

GLOUCESTERSHIRE
COUNTY COUNCIL
31 JUL 2007
THE ENVIRONMENT
DEPARTMENT

Ms S Burge
Public Rights of Way
Gloucestershire County Council
Shire Hall
Gloucester
GL1 2TH

National Rights of Way Casework Team

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Your ref: 573/11/101(1)
Our ref: NATROW/T1600/529A/07/32
Date: 27 July 2007

Dear Ms Burge

**WILDLIFE AND COUNTRYSIDE ACT 1981
APPEAL UNDER PARAGRAPH 4(1) OF SCHEDULE 14
GLOUCESTERSHIRE COUNTY COUNCIL'S REFUSAL TO MODIFY THE DEFINITIVE
MAP TO ADD A FOOTPATH AT WITCOMBE FARM, GREAT WITCOMBE,
GLOUCESTERSHIRE**

Thank you for your letter of 11 July 2007 enclosing your authority's statement and associated documents in connection with the above appeal. I am sending a copy to the appellant for any comments and will write to you again in due course.

I enclose for your information a copy of correspondence submitted to us on this matter by the Ramblers' Association. I should be grateful if you would send me within 21 days any comments you may wish to make on these representations.

I would remind you that you are requested to make the appellant's grounds of appeal and accompanying documents, and any other evidence, including your authority's statement, available for public inspection at your authority's offices.

Yours sincerely

[REDACTED]

LAURENCE WILSON

Enc



17.17

Mr Laurence Wilson
National Rights of Way Casework Team
Citygate
Gallowgate
Newcastle upon Tyne
NE1 4WH

Miss Burge

01452 425522

573/11/101(1)

NATROW/T1600/529A/07/32

28th September 2007

[E-Mail: sarah.burge@gloucestershire.gov.uk](mailto:sarah.burge@gloucestershire.gov.uk)

Dear Mr Wilson

Wildlife and Countryside Act 1981
Appeal under paragraph 4(1) of Schedule 14
Gloucestershire County Council's refusal to modify the Definitive Map
to add a footpath at Witcombe Farm, Great Witcombe, Gloucestershire

Thank you for your letter dated 19 September 2007 regarding the above appeal, and enclosing a copy of the appellant's response to my authority's statement dated 11 July 2007.

On page 2 of the appellant's comments, in the 4th paragraph he states, "*The Public Rights of Way Section at Gloucestershire County Council informed me at an early stage that the outcome of this case would depend solely on user evidence, that is to say the testimony of actual usage of the path in question, and that opinion would not be a consideration*".

This infers that my authority stated that only user evidence would be taken into account when determining the application, whereas we will take account of all relevant evidence including documentary evidence and any evidence submitted by the landowner or users etc. I agree however that applications are decided solely on the basis of the available evidence and whether on balance the claimed right exists, rather than on the opinions of interested parties.

My authority has no further comments to make on this matter.

Yours sincerely

Sarah Burge
Public Rights of Way

Wychbury
Great Witcombe
Glos GL3 4TS
Tel [REDACTED]
2/10/07



Dear Miss Burge,

Your ref 573/11/101(1)
Wildlife and Countryside Act 1981, Section 53
Application for a Modification Order for an Additional Public Footpath through
Witcombe Farm, Parish of Great Witcombe.

I recently submitted a further eight page letter to Defra in furtherance of my appeal on this matter. I gather they will be contacting your department for further comments so will doubtless send you a copy.

I would be grateful if you would clarify one matter:

The Joint Report Of The Group Director: Environment And The Head Of Legal Services Report – 20 March 2007, section 14.13a says, "The applicant and Witness 1, Dr. Gilbert is a member of the Gloucestershire Wildlife Trust, who, the landowner states, has permission to use the claimed footpath with or without vehicles. Dr. Gilbert became a member of The Gloucestershire Wildlife Trust in approximately 2003/2004, which is after the date of challenge. Therefore his use of the path would have been as of right and not with permission."

However the idea that members of the Gloucestershire Wildlife Trust have permission to use the claimed route is unclear and not confirmed by the landowner.

The possible misunderstanding stems from a statement by the landowner's solicitor in her submission of 7th July 2006, page 9, under the comments made about Witness 49, Pete Bradshaw, under which she says, "Please note the evidence particularly of Mike Teesdale and Tony Metcalfe. Permission is given to the Gloucestershire Wildlife Trust to use the path with or without vehicles."

