

## ROLE OF COMMITTEE AND TERMS OF PUBLIC RIGHTS OF WAY

- ii) The term "public rights of way" is used to mean paths, tracks and unmetalled roads over which the public have the right to walk and in some cases ride horses and possibly drive motor vehicles.

These may be classified as follows:-

- A **footpath**: over which the right of way is on foot only.
- A **bridleway**: over which there is a right of way on foot and on horseback or leading a horse, and also for the use of a pedal cycle.
- A **byway open to all traffic**: this means a highway over which the public have a right of way for vehicular and all other kinds of traffic, but which is used by the public mainly for the purpose for which footpaths and bridleways are so used.

- iii) The Wildlife and Countryside Act 1981 places a duty on the County Borough Council to keep the existing definitive map under continuous review, make Modification Orders as necessary to take account of the occurrence of events requiring the map to be modified and to prepare definitive maps for any part of the area not previously surveyed.
- iv) The definitive map and statement will be modified by means of Orders made by the surveying authority i.e. the County Borough Council. The Wildlife and Countryside Act enables any person to apply to the surveying authority for an order to amend the definitive map.
- v) The procedure for making such an application is detailed in Schedule 14 of the Wildlife and Countryside Act. The application before you complies with these requirements.
- vi) When determining the application members will be acting in a quasi-judicial capacity. Before making an order, members 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.
- vii) This application is concerned with rights that are alleged to exist and not as to whether it would be prudent or beneficial to create them. The suitability of a way for users who have a right to use it, for example the nuisance that they are alleged to cause are not factors that should be considered by the Committee. **Members are also required to view the route of the proposed right of way in question.**

- viii) When considering the evidence that follows, members must be aware of the provisions of Section 31 of the Highways Act 1980 thus enabling members to determine whether there is sufficient weight of evidence to make an order.

Section 31 of the Highways Act states:-

"where a way over any land other than a way of such a character that use of it by the public could not be given rise at common law to any presumption of dedication, has been actually enjoyed by the public as a right and without interruption for a full period of 20 years, the way is to be deemed to have been dedicated a highway unless there is sufficient evidence that there was no intention during that period to dedicate it."

If in the case before you members are satisfied that the right of way has been used for a period in excess of 20 years, then there arises a presumption that the owner intended to dedicate the path as a right of way. It should be noted by members that the said 20 year period must be calculated retrospectively from the date when the way was first called into question.

- ix) If following the site visit the Committee decides to make an Order, then once this decision has been reached the County Borough Council has to give notice of its general effect. Following members' decision there is a right of appeal to the National Assembly for Wales. A period of at least 42 days from the date of first publication of the notice must be allowed for objections."

If there are any valid objections the County Borough Council has to refer the Order, together with the objections to the National Assembly for Wales who will then arrange for the Order and the objections to be considered by an independent Inspector. If no valid objections are made within the objection period then the County Borough Council may confirm the order itself as an unopposed Order.

CAERPHILLY COUNTY BOROUGH COUNCIL

WILDLIFE AND COUNTRYSIDE ACT 1981

The Wildlife and Countryside  
(Definitive Maps and Statements)  
Regulations 1993

PUBLIC RIGHTS OF WAY EVIDENCE FORM COMPLETED BY:

Name: E. G. Roberts

4. Name or route of path: .....

5. National Grid References (ends of path): .....

6. Type of path: Footpath\* / Bridleway\* / Byway open to all traffic\*.

7. Do you regard the path as public (SEE NOTE 2): Yes/ No

8. Is the path well defined: Yes/ No

9. How long have you known the path: 25 yrs

10. Over what period have you used the path on foot, horseback, or motor vehicle, (state which):  
28 yrs

11. How often over the period have you used the path: when needs be

12. For what purpose did you use the path: FOR MY STOCK

13. Details of any stile, handgates, field gates, bridges, notices, direction signs, warning signs, obstructions etc.

Fieldgate

14. Name of Owner(s) or Tenant(s) (if known): E. G. Roberts

15. Have you ever been employed by, or a tenant of, the owner of the land affected by the path:  No

16. Have you ever seen other people using the same route ie: Locals, strangers, Both. If so were they on foot, horseback in a vehicle

NO

17. Have you always followed the same route. If not when was it changed and if known by whom:

YES

18. Did you ever seek or get permission to use the route. If so from whom:

NO

19. Have you, or to your knowledge has anyone, been stopped or turned back:

NO

20. Were you ever told by any owner or occupier or by their employees that the route was not public:

NOT APPLICABLE

21. Has your use of the route ever been in exercise of some private right, such as visiting someone who lived along the route, going to your own land or property, or delivering goods:

going to my own land to tend my stock

22. Is there to your knowledge evidence to support your claim eg. Enclosure Awards, Title Maps, Railway Maps:

YES

23. Is the route or any part of it enclosed between boundaries, ie hedges, fences, ditches, walls:

Yes

Any further information.....

