

RUSSELL, Rachel

From: HARRIS, Jaci
Sent: 05 March 2025 11:04
To: Kay Nagai
Subject: RE: Objection to modification order 573/11/212(6)(7)(8)(9)&(10)

Kay,

I acknowledge receipt of your objection to this Order.

I have separately acknowledged receipt of your objection relating to MST28.

Please note that this is specific legal process which is being carried out by Highway Records. Please do not include Nic or Sarah in emails or correspondence relating to this process.

Once I have submitted my Statement of Case to the Planning Inspectorate, the process will be entirely within their authority. From that point onwards, the County Council will be subject to the same timetable / schedule as you. Any queries/ requests you may have from that point going forward will need to be directed to the Planning Inspectorate.

Jaci Harris

Asset Data Officer
 Highway Records
 Gloucestershire County Council
 Shire Hall
 Gloucester
 GL1 2TH

01452 328981
 Email:- jaci.harris@gloucestershire.gov.uk

Important: Please note that, as Modification Order applications may result in a legal Order being made to change the Definitive Map of Public Rights of Way, any evidence, comments or objections you submit in respect of a Modification Order application, whether current or proposed, will form part of the published record of the application and may be available to anyone who requests it (including any affected landowner or their representative); this will include certain personal data.

The way we use your data, and your rights, are set out in our published Privacy Notice at:
<https://www.gloucestershire.gov.uk/prow/definitive-map-and-associated-registers/>.

From: Kay Nagai <[REDACTED]>
Sent: 05 March 2025 04:24
To: PEARMAN, Karen <Karen.PEARMAN@gloucestershire.gov.uk>; HARRIS, Jaci <Jaci.HARRIS@gloucestershire.gov.uk>; Modification Orders <modificationorders@gloucestershire.gov.uk>
Cc: CHIDLEY, Nicola <[REDACTED]>; MACAULAY-LOWE, Sarah <[REDACTED]>
Subject: Objection to modification order 573/11/212(6)(7)(8)(9)&(10)

Dear Highways Modifications

I write in reference to modification order 573/11/212(6)(7)(8)(9)&(10)

I object independently of the legal owner, as farmer occupier.

I object the DMMO being confirmed, I am strongly of the view a more in-depth, thorough examination of the evidence is required, the examination of evidence not presented, much was not considered sufficiently (if at all).

I request decision is deferred to the Secretary of State for more in-depth investigation & request confirmation of the same.

I request that all correspondence between myself & Highways Modifications / Highways Records, our LES (which I researched & contributed to extensively) & later correspondence to the decision committee & DC Cllrs, be enclosed with my objection to Secretary of State, as they provide far more context, evidence & information than I have briefly summarised herein.

A very simple question has not been asked or considered by the decision committee, why do they want to walk there & how did these claimed routes arise.

Proper consideration has not been given to Right to Deviate, most of these claimed paths arose as deviations around obstructed definitive lines, the formal definitive path obstructed by, in chronological order: livestock fences, quarry, more livestock fences, overgrowth bramble & dense scrubbed trees, more livestock fences, progressively more overgrowth.

Highways dismissed & denied Right to Deviate, either denying outright that any quarrying had taken place, denying the definitive line was obstructed at all while the claimed routes were in use (suggesting they were useable, but simply unfavourable, not admitting they were completely unavailable as they were very obstructed), denying that recently a huge overhaul & restoration (undertaken with considerable GCC assistance), had taken place to the previously unnavigable obstructed, historically fenced across definitive lines (photos of the condition & thoroughly obstructed definitive line prior to restorations have been documented, with letters to ROW, photos in part supplied to GCC). Or denying Right to Deviate due to change of land ownership of the land on the other half of the highway.

The initial obstruction to the definitive line was the livestock fences, these never changed ownership, the livestock fences obviously remained the property of the livestock field & remained in the same ownership throughout their obstruction of the definitive line.

As I currently understand, our boundary, where close to the quarried sections, was intended to be defined as up to the median point of the highways MST30 & MST62; thereby the highway never changed ownership either, the centre point was considered the defining boundary.

Whilst the other side of the highway was sold off in 1973, without any obstruction being resolved (deviations in-use instead), the highway remained in the same ownership. Further more, both titles were unregistered until 2022 (when ours was first time registered), many members of the public initially believed we also bought & had owned the quarry when we completed our purchase (many asking us about garden extensions, greenwaste tipping, the new Oak Way extension path & the cliff viewpoint, as if all was on our land); in-fact even parish council believed our land & the quarry land had the same owner, in their 2015 ACV nomination application form, they put down that they believed our farmland had also been sold to & belonged to Melbourne Investments, along with the quarry land (members of the public deviating likely similarly believed both pieces of land had one owner, possibly because they were one ownership at the time of the brickworks; the common person did not know they had been separated).

