



## RIGHTS OF WAY CABINET COMMITTEE – 14TH NOVEMBER 2013

**SUBJECT: DIVERSION OF CROW 89 IN THE COMMUNITY OF ABERCARN**

**REPORT BY: ACTING DEPUTY CHIEF EXECUTIVE**

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### **1. PURPOSE OF REPORT**

- 1.1 The purpose of the report is to seek approval from the Rights of Way Cabinet Committee, for the Diversion of CRoW 89 at Pendinas Avenue, Croespenmaen.

### **2. LINKS TO STRATEGY**

- 2.1 Environmental improvements, sustainable development.
- 2.2 Section 53 of the Wildlife and Countryside Act 1981 places a duty on the Authority to keep the Definitive Map and Statement under continuous review.
- 2.3 The Authority has a duty to maintain the Definitive Map and Statement as detailed within the Rights of Way Improvement Plan.
- 2.4 Countryside Strategy – improve opportunities for accessible countryside recreation.

### **3. THE REPORT**

- 3.1 Diversion applications can be decided by the Head of Regeneration and Planning under delegated powers or through the Council's Rights of Way Cabinet Committee. Due to the comments received at the pre-consultation stage it was decided that the application be dealt with by the Committee.
- 3.2 Planning consent was granted by the Planning Inspectorate on the 18<sup>th</sup> December 2012 and work on site has commenced.
- 3.3 Section 257 of the Town and Country Planning Act 1990 allows for the diversion or stopping up of footpaths, bridleways and restricted byways where planning permission has been granted.
- 3.4 An application has been received from Asbri Planning, seeking the Diversion of a right of way as part of their planning approval to build a residential development of 29 units at Pendinas Avenue, Croespenmaen.
- 3.5 For identification purposes, the location of the site is shown on the plan attached as Document No. 1.
- 3.6 The development affects CRoW 89 Abercarn. This path was created in March 2008 under Section 25 of the Highways Act 1980 under a public footpath agreement. The footpath will be

added to the definitive map when a review of the map is undertaken. It will then be given a footpath number and cease to be referred to as CRoW 89. The public footpath agreement and description can be read in more detail in Documents 2.

- 3.7 The authority has undertaken a pre-order consultation exercise with Local Members, user groups and statutory undertakers and an objection was received, which is copied as Document No. 3
- 3.8 The applicant has indicated that the diversion is sought to allow the construction the housing development granted consent under application APP/K6920/A/12/2183538. The layout approved indicated the route of the footpath passing to the rear of No 11 properties on Pendinas Ave. This consent was granted through the appeals process and the Inspector made reference to the footpath being diverted but it was not put in as a condition.
- 3.9 Crime and disorder were not considered to be an issue for the planning application, apart from the need to divert the footpath that runs along the eastern and northern sides of the site, as setout above. If it were to remain along the existing route it may pose security problems for the new houses due to public access being available to the rear. It is proposed to divert the path into the site through the public open space to the front of these properties. Whilst the primary reason that a diversion is sought is so as to overcome security concerns it should be noted that the applicant also wishes to extend the rear gardens of the properties identified above.
- 3.10 The proposed alternative route is on land within the control of the applicant. It should be noted that in order to comply with this order the footpath will only be diverted upon completion of works. Both the existing and proposed routes are shown as Document 5 and a description of the routes is provided in section 8 below.
- 3.11 The applicant has agreed to meet the Councils costs and conditions associated with the diversion which are as follows;
1. The alternative path to be a minimum width of 1.8 metres and constructed in accordance with Standard Specification for footways. Cost of construction to be borne by the applicant.
  2. The gradient of the new alternative path shall not exceed 1 in 8
  3. The cost of the administration of the order including newspaper advertisements to be borne by the applicant. The current cost being £2,500 although this may increase depending on advertisement.
  4. Anti motorcycle barriers to be constructed to the councils specification at the entrances to the new path.
- 3.12 A copy of the acceptance of conditions is attached as Document No 4
- 3.13 Having considered the issues Members are recommended to support the proposed diversion. Should Members support the proposed diversion an Order will be made under section 257 of the Town and Country Planning Act 1990 and a public consultation exercise will be commenced, which may result in a Public Inquiry.

#### **4. EQUALITIES IMPLICATIONS**

- 4.1 There are no potential equalities implications of this report and its recommendations on groups or individuals who fall under the categories identified in Section 6 of the Council's Strategic Equality Plan. There is no requirement for an Equalities Impact Assessment Questionnaire to be completed for this report.

## **5. FINANCIAL IMPLICATIONS**

- 5.1 The cost of the order making process will be met by the applicant however if there are objections to the Order which cannot be resolved the costs of any resulting Inquiry may fall upon the Council.

## **6. PERSONNEL IMPLICATIONS**

- 6.1 None.

## **7. CONSULTATIONS**

- 7.1 The Authority has undertaken a pre-order consultation exercise with Local Members, user groups and statutory undertakers and representations have been received for the section of path identified and attached as Document No. 3.
- 7.2 The Council received 1 objection to the proposal at pre consultation stage. This was received by the Open Spaces Society and can be read in full in Document 3.

## **8. RECOMMENDATIONS**

- 8.1 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

Footpath commencing approximately 30 metres south east of the centre of the property known as Manwell Bungalow Ty Brachty Terrace, Kendon Crumlin near Newport in the County Borough of Caerphilly and extending in a north-north easterly direction having a width of 2 metres and a length of 90 metres and being fenced either side with a mixture of grassed and stony surface and terminating at its junction with Bridleway 127 Abercarn all which said footpath the total is shown on the Plan and marked E-G (as per plan Document 2B)

Description of New Path or Way

A new path to a width of 1.8 metres commencing at point A before proceeding in a south easterly direction for 25 metres before turning North easterly for 98m and south easterly for 7m. The path then proceeds in a southwesterly direction for 5m before turning southeasterly for 22m. The footpath then proceeds in a northeasterly direction for 37m and continuing north for 14m and its termination at Bridleway 127.

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

- 9.1 To allow the improved amenity of residential development.

## **10. STATUTORY POWER**

- 10.1 Town and Country Planning Act 1990 – Section 257 Diversion or stopping up of footpaths and bridleways. This is a Council function, which is delegated to the Rights of Way Cabinet Committee for determination.

Author: A.K. Powell, Access and Rights of Way Officer  
Consultees: Cabinet Member for Regeneration, Planning and Sustainable Development,  
Councillor Ken James  
Local Members: Cllr A Lewis and Cllr K Lloyd  
Mrs Sandra Aspinall, Acting Deputy Chief Executive  
Mrs Pauline Elliott, Head of Regeneration and Planning  
Mr Norman Liversuch, Countryside and Landscape Manager  
Mr Philip Griffiths, Principal Planner, Countryside and Landscape  
Mr. John Rogers Principal Solicitor, Legal Services,  
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Countryside Council for Wales Unit 4, Castleton Court, Fortan Road, St.  
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The Ramblers Association, 2nd Floor, Camelford House, 87-90 Albert  
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Royal Mail Property Holdings West, Estates Surveying Division, Archway  
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Wales & West Utilities, Wales & West Utilities House, Spooner Close, Celtic  
Springs, Coedkernew, Newport NP10 8FZ  
Western Power Distribution, Map Response Team, Mapping Centre, Lamby  
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British Telecom, 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  
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#### **List of Documents**

1. Location Plan
2. Copy of Public Footpath Agreement
3. Comments
4. Acceptance of Conditions
5. Plan showing proposals

ETP/ROW/CROW89 Abercarn  
Countryside Section, Pontllanfraith Offices