

## SWORN WITNESS STATEMENT OF ROSALIND SUSAN TATE

I, Rosalind Tate of The Isle Estate, Bickton, Shrewsbury, Shrops. SY3 8EE do swear that :-

1. I lived at Paper Mill Cottage, St Catherine's Lane, Bath, Avon. BA1 8HE from 1983 to 1985 during which I was able to closely observe very much of the use of the track to Beeks Mill from my house.
2. With permission from Rev Michael Lane, (and later, his family) I used the deeply rutted and un-surfaced track for horse-riding and by vehicle both at this time and after I sold Paper Mill Cottage when I went to live up in the mobile home at Beeks Farm for a time. I knew all the horse-riders who, like me believed our use was with permission and not, "as of right".
3. I eventually bought a house elsewhere but continued to stay at the mobile home at Beeks Farm as a regular guest taking especial note of "the track" as I was always naturally curious about Paper Mill Cottage, my one-time home. The last time I stayed at the mobile home was a couple of years ago. An elderly couple called The Pomfrey's lived at Paper Mill Cottage till about 2008/9. Much of the observations which follow have also been double-checked with friends in the area, a relation still living in the area and several people who worked for the Water Board.
4. Before my occupation of Paper Mill Cottage, Charlie (d.1982) and Alice Godwin lived there - also late grandparents of the Godwins of Beek's Farm. The late Charlie Godwin kept his car in a rubble stone shed with a tin roof - towards the top left of the track as you go uphill. It eventually crumbled down. (c. late 1990s/early 2000s) Paper Mill Cottage was then owned by the Water Board who Charlie Godwin worked for, looking after Monkswood Reservoir all his life. Alice Godwin cleaned and tidied up Beeks Mill for the Rev M. Lane, and family. Charlie Godwin used to lock the gate to the track at night. They kept an eye out for Beeks Mill as did the Godwins of Beeks Farm who have managed the land there since the War. In return for a

small amount of seasonal cattle grazing, Beeks Farm also supplied Beeks Mill with spring water via a tap. The current inhabitant of Beeks Mill is now on mains water supply but the land-management of the paddock with 'the track' running up the eastern side is still grazed by the Godwins' cattle of Beeks Farm.

5. "The track" has always carried a notice of one sort or another making it abundantly clear that the route had no Public Right of Way status whatsoever. One could not be in the least doubt. On the farm gate as one approached from the road was a sign, "Private Property" or "Private Road" but that "Horses Only" were allowed as permissive users. In my mind, and those of the local horse-riding community, who were also my friends, it could not have been more clear that no Public Right of Way status existed or could ever remotely be claimed as having existed in the past. There was invariably some sort of gentleman's' agreement, track use in return for hedge-cutting. As small-holders fall below farm subsidy, they need larger farms who can justify farm machinery. The Postman saved a long trip by his use and so it made sense to also allow other harmless permissive users. That was my understanding, my husband's and those of my friends. I am not certain when post stopped being collected in person from the Post Office last century but I imagine that the use of the track was only made possible by postmen in a van once the fencing down the side of the track went up, late 1960s/early 1970s. Before that, post would have been driven the long way around, via the public roads, or collected in person.
6. In addition to the gate signs, there were no Public Road, Bridleway or Byway signs in the immediate vicinity. When one rides a horse, the natural inclination is to be especially alert for public signs. It is never worth getting any route wrong in case something scares one's horse and one is thrown off. Here, horse-riders breathed a sigh of relief that a safe permissive track welcomed horses. The owners of Beeks Mill clearly loved horses and heartily welcomed them, as guest users.
7. Not long after I sold Paper Mill Cottage, I'd guess a couple of years or so, there was a new "Permissive Bridleway" notice along with other signage to the effect of the track not being a Public through-fare of any sort for anyone. The owners also put in a side gate for horses which had not been there before. The gates were all renewed at this time too and were very smart, nothing like the old farm gate which had been more awkward to use. The Water Board helped pay for all this, having used the track extensively at the time, (late 1980s) with permission c/o the Rev M Lane's daughter, Valentine and her husband. The Rev Lane's adult children used

the place more often after I left Paper Mill Cottage and I recall seeing less of him and more of them over the years that followed.

