

# Development and Public Rights of Way



DEFINITIVE NB PAGE 4.  
PAGE 7 FOOTPATH MAINTENANCE.



1



A Practitioners Guide

# GUIDING PRINCIPLES IN AVOIDING CONFLICT BETWEEN DEVELOPMENT AND PUBLIC RIGHTS OF WAY

2

## 1. Consult the Definitive Map

Powys County Council is required by law to keep a record of public rights of way in the county. This record is known as the Definitive Map and Statement.

As its name suggests it provides definitive evidence of the existence of a public right of way even where the path or way might not physically exist on the ground.

The only absolutely up-to-date copies of the respective Definitive Maps are those kept by Countryside Services (see 'Contact Details') but many libraries across Powys have been provided with reference copies. However, these will not record the existence of recent changes, such as diversions or creations.

Each of the Planning Services offices in Neuadd Brycheiniog, Brecon, Neuadd Maldwyn, Welshpool and The Gwalia, Llandrindod Wells also hold copies of the Definitive Map. However, these copies may not be up-to-date but staff there will be able to check with Rights of Way officers for any recent changes.

The Definitive Map for Powys outside of the Brecon Beacons National Park may be inspected at Countryside Services, St John's Offices, Llandrindod Wells, Powys

For land within the Brecon Beacons National Park, the Definitive Map may be inspected at National Park Office, Cambrian Way, Brecon, Powys.

The Definitive Map is a minimum record of public rights of way. There may also exist additional public rights of way which have not yet been formally recorded on the Definitive Map, or there may be rights which have been incorrectly recorded.

Ordnance Survey maps may or may not show the existence of rights of way. They can also indicate routes which are used by the public but are not recorded on the Definitive Map.

Title deeds to property rarely refer to public rights of way. It is therefore important for anyone seeking to undertake or manage any development or planning application, to consult the Definitive Map at the earliest opportunity.

It is difficult to advise potential developers on public rights of way not recorded on the Definitive Map. Such instances are fairly uncommon and some physical evidence of use would normally be expected. It may be advisable to check with local landowners for knowledge of use of unrecorded rights of way.

## 2. The Appropriate Response

2.1 If the search of the Definitive Map reveals that there is no public right of way crossing the site of the proposed development (and there is no reason to believe that an unrecorded public right of way exists) then the only action necessary is to record this fact on the planning application forms.

2.2 If the search of the Definitive Map reveals that a public right of way would be physically blocked by the planned development then there are a series of options:-

choice of confirming the order as made by the local authority, confirming the order with modifications, or not confirming the order. If modifications are made that change the overall effect of the order then a new round of public consultation is required, which may lead to a further public inquiry.

3

9. Under new provisions introduced by the Countryside and Rights of Way Act 2000, there will be a cut-off date, 1 January 2026, for recording certain rights of way created before 1 January 1949 and providing for the extinguishment of those pre-1949 rights not claimed by the deadline. For more details about these provisions, and other affecting definitive maps, in the Countryside and Rights of Way Act 2000, [click here](#).

### Making Changes to the Rights of Way Network

10. Local authorities (and in exceptional circumstances, the Secretary of State) have powers to make changes to the footpath and bridleway networks in their area. They can create new routes, or divert or extinguish existing routes. Orders that create such changes are normally referred to as "public path orders". Anyone may ask their local authority to make a public path order, but, unlike definitive map modification orders, the powers are discretionary rather than a duty.

11. New routes may be created either through an agreement between the local authority and the landowner, or compulsorily by order. Local authorities may create footpaths or bridleways where they believe there is a need. In considering the need for a new route the authority must take into account how much the way would add to public enjoyment of the network and the effect the creation would have on the rights of the landowner. Compensation for created routes may also be payable depending on the effect of the creation on the landowner's interest in the land.

12. Diversions may be requested in the interest of the landowner, or of the public, and the new route must generally be no less convenient to the public. Diversion orders may also be made under planning legislation to allow development to be carried out.

13. Extinguishment of a footpath or bridleway can only be achieved where it can be shown that there is no longer a need for the way. In deciding this, an authority must take into account how much the route is likely to be used by the public before extinguishment and the effect of the extinguishment on the land over which the route passes.

