



RIGHTS OF WAY CABINET COMMITTEE – 15TH SEPTEMBER 2014

SUBJECT: APPLICATION FOR A MODIFICATION ORDER TO VARY THE MONMOUTHSHIRE COUNTY COUNCIL DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY IN RESPECT OF THE STATUS OF THE PATH IN THE COMMUNITY OF ABERCARN AND DIVERSION OF A SECTION OF THE RIGHT OF WAY

REPORT BY: ACTING DEPUTY CHIEF EXECUTIVE

1. PURPOSE OF REPORT

- 1.1 To consider and determine an application to VARY the status of Restricted Byway 367 in the Community of Abercarn shown on the Definitive Map and Statement and also the diversion of a section of the right of way through Cefn Pennar Farm.

2. SUMMARY

- 2.1 The report sets out the evidence regarding the application to VARY a Restricted Byway from Pantyresk Road on the Definitive Map and Statement. It also seeks agreement to the diversion of a section of the right of way.
- 2.3 Following complaints from a local rambler and members of the Islwyn Rambler's Society that the public right of way was not available for use several meetings and extensive correspondence has been on-going in trying to resolve the situation. The local rambler served notice in Form 1 under the provisions of S130A (1) of the Highways Act 1980 which forces the Authority to take action to open up the definitive line of the public right of way. A notice was served on the landowner at Cefn Pennar to remove obstructions and as no action had been taken the Authority arranged for the right of way to be cut back and made available. The owner of Cefn Pennar Farm, Dr. A. McGregor, works away and is very difficult to contact but the works progressing initiated a response from her. The works were halted and she applied to divert a section of the right of way from her property in order to provide both security and privacy.
- 2.2 The report sets out the evidence that the status of the public right of way has been shown as a cartroad footpath for the whole of its length whereas it is only available as a footpath for a section of it. The Natural Environment and Rural Communities Act 2006 reclassified all cartroad footpaths and cartroad bridleways to restricted by-ways. It is for the committee to decide on the evidence provided whether or not the status of the public right of way should be varied to that of a footpath on the Definitive Map and Statement and whether they support the application to divert the section of right of way at Cefn Pennar Farm.

3. LINKS TO STRATEGY

- 3.1 The Wildlife and Countryside Act 1981 places a duty on the Council to maintain an up to date Definitive Map and Statement.

- 3.2 Keeping the Definitive Map and Statement under continuous review as detailed within the Rights of Way Improvement Plan.
- 3.3 The Highways Act 1980 – Section 119 allows for the diversion of public rights of way.

4. THE REPORT

4.1 Background

- 4.1.1 This Committee has delegated powers to determine applications for Definitive Map Modification Orders under Section 53 of the Wildlife and Countryside Act 1981. This report relates to an application to VARY a path identified on the definitive map and statement. Document No. 1 gives an explanation of the term “public rights of way”.
- 4.1.2 The application is being dealt with under the Wildlife and Countryside Act 1981, Section 53 (3) (c) (iii) to VARY Restricted Byway 367 in the Community of Abercarn.
- 4.1.3 The diversion, if supported, will be dealt with under the Highways Act 1980, Section 119.

4.2 Introduction

- 4.2.1 The Authority has submitted an application under the Wildlife and Countryside Act 1981 to vary the status of Restricted Byway 367 in the Community of Abercarn under Section 53 (3) (c) (iii). Wildlife and Countryside Act Form 6 has been served on both landowners as prescribed in the Act. The application is supported by 2 No. Evidence user forms.
- 4.2.2 For information purposes the location of Cartroad Footpath No. 367 (Now Restricted Byway No. 367) in the Community of Abercarn is shown on Document No. 2, within circled area, located in Abercarn and has been reproduced from the ordnance survey mapping by use of the Authority's Geographical System.
- 4.2.3 It would appear that an error has occurred by identifying the public right of way as a cartroad footpath for the whole length when a section could not physically be used a cartroad.

4.3 Documentary Evidence

- 4.3.1 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.
- 4.3.2 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. 3 provides details of how this was processed.
- 4.3.3 A copy of the Revision 1916 with additions in 1948 as Document No. 4. An enlarged copy is attached as Document No. 5. In the enlarged copy it can be seen that the section of the cartroad footpath from Pant-y-resk Road to Cefn Pennar Farm is shown as black and the remainder of the cartroad footpath as green which indicates that there was a difference in the status of each.
- 4.3.4 A copy of the Draft Map is attached as Document No. 6. An enlarged copy is attached as Document No. 7. A copy of the Provisional Map is attached as Document No. 8. A copy of the Definitive Statement is attached as Document No. 9. A copy of the Definitive Map is attached as Document No. 10 and an enlarged copy is attached as Document No. 11. A copy of the Definitive Statement of the Abercarn Urban District Council is attached as Document No. 12.