8. No one could claim that "the track" had any Public Right of Way status, even when the gate was left wide open. Signs had wording on both the back and front i.e. - visible from both sides of the signs, whether the gate was open or closed. That is, if people had come from the north, they too would have seen the signs saying that the track had no Public Right of Way status but was merely a permissive route for Bridleway users. The post and rail leading up to the gate also carried a sign and there may have been one on the other side. This was presumably so that guest visitors or trades vehicles would not shoot past. There was no public sign saying it was "to" anywhere and it is quite easy to miss a right-angle off a narrow road if one is unsure of when it might turn up. The track entrance was so clearly someone's private farm access. I do not believe things could have been any more clear on the part of the owners of Beeks Mill that any intention had ever remotely been to create a Public Right of Way. On the contrary. I also believe that this was true before the Rev Lane's occupation.
9. It is clear from the topography of the ground that the track is a young, relatively recent creation, probably since the Reservoir was made back in the late nineteenth century. You can see from all the other genuinely old (public) routes in the area how high the banks and hedges are. This has been arrested since tarmac, the weight of old wagons without tarmac no longer able to compress routes over time. I have heard (c/o several older folk) that the track at Beeks Mill was not even 'made up' till Rev Lane asked for help from Beeks Farm for this operation. He owned a car and did not like cattle grouping down at the bottom gate and wanted to drive out without any risk of them getting out. This was when fencing down the side of the track also went up. Someone fairly recently went along with a shovel and created the bank on the east side of the track. No other public routes in the area remotely close to the stream have anything but rather high banks and hedges on both sides for the obvious reason being that they really are old routes, traversed probably over centuries by horses pulling a load. More recently, the current occupier's builders dug out some of the track apparently to level it off so they could renovate the house (c/o vehicles longer than could gain access down "Beeks Mill Lane" which has a sharp bend) which had not been fully renovated since 1960s. The levelled off section, 1/4 to 1/3 up from the bottom is the only section that has a bank on the west side, where the track was levelled off and deepened. The ground is all very wet around here; any repeat use by wagons would have surely compressed the track and long-since added much depth to it on

both sides, topped with hedges, in keeping with other public routes in the area. The bank on the east side is not even very high by local standards this close to the stream. This bank also formed an original field boundary (tithe map) which may therefore have been a bank and hedge in its own right, with the ditch the other side. No other route this close to the streams is 'open' on one side; it is not till the higher ground, well clear of any streams that the ground is dryer and the routes are consequently not deeply set, however old.

10. During my time of observation of 'the track', (1983 to early 2000s especially, less regularly thereafter), the same permissive users by vehicle, mostly farmers are the same people as of today. These were/are chiefly the Godwins (Beeks farm), and the Lippiatt's, (Frys and Henly Tynning Farms both in their occupation). Both of these farm's land abuts Beeks Mill's land. Actually, I have only seen Ed Lippiatt on a quad bike in the past few years, not a tractor. The Gardener's of Nailey Farm were also permit holders but I only saw them drive down there by vehicle about once a year or so, as like Mr Guild of Ayford Farm, they have Ayford Lane and so there would have been no need. The Gardeners rode "the track" on a horse quite regularly however, with permission as per most other local farmers. Some friends had use too. The Orchard's (R. Orchard is now deceased and Lisa Orchard moved to Italy in 2010) of "St Catherine's End House" - were friends of Rev Lane's oldest daughter and her husband who sometimes used "the track" with permission to get to Marshfield, as did their weekly gardener who apparently also lived in Marshfield.

