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Am unrhyw ymholiad yn ymwneud â'r agenda hwn cysylltwch â Charlotte Evans  
(Rhif Ffôn: 01443 864210 Ebst: [evansca1@caerphilly.gov.uk](mailto:evansca1@caerphilly.gov.uk))

**Dyddiad: Dydd Gwener, 8 Ionawr 2021**

Annwyl Syr/Fadam,

Bydd cyfarfod o'r **Pwyllgor Cabinet Hawliau'r Tramwy** yn cael ei gynnal trwy Microsoft Teams ar **Dydd Gwener, 15fed Ionawr, 2021** am **9.30 am** i ystyried materion a gynhwysir yn yr agenda canlynol. Mae croeso i chi ddefnyddio'r iaith Gymraeg yn y cyfarfod, a dylid rhoi cyfnod rhybudd o 3 diwrnod gwaith os ydych yn dymuno gwneud hynny.

Bydd y cyfarfod hwn yn cael ei recordio a bydd ar gael i'w weld trwy wefan y Cyngor, ac eithrio trafodaethau sy'n ymwneud ag eitemau cyfrinachol neu eithriedig. Felly, bydd delweddau/sain yr unigolion sy'n siarad yn ystod y Pwyllgor Cynllunio ar gael i'r cyhoedd trwy'r recordiad ar wefan y Cyngor: [www.caerffili.gov.uk](http://www.caerffili.gov.uk)

Oherwydd cyfyngiadau yn ymwneud â Covid-19, mae Ymweliadau Safle'r wedi'u hatal ac ni fydd y cyfarfod hwn ar agor i'r wasg na'r cyhoedd. Fodd bynnag, gall y rhai dan sylw wneud cais am gyflwyno sylwadau ysgrifenedig mewn perthynas ag unrhyw eitem ar yr agenda hon, a fydd yn cael eu darllen i'r Pwyllgor. I gael rhagor o fanylion am y broses hon, cysylltwch â Chlerc y Pwyllgor ar [sullie@caerffili.gov.uk](mailto:sullie@caerffili.gov.uk)

Yr eiddoch yn gywir,

A handwritten signature in black ink, appearing to read 'Christina Harrhy'.

**Christina Harrhy**  
PRIF WEITHREDWR

## A G E N D A

Tudalennau

A greener place Man gwyrddach

Correspondence may be in any language or format | Gallwch ohebu mewn unrhyw iaith neu fformat



- 1 I dderbyn ymddiheuriadau am absenoldeb
- 2 Datganiadau o Ddiddordeb.

Atgoffi'r Cyngorwyr a Swyddogion o'u cyfrifoldeb personol i ddatgan unrhyw fuddiannau personol a/neu niweidiol mewn perthynas ag unrhyw eitem o fusnes ar yr agenda hwn yn unol â Deddf Llywodraeth Leol 2000, Cyfansoddiad y Cyngor a'r Cod Ymddygiad ar gyfer Cyngorwyr a Swyddogion.

I gymeradwyo a llofnodi'r cofnodion canlynol:-

- 3 Pwyllgor Cabinet Hawliau'r Tramwy am 2 Hydref 2020. 1 - 4

I dderbyn ac ystyried yr adroddiad(au) canlynol:-

- 4 Cyfarfod Pwyllgor Cabinet Hawliau Tramwy Cyhoeddus gohiriedig, 2 Hydref 2020:- Cais am Orchymyn o dan Adran 119 o Ddeddf Priffyrdd 1980 i wyro Llwybr Troed Cyhoeddus 54 Caerffili - Wedi'i effeithio gan ddatblygiad a roddwyd gan Ganiatâd Cynllunio. 5 - 56
- 5 Cais am Orchymyn o dan Adran 257 o Ddeddf Cynllunio Gwlad a Thref 1990 i wyro Hawl Dramwy Gyhoeddus i alluogi cynnal datblygiad a roddwyd gan Ganiatâd Cynllunio. 57 - 88

### **Cylchrediad:**

Cyngorwyr C.J. Gordon, S. Morgan, L. Phipps, J. Ridgewell a E. Stenner

A Swyddogion Priodol

### **SUT FYDDWN YN DEFNYDDIO EICH GWYBODAETH**

Bydd yr unigolion hynny sy'n mynychu cyfarfodydd pwyllgor i siarad/roi tystiolaeth yn cael eu henwi yng nghofnodion y cyfarfod hynny, weithiau bydd hyn yn cynnwys eu man gweithio neu fusnes a'r barnau a fynegir. Bydd cofnodion o'r cyfarfod gan gynnwys manylion y siaradwyr ar gael i'r cyhoedd ar wefan y Cyngor ar [www.caerffili.gov.uk](http://www.caerffili.gov.uk). ac eithrio am drafodaethau sy'n ymwneud ag eitemau cyfrinachol neu eithriedig.

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Am wybodaeth bellach ar sut rydym yn prosesu eich gwybodaeth a'ch hawliau, ewch i'r Hysbysiad Preifatrwydd Cyfarfodydd Pwyllgor Llawn ar ein gwefan <http://www.caerffili.gov.uk/Pwyllgor/Preifatrwydd> neu cysylltwch â Gwasanaethau Cyfreithiol drwy e-bostio [griffd2@caerffili.gov.uk](mailto:griffd2@caerffili.gov.uk) neu ffoniwch 01443 863028.



## RIGHTS OF WAY CABINET COMMITTEE

### MINUTES OF THE MEETING HELD VIA MICROSOFT TEAMS ON FRIDAY 2ND OCTOBER 2020 AT 2.00 PM

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#### PRESENT:

Councillor S. Morgan (Chair)  
Councillor J. Ridgewell (Vice-Chair)

#### Councillors:

C.J. Gordon (Cabinet Member for Corporate Services) and L. Phipps (Cabinet Member for Housing and Property).

#### Together with:

P. Griffiths (Green Space Strategy and Cemeteries Manager). S. Denbury (Countryside and Rights of Way Assistant) M. Woodland (Senior Solicitor) and C. Evans (Committee Services Officer).

#### 1. TO ELECT A CHAIR OF THE COMMITTEE FOR THE ENSUING YEAR

It was moved and seconded that Councillor S. Morgan (Deputy Leader and Cabinet Member for Economy and Enterprise) be elected as Chair of the Committee for the ensuing year. By a show of hands this was unanimously agreed.

#### 2. TO ELECT A VICE-CHAIR OF THE COMMITTEE FOR THE ENSUING YEAR

It was moved and seconded that Councillor J. Ridgewell (Cabinet Member for Environment and Infrastructure) be elected as Vice-Chair of the Committee for the ensuing year. By a show of hands this was unanimously agreed.

#### 3. APOLOGIES FOR ABSENCE

Apologies for absence had been received from Councillor E. Stenner (Cabinet Member for Finance, Performance and Customer Service).

#### 4. DECLARATIONS OF INTEREST

Councillor C. Gordon declared a personal interest in Agenda Item 6 - Application for an Order Under Section 119 of the Highways Act 1980 to Divert Public Footpath 54 Caerphilly - Affected by Development Granted by Planning Permission as an objector to the application is known to him and left the meeting during consideration of the item.

**5. RIGHTS OF WAY CABINET MINUTES – 3RD DECEMBER 2018**

RESOLVED that the minutes of the meeting held on 3rd December 2018 were approved as a correct record.

**6. APPLICATION FOR AN ORDER UNDER SECTION 119 OF THE HIGHWAYS ACT 1980 TO DIVERT PUBLIC FOOTPATH 54 CAERPHILLY – AFFECTED BY DEVELOPMENT GRANTED BY PLANNING PERMISSION.**

Councillor C. Gordon declared a personal interest in this item as an objector to the application is known to him and left the meeting during consideration of the item.

The Committee noted that site visits had taken place, in which Members were afforded the opportunity to consider the proposals and the current layout, as well as obtain a visual perspective on the proposals within the report.

The Cabinet Rights of Way Committee were asked to consider and determine an application to make an Order to divert a Public Right of Way affected by development granted by Planning Permission.

The Green Space Strategy and Cemeteries Manager introduced the report and explained that Public Rights of Way are recorded on the Definitive Map and Statement and are afforded Highway status and protection. Section 119 of the Highways Act 1980 (HA80) gives Local Authorities the power to make Orders to divert footpaths, bridleways or restricted Byways.

It was noted that before making a Diversion Order, it must appear to the authority that it is expedient to divert the path in the interests of the public or of the owner, lessee or occupier of the land crossed by the path.

The Authority must also be satisfied that the Diversion Order does not alter the point of termination of the way where it is on a highway, otherwise than to another point which is on the same highway, or another highway connected with it, and which is substantially as convenient to the public.

The Officer outlined that the Committee are being asked to consider the Order as sought under Section 119 of the Highways Act 1980, in which an application be made to divert the route of Footpath 54 Caerphilly following the construction of the residential development to the alternative route A-C-D-E-B on Appendix 8 of the report, or the Authority make an Order under section 118 of the Highways Act 1980 to extinguish the route of Footpath 54 Caerphilly as it is no longer needed, or enforcement action be taken to remove the obstructions caused by the construction of the residential development, or an Order under section 119 of the Highways Act 1980 be made to divert the route of Footpath 54 Caerphilly onto a different route to be determined following further consultation.

The Chair thanked the Officer for the report and welcomed Councillor Shayne Cook, Local Ward Member to provide his representation on the application.

Councillor Cook spoke on behalf of the local residents regarding their objections against the proposed footpath and concerns for the raised footfall, increased anti-social behaviour, and concerns from homeowners that their house prices may decrease, as a result, and were not advised at the time of purchase. In addition, it was noted that Welsh Government Guidance recommends against the application proposed, and in particular as an alternative route had been proposed through the 'Green Corridor/ Wildlife Path' requested that this be considered. The Committee noted that Councillor J. Pritchard, also a local Ward Member has expressed similar concerns on behalf of the residents and does not support the application.

The Committee thanked the Councillor for his comments and sought further clarification on the points raised around the proposed route, and whether this is something that would be considered by the Planning Inspectorate. Officers explained that, whilst he cannot comment in the impact to house prices, the guidance provided by Welsh Government is not legislation, and therefore cannot be enforced, as such, this is the same legislation that would be considered by the Planning Inspectorate.

A Member, in noting that each of the properties would need to have Searches conducted prior to completion of sale, queried whether the Public Right of Way access would have shown up on the Searches. Officers explained that due to an error on the map, this would not have been detailed at the time.

The Chair thanked the Officer and noted that written representations have been made by the Open Spaces and Ramblers' Association, which were read out at the meeting:

- “1. We objected to the first proposed diversion on the basis that it was a diversion on to pavements and offered an alternative;
2. the developers responded with a splendid idea of routeing through a 'Green Corridor' which we were more than pleased to accept and withdrew our objections;
3. The developers build over the original footpath;
4. We were advised that the 'Green Corridor' cannot be provided as the developers did not own the and on which it was proposed and the landowner would not sell;
5. Developers cannot sell the houses; which after 2 years, is still the present position;
6. Land owner (Mr Paul Wells) makes contact with us to advise that he has never refused to sell and has written evidence of the fact that he offered to gift the land provided the developers are prepared to meet his legal fees.  
Should this prove correct then surely the problem is solved. The 'Green Corridor' can be re-instated, alleviating the need for further diversion applications.”

