



## **RIGHTS OF WAY CABINET COMMITTEE**

### **MINUTES OF THE MEETING HELD AT PENALLTA HOUSE, TREDOMEN PARK, ON TUESDAY, 14TH JULY 2009 AT 10.00 AM**

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PRESENT:

Councillor R.W. Gough - Chairman

Councillors:

R. Davies, C. Hobbs & A.J. Pritchard.

Together with:

P. Mears (Chief Planning Officer), A.J. Sander (Senior Assistant Engineer, Rights of Way), J. Piper (CROW Support Officer), G. Gordon (Senior Solicitor), H. Lewis (Legal Assistant), S.M. Kauczok (Committee Services Officer).

#### **APOLOGIES**

An apology for absence had been received from Councillor L. Ackerman.

#### **1. DECLARATIONS OF INTEREST**

Agenda item 2(6), Appendix 1 - Gelynos Avenue to Woodville Terrace, Argoed. Councillor A.J. Pritchard advised that he knew a significant number of those who had submitted evidence forms in respect of the claim.

Agenda item 2(5) - Extinguishment of Footpaths 251, 251A, 252 and 253 (Part). Councillors R. Davies and C. Hobbs advised that they had been involved in discussions about the footpaths referred to in the report in their capacity as local ward members.

Agenda item 2(7) – Councillor R. Davies declared an interest as a member of the Ruperra Conservation Trust.

#### **2. DIVERSION OF FOOTPATH NO. 188 IN THE COMMUNITY OF BEDWELLYTY AND FOOTPATH NO. 114 IN THE COMMUNITY OF GELLIGAER**

The report sought approval for a diversion in respect of two rights of way affected by the construction of the Bargoed ByPass.

The following amended description in respect of the Bargoed Bypass diversion was tabled at the meeting together with an amended Document No. 3:

A new path to a width of 1.8 metres commencing at a point approximately 116 metres west north west of the centre of the property known as No. 1 West View Villas and proceeding in a

north westerly, southerly, north north westerly, crossing the Rhymney River in a west south westerly direction before continuing in a north westerly, south westerly northwesterly and west south westerly directions to its termination on the new road at a point approximately 70 metres south east of the centre of the Bargoed Railway Station a total distance of 460 metres or thereabouts and shown on plan by a bold dashed line between points C-R-J-K-L-S-T.

Following consideration the Committee endorsed the following recommendation in the report taking into account the aforementioned amended description, as follows: -

RECOMMENDED that a diversion order be processed under Section 119 of the Highways Act 1980 in accordance with the following descriptions:

#### Description of Existing Paths or Ways

That part of footpath No.188 in the community of Bedwellty commencing on the northern side of Cwrt-Coch, Aberbargoed at a point approximately 35 metres west of the centre of the property known as No.1 West View Villas and proceeding in a westerly and north westerly directions to a point approximately 86 metres north west of the said property a distance of 87 metres or thereabouts and shown on plan by a bold black line between points A-B

That part of footpath No.188 in the community of Bedwellty commencing at a point approximately 116 metres west north west of the centre of the property known as No.1 West View Villas and proceeding in a southerly and westerly directions to its termination on the former parish boundary at a point approximately 185 metres west of the said property a distance of 97 metres or thereabouts and shown on plan by a bold black line between points C-P

That part of footpath No.114 Gelligaer commencing on the former parish boundary at a point approximately 185 metres west of the centre of the property known as No.1 West View Villas and proceeding in a westerly direction to its termination at a point approximately 315 metres west of the said property a total distance of 87 metres or thereabouts and shown on plan between points P-D

That part of footpath No.114 Gelligaer commencing on Station Road, Bargoed at a point approximately 33 metres south east of the centre of the Bargoed Railway Station and proceeding in a south easterly and southerly directions parallel to the railway line to its termination at a point approximately 170 metres west of the property known as No.7A East View Terrace, Bargoed a total distance of 991 metres or thereabouts and shown on plan by a bold black line between points E-L-D-N-F.

#### Description of New Paths or Ways

A new path to a width of 1.4 metres commencing on Cwrt-Coch, Aberbargoed at a point approximately 35 metres north of the centre of the property known as No.1 West View Villas and proceeding in a northerly direction crossing a culvert by bridge then continuing in a west north westerly direction to the eastern side of the new road. Continuing on the western side of the new road to its termination on footpath No.54 Bedwellty at a point approximately 86 metres west of the said property a total distance of 30 metres or thereabouts and shown on plan by a bold dashed line between points A-G

A new path to a width of 1.8 metres commencing at a point on footpath No.54 Bedwellty at a point approximately 105 metres west of the property known as No.1 West View Villas and proceeding in a southerly and north westerly directions to its termination on footpath No.188 Bedwellty at a point approximately 120 metres west of the said property a total distance of 53 metres or thereabouts and shown on plan by a bold dashed line between points H-B

A new path to a width of 1.8 metres commencing at a point approximately 116 metres west north west of the centre of the property known as No.1 West View Villas and proceeding in a

north westerly, southerly, north north westerly and westerly north westerly, south south easterly and north westerly directions to its termination on the new road at a point approximately 70 metres south east of the centre of the Bargoed Railway Station a total distance of 460 metres or thereabouts and shown on plan by a bold dashed line between points C-R-J-K-L-S-T

A new path to a width of 1.8 metres commencing at a point approximately 170 metres west of the property known as No.7A East View Terrace, Bargoed and proceeding in a north westerly and general northerly direction to the southern limit of the new link road leading to Cardiff Road, continuing on the other side of the new link road and proceeding in a general curved northerly and north north westerly and westerly directions to its termination on the new bus depot access road at a point approximately 155 metres south east of the Bargoed Railway Station a total distance of 832 metres or thereabouts and shown on plan by a dashed line between points F-N-M.