Date: 15-7-2013

(FOR USE ONLY WITH A GROUP CLAIM - SEE NOTE ON FORM W.C.A.2)

CAERPHILLY COUNTY BOROUGH COUNCIL  
WILDLIFE AND COUNTRYSIDE ACT 1981

The Wildlife and Countryside  
(Definitive Maps and Statements)  
Regulations 1993

PUBLIC RIGHTS OF WAY EVIDENCE FORM COMPLETED BY:

Name: ANN MCCABE

4. Name or route of path: FOOT PATH

5. National Grid References (ends of path): BYWAY 369

6. Type of path: Footpath\* / Bridleway\* / ~~Byway open to all traffic\*~~

7. Do you regard the path as public (SEE NOTE 2): Yes/No

8. Is the path well defined: ~~Yes~~ No

9. How long have you known the path: 2 YEARS

10. Over what period have you used the path on foot, horseback, or motor vehicle, (state which).

NEVER BEEN USED

11. How often over the period have you used the path: RARE

12. For what purpose did you use the path: N/A

13. Details of any stile, handgates, field gates, bridges, notices, direction signs, warning signs, obstructions etc.

NONE

14. Name of Owner(s) or Tenant (s), if known: ANN MCCABE

15. Have you ever been employed by, or a tenant of, the owner of the land affected by the path: Yes/No\* N/A

16. Have you ever seen other people using the same route i.e. Locals, strangers, Both. If so were they on foot, horseback in a vehicle

N/A

17. Have you always followed the same route. If not when was it changed and if known by whom:

N/A.

18. Did you ever seek or get permission to use the route. If so from whom:

N/A.

19. Have you, or to your knowledge has anyone, been stopped or turned back:

N/A.

20. Were you ever told by any owner or occupier or by their employee that the route was not public:

N/A.

21. Has your use of the route ever been in exercise of some private right, such as visiting someone who lived along the route, going to your own land or property, or delivering goods:

N/A.

22. Is there to your knowledge evidence to support your claim eg. Enclosure Awards, Tithe Maps, Railway Maps:

OLD MAPS, PERDATIVE, DEFINITIVE MAP, DEEDS OF FEUDALITY

23. Is the route or any part of it enclosed between boundaries, ie hedges, fences, ditches, walls:

OPEN.

Any further information: THE PATH IS VERY STEEP AND IS TOTALLY UNSUITABLE  
FOR HORSES/BICYCLES. THE PATH AS PROPOSED GOES OVER VICTORIAN  
SEWAGE TRUNKS, THEN UP A HILL WITH A 10 FOOT DROP. IT HAS NEVER BEEN USED.  
ROUTE ADVISED BY MR PHILLIPS, WHO WILL OFFER  
EVIDENCE "AS RESIDENCE" (SHARED PHOTOGRAPHS)