- 4.3.5 From the book written by Mr. Len Burland "A Historical Tour around Mynyddislwyn Mountain the following was included on Cefn Pennar Farm:-
- 4.3.6 "Cefn Pennar Farm was once a little shepherd's cottage. Evidence of a small building can be seen in the wall around the front of the present farmhouse. The layout of the buildings is unusual on the Mountain. The barn is in front of the house, and attached, and not at the side as in a typical Long House. Inside the barn, the floor is in two levels, and on the wall attached to the house, is a large fireplace with an enormous chimney. If it was in use when the barn was used as a barn it must have posed a huge fire risk. Could it be that the barn was turned over for farm labourers accommodation? Today the farm is a private house.
- 4.3.7 Cefn Pennar was the dairy farm for the village of Abercarn at one time. A field to the west of the buildings was known as Well field. In the top corner was a well. Water was drawn up the well and poured into a wooden sluice that ran down to the farm buildings, so in a way they had cold running water at the farm in times past.
- 4.3.8 Of particular interest is a stone wall alongside the farm, containing many holes. Stone slabs form the backs to the holes. They were rabbit hutches, when, in past times, rabbits would have been reared to provide fresh meat in the winter months".
- 4.3.9 Maps have been reproduced from the Historical Mapping System and shows the area at various stages:-
- 4.3.10 Document No. 13 identifies the area surrounding Cefn Pennar Farm as at 1959-1973.
- 4.3.11 Document No. 14 identifies the area surrounding Cefn Pennar Farm as at 1971-1992.
- 4.4 **Landowners**
- 4.4.1 Two separate landowners own the land over which the public right of way crosses. Mr. Glyn Roberts of Pant-yr-resk Farm and Dr. Anne. McGregor of Cefn Pennar Farm. Document No. 15 identifies the land owned by each.
- 4.4.2 Mr. Birtle owned Cefn Pennar Farm for many years and had a dairy herd. Mr. Kendall has provided information relating to the public right of way across the land (see 4.33).
- 4.4.3 When Mr. Birtle died a Mr. Cragg occupied Cefn Pennar Farm. There is correspondence on file between the former Gwent County Council, who had received complaints regarding the right of way being obstructed, and also one complaint that users were being re-directed onto the drive entrance where a stile had been placed. At one time cartroad footpaths and cartroad bridleways were thought to have included public rights for vehicles. Gwent County Council requested that the right of way be made available to vehicles and requested a meeting. There is no further correspondence on file with Mr. Cragg.
- 4.4.4 Doctor Anne McGregor purchased Cefn Pennar Farm on the 23rd May, 1995 and Mr. and Mrs Roberts bought several fields which were previously part of Cefn Pennar farm on 13th September, 1995.
- 4.4.5 Doctor McGregor has stated that she was not aware of any public rights of way over her ground and that she hadn't seen anyone using them since she purchased the ground. She confirmed that she had built an extension at the side of her property and had not been informed that there was a public right of way there.
- 4.4.6 Doctor McGregor states that some years ago the daughter of a former owner visited and asked if she could walk round the property. She now lives in Canada. She told Dr. McGregor how as a small child they used to take the milk down to the village and had rabbits in the stone hutches behind the house. It used to be a dairy farm and water came from the well field (still called this) by a system of wooden pipes to the barn where they made butter and cheese (where the old wall is in front of the kitchen). Given this piping Dr. McGregor thinks it is highly

unlikely they would drive across them in any sort of vehicle.

