

Mr T Buxton  
Great Witcombe Parish Council  
The Round House  
Great Witcombe  
Gloucestershire  
GL3 4SP

Miss Burge

01452 425522

573/11/101(1)

12 October 2005

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

Dear Mr Buxton

**Wildlife and Countryside Act 1981, Section 53  
Modification Order Application 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.

Modification Order applications have to be supported by evidence that the claimed route is a public right of way or that it carries the rights that are claimed. There are two sorts of evidence: user and documentary. User evidence may be submitted when the public has walked or ridden a route for a continuous period of twenty years or more as of right. In this case, the applicant has supplied evidence of use.

Your comments will be included in the report that will go before the County Council's Commons and Rights of Way Committee. Members of the Rights of Way Committee will consider the application solely on the basis of the available evidence and decide whether or not on balance the claimed right exists. Environmental considerations or the effect on property interests are not matters that the Committee can take into account.

Could you please let me know whether your council has any comments to make on this application. I would appreciate receiving your observations by Friday 2<sup>nd</sup> December 2005. 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**

# GREAT WITCOMBE PARISH MEETING

The local administrative body for the civil parish of Great Witcombe

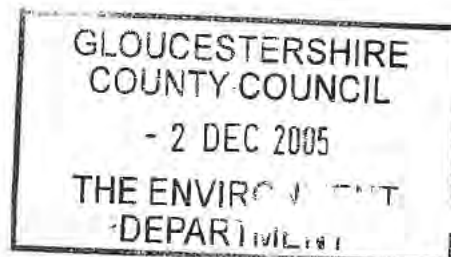
Chairman: Trevor Buxton, B.Sc.(Hons), C.Eng., M.I.Mech.E.  
The Round House, Great Witcombe, Nr. Gloucester, GL3 4SP

Tel: [REDACTED] Fax: [REDACTED]

Vice Chairman: Mrs. Celia Hicks Beach

Gloucestershire County Council  
Environment Directorate  
Shire Hall  
Gloucester  
GL1 2TH

30<sup>th</sup> November, 2005



**For the attention of Miss Sarah Burge**  
**Public Rights of Way**

Dear Miss Burge,

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

Thank you for your letter of 12<sup>th</sup> October, 2005 regarding the above Application. Please accept my apologies for the delay in my reply but I felt that it was necessary to ask everyone in the Parish for their individual views on this matter before making a reply on their behalf. You will no doubt appreciate the need for this, in that I like to think that both the Applicant and his opponent are personal friends and one is my Vice Chairman.

The assessment was carried out by means of a letter to each household (copy enclosed), together with individual, un-named reply slips for each person eligible to vote. Both Dr. Gilbert and Mrs. Hicks Beach were informed beforehand of the contents of the draft letter and expressed their satisfaction; both made additional comments which were incorporated into all the letters before despatch by post. I am quite satisfied that the method used, with its checks against duplicate or unauthorised voting, and the letter of enquiry itself, were completely fair and allowed everyone to register an anonymous vote.

The results were made known on a Notice, a copy of which is enclosed for your information. You will see that 43 votes were received, 16 being in favour of the proposed Right of Way Modification and 27 against. Since 84 names appear on the Electoral Roll, this represents a participation of 51%, although, since 5 people on the Roll have left the area and could not be contacted, the participation may perhaps be taken as 54%. Of those who voted, 37% favoured the addition of the route to the Rights of Way Definitive Map and 63% felt that a Right of Way should not be imposed.

Several written comments were made on the return slips and three accompanying letters received on the subject; these are reproduced verbatim below as follows:

14-78/05

1. "Those wishing to enjoy the beautiful scenery are no threat to the estate and certainly as I get older, the simple access to walk through is appreciated",
2. "I cannot see any justification for opening up a new public footpath from A to B on the map for any user at any time of day or night. To my mind there are adequate footpaths in the said area, that provide areas for people to walk and enjoy the views etc. If it did happen I feel it would be an open invitation to burglars and access for people to get to the reservoirs for swimming and vandalism",
3. "Improving the stile on the footpath AWG4 would be very easy and may go some way to resolving the problem",
4. "Considering there are already three public footpaths to the reservoir, I don't see the need to mess up someone's property with yet another one",
5. "It has never been the case that this route has been used in the past",
6. "There seems to be ample footpaths already",
7. "This is a private drive through a farmyard and should remain so",
8. "There are adequate walks around the area without impinging on peoples' privacy who live there. The reservoir would be open to people who may misuse it, and could create problems if people swim there",
8. "I do support the notion that the footpath through Witcombe Farm should be a public Right of Way. This is notwithstanding the (reasonable) concerns of Witcombe Park Estate.  
My decision is influenced by (but not entirely dependent upon) the fact that the path across the muddy fields, AWG4, the styles referred to, including the need to scramble up a steep muddy and brambled bank to reach the path over the reservoir is wholly unacceptable as an alternative to the new proposition. Had the former been maintained and made easier, the new proposition might have attracted less merit – but the Estate is evidently hostile to ramblers even those recognisable as local residents! If only the Estate management understood this!"
9. "I have walked the public footpaths of Great Witcombe for 21 years. This includes walking through Great Witcombe farm yard. I have continued to walk through the farm yard with my children and pet dog when the other routes to the reservoir have
  - a) unruly horses blocking my way,
  - b) severely flooded, churned up fields,
  - c) overgrown and difficult to negotiate styles.The reservoirs are in an area of outstanding natural beauty and I feel nobody should be denied access to them".
10. "Thank you for your letter concerning the public right of way application. Our views on the matter are that we feel we are very fortunate and privileged to live in this relatively unspoilt environment. It is with great concern that we anticipate

