

RIGHTS OF WAY COMMITTEE – 17TH MAY 2006

SUBJECT: DIVERSION OF FOOTPATH NO. 39 IN THE COMMUNITY OF CAERPHILLY

REPORT BY: DIRECTOR OF THE ENVIRONMENT

1. PURPOSE OF REPORT

- 1.1 To advise Committee in respect of a diversion application in respect of footpath No.39 in the Community of Caerphilly

2. SUMMARY

- 2.1 To consider an application for the diversion of Footpath No. 39 in the community of Caerphilly.

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 An application has been received from Mr. & Mrs. Kidd, Tir Twyn Farm, Tredomen to divert Footpath No. 39 in the Community of Caerphilly under Section 119 of the Highways Act 1980.
- 4.2 The application is made in the interest of the landowners as they have been experiencing problems with walkers trespassing into the farmyard and not keeping to the Definitive Line of path.
- 4.3 For identification purposes the site is located south west of Ystrad Mynach and shown within the black area on Document No.1.
- 4.4 The route is recorded on the definitive map and statement for the County of Mid Glamorgan, relevant date 1st January 1971 as footpath No.39 in the Community of Caerphilly.
- 4.5 A copy of the definitive map is attached as Document No.2.
- 4.6 The path is described in the definitive statement as; -

Footpath No.39 Caerphilly

Footpath No.39

CAERPHILLY URBAN DISTRICT

Length 1900 yards 1737 metres Width Undefined

Commences at the southern end of Brynmynach Avenue, Ystrad Mynach and proceeds south-west across fields, via stiles and a field gate to Tir-twyn Farm. Continues south-west to Castell-Ilwyd Farm passes through the farmyard thence west and south to the Golf Club House. Turns westwards again to terminate on the parish road south-east of Pen-yr-heol-fawr Farm.

The original diversion requested is shown in Document No. 3.

- 4.7 The Rights of Way staff met the landowners previously to discuss the definitive line of path which was not easily defined and went up steep banking. Members of the public have for many years used an alternative path which although slightly longer is more commodious. It was therefore considered that in the interest of the general users that diversion of the section of path shown in Document No. 4 from A to D be included in the application. In view of the benefit to the users it was suggested that the Authority would contribute to the cost of the diversion.
- 4.8 The landowners agreed to include the section of Footpath 39 shown in Document No. 4 A to D and therefore the proposed diversion is A-D-C..
- 4.9 The Authority has undertaken a pre-order consultation exercise with Local Members, community council, user groups and other statutory bodies. A letter was received from Gelligaer Community Council stating that they wished to object to the diversion. However, a site meeting was held with the Community Council, local Councillors and residents. Following a visual explanation of the route this clarified the situation for those present and the objections have been withdrawn.
- 4.10 If the application is successful the landowner will construct several steps and a stile in the wall which will be much easier to use than the existing ladder stile currently in use.
- 4.11 During investigation of the Diversion Application it has been noted that the path has been historically affected by the building of houses at Derwen Close. It would seem appropriate that this section of path is included in the current Order to resolve the outstanding matter. Document No. 5 indicates the section concerned with the definitive path shown as E-F and the proposed diversion as F-G. Pre-consultation has not been undertaken on this section although it should be noted that this line of path has been used for many years.
- 4.12 The Authority does have the power to incur part or all the costs of a diversion where there is a benefit to the public at large. Having regard that the alternative path is less difficult to negotiate than the existing then there is clear benefit to the public.

5. FINANCIAL IMPLICATIONS

- 5.1 The cost of the diversion is in the region of £2,100.
- 5.2 As the diversion of the section of Footpath 39 shown in Document No. 4 as A-D-C is in the interests of the public that the Authority contribute 50%

6. PERSONNEL IMPLICATIONS

- 6.1 None.

7. CONSULTATIONS

Cabinet Member for Highways and Transportation, Councillor K. Griffiths

Chairman of Rights of Way Committee, Councillor D. Carter
Vice-Chairman of Rights of Way Committee, Council N. Dix
Chief Engineer, Mr. M. Rees-Williams
Head of Legal Services, Mr. D. Perkins

8. RECOMMENDATIONS

- 8.1 That an order under Section 119 of the Highways Act 1980 be processed in respect of the section of footpath No.39 in accordance with the following descriptions and that the costs of the process be shared 50/50 between applicant and Authority on the grounds of public benefit.

