

IN THE MATTER OF:

SECTION 53 OF THE WILDLIFE AND COUNTRYSIDE ACT 1981

AND THE DEFINITIVE MAP AND STATEMENT MODIFICATION ORDER

DATED 18 MARCH 2009

MODIFICATION ORDER: ADDITIONAL LENGTH OF FOOTPATH AT
WITCOMBE FARM (PARISH OF GREAT WITCOMBE) ORDER 2009

CLOSING SUBMISSIONS ON BEHALF OF
THE ORDER MAKING AUTHORITY

1. These closing submissions are made on behalf of the OMA in support of confirmation of the Order. The points made in the Opening Statement will not be repeated but are still relied upon. This submission will briefly review the shape of the evidence before the Inquiry and set out the reasons why it is submitted that the Order should be confirmed.
2. At the start of the Inquiry and by way of introduction the Inspector set out what she considers to be the main issues in this case. They are:
 - (i) Whether the public has made uninterrupted use of the Order Route as of right for a period in excess of 20 years;
 - (ii) Whether there is enough evidence during the relevant period that the landowner did not intend to dedicate a right of way along the Order Route;

- (iii) Sufficiency of user – this question could be affected by whether use of the route was in the exercise of a right of deviation (ie as an alternative to paths on the DMS);
- (iv) Number of people using the route with permission and whether the non-permissive use was adequate to have brought home to the landowner that a right was being asserted

3. Preliminary responses to the foregoing issues are as follows:

- (i) Qualifying use: this is a matter of evidence, the substance of which will be addressed in the section of these closing submissions which considers the body of evidence of use that is before the Inquiry (albeit very summarily). However, there has been no suggestion of any period of genuine ‘interruption’ (ie such as the route being physically impassable) such that any period of qualifying use came to an end (save for the signage at the end of the relevant period).
- (ii) Lack of intention to dedicate on the part of the landowner appears to come down to two matters. Firstly, the signage that was present at around Point B on the order plan (see [C30/724PDF]) and, secondly, challenges to use by the landowners. As to signage, the only sign that was in position throughout the relevant period stated “*Private Road: No Unauthorised Vehicles*”. That sign is incapable of indicating a lack of intention to dedicate a public right of way on foot (reference will be made to “*Rights of Way*”, 4th ed). It is a matter of evidence whether there were challenges to use by the landowner sufficient to bring to an end any period of qualifying user. The ‘headline submission’ is that there were not but that will be addressed further below.
- (iii) As to the question of sufficiency of user on the basis that some of the use should be discounted on account of it having been use in exercise of a right to deviate, this suggestion is without any credible foundation. Reference will be made to “*Rights of Way*” and R (on the application of

Gloucestershire CC) v SOS for the Environment, Transport and the Regions (2001) 82 P & CR 15. Not only was use of the Order Route simply not capable of being regarded as a 'deviation onto adjoining land' as understood in the context of a right to deviate, it is also clear that people did not use the Order Route because there was an obstruction on the recorded right of way AWG4 or because the landowner had allowed it to become "*foundrous and impassable*". They used it because it was a pleasant and direct route to the place they wanted to go. It was a preference, not a deviation. The start and end points were also not the same and it could hardly be regarded as a deviation in any true sense from the AWG4 route; it was a totally different route to the same end point (or route away from the same start point). To regard the Order Route as a deviation from AWG4 would be highly artificial. Further, the section of lane from Order Route Point A to Point B is unregistered land and not within the same ownership as the land over which AWG4 runs and a right of deviation does not extend to third party land.