In noting the comments made by the Rambler's Association, further discussion took place around the potential use of the Wildlife Corridor and whilst it was agreed that further discussion could continue around this matter, the Chair wished to invite Mr Paul Wells – Mackworth Grange/Bond Demolition to address the Committee and make his representations.

Mr Wells, in response to the query around the use of the Wildlife Corridor stated that discussions had taken place around this and sale terms agreed in that Mr Wells would transfer the land to Taylor-Wimpey at no sale cost, but requested that the legal fees for the transfer be covered. In that there were additional contractual issues and a requirement to complete the sale within 24 hours, in which third parties were not available to sign, this course of action was no longer viable. However, Mr Wells explained that he is still willing to honour this agreement, as it was felt that the use of the Wildlife Corridor would be the better option. The current proposal requires the use of estate pathways, which can cause obstruction to driveways and would also require levelling of ground to ensure safety of the course of the footpath, which could lead to a number of issues and therefore was happy to continue discussions around the use of the Wildlife corridor. Mr Wells proposed that the application be deferred for a short period, whilst this option is further considered by both parties.

The Chair thanked Mr Wells for his representation and invited Ms Toni Taylor- Wells, Taylor-Wimpey to address the Committee with her representations.

Ms Taylor-Wells explained that there have been discussions underway with the vendor for several years, which have been met with a number of contractual frustrations. It was originally agreed that the site be transferred at a zero value and a cap of £40,000 in legal fees, which

would utilise the Wildlife Corridor, however there were several contractual and legal issues that arose during this time and therefore no agreement was reached. As such, Taylor-Wimpey are tied only to the site that they have ownership of and have therefore provided an application on that basis. It was noted that this is a unique situation, and due to an administrative error, however Taylor Wimpey are fully committed to providing their customers with the service they expect and therefore are willing to open further negotiations into the use of the Wildlife Corridor.

Discussions took place, in which clarification was sought on the precise route in which the proposed use of the Wildlife Corridor would take, as well as access suggestions in the form of steps and ramps where necessary to ensure that the route is DDA Compliant.

The Chair proposed that the report be deferred for a period of 3 months, for both parties to reach an agreement on the way forward and a further meeting be convened following this time, in order to discuss. However, it was noted that, should parties be unable to reach an agreement to the transfer of the Wildlife Corridor as an alternative route for the Public Right of Way, the reconvened meeting will consider the application as attached to the report.

Following consideration and discussion it was moved and seconded that the application be deferred for a period of 3 months, in order to consider an alternative option. By a show of hands this was unanimously agreed.

RESOLVED that for the reasons outlined at the meeting, the application be deferred for a period of 3 months, in order to determine an alternative course of action.

The meeting closed at 3.04 pm.



## PUBLIC RIGHTS OF WAY CABINET COMMITTEE – 15TH JANUARY 2021

**SUBJECT:** DEFERED PUBLIC RIGHTS OF WAY CABINET COMMITTEE MEETING  
2<sup>ND</sup> OCTOBER 2020:- APPLICATION FOR AN ORDER UNDER SECTION  
119 OF THE HIGHWAYS ACT 1980 TO DIVERT PUBLIC FOOTPATH 54  
CAERPHILLY - AFFECTED BY DEVELOPMENT GRANTED BY  
PLANNING PERMISSION.

**REPORT BY:** COUNTRYSIDE AND RIGHTS OF WAY ASSISTANT – MR S. DENBURY

**REF:** 19/PPO/003 HA80 S119 - FOOTPATH 54 CAERPHILLY  
GRID REFERENCE ST 315 188

### 1. PURPOSE OF REPORT

1.1 To consider and determine the deferred report placed before the Public Rights of Way Cabinet Committee on 2<sup>nd</sup> October 2020 to make an Order to divert a Public Right of Way affected by development granted by planning permission.

### 2. SUMMARY

2.1 The Public Rights of Way Cabinet Committee meeting of 2<sup>nd</sup> October 2020 was deferred for a period of three months to allow matters relating to the transfer of the area of land referred to as 'the wildlife corridor' to be discussed between the relevant parties.

2.2 Following this period of time, the parties involved have not reached agreement, and the land transfer has not taken place.

### 3. RECOMMENDATIONS

3.1 The Committee is required to determine whether:

3.1.1 the Order the applicant has sought under s119 of the Highways Act 1980 be made to **divert the route** of Footpath 54 Caerphilly following the construction of the residential development: or

3.1.2 the Authority make an Order under s118 of the Highways Act 1980 to **extinguish the route** of Footpath 54 Caerphilly as it is no longer needed: or

3.1.3 enforcement action should be taken to remove the obstructions caused by the construction of the residential development: or

3.1.4 an Order under s119 of the Highways Act 1980 be made to divert the route of Footpath 54 Caerphilly onto a different route to that sought by the applicant, the route of which is to be determined during the meeting.

#### **4. REASONS FOR THE RECOMMENDATIONS**

4.1 This information is provided in the original report placed before the Public Rights of Way Cabinet Committee on 2<sup>nd</sup> October 2020 (**Appendix 1**);

#### **5. THE REPORT**

5.1 The Rights of Way Cabinet Committee (referred to hereafter as '*the Committee*') has the power to determine what action the Authority will take to resolve the matter of the obstruction to Footpath 54 Caerphilly.

5.2 The owner of the land referred to as 'the Wildlife Corridor' and the applicant / developer have not reached agreement on terms of the land transfer.

5.3 The Committee are now required to determine which of the four options given in the recommendations (3.1.1 – 3.1.4 of this report) the Authority is to take.

5.4 3.1.4 of this report provides scope to alter the alignment of the proposed route to make a more accessible and commodious route.

5.5 Options C and D (**Appendices 4 and 5**) are given as an improvement to access for those with additional mobility needs as this route eliminates the issues encountered by width and camber of the pavement on the Eastern side of the road recorded as Rhiw'r Coedtir.

5.6 To define the public right of way to other users, the route along Rhiw'r Coedtir could be marked by a painted line and pedestrian symbols on the road surface for the appropriate width which would not have an adverse impact upon vehicular use.

5.7 A dropped kerb should also be included adjacent to property number 58 to allow for accessibility.

#### **5.8 Conclusion**

5.9 An Order to divert the Public Right of Way under s119 of the HA80 is the least disruptive option necessary to maintain public access across the development, and option B (**Appendix 2**) provides opportunity for a more accessible and commodious route over that sought in the application (Option A – **Appendix 3**).

5.10 The Authority can refuse to make an Order under s119 of the HA80 to divert the Public Right of Way, and instead to make an Order under s118 of the HA80 to extinguish the Public Right of Way as it appears to be no longer necessary. This may be difficult to prove, and objections may be received and upheld by the Planning Inspectorate which will subsequently require action to divert the footpath or reinstate it as described in 5.20 and 5.22 respectively.

5.11 Reinstatement of the Definitive Line of the Public Right of Way would require the removal of three houses, three garages, realignment of property boundaries and regrading the Definitive line through the accessible ramp.



- 5.12 Should the Committee determine that Option A (**Appendix 2**) is favoured, it is requested that Option C (**Appendix 4**) form the route in the Order to be made for reasons of accessibility and equality;
- 5.13 Should the Committee determine that Option B (**Appendix 3**) is favoured, it is requested that Option D (**Appendix 5**) form the route in the Order to be made for reasons of accessibility and equality;

## **6. ASSUMPTIONS**

- 6.1 There are no assumptions made.

## **7. LINKS TO RELEVANT COUNCIL POLICIES**

- 7.1 **This information is detailed in the report of 2<sup>nd</sup> October 2020 (Appendix 1)**

## **8. WELL-BEING OF FUTURE GENERATIONS**

- 8.1 **This information is detailed in the report of 2<sup>nd</sup> October 2020 (Appendix 1)**

## **9. EQUALITIES IMPLICATIONS**

- 9.1 **This information is detailed in the report of 2<sup>nd</sup> October 2020 (Appendix 1)**

## **10. FINANCIAL IMPLICATIONS**

- 10.1 Financial implications to this Authority are expected regardless of the decision.
- 10.2 Should the Committee resolve to make an Order under section 119 of the HA80, objections are expected from Mackworth Grange / Bond Demolition with relation to Options A and C (**Appendices 2 and 4**). If objections are received, the Authority must refer the matter to the Planning Inspectorate for a decision. The costs associated with this process are covered by the Authority and can run to multiple thousands of pounds.
- 10.3 In relation to Option B and D (**Appendices 3 and 5**), although the route would terminate on land controlled by Mackworth Grange / Bond Demolition, this land already carries a Public Right of Way which abuts the boundary, and any detriment to the value or use of the land would be minimal.
- 10.4 Should the Committee resolve to refuse to make an Order under section 119 of the HA80, but resolve to make an Order under s118 of the HA80 objections would be expected from user groups and the general public. If objections are received, the Authority must refer the matter to the Planning Inspectorate for a decision. The costs associated with this process are covered by the Authority and can run to multiple thousands of pounds.
- 10.5 Should the Committee resolve not to make an Order under s118 or s119 of the HA80, the applicant may appeal to the Planning Inspectorate, who will either direct

the Authority to make an Order or not make a direction. In the latter scenario, the Public Footpath will still remain obstructed and a further resolution will need to be reached.

- 10.6 Costs associated with the making, publishing and advertising of an Order, Confirmation and Certification of compliance are covered by the applicant.
- 10.7 Should the Order be made, and subsequently receive objections, the matter will be referred to the Planning Inspectorate – the costs associated with this process are covered by the Order making Authority and can run to multiple thousands of pounds.

## **11. PERSONNEL IMPLICATIONS**

- 11.1 **This information is detailed in the report of 2<sup>nd</sup> October 2020 (Appendix 1)**

## **12. CONSULTATIONS**

No further consultations have been carried out since the previous report of 2<sup>nd</sup> October 2020.

## **13. STATUTORY POWER**

- 13.1 section 119 of the Highways Act 1980

Author: **Countryside and Rights of Way Assistant – Mr S. Denbury**

### Background Papers:

- i. Section 119 Highways Act 1980;
- ii. Guidance for Local Authorities on Public Rights of Way – October 2016 (Welsh Government);
- iii. BS8300-1:2018 Design of an accessible and inclusive built environment.

### Appendices:

- Appendix 1 Report of 2<sup>nd</sup> October 2020 including Appendices
- Appendix 2 Option to divert under s119 Highways Act 1980 (Option A)
- Appendix 3 Option to divert under s119 Highways Act 1980 (Option B)
- Appendix 4 Option to divert under s119 Highways Act 1980 (Option C)
- Appendix 5 Option to divert under s119 Highways Act 1980 (Option D)



## **PUBLIC RIGHTS OF WAY CABINET COMMITTEE – 2ND OCTOBER 2020**

**SUBJECT: APPLICATION FOR AN ORDER UNDER SECTION 119 OF THE HIGHWAYS ACT 1980 TO DIVERT PUBLIC FOOTPATH 54 CAERPHILLY - AFFECTED BY DEVELOPMENT GRANTED BY PLANNING PERMISSION.**

**REPORT BY: COUNTRYSIDE AND RIGHTS OF WAY ASSISTANT – MR S. DENBURY**

**REF: 19/PPO/003 HA80 S119 - FOOTPATH 54 CAERPHILLY  
GRID REFERENCE ST 315 188**

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

- 1.1 To consider and determine an application to make an Order to divert a Public Right of Way affected by development granted by planning permission.