14. The Countryside and Rights of Way Act 2000 will introduce new powers for the creation, diversion and extinguishment of rights of way. These include:

- right for landowners and occupiers to apply for diversion or extinguishment in the interests of agriculture, forestry or the breeding or keeping of horses.
- ~~Diversion or extinguishment in the interests of crime prevention.~~
- ~~Diversion or extinguishment in the case of rights of way that cross school premises in the interest of protecting pupils and staff at the school.~~
- Diversion for the protection of Sites of Special Scientific Interest.
- Temporary diversion of a footpath or bridleway for up to fourteen days a year in a case where dangerous works are being carried out.

For more details about these provisions of the Countryside and Rights of Way Act 2000, [click here](#).

### Protecting Rights of Way

15. Highway authorities (usually synonymous with surveying authorities) have a duty to assert and protect the rights of the public to the use and enjoyment of any highway. In this instance, 'highway' includes rights of way. This means they are obliged by law to keep rights of way open and useable. There are various provisions that assist in carrying out this duty.

16. It is an offence to wilfully obstruct free passage along a highway without lawful authority or excuse. Anyone can take out a prosecution against those who obstruct a highway. In addition, highway authorities may secure the removal of obstructions by serving notice on the person responsible for the obstruction. If that person fails to comply with the notice the highway authority is entitled to arrange for the removal of the obstruction at that person's expense.

17. New powers, to be introduced under the Countryside and Rights of Way Act 2000, enable any person to serve notice on a highway authority requesting it to secure the removal of an obstruction. Such a notice may lead to an order requiring the removal of the obstruction being imposed by a magistrates' court. In addition, the 2000 Act already provides for a magistrates' court to order the removal of an obstruction following a conviction for wilful obstruction. Failure to comply with such

HEAD of REGENERATION + PLANNING CARDIFF. C.B.C.

PAULINE FENWICK.

REF APPLICATION to DISTRICT B/PATH  
F/PATH Nos 152-153. Mynyddislwyn.

Please except my observations + comments  
on statements given Mrs L. HOWLAND, MR RON DAVIES  
Mrs O. Williams + MR M GIBBINGS/MR B ARTHUR.

Please  
find further information for your perusal; which  
I trust will be included in the Draft Report  
to be presented to the Rights of Way Cabinet in  
September.

Where B/Path - F/Path meets Twyn Gwyn  
Road; the view towards the North EG ~~PONTYFRANCK~~  
is very much restricted in a bend in the road.  
Trusting the A/M will receive your ~~kind~~  
kind attention.

Yours Faithfully

J. Purnell.

Reference MRS HOLLANDS STATEMENT.

(5)

With regards to Iron gate in the Quarry fence between Caerllwyn Bach & Caerllwyn Quarry.

As shown in sketch Map. - Drawing

This was installed in 1970. The men being Mrs & James of Argoed Canal Farm had grazing rights on Caerllwyn Quarry for sheep. Granted by U.T.C. Quarries Ltd.

Mrs James had very little fencing. Often her sheep would find their way onto Caerllwyn Bach ground. To avoid driving her sheep along Twyn Gwyn back to Argoed Canal where they belonged. The gate in question was placed in the Quarry fence by myself. to drive Mrs James out.

This gate was always kept locked & chained. When Mrs James left Argoed Canal. The gate was longer needed & removed in about 2001.

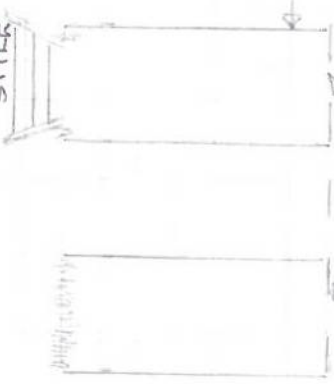
J. Pennell.

5A

BOUNDARY FENCE

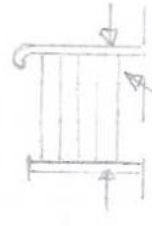
BETWEEN CAERHWYN BACH FM  
& CAERHWYN QUARRY.