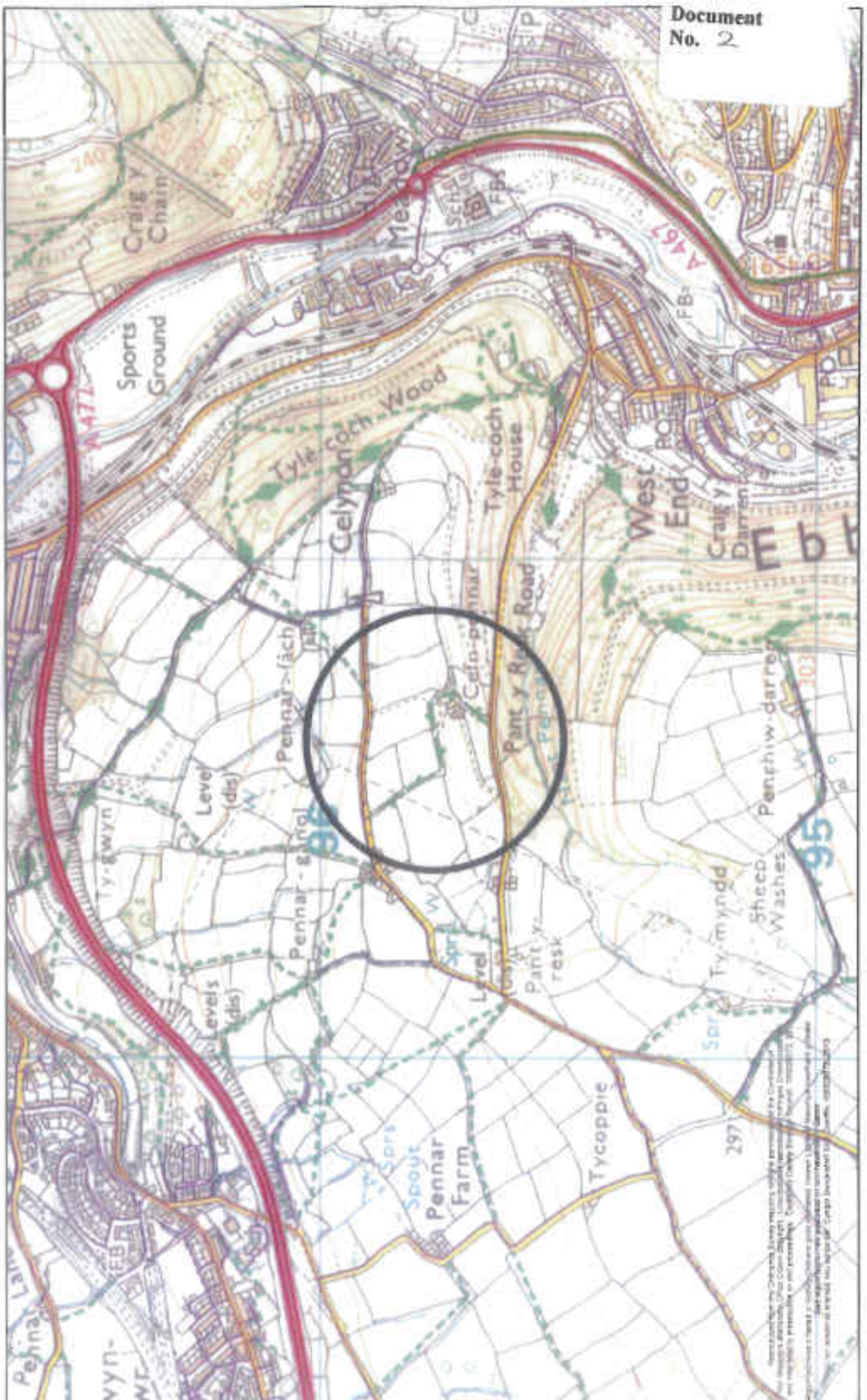
Date: 28 Feb 2013

(FOR USE ONLY WITH A GROUP CLAIM - SEE NOTE ON FORM W.C.A.2)



# LOCATION PLAN - RESTRICTED BYWAY 367 IN THE COMMUNITY OF ABERCARN

1:10,000



Document  
No. 2

Information on this map is derived from Ordnance Survey data and other sources. The Council is not responsible for any errors or omissions. The map is provided for information only and should not be used for any other purpose. The map is not to be used for any other purpose. The map is not to be used for any other purpose.

## DOCUMENTARY EVIDENCE

Under Part VI of the "National Parks and Access to the Countryside" Act 1949, Section 27 of the act placed a duty on all County Councils to prepare Statutory Maps showing all the Public Rights of Way for their particular areas

The preparation of the definitive map and statement was processed through three specific stages, namely; Draft, Provisional and Definitive. The definitive map and statement for CCBC was partly prepared by Glamorgan and Monmouthshire County Councils. Document No. 6 provides details of this process.

### Map and Statement

Due to the geographical size of the county areas some highway authorities considered it appropriate that the draft maps and statements were prepared with the assistance of the Parish Councils where they undertook the initial survey work and preparation of draft statements.

