

The Definitive Map - or NOT ?

It is widely accepted that the Definitive Map - the only legal record of public rights of way - is far from complete and that many historic routes remain 'unrecorded'.

The impending 'cut-off' date for the registration of new applications for DMMO in 2026, makes it all the more important that such routes are identified, and applications made, before the opportunity to do so is lost for ever.

However, the making of an application is only part of the story - many Highway Authorities have long lists of applications waiting for consideration but, with 'financial restraint' being the order of the day, the availability of funds (and staff) to carry out this work has very low priority in the allocation of resources which are essential for the completion of this work.

One example quoted was of an authority with 169 applications outstanding and just two applications resolved in the last twelve months (5 or 6 in previous years).

Meanwhile, such 'unrecorded routes' are likely to be

- not waymarked
- not shown as rights of way on OS maps, and
- as such routes have no legal status, any 'access issues' are likely to remain unresolved.

It is to be regretted that the conclusions reached by the 'Stakeholder Working Group' (established to look into the problems associated with such routes) and the limited provisions which appear in the **Deregulation Bill** (currently under consideration in parliament) are unlikely to have any significant effect in the short term.

So - what are the underlying problems ?

- The 'Definitive' Map remains the only Legal Record.
- The 'List of Streets' - held by HA's as a record of 'highways to be maintained at public expense' and whilst almost certainly evidence that a public right exists - has no legal status.
- The Highway Authority is the only body which has the power to make decisions regarding rights of way - in fact it has a statutory duty under the Highways Act - ***'to assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority'***.

The Answer ?

- The Statutory Duty - imposed on the Highway Authority in Law - should not be an option which can be conveniently 'side-stepped' when savings have to be made.
- There is no other body which has the power to act in the event of default.
- Surely, the time has now come for ALL Highway Authorities to be reminded of their statutory responsibility towards ALL rights of way.

Brian W Lewis, July 2014