

MEMO

FILE NOTE

To

From Councillor Vines

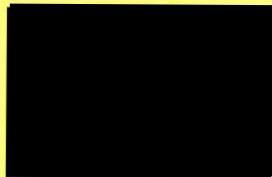
Date 07/09/05

Re

Called on Wed 7th September.

Been hearing both sides of the argument.

Would like to be consulted throughout procedure.



Councillor Vines

[REDACTED]
Bentham
Cheltenham
Glos. GL51 4UB

Miss S Burge

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573/11/101(1)

12 October 2005

E-Mail: sarah.burge@gloucestershire.gov.uk

Dear Councillor Vines

**Wildlife and Countryside Act 1981, Section 53
Application for a Modification Order for an Additional Public
Footpath through Witcombe Farm
Parish of Great Witcombe**

Gloucestershire County Council has received an application for a Modification Order to add a length of public footpath to the Definitive Map of Public Rights of Way.

The application is to add a footpath through Witcombe Farm, which runs from Witcombe Farm Lane in a generally south to south-westerly direction for approximately 200m to its junction with existing public footpath AWG 4. This is marked A to B on the attached map.

I enclose a plan showing the position of the claimed path, which lies within Ordnance Survey Grid Squares SO 9015 and SO 9014.

(What follows is a pro-forma text approved by County Legal Services and is included to ensure that the requirement to inform an Elected Member about certain procedural matters and points of law has been complied with.)

In your capacity as County Councillor for the area, you will be invited to attend the Commons and Rights of Way Panel at a future date to comment on the Application. You will be informed of the date by the County Secretary.

As you are aware Modification Order applications such as the above have to be decided on the basis of evidence and not on the desirability or otherwise of an additional path. (Or any change to the content of the Definitive Map and Statement.) For example, Section 31 of the Highways Act, 1980 provides

that where a way over land has actually been enjoyed by the public as of right and without interruption for 20 years or more, the way is deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it.

I would be grateful to receive any comments you may have on the application in writing by Friday 2nd December 2005. (As a result of a High Court Case (R v Isle of Wight County Council ex parte O'Keefe- 16/2/1989) you are advised that you will be invited to present your written comments only at the Sub-Committee meeting and you will not at that stage be able to add any new comments or evidence).

If you would like any further information on the application, please do not hesitate to contact me.

Yours sincerely

**Sarah Burge
Public Rights of Way**