Upon completion of the initial survey all the information was sent to the relevant highway authority who compiled the information onto one set of maps referred to as the Draft Definitive Map and Statement. This set of maps and accompanying statements were published and notice given in a local paper and the London Gazette. The maps and statements were open for public scrutiny and were liable to objection. An objection could be for the inclusion or omission of a particular route. All representations had to be received within the prescribed time period (minimum of four months). If any representation were received the authority had, under Section 29(3) to appoint a person to hear the objector and then determine whether any modification of the map and statement should be made. The result of this determination had to be notified to the person making the representation. If the authority determined to modify the map by deletion or addition of a path, notice of its determination had to be published in the London Gazette and local papers giving 28 days to object. If any representation was then made to the determination, the authority had, under Section 29(4), to notify the original objector, and, after hearing both parties, decide whether to maintain or revoke the determination. The authority had to serve notice of its decision on both parties.

A copy of an enlarged copy of the Draft Map is attached as Document No. 7.

### Provisional Map and Statement

Following determination of any appeals to the Secretary of State the authority then prepared, under Section 30, a Provisional Map and Statement. This was the modified version of the draft map and statement. Notice of the preparation of this part of the act was given in the London Gazette and local paper as before. Section 31 gave the right to any owner, lessee or occupier of land over which the map showed a public right of way to apply to the Crown Court for a declaration that, at the relevant date of the map;

- there was no public right of way over the land

- the rights were those specified in the application and not those specified in the map and statement
- the position or width of the right of way were as indicated in the application and not as indicated in the map and statement
- the public right of way was subject to limitations or conditions other than those recorded in the statement or that those so recorded were incorrect

The public had no right to apply to the Crown Court.

A copy of the Provisional Map is attached as Document No. 8.

Once all representations and objections had been determined the authority was in a position to prepare the Definitive Map and Statement.

#### **Definitive Map and Statement**

The dates of the various stages of the definitive map and statement for Monmouthshire were:-

Draft published on the 16<sup>th</sup> December 1952,  
 Provisional published on the 17<sup>th</sup> September 1965  
 Definitive published 3<sup>rd</sup> December 1967

A copy of the Definitive Statement is attached as Document No. 5.

The original Definitive Map and Statement for the former Counties of Glamorgan and Monmouthshire had relevant dates of 14th September 1954 and 1<sup>st</sup> July 1952 respectively and included three classifications of paths, namely

footpath,  
 bridleway and  
 road used as a public path.

#### **Definition of Status of Public Rights of Way which appeared on the original Definitive Map**

Public Rights of Way shown on the Definitive Map and Statement for the Glamorgan and Monmouthshire County Councils fell within three categories, namely footpath, bridleway, and Road Used as Public Path.

These three types of path are described under Section 27 "National Parks and Access to the Countryside" Act 1949:

Footpath - a highway over which the public have a right of way on foot only - other than such a highway at the side of a public road.

Bridleway - a highway over which the public have the following, but no other rights of way, that is to say, a right of way on foot and a right of way on horseback or leading a horse with or without a right to drive animals of any description along the highway.

Road Used as a Public Path - a highway other than a public path used by the public mainly for the purposes for which footpaths and bridleways are so used.

Monmouthshire CC identified Roads used as a Public Path as Cartroad  
Bridleways and Cartroad Footpaths.

A footpath shown on the map shall be conclusive evidence that such a footpath existed at the relevant date, as described in the statement.

The inclusion of a bridleway or road used as a public path (cartroad bridleway or cartroad footpath) is evidence only that there was a highway shown and that the public had there over a right of way on foot, on horseback, or leading a horse with or without the right to drive livestock. If a path was not shown on the map it was not conclusive evidence that it did not exist.

Document  
No. 4



Enlarged Copy of Revision of '1916 with additions in 1948



Document  
No. 6









**COUNTY OF MONMOUTH**

**NATIONAL PARKS AND ACCESS TO THE COUNTRYSIDE ACT, 1949.  
SURVEY OF RIGHTS OF WAY.**

LOCAL AUTHORITY (Borough, District or Parish Council) **ABERCRIBBURN URBAN DISTRICT COUNCIL**

PARISH OF .....

N.B.—The Pamphlet references in this Form are to the January, 1950 Edition of the Memorandum prepared by the Commons, Open Spaces and Footpath Preservation Society entitled "SURVEY OF RIGHTS OF WAY."