As I recall, no one was refused vehicular permission from the owners at Beeks Mill a), if they asked and b), had a genuine business purpose. No motorbikes were ever allowed. There were often various deliveries to and from Beeks Farm who used the track by vehicle, again with permission as part and parcel of Beeks Farm's land-management of Beeks Mill, which included for access purposes of their own. Their visitors also had permission to use the track for access purposes. Many of my friends used the track to visit Beeks Farm with permission. The residents of Monkwood House, The Harpers - used the track by vehicle on some week days, early in the mornings as I recall and sometimes late at night - with permission from the Rev Lane (who died in 2000) and his family to the present time. Sometimes the surface was so bad that they would stop use for a time, till a load of scalpings had been poured down on to the track to raise the deep ruts.

The current occupant of Beeks Mill who I have chatted to extensively since her occupation (end of 2011) and checked many of my observations with has continued most of these relationships, and since 2012, handed out padlock keys to the gates to all on the original list of permit/licence holders. If today's vehicular permit holders are less keen to use the track it can only be because of the laborious business of undoing padlocks, especially in the rain. As there are also many more vehicles overall today, it was inevitable that the gates would need to be locked pretty much when they were as people are certainly cheekier than they used to be in the last century. The A46 has a greater quantity of traffic each year and people in four by fours at least would find the track a good escape-route from the slow-moving rush-hour traffic to Marshfield given half the chance. As this would jeopardise the track's permissive non vehicular users, the padlocked gates have been greatly appreciated by my horse-riding friends. Courier vans especially look for escape routes and as they do not know the area, they usually drive too fast. the idea of meeting a motorised anything on the sharp corner in "Beeks Mill Lane" does not bear thinking about. Owners of Beeks Mill however did address this concern and accordingly, made the track a safe place.

11. The Applicant of the B.O.A.T. Application today has not apparently been given a key to the padlocked gates as he claimed that his use was "as of right" which was discovered to be incorrect. Much of this information I have double-checked with local friends, the current occupant of Beeks Mill, my own observations as a regular visitor as well as with people I know who worked for the Water Board, including one relation. The background to the DMMO Application today is largely documented, publically available c/o the Council Planning Website.

Three fields at the far western side of "End Farm" and adjacent to the track at Beeks Mill were, till 1995, (when the Applicant bought them) owned and farmed by the late R.Breach of Harley's Farm. His vehicular permissive use of the track was near non-existent as there had been no need, with access at the Milking Parlour - now the Applicant's Dog Day Care Business, "Doggie Doos" - (allowed in 2010) and his farm over at Harley's. In preparation for "Doggie Doos", the Applicant closed off the original access (of late R. Breach's time) to and from these three fields from I'd guess, c. 2007 or 2008. This apparently then warranted a new access somewhere. Where? There is not much suitable road for any new access point other than at the old Milking Parlour where the ground is both flat with clear visibility. An Easement for "St Catherine's End" house to empty their septic tank rules out one section and the house itself another. The sharp bend, exceptionally steep and high banks and narrow road mean the

remaining access is non-existent. There was for a short time however (in late 1980s when the Water Board flooded the area) a temporary access created - near the top of the track at Beeks Mill. The late Breach asked the Rev Lane for permission for this. The Water Board wanted to compensate everyone for all the flooding but all Mr Breach wanted was to get his cattle out. Pretty soon, this temporary access became obsolete once the ground dried out down near the Milking Parlour. It had been a few strands of barbed wire behind the bank but as cattle had blocked the road for ages as they were driven back down again, it was not a situation which could last for long.