Highways did not give due consideration to user-by-force, as testified by the previous farmer's family, also testified by the neighbouring farmer who knew the last farmer well & also evidenced by the

position on the ground / with photos; the public use was clearly not peaceful & aggrieved them greatly: *Within the many years my family worked this land I recall them facing countless issues with regards to public wandering, trespass with intent to vandalise, verbal abuse (mostly stemming from telling public and their often out of control dogs to get back on the FOOTPATH after blatantly ignoring signage) dog & human fouling, fires, littering & more serious fly tipping, fencing wire cut weekly by walkers to gain new access to PRIVATE LAND, wooden fencing steaks pulled out/ burnt/snapped. Dog attacks to young calves had been witnessed as well as arson to cattle sheds. Cattle were often escaping from their grazing site due to fence vandalism, gates being left open and even taken off hinges. Aside from PROW footpaths which only provide access to Doverow wood the public have NEVER used the majority of the land. (quote: Ms Jones - farmer Fletcher's family)*

Highways gave more weight to non-specific statements from persons blindly supporting the applications, than those who opposed it, which included the immediate family of the previous farmer & tenant, the most recent persons to have active roles in managing the land, who did so through the first half of the relevant period, who disappointingly were not consulted at all.

A statement instead relied on, was by a distant far-away landowner of the neighbouring farm (Sibley grandchild), who never managed the land himself, but testified to how his grandfather had managed the land nearly a century prior, when the hill was twice the size (prior to extensive brickwork quarrying), prior to the massive expansion of the town with dense housing estates, when our fields were far away from the town & had less problems with the public, as there were other flatter fields between the town and this field.

Due to the 'low test at this stage', evidence was not presented, despite being provided to GCC that proves indisputably that claimed paths either:

1. never existed.
2. did not exist for the qualifying period, or only existed briefly during either COVID Lockdown, or ACV nomination
3. was through a gate shown to be a locked gate / gate forced through, during qualifying period
4. was a collection of varying courses / wandering courses / intermittent short-lived paths, rather than a single defined linear line
5. photos / statements of clear user-by-force
6. route had completely different start point / termination point, or had changing start point / termination point during the qualifying period
7. had changing or migrating courses, rather than a fixed defined linear line
8. photos / aerial that show a path was the result of an obstruction to the definitive line

Due consideration has not been given to much other evidence, other than surface level sheer quantity of UES, a large number were not genuine, simply signing 'I've walked there' to a pre-drawn line on a map as directed to by a massive facebook NIMBY anti-developer campaign, evidenced with screenshots. Several comments said 'I don't know how to fill out the UES, can you fill it out for me & I'll sign it', 'I don't know it that well, but will sign it if you fill it out for me' or 'I find the form / the map confusing can you fill it out, help me fill it out & I'll sign it' or 'I will support this because it makes it harder for developers, fill it out for me & I'll sign it'. People I have spoken to have said similar & made remarks similar.

Committee member cllrs made inappropriate comments for supporting the DMMO routes: 'when you're walking the dog, you don't actually need to be going anywhere, you can walk there & walk back' all these paths that go nowhere would be great for that...etc It's FARMLAND, not a dog playground / dog relief stop.

Highways presented these multiple applications to the committee as a bundle Job Lot, rather than examining them as individual paths or at least separating them into relevant categories, which would have given them better due consideration:

1. Older deviated paths that deviate around Obstructions on definitive lines (those with potential for Right to Deviate)

MST30 - J-O, M-O (varying collection), L-O

MST62 - U-H, G-I (newer), O-Q-T (newer)

2. Newer wandering or intermittent paths that potentially provide new access not provided by definitive map

E-F-K-O

3. COVID Lockdown paths / ACV promotion paths which emerged very recently, have not been used for qualifying duration

A-B, B-C & B-D

N-K

P-Q

Brief summary of routes, these do not contain full commentary or details:

A-B has clear user-by-force, gate B was clearly evidenced as forced through in 2006 when gate was lifted off of it's hinge, this was the only year this route showed any footfall prior to ACV council's tourist-travel-agent-like promotion & subsequent COVID Lockdown wandering. Point B has had considerable issue with public user-by-force; as told by previous tenants & more recently neighbouring landowner.

B-C has rarely, if ever, existed on it's applied-for course, this is clearly evidenced. It has not existed for any duration required for such claims.

B-D was a vehicle route until 2012; it is clearly evidenced to have not connected to point D (to a vehicle gate further south, route had turn circles to align with gates) until after ACV council's tourist-travel-agent-like promotion & subsequent COVID Lockdown wandering when termination changed. This route has not existed on it's applied for route & has not been used for the duration as required for such claims.

E-F-K-O has not existed on it's applied-for course for the duration required for such claims, as a tractor path, it is clearly evidenced to have varied on several different courses (either following where a vehicle drove or diverting to distance from cattle around water trough), not been consistent, has not existed whilst cattle grazed around the water spring-trough; point F has had considerable issue with public user-by-force (historically). This route never terminated at point O, a collection of wandering trails joined whichever line was active as M-O in that year.