### **3. DIVERSION OF FOOTPATHS 66 AND 79 BEDWELLY**

An internal application has been received seeking the diversion of footpath nos. 66 and 79 in the community of Bedwelly as a result of the Oak Terrace Bypass project.

The construction of the new road has affected the routes of footpaths 66 and 79 Bedwelly which are registered rights of way recorded on the definitive map and statement.

The Committee endorsed the recommendation in the report as follows: -

RECOMMENDED that a diversion order be processed under Section 119 of the Highways Act 1980 in accordance with the following descriptions: -

That a diversion order be processed under Section 119 of the Highways Act 1980 in accordance with the following descriptions;

Description of Existing Path or Way (Footpath No.79 Bedwelly)

That part of footpath No.79 Bedwelly commencing at a point approximately 13 metres east of No.24 Oak Terrace and proceeding in a curved north easterly direction before turning in a north north westerly direction at its termination at the south end of Edward Street at a point approximately 187 metres north of the said property a total distance of 217 metres or thereabouts and shown on plan by a bold black line between points A-B-C.

Description of Existing Path or Way (Footpath No.66 Bedwelly).

That part of footpath No.66 Bedwelly commencing at a point on New Bryngwyn Street approximately 15 metres north west of the property known as Red Cross Villas and proceeding in a east north easterly direction to its termination at its junction with footpath No.79 at a point approximately 156 metres north east of the said property a total distance of 167 metres or thereabouts and shown on plan by a bold black line between points E-D-C.

Description of Existing Path or Way (un-registered path)

A length of un-registered public path commencing on the rear lane of Oak Terrace at a point approximately 24 metres north north east of No.24 Oak Terrace and proceeding in a northerly direction to its termination at a point approximately 100 metres north of the said property a total distance of 80 metres or thereabouts and shown on plan by a bold black line between points M-H.

#### Description of New Paths or Ways

A new path to a width of 1.8 metres commencing at a point approximately 13 metres east of No.24 Oak Terrace and proceeding in a north easterly and north westerly directions following the newly constructed footway to its termination at a point approximately 33 metres north north east of the said property a total distance of 60 metres or thereabouts and shown on plan by a bold black dashed line between points A-F.

A new path to a width of 1.8 metres commencing on the north side of the new road at a point approximately 49 metres north north east of No.24 Oak Terrace and proceeding in a north easterly and north westerly directions to its termination at a point approximately 100 metres north of the said property a total distance of 74 metres or thereabouts and shown on plan by a bold black dashed line between points G-H.

A new path to a width of 1.8 metres commencing on the north side of the new road at a point approximately 61 metres north north west of the property known as Red Cross Villas and proceeding in a east north easterly direction to the steps leading to Aneurin Avenue approximately 82 metres north north east of the said property and shown on plan by a bold black dashed line between points L-K. Path continues on the east side of Aneurin Avenue from a point approximately 97 metres north east of the said property and proceeds in an east south easterly and north easterly directions to its termination at a point approximately 156 metres north east of the said property and shown on plan by a bold black dashed line between points J-D-C. A total distance of 132 metres or thereabouts and shown between points L-K and J-D-C.

#### **4. DIVERSION OF FOOTPATH NO 265 IN THE COMMUNITY OF GELLIGAER**

The report sought approval for a diversion in respect of a right of way at Station Road, Brithdir.

An internal application has been received seeking the diversion of footpath no. 265 in the community of Gelligaer as a result of the New Tredegar Regeneration Project.

The Committee endorsed the recommendation in the report as follows: -

RECOMMENDED that a diversion order be processed under Section 119 of the Highways Act 1980 in accordance with the following descriptions:

#### Description of Existing Path or Way

That part of footpath No.265 Gelligaer commencing at a point approximately 39 metres north of the property known as No.20 Nelson Terrace, and proceeding in a north westerly direction crossing the former dismantled railway line to its termination at a point approximately 134 metres north west of the said property a total distance of 105 metres or thereabouts and shown on plan by a bold black line between points A-B.

#### Description of New Path or Way

A new path to a width of 1.8 metres commencing at a point approximately 39 metres north of the property known as No.20 Nelson Terrace, and proceeding in a northerly and north westerly directions to a point approximately 148 metres north west of the said property where the path turns in a south easterly direction to its termination on the main highway at a point 134 metres north west of the said property a total distance of 150 metres or thereabouts and shown on plan by a bold dashed line between points A-C-D-B.