- (iv) The number of people using the route with permission was wholly inadequate to render the quality of the non-permissive use insufficient to bring home to the landowners that a right was being asserted against them. There are limited examples of permission during the qualifying period and a permission, for example, to use the Order Route for an annual Rogation Service is just that. It is not a perpetual permission for unrestricted personal recreational use. Similarly, simply because someone might attend Witcombe Farm as an invitee for one purpose does not mean that their use thereafter for a completely different purpose (completely outside the scope of any invitation) is permissive. Furthermore, there is no evidence that any of those who have given evidence of use in support of the DMMO were actually permitted by virtue of them having a fishing licence (which would still not extend to using the Order Route for other purposes) or through some form of membership (such as the GWT) which is incapable of conferring rights

of access across third party land absent express agreement from the landowner in any event. For completeness, the following people who completed UEFs were given limited permissions which did not render all of their use permissive:

- (User 5) Anne Vickery – delivered the village magazine on one occasion, dated unknown [PDF376]
- (User 33) Julian Comrie – Management Committee Member of GWT but use largely pre-dates relevant period [PDF465]
- (User 35) Mary Hosler – permission given when she arrived by car on one occasion, date unknown [PDF472]
- (Users 39 & 40) Edward Pope & Beryl Pope – permission of an unspecified scope given at some unspecified time but by Diana Hicks-Beach (Freddie Hicks-Beach’s grandmother)
- (User 41) Susan Willis – permission to use Order Route given by Pagets (permission would not survive change of ‘owner’)
- (User 45) Reverend John Thornton – annual Rogation Service
- (User 49) Peter Bradshaw of GWT – permission from Severn Trent [PDF517]

4. Turning then to the detail of the evidence of fact. There is a substantial body of evidence that supports the Order. That evidence spans a period far longer than the twenty years prior to 2001. There is evidence of use going back to the 1930s. A number of witnesses speak to the period between the 1930s to the 1950s. There is a very substantial body of evidence from the 1970s until the time that qualifying use was brought to an end by virtue of the signage that was installed in around 2001 / 2002 making clear that the landowner had no intention to dedicate a right of way along the Order Route. Whilst use prior to the relevant period might, superficially, appear irrelevant, it does illustrate a pre-existing history of use that was simply continued during the qualifying period. The

‘precedent’ of use had become well established by 1981 and its continuation is unsurprising against that extensive background of historic use.

5. The entirety of the original evidence produced in support of the application is very helpfully summarised in a spreadsheet at [PDF317-332] although it is, of course, necessary to have regard to the totality of the evidence to make a fully informed assessment. Whilst the Inspector who heard the appeal against the OMA’s refusal to make a DMMO (“the Appeal Inspector”) was satisfied that *“there is significant evidence of claimed use that has been made as of right”* (¶87 [PDF540]) and which satisfied the test she had to apply, it is of course accepted that the test applicable to the confirmation of the Order is more ‘strenuous’. Nevertheless, even against the test that has to be met at this stage of the process, the evidence is weighty.
6. Before turning to the actual evidence, it is worth remembering the context in which the Order Route has come to be used by members of the public. At the end of it is a clear attraction; the reservoirs. It is hardly surprising that people have used the Order Route to gain access to an attractive place of resort as well as the extensive wider public rights of way network beyond.
7. The user evidence also informs that an alternative route along public footpath AWG4 is less direct for many of the users and often inhospitable, whether that be because of obstacles (such as stiles or gates), flooding, horses, fencing or other impediments to unhindered passage (see eg photographs [PDF580-583]). Inhospitable, however, does not mean obstructed or impassable (simply less preferable, perhaps) and heading towards the reservoirs the Order Route and AWG4 start from a completely different point, they are routes of a different character, and in the case of the Order Route, begins over land in different (albeit unknown) ownership. Some witnesses were, in fact, simply unaware of the existence of public footpath AWG4 in any event.

8. The Inquiry has heard from a number of witnesses in person and what follows is a brief summary of aspects of their evidence. It is also worth remembering that this Inquiry is considering evidence that was largely produced over 20 years ago and relates to a period that began 45 years ago. The very succinct 'live evidence review' will be followed by consideration of some of the issues that have been identified as being of particular interest, such as issues of permission and the role of the bailiffs.