problems from this proposed action, not least, vehicle parking and litter for which there are no facilities.

Even with limited access through Farm Lane we have experienced theft, aggressive behaviour and as we recall more seriously injury to animals. All this from a job culture this country now produces at a prolific rate. This being a fact of modern day living, why any local people would want to jeopardise this very special place is beyond our belief. Therefore, we are rigorously against the proposal.

We should add that this is not a selfish attitude to take, for the genuine walker with good intentions there is existing access to the area in question, in our view the alternative holds to high a price to be considered”.

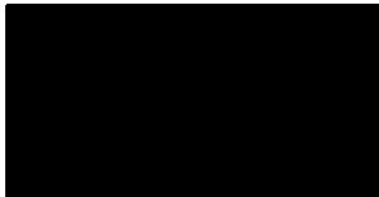
All the above were received as a result of my letter asking for individual opinion and they are retained on file if verification is required. The last three items, 8, 9 and 10, are letters, where I should feel it necessary to obtain the permission of the authors if their origin was sought by anyone.

As you might expect, I also received much correspondence (including photographs) from both Dr. Gilbert and Mrs. Hicks Beach, putting their points of view; I should imagine you will have received similar copies. I do not consider these to be part of my general request for a vote on the matter; however, they, too, remain on file.

I trust that you will consider that the foregoing gives you an overall picture which truly reflects the views of the Parish as a whole.

If you feel you need further input, I shall do my best to oblige,

Yours faithfully,  
for Great Witcombe Parish Meeting,

A large black rectangular redaction box covering the signature of Trevor Buxton.

Trevor Buxton,  
Chairman.

# GREAT WITCOMBE PARISH MEETING

The local administrative body for the civil parish of Great Witcomb  
Chairman: Trevor Buxton, B.Sc.(Hons), C.Eng., M.I.Mech.E.  
The Round House, Great Witcombe, Nr, Gloucester, GL3 4SP  
Tel: [REDACTED] Fax: [REDACTED]  
Vice Chairman: Mrs. Celia Hicks Beach

2<sup>nd</sup> November, 2005

«Name1»  
«Name2»  
«Name3»  
«Name4»  
«Address1»\*

Dear Parishioner(s),

re: **Public Right of Way – Application for Modification**

An official application has been made to Gloucestershire County Council for a Modification Order to add a length of public footpath to the Definitive Map of Public Rights of Way.

The application, made by Dr. Nick Gilbert, is to add what the GCC term “a footpath through Witcombe Farm, which runs from Witcombe Farm Lane” [by the Severn Trent entrance junction] “in a generally South to South-Westerly direction for approximately 200m to its junction with the existing public footpath AWG4” [by the stile near the reservoir overflow]. “This is marked A to B on the enclosed map”.

GCC say further that “Modification Order applications have to be supported by evidence that the claimed route is a Public Right of Way or that it carries the rights that are claimed. There are two sorts of evidence – user and documentary. User evidence may be submitted when the public has walked or ridden a route for a continuous period of twenty years or more as of right: in this case, the applicant has supplied evidence of use” [by a number of people]. Documents supplied by GCC do not show the route in question to be a Public Right of Way at this time and the understanding is that it never has been so designated.

Gloucestershire County Council have written to me to say that their Rights of Way Committee will consider and decide upon the matter, “solely on the basis of the available evidence”, to be submitted in a report - including comments made on behalf of Great Witcombe Parish Meeting. I have been asked to make those comments on behalf of our Parish and, being of the opinion that it would not be right for me to do so purely off my own bat, I must ask each and every one of you to let me know your own views. In the same way as I deal with Planning Applications, I propose to submit a summary of all views expressed, but without revealing the names or particular viewpoints of anyone contributing to those opinions. You may, of course, write directly to the Committee, but you may expect to find your letter is then considered to be open to general inspection.