### **2. SUMMARY**

- 2.1 Public Rights of Way are recorded on the Definitive Map and Statement and are afforded Highway status and protection. Section 119 of the Highways Act 1980 (HA80) gives Local Authorities the power to make Orders to divert footpaths, bridleways or restricted Byways.
- 2.2 Before making a Diversion Order it must appear to the authority that it is expedient to divert the path in the interests of the public or of the owner, lessee or occupier of the land crossed by the path.
- 2.3 The authority must also be satisfied that the Diversion Order does not alter the point of termination of the way where it is on a highway, otherwise than to another point which is on the same highway, or another highway connected with it, and which is substantially as convenient to the public.

### **3. RECOMMENDATIONS**

- 3.1 The Committee is required to determine whether:
- 3.1.1 the Order the applicant has sought under s119 of the Highways Act 1980 be made to **divert the route** of Footpath 54 Caerphilly following the construction of the residential development to the alternative route **A-C-D-E-B on Appendix 8**: or
- 3.1.2 the Authority make an Order under s118 of the Highways Act 1980 to **extinguish the route** of Footpath 54 Caerphilly as it is no longer needed: or
- 3.1.3 enforcement action should be taken to remove the obstructions caused by the construction of the residential development: or
- 3.1.4 an Order under s119 of the Highways Act 1980 be made to divert the route of

Footpath 54 Caerphilly onto a different route to be determined following further consultation.

#### **4. REASONS FOR THE RECOMMENDATIONS**

- 4.1 The development known as 'Kingsmead' constructed by Taylor Wimpey currently obstructs the definitive line of Footpath 54 Caerphilly and action is required to either:
  - 4.1.1 alter the alignment of Footpath 54 Caerphilly to take into account the residential development given that planning permission has been granted and the majority of the development is now occupied;
  - 4.1.2 remove the footpath from the Definitive Map and Statement; or
  - 4.1.3 remove the obstructions constructed on the legal line of Footpath 54 Caerphilly by way of demolition of a number of vacant residential properties: or
  - 4.1.4 alter the alignment of Footpath 54 Caerphilly to take into account the residential development, but on a different route to that proposed by the applicant.

#### **5. THE REPORT**

- 5.1 The Rights of Way Cabinet Committee (referred to hereafter as '*the Committee*') has the power to determine what action the Authority will take to resolve the matter of the obstruction to Footpath 54 Caerphilly.
- 5.2 The route which is the subject of this report is a recorded public right of way on the Definitive Map and Statement for the former Glamorgan County Council and now forms part of the Definitive Map for the County of Caerphilly, and is recorded as Footpath 54 Caerphilly.
- 5.3 An Order to divert the line of Footpath 54 Caerphilly was made on 20<sup>th</sup> August 1998 under section 119 of the Highways Act 1980 (HA80). However, this Order was not confirmed, and the line of Footpath 54 Caerphilly remained unchanged (**Appendix 4**). An administrative error by the Authority subsequently altered the route on the GIS (Geographic Information System) mapping, leading to incorrect information being supplied to the developer thereafter.
- 5.4 Parts of this incorrect route were subsequently utilised in the Order in paragraph 5.7 and crossed land within the control of Mackworth Grange / Bond Demolition.
- 5.5 On 4<sup>th</sup> November 2013 Planning Permission 12/0860/RM was granted for the Kingsmead development.
- 5.6 The public right of way was identified as being incompatible with the proposed development, as a number of houses, garages and gardens were planned over the definitive line of the public right of way.
- 5.7 Due to this incompatibility between the designed development and the public right of way, it was deemed necessary to divert the public right of way under section 257 of the TCPA90 (Town and Country Planning Act 1990). Taylor Wimpey as the developer made a new application in 2014 to realign the public right of way through the development utilising estate footways predominantly but also utilised part of the incorrect route which was believed to hold a legal status and crossed land under the control of Mackworth Grange / Bond Demolition.
- 5.8 A pre-Order consultation was carried out which received objections from the Open Spaces Society and the Ramblers' Association on 15<sup>th</sup> March 2014, and Mr B. Williams on 25<sup>th</sup> April 2014 on grounds of the use of estate road footways as

alternative paths.

- 5.9 Welsh Government guidance is to “*avoid the use of estate roads, drives, gardens or other private areas wherever possible and preference should be given to the use of made-up estate paths through landscaped or open space areas away from vehicular traffic.*” *Section 7.9 within ‘Guidance for Local Authorities on Public Rights of Way’ – October 2016 – Welsh Government.*
- 5.10 Subsequently an amended Order was made on 4<sup>th</sup> March 2015 under section 257 of the TCPA90 (**Appendix 5**) to extinguish the public right of way and create two alternative routes – one on the estate road footways as proposed previously and one along a route along the drainage channel embankment (known as the Wildlife Corridor due to the potential for wildlife habitat) – however Taylor Wimpey were not in control of all of the land necessary to complete the Order and although negotiations are believed to have taken place between Taylor Wimpey and Mackworth Grange / Bond Demolition to permit the creation of an alternative public footpath, these did not end in agreement.
- 5.11 During this time building works continued and the development was ultimately considered to have been substantially complete, and the powers under s257 TCPA90 were no longer available. S257 of the TCPA90 provides for development to take place, but this legislation cannot be used if the development has been completed.
- 5.12 On 27<sup>th</sup> September 2019 Taylor Wimpey submitted an application under section 119 of the HA80 to divert the footpath and this report relates to this application. (**Appendices 1 and 2**).
- 5.13 A pre-Order consultation was carried out receiving objections from Mr Michael Wells of Mackworth Grange / Bond Demolition regarding the topography of the land under their control which was to be reinstated to its former level leaving a steep gradient from the Taylor Wimpey development (**Appendix 6a – email, Appendix 6b – associated plan**).
- 5.14 Further objection was received from Mr Wells regarding an area of land under his ownership, which Taylor Wimpey have allegedly utilised without permission for the construction of the accessible ramp at the South of the development (**Appendix 7a – email, Appendix 7b associated plan**).
- 5.15 Comments were also received from local Councillor James Pritchard and Councillor Shayne Cook which were based on comments and queries from local residents of the development. These comments relate largely to anti-social behaviour, and to the creation of a ‘through route’ which is alleged would cause depreciation of property values and increased insurance costs. Neither of these factors can be considered under s119 of the HA80 and therefore the comments have not been included for member’s consideration.
- 5.16 Comments were also submitted by the Rambler’s Association local representative and the Open Spaces local representative – both critical of the process, and the standard of the proposed alternative route – being for a considerable percentage of the route, on a shared access or estate road. However, both parties have stated they would not oppose the proposed alternative should an Order be made.
- 5.17 Taylor Wimpey have provided details of works they propose which will link to the existing network overcoming the topographical issue described in 5.13 at point ‘A’ on

the plan in appendix 7.

5.18 Members are now asked to determine:

5.18.1 whether they consider the tests of s119 of the Highways Act 1980 would be met by the alternative path proposed in the application:

a) it must appear to the authority that it is expedient to divert the path in the interests of the public or of the owner/lessee or occupier;

b) the route must not be substantially less convenient to the public – the proposed route is 96m longer than the existing route, and this includes the accessible ramp;

**If objections are received to the making of such an Order, the matter will be referred to the Planning Inspectorate for determination.**

5.18.2 whether the Authority should make an Order under s118 of the HA80 to extinguish the footpath as 'no longer needed'.

**If objections are received to the making of such an Order, the matter will be referred to the Planning Inspectorate for determination;**

5.18.3 whether enforcement action requiring demolition of three houses, three garages, regrading the route through the constructed accessible ramp and the realignment of property boundaries which may require further planning applications would be appropriate:

5.18.4 whether they consider any alternative to be more appropriate.

5.19 **Conclusion**

5.20 The Order to divert the Public Right of Way under s119 of the HA80 is the least disruptive option necessary to maintain public access across the development.

5.21 The Authority can refuse to make an Order under s119 of the HA80 to divert the Public Right of Way, and instead to make an Order under s118 of the HA80 to extinguish the Public Right of Way as it appears to be no longer necessary. This may be difficult to prove, and objections may be received and upheld by the Planning Inspectorate which will subsequently require action to divert the footpath or reinstate it as described in 5.20 and 5.22 respectively.

5.22 Reinstatement of the Definitive Line of the Public Right of Way would require the removal of three houses, three garages, realignment of property boundaries and regrading the Definitive line through the accessible ramp.

6. **ASSUMPTIONS**

6.1 There are no assumptions made.

7. **LINKS TO RELEVANT COUNCIL POLICIES**

7.1 **Corporate Plan 2018-2023.** Public Rights of Way link to the Well-being objectives:

- 7.1.1 4 – Promote a modern, integrated and sustainable transport system that increases opportunity, promotes prosperity and minimises the adverse impacts on the environment;
- 7.1.2 5 - Creating a county borough that supports a healthy lifestyle in accordance with the Sustainable Development Principle within the Wellbeing of Future Generations (Wales) Act 2015;
- 7.1.3 6 - Support citizens to remain independent and improve their well-being.

## **8. WELL-BEING OF FUTURE GENERATIONS**

8.1 The report links directly to the Well-being goals within the Well-being of Future Generations Act (Wales) 2015:

- **A more equal Wales**
- **A healthier Wales**
- **A Wales of cohesive communities**
- **A resilient Wales**
- **A globally responsible Wales**

8.2 It is consistent with three of the five ways of working within the Act:

8.2.1 Long Term: Maintaining access to, and use of Public Rights of Way will help CCBC to reduce our contribution to global warming by promoting sustainable development opportunities. A high quality and more commodious alternative should encourage use between residential areas and amenities.

8.2.2 Integration: The Well-being goals are being met as described in 7.1.1 – 7.1.3.

8.2.3 Collaboration: Working with the developer and other Council departments, has led to an infrastructure which is usable by all, and will benefit the wider community.

## **9. EQUALITIES IMPLICATIONS**

9.1 An Equality Impact Assessment (EIA) screening has been completed in accordance with the Council's Strategic Equality Plan and supplementary guidance (**Appendix 3**). The proposed alterations will have no impact to the protected characteristics of Age, Gender Reassignment, Marriage & Civil Partnership, Pregnancy and Maternity, Race, Religion & Belief, Sex or Sexual Orientation. The protected characteristic of Disability has been considered. As a standard we aim to improve path surfaces, widths, gradients and cambers, as well as reducing the number of structures where possible, or improving their accessibility if they cannot be removed. The proposal has been altered to minimise any impact to persons with disabilities therefore a full EIA has not been carried out.

## **10. FINANCIAL IMPLICATIONS**

10.1 Financial implications to this Authority are expected regardless of the decision.

10.2 Should the Committee resolve to make an Order under section 119 of the HA80, objections are expected from Mackworth Grange / Bond Demolition with relation to **5.13** and **5.14**. If objections are received, the Authority must refer the matter to the

Planning Inspectorate for a decision. The costs associated with this process are covered by the Authority and can run to multiple thousands of pounds.

