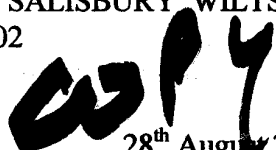


BROADMEAD FARM WEST GRIMSTEAD SALISBURY WILTS SP5 3RG
TEL 01722 710 302

TO - Christine Salmon Percival
Room 30 - Clerk of the Legislation Office
House of Lords - London SW1A 0PW


28th August 2013

**DRAFT DEREGULATION BILL AND RIGHTS OF WAY
(FROM ONE OF THE ALTERNATIVE STAKEHOLDERS)**

The main reason why the report of the Stakeholder Working Group (SWG) on **Unrecorded Rights of Way (Stepping Forward)** is completely flawed is because it is predicated on the totally false assumption that there are currently ten thousand unrecorded public rights of way (RoW) - somewhere out there! **Not true!!**

The SWG report says this claim was based on a Natural England (N.E.) estimate. So during the 2012 Defra consultation I asked the N.E. representative on the SWG if he could point me to one of these unrecorded ways. He could not. I then established that N.E. had done no research itself in this matter. Instead it has simply adopted the 2002 "Lost Ways" project from the old Countryside Agency (CA) - a project which had been dropped by the time the C.A. was incorporated into Natural England.

The Lost Ways project asked RoW officers across the country for their guesstimates of how many unrecorded ways (Lost Ways) there might be in their areas. With a jobsworth interest, and in many cases an ideological one also, RoW officers plucked substantial figures out of the air. Wiltshire went one better and handed the whole process over to an "independent researcher", who was almost certainly the adviser to the Trail Riders Fellowship. He claimed there were 1700 unrecorded public rights of way in Wiltshire yet, as I say, when I asked the N.E. representative on the SWG to direct me to just one of these 1700 "lost ways" he was unable to do so. So rather than ways, lost to public use, which can actually be identified, the rationale seems to be that these lost ways will suddenly come to light through further study of the ancient maps. **Do these hidden, unknown, unidentifiable, Lost Ways actually exist.?**

Why should "Lost Ways" emerge from the gloom of the past through further study of the old maps?. If they cannot be identified on the ground, where are they? The entire efforts of the SWG were predicated on the assumption that the dark clouds obscuring our vision of the past will suddenly part to reveal the whereabouts of 10,000 "Lost Ways". It is patent nonsense.

Could I now suggest how the (false) claim of the existence of 10,000 lost public ways will (falsely) be fulfilled (Given that the SWG report is put into law and the definitive map remains open to additions and alterations until at least 2026) - As the Definitive Map (DM) has been under review at least since the 1981 Wildlife and Countryside Act came into force, all sides will agree that the supply of **conclusive historic evidence, used to support modifications to the DM, has actually been exhausted. Only inconclusive mapping evidence remains, and this produces diametrically opposing interpretations. Neither side in a dispute today knows what the actual historical circumstances were on various ways. It is a matter of speculation. That is the result of the supply of conclusive mapping evidence being exhausted.**

So the skilled (expert)claimant will concoct an interpretation of an ancient map which, though fictitious, sounds plausible. And as the inspector has to reach a decision based on the “balance of probabilities”, rather than “beyond all reasonable doubt”, then a steady stream of these fictitious claims will be approved. **Bear in mind also that if the SWG’s report becomes enshrined in legislation, then it will become official government policy that 10,000 unrecorded public rights of way actually do exist, even though Natural England cannot presently identify a single one of them! -**

When an inspector has to decide whether to approve one of the many fictitious claims which will come before him - on the balance of probabilities - he will surely bear in mind that it is enshrined in law that there are 10,000 unrecorded ways - out there somewhere - and this could be one of them ! So the circle is squared, and one fiction has “proved” another. But the fiction becomes reality as another private farm track has been commandeered for public use.!

The claim that there are 10,000 or so Lost Ways yet to be registered has no basis in fact or reality. Rather the claim is a spurious excuse to keep the definitive map open to review so that a great many more fictitious claims can be approved. Keeping the definitive open to review for the last 30 years has clearly achieved its purpose in recording all those ways with genuine, historic public rights over them. To keep the definitive map open until 2026 (and probably beyond) would simply invite the abuse and injustice which I have outlined, not only in this letter but also in documents which I sent, on July 20th, to David Howarth at the Cabinet Office. They are -

1. My 4 contributions to the 2012 consultation - 2. another document compiled in December 2012. - 3 A document I produced in December 2008, entitled Rights and Wrongs of Way. . (Although sent by recorded delivery they have not been acknowledged) (Copy of letter to David Howarth enclosed)

I would like to conclude by commenting on two other representations you will receive. I totally support the objective of the Green Lanes Protection Group, namely to make it very much easier to impose Traffic Regulation Orders or all those public ways which were quite stupidly “upgraded” to Byways Open To All Traffic. Whoever put into law that historic evidence of horse and cart use should justify motorised destruction of our green lanes in modern times has much to answer for.

I would also like to support the NFU’s desire to divert existing rights of way away from farmyards etc. This should include people’s garden and should be automatic.

This does not diminish my criticism of the NFU (and CLA) for lending their support to the SWG’s report. This was based entirely upon the promise that, unpalatable though much of the report was, it nevertheless held out the hope that the definitive map would finally be closed in 2026. They failed to remember the basic rule of politics and governance, namely that the hands of no future government can be tied, and if the government in 2026 wishes to extend the review of the definitive map for another ten years, then that cannot be prevented by whatever law is passed in 2014.

Yours sincerely

MALCOLM READ