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West Sussex Local Access Forum



The Right Hon Theresa Villiers MP
Secretary of State for Environment, Food and Rural Affairs
Seacole Building
2 Marsham Street
London
SW1P 4DF
United Kingdom

25 July 2019

Dear Secretary of State

Ref: Countryside & Rights of Way Act 2000 – Definitive Map & 2026 Deadline

I am writing on behalf of West Sussex Local Access Forum (WSLAF) to request an extension to the 2026 deadline for recording historic Public Rights of Way (PRoW).

Section 53 of The Countryside and Rights of Way Act 2000 (The CROW Act) introduced a cut-off date in England and Wales of 1st Jan 2026 for the recording of certain 'historic ways' on the Definitive Map (DM). All unrecorded historic ways which do not meet one of the exception criteria will be extinguished on this date.

One of the exceptions to the cut-off date is that a 'historic way' will not be extinguished if it is the subject of a valid application for a Definitive Map Modification Order (DMMO) listed on a statutory register held and maintained by the relevant authority at the cut-off date.

Many of these unrecorded routes exist on the ground and are in current use, including 'unclassified' paths which link PRoW, but are not on the Definitive Map, and 'white roads' which currently have no Definitive Status. Many of these, and others, would provide useful additional routes and linkages to the existing network for local communities. Initially, DEFRA funded the 'Discovering Lost Ways project' through Natural England, which was intended to deliver the archive research needed to identify the 'ways' to complete the DM and statement record by 2026. Following a review in 2008 the project was abandoned as considered too time consuming and expensive.

Subsequently efforts were made to streamline the procedures which culminated in the Deregulation Act 2015. However this is still not in force.

The archive research project required to pursue a claim for an historic path has now been left to volunteer members of the public and interest groups. It is time consuming and onerous. Many new volunteers fall by the wayside when they see the magnitude of the task. The deadline will have been passed before many members of the public even realise what will be lost if these historic ways are not recorded on the DM.

In many counties staff resources dealing with PRow have been affected by funding cuts, and their ability to process and deal with an influx of archive evidence claims in the present timescale is doubtful.

If DMMOs claimed on archive evidence fail due to interpretation of the historic evidence (with a view that it would be better to rely on a Secretary of State's decision), it is likely they will be appealed by volunteers, adding significantly to everyone's workload, and likely resulting in the whole process taking many more years to resolve.

The Deregulation Act 2015 when brought into force would only give surveying authorities a year from the cut-off date to designate PRow which had been extinguished. Many highway authorities across the country do not have the resource or capacity in place to react to the changes, and will therefore be unable to cope with the work involved.

Volunteers all over the country, working for the preservation of 'rights of way', are providing a valuable service for all of us and deserve to be supported. Public access is key to connecting people with the environment and maintaining and improving physical and mental health and well-being and therefore provides public benefit.

Whilst the Forum understands there is a balance to be made between the aims of volunteers and landowners (who will wish for clarity for the use of the land), members are of the opinion that, given that the research required to claim an historic way is now left solely to volunteers and that the intention of the legislation was to ensure sufficient time was available until 2026 to record these ways, the provision in section 56(2) of the CROW Act 2000 for regulations to be made to extend the cut-off date until 2031 should be enacted, with the ability to extend further if it is felt necessary.

West Sussex Local Access Forum (WSLAF) is an independent advisory body, established under the Countryside and Rights of Way Act 2000, to give access advice to local authorities, statutory organisations and non-government organisations. In giving that advice, the Forum's main objective is to ensure the existing network of PRow, as well as the wider access network, is protected and where possible enhanced. The Forum has a balanced membership of knowledgeable and experienced users (walkers, cyclists, horse riders and carriage drivers), landowners and other interests (including conservation, disabled access, landscape). For further information about the Forum please visit www.wslaf.org.

Thank you for considering this.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Jane Noble', written over a light grey rectangular background.

Jane Noble, Forum Officer
West Sussex Local Access Forum

Copy for information to: All WSLAF members