- 10.3 Should the Committee resolve to refuse to make an Order under section 119 of the HA80, but resolve to make an Order under s118 of the HA80 objections would be expected from user groups and the general public. If objections are received, the Authority must refer the matter to the Planning Inspectorate for a decision. The costs associated with this process are covered by the Authority and can run to multiple thousands of pounds.
- 10.4 Should the Committee resolve not to make an Order under s118 or s119 of the HA80, the applicant may appeal to the Planning Inspectorate, who will either direct the Authority to make an Order or not make a direction. In the latter scenario, the Public Footpath will still remain obstructed and a further resolution will need to be reached.
- 10.5 Costs associated with the making, publishing and advertising of an Order, Confirmation and Certification of compliance are covered by the applicant.
- 10.6 Should the Order be made, and subsequently receive objections, the matter will be referred to the Planning Inspectorate – the costs associated with this process are covered by the Order making Authority and can run to multiple thousands of pounds.

## **11. PERSONNEL IMPLICATIONS**

- 11.1 Implication include:
  - i. Rights of Way Officer time in preparation of materials and posting notices on site;
  - ii. Legal Services time in making an Order and arranging for advertising in the local press as required by legislation;
  - iii. Rights of Way Officer time in Certifying compliance with the Order.
  - iv. Should an Order be made, and subsequently receive objections, the matter will be referred to the Planning Inspectorate – considerable officer time will be necessary for this process.
  - v. Should the Order not be made, the applicant may appeal to the Planning Inspectorate and this will require further officer time.
  - vi.

## **12. CONSULTATIONS**

- 12.1 Robert Hartshorn – Head of Public Protection  
Robert Tranter – Head of Legal Services  
Richard Crane – Senior Solicitor  
Phillip Griffiths – Green Spaces Strategy and Cemeteries Manager  
Rights of Way Cabinet Committee:  
Cllr Cuss, Cllr George, Cllr Gordon, Cllr Morgan and Cllr Mrs Stenner  
Cllr J. Pritchard and Cllr S. Cook – Local Councillors

### **12.2 Prescribed Organisations:**

British Horse Society  
Byways and Bridleways Trust  
Open Spaces Society  
The Ramblers' Association



### 12.3 Statutory Undertakers:

British Telecom / Openreach  
Dwr Cymru / Welsh Water  
Wales and West Utilities  
Western Power

### 12.4 Caerphilly Town Council:

Mr Phil Davy

## 13. **STATUTORY POWER**

### 13.1 section 119 of the Highways Act 1980

Author: Countryside and Rights of Way Assistant – Mr S. Denbury

#### Background Papers:

- i. Section 119 Highways Act 1980;
- ii. Guidance for Local Authorities on Public Rights of Way – October 2016 (Welsh Government);
- iii. BS8300-1:2018 Design of an accessible and inclusive built environment.

#### Appendices:

- |             |  |
|-------------|--|
| Appendix 1  | s119 HA80 application 27 <sup>th</sup> September 2019      |
| Appendix 2  | s119 HA80 application plan 27 <sup>th</sup> September 2019 |
| Appendix 3  | EIA Screening  |
| Appendix 4  | s119 HA80 Order 20 <sup>th</sup> August 1998               |
| Appendix 5  | s257 TCPA 90 Order 4 <sup>th</sup> March 2015              |
| Appendix 6a | Objection from Mr Wells (email)(regarding point A)         |
| Appendix 6b | Objection from Mr Wells (plan)(regarding point A)          |
| Appendix 7a | Objection from Mr Wells (email)(regarding point B)         |
| Appendix 7b | Objection from Mr Wells (plan)(regarding point B)          |
| Appendix 8  | Proposed Alteration of FP54 Caerphilly                     |

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**APPLICATION FORM FOR  
DIVERSION OR EXTINGUISHMENT OF  
PUBLIC FOOTPATH / BRIDLEWAY / RESTRICTED BYWAY**

**SECTIONS 118 AND 119 OF THE HIGHWAYS ACT 1980  
SECTION 257 OF THE TOWN AND COUNTRY PLANNING ACT 1990**

**IMPORTANT**

**No authority for the extinguishment or diversion of a highway is conferred unless and until a Public Path Extinguishment or Diversion Order has been made, confirmed and come into effect. Any preliminary obstruction of, or interference with, the highway concerned may not only be an offence, but may make it impossible to proceed with the making of an Order.**

**1. NAME AND ADDRESS OF APPLICANT**

Name: Toni Taylor-Wells

Postal Address: Taylor Wimpey, Build 2, Eastern Business Park, Wern Fawr Lane, St Mellons, Cardiff CF3 5EA

Email address: toni.taylorwells@taylorwimpey.com

Telephone No: 02920 534700

**2. NAME AND ADDRESS OF AGENT(S)**

Name: N/A

Postal Address: N/A

Email Address N/A

Telephone No: N/A

**3. PARTICULARS OF RIGHT OF WAY TO BE EXTINGUISHED/DIVERTED \***

a) Footpath / ~~Bridleway / Restricted Byway~~\* No. 54

b) Parish of Caerphilly

c) Length in metres of section to be ~~extinguished~~/diverted 151metres

d) Width in metres of section to be ~~extinguished~~/diverted Undefined

e) Description of length to be ~~extinguished~~/diverted by reference to terminal points on plan to accompany this application

151 metres of PROW via Un-adopted highways, Taylor Wimpey Land.

Existing Footpath to be Diverted A,B

f) Is the existing route freely available to the public? If NOT, please give reasons:

The route in its current form is obstructed by newly constructed/unoccupied dwellings.

#### **4. REASONS FOR THE EXTINGUISHMENT/DIVERSION\* OF THE PATH**

It was planned, that the route would be diverted via the newly formed highway. As approved layout TPC-01 Planning Layout Application No. 12/0860/RM

**Please Note:**

- i) A path can be extinguished under **Section 118 of the Highways Act 1980** only if it can be shown that it is no longer needed for public use; or
- ii) A path can be diverted under **Section 119 of the Highways Act 1980** in the interests of the landowner/occupier/lessee, or of the public, or
- iii) A path can be diverted or stopped up under **Section 257 of the Town and Country Planning Act 1990** in order to allow development to take place.

If an **extinguishment application**, please give details of an alternative route, or the reasons why an alternative route is not considered necessary.

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#### **5. PLANNING APPLICATION DETAILS**

*This section is only to be completed if a path is to be extinguished or diverted under 4 (iii) above, please give details of Planning Permission.*

- a) Application number 12/0860/RM
- b) Date permission granted 4<sup>th</sup> Nov 2013
- c) If permission not yet granted, date application submitted N/A
- d) Nature of development Construct 142 new residential dwellings
- e) Date development expected to begin: Constructed

#### **6. PARTICULARS OF NEW PATH TO BE PROVIDED (if applicable)**

- a) Length in metres 163 metres
- b) Width in metres 1.8m
- c) Surface Tarmacadam, Block Paving
- d) Description of length to be provided by reference to terminal points on plan to accompany this application

163 metres of newly constructed, footway, ramp and highways as defined on layout Route A-C-D-E-F-B

- e) What works do you propose to undertake to bring the new path into a

condition fit for use by the public?

Ensure that all footpaths and highways are to a suitable grade, (adoptable standards and the ramp has been constructed in line with DDA requirements) as a majority of the footpath will fall within the S38 agreement which is currently in place, but roads are not yet offered for adoption / remedial measures ongoing

## **7. RELEVANT CONSIDERATIONS**

In what way would the proposals affect the following factors, as set out in the PPO Policy:

- a) **Connectivity** The path diverted will connect onto existing routes (FP55 and FP56)
- b) **Equalities Impact** Not foreseen.
- c) **Gaps & Gates** None
- d) **Gradients** DDA complaint ramp constructed
- e) **Maintenance** Taylor Wimpey will maintain the ramp until LA and Taylor Wimpey can agree handover. Roads and Footpaths will fall within adoptable highways, and offered up for adoption.
- f) **Safety** Not foreseen, Part M, DDA compliant.
- g) **Status** Constructed and being utilised by the public
- h) **Width** 5.5 – 5.0m road, 2.0 footpath and 1.8m ramp.
- i) **Features of Interest** Access to the retail park via the development, DDA complaint to aid all persons using the route.

## **8. PARTICULARS OF OWNERSHIP**

- a) Applicant's interest (owner/occupier/lessee) in the land over which the existing path referred to in this application passes.  
Landowner, Taylor Wimpey
- b) Applicant's interest in the land over which the new path is to be provided  
Landowner, Taylor Wimpey
- c) Do any other persons have an interest in the land over which existing or proposed paths pass? If so, give names and addresses of persons and nature of interest  
No
- d) If other persons have an interest in the land affected, please tick to confirm that a copy of their written permission for the proposals to go ahead is enclosed.



**9. THIS APPLICATION MUST BE ACCOMPANIED BY A PLAN TO A SCALE NOT LESS THAN 1:2500 (ON A CURRENT ORDNANCE SURVEY BASE) SHOWING-**

- i) section of path to be diverted, **Route A-C-D-E-F-B**
- ii) new path to be provided

Please tick box to confirm a plan is enclosed.



## DECLARATION

I/We understand that no authority for the extinguishment of a public right of way is conferred unless and until any order made has been confirmed and come into effect and notice of this has been published.

~~I/We declare that the public right of way to be stopped up is not obstructed and that it is fully available to the public. (Subject to Article 3(f) above).~~

I/We hereby agree that if a diversion/extinguishment order is made I/We will defray any compensation which becomes payable under section 121 of the Highways Act 1980 in consequence of the coming into operation of the Order and any expenses which are incurred in bringing the new site of the path into a fit condition for use by the public.

I/We agree to pay the charges for processing the Order once it has been made and once it has been confirmed and agree to pay for the costs of advertising the Order when it is made, when it is confirmed and when it comes into effect if this is different from the date of confirmation. The Authority's Scale for Charges for Public Path Orders is available from Council Offices.

~~I/We~~ apply for the ~~extinguishment~~/diversion of the highway described above.

I/We declare that to the best of my/our knowledge and belief all the particulars given are true and accurate.