- 4.4.7 The fields that currently belong to Mr. Roberts used to be part of the farm and there would be no need for anything other than movement of animals. The lie of the land would preclude taking a cart across the path behind the house (the definitive line) (there is no track and a good 10-12 foot drop). A further issue is that where the definitive line comes out the access beside the house is over the top of 2 large Victorian tanks (water or sewage?) now no longer in use and it would be difficult to make them safe.
- 4.4.8 Doctor McGregor confirms that since she has lived on Cefn Pennar no-one has used the path in question nor has anyone asked for access. She was told this by the Craggs, who owned Cefn Pennar before she did.
- 4.4.9 Doctor McGregor has applied to divert the public right of way crossing her land away from her property in order to provide security and privacy. Document No. 16 indicates the proposed diverted route. It is however necessary to clarify the status of the public right of way in order that this can be identified correctly in the Diversion Order if her application to divert the public right of way is approved.
- 4.4.10 A pre-consultation exercise has been undertaken and objections to the diverted route were received from the person who originally complained that the right of way was not available together with the Open Spaces Society. The Open Spaces Society complained that the users would be on the road longer than on the definitive route (135 metres) and the other related to the fact that the diverted route is totally against the character of the definitive route.
- 4.4.11 The length of the definitive line to be diverted (A-B) is 294 metres in length and the proposed diversion (C-B) is 345 metres in length. The diverted route is far more commodious than the definitive line and provides privacy to the landowner. The width of the proposed diversion will depend on the agreed status of the right of way i.e. 1.8 metres if footpath and 3 metres if restricted byway.
- 4.4.12 Mr. Roberts has lived on the mountain since the 1950s and had no knowledge of a footpath through Cefn Pennar Farm.
- 4.4.13 He recalled Mr. Birtle's living in Cefn Pennar Farm and he had two daughters and a son. Mr. Roberts used to go to school with them and would meet them on Pantyresk Road (they used to walk down the footpath or was it the vehicular track (driveway)) from Cefn Pennar to go to school.
- 4.4.14 Mr. Roberts believe the footpath was for the residents of Cefn Pennar Farm and didn't realise it was for members of the public.
- 4.4.15 When Mr. Birtle lived at Cefn Pennar Farm it was a working farm and he used to take his horse and cart up the track from Cefn Pennar to Ty Coppi Road and into fields on the other side which he owned. Mr. Roberts does not believe it was possible to take the horse and cart from the farm down the footpath to Pantyresk Road.. Mr. Roberts had not seen anyone else using the public right of way. Mr. Birtle lived there until the 1970s when he sold the property and moved to Canada.
- 4.4.16 Mr. Cragg bought the property and used to rent the fields out. When he died and the property came up for sale Mr. Roberts bought the fields on each side of the track. The track was very overgrown as it had not been used for many years. Mr. Roberts opened it up in order to move his stock around and for maintaining the ground. Dr. McGregor bought Cefn Pennar Farm and retained the field to the side of her property.
- 4.4.17 Mr. Roberts was not aware of members of the public using the public right of way through Cefn Pennar Farm and onto the track on my ground.

4.5 **Mr. Barry Kendall**

- 4.5.1 Mr. Kendall who has worked on the farm since the age of 7 will be 70 years of age this year. Mr. Birtle owned Cefn Pennar Farm and kept a dairy herd. As a young boy, Mr. Kendall used to go and help Mr. Birtle out on the farm. He was not aware that there was a footpath leading from Pant-yr-resk Road to the farm and was surprised at this as it is a very steep banking and he could remember it being covered in brambles. He remembers helping the farmer put up a barbed wire fenceline alongside the road from the vehicular track to the farm down to the end of Mr. Birtle's property (several metres past the entrance to the public right of way). They also fenced alongside of the access track to Cefn Pennar Farm. Mr. Birtle then put a holly hedge alongside the access track to the farm. Whenever Mr. Kendall went up to the farm he used the vehicular track to the farm.
- 4.5.2 Mr. Kendall has never witnessed anyone using any section of the right of way. The track from Cefn Pennar Farm up to the lane leading to Ty-Coedcae was muddy for around 7 months of the year and the mud came well up to the top of wellies.
- 4.5.3 Mr. Kendall could recall a footpath just below the public right of way on Pant-yr-resk Road which led up to Pen graig Pennar Farm which some people used to use and then come back around the lanes. He recalled a gate and stile at the roadside and Mr. Bryon Williams used to live in the farm.
- 4.5.4 The top fields adjoining the right of way were very wet and full of reeds. The levels are not good in there and the water used to run down into the track.
- 4.5.6 Mr. Kendall used to spend his six weeks summer holiday up on the farm and most weekends during the rest of the year.
- 4.5.7 Mr. Birtle used to milk the herd early in the morning before Mr. Kendall arrived and again in the afternoon. Mr. Birtle used to ask Mr. Kendall to go and fetch the cows from the fields on the opposite side of the lane to the track and tell him to bring them down the track. Mr. Kendall believed the track was for the private use of the farm as he saw no-one else using them.
- 4.5.8 Mr. Birtle would bring the cows down across the field into the French barn and milking parlour and would put the milk in steel urns. The steel urns were collected by a lorry twice a day from the entrance to Cefn Pennar Farm. Mr. Birtle had a post box on the gate to save the postman coming up his drive.
- 4.5.9 Mr. Birtle would take his horse and cart up the track and sometimes the cart would be on two wheels trying to manoeuvre around the mud in track. Mr. Birtle eventually purchased a tractor in the latter years he lived at the farm. Mr. Kendall could recall four wheel drive vehicles having a job to negotiate their way up the track due to the very muddy conditions.
- 4.5.10 Mr. Kendall recalled the large beech trees alongside the track. He remembers that Mr. Birtle used to have put a covering down on the track before he laid the bales of feed for storage.
- 4.5.11 Mr. Birtle died around 20 years ago and Mr. Glyn Roberts of Pant-yr-resk Farm agreed to Mr. Kendall's request to help out on his farm. When Mr. Roberts bought the top fields Mr. Kendall pointed out to him how very wet and muddy the ground was in, which was due to disused levels on the ground. Mr. Roberts has improved the fields but the track still gets very muddy during the winter months.