G-I Right-to-deviate. Point G on MST62 has been obstructed by aged double fence, cattle fence renewed many times over the years, not opened up or definitive line obstruction remedied until 2023, when definitive line was restored. Livestock fence belongs to Livestock field, Obstruction & definitive line at point of obstruction belong to Livestock field. This route has also varied in course, not existing in multiple years, often showing demonstrating a wide curve (vehicle turn circle on agricultural vehicle route, turn circle to align with gate, whilst towing trailer - livestock / bales...etc). This route was not used frequently, U-H was the primary MST62 deviation.

U-H Right-to-deviate. Point G on MST62 has been obstructed by aged double fence, cattle fence renewed many times over the years, not opened up or definitive line obstruction remedied until 2023, when definitive line was restored. Livestock fence belongs to Livestock field, Obstruction & definitive line at point of obstruction belong to Livestock field. This was the most direct route to provide access around obstruction from MST62 to MST27. In many years this overgrew with brambles & was either displaced or did not exist for a while before reappearing, it varied.

J-O, M-O, L-O Right-to-deviate. Points J, N, L, P + others, on MST30 have been obstructed by multiple aged livestock fences, (+ dense trees, bramble, unnavigable quarrying / cliff), cattle fence renewed

many times over the years, not opened up or definitive line obstruction remedied until 2023, when definitive line was restored. Livestock fence belongs to Livestock field, Obstruction & definitive line at point of obstruction belong to Livestock field. **J-O & M-O** are also evidenced to have varied dramatically over the years, it is obvious the position of these claimed routes have not been consistent or in a fixed linear position. **J-O** originally followed the fence line, it is evidenced to have migrated much lower into the valley in different years. Consideration has not been given to the fact that the field boundary having changed in 1960s; prior to the boundary change, MST30 was within the field & was a path that ran on open field (path running alongside field-edge fence), after the boundary change, a long strip of the field was fenced out, this contained MST30, which was fenced across & obstructed; **J-O** emerged as a deviated course in-place of the obstructed MST30, a new path that ran alongside a field-edge fence; consideration has not been given to older UES claims simply remembering a path along a field-edge fence, having used MST30 prior to the boundary change & **J-O** after the boundary change; 1945 aerial image shows MST30 in-situ, in-use prior to boundary change (**J-O** did not exist yet as pre-obstruction & is not visible). Several parallel lines existed at different points in time, which could have been **M-O** in different years, some years show multiple parallel lines visible at the same time. These emerged as following where an agricultural vehicle last drove, the newest vehicle-flattened course becoming the new active **M-O** while the previous becoming slowly overgrown & disused, this is clearly evidenced, demonstrating inconsistent varying courses. **M-O** was never a fixed linear course but rather an intermittent collection of varying short-lived courses. **L-O** crosses several cut open fences, it's course varied around the vigorous scrub & bramble overgrowth, it came into existence as persons on **J-O** could not see the view that had been visible from obstructed MST30 (**J-O** being much lower than MST30), once it was fenced off & obstructed in the 1960s, public started cutting their way back towards obstructed MST30 to find the view; **L-O** runs partly on narrow ledges, through areas of dense scrub, it does not have 2m width at any point; it is a deviation around fence & scrub obstructions to find the quarry top view from Cays Hill, it's narrow, no intentional dedication.

N-K never existed as a fixed linear path for any qualifying duration, originally it was a collection of wandering trails towards a big Oak tree (evidenced), it's course varied greatly, it originally originated nearer point J, ran at different times on the west or east side of a transformer pole, it had no consistency or regular course, it did not join point K until COVID lockdown. Point N was a brand new improvised stile, using untreated softwood hardware store timber (not outdoor timber typical of fencing, stiles & kissing-gates), installed by the public (or parish council) into a freshly vandalised fence cut.

O-Q-T Right to deviate. Point T was a stile on MST62, which was destroyed & obstructed by a fallen veteran sycamore tree. The tree fell on the stile circa.2013, destroying it, blocking it, it subsequently brambled over & overgrew, obstruction was not remedied until 2023. Point Q was a locked gate throughout much of recent history until 2014, when someone broke through it & launched it into the field north. This is all clearly evidenced with aerial maps & photos. Initially persons bypassed the obstruction by following field boundary west until crossing through the obsolete MST28 stile then returning to the definitive line of MST62. At some point persons broke through Gate Q to shorten the deviation, photos of user-by-force at gate Q have been supplied, but have not been considered. Multiple statements confirm this gate was always locked.

P-Q never existed at all on it's depicted route, point **P** was not cut through until 2024 for the first time. A route briefly ran from Q to the same vandal cut point as line **L-O**, but only during COVID Lockdown. It never existed for any qualifying period, or never existed on the applied-for route at all.

I wish to give further evidence when this is considered by Secretary of State, irrespective of when that occurs & irrespective of if I have any direct involvement with the land at such time; please ensure I am notified, so that I can make due representations

yours faithfully

D. K. Nagai - horticulturalist