Signed



Date **04/09/2019**

Name **Toni Taylor-Wells \*Senior Technical Manager, on Behalf of Taylor Wimpey, South Wales.**

On completion, this form should be returned, together with the plan and copies of any consents if appropriate to:

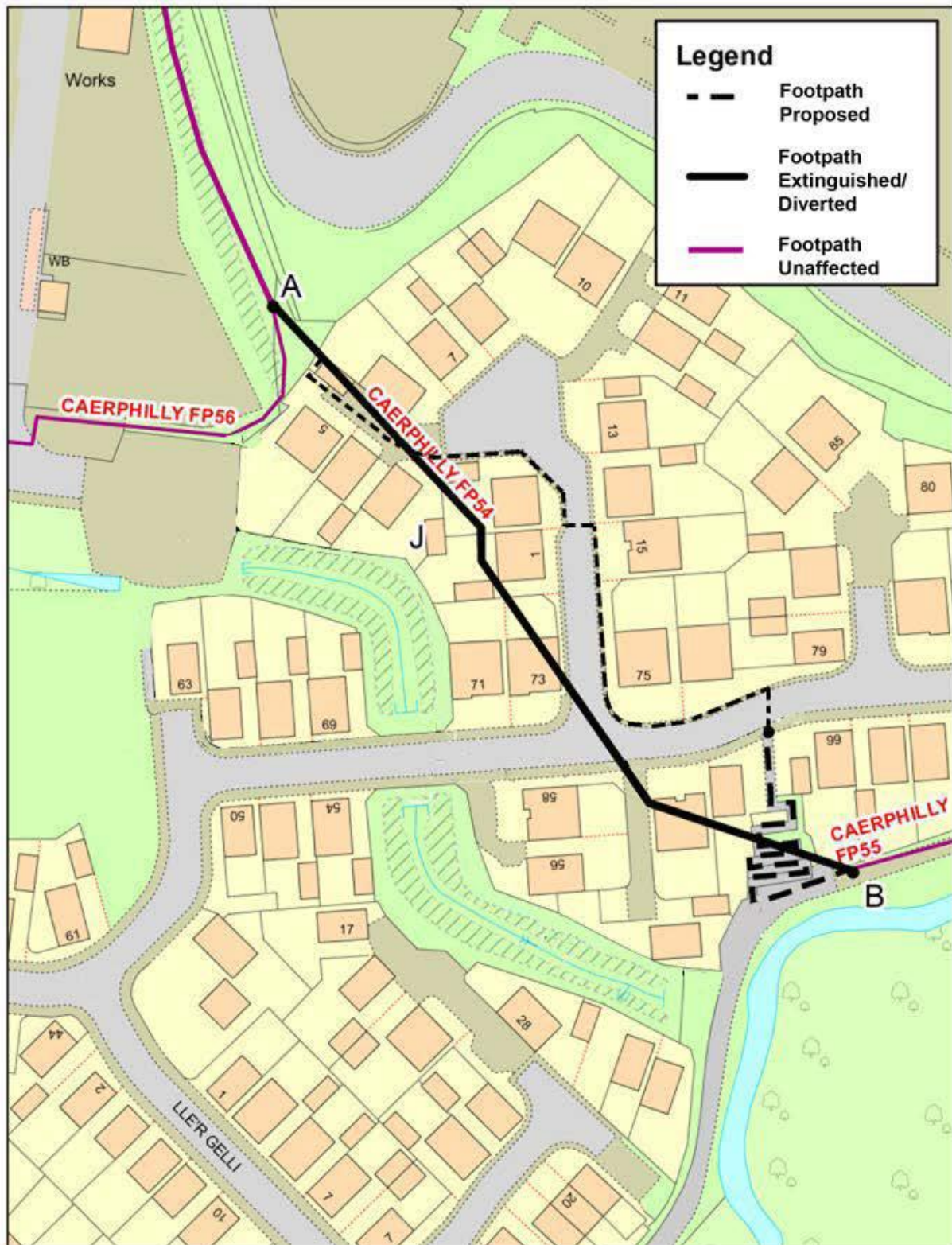
*Public Rights of Way, Countryside and Landscape Service, Caerphilly County Borough Council, Ty Bargoed, 1 St Gwladys Way, Bargoed, CF81 8AB*

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Caerphilly County Borough Council  
Public Rights of Way

1:1,000



OS Products: © 100025372, 2019. MasterMap™, 1:10000, 1:25000, 1:50000, 1:250000,  
Image Layers: © 2006 produced by COWI A/S for  
the Welsh Assembly Government's Department for Environment, Planning and Countryside.  
© GeoInformation Group 1948, 2001, 2004-5,  
© The Standing Conference on Regional Policy in South Wales (1991),  
© BlomPictometry 2008.

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## CCBC - Equality Impact Assessment Screening Form

This completed form must be appended to any report being submitted for a decision if it determines that a full Equality Impact Assessment is not required

### SECTION 1

Which service area and directorate are you from?	
Service Area:	Green Space Strategy and Cemeteries
Directorate:	Communities

For the majority of these questions, you can tick more than one box as more than one option may be relevant

Q1(a) WHAT ARE YOU SCREENING FOR RELEVANCE?					
Service/Function	Policy/Procedure	Project	Strategy	Plan	Proposal
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Q1(b) Please name and describe here: <i>(Press F1 for guidance – top row on keyboard)</i>
The function being screened is the diversion of a public right of way under section 119 of the Highways Act 1980 at the request of the landowner.

Q2(a) WHAT DOES Q1a RELATE TO?		
Direct front line service delivery (High)	Indirect front line service delivery (Medium)	Indirect back room service delivery (Low)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Q2(b) DO YOUR CUSTOMERS/CLIENTS ACCESS THIS...?			
Because they need to (High)	Because they have to (Medium)	Because it is automatically provided to everyone in the county borough (Medium)	On an internal basis i.e. staff (Low)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Q3 WHAT IS THE POTENTIAL IMPACT ON THE FOLLOWING... High, Medium and Low do not mean the same as positive or negative – a high impact could be a positive impact on a particular group... Is your proposal likely to impact disproportionately in any way (good or bad) on a particular group?**

	High Impact (High)	Medium Impact (Medium)	Low Impact (Low)	Don't Know (High)
Children/Young People	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Older People (50+)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Any other age group	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Disability	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Race (including refugees)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Asylum Seekers	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Gypsies & Travellers	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Religion or (non-)belief	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sex	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sexual Orientation	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Gender Reassignment	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Welsh Language	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Poverty/social exclusion	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Carers (inc. Young carers)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Community Cohesion	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marriage & Civil Partnership	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Pregnancy & Maternity	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**Q4 WHAT ENGAGEMENT / CONSULTATION / CO-PRODUCTIVE APPROACHES WILL YOU UNDERTAKE? Please provide details below – either of your planned activities or your reasons for not undertaking engagement. (Press F1 for guidance – top row on keyboard)**

A diversion of a public right of way under s119 of the Highways Act 1980 requires several tests to be met: the alternative route must not be less comodious than the existing route and the request must be in the interest of the owner or the public. The diversion of a public right of way is a strict legal process and follows specific steps. An assessment is made of the alternative route which is included with the report to either Head of Service of Rights of Way Committee. Consultation is carried out as prescribed in the Act with statutory consultees including the British Horse Society, Byways and Bridleways Trust, Open Spaces Society and the Ramblers' Association; as well as statutory undertakers including British Telecom/Openreach, Dwr Cymru/Welsh Water, Wales and West Utilities and Western Power Distribution. Consultation is also carried out with Community or Town Councils where appropriate. The public have

**opportunity to make representation to the proposals if an Order is made, as the Order is advertised in a local newspaper as well as at any relevant point on the affected path.**

Q5(a) HOW VISIBLE IS THIS INITIATIVE TO THE GENERAL PUBLIC?		
High Visibility (High)	Medium Visibility (Medium)	Low Visibility (Low)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

(b) WHAT IS THE POTENTIAL RISK TO THE COUNCIL'S REPUTATION? (Consider the following impacts – legal, financial, political, media, public perception etc...)		
High Risk (High)	Medium Risk (Medium)	Low Risk (Low)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Q6 Will this initiative have an impact (however minor) on any other Council service?	
Yes	No
<input type="checkbox"/>	<input checked="" type="checkbox"/>
If Yes, please provide details below	

Q7 HOW DID YOU SCORE? Please tick the relevant box	
<p>Q3 counts as one despite the large number of groups – use the highest recorded impact when calculating your score.</p> <p>This is not an exact science – a high result might not necessarily result in a full EIA report e.g. it may be governed by other legislation or by Welsh Government, resulting in a lack of control at our end.</p> <p>The most important thing is your answer to Q8...</p>	
Mostly <u>HIGH</u> and/or <u>MEDIUM</u> → HIGH PRIORITY →	<input type="checkbox"/> EIA to be completed. Please go to Section 2.
Mostly <u>LOW</u> → LOW PRIORITY/NOT RELEVANT →	<input checked="" type="checkbox"/> Do not complete EIA. Go to Q8 followed by Section 2.

**Q8 If you determine that this initiative is not relevant for an EIA report; you must provide a full explanation here. Please ensure that you cover all of the relevant protected characteristic groups. (Press F1 for guidance – top row on keyboard)**

The process is strictly governed by legislation and is not subject to discrimination to any person or group. The physical layout is assessed in terms of its accessibility, and modifications may be stipulated to developers to ensure there is no discrimination as a result of the alterations.

**SECTION 2**

**Screening Completed by:**

<b>Name:</b>	<b>Stefan Denbury</b>
<b>Job Title:</b>	<b>Countryside and Rights of Way Assistant</b>
<b>Date:</b>	<b>28<sup>th</sup> January 2020</b>

**Head of Service Approval:**

<b>Name:</b>	
<b>Job Title:</b>	
<b>Date:</b>	

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## CAERPHILLY COUNTY BOROUGH COUNCIL

NOTICE OF MAKING OF AN ORDER (OTHER THAN AN ACQUISITION  
EXTINGUISHMENT ORDER)

## HIGHWAYS ACT 1980

## Diversion of Footpath N°54 in the Community of Caerphilly

The above Order, made on 20 August 1998, under Section 119 of the Highways Act 1980, will divert the public footpath running from a point south of Pontypandy Farm north west to the Caerphilly Northern Bypass as shown on the order map.

A copy of the order and the order map have been placed and may be seen free of charge at Caerphilly County Borough Council, Council Offices, Ystrad Fawr, Ystrad Mynach, Hengoed CF82 7SF from 8:30 a.m. to 5:00 p.m. on Monday to Thursday, 4:30 p.m. Friday. Copies of the order and map may be bought at the Caerphilly County Borough Council, Council Offices, Ystrad Fawr, Ystrad Mynach, Hengoed at a price of £1.00.

Any representation about or objections to the order may be sent in writing to the Head of Legal Services, Caerphilly County Borough Council, Ystrad Fawr, Ystrad Mynach, Hengoed CF82 7SF not later than 22nd October 1998. Please state the grounds on which they are made.

If no such representation or objections are duly made, or if any so made are withdrawn, the Caerphilly County Borough Council may confirm the order as an unopposed order. If the order is sent to the Secretary of State for Wales for confirmation any representations and objections which have not been withdrawn will be sent with the order.

Dated 17th September 1998.



Ian G. Medlicott  
Head of Legal Services  
Caerphilly County Borough Council  
Ystrad Fawr  
Ystrad Mynach  
Hengoed  
CF82 7SF

I CERTIFY THAT COPIES OF THIS NOTICE WERE  
POSTED BY ME AT EACH END OF THE HIGHWAY(S)  
CONCERNED AND AT OTHER RELEVANT POSITIONS  
FROM 17/9/98..... AND MAINTAINED IN POSITION  
UNTIL 22/10/98..... SIGNED..... *I. Medlicott*  
DESIGNATION Sen Asst Eng (Rights of Way) DATE 26/10/98.

## CAERPHILLY COUNTY BOROUGH COUNCIL

## PUBLIC PATH DIVERSION ORDER

## HIGHWAYS ACT 1980

## CAERPHILLY COUNTY BOROUGH COUNCIL

## Diversion of Footpath No.54 in the Community of Caerphilly

This Order is made by the Caerphilly County Borough Council ("the Authority") under Section 119 of the Highways Act 1980 because it appears to the authority that in the interests of the owner, of the land crossed by the footpath described in Part I of this order it is expedient that the line of the path should be diverted.

Caradon Catnic Ltd., Pontywindy Estate, Caerphilly, CF8 2WJ and Mr Paul Wells, Pontypandy Farm have agreed to defray any expenses which are incurred in bringing the new path into fit condition for use by the public.