Number of Paths concerned (Serial No. on Map (See Para. 2 and 3).	Kind of Path (Use Symbols. See Para. 4).	Name of Path, if any, or its destination	Concise description of Path commencing with its starting point. Give features occurring on Path in correct order, and its widths where well defined. If installed, by whom repaired.  (See Para. 5 on Pages 11, 12 and 13).	Brief grounds for belief that way is public.
365	F.P.	Blaen-Gwney	From the junction with Nos. 158 and 316 west over grass covered path on the mountain top to end at junction Nos. 150 and 368	Usage
366	C.R.B.	Blaen-Gwney	From the junction of Nos. 160 and 365 south to junction with Nos. 169 & 170	do
367	C.R.F.	Cefn-Pennar	From the junction with the Pant-y-rack road this path goes N. along a footpath and passes the farm the road is then a cartroad up the junction with the road leading to Ty-Coeddas	do
368	F.P.	New Dethel	Commences at the road near New Dethel Chapel passes the New Dethel Sunday School through a kissing gate along the side of the hedge over a stile this then follows the hedge through two kissing gates and through a wicket gate at the junction with Nos. 369 and 370. The path is 2ft wide.	do
369	C.R.F.	Ty-Coeddas No. 1.	From the junction with Nos. 360 and 370 south past Tir-y-coed to join at the junction with Pant-y-rack road the road is 3ft wide.	do
370	C.R.B.	Ty-Coeddas No. 2.	From the junction of Nos. 368 and 369 to Nos. 255 and 371	do
371	C.R.B.	do No. 3.	From the junction of Nos. 370 and 255 north to junction with Nos. 247 and 277	do
372	C.R.B.	do No. 4.	and joins at the junction of the road to Pen-y-fistyll.	do
373	F.P.	Pentwynnau No. 6.	From High Street, Pentwynnau, through kissing gate the path travels S.W. crossing two stiles which require repair. The path is not well defined and from the second stile it goes N.W. past the rear of the Post Office to join near the Post Office at High Street, Pentwynnau.	do
374	B.R.B.			