WOODEN  
STYLE



STONE PILLIARS

50 METRES



IRON GATE

AS STATED IN MRS HOLLAND

MEMORANDUM. OF

MRS C. WILLIAMS

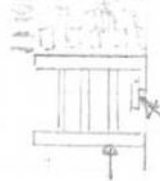
MR R. DAVIES

70 METRES.



ROUGH STYLE!

40 METRES



STYLE @ END OF  
F/P NO 183

REFERENCE MRS OLWEN WILLIAMS STATEMENT. (7)

The iron gates alongside the stile @ Twyn Gwyn road onto F/Path N<sup>os</sup> 183. Were never fixed on hinges they simply wired together. Then wired for support onto the stone-brick wall of the stile.

Having been informed by P.C. Ron Lewis of Ynysdau Police station the history of shale lorries traveling to Hanwern from Caerllwyn Bach quarry. Mr Thomas the then owner of Caerllwyn Bach farm creating a track down to the stile; so his Lorries would pass the front of Caerllwyn Bach to be counted. P.C. Ron Lewis did not think <sup>it</sup> would safe or wise and it never took place.

I removed the iron gates & was installed a sheep prove fence. in about 1975-76. When Mrs Williams was teaching our children to ride kept her pony @ Caerllwyn Bach. for several months. Mrs Williams would have used the Iron gate on the quarry fence to gain access onto Quarry Lane.

Therefore she would never have used path N<sup>os</sup> 153 to Caerllwyn Mawr.

J Purnell Esq.

Reference Mr Ron Davies of <sup>Pant-y-Ffynn</sup> Bungalow 7  
Statement.

When taking the horses to Abercorn to be  
shed. Starting from Ty Corn farm on the east track  
which ~~had~~ starts in Pontgam Terrace then Ty Corn  
farm passing between what was Brick Cottage  
garden + Pant-y-Ffyn Bungalow. (This track is now  
impossible!) onto Twyn Gwyn road. There is  
a wooden gate onto Caerllwyn Bach land.

(Mr John Coble's  
statement refers to an iron gate!)

When Mr Ron Davies  
left the Caerllwyn Bach ground ~~then~~ out to Quarry Lane  
which is part of Caerllwyn Quarry. Therefore  
he did enter Mr G Robinson's farm Caerllwyn near  
on F/P N<sup>os</sup> 153. on his way to Abercorn.

As mention in J. Parnell statement the lorries never  
passed along F/P 152. A roadway or track from  
Caerllwyn Bach Quarry was made by Mr Thomas  
the owner when Llanwern was being built. For the  
lorries to use; so he could keep a log of the numbers.  
P.C. Ron Lewis of Tynyddu Police Station stops this  
happening as the lorries would enter onto Twyn Gwyn  
road on a blind bend in the road!!!

J Parnell.



(8)

Reference statement given by MR MARK GIBBINGS  
+ MR Brian Arthur on the 31<sup>st</sup> Oct 2013.  
in which they said that a five bar gate had been  
installed @ the entrance to foot path nos 152  
along side stile leading onto foot path nos 183.

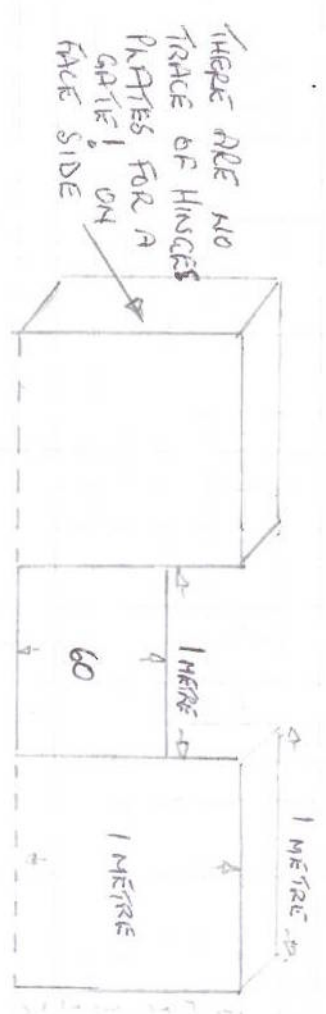
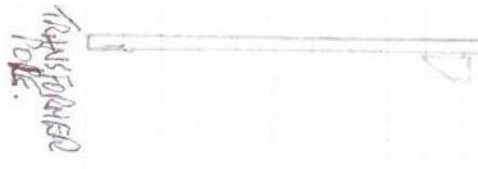
MRS Rose Purnell was @ home on the Sunday in  
question @ about 12.0. clock she observed MR  
Gibbings + MR Arthur preparing to remove fence  
along side stile off Lwya Gwya road. They informed  
MRS Purnell they were under instructions to install  
the five bar gate!

