

FARMING AND PROPERTY BULLETIN – MARCH 2021

‘Ramblers Lost Paths’

The ‘Ramblers Lost Paths’ is an initiative that was set up in early 2020, to search for lost Rights of Way (RoW) across England and Wales. The search has been carried out by volunteers who compared current maps of England and Wales with historic maps from 120 years ago, in order to submit applications in response to The Countryside and Rights of Way (CROW) Act 2000.



The CROW Act 2000 called for a halt to the ancient maxim “once a highway, always a highway”, which had meant that even unrecorded and unused ways continue to exist even if they have not been used for decades. The CROW Act 2000 brought about a provision by which pre-1949 RoW will be extinguished if they are not recorded by 1 January 2026. Bringing this cut-off into effect could extinguish many historic RoW that remain in public use today unless they have been officially recorded on a definitive map.

The NFU is working hard to ensure that the bill will be enacted as soon as reasonably possible as it will also prevent applications to increase the width of a RoW when historical evidence shows the route used to be wider.

Understandably, the ‘Ramblers Lost Paths’ initiative has raised concern for landowners who are being approached with applications to record lost RoW over their land.

The NFU are working to ensure that the quality of routes are considered and applications that do not provide substantial evidence or lead to dead ends are dismissed. They have advised on 10 key steps of the application procedure and what you can do if they impact your land:

1. An individual or organisation makes an application to the local authority to have the route added to the definitive map. Such applications have to be made in the correct form (application forms are available from the local authority) and copies of the evidence relied on have to be provided with the application.
2. Defects in the application can result in the application being invalid, so affected landowners may wish to take legal advice to ascertain whether there is any defect in the application that could invalidate it.
3. The applicant is also obliged to give notice to the owners and occupiers of the land crossed by the right of way that the application has been made. If the owner of the land cannot be identified through reasonable enquiries, it may be possible to do this by fixing the notice to conspicuous objects on the land, e.g., a gatepost.
4. The local authority will then investigate the application and consult with certain other local authorities before deciding whether to make the order and modify the Definitive Map. Any Order made will not come into effect until it is confirmed.
5. If the local authority refuses to make the order, the applicant can appeal to the Secretary of State. The Secretary of State can then decide whether to direct the local authority to make the order.
6. If the local authority is directed to make the order, they must serve a copy on, among other people, the owners and occupiers of the affected land and publish the order in a local newspaper. The order must also be displayed at various places, including council offices and at both ends of the route in question.
7. Objecting: notice of the order should explain how objections to the order can be made, the deadline for submitting an objection, and how to see the evidence submitted in support of the application. Note deadlines for objections.
8. An objection must be made under appropriate ground, e.g., procedural point, lack of evidence or false evidence.
9. Unfortunately, objections based on the fact that the right of way has not been used for many years, or that it is no longer practical or possible to re-open the path are unlikely to be successful in most cases.
10. The fact that it is impossible to re-open a right of way (e.g., because a barn has been built on the line of the path) or that it is impractical to re-open the right of way (e.g. because of a change in the way the land is used) also does not extinguish a right of way. However, it may be possible to apply for the right of way to be diverted in order to avoid the problem area. It could be worth discussing this option with the local authority if you think it is necessary to go down that route. Unfortunately, this may require a separate order to be made, formally diverting the right of way.

The Rambler map of ‘lost paths’ has been published here: <https://dontloseyourway.ramblers.org.uk/>

The Chancellors Budget 2021 – Minette Batters

With an ambition to reach net zero by 2040, British farming can be a pivotal part of meeting our climate ambitions and increasing productivity. Farm businesses can play a key role in the investment-led recovery that the Chancellor has set out in the 2021 Budget. Their diversified enterprises, will welcome the Chancellor's decision to extend the reduced rate of VAT for retail, hospitality and leisure, extend business rates relief, offer further grants for the self-employed, introduce a new recovery loan scheme and make restart grants available for tourism and hospitality businesses. All of which are measures that will support rural businesses to recover from the impact of Covid-19.

Rural Payments Agency 5-Year Strategy



The Rural Payments Agency (RPA) has published its 5-year strategy which sets out how the RPA will deliver against the Department for Environment, Food and Rural Affairs (Defra) strategic objective to 'lead the world in food, farming and fisheries with a sustainable and resilient model of food production and robust protection and promotion of animal welfare'.

The RPA will help agricultural and farming communities to create better places to live which will be achieved through:

- Economic growth
- Delivering environmental sustainability
- Supporting agriculture
- Enabling innovation
- Facilitating community activities

The full publication can be accessed via the following link:

<https://www.gov.uk/government/publications/rural-payments-agency-5-year-strategy>

Rural Payments Agency Key Dates

Basic Payment Scheme (BPS) Applications

- 18 March 2021 – BPS window opened.
- 17 May 2021 (midnight) – deadline for BPS 2021 applications without penalty (including Young and New Farmer applications). Deadline to transfer entitlements and to have land at customer's disposal.
- 11 June 2021 (midnight) – deadline for late BPS 2021 applications (with penalty) and for making certain changes without penalty to a BPS application already submitted by midnight on 17 May.

Countryside Stewardship (CS) and Environment Stewardship (ES) Claims

- 18 March 2021 – opening of CS and ES revenue claims.
- 17 May 2021 (midnight) – deadline for CS and ES revenue claims without reduction. Deadline to transfer entitlements and to have land at customer's disposal.
- 11 June 2021 (midnight) – deadline for late CS and ES revenue claims (with reduction) and for making certain changes without reduction to a CS or ES revenue claim already submitted by midnight on 17 May.

FREE WEBINAR

THE BASIC PAYMENT SCHEME AND THE AGRICULTURAL TRANSITION PERIOD

THURSDAY 25TH MARCH 2021

Adkin are pleased to invite you to their webinar covering the Basic Payment Scheme and the Agricultural Transition period.

FURTHER DETAILS TO FOLLOW