Caerphilly Town Council and the Countryside Council for Wales have been consulted as required by section 120(2) of the 1980 Act;

## BY THIS ORDER:

1. The public right of way over land forming part of the former railway at Cwm farm, Caerphilly and shown by a bold continuous line on the map contained in this order and described in Part I of the Schedule to this order shall be diverted after 28 days from the date of confirmation of this Order.
2. There shall at the end of 28 days from the date of confirmation of this order be a public footpath over land situate at Cwm farm, Caerphilly described in Part 2 of the Schedule and shown by a bold broken line on the map contained in this Order.

## PART 1

## Description of the Site of Existing Path or Way

that part of footpath No.54 in the Community of Caerphilly commencing on South Pandy Lane at a point approximately 35 metres south of the centre of the property known as Pont-y-Pandy Farm and proceeding in a general north westerly direction to its termination at the boundary of the Caerphilly Northern bypass at a point approximately 285 metres northwest of the said property a total distance of 325 metres or thereabouts shown on plan by bold black line between points D-A-B

## PART 2

## Description of the Site of New path or Way

A new path to a width of 1.8 metres if bounded on both sides or 1.4 metres if bounded on one, commencing on South Pandy Lane at a point approximately 35 metres south

of the centre of the property known as Pont-y-Pandy Farm and proceeding south along South Pandy lane before turning west, crossing water course by bridge, continuing west, then in a northerly, north easterly, north north westerly and westerly directions to its termination at a point on the boundary of the Caerphilly Northern bypass at a point approximately 285 metres northwest of the said property a total distance of 490 metres or thereabouts shown on plan by bold black dashed line between points D-J-K-E-A-H-B

Dated 20<sup>th</sup> August 1998.

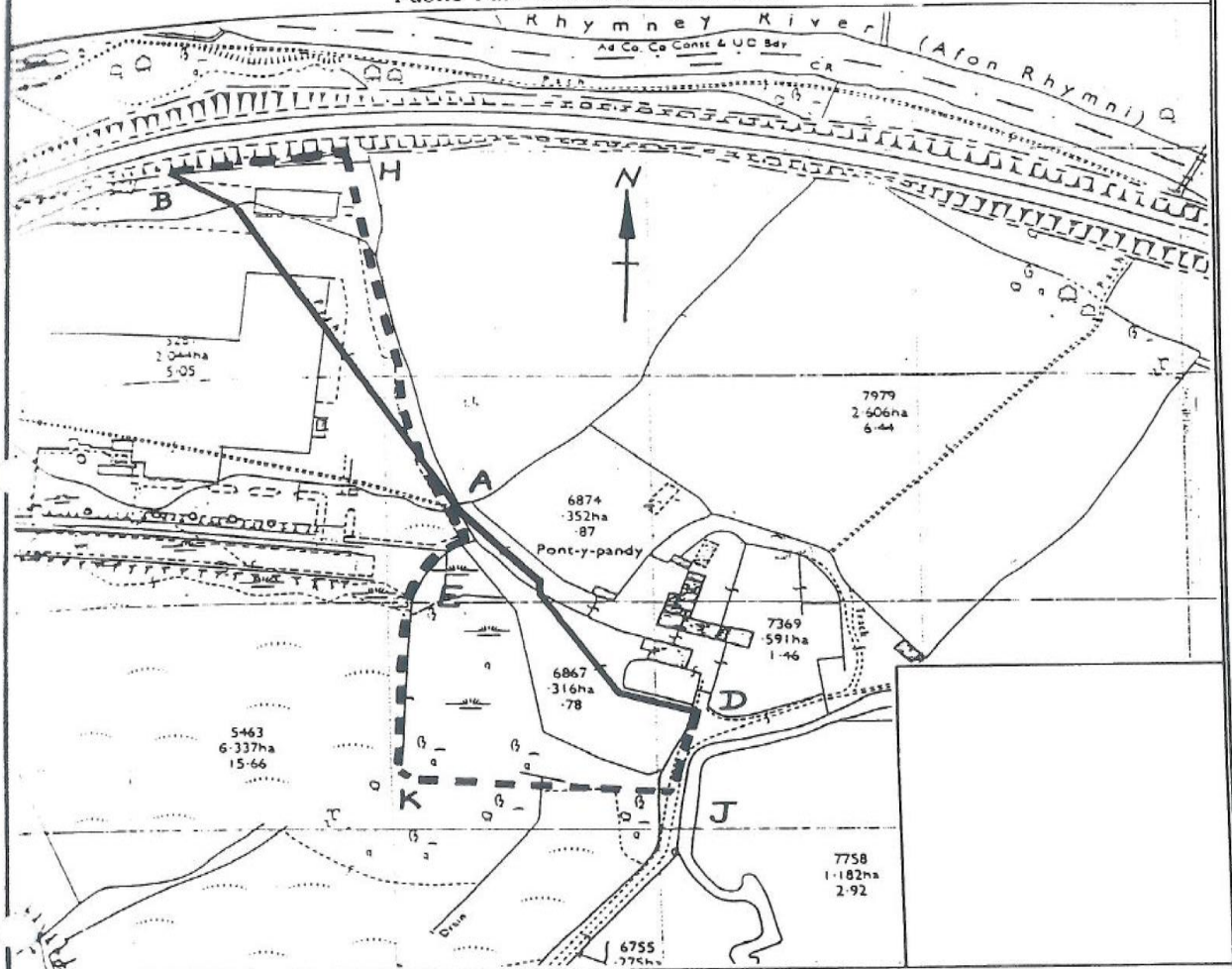
The Common Seal  
Of Caerphilly County  
Borough Council was  
Hereunto Affixed in  
the Presence of:

*J. S. Medhean*

Authorised Officer



CAERPHILLY COUNTY BOROUGH COUNCIL  
 Highways Act 1980 Section 119  
 Diversion of Footpath N°54 in the Community of Caerphilly  
 Public Path Diversion Order 1998



Highways at: Pontypandy Industrial Estate, Caerphilly

Highway to be Diverted  
 D — A — B  
 New Highway  
 D ■ J ■ K ■ E  
 E ■ A ■ H ■ B

O.S. Sheet N°  
 scale:— 1:2,500  
 Ref:ETP/ROW/FP54  
 Caerphilly

Given under the common seal of the Caerphilly County Borough Council this 20<sup>th</sup> day of August in the year One Thousand Nine Hundred and Ninety Eight

*J. S. Medlicott*  
 AUTHORIZED OFFICER:

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**CAERPHILLY COUNTY BOROUGH COUNCIL**  
**PUBLIC PATH EXTINGUISHMENT ORDER**  
**TOWN AND COUNTRY PLANNING ACT 1990, SECTION 257**

This order is made by Caerphilly County Borough Council ("the Authority") under Section 257 of the Town and Country Planning Act 1990 because it is satisfied that it is necessary to stop up a section of the footpath to which this order relates in order to enable development to be carried out in accordance with planning permission granted under Part III of the Town and Country Planning Act 1990 namely residential development at Mackworth Grange. Two new footpaths will be created to replace this section of Footpath No. 54 in the Community of Caerphilly

**BY THIS ORDER:**

1. The footpath over land at Pont-y-Pandy Farm (Mackworth Grange) Caerphilly and shown by a continuous bold black line on the attached map and described in Part I of the Schedule to this Order ("the Schedule") shall be stopped up provided below
2. There shall be created to the reasonable satisfaction of the Caerphilly County Borough Council alternative highways for use as a replacement for the said footpath as provided in Part 2 of the Schedule and shown by black dashes on the attached map.
3. The stopping of the footpath shall have effect on the date on which the Authority certify that the terms of Article 2 above have been complied with.

Taylor Wimpey South Wales are hereby required to make details of payments for the cost of carrying out the said works.

Where immediately before the date on which the footpath is stopped up there is apparatus under, in, on, over, along or across it belonging to statutory undertakers for the purpose of carrying on their undertaking, the undertakers shall continue to have the same rights of the apparatus as they then had.

---

**SCHEDULE**

**PART 1**

Description of site of existing path or way

That part of Footpath No. 54 in the Community of Caerphilly, commencing at a point approximately 110 metres west of the centre of the property known as Pont-y-Pandy Farm (Grid ref: 15630 88743) and proceeding in a south-easterly direction to its junction with Footpath No. 55 in the Community of Caerphilly, at a point approximately 40 metres south of the centre of the aforementioned property (Grid Ref: 15725 88644). Indicated in the Order Map as B-A. A total distance of 136 metres.

**PART 2**

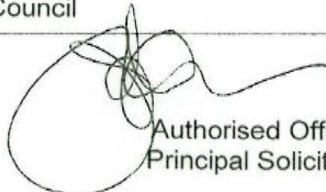
Description of site of alternative highway

A new path to a width of 1.8 metres commences on Footpath No. 56 in the Community of Caerphilly at a point 132 metres south-east of the centre of the Catnic Factory (Grid Ref: 15613 88719). It proceeds in a south easterly direction, following the estate footways to its termination at a point 270 metres south-east of the aforementioned factory to join Footpath No. 55 in the Community of Caerphilly (Grid ref: 15727 88645). A total distance of 216 metres. The new footpath to be identified as Footpath No. 54A in the Community of Caerphilly as indicated on the Order Map as H-G-F-E-J-C-A.

A new path with a width of 1.2 metres, commences on Footpath No. 54A in the Community of Caerphilly at a point 146 metres south-east of the centre of the Catnic Factory (Grid Ref: 15613 88707), proceeds in a south easterly direction where it re-joins Footpath 54A in the Community of Caerphilly at a point 264 metres south-east of the aforementioned factory (Grid Ref: 15715 88641). A total distance of 165 metres. The new footpath to be identified as Footpath No. 54B in the Community of Caerphilly as indicated on the Order Map as G-E-D-C.