MRS Purnell stated as owners of  
the land @ Caerllwyn Bach Ffarm that <sup>no</sup> notice  
had been received from Caerphilly Council Highways  
department had been received with regards to  
carrying out such work. So MR Gibbings + MR Arthur  
put their tools + five bar gate back into their  
van. So the five bar gate in question was  
never installed as stated in your letter +  
information dated 3<sup>rd</sup> June 2014.

J Purnell

HISTORY OF STYLES IN PLACE @ THE START F/P NOS 183.  
TWIN GATE RD / CARLUKYN BACH FARM

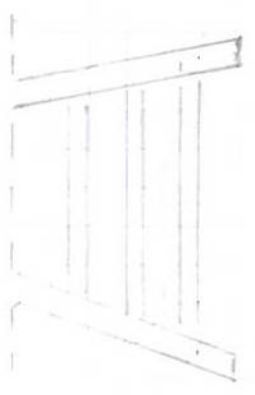
MUNDISLUKYN.



ORIGINAL STYLE BRICK STONE SIDES WITH FLAG STONE CENTRE. STRACES OF FLAG CAN STILL BE SEEN!

→ SPRING FIELD

← CUMFELFACH →



ORAK WOODEN STYLE IN PLACE UNTILL 1970



PRESENT DAY STYLE

CONCRETE POST & IRON PIPE

Reference Wildlife & Countryside Rights of Way Act 2000

Making changes to Right of way Network

Nº 14 Diversion or extinguishment in the interest of CRIME PREVENTION.

Having had Caerllwynn Bach Farm House broken into twice by burglars & items stolen from within the farmhouse apart from this being very upsetting & some family treasures never recovered by the Police. Insurance cover on the property being increased as a result of the Insurance claims to replace stolen items.

Excepting the fact that Path Nº 152 is within six metres of the front of the house. We are in a very venerable position!

Considering the A/M circumstances it would be in our best interest to have path 152 extinguished.

J. Purnell.

10

**AIR IMAGERY ANALYSIS**  
*Nicholas C. Watkis and Company*  
**"Thackers", Upton Lane, Abbeymead, Gloucester GL4 5UY**  
**UNITED KINGDOM**  
**Tele/Fax Gloucester +44(0)1452 616465**  
**e-mail: nicholas.watkis@virgin.net**

Mr J. Purnell  
Twyn Gwfn Rd  
Mynyddislwyn  
Gwent NP11 7AY

19 June 2014

Dear Mr Purnell,

I have received from you the following documents for examination.:

H.M Land Registry Ordnance Survey Pan Reference: ST1893 ST1894  
Photo Copy Map 1:2500 Over stamped "South Wales Electricity Board- Eastern Sub Area"  
Photocopy ; Rights of Way - Bridleway No 152 Mynyddislwyn  
Aerial Photograph – RAF 58/676 FRMA 4341 12 May 1951

Other imagery examined not supplied by you:

<http://www2.getmapping.com/Webshop/Web/CommonPages/Main/preview> for area NP11  
7AY for the years 1999, 2009 and 2010

**Observations.**

1. All the official mapping, Ordnance Survey and Land Registry show the connection between Cae'r- Llwyn-bach and Cae'r- llwyn as being a foot path.
2. Analysis of the 1951 image indicates the existence of a footpath which overlays a farm track for approximately 120 yards terminating at Cae'r-Llwyn.
3. Examination of imagery available on GetMapping.com for 1999, 2009, 2010, suggest that while the path remains, its use has been much reduced since 1951. Where the path crosses field boundaries at gaps used as vehicle access points, there is surface wear, but this is indicative only of vehicular use for field access. There is no indication of surface wear along the line of the footpath which would indicate the frequency of its use by foot, horse or vehicle.

