions to be drawn about the current issues and the best way forward. |
| Understanding of the role of the Pathfinders | <ul style="list-style-type: none"> ▪ Pathfinder 3 reported that the 'trial' nature of the Pathfinder approach was not fully appreciated by stakeholders and some organisations. |
| Focus on rare cases | <ul style="list-style-type: none"> ▪ The cases that get discussed in each area are the ones that stand out from the remainder. The comment was made that, as a result, the cases that get cited to make an example about, e.g. how landowners have experienced DLW or the problems users encounter are focused on the extreme situation or case. ▪ There is the risk of skewing procedures and action to address these rare situations rather than ensuring the procedures work effectively in the majority of cases ▪ However it is also vital to learn the lessons from the current difficult cases so they can be avoided in the future. |

5 Exploring possible ways forward

5.1 Possible ways forward and the benefits and disbenefits of each

1. Do Nothing

It should be noted that different stakeholders understood this ‘do nothing’ option in different ways e.g. repeal/do not bring 2026 into force; bring 2026 in early; leave 2026 but have no DLW.

Figure 7: Benefits and disbenefits of ‘doing nothing’ and ways forward

Benefits	Disbenefits and negative effects	Risks and challenges	Do-ability and achievability	Other comments
<ul style="list-style-type: none"> ▪ <i>The methodology is established</i> ▪ <i>Resources (including time) currently tied up in research and PI could be made available for ROWIP work and LAs have more time to focus on other access strategies.</i> ▪ <i>There are time and resources to catch up on backlogs.</i> 	<ul style="list-style-type: none"> ▪ <i>Lost access and inconsistencies – no comprehensive network</i> ▪ <i>Funding that has been used to date will be wasted</i> ▪ <i>Lack of coordination and duplication</i> ▪ <i>LWs risk remaining lost</i> ▪ <i>Need to consider revision of cut-off date</i> ▪ <i>More work for SAs to find evidence for claims made by individuals</i> ▪ <i>Lack of provision for future needs not provided for in legislation</i> ▪ <i>No contribution made to other government PSAs</i> 	<p>Risks</p> <ul style="list-style-type: none"> ▪ <i>Could be reaction to existing commitment of resources without perceived gain</i> ▪ <i>Uneven outcome depending on different parishes</i> ▪ <i>Some ways and rights lost</i> ▪ <i>No contribution to NE’s strategic aims</i> ▪ <i>Need legislation to stop uncertainty</i> ▪ <i>Paths created through agreements with ROWIP where public ROW already exist</i> ▪ <i>No network for equestrians</i> <p>Challenges</p> <ul style="list-style-type: none"> ▪ <i>Selling it to users</i> ▪ <i>Any LWs should still fit within ROWIP.</i> ▪ <i>Creation agreements to date tend to be FPs only.</i> ▪ <i>Foresight</i> ▪ <i>Finding another way to protect public rights.</i> ▪ <i>Production of national guidelines by NE.</i> 	<ul style="list-style-type: none"> ▪ <i>Repeal cut-off date which would reduce staffing of LAs, NE and PINS</i> ▪ <i>Need to influence mindset of users and landowners</i> ▪ <i>Carry on with self-selecting system for routes</i> ▪ <i>NE should look closely at its involvement in this project</i> ▪ <i>Need to improve planning process to give a more strategic approach to improving the network</i> 	<ul style="list-style-type: none"> ▪ <i>‘To ‘do nothing’ might be two things: either (1) leave 2026 in place and continue ad hoc system of users claiming routes, or (2) repeal 2026 and carry on as we are’</i> ▪ <i>‘Users and some authorities would see this as betrayal’</i> ▪ <i>‘Routes are lost for a reason – they are redundant as there is no longer a use for them’</i>

2. Identify all lost ways

Figure 8: Benefits and disbenefits of identifying all lost ways and ways forward

Benefits	Disbenefits and negative effects	Risks and challenges	Do-ability and achievability	Other comments
<ul style="list-style-type: none"> ▪ Benefits to the public from maximising access opportunities including through Higher Rights ▪ Restoring a sense of fairness through a secure basis with all LWs considered ▪ Future-proof ▪ Ties in with other government PSA targets and aims ▪ Useful foundation for negotiation ▪ Recognition of our heritage results in sensible useful routes that technically belong to public and user groups ▪ Results in thorough map and certainty via evidence to achieve original purpose of legislation ▪ Important for conservation through hedgerow protection 	<ul style="list-style-type: none"> ▪ Uncertainty and worry for landowners ▪ Expense to tax payers who may not use routes ▪ Loss of tranquillity and qualities of designated sites ▪ Diversion and adequate channelling of funding and policy will be key in order to ensure that there are enough resources available ▪ There are issues regarding the practicalities of identifying LWs as to their use, whether they are obstructed, and whether there can be some 'swapping' for other ROW 	<p>Risks</p> <ul style="list-style-type: none"> ▪ The project is not achievable because of the amount of data that has to be dealt with and not enough resource provision ▪ Need demonstrable realistic cost-benefit analysis including wider public benefits ▪ Fear of politicians when they see the reactions of landowners ▪ Will not be achievable in the time available given the huge scale of tasks – need for more pragmatic approach ▪ Money wasted on developing routes or pursuing claims for routes that will not be utilised ▪ Legal process hampers progress ▪ Too much emphasis on 'rights' which may lose public sympathy for overall outcomes of DLW <p>Challenges</p> <ul style="list-style-type: none"> ▪ Obtaining resources including central government funding ▪ Persuading government of the greater public good ▪ Selling the process to landowners and farmers ▪ Dealing with the volume of work ▪ Not enough PIs ▪ Application to coastal access 	<ul style="list-style-type: none"> ▪ In order to achieve this there is a need for LAs to have more funding ▪ Robust policies are needed for prioritising claims once they are submitted ▪ The 2026 deadline should be extended or mechanics of cut-off date changed ▪ Need action by ARU to improve their capacity for getting claims in, and the need for ARU to have clear criteria for claim submission ▪ Need to work with landowners to encourage more positive response ▪ System needs to be adapted to allow some room for dialogue – not just 'rights-based' determination ▪ There needs to be support for local users ▪ Place less emphasis on the role of LAs – operate through District Authorities, Boroughs or NE 	<ul style="list-style-type: none"> ▪ 'Don't overlook generic 'pure' benefits, e.g. health/economy/tourism which will not necessarily come out – but outcomes should have been factored into the protection of ROWIPs and therefore reflect local needs and risks' ▪ 'There is a question about whether this fits within the role of Natural England'

3. Needs-led

Figure 9: Benefits and disbenefits of focusing on routes that are in demand and provide a usable and useful network, and ways forward

Benefits	Disbenefits and negative effects	Risks and challenges	Do-ability and achievability	Other comments
<ul style="list-style-type: none"> ▪ Priority routes are recorded ▪ Money focused on public benefits ▪ Making use of information from ROWIP that has already identified the needs ▪ More focused and effective use of limited resources ▪ User groups can progress specific types of routes ▪ Credibility both through evidence and local engagement ▪ Routes that meet local demands and wants ▪ Benefits to landowners through ways being opened up, and users ▪ ROWIP wishes are useful for directing action after research 	<ul style="list-style-type: none"> ▪ Routes may be missed out and not all needs addressed including future needs ▪ Some ways may be lost forever and historical record may be distorted or destroyed ▪ There is a question over whose role it is to take forward claims ▪ All routes still have to be identified first to see if there is a ROWIP-defined need for them ▪ Concern over whether the surveying authority assessment is challengeable ▪ Farmers and landowners have not been engaged in DLW process and therefore do not understand process ▪ Discretion in choosing routes may lead to some landowners and users being favoured over others ▪ Subject to political fashion ▪ Uncertainty – researchers and users and HAs may not know what has and has not been done ▪ Money being wasted deciding where to look rather than actually looking ▪ Bargaining using the ability to stop-up paths will have to be given up 	<p>Risks</p> <ul style="list-style-type: none"> ▪ Inconsistency in prioritisation through ROWIPS ▪ Some people (users) will be excluded through lack of engagement and decision-makers not taking them into account ▪ Routes that could be useful in the future will be lost ▪ Future generations might have different needs ▪ Legislation and statutory duties still unable to progress ROWIP and LWs ▪ Insufficient resources ▪ Importance of remembering that recreational use is facilities-led ▪ Variation and deviation from original objectives depending on local area politics ▪ Loss of public rights ▪ Potential loss of national context for identifying routes that add value if driven by ROWIPs <p>Challenges</p> <ul style="list-style-type: none"> ▪ Need to understand all users' needs ▪ Assessment of future demand ▪ Persuading councillors of value of ROWIP ▪ Obtaining central government funding to increase LA resources ▪ Promoting value/benefits of LWs to gain resources ▪ Selling the process to landowners ▪ Production of national guidance 	<ul style="list-style-type: none"> ▪ Need to provide resources to address needs and process claims ▪ Need for a fair process where all people can 'have a say' ▪ Need for government to backtrack ▪ ROWIP process needs to be consistent, validated and scrutinised ▪ Research frame to be exposed to public scrutiny ▪ Need pre-claim identification of LWs before looking to integrate with ROWIP and other needs ▪ Need higher political profile of ROWIP ▪ Identification of evidence of LWs under current legislation should be enough to trigger a modification 	<ul style="list-style-type: none"> ▪ 'Needs-led was how it was done until the CROW Act cut-off. The cut-off means that effort shifts to the broad picture and away from needs, however defined (ROWIP on local path user)' ▪ 'National guidelines required to ensure consistency'

4. Identify the resource of lost ways in order to claim those that provide most public benefit

The discussion about the three ways considered above indicated that none of these options were satisfactory and, based on the comments people made, we proposed this alternative for consideration.