4.6 **Mr. John Baker**

- 4.6.1 Mr. Baker undertook tree works on Mynyddislwyn mountain many years ago. He confirmed that Mr. Birtle used the track with his horse and cart. He never saw anyone else walking up there. He undertook tree works near the track where it was very muddy and never saw anyone else using it.

- 4.6.2 Mr. Baker never saw any horses on the footpath leading from the road to Cefn Pennar. The only horses using the track were those kept on the farm by Mr. Birtle. There were very few horse riders in the area at the time as local residents couldn't afford them.
- 4.6.3 Mr. Baker could recall people using the footpath leading to Cefn Pennar Farm and then cutting across the field behind to access the lane leading to Pen-graig-pennar Farm. He could also recall a track being used leading to Pen-graig-pennar as shown in Document No. 17.

4.7 **SUMMARY**

- 4.7.1 The cartroad footpath was included on the Definitive Map and Statement following the initial survey of rights of way under the National Parks and Access to the Countryside" Act 1949. There being no objections received to its inclusion it was therefore published as part of the Monmouthshire County Council's Definitive Map and Statement with a relevant date of 1st July, 1952.
- 4.7.2 The Natural Environment and Rural Communities Act reclassified the cartroad footpath to a restricted byway in 2006.
- 4.7.3 The information provided by both the current landowners and Messrs. Kendall and Baker indicates that they were not aware of any public right of way crossing Cefn Pennar Farm and the fields which once formed part of the property.
- 4.7.4 From Mr. Kendall's recollection of an old quarry at the rear of the property and the steepness of the banking it would appear impossible to take a horse let alone a horse and cart up this part of Restricted Byway 367 Abercarn.
- 4.7.5 From the information provided, by Mr. Roberts; Messrs. Kendall and Baker, the section of Restricted Byway 367 Abercarn on Mr. Roberts' land was used by a horse and cart.
- 4.7.6 As mentioned in 4.16 Doctor McGregor wishes to divert the public right of way away from her property and if her application is agreed then the status of the public right of way requires clarification in order that the correct status can be shown in the Order.

5. **EQUALITIES IMPLICATIONS**

- 5.1 There are no potential equalities implications on 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.

6. **FINANCIAL IMPLICATIONS**

- 6.1 The cost incurred for producing a Modification Order for the Varying of the Definitive Map and Statement of Restricted Byway 367 in the Community of Abercarn, should it be agreed, will be met by the Authority and is in the region of £2,500.
- 6.2 The cost of producing a Diversion Order will be met by Doctor McGregor in the region of £2,500, together with the cost of any structures that may be required.
- 6.3 Should the Modification Order and Diversion Order be agreed there could be a saving in the cost by simultaneously advertising both orders.
- 6.4 If Members supports the application then objections to the Order could be received which if not withdrawn would need to be sent to the Welsh Ministers for determination. The Welsh Ministers could call a Public Inquiry to determine the Order.

- 6.5 However if Members do not support the application then the applicant can appeal to the Welsh Ministers and again could result in a Public Inquiry being called.
- 6.6 The cost of a Public Inquiry is difficult to determine as it depends on the complexity of the case and whether or not a barrister is required. However it could be up to £10,000 together with the cost of several members of staff involved in collating the information to be provided for the Welsh Ministers (Legal Services and Public Rights of Way).