**Conclusion,**

From the documents seen and described above, there is no evidence that the connection between Cae'r- Llwyn-bach and Cae'r- llwyn, as ever been anything other than a footpath, and that its use has declined over 60 years to that of occasional and infrequent. It is possible that an observer at Cae'r- llwyn, seeing the farm access track, over which the footpath terminated, concluded wrongly that it was a bridle way.

**Recommendation**

I believe that the registration of Rights of Way, bridleways, cart roads and Footpaths are the responsibility of the County Council or perhaps that of the Borough. Given that the Land

10A

Registry shows and confirms a footpath, the Authority should be asked to show how, when, and on what evidence they have registered the footpath as a bridle way.

Your sincerely

A handwritten signature in cursive script that reads "N.C. Watkis". The signature is written in dark ink and has a long, sweeping horizontal line extending from the end of the name across the page.

N.C. Watkis AE MA DipM CMC FCIM

**AIR IMAGERY ANALYSIS**  
**(Part of Contract Marketing Service)**  
**Nicholas C. Watkis and Company**  
**, Thackers, Upton Lane, Gloucester GL4 5UY,**  
**UNITED KINGDOM**  
**Tele/Fax Gloucester +44(0)1452 616465**

STATEMENT            19 June 2014

I am Nicholas Clive Watkis, of "Thackers", Upton Lane, Gloucester GL4 5UY. By profession, I am a self-employed professionally qualified management consultant, specializing in marketing. However, having qualified as photographic interpreter at the Joint School of Photographic Interpretation, I also have over 30 years past and current experience as a Qualified Imagery Analyst for the Ministry of Defence at the National Imagery Exploitation Centre. In this regard, I have from time to time, acted as a specialist witness/consultant for solicitors and their clients.

Author: "The Western Front From the Air" Suttons Publishers 1999

N.C.Watkis AE MA DipM CMC FCIM

PENTREPIOD WELSH FLYER  
DAM TREFAIS SEREN GOCH  
ROYAL WELSH 2005 CHAMPION

(11)



OWNER MR R DAVIES  
CARRY BIRA FARM  
FBBW VANE

MAKING CHANGES TO RIGHTS OF WAY NETWORK.

ITEM N<sup>o</sup> 14

THE COUNTRYSIDE + RIGHTS OF WAY ACT 2000

RIGHT FOR LANDOWNERS + OCCUPIERS TO APPLY FOR EXTINGUISHMENT INTEREST OF AGRICULTURE, FORESTRY, OR THE BREEDING OR KEEPING OF HORSES.