In fact the relevant evidence of those two people is as follows:

Mike Teesdale:

" Indeed the Committee Members have been given express permission by Mrs. Hicks Beach to use the claimed path..."

John Anthony Metcalfe (item 11)

Gloucestershire Wildlife Trust over the years have organised sponsored walks starting at Witcombe and to prevent disturbance to fishing, permission was given to walk through the farmyard for that day only"

3922

These statements would suggest that it is only Committee Members who have been given any permission to use the claimed route, and not ordinary members like myself.

Having said that, I pointed out in my letter of 26/10/06 that a Gloucestershire Wildlife Trust brochure entitled, 'The Wild flowers of Witcombe Reservoirs Nature Reserve' shows a map of Witcombe reservoirs and says the following: "How to get to Witcombe Reservoirs Nature Reserve – *Witcombe Reservoirs are near Brockworth, Gloucester, Follow the old A417 to The Twelve Bells Pub, turn right for Birdlip. Do not take cars beyond the farm entrance.*" This clearly implies that, although cars should not be taken beyond the farm entrance, access by foot is allowed.

I raise this point since I think that those considering the case at Defra may be confused or misled by the landowner's solicitor's comments and by The Joint Reports interpretation of it.

I asked the landowner earlier this year about any such permission but she did not appear at all certain of the situation because she said her late husband had dealt with it.

I have since asked the landowner in a letter dated 29/04/06 to clarify the position regarding any such permission but she did not reply.

Since you contacted me by telephone on Tuesday 27th February, to clarify my membership status, in case this affected the value of my evidence, I wonder if it would be worthwhile contacting The Landowner to clarify the position regarding such permission.

I am grateful for your patience and further attention in this long running saga.

Yours sincerely,

Dr. Nick Gilbert.

Enclosures:

Letter to landowner dated 29/04/07 (wrongly dated 2006 on original)
Copy of relevant part of evidence of Michael Teesdale and John Anthony Metcalfe.

Wychbury
Great Witcombe
Glos GL3 4TS

29/04/08

Dear Celia,

During the process of applying for a modification order to have the footpath to the reservoirs, via Witcombe Farm, placed on the Definitive Map, it was stated in evidence tendered on your behalf that, "Permission is given to The Gloucestershire Wildlife Trust to use the path with or without vehicles".

This was interpreted by members of the public footpaths enquiry team to suggest that evidence given by those who were members of The Wildlife Trust might be void since they would have already had permission to travel this route and therefore it would not be, 'As of right'.

On speaking to you about this some months ago you seemed unclear as to the existence and exact nature of this permission.

I am in the process of appealing against the decision taken by three councillors at Glos. County Council to go against the advice of their own Environment Directorate and the Head Of Legal And Democratic Services and refuse the application and I think it would of interest to those considering the case at The Department For The Environment to know the exact position concerning any such permission.

I would be grateful if you could let me know the details regarding any such permission and its exact wording.

Thank you.

Yours sincerely,

Nick Gilbert

Statement of Michael Teesdale

I am Michael Teesdale of 6 Cherrywood Gardens, Tuffley, Gloucester, GL4 0AE.

I have been a member of the Committee responsible for the management of the Witcombe Reservoirs Nature Reserve since about 1986. Between 1992 and 2002 I was the chairman of this Committee. We managed the reserve on behalf of Gloucestershire Wildlife Trust.

I have always visited the reservoirs regularly and between 1986 and 1996 I visited approximately once a week and then more latterly since that date approximately once per month. The purposes of my visits were to carry out surveys and for bird watching. I was usually at the reservoirs for between one and two hours on each of these visits.

The Nature Reserve is shown edged red on the attached plan. From this land the claimed path at point B can be clearly seen. During my visits to Witcombe reservoirs I have frequently seen people walking the public right of way along the causeway to point B and from there to Witcombe Church along footpath number AWG/4.

I believe that members of the Hicks Beach family have given permission for certain people to walk along the claimed path through Witcombe Farm. Indeed the Committee Members have been given express permission by Mrs Hicks Beach to use the claimed path as they understood that there was no right of way.

I am also aware that from time to time people who have attempted to drive through the farm were challenged by members of the Hicks Beach family and were turned back. In particular I recall that on one occasion a visitor to the reservoir parked a car on the track and claimed that he had a right to park there. He was challenged by the late Mr Hicks Beach. He complained to the Wildlife Trust, but he was not using the specified access in their guide book.

I am aware that there have been a number of signs in place at point A, the entrance to the private road, although I have no knowledge as to when or by whom these signs were erected.