Dated the 4<sup>th</sup> day of March 2015

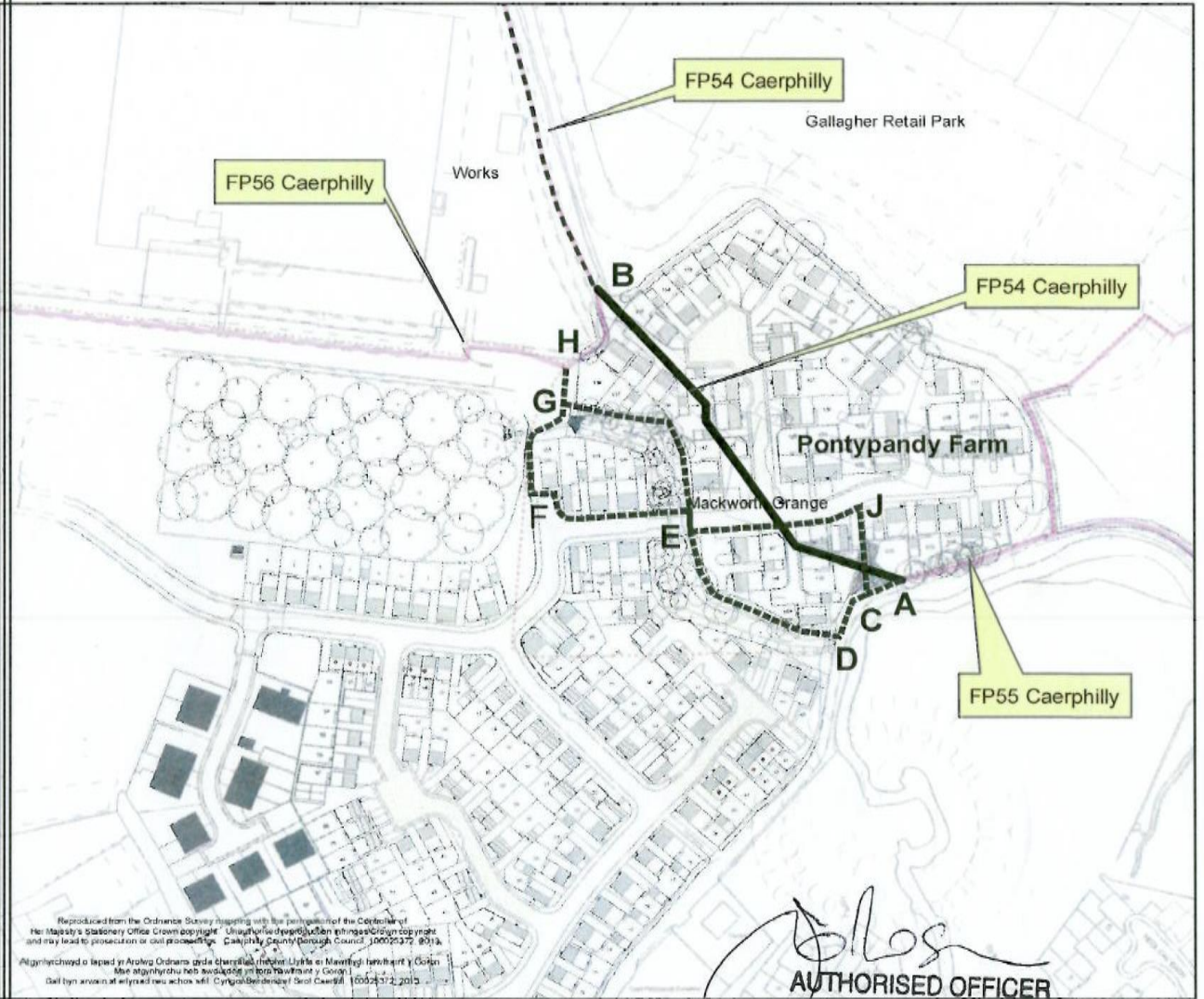
The Common Seal of  
Caerphilly County Borough Council  
was hereunto affixed  
in the presence of:

  
Authorised Officer  
Principal Solicitor

20154




**CAERPHELLY COUNTY BOROUGH COUNCIL**  
**Town and Country Planning Act 1990 - Section 257**  
**Extinguishment of a section of Footpath No. 54**  
**in the Community of Caerphilly and Creation of Two**  
**Alternative Footpaths**  
**Public Path Extinguishment Order 2015**

Document No. 5



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 Nighnyrchod o lepar y Arrolwg Ordnans gŵir a chafodd eu hysgrifio Lyfrfa o Newydd Llanfihangel y Goron. Mae atgynhyrchu heb awdoddiad yn torri hysgrifio y Goron.  
 Dail tŷn arwain at wlydd neu achos wŷll. Cyfnewid/berddedol/ Serol Caerphilly 100025372, 2015.

Highways at: Mackworth Grange Residential Development, Caerphilly

Extinguishment of Highway A-B 	Scale: 1:2,000	Given under the common seal of the Caerphilly County Borough Council this
New Highways H-G-F-E-J-C-A FP54A Caerphilly 	O.S. Sheet No. ST19 Ref: ETP/ROW FP54 Caerphilly	day of in the year Two Thousand and Fifteen
New Highway G-E-D-C FP54B Caerphilly 		

© Caerphilly County Borough Council 100025372



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Good Afternoon Mr Denbury,

Thank you for meeting with us again on 18<sup>th</sup> October.

We are writing to you to give our formal objection to the proposed footpath diversion that went out to consultation on Friday 11<sup>th</sup> October 2019. The reasons for the objection are as follows;

- The point marked A on the plan is land in our ownership, this section has been illegally filled by Taylor Wimpey. There should be a retaining wall at this location as shown on the attached layout. Taylor Wimpey have previously acknowledged the fact that this area has been filled and issued a plan with instructions to remove the fill which has not happened. This plan is also attached for your reference. The land is being reinstated to its original topography which does not lend itself to a footpath due to the steep gradients.
- The section of footpath which uses the pavement to Rhiw'r Coetir is utilising a narrow shared surface pavement which is 1m in width. Our understanding is the standard for path width is approx. 1.8m. When we met onsite again on the 18<sup>th</sup> you explained that the intention is to use the entire width of carriageway and pavement as it's a shared surface. However now that a full kerb has been added to the one pavement can this still be classed as a shared surface?
- The proposed footpath not only passes over allocated parking for plot 136 it also runs down the shared driveway of plots 134,135 & 136. This is obviously a safety concern with the added hazard of a blind 90 degree corner from behind the garage of 136.
- The original objection for the first footpath diversion came from the Ramblers who wanted a countryside path on grass not tarmac. We have tirelessly worked towards producing that at great cost.

I the above is clear. If you have any questions please do not hesitate to contact me.

Kind regards

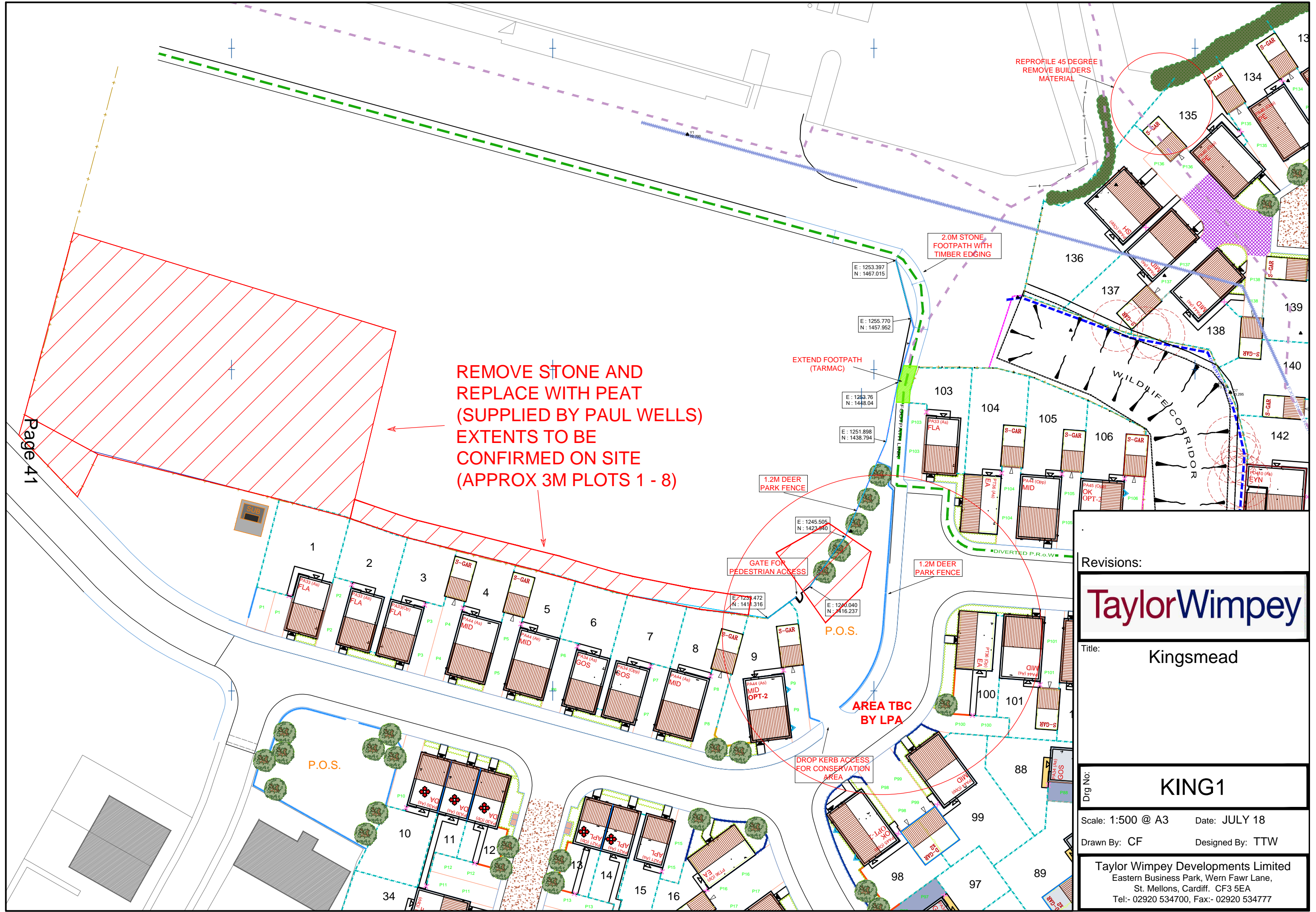
Mike Wells  
Contracts Manager

Bond Demolition Ltd  
Unit 3B Ocean Park,  
Pant Glas Industrial Estate,  
Caerphilly  
CF83 8DR

Tel No:  
Mob No:  
[www: bonddemolition.co.uk](http://www.bonddemolition.co.uk)

**BOND DEMOLITION**

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Revisions:



Title: Kingsmead

Drg No: KING1

Scale: 1:500 @ A3 Date: JULY 18

Drawn By: CF Designed By: TTW

Taylor Wimpey Developments Limited  
 Eastern Business Park, Wern Fawr Lane,  
 St. Mellons, Cardiff. CF3 5EA  
 Tel:- 02920 534700, Fax:- 02920 534777

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Dear Stefan

Please find attached a plan that shows a footpath that has been constructed by Taylor Wimpey, unfortunately they have encroached onto land that is in our ownership (shown in green) without our consent, over the past two months we have been trying to get a response from TW but to no avail. I have now formally written to them asking them to remove the footpath off our land as a matter of urgency.

We felt it was important that you were made aware of the situation.