**5. DIVERSION OF FOOTPATH NO 278 IN THE COMMUNITY OF ABERCARN**

The report sought approval for a diversion in respect of a right of way at Pennar Fach Farm, Pantyresk, Newbridge.

The owner of Pennar Fach Farm, Pantyresk has made application for the diversion of footpath no. 278 in the community of Abercarn. The applicant has indicated that the diversion is made in the interests of the landowner as the definitive line of path is presently aligned between the existing farmhouse and a newly constructed garage complex and this route causes a security issue. The alternative route being proposed is not on land within the control of the applicant but the adjoining landowner has agreed to the diversion on the understanding that any structures i.e. stiles are maintained by the applicant in perpetuity. The applicant has agreed to the Council's conditions associated with the diversion as set out under paragraph 4.10 of the report.

The Committee endorsed the recommendation in the report as follows : -

RECOMMENDED that a diversion order be processed under Section 119 of the Highways Act 1980 in accordance with the following descriptions.

Description of Existing Path or Way

That part of footpath No.278 in the Community of Abercarn commencing at its junction with Restricted Byways 276 and 277 and footpath No.279 Abercarn at a point approximately 18 metres north east of the property known as Pennar Fach and proceeding in a southerly and south westerly directions to a point approximately 68 metres south west of the said property a total distance of 93 metres or thereabouts and shown on plan by a bold black line between points B-C-A .

Description of New Path or Way

A new path to a width of 1.4 metres commencing at a point on Restricted Byway No.276 at a point approximately 23 metres north east of Pennar Fach Farm and proceeding in a westerly, southerly, south easterly, south westerly and finally southerly directions to its termination on footpath No.278 at a point approximately 68 metres south west of the said property a total distance of 124 metres or thereabouts and shown on plan by a bold black dashed line between points B-D-A.

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

The report sought approval for the extinguishment and creation of rights of way at Graig-y-Rhacca Farm, Machen.

An application has been received on behalf of 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. The applicant has agreed to the Council's conditions associated with the diversion as set out in paragraph 4.11.

The Committee endorsed the recommendation in the report as follows: -

RECOMMENDED 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.

**7. APPLICATIONS FOR MODIFICATION ORDERS TO AMEND THE MONMOUTHSHIRE COUNTY COUNCIL AND MID GLAMORGAN COUNTY COUNCIL DEFINITIVE MAPS AND STATEMENTS FOR PUBLIC RIGHTS OF WAY**

The report set out evidence relating to applications to claim rights of way at: -

1. Gelynos Avenue to Woodville Terrace, Argoed.
2. Edgehill to Hill View together with a spur path leading to Fleur-de-Lys Avenue, Blackwood.
3. Rear Lane of Duffryn Street, Ystrad Mynach to Penalltau Road.

It was reported that when determining the applications members will be acting in a quasi-judicial capacity. Before making an order they must be satisfied that the evidence shows on the balance of probabilities that a right of way of a particular description exists. Each application must be dealt with on its own merits, noting the interests of both the applicants and the landowners.

Members were required to view the route of the proposed right of way in question prior to considering the applications. Interested parties had therefore been notified that arrangements had been made for site visits to be held at the three locations on the morning of Wednesday, 15th July 2009. Following the site visits the meeting would reconvene at Ty Penallta to

determine the applications.

The Committee endorsed the proposals and deferred consideration of the applications for site visits on the morning of 15th July 2009 followed by a reconvened meeting of the Committee to determine the applications at 2pm on that date.

## **8. CREATION AGREEMENT WITH RUPERRA CONSERVATION TRUST AND MR J. WELLS**

Councillor R. Davies declared an interest in this matter as a member of the Ruperra Conservation Trust.

The report updated Members in respect of the Authority entering into a Creation Agreement with Ruperra Conservation Trust and Mr J. Wells for the provision of a bridleway.

On the 16th July, 2007, the Rights of Way Cabinet Committee, received a report on funding of Temporary Closures of Rights of Way in respect of the routes to be created within the Ruperra Conservation Trust's land and adjoining land owned by Mr J. Wells. Temporary Closures may be required to protect the safety of the general public when tree operation felling in the vicinity of the rights of way are being undertaken.

The Committee's decision was to accept the cost of making a Temporary Closure provided that only one order is required within a 24 month period. Should the land change ownership then the acceptance of these costs would be reconsidered.

It was reported that the Ruperra Conservation Trust and Mr J. Wells feel that the above recommendation could still result in an expenditure to themselves should a Temporary Closure be required within the 24 month period and therefore are not prepared to enter into the Creation Agreement. Therefore, in order to progress this matter it is proposed that any costs incurred by Temporary Closures as a result of the woodland management are met by the Authority.

The Committee endorsed the recommendations in the report that: -

1. The Authority accept the cost of making Temporary Closures of the routes covered by the Creation Agreement.
2. Should the land change ownership then the acceptance of these costs be reconsidered.

The meeting adjourned at 10.30 am.

Approved as a correct record subject to any corrections or amendments made at the next meeting.

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CHAIRMAN