Karen Pearman

9. The evidence of Karen Pearman, Highway Records and DMMO Team Leader for Gloucestershire County Council, sets out the history of the process and factual matters that have culminated in this Public Inquiry together with an insight into the reasoning behind the OMA's support for the applicant's contention that the DMMO should be confirmed.

Dr Nicholas Gilbert

10. Nicholas (Nic) Gilbert, the Applicant, used the Order Route from 1975 until he was asked to stop using it in 2005, but he does recall signage in around 2002 that said "*no public right of way*".
11. His evidence is that he has used the Order Route with varying degrees of regularity over the years for walking and running (with and without a dog), alone and in company. He has seen other people using the Order Route. He has been seen by the owners who have never challenged his use of the same.
12. He was a careful and credible witness and the detail he was able to convey about his use and that of others cannot be open to any serious criticism or doubt, notwithstanding that he was a little confused about the construction of the new barns (which says nothing as to his use of the Order Route). Moreover,

he was not cross examined and the totality of his evidence, written and oral, is, therefore, unchallenged. In those circumstances there is no doubt that the only proper approach to his evidence is to accept it in its entirety.

Michael Roberts

13. Michael Roberts used the Order Route between 1965 (when he was 10 years old) and 2005. During his school years he would cycle along the Order Route, he even travelled along it on a motorcycle and drove there, but the majority of his use has been on foot for walking with family, dog walking and exercise. That is certainly the use that he made of the Order Route during the relevant period, most of which was during the evenings and at weekends. He was never challenged by anyone until 2005 when a bailiff spoke to him and gave him permission on that occasion.

14. In cross examination he did not deviate from his evidence. He said that he enjoyed walking and that he used the Order Route because "*that access route is the easiest way to get to the reservoir*". He said "*I considered that was the route to the reservoir*". When asked about the 'white sign' (ie the sign that referred to no unauthorised vehicles) he said he never saw it. It is not at all uncommon for people to say they haven't seen signs that do not appear to be directed at them or have simply become so familiar over time that they essentially become invisible (this observation is not confined to this witness).

David Cooper

15. David Cooper used the Order Route from 1960 to 2005 with a short break in the 1970s when he moved to Cheltenham. During the relevant period he said that

during the first decade he used the Order Route around once a month and in the second decade often twice a week.

16. He said that during the Pagets' tenure the farm was more "*hands on*" ("*mucky and dirty*") than when the Hicks-Beach family moved there. He recalled the name Ron Stevens when asked about bailiffs but said he was never approached by one. He also recalled the changes associated with the stables that Georgina Davies described. He said the fishery had never seemed that busy and that his impression of its use has not changed over the years.

Louise Taylor

17. Louise Taylor lived locally from 1975 to 1983 and whilst she permanently moved away at that time her family have remained in the locality and she has been a very frequent visitor. She would use the Order Route both on horseback and on foot, very regularly whilst she lived in Little Witcombe, sometimes to simply access the reservoirs where she would enjoy spending time 'in her own company'. Her evidence was subjected to very little in the way of cross examination and should, therefore, be accepted.

Simon Ruddleston

18. Simon Ruddleston has known and used the Order Route from 1986 to 2003 during which time he lived in Witcombe near to the Cross Hands and latterly in Great Witcombe (he has now moved away from the immediate area). His frequency of use of the Order Route, with family and friends, varied between fortnightly and once or twice a week. It was often used as part of a longer walk to the Roman Villa or Witcombe Park.
19. He was never challenged about his use and did see Mark and Celia Hicks Beach in their car whilst he walked along the Order Route. He said they simply waved

at him. He had no recollection of the building works associated with the stables at Witcombe Farm but said nothing had disrupted his use of the Order Route. He did recall girls coming from Cheltenham Ladies College and was aware they had riding lessons there.