Figure 10: Benefits and disbenefits and ways forward in considering lost ways that provide the most public benefit

What are the benefits and positive effects (short and long-term)?	How could these be strengthened?
<ul style="list-style-type: none"> ▪ Certainty about total number of LWs ▪ Will enable easier prioritising ▪ Will preserve cultural heritage for future users ▪ Benefits to Higher Rights users ▪ Benefits from network of routes that relates to supply and demand ▪ Considerations as to whether ancient network suits modern day users ▪ Will enable negotiation ▪ Benefits to businesses and health ▪ Less fear of crime ▪ Pragmatic approach ▪ Will relate to demand/need ▪ Enables future planning for users, local authorities and other organisations ▪ Might result in similar process in Wales ▪ Need to consider 2026 cut-off date ▪ Don't have to deal with complicated user claims – can be based on historic evidence ▪ Focus on MOD land ▪ Focus resources and legislation ▪ NE needs to promote project to landowners ▪ If NE recorded would prevent duplication of effort ▪ There is currently blight in the process 	<ul style="list-style-type: none"> ▪ Through looking at networks of parish routes on whole-parish basis ▪ Deals and negotiation ▪ Through research leading to prioritisation of claims ▪ NE role as coordinator ▪ Align process with central government's objectives re. democracy, health and joined-upness ▪ Government influence on other organisations
What are the disbenefits and negative effects (short and long-term)?	How could these be overcome?
<ul style="list-style-type: none"> ▪ Current laws may mean there are reservations about benefits ▪ Property blight may be the effect of weak evidence ▪ Complete swamping of the system by the volume of claims ▪ Danger of casting the net wide as some LAs have already prioritised so it would be a waste of time and resources ▪ Problem with authorities prioritising claims but not actually finishing the job ▪ Resource requirement to make all of these claims is onerous on the tax payer – need Cost Benefit Analysis ▪ The LW currently don't link to improvement plans 	<ul style="list-style-type: none"> ▪ Manner in which evidence is shifted through – defining criteria to filter process (routes and criteria) ▪ To educate people about the fact that on balance the system is fairly even-handed because many genuine paths are blocked ▪ Lost Ways is an additional resource to that held by LAs ▪ Improve guidance on ROWIPs to link to the LW work ▪ In order to remove this uncertainty there would need to be legislative change ▪ Do something about the 2026 deadline, i.e. remove it and make it open-ended OR extend it according to the real size of the task

<ul style="list-style-type: none"> What happens to the evidence for routes that aren't prioritised? 	<ul style="list-style-type: none"> Provide proper resourcing
<p>What are the risks and challenges?</p>	<p>How could these be minimised?</p>
<ul style="list-style-type: none"> Major task considering time and resources Changes in the network and future demand Need methodology that will identify total demand Pathfinders are identifying local resources Effects of climate change should be considered Pragmatic strategy Allows for bartering and trade-creativity Need to consider strength of evidence Need legal changes 	<ul style="list-style-type: none"> Need more time and resources Promote benefits of project Get people on board including councillors – raise profile Need cohesive remit and organisational structure Consider market demand Consideration of existing use of LWs Solutions through deals/negotiation Re-wording of statement Address practicalities of Project Need mechanism for prioritising Work out who takes forward claims Consider user needs Consider effectiveness of ROWIPs More issues with footpaths than Higher Rights Ways Communicate with landowners Clear vision for potential Clear guidance including from NE Need enablers for 2026 Use of evidence – need to use user evidence PINS bottleneck needs to be addressed Need consistent decisions
<p>What needs to happen for this to work</p>	
<ul style="list-style-type: none"> Need on-line communication between organisations and individuals. Beware of assumption that mixed status routes take higher status for whole route length – that could be upgrading without evidence. Give LAs money to create new routes where there is demand, but also consider landowners. List of streets – agreement on how to develop this and whether urban LWs are taken into account. Agree what constitutes strongest evidence. Identify demand and user needs. Recognise strong value of multi-user routes. Resources for volunteers. Focus research on what is needed Rebuild users' confidence Facilitate deals that result in overall public gain 	<ul style="list-style-type: none">

- *Landowners need to know more before formal process starts*
- *Have Swedish/Scottish system*
- *Scrap 2026*
- *Simplify process*
- *Use EU funding for greenways*
- *Government guidelines on benefits*
- *Integrate ROW into strategic planning*

5.2 Levels of support for a possible way forwards

Based on our reading of people’s responses to the first three options that were discussed at the second workshop (Do nothing, Needs led, and Identify all lost ways), we proposed the following as another way forward:

“The focus of effort over the next five years should be to:

Identify the total available resource of Lost Ways in order to prioritise and claim the Lost Ways that have the strongest evidence and that make the best contribution to a network of routes (including multi-user routes) that meet local and visitor demand.

(Ensure national consistency by providing clear guidance and training on research methods, prioritisation, local involvement, and principled and early-stage negotiation and dialogue with landowners.)”

When asked what their view was participants responded with the following:

Figure 11: Levels of support for a middle way forwards

Over my dead body!	I have concerns	I can live with it	I can support it	I could actively support it (ie with resources) and would put in real effort to help achieve it
First Response				
✓	✓ ✓ ✓ ✓ ✓ ✓ ✓ ✓ ✓ ✓	✓ ✓ ✓	✓ ✓ ✓ ✓ ✓	
What would be your response if your specific concerns could be met.				
✓	✓ ✓ ✓ ✓ ✓	✓	✓ ✓	✓ ✓ ✓ ✓ ✓

People were also asked what would need to happen for them to move their support to the right and the second row above indicates the shift. These results, and the language used in the comments, demonstrates willingness amongst stakeholders to find an effective way forward but a lack of confidence that this can be achieved in the current context. The comments included the following:

Broadly it offers a sensible way forwards but the wording needs sorting out:

I would actively support ‘Notwithstanding the effort needed to address the challenges and concerns of all parties (i.e. wording etc may not be perfect)’

Concerns about the interpretation of the wording:

- *‘Recognition that “demand” for certain users will be less than for other users because of the numbers who undertake these activities, but this does not make those demands any less significant, eg for horse riders’; and ‘Concern about the word “demand”. The main issue is protecting the current network from the cut-off date’*

Scepticism about how it could be achieved:

- *‘ Who will provide the manpower, finance, and time, resource to identify the “resource of lost ways”?’*

Strong concerns that this will not deliver what is needed and the effects it could have:

- *‘If weak evidence is made public, it will blight homes/properties for no good reason’ and ‘I do not think that this will deliver what we want- local delivery of routes based on need. Method of approaching landowners needs to be re-looked at. Most are not aware of process and a letter identifying or notifying landowners evokes the wrong response. Flexibility needed to negotiate with landowners on routes. Concerns on funding/resource to take this forward – public benefit must be delivered. Process of making claims very lengthy and costly’*

5.3 Focusing effort.

Stakeholders repeatedly commented on how cumbersome the current procedures are and the need to make real progress in such a huge task. To help make progress people were asked to think about possible ways of focusing the effort.

5.3.1 Possible filters for usability and delivery of public benefits

The following criteria were identified as potential filters for usability:

Lost Ways that are already in use

- Focus on routes that are already in use and identify gaps in the network according to local need.

Level of use

- Consider the number of people likely to use a route although many just use *‘what is there’* so it is hard to predict.
- Develop a recreational index of value.

