

PLANNING INSPECTORATE REFERENCE: ROW/3274679

WILDLIFE AND COUNTRYSIDE ACT 1981 SECTION 53

DORSET COUNCIL  
(FOOTPATH FROM FOOTPATH 17 AT HIGHER HOLT FARM TO BRIDLEWAY 15 AT  
FUZZY GROUNDS, MELBURY OSMOND)  
DEFINITIVE MAP & STATEMENT MODIFICATION ORDER 2020

—PUBLIC INQUIRY, 20 SEPTEMBER 2022—

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SUMMARY PROOF OF EVIDENCE OF MRS J WARDELL  
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My name is Mrs Janice (Jan) Wardell, of 20 Woodmills Close, Stalbridge, Sturminster Newton, DT10 2ST, and this is a summary of my evidence.

**1. Summary**

- 1.1. I explain my volunteer role, and background to my involvement with the current case. I have no legal qualifications, but have experience of rights of way matters having been a Ramblers' volunteer for over twenty years.
- 1.2. I explain that my investigation into the case has revealed certain matters which I give in evidence relating to rights of way, and waymarking on the Ilchester Estate at Melbury Osmond.
- 1.3. I then give examples from a survey conducted by Dorset Ramblers for Dorset County Council in 1999, showing that paths had been wrongly waymarked, and it appears that this continues today.
- 1.4. I submit that when some paths on the estate are marked thus, and others poorly marked, how can the public be confident that they are using the correct routes, let alone what the intentions of the landowner are.
- 1.5. In conclusion therefore, in the light of this evidence, I respectfully request that the Order be confirmed.

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My name is Mrs Janice (Jan) Wardell, of 20 Woodmills Close, Stalbridge, Sturminster Newton, DT10 2ST, and I will say as follows:

**1. Background**

- 1.1. I have been a volunteer with the Ramblers for at least twenty years, starting as the North Dorset Group Footpath Secretary, and for the past 10 years I have also been the Dorset Area Footpath Secretary.
- 1.2. The Ramblers is consulted on all applications to change or amend rights of way recorded on the definitive map, and also applications to modify the definitive map. As Area Footpath Secretary I work with our local teams of Footpath Officers, making sure that there is coordinated and consistent response. Throughout my years in these roles I have acquired experience in rights of way matters, but I have no formal qualifications. When necessary, legal advice is given by a Senior Officer at Ramblers Central Office.
- 1.3. All Rights of Way volunteers with the Ramblers are provided with a copy of *Rights Of Way: A Guide to Law and Practice*<sup>1</sup> (commonly referred to as the 'Blue Book'). There are additional sources of information relating to public rights of way readily accessible on websites such as the [Ramblers](https://www.ramblers.org.uk/)<sup>2</sup>, the British Horse Society ([BHS](https://www.bhs.org.uk/about-us/access/))<sup>3</sup> and the Open Spaces Society ([OSS](https://www.oss.org.uk/))<sup>4</sup>, as well as Highway Authority sites and the relevant gov.uk website.
- 1.4. It is part of my role to respond to enquiries from members of the public, and liaise with them and local authorities and other organisations, in matters relating to access and public rights of way.

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<sup>1</sup> Riddall, J. & Trevelyan, J. 2007. Fourth Edition. Ramblers Association & Open Spaces Society.

<sup>2</sup> <https://www.ramblers.org.uk/>

<sup>3</sup> <https://www.bhs.org.uk/about-us/access/>

<sup>4</sup> <https://www.oss.org.uk/>

1.5. It is therefore in my role as Area Footpath Secretary that I am assisting Mr Caesley, and my investigation into the case has revealed certain matters which I give in evidence.

## **2. Current Order**

2.1. I have not walked the Order route, other than in 2010, when I was contacted by the then Melbury Osmond Rights of Way Liaison officer. At that time I was told, negotiations were taking place between Melbury Osmond Parish Council and Ilchester Estates, relating to a potential reorganisation of paths within both the parish of Melbury Osmond and the neighbouring Melbury Sampford. I was not however involved in the negotiations themselves, nor privy to the finer details.

2.2. In this evidence statement, I will not be addressing the amount, frequency or period of use, which is covered elsewhere, but I will focus on waymarking and related issues, which have come to my attention, and refer to the Objector's statement of case<sup>5</sup>.

## **3. Waymarking - general**

3.1. Section 27 of the Countryside Act 1968 requires highway authorities to place signs along a path 'as may in the opinion of the authority be required to assist persons unfamiliar with the locality' to follow the route.

3.2. Also under section 27 of the Countryside Act 1968 a highway authority can give permission for other people to erect and maintain signs. Many individuals and groups, including Ramblers volunteers, undertake such work which helps prevent accidental trespassing and increases people's enjoyment of the countryside by enabling them to follow paths with confidence.

3.3. Under section 57 of the National Parks and Access to the Countryside Act 1949 it is an offence for anyone to put up a notice on or near a right of way if it contains false or misleading information likely to deter people from using the path.

3.4. Some rights of way run over private roads, where landowners occasionally put up signs saying 'Private Road' or 'Private Drive'. As far as I am aware, there has been no decision as to whether this is a misleading 'statement' likely to dissuade the public from using rights of way. However the best way of dealing with this situation is for the highway authority to erect a post near the landowner's notice, making it clear that the public has a right of way also.