7. PERSONNEL IMPLICATIONS

- 7.1 None.

8. CONSULTATIONS

- 8.1 For List of Consultees see Document No. 18.

- 8.2 A copy of the report will be forwarded to all consultees and any comments received will be appended to the report for further consideration. The person who originally complained that access was not available has been included on the consultation list, which will allow him to comment further on the application to divert the public right of way.

9. RECOMMENDATIONS

- 9.1 On the basis of the evidence and information compiled in the submitted documents, Members are requested to determine the application before them by:-

- i) Supporting the application as made that the status of the Definitive Map and Statement should be varied to change it from a Restricted Byway to a Footpath.
- ii) Rejecting the application.
- iii) Approve the diversion of the right of way as shown in Document No. 15 which will be processed under Section 118 of the Highways Act 1980 in accordance with the following descriptions:-

Description of a section of the existing path or way to be diverted:-

From the junction with Pant-y-resk Road this path goes N. along a footpath and passes at the farm and the road is then a cartroad up the junction with the road leading to Ty-coedcae. (A-B)

Description of alternative path or way:-

A new path commences from the junction with Pant-y-resk Road the path goes north west and then bears in a north easterly direction to reach the junction with the road leading to Ty-coedcae (C-B). A total distance of 345 metres.

The width of the alternative path or way to be consistent with the status agreed by members i.e. 1.8 metres if footpath (as it is hedged on one side and fenced on the other) and 3 metres if restricted byway.

10. REASONS FOR THE RECOMMENDATIONS

- 10.1 To comply with its duty to keep the definitive map and statement under continuous review.

11. STATUTORY POWER

- 11.1 Section 53 of the Wildlife and Countryside Act 1981. Section 118 of the Highways Act 1980.
This is a Cabinet function delegated to this Committee.

Author: Mrs. June E. Piper, CROW Support Officer

List of Documents

- Explanation of the term "public rights of way" Document No. 1
- Location Plan Document No. 2
- Documentary Evidence – Information on Draft, Provisional and Definitive Maps Document No. 3
- Revision 1916 with additions in 1948 Document No. 4
- Enlarged copy of Revision 1916 with additions in 1948 Document No. 5
- Draft Map Document No.65
- Enlarged copy of Draft Map Document No. 7
- Provisional Map Document No. 8
- County of original Definitive Statement Document No. 9
- Copy of Definitive Map Document No. 10
- Enlarged copy of Definitive Map Document No. 11
- Copy of Definitive Statement Document No. 12
- Plan dated 1959-1973 Document No. 13
- Plan dated 1961-1992 Document No. 14
- Map identifying landowners Document No. 15
- Map identifying proposed diversion Document No. 16
- Map showing route to Pen-graig Pennar Farm Document No. 17
- List of Consultees Document No. 18

ETP/ROW/RBW367 Abercarn held at Pontllanfraith Offices

CONSULTEES COMMENTS

Three responses have been received following the consultation process:-

Landowner and applicant for the proposed diversion

An e-mail was received from Dr. A. McGregor, dated 8th August, 2014, who requested that the amendments in bold be considered:-

2.3 Extensive discussions have taken place since 2010, together with a number of visits to the properties on behalf of the Council (including a survey of the wild life, with bats and badgers on the property, and the tree stock). A number of solutions were proposed, including a challenge to the definitive map and the current application for a diversion of the right of way.

(comment: as far as I can see the fireplace is a relatively new addition and would not have been part of the barn. Mr Robert was in the barn as a child and has no memory of any fire or chimney).

4.15 When Mr. Birtle died (*comment – further down in this report it suggests Mr Cragg bought the property from Mr Birtle's son/ daughter*) a Mr. Cragg occupied Cefn Pennar Farm. There is correspondence on file between the former Gwent County Council, who had received complaints regarding the right of way being obstructed, and also one complaint that users were being re-directed onto the drive entrance where a stile had been placed (*Comment: this is difficult to understand as the drive was used for the milk lorry – see evidence from Mr Kendall - why would there be a stile? There is no evidence of a stile on my part of the property, What was the date of this complaint?*) At one time cartroad footpaths and cartroad brideways were thought to have included public rights for vehicles. Gwent County Council requested that the right of way be made available to vehicles and requested a meeting. There is no further correspondence on file with Mr. Cragg.