Consider all users safety

- Focus on safe alternatives to road use

Public Benefit

- Public benefit is a useful way of filtering provided it does not happen at the *‘discovery’* stage.
- It is important to consider which sectors of the public are set to benefit, and to agree guidelines on what is a *‘benefit’*, e.g. network connectivity.
- It is also important to consider the effects on landowners – the benefits and disbenefits.
- Rights that help in local transport provision should be considered from a functional rather than *‘rights’* point of view.
- Also it was seen as important to demonstrate cost-benefits in relation to health and well-being, local economy, tourism, etc.
- A list of public benefits would be useful and benefits could be ranked according to local needs. Claims that provide local benefits could then be identified.

Local view on what the focus should be

- Public benefits will vary from place to place; therefore the focus needs to be locally-driven and local users and parish councils should have an input (this idea of local involvement being key was also very evident from the Pathfinder findings).

- Impact of the loss of a right**

 - There was a view that emphasis should be placed on multi-user routes that could give more public benefits.
- Vulnerability**

 - Important to consider the impact on the network if routes are extinguished. The opportunity cost.
- Link with ROWIP, Access Improvement Plans and Linking Routes**

 - Access the vulnerability of routes to destruction/obstruction through land use change.
- Link with ROWIP, Access Improvement Plans and Linking Routes**

 - Important to link into ROWIPs and talk to local authorities about needs, although there was a view that ROWIPs can be too strategic. Connecting up network by linking cul-de-sac paths as well.
- Areas Close to Where People Live**

 - Focus on providing local access opportunities to amenities and green space.
- Strategic Planning**

 - Bring ‘access’ and ROW into the existing planning framework and regional plans and also show how routes can contribute to the Government’s sustainability targets.
- Heritage**

 - Historical and heritage-type routes may not emerge from typical linking or user demand criteria – this is a public benefit although may not appear immediately ‘useful’.
- Link the Urban and Countryside**

 - There should be some priority for ROW that would link urban and local countryside areas plus there should be consideration for ‘utilitarian’ paths, for example, in built-up areas.
- Consider Areas where Rights of Way are Lacking**

 - There should be some priority for localities where ROW are ‘thin on the ground’.
 - Sorting the List of Streets and Highways List would allow focus on a smaller number of cases.
- Focus on areas where Higher Routes are Lacking**

 - Higher-status routes provide the most public benefit and tend to be longer routes so will open up the maximum amount of access by supplying links between local networks.

5.3.2 Possible Filters for Research

Prior to responding to this question stakeholders made the point that it was a strange question to ask five years into a the research project. They also expressed the view that the current research seems very ‘mechanistic and protocol-driven’ and that there is a need for more of an overview, and synthesis of the evidence, which is important from a practitioner’s point of view.

The following areas were identified as possible filters to help focus research:

- ROWIPS**

 - Link to their priorities and focus on linking routes.
- Involve local people**

 - The right groups of people need to be involved – users, parish groups and local enthusiasts.
 - Limit the initial trawl of the evidence to key sources that are agreed locally
 - There is the need to capture local knowledge swiftly – it is often held by elderly people, or local people who might move away.
- Focus at the Parish Level**

 - Each parish has its own records relating to all LWs in parish. There was a view that the Project should be route-led not demand-led and that there should be a

parish-by-parish trawl to identify public routes for claim. Also need stakeholder engagement at this level. Each parish should be researched to identify at least one higher-rights/multi-user route so that children can cycle or ride in the local vicinity.

- List of Streets**
 - Sorting the LoS and the definitive map into highways list would help focus on a smaller number of cases.
 - The Project needs to sort out an agreed approach to its relationship with list of streets
- Focus on the gaps**
 - Identify gaps in the network and target hotspots where the DM is poor but there is a good historic record (this was also commented on in the Pathfinder Projects)
 - Prioritise routes that give better connectivity to a ROW network
- Find Key sources of evidence**
 - Need for agreement on interpretation relating to key sources, e.g. OS maps, and the weighting of key source materials. Also, need agreement on status of each type of evidence. The definition of minimum research 'requirement' confirming the existence of a LW needs to be determined. Important to decide what to do about white roads, ORPAs and routes in between.
- Look for Easy Wins**
 - Base research on easy wins – by using firm evidence criteria. For example, researchable routes often are clustered due to good sources of historical evidence in a given parish or estate.
- Legislation**
 - Need to legislate first to give better climate for research to flourish
 - The law states that the authority must look at everything so the less evidence NE selects to examine the more LAs need to look at.
- Urban**
 - There is a need to decide what to do in urban areas where there may be alleyways with little documentary evidence
- Be Pragmatic**
 - Pragmatism is important as a keystone (may be enabled by legislation/change of culture), for example, ignore situations where time has moved on and there might be built development now in place.

5.4 Making the process run more smoothly

- New Legislation and streamlining**
 - The process needs streamlining, or a different type of process - such as that used when dealing with tarmacked roads.
 - It would be more efficient to avoid PI.
 - PINS and SoS capacity to determine claims should be increased.
 - The right of objection should be limited to landowner/occupier in the case of additions/upgrades
 - Legislation should be amended to account for modern-day issues;
 - Path changes should require a clause to do with public gain.
 - There was opinion that the 2026 deadline should be removed and there should be a more realistic timescale in place
 - People felt that there should be more of a climate of cooperation and negotiation with landowners.
 - It was suggested that the focus should be on routes already in use.
 - Stakeholders also suggested that, through statute, routes of mixed status should be upgraded to higher status throughout.
- Early involvement and consultation**
 - A new consensus culture with negotiation involving all stakeholders should be generated.

Landowners

- It was felt that streamlining of implementation should not be at the expense of due process and should not disregard landowners' interests, in other words there is merit in a PI in terms of giving validity to decisions.
- Landowners should be engaged with at an early stage to explain the definitive map and the process for changing it as a precursor to further dialogue. Evidence from the Pathfinder Projects backs this view up: for example, it was felt that landowners should have been briefed earlier in the Nottinghamshire Pathfinder and that a landowner workshop should have been held.
- Following the Nottinghamshire workshop under Pathfinder 3, one interviewee made the point that the landowners who attended were likely to have had a more balanced view as they were generally already involved with the LAF. It was recommended that there needed to be more recognition of those who did not attend and there was some disappointment expressed that Natural England has not entered into sufficient dialogue with landowners and their perspective.
- The fact that NE undertook groundwork with landowners in the Cheshire Pathfinder meant that there were only two phone calls from landowners when formal claims were submitted under Pathfinder 1. Those who were implicated by the selection of cases were contacted directly. Landowners were kept informed by CLA/NFU newsletters.

Highway Authorities

- Contacting HAs at an early stage can help with identification of sources of information from user groups.

Parish Councils

- The Pathfinder Projects highlighted the lack of knowledge within Parish Councils both of DLW and Rights of Way issues generally. Experience from Pathfinder 4 in Herefordshire suggested that there should be consultation with whole parish councils – not just representatives - in order to obtain a broader perspective.
- The Pathfinder found that parish councils were very useful in terms of bringing other stakeholders and local residents into the process.

Local Authorities

- In the Nottinghamshire Pathfinder, NE worked with ROWIP/LAF officer, and made sure wider experience of other countryside team members (some with over 30 years experience of working in a sub-unit) could also contribute to stakeholder workshop i.e., lots of expertise within the authority to tap into. It was felt that there was a need to secure early support from the countryside access team manager and ensure that DLW obtains advice from range of experts in this team not just definitive map staff.

Volunteers

- In some areas volunteers are not very active in DLW however where they are it is recommended they are involved at an early stage. A view from the Cheshire Pathfinder was that the approach had limitations because volunteers were not approached in advance and there was little attempt to utilise volunteers. Engaging volunteers at an early stage is recommended.

Records and Research

- It was seen as important to establish the right methodology for research before starting.
- Local archives offices should be talked to in order to assess records efficiently and they should be provided with more resources to assist.
- People also felt that research should be accredited to a certain standard. Stakeholders said that there should be a national approach to the research but it should allow for local input/context.
- There should be a search within LA information to look at claims already submitted that fit with the project and there should be liaison with landowner and user groups which may increase available evidence.

