



## CABINET RIGHTS OF WAY COMMITTEE – 14TH JULY 2009

**SUBJECT:       EXTINGUISHMENT OF FOOTPATHS 251, 251A, 252 AND 253 (PART) IN THE COMMUNITY OF BEDWAS AND MACHEN AND THE SIMULTANEOUS CREATION OF A NEW PATH**

**REPORT BY:   DIRECTOR OF THE ENVIRONMENT**

---

### 1.     **PURPOSE OF REPORT**

- 1.1    To seek approval for the extinguishment and creation of rights of way at Craig-y-Rhacca Farm, Machen.

### 2.     **SUMMARY**

- 2.1    To advise Members of the requirement to extinguish and create rights of way at Craig-y-Rhacca Farm, Machen.

### 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 Jacklyn Dawson Solicitors on behalf of their client Mr Davies, Craig-y-Rhacca Farm, Machen seeking the diversion of footpaths 251, 251A, 252 and 253 in the community of Bedwas and Machen under the Highways Act 1980.  
4.2    For identification purposes, the location of the paths is shown on a copy of the definitive map within the bold black circle on the plan attached as Document No.1.  
4.3    The definitive map and statement were prepared by Monmouthshire County Council under the terms of the National Parks and Access to the Countryside Act 1949 and has a relevant date of 1<sup>st</sup> July 1952.  
4.4    The paths are described in the definitive statement as;

Footpath 251 –253 Bedwas and Machen

Name of Path : Rising Sun Path and Pen-llwyn Lane Path

Description : From stiles and field gate east of Redbrook Houses runs east crosses railway by stiles through Graig-y-rhacca farm yard north to rails on Pen-llwyn Lane.

GROUND'S FOR RELIEF : From Redbrook Lane to Railway Line re-metalled 1948 6ft wide.

Contains information relating to Footpath 251A

- 4.5    For clarification a detailed layout of the proposals is indicated on Document No.2.

- 4.6 The Highways Act allows for the diversion of a path or way where there is a common point between old and new paths. In this particular instance it is possible to divert two of the paths namely 251 and 253, but this will leave 251A and 252 requiring extinguishment with the resulting cost implication of two separate orders. Alternatively, and with the co-operation of the applicant, the authority may extinguish all the paths and simultaneously create a new path, which seems the most appropriate method available to achieve the required outcome.
- 4.7 Accordingly, the definitive paths to be extinguished are indicated by bold black lines between points A-B, B-C-D, D-E and B-D on Document No.3.
- 4.8 The path to be created and replace the extinguished paths is shown by a bold blacked dashed line on Document No.4 attached.
- 4.9 An area of the regeneration project affected the route of footpath No.265 which is a registered right of way recorded on the definitive map and statement prepared by Mid Glamorgan County Council relevant date 1<sup>st</sup> January 1971. The definitive route is indicated on Document No.2 between points A-B-C-D.
- 4.10 The Authority has undertaken a pre-order consultation exercise with Local Members, community council, user groups and public utility companies. Replies have received from Ramblers Association representative, Countryside Council for Wales, British Telecom, Western Power, none wish to raise objection.
- 4.11 The applicant has agreed to the councils conditions associated with the diversion which are as follows;
- a) The alternative path to be a minimum width of 1.8 metres and adequately waymarked throughout its length.
  - b) The gradient of the new alternative path shall not exceed 1 in 12
  - c) The cost of the administration of the order including newspaper advertisements but excluding construction be borne by the applicant. The current cost for the extinguishment being £2,500.00 although this may increase depending on advertisement. The cost of the creation is in the region of £350.00
- 4.12 A copy of the acceptance of conditions was received from the applicants solicitors by letter dated 20<sup>th</sup> April 2009 and a copy attached as Document No.4.

## **5. FINANCIAL IMPLICATIONS**

- 5.1 The cost of the order making process and constructional requirements will be met by the applicant.