20. His cross examination was relatively limited, the pre-occupation being another route that he described walking on the Witcombe Estate that is unconnected with this Order Route and this Inquiry. When asked, however, about his use of AWG4 he said that he might use that one time in ten because the Order Route was a better route for walking in a group when one could walk and chat and be sociable. He said they would walk in family groups of 6 or 7.
21. Interestingly, he recalled that during a particularly warm summer in around 2002 / 2003 there was a marked uptick in use of the Order Route. It is around that time that the signs saying "*no public right of way*" were installed, which is strongly suggestive that the latter might well have been a reaction to the former.

Teresa Peachey

22. Teresa Peachey lived at Brockworth from October 1974 and her use of the Order Route was largely on foot. She did cycle on the order Route, she thought pre-1992, but was stopped and told not to, so she stopped cycling there. That is consistent with an objection during that period, to any form of 'vehicle' rather than pedestrian use. She explained that her use was consistently around once or twice a month.
23. She referred, in cross examination, to the fact that between points A and B on the Order Plan a 'way' is shown between Points A and B. There was an exchange about the significance of that which became somewhat confused. However, Teresa Peachey did confirm that the maps she was referring to were the OS pathfinder and OS rangefinder maps. What those maps identify is, of

course, a matter of expert opinion rather than evidence of fact. Her evidence that speaks to 'use' is what is material to this Inquiry.

24. Mrs Peachey also recounted the fact that she visited Nick Pritchard who lived at Reservoir Lodge at around the point where AWG19 meets AWG4. She said she would approach it from either direction and would use the public footpaths to do so. It was suggested to her that Nick Pritchard enjoyed a private right of way to the property (although the exact route of that is unknown). In fact, it is the property (not Nick Pritchard) that would have had the benefit of such a right. It appeared to be being suggested that Mrs Peachey's means of access to Reservoir Lodge would have been pursuant to the private right of way but that property is not on the Order Route and is not clear how it might be said that she was exercising that right as distinct from her right to walk the public footpaths that provided perfectly adequate access to the property for her visits.
25. She also mentioned the fact that historically there had been what she described as an old fishing hut behind the property, possibly in the 1970s and / or 1980s. Fishing tickets could be purchased from the fishing hut. She recalls having seen fishermen often. She had no recollection of bailiffs at Witcombe Farm. She did recall that Witcombe Farm was 'tidied up' during her period of use. She did not know the owners and was never challenged.

Gary John

26. Gary John used the Order Route between 1970 and 1984 then from 1987 to 1995 during which time he (and his family) lived in Brockworth. He moved to Cranham in 1995 at which point his use of the Order Route decreased significantly (but did not cease altogether). He used it for dog walking, pleasure walking, family walks and as a means to get to and from the Black Horse PH.
27. He had a clear recollection of the gates at around Point B which he says were (infrequently) closed across the Order Route during the movement of cattle

within the farm to prevent their escape. If he was approaching at that time he would wait for the cattle to be moved and the gates would then be opened and he would proceed on his way. He said the farmer was always pleasant and apologetic at having held him up. He described their interactions as being “*good friendly interactions*”. He confirmed that there were never any unattended cattle simply wandering free over the Order Route that had to be secured by a gated road. He said he met people in the farmyard and they always had a friendly manner.

28. Mr John said he saw fishermen infrequently and did not recall the bailiffs. He was never challenged. When asked why he did not use AWG4 to visit Nic Gilbert in Great Witcombe he said he wasn't aware of that path.

Ann McNeill

29. Ann McNeill, a Brockworth resident, used the Order Route from 1983 to 2005. She walked the Order Route both with her husband and a regular walking group run by (Rosemary) Jean Hellerman (see UEF [PDF469-471] wherein she says permission was not required as path always used as a right of way and she was very surprised when it was closed).
30. When walking in the weekly Sunday group (of between 10 and 20 people) Ann McNeill said they went along the Order Route about once every 4 to 6 weeks. She didn't turn her mind to permissions or routes as Jean Hellerman was a long standing local person who knew where they were going. She was unaware of the path AWG4 that runs east from Point D.
31. She didn't recall signs when she started walking the Order Route but did become aware of signs when the route was blocked at Point D. She did not know the owners and was never spoken to by anyone from the farm. She did not recall the bailiffs.