The Members of the Committee believe that the path is a private road and no public rights of access are permitted. This is why the Committee Members have sought and been given permission to use the path by the owners.

Signed...



Dated... 22.2.2006...

Witnessed...



CLAIMED FOOTPATH AT WITCOMBE FARM

NAME: JOHN ANTHONY METCALFE

ADDRESS: 3, KNAPP OTTAGE, KNAPP CANE,
BRIMSCOMBE, STROOD, GLOS GL5 2TJ

TELEPHONE NUMBER: [REDACTED]

DATE OF BIRTH: [REDACTED] 1944

OCCUPATION: [REDACTED]

1 Please specify the period of your employment by Severn Trent Water
AUGUST 1976 - SEPTEMBER 1994

2 What was your job title and the nature of your duties? SENIOR TECHNICIAN -
CAPITAL SCHEMES RESPONSIBLE FOR THE CORRECT RUNNING OF THE
ESTATES SECTION AND CAPITAL MANAGEMENT GROUP

3 How often did you visit the reservoirs at Witcombe in the course of your employment?
Was this throughout the period of your employment? USUALLY ONCE A MONTH
BUT MORE FREQUENT WHEN WORK ON SITE

4 Please indicate the hours/days you were working at the reservoirs? (In particular indicate
whether you were on site at weekends) MONDAY TO FRIDAYS 8:30 to 5:30pm

5 What is your involvement with Gloucestershire Wildlife Trust? MEMBER OF
THE MANAGEMENT COMMITTEE FOR WITCOMBE NATURE RESERVE

6 During which years were you involved with the Trust? AROUND 1980 until present day

7 Please indicate the hours/days you were at the reservoirs in connection with your
involvement with the Trust? (in particular please indicate whether you were on site at
weekends) EVENINGS THROUGHOUT THE WEEK AND ON
SATURDAYS & SUNDAYS

8 Are you familiar with the claimed path? Please specify why you are familiar (e.g. have
you used the path/been granted permission to use it/could see the path from the
Reservoirs) YES Historically the estate has inaccurately
depended the fact that the path was not a public right of way
and there are a number of letters on file with Severn
Trent Water from members of the public going back
over 20 years

9 Are any of the persons named on the summary of evidence form provided by the Highway Authority known to you? None - but on the many occasions I have been at the Reservoir very few people have been observed using the path

10 Have you seen any of the named persons walking the path? No

11 Are you aware that any such persons or groups were given permission? If so, please give details as to who was given permission, by whom, when and for what purpose. Greenwich Wildlife Trust over the years have organised sponsored walks starting at Wilcombe to prevent disturbance to the fishing, permission was given to walk through the farm yard for that day only.

12 Have you ever prevented anyone from using the path by turning them back? Please give details as to when/who/date etc. No. Only pulled on information to people who wished to visit the Nature Reserve that they should use the public footpath starting at Wilcombe Church.

13 Are you aware of any notices on the path? If so, where were they, what did they say, when were they erected and by whom? I am aware there has been a sign "Private Road for a least 20 years and recently in the last couple of years a new sign "Private Land No Public Right of Way."

14 Please give any other information that you think is relevant (continue on a separate sheet if necessary)

15 **Declaration:**

I hereby declare that to the best of my knowledge I believe my answers to the above questions are true.

I am/am not willing to attend a Hearing, Public Inquiry or Court to give evidence on the matter if this should prove to be necessary (please delete as appropriate).

Signature: [Redacted]

Date: 6th November 2016

Witness: [Redacted]

Ms S Burge
Public Rights of Way
Gloucestershire County Council
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GL1 2TH

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Your ref: 573/11/101(1)
Our ref: NATROW/T1600/529A/07/32
Date: 5 October 2007

Dear Ms Burge

**WILDLIFE AND COUNTRYSIDE ACT 1981
APPEAL UNDER PARAGRAPH 4(1) OF SCHEDULE 14
GLOUCESTERSHIRE COUNTY COUNCIL'S REFUSAL TO MODIFY THE DEFINITIVE
MAP TO ADD A FOOTPATH AT WITCOMBE FARM, GREAT WITCOMBE,
GLOUCESTERSHIRE**

Thank you for your letter of 28 September 2007 in connection with the above appeal.

I am sending a copy to the appellant for information any final comments and will write to you again in due course.