Document No. 9

Document  
No. 10

4

97  
04

03  
01

96

95

9500



**ENLARGED COPY OF THE DEFINITIVE MAP  
CARTROAD FOOTPATH 367  
IN THE COMMUNITY OF ABERCARN**



1:2,000



Document  
No. 11

District : ISLWYN BOROUGH  
Community : ABERCARN

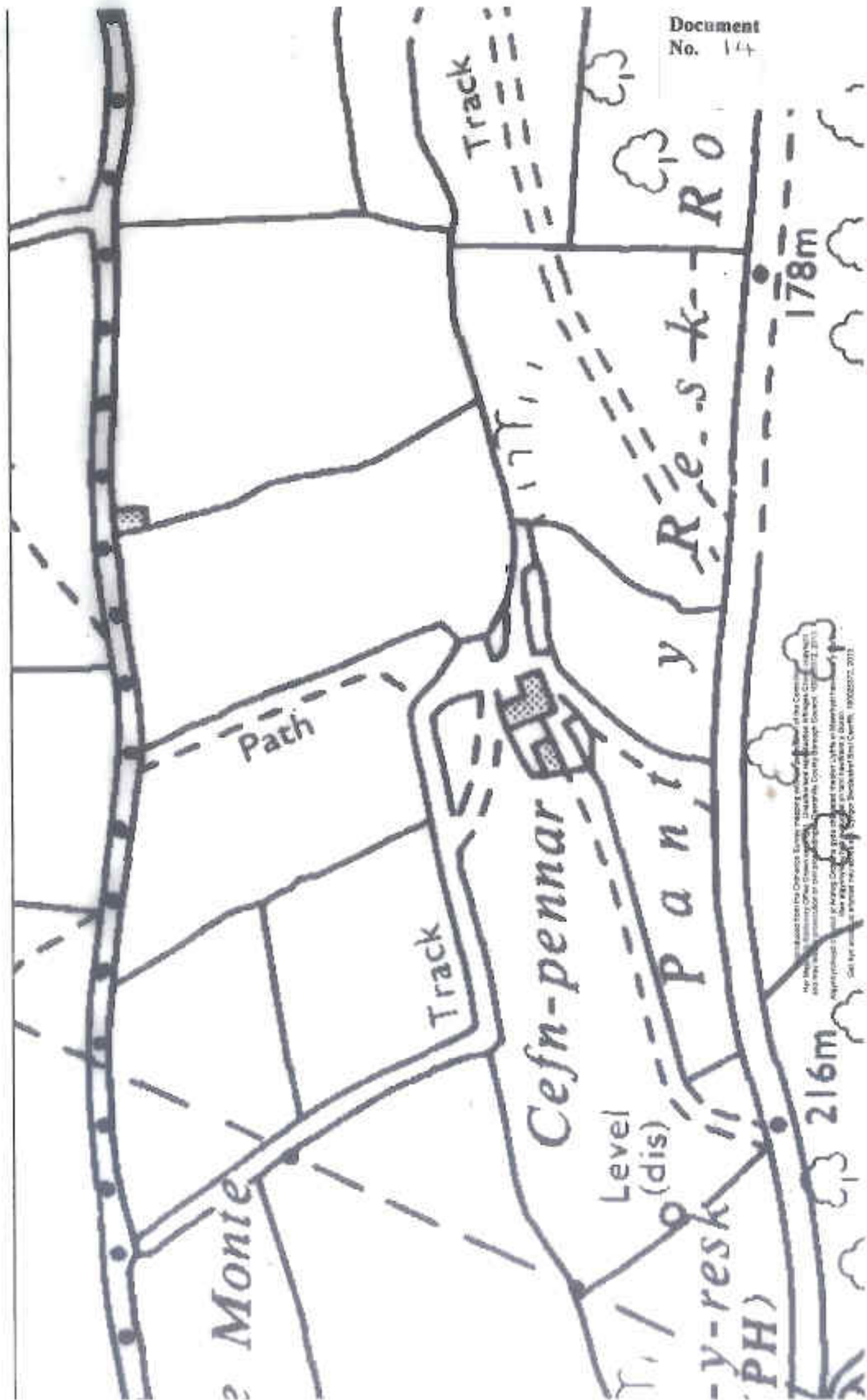
- 201364 364/5  
*NEWTON 86*  
From the junction with Nos 138 and 363 the path opens south and ends at its junction with Kendow Road.
- 201365 365/1  
201365 365/2  
201365 365/3  
201365 365/4  
201365 365/5  
*NEWBETH 93*  
FP  
Blaen-Gawney  
Usage  
J. Games 19.6.51  
From the junction with Nos 158 and 316 East over grass covered path on the mountain top to end at junction Nos 169 and 168
- 201366 366/1  
201366 366/2  
201366 366/3  
201366 366/4  
201366 366/5  
*NEW BRIDGE 97*  
CRB  
Blaen-Gawney  
Usage  
J. Games 19.6.51  
From the junction of Nos 160 and 365 south to junction with Nos 169 and 170
- 201367 367/1  
201367 367/3  
201367 367/4  
201367 367/5  
*ABERCARN 13*  
CRF  
Usage  
J. Games 6.6.51  
From the junction with the Pant-y-resk road this path goes N. along a footpath and passes the farm the road is then a cartroad up the junction with the road leading to Ty-Coedcae
- 201368 368/1  
201368 368/2  
201368 368/3  
201368 368/4  
201368 368/5  
*NEWBETH 91*  
FP  
New Bethel  
Usage  
J. Games 6.6.51  
Commences at the road near New Bethel Chapel passes the New Bethel Sunday School through kissing gate along the side of the hedge over a stile this then follows the hedge through two kissing gates and through a wicket gate at the junction with Nos 369 and 370. The path is 2 ft wide.
- 201369 369/1  
201369 369/2  
201369 369/3  
201369 369/4  
*NEWBETH 92*  
CRB  
Ti-Coppi No 1  
Usage  
From the junction with Nos 368 and 370 south past Tir-Coppi to join at the junction with Pant-y-resk road. the