Description of Path or Way to be Diverted

That part of footpath No.39 in the Community of Caerphilly commencing at a point approximately 141 metres east of the property known as Tir-twyn Farm and proceeds in a south easterly direction across fields, via stiles and a field gate to Tir-Twyn Farm. Continues in a south westerly direction down lane to stone stile approximately 52 metres south of Tir Twyn Farm. A total distance of 184 metres or thereabouts shown on plan by a bold black line between points A-B-C.

That part of footpath No. 39 in the Community of Caerphilly commences at the southern end of Brynmynach Avenue, Ystrad Mynach and proceeds south-west across fields. A total distance of 102 metres or thereabouts shown on plan by a bold black line between points E-F.

Description of New Path or Way

A new path to a width of 1.8 metres commencing at a point approximately 141 metres east of the property known as Tir-twyn Farm and proceeding in a southerly direction before changing to a south-westerly direction, then north-westerly direction to stone stile in stone wall, crosses lane to second stone stile approximately 52 metres south of Tir-Twyn Farm. A total distance of 200 metres or thereabouts shown on plan by a bold black dashed line between points A-D-C.

A new path to a width of 1.8 metres commencing at the side of 12 Derwen Close, Ystrad Mynach, and proceeds south-west across fields. A total distance of 24 metres of thereabouts shown on plan by a bold black dashed line between points F-G.

9. REASONS FOR THE RECOMMENDATIONS

- 9.1 In the interests of the landowner and the general public.

10. STATUTORY POWER

- 10.1 Section 119 of the Highways Act 1980 – Diversion of Footpaths. This is a Council function which is delegated to this committee for determination.

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Mrs. A. Davies, Clerk to Gelligaer Community Council, Council Offices, Llwyn Onn, Penpedairheol, Hengoed, Mid Glamorgan CF82 8BB
Judy Cox, Secretary to the Caerphilly Ramblers Association, "The Hawthorns", Church Road, Talywain, Pontypool NP4 7EF

Countryside Council for Wales Unit 4, Castleton Court, Fortan Road, St.Mellons,
Cardiff CF3 0LT
Open Spaces Society, 25A Bell Street, Henley-on Thames, Oxon RG9 2BA
The Ramblers Association, 2nd Floor, Camelford House, 87-90 Albert
Embankment, LONDON SE1 7TW
Royal Mail Property Holdings West, Estates Surveying Division, Archway House,
77 Ty Glas Avenue, Llanishen, Cardiff CF4 5YG
Regional Solicitor, British Wales Gas plc., Belmont House, Churchill Way, Cardiff
NRSWA Section, Mapping Centre, Western Power Distribution, Duffryn Bach
Terrace, Church Village Pontypridd, CF38 1NB
Incoming Notice Reception (South Wales), P.P.404B Telecom House, Trinity
House, Hanley ST1 5ND
NRSWA Section, AIS Bureau, Hyder Operations, Duffryn Bach Terrace, Church
Village Pontypridd, CF38 1NB.
British Driving Society, 27 Dugard Place, Bedford, Warwick CV38 8DY
Mrs. J. Hyett, British Horse Society Representative, Woodland Farm, Caerphilly
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British Horse Society, Stoneleigh Deer Park, Kenilworth, Warwickshire CV8 2XZ
Mrs. S.L. Davy, Secretary to the Byways and Bridleways Trust, P.O.Box 117
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Cyclist and Touring Club, Cotterell House, 69 Mead Row, Godalming, Surrey GU7
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Auto Cycle Union, Wood Street, Rugby Warwickshire, CV21 2XY
Councillor R. Davies, 172 Pandy Road, Bedwas, Caerphilly. CF83 8EP
County Borough Councillor R. Cook, 71 Central Street, Ystrad Mynach, HENGOED,
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County Borough Councillor D.T. Smith, 16 Cefn Road, Hengoed, CF82 7NB