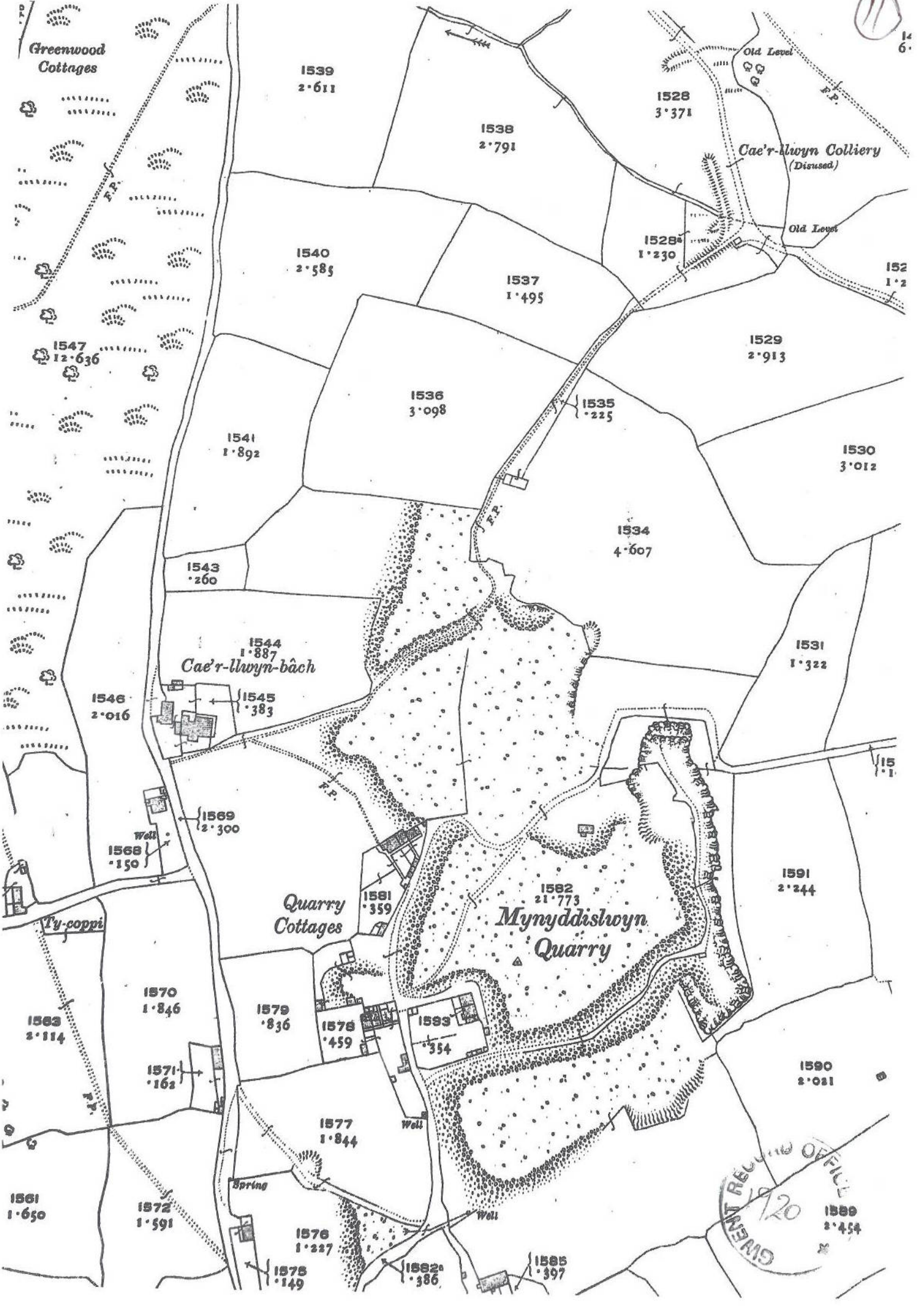
FOR THE PAST TEN YEARS @ CAERWLWYN BACH FARM Mynyddislwyn I have been involved with MR ROGER DAVIES of CARREY BIRA Farm EBBW VALLE. In the Breeding of WELSH COBS. In as much as having Horses on Caerwlwyn Bach for most of the year. Using field N<sup>os</sup> 1569-1579 for up to seven Mares who are (some of the older mares in fold.) Field N<sup>o</sup> 1569 where F/Paths N<sup>os</sup> 152-183 were situated. For strange horses to enter this field would no doubt cause a panic with the Mares!

The Stallions + Geldings are kept in fields N<sup>os</sup> 1541-1540-1539. Leaving field N<sup>os</sup> 1544-1543 as a gap between Mares + Stallions. These field are used for the Sheep.

Therefore if F/P 152 was to be used as a Bridle-path I would not able to carry on with the above mentioned Breeding Programme.

SIGNED J. Purnell Esq.