# HISTORICAL MAPPING 1971-1992



1:2,000



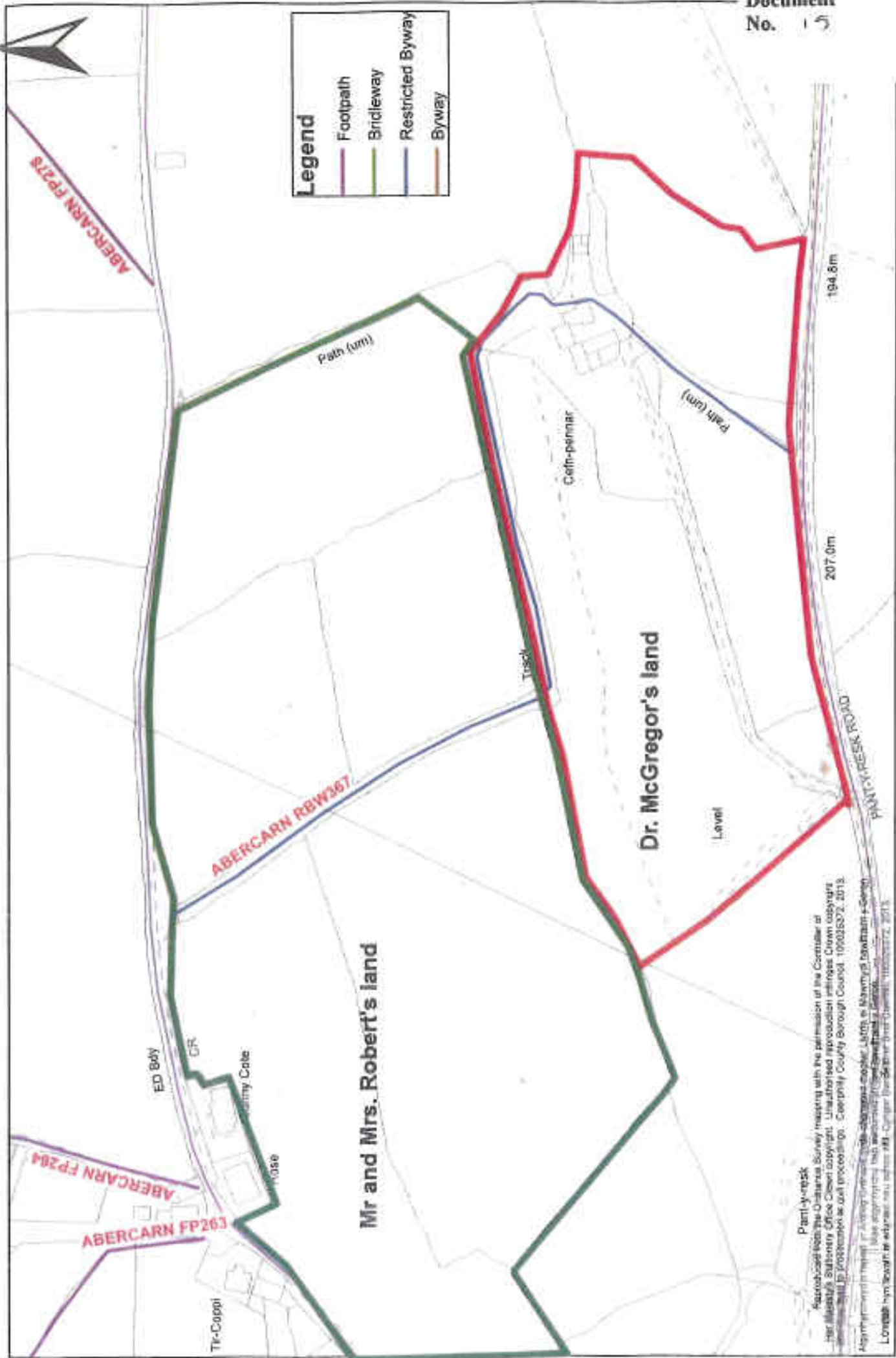
Document No. 14

Information for Ordnance Survey mapping will be provided by the County of the County of Caerphilly. The County Council is responsible for the provision of the data. The County Council is responsible for the provision of the data. The County Council is responsible for the provision of the data.

Map made by the County Council. The County Council is responsible for the provision of the data. The County Council is responsible for the provision of the data. The County Council is responsible for the provision of the data.