Additional Written Evidence in Support

32. In addition to the evidence of the aforementioned 'live' witnesses there is a substantial body of further user evidence, all of which is consistent with and corroborates the clear picture of extensive use, over a period of decades, up to and beyond the installation of prohibitory signs in around 2001/2 until around 2005 when there is evidence of people having been verbally challenged about their use of the Order Route. When people were challenged in around 2005 they all stopped using the Order Route immediately. Had they been challenged much earlier, as is claimed in opposition, there is no obvious reason why people challenged at an earlier time would not have behaved in exactly the same way that they did in around 2005 and stopped using the Order Route. They did not, and that is a clear indication that they were not challenged earlier.
33. As noted above, there is a summary of the totality of the evidence that the witnesses in support have given and it is beyond the scope of these submissions to rehearse the evidence in detail (indeed to do so is pointless when the full body of evidence is in the Inquiry Bundle and speaks for itself). What is incontrovertible, however, is that the full body of evidence speaks to use that more than satisfies the test that needs to be applied, namely whether a right of way subsists along the Order Route.
34. Where, as here, the evidence that has been subject to cross examination has not been in any way undermined it is entirely appropriate for the further written evidence that is consistent with it to be accepted on the basis that accuracy can be inferred. There can be no reason not to accept it absent evidence that undermines it. And in this case, when viewed as a body of evidence that is representative of use (it does not claim to be a complete record of all use and should not be viewed as such), it portrays a compelling case for confirmation of the DMMO.

Further Issues of Interest to the Inspector

35. Permission: save for some extremely limited examples (some of which post-dates the relevant period) there is no evidence at all of widespread permissive use. It has been suggested that a person with permission does not necessarily need to know they have permission but the circumstances in which it is said that might apply in this case have not yet been clearly articulated (they may have been by the time this closing submission is delivered). In any event, it is accepted that if a permission has been granted, for example to a specific user group or for a specific event, and some members of that group or attendees at that event are not aware of that specific permission, they will still be using pursuant to that permission. An example might be the people attending the annual Rogation Service. Permissions, however, have to be properly construed. Permission to process along the Order Route for the annual Rogation Service does not confer upon all attendees a continuing and unrestricted permission to use the Order Route going forward.
36. Bailiffs: A clear picture of the bailiffs' function and purpose has emerged from the evidence. They appear to be associated with the fishing, inspecting day tickets and season tickets, counting and weighing fish against permitted catch yields and generally 'policing' the fishing operation. The fishing season runs from late February to late October in each year (according to Georgina Davies' evidence). There is no evidence during the relevant period of bailiffs having remonstrated with people using the Order Route save for Georgina Davies saying "*they would have challenged anyone walking along the Order Route*". On the contrary, for much of the time they were an 'invisible' presence and on occasion rather friendly; even generous.

Evidence in Opposition

37. Dealing first with the three witnesses that have given live evidence at the Inquiry, none of whom were particularly impressive, each giving the appearance of someone wishing to argue the landowner's case rather than giving their own considered evidence of fact in a measured way.

Anthony Diett

38. Anthony Diett was hostile and argumentative and appeared predisposed to disagree with anything that was put to him. His evidence was also misleading at times. For instance, when he was asked if his wife worked, he said not after having their son. The clear impression was that she did not work after that when in fact she had 8 months maternity leave after which time she returned to work 4 days a week until she retired.