- Rules of Evidence**
- Evidence should be weighted at each class so it is not re-fought at every PI – it should meet a ‘balance of probabilities’ test.
 - There was seen to be a need for consistent interpretation, for example, of OS maps and that there should be certain presumptions agreed about the content of List of Streets as part of the process.
 - It was suggested that there should be ability to treat some kinds of evidence, e.g. Quarter Sessions as conclusive legal events. Overall there was emphasis in the discussion on standards and consistency.
- Resources**
- There was view that the focus should be on LWs rather than other initiatives such as coastal access and that funding should be ring-fenced for SA’s claim-processing staff.
- Local Authorities**
- There was seen to be a need to encourage LAs to prioritise DLW claims and to allow DLW claims to be dealt with under delegated powers.
 - A regional and local planning perspective (including alignment with green infrastructure planning) was seen to be important for LWs.
 - The need to have early discussion with LAs (a point also brought out from the Nottinghamshire Pathfinder Project) was seen as crucial. The point was made that LAs have many priorities to consider and that DLW should take place alongside others identified in ROWIPs.
 - There was a view that ‘in-use’ LWs should be dealt with through Borough/District level programmes with central ring-fenced funding - because they might be able to complete these to the ‘discovery’ stage within five years.
 - Grant aid to LAs was identified as an important factor to fund definitive map officers.
 - A comment from the Pathfinder Projects was that Local Authorities have a key role in the process because ‘they know the local areas concerned, are able to have the personal touch with landowners, are aware of any history or existing evidence for claims. In addition, the authority can consider other factors such as prioritisation of claims linked to the access strategy and where routes are really needed’.
- LAFs**
- The emerging analysis from Pathfinder 5 is that overall there is support for the DLW Project from the volunteers and LAFs. There are many people who are doing research either individually or as part of a project and there is obviously a great deal of expertise and local knowledge
 - It was found from the Pathfinders that many LAFs/volunteers would be very willing to work with the DLW Project to share their experience in research and expertise at a local level.
- Process**
- Stakeholders felt that there should be a parish-by-parish approach rather than looking at piecemeal individual routes.
 - Another suggestion was that all claims for LWs should go through NE who should filter and then discuss the stronger claims with LAs.
 - Regarding the time scale it was suggested that there should be a rolling cut-off brought in once an area had been ‘completed’. This would cut down effort in clearing up debris from routes not taken forward.
 - Also, people said that the scope for objections should be limited.
- Profile of DLW within counties**
- A comment from Pathfinder 3 in Nottinghamshire was that DLW gives definitive map work a higher profile in county and generates positive feedback.

5.5 Potential solutions to key issues

Figure 12: Key issues and potential solutions

Topic	Issues	Potential solution
Bridleways and higher rights	<ul style="list-style-type: none"> ▪ Higher Rights users have no network at present so are looking to DLW to provide this. Stakeholders at the first workshop stated that the 'Right to Roam' and coastal access will prejudice existing rights of Higher Rights users. 50% of Higher Rights are not recorded. ▪ 'Higher Rights users do not get heard as much' ▪ 'They don't have time to attend meetings or lobby because 'they are too busy looking after their horses' ▪ 'Equestrians are the forgotten people. We are discriminated against' ▪ 'Provision for Higher Rights needs to be addressed for the disabled' 	<ul style="list-style-type: none"> ▪ Section 15 (urban commons [10] (CROW) may help by addressing perceived presumptions against higher rights. ▪ Have a national body such as Sustrans. ▪ The Government should have an equestrian strategy as it does for cycling.
New legislation	<ul style="list-style-type: none"> ▪ The legislation is complex. ▪ Need to do something about the blight caused when finding a LW on someone's property. ▪ Need to consider whether to repeal 2026 cut-off date or retain it. ▪ The strict nature of legislation leads to entrenched views and is not conducive to negotiation. 	<ul style="list-style-type: none"> ▪ Need simplification and clarification. ▪ Need list of streets – 'list of highways'. ▪ Lobby for fresh legislation for DLW like coastal access? ▪ Repeal Section 53 of the CROW Act. ▪ Legislation needs to be more effective ▪ Landowners should have the right to appeal against non-determination. ▪ There should be recognition of modern-day reasons why a landowner may not want a LW reopened. ▪ It would be useful if NE advised Defra and produced guidance. ▪ It would be useful if NE helped to develop a consensus on legislation.
Urban Areas	<ul style="list-style-type: none"> ▪ Need to apply the same protocol to all property (including urban and suburban) or there is discrimination against rural people. ▪ There needs to be more emphasis on urban areas and the relationship between lists of streets and the definitive map needs to be developed. ▪ People are unclear what effect 2026 will have ▪ The importance of the way that urban and rural areas are linked through routes should be considered. ▪ There could be contentious planning issues but also the opportunity for development that takes account of ROW, ▪ Equestrian use in urban areas is still important. 	<ul style="list-style-type: none"> ▪ The scope of DLW needs to be examined in relation to whether it applies to urban areas. ▪ There is a need for a clearer relationship between list of streets and urban routes. ▪ NE could help with surveys and information-gathering ▪ Link routes into Local Transport Plans ▪ Make use public knowledge.
Effect on landowners and occupiers	<ul style="list-style-type: none"> ▪ Loss of privacy and increased trespassing ▪ Loss of property value and development potential ▪ Costs of maintenance for landowners in order to avoid conflicts with users ▪ There are issues to do with agri-environment payments for features that are then damaged by 	<ul style="list-style-type: none"> ▪ Engaging landowners at an early stage will be useful and also incentives would help to limit problems. This could be done by promoting education and awareness and NE could play a role. ▪ Allow headland paths to be concurrent with 2m conservation strip.

	<p>increased access. There is concern that recipients of payments could have them withdrawn as a result.</p> <ul style="list-style-type: none"> ▪ Difficulties in stock management (fencing and gating), public liability and insurance. 	<ul style="list-style-type: none"> ▪ Simultaneous modification and public paths order. ▪ Section 147 needs to apply to byways. ▪ NE could provide funding for, and help with negotiation. ▪ NE could provide guidance and framework and help to engage landowners. ▪ DLW could mean there will be better social links between the public and landowners.
The role of LAFS	<ul style="list-style-type: none"> ▪ More resources and training are needed. ▪ They are voluntary and so there are resource implications for the work people do. ▪ LAFs need to be educated about their role with DLW. ▪ There is inconsistency within and between LAFs – need to consider whether their membership is effective. ▪ LAFs look at the bigger strategic picture. ▪ Cumbersome legislation means that LAFs spend too much time in consultation with Defra. 	<ul style="list-style-type: none"> ▪ Provide training days. ▪ Need shorter consultations. ▪ LAFs nationally could become the National Countryside Access Forum. ▪ NE could advocate the use of LAFs. ▪ NE could provide guidelines and consistent information. ▪ NE should take control of national issues since it has a national outlook. ▪ LAFs could be given targets without detriment to the DLW budget.
The role of LAs	<ul style="list-style-type: none"> ▪ LAs lack expertise and knowledge of how to act in certain circumstances and which tools to use. ▪ LAs lack resources ▪ There is a tension between LAs' political and judicial roles. ▪ LAs need to be impartial regarding user groups and evidence ▪ There is variability in the way that LAs work regarding powers. 	<ul style="list-style-type: none"> ▪ There could be scope for sharing resources and expertise – e.g. experienced solicitor. ▪ LAs should engage with and support LAFs. ▪ To reduce scope for objections always circulate draft orders in advance. ▪ More resources need to be allocated for this work. ▪ A clear published policy would be useful. ▪ NE could help LAs with training, development of expertise and funding. ▪ Good practice solutions should be identified. ▪ Lobbying for increased capacity within PINs. ▪ Need to help record offices get up-to-date with technology (- get ARU to make available digital images).
The profile and resources needed for the work	<ul style="list-style-type: none"> ▪ Political will is lacking. ▪ Unsatisfactory title of DLW Project. ▪ Lack of ability to obtain funds for this outside of Government funding. ▪ Lack of funding for volunteers and voluntary organisations. 	<ul style="list-style-type: none"> ▪ Involve more volunteers. ▪ Ensure that public benefits are visible. ▪ Show that ROW can deliver the Government's other targets such as health. ▪ Economic valuation of this resource. ▪ Demonstrate environmental benefits, eg reduced carbon footprints. ▪ Need PR exercise aimed at public about the DLW and cut-off date. ▪ Put forward some exemplars after a few years. ▪ Use lottery money. ▪ Have three-year cycle to the Project to identify LWs and then develop further phases to 2026. ▪ Public awareness could be raised through national publicity campaigns; provision of packs of information for parishes, LAFs etc. to use to inform local communities; stress value to the local economy through tourism.

5.6 Thinking ‘out of the box’

Please note: In both the Stakeholder workshop and the Technical Working Group certain sessions were set aside for some creative thinking. During these sessions people were encouraged to think quickly and creatively and without discussion or judgement. This way of working encourages new ideas and inspiration but also means some of the ideas are outlandish and not to be taken seriously. The following is a selection of ideas drawn from the workshops.