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<sup>5</sup> MJCC-11205.001

#### 4. Waymarking – Melbury Osmond public rights of way

- 4.1. In 1998 the Ramblers in Dorset were asked by the then Dorset County Council (DCC) to undertake a rights of way condition survey in Dorset as a contribution to the DCC Millennium Milestones Project, as described in my Statement of case<sup>6</sup>. The requirement was for Ramblers' surveyors to walk every one of the recorded rights of way within the County and to prepare a report on what was found 'on the ground', i.e. the condition of path furniture and surface plus obstructions and misalignments; missing items such as waymarks, signposts and bridges were also recorded.
- 4.2. For Melbury Osmond, I provided evidence from a deceased colleague, relating to an issue with the waymarking of Melbury Osmond footpath 17 (W33/17), which he discovered when undertaking the 'Milestones' survey, which he did in 1999.<sup>7</sup> The report and map for W33/17<sup>8</sup> revealed that sections of the footpath between grid references (a) ST5653 0889 and ST5637 0878, and then (b) ST5637 0878 to ST5608 0857 had not been waymarked correctly along the definitive line. (Please note that these grid references were not stated on the original report, but are my subsequent readings from Dorset Explorer, Dorset Council's online mapping system.) Instead the DCC waymarks had been positioned to indicate the route as being along the 'track' – part of the current order route. This was evidently because the two fields which the path traversed had been ploughed, as referenced by the 'codes' on the recording sheet indicating that the path had not been re-instated. It appears that this is/was a common occurrence, if not permanent, and an accepted fact by path users. This I understand has been the case for some considerable time, and subsequently the fields were generally planted with maize, again without the definitive route being re-instated. Particularly noteworthy is the mention of a DCC waymark at point 10 on the surveyor's 1999 map extract.
- 4.3. Landowners will be aware of the 1990 Rights of Way Act<sup>9</sup>, and the requirements concerning ploughing and cultivation contained therein, specifically relating to the reinstatement of paths.
- 4.4. We in the Ramblers, are alert to instances where rights of way are wrongly waymarked, and report them to the highway authority whenever we encounter them. However, not all walkers are aware of the legal line of the right of way, and if a path is waymarked, they accept this to be the correct route.

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<sup>6</sup> ROW3274679 Statement of Case JWardell

<sup>7</sup> Above SoC Appendix 4

<sup>8</sup> Above SoC Appendix 6

<sup>9</sup> An Act to amend the law relating to rights of way and the disturbance and restoration of the surface of land over which rights of way pass; to keep the line of rights of way clear of crops; to enable local authorities to act in connection therewith; and for connected purposes. [13th July 1990] <https://www.legislation.gov.uk/ukpga/1990/24>

4.5. In paragraph 4 on page 18 of the Objector's Statement of case, it is stated:  
"This is a particularly well-managed estate, with a real focus on managing and controlling all public access. The access policy is clear, and prudent, in that the existing public rights of way are respected and well signed and way-marked, and that, elsewhere on the Estate, access can only be by permission. Non-permitted access will be the subject of a challenge, and all staff are instructed to carry this out."  
(my underlining). This to me indicates that the responsibility for waymarking was accepted by, and fell to the Estate to 'oversee'. This is borne out by a reference in one of their Witness statements, that of Mr Squire, saying that the paths were 're-signed' in 2004.<sup>10</sup>

4.6. Whilst appreciating that the 'Milestones' survey was a 'snapshot' in time, it does contain a significant number of points where there were/are missing waymarks. In fact the report for footpath 11 has the note: *There are no waymarks or signposts on this footpath or on footpath 3 in Melbury Sampford to indicate their existence.* There are also places recorded where there were waymarks when walking in one direction only.

4.7. Recent photographs from the public rights of way in the vicinity of the order route, also show a number of places where there are missing waymarks, or where they are possibly hidden in undergrowth. When crossing a field which sometimes has two or three gates, the correct route does need to be clear. For example along footpath 16, this field entrance:



And there are no waymarks on this gate in the following photograph, which has been placed in a post and wire fence erected across the line of footpath 16 at some time:

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<sup>10</sup> Mr Richard Squires: paragraph 6 dated 13 October 2011



The footpath then appears to continue south-east, slightly offline from the definitive route. Again, as in 1999 some of the paths are marked in one direction only at critical points.

4.8. Additionally some of the Estate notices are confusing (see para 3.4 above) in places the same post has been used for DCC waymarks and the 'Private No Public Access' signs.



Whereas elsewhere they are 'standalone'



*(All photographs courtesy of R Caesley)*

4.9. The demarcation between public rights of way and private tracks needs to be clearly defined. In rural areas walkers are used to following well-worn paths, and tend to continue onwards, unless there are obvious signs to the contrary. A current example of confused signage is around the crossroads at D on the order map, where the 'Private No Public Access' sign has been placed facing one direction only, Combined with missing or hidden waymarks on footpath 16, the status of the route south to E is ambiguous.

## **5. Conclusion**

5.1. I therefore submit that, contrary to what the Objector states, the above evidence is testimony that there has been neither a consistent nor clear policy on waymarking the rights of way on Ilchester Estates' land in Melbury Osmond, and making the landowner's intentions clear. This continues to the present as demonstrated by the latest signage, illustrated in 4.8 and described in 4.9 above. In the light of this evidence, I respectfully request that the Order be confirmed.

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Mrs Jan Wardell

22 August 2022