4.16 Add at end of paragraph - from Mr Cragg.

4.17 When Mr. Birtle lived at Cefn Pennar Farm it was a working farm and he used to take his horse and cart up the track from Cefn Pennar to Ty Coppi Road and into fields on the other side which he owned. Mr. Roberts does not believe it was possible to take the horse and cart from the farm down the footpath to Pantyresk Road.. Mr. Roberts had not seen anyone else using the public right of way. Ms. Birtle (old Mr Birtle's daughter) lived there until the 1970s when she sold the property and moved to Canada.

Doctor McGregor has stated that she was aware of any public rights of way over her ground, marked as on the maps 1959-1973, leading from below the barn to the road. This was the map identified by the council at the time she bought the property. She has not seen anyone using the path since she purchased the ground, nor has anyone asked to use the path. This path led to a gate, where the water meter to the property is situated. She confirmed that she had built an extension at the side of her property, for which she was granted planning permission by the appropriate Council Authorities and had not been informed that there was a public right of way there.

Mr. Cragg bought the property and used to rent the fields out. Mr Cragg moved to France and the property came up for sale at which point Mr. Roberts bought the fields on each side of the track. The track was very overgrown as it had not been used for many years. Mr. Roberts opened it up in order to move his stock around and for maintaining the ground. Dr. McGregor bought Cefn Pennar Farm and retained the field to the side of her property.

Mr. Roberts was not aware of members of the public using the public right of way through Cefn Pennar Farm and onto the track on the ground around his fields.

Comments on the response

In 4.16 Dr. McGregor questions the date of the complaint regarding a stile on her driveway. The correspondence was dated 26th November, 1990 when Mr Cragg owned the farm.

Open Spaces Society

An e-mail has been received from Ms M. Thomas, Open Spaces Society local representative, dated 28th July, 2014, attaching a copy of her response to the draft report and enclosing three photographs and a map – see Document No. 19.

Comments on the response

The comments relating to the reclassification evidence are noted but it should be pointed out that the use of the right of way by horse and cart was a private right rather than a public right. Members of the public did not use the right of way for any other use than on foot as it was not a through route for any other purpose. As mentioned in the report the original status was that of a cart road footpath and this would have been used mainly on foot. There was previously a status of cart road bridleway which included a right on foot, horse back and bicycle and at the time of preparing the Definitive Map they were identified as cart road bridleways on the Definitive Map and Statement.

To manage the movement of his stock Mr. Roberts has requested permission to install field gates. An agreement to install structures would need to be granted by this Authority and it can identify the structures to be installed to ensure easy access for all.

It is agreed that there have been ongoing issues and the Rights of Way Section has been endeavouring to resolve these by working with the landowners, Islwyn rambles and Open Spaces Society to find an amicable solution. It is believed this can be achieved with the diversion of a section of the right of way.

I note the comments in respect of equality issues and as mentioned the Rights of Way Section is promoting kissing gates/pedestrian gates for stiles wherever possible. However, in an agricultural environment field gates are a necessity to manage stock and the Rights of Way Section will continue to encourage the use of gates wherever possible.

The Open Spaces Societies' comments are noted in respect of obstructions to the right of way and this matter has been taken up with the landowner.

It is noted that there is doubt as to whether or not anyone used the public right of way because a number of people were unaware of its existence.

The proposed diversion of a section of the right of way will be more commodious than the existing right of way, which commences on Pantyresk Road leading up the banking, through the driveway to the garage area and then up the side of the garden where it is steep and there is quite a difference in the levels of the ground as mentioned in the report.

The proposed diversion will still commence on Pantyresk Road but will commence off the driveway up through the field alongside the disused level leading up to the corner of the field and then along the hedge line to meet the existing right of way. The right of way will be fenced on both sides alongside the disused level to ensure the safety of walkers. The first section of the right of way will be graded to provide easier access. Any overgrowth; old stumps, etc., will be removed.

It is correct that to reinstate the existing line of the right of way through Cefn Pennar Farm would be very costly and it is therefore in everyone's interests to divert this section of right of way. The width of the right of way will be determined by the status agreed by the Rights of Way Cabinet. Conditions can be included within the Diversion Order to ensure that it is suitable for the relevant users.

E-mail from Mr. Julian Derek, dated 17th August, 2014, objecting to the proposed diversion, attached as Document No. 20.