

RIGHTS OF WAY COMMITTEE – 25TH JULY 2005

SUBJECT: DIVERSION OF FOOTPATH NO.64 IN THE COMMUNITY OF RHYMNEY

REPORT BY: DIRECTOR OF THE ENVIRONMENT

1. PURPOSE OF REPORT

1.1 To advise Members of a diversion in respect of footpath No.64 in the Community of Rhymney.

2. SUMMARY

2.1 To consider an application for the diversion of footpath No.64 Rhymney

3. LINKS TO STRATEGY

3.1 Environmental improvements, sustainable development

3.2 The Authority has a duty to maintain the Definitive Map and Statement

4. THE REPORT

4.1 Footpath No.64 in the Community of Rhymney is a registered right of way and recorded on the definitive map and statement relevant date 1st July 1952 prepared by Monmouthshire County Council under the terms of the National Parks and Access to the Countryside Act 1949.

4.2 For identification purposes the area of the path is indicated on the Location/Definitive Map attached as Document No.1 within the solid black circle.

4.3 The path crosses an area formerly used as a children`s playground which is positioned alongside the main road leading to Abertysswg. The former playground was the subject of a land exchange with a local farmer, who has subsequently sold the land to two individuals.

4.4 Two planning applications have been received and granted for the development of two individual four bedroom properties.

4.5 Both permissions drew attention to the existence of footpath No.64 Rhymney and suggested contact with the Chief Engineer before development takes place.

4.6 An application has been received from a firm of Solicitors acting on behalf of the owners of Plot No.1 seeking the diversion of the right of way to allow the development to take place. The application explains that as the right of way was not revealed on the outline planning consent and the authority had erected chain link fencing around the playground they felt that the authority had a moral and legal obligation to safeguard the right of way and incur the costs of the diversion or at least contribute towards the costs.

- 4.7 Prior to purchasing land, some legal representatives will carry out a land search which reveals the local highway network, but excludes the existence of public rights of way. Part II of the land search enquiry is specifically designed to reveal the existence of public paths. However this part is additional to the Part I search and is only undertaken at additional charge. As far as the records are concerned it does not appear that a Part II land search was carried out on the former playground area when the land was purchased from the local farmer.
- 4.8 The original diversion was to divert the path to terminate on Carn-y-Tyla Terrace. Councillor John Bevan has discussed an alternative with the local farmer which is indicated between points A-C on Document No.2. The authority has received the written consent of the landowner to allow the diversion of the path onto his ground.
- 4.9 If this route were accepted then the public would not be expected to traverse two fence lines and a deep ditch before passing through a kissing gate onto Carn-y-Tyla Terrace.

5. FINANCIAL IMPLICATIONS

- 5.1 If the applicant incurs the fees then there will be no financial implications upon the Authority.
- 5.2 Under Section 3 Power to Charge in respect of the making and confirmation of public path orders of The Local Authorities (Recovery of Costs for Public Path Orders) Regulations 1993 SI 1993 No.407 subsection (b) states;
- (b) any person requests an authority to make a public path order under Section 257 or 261(2) of the 1990 Act,
and the authority comply with that request, they may impose on the person making the request any charges mentioned in paragraph (2) below.
- (2) those charges are –
- (a) a charge in respect of the costs incurred in the making of the order; and
- (b) a charge in respect of each of the following local advertisements, namely the local advertisements on the making, on the confirmation, and on the coming into operation or force, of the order.

6. PERSONNEL IMPLICATIONS

- 6.1 None

7. CONSULTATIONS

- 7.1 Cabinet Member for Highways and Transportation, County Borough Councillor K.Griffiths
- 7.2 Chairman of Rights of Way Committee Councillor D.Carter,
- 7.3 Vice Chairman of Rights of Way Committee Councillor N.Dix
- 7.4 County Borough Councillor J. Bevan 5, Arthur Street, Abertysswg, Rhymney, Tredegar, NP22 5AN
- 7.5 County Borough Councillor S. Lewis Maerdy Bungalow, Wellington Way, Rhymney, Tredegar, NP22 5PZ Chief Engineer, Mr.D.Williams
- 7.6 Chief Engineer, Mr.Mark Rees-Williams
- 7.7 Transportation Manager, Mr.J.Cooper

7.8 Head of Legal Services, Mr. D.Perkins

8. RECOMMENDATIONS

8.1.A That a diversion order be processed under Section 257 of the Town and Country Planning Act 1990 in accordance with the following descriptions;

Description of Existing Path or Way

That part of footpath No.64 Rhymney commencing on the maintainable highway approximately 64 metres north west of the centre of the property known as No.1 Warn`s Terrace and proceeding in a northerly, north easterly and east north easterly directions to a point approximately 83 metres north north west of the said property a total distance of 74 metres or thereabouts shown on plan by a bold black line between points D-B-A

Description of New Paths or Ways

A new path to a width of 1.8 metres commencing at a point approximately 83 metres north north west of the centre of the property known as No.1 Warn`s Terrace and proceeding in a south south easterly direction over a stile to terminate on the rear lane of Warn`s Terrace at a point approximately 50 metres north north west of the said property a total distance of 34 metres or thereabouts shown on plan by a bold black dashed line between points A-C

9. REASONS FOR THE RECOMMENDATIONS

9.1 To allow implementation of a planning permission

10. STATUTORY POWER

10.1 Town and Country Planning Act 1990 Section 257 Diversion of Footpaths and bridleways

Author: A.J.Sander, Senior Assistant Engineer (Rights of Way)
Consultees: Keith Donovan,
Mr.P.Williams, Clerk and Finance Officer Rhymney Community Council
Auto Cycle Union
Countryside Council for
Open Spaces Society
The Ramblers Association
Royal Mail Property
British Wales Gas plc
Western Power Distribution
British Telecom
Hyder
British Driving Society
British Horse Society Representative
Secretary to the Byways and Bridleways Trust
Representative of Cyclists Touring Club
Cyclist and Touring Club,
County Borough Councillor J. Bevan
County Borough Councillor S. Lewis