Buy the network	<ul style="list-style-type: none"> ▪ Ignore historic evidence – identify network and buy it ▪ Have compulsory purchase powers ▪ Give statutory compensation rates to creations
The Cut off Date	<ul style="list-style-type: none"> ▪ Close the definitive map now ▪ Have no cut-off date ▪ Only rights not in use get extinguished in 2026 ▪ Don't extinguish routes in 2026 if you want more routes
Change Revenue Support Grants	<ul style="list-style-type: none"> ▪ Change to revenue support grants so that LAs get funding
ROW as Ancient Monuments	<ul style="list-style-type: none"> ▪ PROW as Scheduled Ancient Monuments
New Legislation	<ul style="list-style-type: none"> ▪ Bring in primary legislation to shorten the process/repeal cut-off date ▪ Adopt the Scottish legislation (Land Reform (SCOT) Act 2000) ▪ Legal process/incentives to promote pragmatic approach ▪ Amend Section 53 of Wildlife and Countryside Act
Role of Landowners	<ul style="list-style-type: none"> ▪ Get landowners to give useful routes by consent ▪ Remove all input from landowners! ▪ Remove right to apply for downgrade after purchase
Select only certain rights of way	<ul style="list-style-type: none"> ▪ Only routes that can be shown to be strategically important ▪ Select a particular number of bridleways in each borough ▪ Prioritise multi-user routes (e.g. community circuits, greenways in each parish)
Limit who can object and the grounds for objection	<ul style="list-style-type: none"> ▪ Only LA residents can lodge an objection in their area ▪ Eliminate right of objection to ‘other than landowner’ ▪ Have LA power in place for irrelevant objections ▪ Limit grounds of objection
Make sweeping changes	<ul style="list-style-type: none"> ▪ All DLWs assumed to be with higher rights ▪ Have automatic upgrade for certain PROW ▪ Make multiple use a fundamental objective of ROW
User Evidence Only	<ul style="list-style-type: none"> ▪ Ignore historic evidence – just user
Alternate Dispute Resolution	<ul style="list-style-type: none"> ▪ Alternative dispute resolution instead of PIs
RoW part of whole transport network	<ul style="list-style-type: none"> ▪ See RoW as part of whole transport structure and fund accordingly

5.7 Potential action

A long list of potential action was identified and the full list can be seen in Annex 6.

If any of these actions are to be taken forward, the details of the discussions in the workshop reports should be looked at to prevent the reinventing of ideas.

The 12 actions identified in the list below had the most support; however, the list should be only taken as indicative for the following reasons:

- It is the views of those who were able to attend the last workshop, not of all those who took part in the process
- Some interests were thought to be underrepresented.
- There was a certain amount of clarification needed by the participants during this exercise when others had already made their response.

Figure 13: Potential Action

Potential Action	Which 12 things do you most want everyone to focus on?	Which 12 things would you most wish NE to focus on?
<i>Identify and prioritise lost ways</i>		
Develop a sound research method/framework for identifying lost ways	11	11
Develop guidance on how to prioritise routes and identify those that make the best contribution to local need and that have the strongest case	12	10
<i>Benefits study</i>		
Carry out a study to demonstrate and provide evidence of the essential contribution finding lost ways makes to a usable network and the benefits this brings eg improved exercise, health, reduced accidents, local economy, and tourism. (see section 4.2 and 4.3 of workshop 2 report)	8	8
<i>Raising resources</i>		
NE to act as an advocate and champion of the public benefit to raise the profile and secure funding	5	9
<i>Simplifying the Modification Process</i>		
Set up a working group to see how the modification process can be streamlined and simplified to work more effectively within the current statutory framework	12	7
<i>Legislation</i>		
Set up a working group to consider what could be done to improve and simplify the statutory framework (ref 3.2 of workshop 2) (including changing the grounds for objections so that time is not wasted on vexatious objections and PIs can be avoided)	14	10
<i>Resource Local Authorities</i>		
Provide ring fenced resource to Local Authorities to help them process claims, negotiate with landowners, and update the definitive map	4	9
Develop national guidance and computer systems to help Record Officers to support the process constructively	4	6
<i>Involving people</i>		
Develop a sound process to involve people so they can influence and express their needs (eg like planning for real) and work to build consensus about which routes are	7	8

Potential Action	Which 12 things do you most want everyone to focus on?	Which 12 things would you most wish NE to focus on?
most important and provide most public benefit		
<i>Good practice in liaison with Landowners and farmers</i>		
The current legislative framework works on an adversarial basis and discourages consensus. Get expert advice and provide guidance about how and when mediation could be used within this framework	9	5
<i>Equestrian and higher rights working group</i>		
Promote the benefit of multi-user routes	8	6
<i>Urban Areas</i>		
Set up a working group to look at the particular issues for lost ways in urban areas and to develop specific action to address these problems.	10	5

5.8 How people would like to work together more effectively in the future

At the last stakeholder workshop people were asked how they could work more effectively together and continue to advise or be advised by NE. The following points emerged:

- Maintain the Advisory Group**
 - Maintain the DLW Advisory Group (to provide information and advice to the DLW team and disseminate information from NE and Defra)
- Regular 'Access' Forum**
 - Stakeholders would like a regular forum for meeting face-to-face and discussing issues and exchanging information and knowledge with NE and the Advisory Group.
- Regular Updates**
 - There is a need for regular updates 'e-mail/newsletter/bulleting/website/updates' with the opportunity for feedback'
- More dialogue**
 - There is a need for more dialogue between NE and eg landowners, farmers, users and Defra
- Implement the Communications Strategy**
 - 'Careful communication required and adequate time should be given to good quality dialogue; implement the Communication Strategy'
- Greater Inclusion**
 - 'There is a need to bring more voices to the table including missing stakeholder groups such as the motorcycle forums'
 - Increase the involvement and consultation with statutory bodies including different interests within these
 - Include landowners, farmers and other rural interests.
- A conference**
 - A conference should be planned for discussion between NE Board and stakeholders
- Deliver real change**
 - Real progress needs to be seen to counteract cynicism and to build positive momentum
- Openness about project and process**
 - The process of DLW needs strong management with a clear project plan about how it will be rolled out and developed

- Increased openness about the progress on the DLW Project and its scope
- Information for local use**
 - Some information needs to be tailored to local situations and user and volunteer groups would like information to be provided to them for this purpose and to help raise the profile of DLW locally.
- Defra**
 - More information from Defra about when and how the 2026 cut off date will come into force
- Streamline the process**
 - Have a working group to help share expertise and knowledge and help to streamline progress on DLW

6 Comments

6.1 Consultants views

Working Together in the process

- At the start of the first workshops tension between different interests was evident and expressed. However, growing understanding (if not acceptance) of each others' perspectives meant people were able to work together to identify issues and potential solutions. There was clear agreement that the current statutory and procedural context for researching Lost Ways, and getting them on the map, is unworkable, and that a significant change is needed.
- People's commitment to wanting to find a workable and mutually acceptable way forward strengthened throughout the process. However, we gained the impression that whilst people could see pragmatic solutions, implementation would be thwarted by the complex legal/procedural context for the work.
- This made it difficult for people to agree the overall direction that should be taken although there was strong agreement about the need for action, direction, resources, and ongoing dialogue.
- It was also clear that the participants were torn between what can be done better in the current context and the desire for radical approaches. The TWG workshops also encountered this dilemma.
- The extent of local variation in the way different authorities and user groups engage with the issue of finding Lost Ways made it difficult for the participants in the workshop to come to firm conclusions and recommendations on how issues should be handled. This also presents a challenge for NE/Defra to develop national direction and guidance that is sufficiently firm to give strong direction and deliver change, and yet is also sufficiently flexible to be adapted to local circumstances.

Expectations

- Stakeholders often expressed frustration with the DLW Project and the slow progress to date. We think that part of the reason for this is because people thought that the DLW Project team was significantly larger than it actually is. We recommend that part of building goodwill and trust with stakeholders is to ensure that they are aware of the available resources so that they can have realistic expectations – and can lobby for more resources if they believe they are necessary.

Communication

- Clearly communication has been a problem and the Communications Plan should be implemented. It may also need to be reviewed with stakeholders and if necessary updated.

Use of Visuals

- At the last workshop one of the participants brought in a map showing an area around Cheltenham and the number and type of Lost Ways. This was a powerful tool for communicating and we recommend that these kinds of visuals are used when communicating with others.

