



RIGHTS OF WAY CABINET COMMITTEE

MINUTES OF THE MEETING HELD AT PENALLTA HOUSE TREDOMEN ON MONDAY 3RD DECEMBER 2018 AT 1.30 PM

PRESENT:

Councillor S. Morgan (Chair)
Councillor N. George (Vice-Chair)

Councillors:

C.J. Gordon (Cabinet Member for Corporate Services) and E. Stenner (Cabinet Member for Environment and Public Protection).

Together with:

P. Griffiths (Green Space Strategy and Cemeteries Manager), A. Fleming (Countryside Access and Rights of Way Officer), S. Denbury (Countryside and Rights of Way Assistant) R. Crane (Senior Solicitor), H. James (Legal Assistant) and A. Dredge (Committee Services Officer).

1. TO ELECT A CHAIR OF THE COMMITTEE FOR THE ENSUING YEAR

It was moved and seconded that Councillor S. Morgan (Deputy Leader and Cabinet Member for Economy, Infrastructure and Sustainability) be elected as Chair of the Committee for the ensuing year. By a show of hands this was unanimously agreed.

2. TO ELECT A VICE-CHAIR OF THE COMMITTEE FOR THE ENSUING YEAR

It was moved and seconded that Councillor N. George (Cabinet Member for Neighbourhood Services) be elected as Vice-Chair of the Committee for the ensuing year. By a show of hands this was unanimously agreed.

3. APOLOGIES FOR ABSENCE

Apologies for absence had been received from Councillor C. Cuss (Cabinet Member for Social Care and Wellbeing).

4. DECLARATIONS OF INTEREST

There were no declarations of interest received at the commencement or during the course of the meeting.

5. RIGHTS OF WAY CABINET MINUTES – 1ST DECEMBER 2016

The minutes of the Meeting held on the 1st December 2016 were noted, as no Members of the Committee at that time were present at this meeting.

6. APPLICATION FOR A MODIFICATION ORDER TO AMEND THE CAERPHILLY COUNTY BOROUGH COUNCIL DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY IN RESPECT OF ADDING A PATH IN THE COMMUNITY OF CAERPHILLY

Members were asked to consider and determine an application to add a path to the Definitive Map and Statement in the Community of Caerphilly. Prior to the meeting Members and Officers walked the footpath that leads from the Play Area in Tredomen, Park Lane through Coed-y-Twyn woods to join Footpath 39 in the Community of Caerphilly.

The Green Space Strategy and Cemeteries Manager introduced the report and advised that the Authority is under a duty to resolve applications received under S.53 (3) Wildlife and Countryside Act 1981. The report sets out the evidence regarding the application to add a footpath and the background to the application was summarised.

The application had been received from Mrs J. Lewis (local resident) on the 21st February 2005 to modify the Definitive Map and Statement of Caerphilly County Borough Council by adding a footpath to the area referred to above (located within document 2 attached to the report). Mrs S. Smith has since taken on the role of the applicant. The route of the claimed path is set out in Document 3. When Officers commenced investigations in 2017 they were advised that not all the landowners had been notified of the application. Both sets of land owners felt the application was invalid as notice had not been served and the case should be dropped. The land owners names and addresses were subsequently obtained and they were served with notice of the application dated 21st April 2017.

Ms E. Salton acquired Coed-Y-Twyn Woods as part of the wider holding of Tir Twyn Farm during May 2002 and thereafter took actions to prevent public access through the woods on the basis that she did not believe her property had any public access rights. Reference was made to document 6 that sets out the 21 user evidence forms that were submitted by residents in the Tredomen area in 2005 that have used the footpath on a regular basis. All but one stated that they have used it for over 20 years and some have used it for over 50 years. The majority of users never asked to use the path. A letter had been received from the previous landowner, Mrs Miles that confirmed she always allowed access to the woods. Officers clarified that the 20 year usage date would have been 21st February 1985 (prior to the submission of the application). Evidence has also been provided that refutes this claim.

The Officer summarised the documentary evidence that is set out in paragraph 4.4 in the report. On some of the historical maps paths are shown leading to and from the woods although none are along the specific route of this claim. From the aerial photographs little evidence is identifiable prior to 2005 possibly in part as the claimed route passes through woodland.

Councillor M. James, Mr I. Williams, Mr T. Lewis and Mr B. Elliott (Local Residents) spoke in support of the application. Ms J. Roberts (Solicitor representing Ms E. Salton), Ms E. Salton and Mr D. Organ (Land Owners) and Mr K. Jones spoke in objection to the application. The Solicitor representing the Local Authority clarified that the application had been received some 13 years ago and as with other Local Authorities applications take time to progress due to limited resources. It was not clear at that time who the land owners were and considered that service could be rectified by serving notice several months ago in order to allow an opportunity for all parties to prepare their cases. In addition, he reminded the Committee that the legal test is the 20 year uninterrupted use of the land. Following each presentation, Members of the Committee were given the opportunity to ask questions, seek clarification on

the issues raised.

Following consideration and discussion, on the basis of the evidence and information received and discussed at the Meeting, it was moved and seconded that the recommendation at paragraph 11.1 (i) in the report be approved. By a show of hands this was unanimously agreed.

RESOLVED that for the reasons contained in the Officer's report and on the basis of the evidence and information compiled in the submitted documents and procedures of the day, Members supported the claim as made that the footpath shown as 'A-B-C' on Document No. 3, should be added to the Definitive Map.

The meeting closed at 3.55 pm.