GWENT RECORD OFFICE  
1920  
1589  
2.454

THE MAP OF THE PARISH OF (12)

MYNYDDISLWYN

IN THE COUNTY OF

MONMOUTH

STANDIDGE & CO LITHO

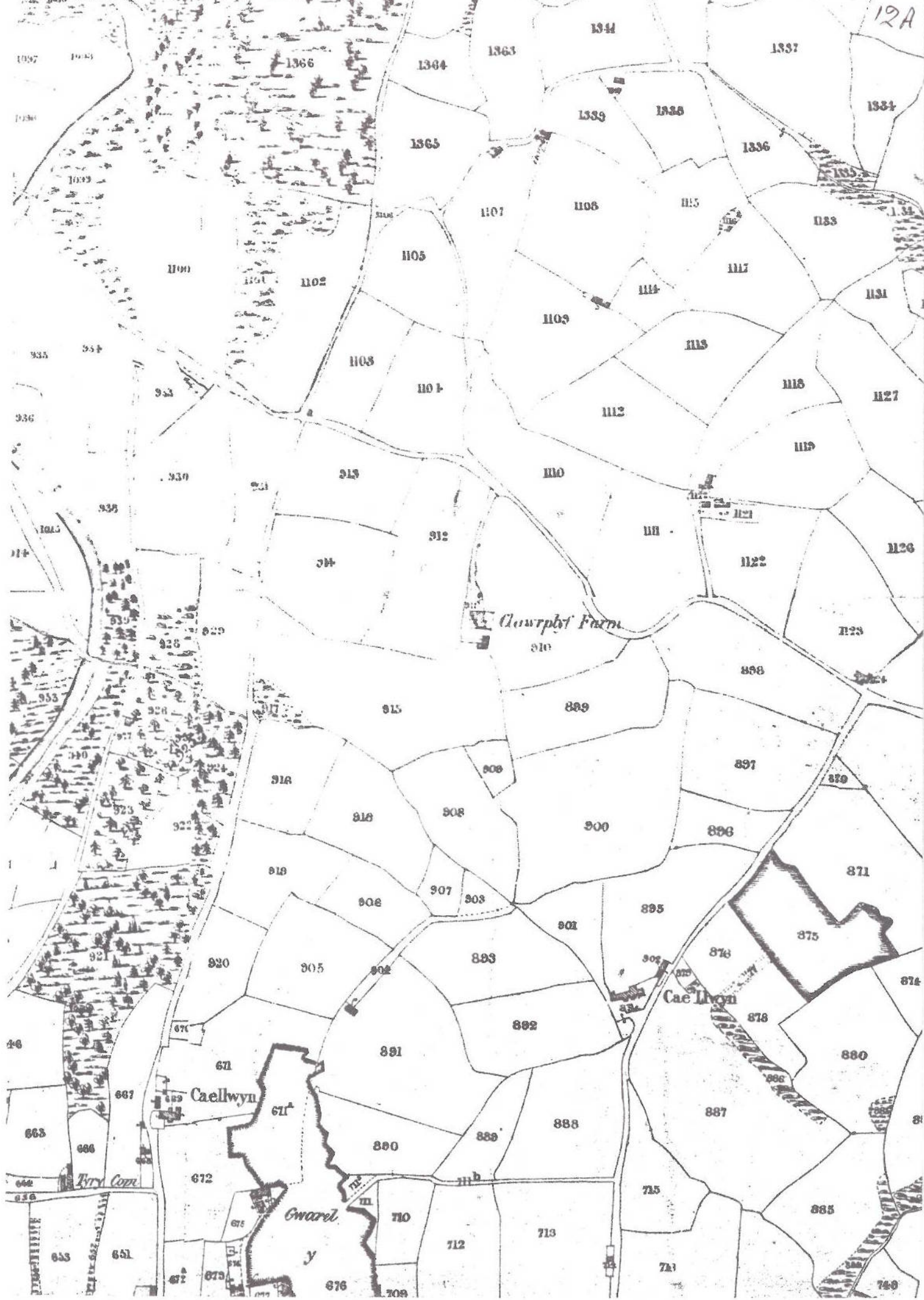
77 CORNHULL LONDON

1846

SCALE 6 CHAINS TO AN INCH

THOMAS MORRIS SURVEYOR

NEWPORT



1366

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Clawrplaf Farm

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905

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Cae Llwyn

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Caellwyn

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2024