Misunderstandings

- We think we picked up on the following misunderstandings:
- The term 'lost ways' was understood to mean that they are all lost to use as

well as from the map. At the last workshop, when it was clarified that some Lost Ways remain in use, but are not registered, several otherwise experienced and knowledgeable participants expressed surprise and clearly this understanding would have altered some of what people said. We recommend that a different term is used to overcome this.

- People understood the ARU work to be to do with finding all lost ways rather than a refined search based on a selection of resources.
- There seemed to be some misunderstanding and different usage around the term DLW. Sometimes this was used to refer to the DLW Project. At other times people used the acronym to refer to the overall agenda to find Lost Ways in which they were all engaged.
- It seemed to us that some of the tension expressed at national level was actually to do with local experiences projected across all LAs or user groups and so we would recommend that more work is done to understand and communicate the extent of local variation in how the different organisations engage with finding Lost Ways.
- Stakeholders asked for a FAQs section on a DLW website so that the same ground does not have to be covered each time new faces come into the discussion. We recommend that this happens and that some of the misunderstandings identified here are included.
- The data gathered in this work provides a rich source of information for further work. In particular we recommend that as soon as NE knows what Defra has decided, a meeting is held with the participants in this process so they can hear what has been decided and can work up the 'Potential Action' (Section 5.6 and Annex 6) into a clear action plan with timeframes and identifying who will lead on each action.
- We suggest there needs to be a clear 5 year Action Plan that is reviewed with stakeholders on a regular, possibly annual basis so that all those involved have a clear sense of direction, good communication, know what is happening, and can agree adaptation of the plan to changing circumstances
- Whatever NE's role is following Defras decision we suggest that at the very least the two working groups proposed by stakeholders are convened:
 - A working group to see how the modification process can be streamlined and simplified to work more effectively within the current statutory framework
 - A working group to consider what could be done to improve and simplify the statutory framework

Next Steps

Annexes

Annex 1 Glossary of acronyms

Acronyms used in this report	Meaning
ARU	Archive Research Unit
BHS	British Horse Society
BOAT	By-ways Open to All Traffic
BW	Bridleway
CAA	Comprehensive Access Assessment
CC	County Council
CLA/CLBA	Country Land and Business Association
CROW/Act	Countryside Rights of Way Act 2000
DEFRA	Department for Environment, Food and Rural Affairs
DLW	Discovering Lost Ways
DLW Project	Discovering Lost Ways Project within NE
DM	Definitive Map
DMMO	Definitive Map Modification Order
DMS	Definitive Map and accompanying Statement
FAQs	Frequently Asked Questions
FC	Forestry Commission
FP	Footpath
HA	Highways Authority
LAR: Go	A GIS system
LAF	Local Access Forum
LA	Local Authority
LEMO	Legal Event Modification Order
LoS	List of Streets
LTP	Local Transport Plan
LW	Lost Way
MO	Modification Order
MOD	Ministry of Defence
NE	Natural England
NERC	Natural Environment and Rural Communities Act
NFU	National Farmers Union
NHS	National Health Service
NT	National Trust
ORPA	Other Routes with Public Access
OS	Ordnance Survey
PC	Parish Council
PCT	Primary Care Trust
PI	Public Inquiry
PINS	Planning Inspectorate
PROW	Public Rights of Way
ROW	Right of Way
ROWIP	Rights of Way Improvement Plans
RUPP	Road Used as Public Path
SA	Surveying Authority
SSA	Standard Spending Assessment
SoS	Secretary of State
SUSTRANS	Sustainable Transport
TWG	Technical Working Group
UCR	Unclassified County Roads
WCA	Wildlife and Countryside Act 1981

Annex 2 Stakeholder and participant lists

Participants who were able to attend at least one workshop

	First Name	Second Name	Organisation	Workshop 1 25 July	Workshop 2 23 August	Workshop 19 Sept
	Land Owning Interests					
1.	Alasdair	Mitchell	Landowner and Journalist	✓	✓	✓
2.	Sarah	Slade	CLA			✓
3.	June	Harrop	Defence Estates	✓		✓
4.	Suzy	Grindley	Defence Estates	✓	✓	
5.	Diane	Mitchell	NFU	✓	✓	✓
6.	Helen	Little	NFU		✓	
7.	Paul	Tame	NFU		✓	
	Access and User Groups					
8.	Catriona	Cook	British Horse Society	✓	✓	✓
9.	Mark	Weston	British Horse Society		✓	✓
10.	Alec	Fry	Byways and Bridleways Trust	✓	✓	✓
11.	Chris	Beney	Open Spaces Society	✓	✓	✓
12.	Eugene	Suggett	Ramblers Association			✓
13.	Sue	Hogg	National Federation of Bridleways Associations	✓	✓	✓
14.	Tim	Stevens	Land Access and Recreation Association			✓
	Local Authorities					
15.	Chris	Miller	Lincolnshire CC	✓	✓	
16.	Karen	Barke	Lincolnshire CC			✓
17.	David	Goode	Worcester CC (&County Surveyors Society Countryside Working Group)		✓	
18.	Lucy	Mc Farlane	Shropshire County Council	✓	✓	
19.	Michael	Mable	Herefordshire CC and Pathfinder 4		✓	✓
20.	Rob	Hemblade	Herefordshire CC and Pathfinder 4	✓		
21.	Richard	Gething	Herefordshire LAF Pathfinder 4	✓	✓	
22.	Nick	Thorne	Lake District CC	✓		
23.	Paul	Wilcox	Leics CC	✓	✓	
	Professional Groups					
24.	Kevin	Ward	Association of Chief Archivists in Local Government		✓	✓
25.	Emma	Noyce	Institute of Public Rights of Way Officers	✓	✓	✓
26.	Richard	Phillips	N.Somerset CC County Surveyors Society Countryside Working Group		✓	
	Natural England, CCW, & Defra					
27.	Jonathan	Tweney	Defra		✓	
28.	Ruth	Howard	Defra	✓		✓
29.	Carys	Roberts	CCW	✓	✓	
30.	Amanda	Earnshaw	Natural England	✓	✓	
31.	Ellie	Stevenson	Natural England	✓		✓
32.	Gavin	Stark	Natural England			✓
33.	Joanna	Redgewell	Natural England			✓
34.	Joy	Smart	Natural England	✓	✓	
35.	Karen	Larkin	Natural England		✓	
	PINS					
36.	Kay	Sully	Planning Inspectorate	✓		

37.	Steven	Waterfield	Planning Inspectorate	✓		
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People who have an interest but who were unable to attend

	First Name	Second Name	Organisation
	Land Owning Interests		
38.	Karen	Jones	CLA
39.	Jo	Burton	National Trust
40.	Helen	Townsend	Forestry Commission
41.	Andrea	Graham	NFU
	Local Authorities		
42.	Jane	Krause	Cheshire CC
43.	Sue	Sherliker	Cheshire CC
44.	Mic	Gibbons	Cornwall CC
45.	Bridget	Parsons	Staffordshire CC
46.	John	Thorp	Warrington BC
47.	Stephen	Jones	Nottinghamshire CC
48.	Steve	Tivey	Sheffield City Council
	Access and User Groups		
49.	Richard	George	Cyclists Touring Club
50.	Geoff	Wilson	Land Access and Recreation Association
51.	Kate	Ashbrook	Open Spaces Society
	Natural England and Defra		
52.	Alison	Tytherleigh	Natural England
53.	Colin	Jones	Natural England
54.	Lucy	Heath	Natural England
55.	Stewart	Lane	Natural England
56.	Tom	Sutherland	Natural England
57.	Dave	Waterman	Defra

Annex 3 Technical Working Group

The TWG comprised of participants who have developed a high level of technical knowledge of the history and legislation surrounding DLW and included local authority and independent experts.

Technical Workshop 1

	First Name	Second Name	Organisation	TWG 1	TWG 2	TWG 3
1.	<i>Amanda</i>	<i>Earnshaw</i>	<i>NE</i>	✓		
2.	<i>George</i>	<i>Keeping</i>	<i>LandAspects</i>	✓	✓	
3.	<i>Joanna</i>	<i>Redgwell</i>	<i>NE</i>	✓	✓	✓
4.	<i>John</i>	<i>Trevelyan</i>	<i>LandAspects</i>	✓		
5.	<i>Gavin</i>	<i>Stark</i>	<i>NE</i>	✓	✓	✓
6.	<i>Jonathan</i>	<i>Tweney</i>	<i>Defra</i>	✓		
7.	<i>Michael</i>	<i>Mable</i>	<i>Herefordshire CC and Pathfinder Project 4</i>	✓	✓	
8.	<i>Kevin</i>	<i>Ward</i>	<i>Bedfordshire CC, Access and Archives</i>	✓	✓	✓
9.	<i>Robert</i>	<i>Halstead</i>	<i>Independent expert</i>	✓	✓	
10.	<i>Alan</i>	<i>Kind</i>	<i>Independent expert</i>	✓		
11.	<i>David</i>	<i>Waterman</i>	<i>Defra</i>		✓	
12.	<i>John</i>	<i>Sugden</i>	<i>Independent expert</i>		✓	✓
13.	<i>Alex</i>	<i>Lewis</i>	<i>Hampshire CC</i>		✓	✓

Annex 4 References and Sources

Discovering Lost Ways: Pathfinder Projects 1 and 2 (Cheshire and Shropshire) Project Evaluation Report: Project Evaluation Report, Natural England, September 2007.

