

EXTRACT – STEPPING FORWARD – STAKEHOLDER WORKING GROUP REPORT

Natural England Commissioned Report NECR035 (2010)

DEALING WITH INCOMPLETE RECORDS

Proposal 25: Routes identified on the list of streets/local street gazetteer as publicly maintainable, or as private streets carrying public rights, should be exempted from the cut-off.

6.16 The lists of streets/ local street gazetteer are not always fully correct, complete and up to date. So the protective effect of such an exemption would be partial rather than comprehensive. Where all or part of a route is no longer maintainable by the highway authority, it may have been removed from the list of streets without any corresponding move to record the status of the route on the definitive map and statement.

6.17 Another cause for concern is the difficulty of locating records where there have been boundary changes following local government reorganisation. In this situation the list of streets for some areas may be incomplete or missing altogether, so these records cannot be relied upon to provide the necessary breadth of exemption. The stakeholder review panel we have recommended (proposal 19) will need to receive evidence about the extent of such gaps, and advise on whether further types of exemption are required to protect routes that are in regular public use.

6.18 Granting exemptions of this type would not create any new public rights where they do not already exist along routes shown on the records in question. It would merely protect against the loss of any public rights that do exist at the cut-off, so long as they are shown on the relevant record. This distinction would help to allay any concerns as to whether particular routes might have been wrongly added to such a document as public highways.

6.19 Case studies from pioneering authorities demonstrate how a common sense approach can be taken to addressing the recording of routes that are in public use in a predominantly urban context. 'Omnibus orders' or the 'York procedure' generally result in a single modification order recording without objection a significant number of paths in a given area. The Group recognises the value of such initiatives and would like to see them applied more widely where the circumstances allow.