39. He was at pains to minimise the impression of him being away from the house, either at work or going about normal family or life related activities, in order to maintain his claim to not having seen anyone going in the direction of the Order Route. He was quite unprepared to accept that there may well have been use that he simply did not observe. He also sought to dismiss any notion of having seen the named witnesses that he knew on the lane in front of his house but eventually conceded that he had seen David Cooper and Eunice Straley. He refused to accept he had spoken to Nic Gilbert there, insisting that it was at a different gate into his garden.

40. He was also quite irrational about the gate he says was across the Order Route at Point B until 1984. He said the gates kept the cows in, but that presupposes the cows were simply wandering around the entire farm complex despite that there were fishermen coming and going and presumably other visitors too. There is, of course, a body of evidence in support of the application which says there were no gates, or that there were (albeit left open) but that they were removed in the 1970s, but he simply refuted it. Gary John, who gave evidence

yesterday, was a far more credible witness in respect of the use of the gates and his evidence had a clear 'ring of truth' about it, particularly as the use of the gates that he described is consistent with the way in which one would ordinarily expect cows to be kept (in secure fields or barns) and moved (using a corralling system).

41. Anthony Diett also said that Ron Stevens (bailiff) and Celia would speak to people about their use of the Order Route but was unable to confirm that he had witnessed any such actual exchange. That is perhaps unsurprising given that his attendance at Witcombe Farm was relatively rare and generally 'out of hours'.

42. He claimed to have a view of the Order Route from the rear of his property between Points C and D. The Inspector will have taken a view on site as to the credibility of that evidence, particularly when it is not at all obvious why Mr Diett would be so interested in other people's use of a distant path that is on someone else's land.

43. On the whole, Anthony Diett's evidence was very unsatisfactory and where there is a conflict between his evidence and that of any witness in support of the application, his evidence should be rejected.

Carole Ann Diett

44. Carole Diett's evidence was more measured than that of her husband but when pressed she said she had never actually seen anyone being turned around. She did, however, claim to have told people they were not allowed to go that way as it was private but that appears to have been a folly of her own as the Inquiry heard no evidence to suggest she was acting as some kind of authorised agent on behalf of the landowners charged with the task of keeping potential trespassers from continuing down the lane to Witcombe Farm and it is not known to whom she conveyed that message. It was clearly not any of the

(known) witnesses in support of the application otherwise she would presumably have given evidence to that effect.

Georgina Davies

45. Georgina Davies' evidence in relation to part of the relevant period, August 1989 to March 1995, was equal parts evidence of fact and submission. She was keen to portray herself as someone who was on site and able to see what was going on from dawn to dusk, seven days a week, and was active in policing use by third parties. In her written evidence she said "*the nature of my job meant that I spent my day in and around the yards which are situated on either side of the private road which leads to Witcombe Farm*" and in her oral evidence she said "*I lived there. I was totally on the yard*".
46. In reality she was absent for significant parts of the day, taking Lucy Hicks-Beach to competitions, riding horses out, both her own and other peoples, and when she was on site, she was often occupied in parts of the Farm where she had no view of the Order Route or was occupied with lessons or other tasks.
47. In both her written and oral evidence she referred to the fact that the claimed route was a private road and that there was signage there to that effect. If people came down to park in the fisherman's car park to go for a walk, she told them they were not permitted. When specifically asked if people on foot were challenged by her she simply referred to the fact that people in cars were asked to leave. That is entirely consistent with the messaging which signage, present at that time, conveyed to the public at large and which was clearly directed at unauthorised vehicular access rather than pedestrian access.
48. Georgina Davies had a propensity for exaggeration and her evidence should be treated with caution if it cannot be reconciled with or is in conflict with that of other more measured and credible witnesses.