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<http://www.countryside.gov.uk/LAR/Access/DLW/ARU.asp>

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HM Government (2000) *Our Countryside: The Future A Fair Deal for Rural Britain* Rural White Paper, 2000.

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Thanks go to the following, who provided additional information:

Staff members from:
 Natural England
 Shropshire County Council
 Nottinghamshire County Council
 Cheshire County Council

Annex 5 Stakeholder Workshop Agendas

Finding the best way forward: Stakeholder Workshop 1

25th July 2007

9:30	<p>Getting Started</p> <ul style="list-style-type: none"> ▪ Registration, coffee and tea will be available ▪ It is 2020 and you have just come back from a day out with friends using the rights of way in your favourite bit of countryside. You were delighted with what you experienced. Why - What did you experience? ▪ How did the maps you used contribute to that experience?
10:00	<ul style="list-style-type: none"> ▪ Welcome – Joy Smart ▪ Discovering Lost Ways Current Activity – Amanda Earnshaw ▪ Questions of clarification <p>Scoping the Current Situation</p> <ul style="list-style-type: none"> ▪ What has been achieved so far? ▪ What is working well now that is taking things in the right direction? ▪ What is not working well now? ▪ What needs to change? ▪ What are the current challenges? ▪ What are the other issues? ▪ What influences the current situation?
12:00 - 1.00	<p>Lunch</p> <p>Building understanding about each others roles</p> <ul style="list-style-type: none"> ▪ Who does what at each main stage of progressing a right of way?
2.15 – 2:35	<p>Tea and Coffee</p> <p>What are the options for what we are trying to achieve?</p> <p>Last things – What happens next</p>
no later than 4:30	<p>Finish</p>

Finding the best way forward: Stakeholder Workshop 2

23rd August 2007

9:30 **Getting Started**

- Registration, coffee and tea will be available

10:00 **Welcome** – Joy Smart
Amanda Earnshaw

Exploring challenges and benefits of different ideas

- Do nothing
- Identify all lost ways
- Needs led (ie ways that are in demand and provide a usable and useful network).

(Please note that this part of the agenda was altered on the day in response to participants. Originally the facilitator proposed six 'ways forward' for discussion (based on the outputs from the first workshop)). The six ideas were:

- Do nothing
- Focus on routes of strategic importance and historic significance
- Focus on progressing LWS that impact ROWIP
- Focus on local community circuits and local needs
- Focus on connected multi user modern networks for all local users and visitors
- Get everything correctly on map and open for use by 2026

However when this was presented to participants they felt that there was too much overlap between some of these, and so the agenda was altered.)

In the light of this discussion

- What do most want everyone to focus on over the next 5 years to make real progress in delivering public benefit?
- What do you most want NE to focus on over the next 5 years to deliver most public benefit?

12:20 - 1.15 **Lunch**

Issues that emerged from workshop 1

- Bridleways and higher rights
- New legislation
- Urban areas
- Effect on landowners / occupiers
- The role of LAFS
- The role of LAs

2.40 – 2:55 **Tea and Coffee**

Working up what needs to happen to progress the ideas selected

Working up ideas for other action that needs to happen

Last things – What happens next

no later than
4:30 **Finish**

Finding the best way forward: Stakeholder Workshop 3

19 September 2007

9:30 **Getting Started**

- **Registration, coffee and tea will be available**

10:00

Presentations:

- **Next steps** – Gavin Stark /Diana Pound
- **Technical Working Group** - Diana Pound

Considering the potential way forward

- What are the benefits and positive effects (short and long-term)?
- How could these be strengthened?

- What are the Disbenefits and negative effects (short and long-term)?
- How could these be overcome?

- What are the risks and challenges?
- How could these be minimised?

- What needs to happen for this to work?

Following this discussion to what extent do you support this as the way forward?

Approx 11:30

Tea and Coffee

Look at the list of potential actions

- To what extent do you support these?

Approx

12:45 - 1.30

Lunch

Prioritising the list of potential actions

Looking at improving the process

- What filters could help focus research?
- What filters could help focus claims on routes that deliver public benefit?
- How could implementation be stream lined?

Approx 3.15

How can we work more effectively together and improve communication?

- How can the people with an interest in this agenda work more effectively together and continue to advise NE (including issues raised in the first workshop: better communication, the need for clarity about definitions, FAQs, NE communicating updates and action)

Last things – What happens next – feedback on the process

no later than
4:30

Finish

Annex 6: Possible Action

Potential Action <i>(Please note I have tried to identify the key actions for each topic that came up during the workshops 1 and 2 – there is more detail in the workshop reports. If any of these actions go forward for implementation the workshop reports should be referred to)</i>	Which 12 things do you most want everyone to focus on?	Which 12 things would you most wish NE to focus on?
<i>Identify and prioritise lost ways</i>		
Develop a sound research method/framework for identifying lost ways	11	11
Develop guidance on how to prioritise routes and identify those that make the best contribution to local need and that have the strongest case	12	10
Make evidence of claims available to the public	5	2
<i>Benefits study (see section 4.2 and 4.3 of workshop 2 report)</i>		
Carry out a study to demonstrate and provide evidence of the essential contribution finding lost ways makes to a usable network and the benefits this brings eg improved exercise, health, reduced accidents, local economy, and tourism. (see section 4.2 and 4.3 of workshop 2 report)	8	8
<i>Raising resources (see section 4.2 and 4.3 of workshop 2 report)</i>		
NE to act as an advocate and champion of the public benefit to raise the profile and secure funding	5	9
Make links between ROW and with other agendas to demonstrate the public benefits eg PCTs and that ROW can help deliver other government targets eg physical and mental health	4	4
Find out if Lottery money could be used for extending the ROW network	0	4
<i>Simplifying the Modification Process</i>		
Set up a working group to see how the modification process can be streamlined and simplified to work more effectively within the current statutory framework	12	7
<i>Legislation</i>		
Set up a working group to consider what could be done to improve and simplify the statutory framework (ref 3.2 of workshop 2) (including changing the grounds for objections so that time is not wasted on vexatious objections and PIs can be avoided)	14	10
NE advise Defra of the issues with the complexity of the current legislation	5	6
<i>Resource Local Authorities</i>		
Develop materials, workshop and conferences to help LAs develop expertise in handling lost ways. <i>This should include guidance about how to carry out the work to avoid Public Inquires with case examples and good practice from authorities that are doing a good job. (Note: this links with good practice in engaging landowners)</i>	0	2
Provide ring fenced resource to Local Authorities to help them process claims, negotiate with landowners, and update the definitive map	4	9
Consider if and how it might be possible to provide a resource of people that LAs share to do the work (eg solicitors, agents, ROW agents).	4	3
Provide LA s and others with a clear plan of action to enable them to plan and resource the work	1	5
Mentor and provide training for Highway Authorities to ensure national consistency	4	2