## **6. PERSONNEL IMPLICATIONS**

- 6.1 None

## **7. CONSULTATIONS**

- 7.1 Cabinet Member for Highways and Transportation, County Borough Councillor Gough
- 7.2 Mr Pat Mears, County Planning Officer
- 7.3 Mr Phil Jayne, Countryside and Landscape Manager

7.4 Head of Legal Services, Mr. Dan Perkins

## **8. RECOMMENDATIONS**

8.1 That an extinguishment order be processed under Section 118 of the Highways Act 1980 in accordance with the following descriptions and that a simultaneous creation agreement is made under Section 25 of the highways Act 1980;

Description of existing path or way to be Stopped Up;

That part of footpath No.251 commencing at a point approximately 83 metres north of the centre of the property known as Craig-y-Rhacca and proceeding in a south westerly direction to the entrance to the farm yard and the junction with footpaths 251A and 252 at a point approximately 40 metres north west of the said property a total distance of 55 metres or thereabouts and shown on plan by a bold black line between points A-B

That part of footpath No.251A commencing at a point approximately 40 metres north west of the centre of the property known as Craig-y-Rhacca at its junction with footpaths 251 and 252 and proceeding in a general south westerly direction to its junction with footpath No.252 at a point 58 metres west south west of the said property a total distance of 52 metres or thereabouts and shown on plan by a bold black line between points B-D

That part of footpath No.252 commencing at a point approximately 40 metres north west of the centre of the property known as Craig-y-Rhacca at its junction with footpaths 251 and 251A and proceeding in a south easterly, southerly and westerly directions to its junction with footpath No.251A and 253 at a point 58 metres west south west of the said property a total distance of 95 metres or thereabouts and shown on plan by a bold black line between points B-C-D

That part of footpath No.253 commencing at a point approximately 58 metres west south west of the centre of the property known as Craig-y-Rhacca at its junction with footpaths 251A and 252 and proceeding in a westerly direction to a point approximately 67 metres west south west of the said property a total distance of 9 metres or thereabouts and shown on plan by a bold black line between points D-E

Description of Path or way to be Created

A new path to a width of 1.8 metres commencing at a point approximately 83 metres north of the centre of the property known as Craig-y-Rhacca and proceeding in a south westerly, southerly, south westerly and southerly directions to its termination at its junction with footpath No.253 Bedwas at a point approximately 67 metres west south west of the said property a total distance of 128 metres or thereabouts and shown on plan by a bold black line between points A-E

## **9. REASONS FOR THE RECOMMENDATIONS**

9.1 In the interests of the landowner.

## **10. STATUTORY POWER**

10.1 Highways Act 1980 – Section 118 Stopping Up of footpaths, bridleways and restricted Byways. Highways Act 1980 – Section 25 Creation of footpath, bridleway or Restricted Byway by agreement. This is an Executive function delegated to this committee for determination.

Author: A.J.Sander Senior Assistant Engineer Rights of Way  
Consultees: Peter Gilbert, 22 Llewellyn Street, Bargoed, CF81 8JL  
Mr.Derek.Allinson, Clerk to Bedwas, Trethomas and Machen Community Council, Council Offices,  
Newport Road, Bedwas, Newport, Gwent NP1 8BL  
Auto Cycle Union, Wood Street, Rugby Warwickshire, CV21 2XY  
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  
Wales & West Utilities, Spooner Close, Celtic Springs, Coedkernew, Newport NP10  
8FZ  
Western Power Distribution, Map Response Team, Mapping Centre, Lamby Way,  
Rumney, Cardiff CF3 2EQ  
Incoming Notice Reception (South Wales), P.P.404B Telecom House, Trinity House,  
Hanley ST1 5ND  
Dwr Cymru Welsh Water, Legal Dept, Pentwyn Road, Nelson, Treharris CF47 6LY.  
Miss T.K. Styles, Secretary to British Driving Society, 83 New Road, Helmingham,  
Stowmarket IP14 6EA  
Mrs. J. Hyett, British Horse Society Representative, Woodland Farm, Caerphilly  
Mountain, Mid Glamorgan CF8 1NF  
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  
Newcastle upon Tyne, NE3 5YT  
Mr. R.S. Pruddah, Representative of Cyclists Touring Club, 19 Bernard Street,  
Cwmcarn  
Cyclist and Touring Club, Cyclist and Touring Club, Parklands, Raitton Road,  
Guildford Surrey GU2 9JX  
County Borough Councillor Mrs Aldworth  
County Borough Councillor R.T. Davies  
County Borough Councillor Ron Davies  
County Borough Councillor C. Hobbs

#### List of Documents

Location Plan

Copy of Definitive map

Plan showing proposals

A copy of the acceptance of conditions letter dated 20<sup>th</sup> April 2009

ETP/ROW/FP253 Bedwas and Machen held at Pontllanfraith Offices