Other Evidence in Opposition

49. There are a significant number of witnesses that oppose the making / confirmation of the DMMO but in light of the quality of the evidence that has been heard by the Inquiry and the obvious difficulty in accepting it the Inspector is urged to consider carefully that evidence before accepting any of it. Some very sage observations were made by Helen Slade in her assessment of that evidence which are as applicable today as they were then.
50. Perhaps one of the most surprising aspects of this case is that Fred Hicks-Beach, son of the landowners at the time of the application and objection and presumably still having some interest in Witcombe Farm, and who provided his own evidence claiming to *"have stopped [people] and informed them it is not a footpath"* and having *"witnessed [his] parents, fishing bailiffs and yard staff informing people that there was no footpath through the farm"* saying that *"people would be stopped as soon as they were seen to be trying to travel up or down the road"*, has sat through this Inquiry and not given his own evidence, preferring to rely upon the evidence of a historic stable manager and two neighbours at the top of the lane whose connection to Witcombe Farm is tenuous at best.
51. That is both inexplicable, and unexplained. But inferences can and should be drawn from his failure to speak to the evidence that he has put in his questionnaire and accompanying narrative and which purports to speak directly to the issue of challenges to use. That evidence should simply be rejected as being impossible to accept in the circumstances.

Additional Representations / Penelope Canbelin (Interested Party)

52. A number of late submissions have been received, 5 on behalf of the landowner and 2 in reply. Broadly speaking, the representations in opposition to confirmation of the DMMO (Buxton, Dunford, McLain, Gyde and Stallard) are

irrelevant to the issues that are to be determined in this matter, largely concerned with the alleged 'desirability' (or otherwise) of the Order Route being a public right of way on grounds of safety (save for Angela Buxton who says she has never witnessed groups of people regularly using the Order Route which says nothing about individuals or couples or less frequent use or how she was able to observe the same).

53. In response to those submissions Nic Gilbert and Penelope Canbelin have provided submissions in response. They address the matters raised (the written submissions speak for themselves) but Penelope Canbelin spoke to the Inquiry yesterday having sat through the whole of the evidence and having realised that she had useful information to impart. In summary the evidence she gave was as follows:

- Used the Order Route as a walker and horse rider
- No closed gates – as a horse rider that would be easily recalled
- Recalls the farmyard was more 'basic' during the Paget's tenure
- Whilst the Hicks-Beach's would not have known who she was they recite in their comments in respect of the application that they saw her regularly using the Order Route
- She recalls seeing Mark Hicks-Beach and Arnold Price and she spoke to Arnold Price a few times when she was on her pony or with her dog or with friends or family
- Mark Hicks-Beach less talkative but would nod or raise his hand
- Remembered Georgina Davies (then known as George Bennett) – they chatted, she was invited to see her horse (a large bay horse) and recalled her little white dog
- Ron Stevens the bailiff was chatty and gave her a trout which he fetched from the bailiff's shed
- She used to talk to Tony and Carole Dielt frequently and she would have ridden past them in the early days and walked past with family dogs

- Arnold Price often used machinery around the farm
- Regarding dogs and horse safety the Hicks-Beach family had a number of dogs kept kennelled behind the bailiff's hut with mesh fronts (spaniels and pointers)
- Farm yard got busier over time (very quiet in Paget's time) but never struck her there were lots of people around
- Farm was developed and in doing so sad that an established oak tree was felled
- Never been aware of large machinery on the farm – thought a large facility had been built recently elsewhere to house large machinery) – this goes to the claimed safety issues

Conclusion

54. There is a substantial body of evidence in this case and it is outside the scope of this closing submission to even attempt to summarise it all in any meaningful way and it is necessarily limited by the time available to produce it following the hearing of the evidence. There are further submissions in the Inquiry Bundle in the way of Nic Gilbert's Statement of Case dated 3 August 2026 which provides a very helpful commentary on the application (see [PDF675-685]).

55. The OMA maintains that the evidence in support of the DMMO is sufficient to satisfy the test that on the balance of probabilities the right of way along the Order Route subsists. Accordingly, the Inspector is invited to confirm the order.

ROWENA MEAGER
No 5 Chambers

7 October 2026

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