Yours sincerely

[Redacted signature]

LAURENCE WILSON

GLOUCESTERSHIRE
COUNTY COUNCIL
10 OCT 2007
THE ENVIRONMENT
DEPARTMENT

4368



Ms Anne Bennett
Charles Russell Solicitors
Compass House
Lypiatt Road
Cheltenham
Glos. GL50 2QJ

Miss Burge

01452 425522

573/11/101(1)

11th October 2007

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

Dear Ms Bennett

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

Please find enclosed a copy of the 'Submission on behalf of Gloucestershire County Council', submitted to the National Rights of Way Casework Team at DEFRA on 11 July 2007, and a copy of the appellant's response to the comments submitted by the authority, forwarded from DEFRA dated 19 September 2007. I have also enclosed a copy of my authority's response to the appellant's comments for your information.

I will keep you updated regarding the appeal. If you have any questions in the meantime, please do not hesitate to contact me.

Yours sincerely

**Sarah Burge
Public Rights of Way**

17.21



Wychbury
Great Witcombe
Glos GL3 4TS

22nd October 2007

Dear Mr. Wilson,

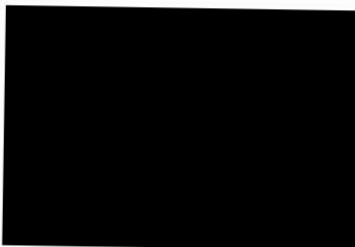
Your ref: NATROW/T1600/529A/07/32

Thank you for your letter enclosing the latest comments from my local authority.

I have nothing further to add to my previous letter at this time.

Yours sincerely,

Dr. Nick Gilbert



Ms S Burge
Public Rights of Way
Gloucestershire County Council
Shire Hall
Gloucester
GL1 2TH

Your ref: 573/11/101(1)
Our ref: NATROW/T1600/529A/07/32
Date: 26 October 2007

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Dear Ms Burge

**WILDLIFE AND COUNTRYSIDE ACT 1981
APPEAL UNDER PARAGRAPH 4(1) OF SCHEDULE 14
GLOUCESTERSHIRE COUNTY COUNCIL'S REFUSAL TO MODIFY THE
DEFINITIVE MAP TO ADD A FOOTPATH AT WITCOMBE FARM, GREAT
WITCOMBE, GLOUCESTERSHIRE**

I refer to the above-mentioned appeal and enclose for your information a copy of the appellant's response to the comments submitted by the authority on 28 September 2007.

Any final comments you may have on the matter in the light of the appellant's correspondence of 22 October should be sent within 21 days from the date of this letter. If you have no further comments please respond to that effect and we will move the matter towards a decision.

I would remind you that you are requested to make the appellant's grounds of appeal and accompanying documents, and any other evidence, including your authority's statement, available for public inspection at your authority's offices.

Yours sincerely

[REDACTED]
LAURENCE WILSON

Encl



17.23

Mr Laurence Wilson
National Rights of Way Casework Team
Citygate
Gallowgate
Newcastle upon Tyne
NE1 4WH

Miss Burge

01452 425522

573/11/101(1)

NATROW/T1600/529A/07/32

30th October 2007

Mail: sarah.burge@gloucestershire.gov.uk

Dear Mr Wilson

**Wildlife and Countryside Act 1981
Appeal under paragraph 4(1) of Schedule 14
Gloucestershire County Council's refusal to modify the Definitive Map
to add a footpath at Witcombe Farm, Great Witcombe, Gloucestershire**

Thank you for your letter dated 26 October 2007 enclosing a copy of the appellant's response to the comments submitted by my authority on 28 September 2007.

I can confirm that Gloucestershire County Council has no further comments on this matter.

Yours sincerely

**Sarah Burge
Public Rights of Way**



Ms S Burge
Public Rights of Way
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GL1 2TH

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Your ref: 573/11/101(1)
Our ref: NATROW/T1600/529A/07/32
Date: 7 November 2007

Dear Ms Burge

**WILDLIFE AND COUNTRYSIDE ACT 1981
APPEAL UNDER PARAGRAPH 4(1) OF SCHEDULE 14
GLOUCESTERSHIRE COUNTY COUNCIL'S REFUSAL TO MODIFY THE
DEFINITIVE MAP TO ADD A FOOTPATH AT WITCOMBE FARM, GREAT
WITCOMBE, GLOUCESTERSHIRE**

Thank you for your letter of 30 October 2007.

As the exchange of written representations is complete this appeal will now proceed to the decision stage, the outcome of which you will be advised in due course.

Yours sincerely

[REDACTED]

LAURENCE WILSON

5224