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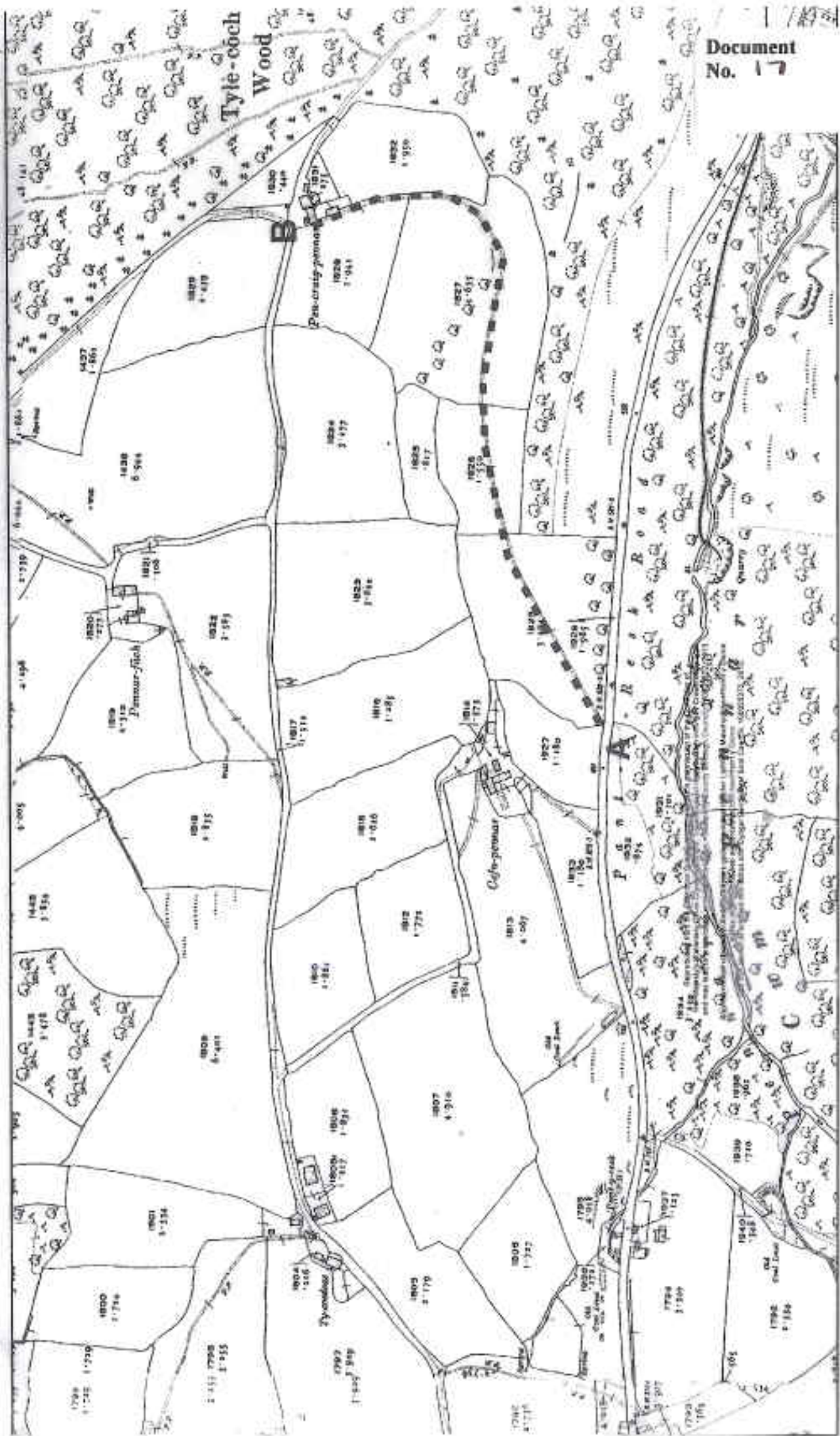
Pant-y-resek  
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# Track to Pen-graig Pennar Farm

1:3,836



Document No. 17

## LIST OF CONSULTEES

Mrs Pauline Elliott, Head of Regeneration and Planning  
Mr Phil Griffiths, Manager, Countryside and Landscape Services  
Mrs Gail Williams, Monitoring Officer/Principal Solicitor

Mr Richard Beaugie, Secretary and Programme Co-ordinator, Islwyn Ramblers, 76 Cefn Road, Rogerstone, NP10 9AS  
Mrs. J. Hyett, Woodlands Farm, Caerphilly Mountain, Caerphilly, Mid Glamorgan CF8 1NF  
Countryside Council for Wales Unit 4, Castleton Court, Fortan Road, St.Mellons, Cardiff CF3 0LT  
Open Spaces Society, Open Spaces Society, Ms M. Thomas, 15 Carlton Terrace, Crosskeys, Gwent NP11 7BU  
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, Wales & West Utilities House, Spooner Close, Celtic Springs, Coedkernaw, 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.