Upon his purchase of the three fields in 1995, with permission, the applicant dug out the bank and put in a big farm gate at this temporary access point. Next he put a horse in there (several years) and then let out the land and used it to collect wild flower seeds. The huge gate was not used for access at this time as there was still access over at the Milking Parlour. Around 2006-9 however, the Applicant changed the milking parlour into a dog care day centre via retrospective planning permission and also closed off the access to the three fields at what was originally the old Milking Parlour. Once granted full planning permission as "Doggie Doos", (c.2010) the current owner of Beeks Mill noticed the Applicant's excessive use of the access point off the track into his field, driving tractors carrying a loader and turning sharp right. The use was not 'as of right' and no 20 year prescriptive use could be claimed. At this time, a permit and/or Easement was offered by The Trustees of Beeks Mill to the Applicant but this was declined. The gate posts at the top of the track abutting the road were also getting repeatedly knocked every time a large loader pulled into the field off the public road as there was not actually enough room to turn sharply right, pulling anything at all. The access was stopped up, a short trench dug abutting the track and the gates at either end of the track were both padlocked.

Next followed various retrospective gate access planning applications (2013-14) for a new access, bulldozed at Christmas 2012 - directly to the road from the field, adjacent to the track. The DMMO application followed shortly afterwards. The stated reason for the need of this new access on these several retrospective planning applications was for the Applicant's "business" purposes. But as no claim to use the track (or the gate access off it) at Beeks Mill 'as of right' was possible, it was also impossible to use the same as a fall-back position. The Planning Dept. turned down the application on the grounds of inevitable 'intensification of use' and the Highways Dept. because of a dangerous exit/access angle onto a sub-standard road. This was

also the same conclusion in a subsequent Appeal. In place of this access point now lies a rather unsightly 'dead' hedge, presumably to show that the access has been stopped up.

12. Other permissive users apart from the personally named group (see no. 10) have been the Water Board and the Beaufort Hunt. The Hunt's use has been several days a year and the Water Board, less. They tend to use it a lot for a month or so at a time, mending something in a field(s) to the north of the valley, or, as in late 1980s, extensively for absolutely ages when they also flooded the whole area for a long time. I'd guess it was almost a year before they were done back then. Members of the public working for the Water Board and members of the Beaufort hunt, including followers by car would all have realised that the track was not a Public Right of Way, if they had applied any thought to their actual use. It may be of course that they did not think, not realising that permission had been obtained ahead of their use. But this would be a bit odd. Had they later unwittingly trespassed though, they would have been challenged by the farm or inhabitants of Beeks Mill and put straight. As people were easily put straight, no use 'as of right' was claimed, till the current DMMO application. This ought to be given weight.
13. Gloucester Council maintain the bridge which obviously cannot cope with today's increasingly bigger and heavier tractors. This had to be mended in the late 1990s because something too heavy had very obviously and quite seriously cracked it. The maintenance engineers access these bridges/drains and culverts via the surfaced route from the north. They have not used the track. There are two streams, one "St Catherine's Brook" and the other, "Cold Ashton Brook" each with culverts and quite a long stretch of bridge between the two. Uninvited/unknown vehicles of any kind then are not just a hazard to the non-vehicular permissive users; they have always had to be stopped for any number of reasons. With the sharp corner in Beeks Mill Lane, any uninvited use by motorised vehicle of any type would very obviously put permissive non-vehicular users at great risk. Owners of Beeks Mill have been well aware what potential risk to animals and humans could ensue and therefore taken great care to safeguard things. In my opinion, they have done a good job over many years.
14. The track was used by permissive horses-riders far more so than by permitted vehicles. Horse-riders knew that if they could avoid when the postman used it, a vehicular free ride could be enjoyed, and as such, it was popular because it linked up other public horse routes in the wider area providing a unique circular route. Horses used it mid morning and in summer, also

in the late afternoon/early evening. At weekends and public holidays, horse use was quite a lot less.