I am concerned to avoid colouring your views in any way but would suggest that you have to weigh the following factors:

1. A Public Right of Way confers a **right** upon **anyone** – local or otherwise – to walk along a footpath so designated at any time they choose. The land owner has no right to restrict anyone in any way, provided they remain on the designated path. The user may take a pram, pushchair, or wheelchair, where it is practicable to do so, and a dog (which must be under close control, especially near livestock, and also strictly confined to the footpath).

Cycling is **not** permitted. Any obstruction may be removed or circumvented sufficiently to allow passage without trespass. It is the responsibility of a user to take his or her litter away. A user may halt on a footpath to rest, sit down, look at views, or take photographs.

2. Where no legal Right of Way exists, a footpath user **must** leave if requested to do so by the land owner or his/her representative. At the same time, a landowner may, at his/her own discretion, give permission to use the footpath to anyone they choose: obviously, he/she may remove that permission, again at his/her own discretion, particularly if such permission is abused.

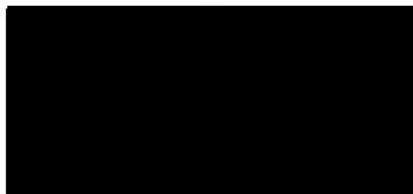
Dr. Gilbert and his supporters feel that such an attractive and convenient route should be open for use by anyone, including people outside the Parish or immediate area; they submit that this has been the case in the past. Use of the route should not be left solely at the discretion of the landowner. They also feel that the stile on footpath AWG4, near the reservoir, presents particular difficulties – unsurmountable for some users.

Mrs. Hicks Beach and Witcombe Park Estates feel that they must be allowed to retain control over usage of a route which they say is not an actual footpath but a private drive and farmyard and which passes through the middle of both residential and active business premises, with implications regarding insurance, privacy, animal, equipment and user safety. Since it has never been a Public Right of Way, anyone using it in the past should only have been doing so with their permission or that of earlier landowners and any possible implication, intended or otherwise, of upgrading an existing “footpath” is misleading. They are concerned about the all-embracing nature of Public Right of Way status which, they feel, leaves them vulnerable to unknown users for 24 hours a day when adequate alternative footpath access to the reservoir area already exists - which may be augmented in needy cases by their discretionary permission.

Would you all please consider your own attitude **very carefully, bearing in mind both sides of the problem**, and let me know your opinion by completing an accompanying reply slip, each of which will be found inside a named reply envelope, folding and returning it, sealed in that envelope, to me at The Round House **by Monday, 21<sup>st</sup> November at the latest**, so that I can make a fair and justifiable reply to Gloucestershire County Council by their specified deadline. They may be returned by just dropping them through The Round House letterbox, or by post. Upon receipt, each unopened envelope will be checked by myself for authenticity against the Electoral Roll: later, all envelopes received by midday, 21<sup>st</sup> November, will be opened, the envelopes discarded, and the folded, unread reply slips put aside for counting and retention. By this method, no-one will know how anyone else has voted but the retained slips will be available for record purposes.

I look forward to receiving your replies and thank you for your anticipated cooperation,

Yours sincerely,  
For Great Witcombe Parish Meeting,



Trevor Buxton,  
Chairman

**If your name appears at the top of this letter, without a note to the contrary, this signifies that it also appears on the current Electoral Roll and that you are legally entitled to vote at any Great Witcombe Parish Meeting or for any Parish Survey.**

# GREAT WITCOMBE PARISH MEETING

The local administrative body for the civil parish of Great Witcombe

## NOTICE

### RESULTS OF VOTE REGARDING RIGHT OF WAY

An official application has been made to Gloucestershire County Council for a "Modification Order to add a length of public footpath" [ a route passing through Witcombe Farm] "to the Definitive Map of Public Rights of Way".

All Residents in the Parish who appear on the current Electoral Roll and are, therefore, eligible to vote on Parish matters, have been asked to signify their own individual opinion by voting "in favour of" or "against" in a statement as follows:

I am in favour of / against the proposed Right of Way Modification.

The votes received were as follows:

**IN FAVOUR OF - 16 (37% of votes cast)**

**AGAINST - 27 (63% of votes cast)**

Number of residents eligible to vote - 84  
Number of residents who voted - 43 (51%)

Voting slips have been retained and filed for record purposes.

The above, together with any comments made on the anonymous voting slips, will be communicated to Gloucestershire County Council, as they requested, as the "opinion of the Parish".

I should like to thank all who took the trouble to register their opinion.

Dated 21<sup>st</sup> November, 2005

Trevor Buxton,  
Chairman of the Parish Meeting.....