Potential Action <i>(Please note I have tried to identify the key actions for each topic that came up during the workshops 1 and 2 – there is more detail in the workshop reports. If any of these actions go forward for implementation the workshop reports should be referred to)</i>	Which 12 things do you most want everyone to focus on?	Which 12 things would you most wish NE to focus on?
Develop national guidance and computer systems to help Record Officers to support the process constructively	4	6
Local Access Forums		
<i>Develop materials, workshop and conferences to provide information and raise awareness about lost ways and to give guidance on how LAFs should function in regard to lost ways.</i>	3	3
<i>Provide a forum for Chairs of LAFS to come together to share know how, issues and solutions.</i>	2	3
ROWIPS		
<i>Develop good practice guidance and a (voluntary?) auditing process for ROWIPS to ensure they are nationally consistent</i>	5	5
<i>Develop clear guidance on the needs of different users so they are better taken into account (eg walkers, cyclists, riders, carriage drivers)</i>	4	3
Involving people		
Develop a sound process to involve people so they can influence and express their needs (eg like planning for real) and work to build consensus about which routes are most important and provide most public benefit	7	8
<i>Provide training on how to involve people for volunteers and officers who engage with the wider community</i>	0	2
<i>Provide LAFs, Parish Councils, and other community groups with a pack to help them inform their local communities.</i>	2	2
Good practice in liaison with Landowners and farmers		
<i>Develop guidance on good practice on how to engage in meaningful dialogue with landowners and farmers</i>	1	1
<i>Provide training in clear communication, principled negotiation, and other relevant skills for NE and other people working with Landowners.</i>	0	3
<i>Provide materials that raise understanding and awareness amongst those working with landowners of the issues that lost ways could cause for them.</i>	3	3
<i>Provide materials to help explain and raise awareness with landowners</i>	0	3
<i>Provide guidance for local authorities so that they behave with fairness and consistency towards landowners affected by LWs</i>	1	2
The current legislative framework works on an adversarial basis and discourages consensus. Get expert advice and provide guidance about how and when mediation could be used within this framework	9	5
<i>Identify the landowners who are proactive in sorting out lost ways on their land and ask them to consider being 'champions' for their area.</i>	3	2
<i>Provide incentives for the opening up of routes (eg via the agri environment schemes).</i>	4	3
Equestrian and higher rights working group		
<i>Set up a working group to look at the particular issues for equestrians and to develop specific action to address these problems</i>	4	2
<i>This should include Reviewing the use and benefits of the current system</i>		

<i>Potential Action</i> (Please note I have tried to identify the key actions for each topic that came up during the workshops 1 and 2 – there is more detail in the workshop reports. If any of these actions go forward for implementation the workshop reports should be referred to)	Which 12 things do you most want everyone to focus on?	Which 12 things would you most wish NE to focus on?
Consideration of the setting up of a Sustrans type organisation Guidance for ROWIPS Training Leaflets and other materials to raise awareness Finding ways to encourage multi-user/greenways/bridleways and higher routes in each parish		
Promote the benefit of multi-user routes	8	6
<i>Urban Areas</i>		
Set up a working group to look at the particular issues for lost ways in urban areas and to develop specific action to address these problems.	10	5
Clarify NE's role in urban areas	3	3

Annex 7: Roles of Different Organisations

The following table was created during a workshop. It was to help participants understand more about what each other did. It should not be taken as definitive.

	Local Authorities	Users	Landowners	DLW	PINS	Defra, SoS	Do / should LAFs have any role in this process?
Research the evidence	<ul style="list-style-type: none"> ▪ Advise researchers and supply access records ▪ Further research after application made ▪ Contact users to gain information ▪ Research any DLW research undertaken locally ▪ Undertake research themselves 	<ul style="list-style-type: none"> ▪ Start off process ▪ Use local knowledge and find landowners and users ▪ Fundraise for research, claim submission and PI ▪ Check definition status ▪ Talk to old local residents ▪ Collect user evidence ▪ Research documents ▪ Use local volunteers' network ▪ Documentary research including archives ▪ Negotiate win-win deal for quick result 	<ul style="list-style-type: none"> ▪ Respond to any requests for information ▪ Regional NFU involvement in the research pilot ▪ Farmers/land-owners may be represented on LAF 	<ul style="list-style-type: none"> ▪ Develop research standards – test with view to industry accreditation ▪ Contract research and collate evidence to agreed standard ▪ Use Archive Research Unit 	<ul style="list-style-type: none"> ▪ 	<ul style="list-style-type: none"> ▪ Regulations and policy 	Identify what routes to research
Submit evidence or application to SA	<ul style="list-style-type: none"> ▪ Provide application form, prioritise application ▪ Sometimes they generate claims ▪ Post notices 	<ul style="list-style-type: none"> ▪ Add rights, assemble evidence and submit claims to LA and notify landowners of application ▪ Submit DMMO claim to LA; notify landowners; claim put on register ▪ Submit application DMMO to SA; notice to landowners; try to negotiate a dedication 	<ul style="list-style-type: none"> ▪ Would expect landowners to be notified at stage of claim being submitted 	<ul style="list-style-type: none"> ▪ Can lodge evidence with SA, either application or handover 	<ul style="list-style-type: none"> ▪ Published cases so people can learn what to aim for 	<ul style="list-style-type: none"> ▪ Regulations and policy 	Guidance on making applications
SA considers results and consults	<ul style="list-style-type: none"> ▪ Consider evidence supplied with application along with own research ▪ Preliminary consultations ▪ Reviews and researches claim and considers case law review ▪ Consults user groups ▪ May do routine 	<ul style="list-style-type: none"> ▪ If application is for downgrading/deletion, research evidence of existing ROW and submit to LA ▪ Respond to consultations if were not the initiators ▪ Submit complaint to local government ombudsman / LA fail to determine application 	<ul style="list-style-type: none"> ▪ Look at historical documents and evidence ▪ Look at information supplied by LW teams or local user groups ▪ If land proven in MOD ownership 	<ul style="list-style-type: none"> ▪ 	<ul style="list-style-type: none"> ▪ 	<ul style="list-style-type: none"> ▪ Get authority to investigate within reasonable time period 	Prioritise applications in backlog

dialogue matters

	Local Authorities	Users	Landowners	DLW	PINS	Defra, SoS	Do / should LAFs have any role in this process?
	consultation with user groups		<p>assess military use and feasibility of PROW</p> <ul style="list-style-type: none"> Landowners may look at evidence in detail and consult NFU. 				
Decision making	<ul style="list-style-type: none"> Decision based on reasonably alleged to subsist Decision taken by LA, ROW committee or by delegated authority to publish order LA reports and makes draft order Weighs up evidence, concludes, recommends and compiles reports 	<ul style="list-style-type: none"> If order is for downgrading or deletion, submit objection to LA, Research for historical evidence in support of existing route and present evidence at PI If inspector proposes to modify order, object/make representation to proposal. Submit evidence to PI. If LA fails to progress order, apply and/or appeal to SoS for direction If LA refuses to make an order for upgrading/addition apply to Nat ROW Caseworks Team for Schedule 14 to appeal and submit additional evidence Present historical evidence at PI for adding/upgrading If LA takes neutral stance at PI following successful Sched. 14 appeal, present evidence at PI. 	<ul style="list-style-type: none"> May be NFU representation at any appeal/enquiry Appeal may be initiated and landowners would be involved 	<ul style="list-style-type: none"> If claimant only body that can appeal a refused application 		<ul style="list-style-type: none"> Regulations and policy Determine appeals 	
Confirmation	<ul style="list-style-type: none"> Order confirmed by SA if unopposed and meets balance of probabilities test. SA to submit to SoS if opposed for determination Objections Supply evidence, attend public inquiry etc Confirm if no objections received 	<ul style="list-style-type: none"> Prepare and put case to inspector sometimes in cooperation with SA Appear at any PI 	<ul style="list-style-type: none"> High Court challenge 		<ul style="list-style-type: none"> PINS process ROW orders to confirmation PI (often several) Review case and confirm or don't confirm through 	<ul style="list-style-type: none"> Regulations and policy Defend High Court challenge 	

dialogue matters

	Local Authorities	Users	Landowners	DLW	PINS	Defra, SoS	Do / should LAFs have any role in this process?
					statutory procedures ■ Procedures, Local Inquiry, hearing, site visit, written representations		
Map amended	<ul style="list-style-type: none"> ■ Map amended by LA ■ Completed following evidential event (confirmed modification order) ■ Forward to Ordnance Survey ■ Make and publish order ■ Physical change on map ■ Advise OS and other interested parties 	<ul style="list-style-type: none"> ■ Chivvy SA to do this quickly 	<ul style="list-style-type: none"> ■ Preparing and putting case to inspector, sometimes in close cooperation with SA ■ Appear at any PI 			<ul style="list-style-type: none"> ■ Regulations and policy 	
Make changes on the ground	<ul style="list-style-type: none"> ■ Clear route, install furniture, sign, waymark, enforce (if required) ■ ROW unit completes making route available and signposted 	<ul style="list-style-type: none"> ■ Sometimes help with physical work ■ Fundraise for restoring newly confirmed route 	<ul style="list-style-type: none"> ■ May assist 	<ul style="list-style-type: none"> ■ Powers to grant-aid non statutory ROW activity ■ Provide funds 		<ul style="list-style-type: none"> ■ Provision of funding SSA ■ Force LA to act 	
Strategic policy				<ul style="list-style-type: none"> ■ Advice to Defra 		<ul style="list-style-type: none"> ■ Policy/legislative function ■ Sponsoring Government Department for NE 	