15. Walkers did not use the track as I recall. Firstly, the signage would cause them to question "as of right" status. As permissive Bridleway users, they were not challenged and were in fact as welcome as horses. Walkers are however slightly more careful than vehicles and this may be because they are able to see signs for longer as they are slower. The track was so obviously not a public right of way. One look and such an uneven surface is not easy to walk on as well as be able to take in any view simultaneously. The walking general public all seem to have, by and large preferred the Public Footpath mapped paths. There were often cattle in the paddock contained only by a few strands of flimsy-looking barbed wire. When not combined with a clear Public Footpath, people were probably rather wary of use. You could see a couple or a group of walkers arrive at the gate, look at the signs, survey the whole scene and then scrutinise their maps again - all in quick succession and repetition. They would then smartly avoid the track after a short chat. Only locals with vehicular permission seem to have used the track by foot but this was not at often. Since the dog-walking business at "Doggie Doos" however, it may be that permissive use on foot has been greater than back in my day, although I would contest that this has been "as of right". The current owner put up like for like signs as the then rotten ones of the Rev Lane and his family all needed replacing. Although the gates were in a less bad state of repair they were also replaced at the same time. Sadly the main farm gate has been repeatedly vandalised since 2012 and replaced several times. Signs have been ripped off and replaced with circular permissive bridleway discs. These too have been cracked or broken off altogether.
16. The only time I saw a lot of four-by-fours (most of whose owners I also knew) was when the Beaufort Hunt were using the track and people were following them by vehicle. As I also rode with the Beaufort Hunt I also knew they had permission for total use, i.e. to include their vehicular followers. In return for this, all landowners in the area went to the annual 'thank you' party sometime in the Autumn and the owners of Beeks Mill were always on the invitation list because use was clearly not, 'as of right'.
17. I do not actually believe that people have used the track to and from Beeks Mill without permission as a trespasser or 'as of right'. If they did happen to trespass by vehicle, they must have 'chanced' that the owners were not at home, but that is not use 'as of right', it's as of



secrecy. Certainly the odd person was challenged by either the Godwins or the owners of Beeks Mill. No one claimed 'as of right' use as they were quickly put straight when trespassing.

18. The signs on the gates have always borne a crucial responsibility as the owners of Beeks Mill were quite often away. The current inhabitants of Paper Mill Cottage began using the track after they bought in 2009 several times a day to drive to Marshfield. The current owner of Beeks Mill was renting elsewhere, while Beeks Mill was being renovated. There were no signs at all on the gate for a good two years 2009-11 while builders were in situ. Jackie Godwin of Beeks Farm challenged the new Paper Mill inhabitants. One of them was also challenged on foot as it was clear their use was 'as of right' and not 'permissive'. Upon taking up residence, the current inhabitant of Beeks Mill subsequently offered a padlock key for sparing vehicular use to Mr Hemms of Paper Mill Cottage but he apparently said he did not want one, observing what a pain it was every morning for the owner of Beeks Mill on the school run. Had the current owner of Beeks Mill however not locked the gates in 2012, a prescriptive right to drive onto the track and into his field could have been acquired by the track's neighbouring landowner/the Applicant by April 2015. Not long before they sold up and left, the previous owners of Beeks Mill, the Rev Lane's adult off-spring and their husbands/wives all tried to stop the Applicant, as well as the drivers of the 'dog place' - as they referred to "Doggie Doos" (in the pipeline as a retrospective planning application at the time of the 2009 sale) but also said regretfully, that they were unable to while they were away. Therefore, what you see before you today by way of the more recent historical progression has an clear inevitability about it, in my opinion.

19. It can be seen then that at no point in recent history and quite probably since the War has the track at Beeks Mill been unthinkingly omitted in any way thereby unwittingly dedicating it as a Public Right of Way. On the contrary, it has been vociferously guarded as not remotely carrying any Public Rights of Way by owners and land-managers alike. Steps have been taken of various kinds to look after the track for permit holders by vehicle and permissive use has been granted for Bridleway use. It is unlikely that owners of Beeks Mill now and into the future will operate differently as what clearly works for the area has been a high priority for them all over the years. Beeks Mill straddles three parishes and two counties and so it has taken a fair degree of independent thought and care to safeguard.

I swear and that the contents of this statement are true to my knowledge and belief.

Date

Signed