Kind regards

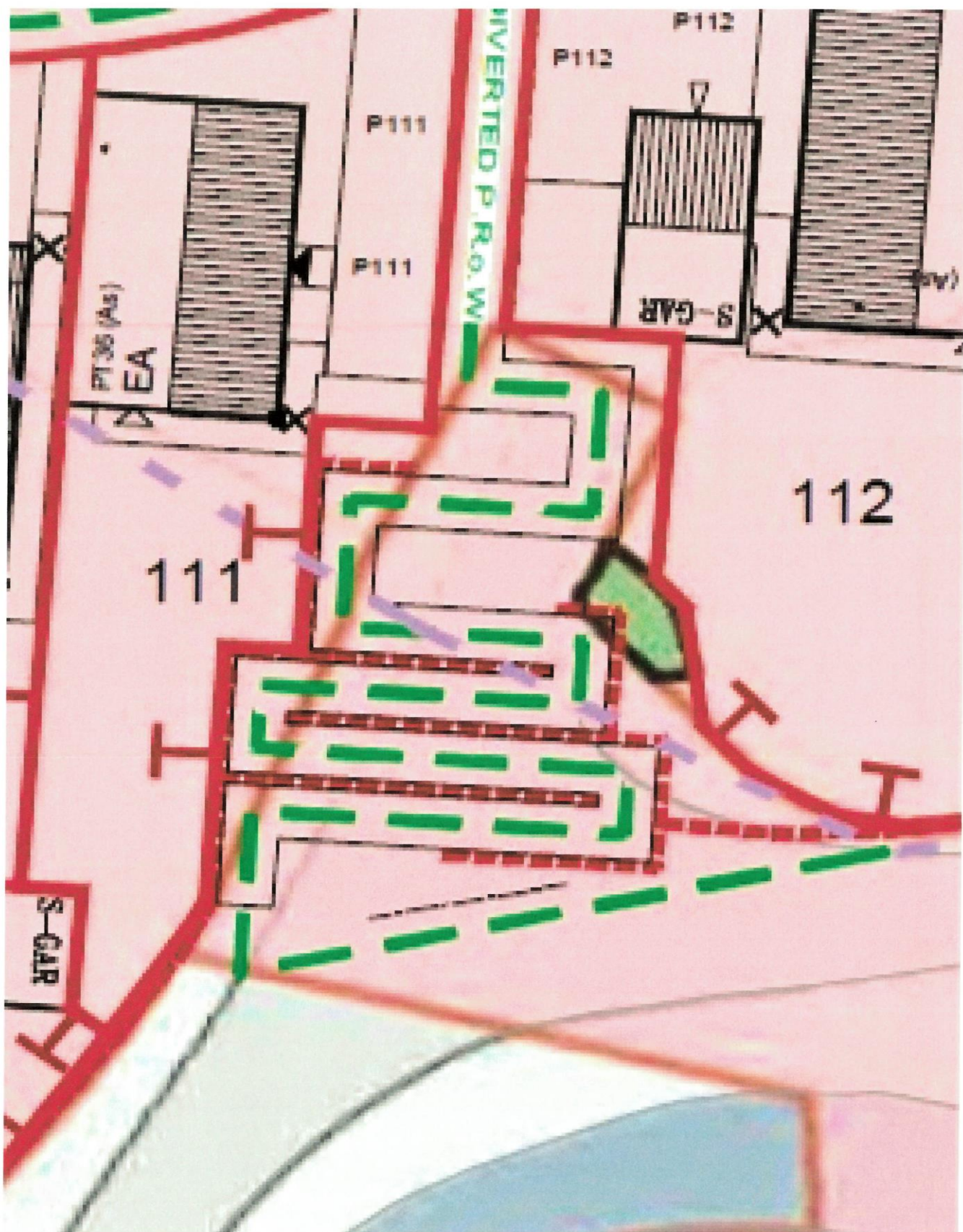
Mike Wells  
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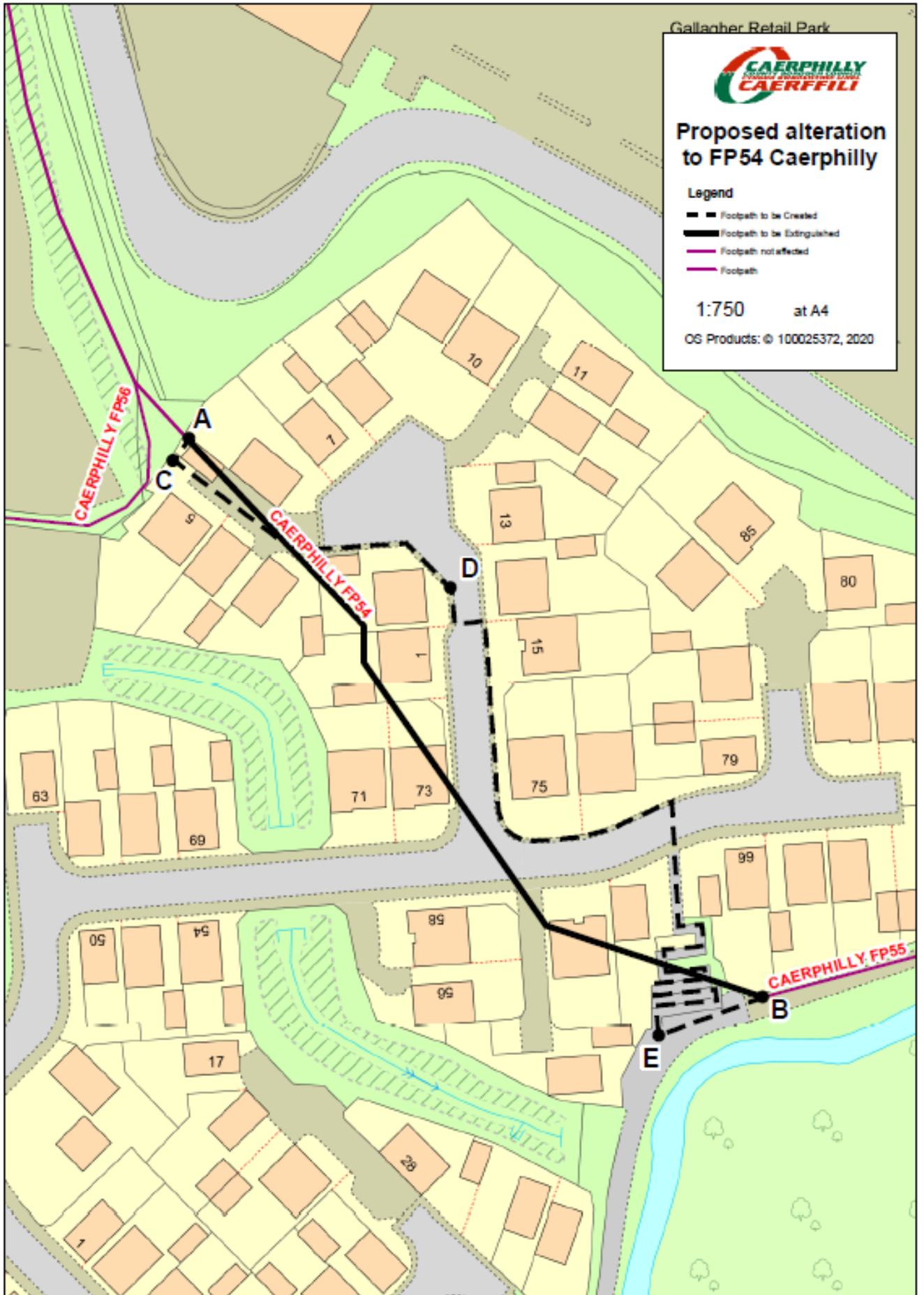


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Kingsmead  
FP54 Caerphilly

Option A

Legend

-  Llywbr arfaethedig i gael ei crewd / Proposed path to be created
-  Llywbr arfaethedig i gael ei diddymwvd / Existing path to be closed
-  Heb effeithio arno / Unaffected footpath/s



1:1,000 at A4  
OS Products: © 100025372, 2020




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Kingsmead  
FP54 Caerphilly

Option B

Legend

-  *Llwybr arfaethedig i gael ei crewyd / Proposed path to be created*
-  *Llwybr arfaethedig i gael ei diddymwvd / Existing path to be closed*
-  *Heb effeithia amc Llwybr/Llwybrau / Unaffected footpath/s*



1:1,000 at A4

OS Products: © 100025372, 2020




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Kingsmead  
FP54 Caerphilly

Option C

Legend

-  Llywybr arfaethedig i gael ei crewyd / Proposed path to be created
-  Llywybr arfaethedig i gael ei diddymu / Existing path to be closed
-  Heb effeithio arno / Unaffected footpath/s



1:1,000 at A4  
OS Products: © 100025372, 2020

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Kingsmead  
FP54 Caerphilly

Option D

Legend

-  ~~Uwyr arfaethedig i gael ei crewyd /~~
-  Proposed path to be created
-  ~~Uwyr arfaethedig i gael ei~~
-  ~~diddymwyd /~~
-  Existing path to be closed
-  Heb effeithio arno.
-  Unaffected footpath/s

1:1,000 at A4

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**SUBJECT: APPLICATION FOR AN ORDER UNDER SECTION 257 OF THE TOWN AND COUNTRY PLANNING ACT 1990 TO DIVERT A PUBLIC RIGHT OF WAY TO ENABLE DEVELOPMENT GRANTED BY PLANNING PERMISSION TO BE CARRIED OUT.**

**REPORT BY: COUNTRYSIDE AND RIGHTS OF WAY ASSISTANT – MR S. DENBURY**

**REF: 18/PPO/003 TCPA90 S257 FP26 BEDWAS  
GRID REFERENCE ST 157 892**

## **1. PURPOSE OF REPORT**

- 1.1 To consider and determine an application to make an Order which would divert a Public Right of Way to enable development granted by planning permission to be carried out.

## **2. SUMMARY**

- 2.1 Public Rights of Way are recorded on the Definitive Map and Statement and are afforded Highway status and protection. Section 257 of the Town and Country Planning Act 1990 gives Local Authorities the ability to make alterations to the network (following application from a developer who has been granted planning permission) provided it is necessary to do so in order to enable the development to be carried out.

## **3. RECOMMENDATIONS**

- 3.1 To **make** an Order under s257 Town and Country Planning Act 1990 to divert Footpath 26 Bedwas as detailed in **Appendix 6**.
- 3.2 To **not make** an Order under s257 Town and Country Planning Act 1990 to divert Footpath 26 Bedwas as detailed in **Appendix 6** – The developer will be required to keep the public right of way on the original line, and amendments will be required to the plan for the development to take into account the route of the public right of way – there may be loss of a number of dwellings as access will no longer be possible.

## **4. REASONS FOR THE RECOMMENDATIONS**

- 4.1 The Order is required to enable the development granted consent (18/0440/RM) to be carried out.

## 5. THE REPORT

- 5.1 The Rights of Way Committee has the power to make Orders under section 257 of the Town and Country Planning Act 1990 following the granting of Planning Consent, to divert public rights of way which are incompatible with the proposed development.
- 5.2 The route is a recorded public right of way on the Definitive Map and Statement and is recorded as: Footpath 26 Bedwas.
- 5.3 The development granted consent under Planning Permission 18/0440/RM is incompatible with the present alignment of a part of the public right of way approximately 147 metres in length, and it is therefore necessary for that part of the public right of way to be diverted to permit the development to be carried out. The remaining 203 metres over land under the control of the applicant is unaffected.
- 5.4 An application has been received from Mr Ron Milsom on behalf of Llanmoor Homes under section 257 of the Town and Country Planning Act 1990. **Appendix 1.**
- 5.5 Objections were raised at an early stage and a meeting was held at the Council Offices at Ty Bargoed in January 2020 with representatives of the developer, the Ramblers' Association and the Open Spaces Society. Issues were brought to the applicant's attention regarding:
- 5.5.1 use of the estate road as an alternative route for part of the diversion;
- 5.5.2 the necessity of the diversion around the LEAP (Locally Equipped Area for Play);
- 5.5.3 the need for the diversion around the parking for a number of plots;
- 5.5.4 and the issue over cars parking on pavements obstructing use in the future.
- 5.6 The applicant has taken the comments on board and has made the following alterations (**Appendix 2** indicates the revised alterations sought):
- 5.6.1 The applicant maintains the need for use of the estate road footway (A-E-B **Appendix 6**) as essential without the loss of further properties. The applicant has stated that the density of the development is already lower than is required, and further reduction in plots would adversely affect the financial viability of the site as a whole;
- 5.6.2 The route proposed to run to the South of the LEAP was removed from the proposal, with the exception of a turnover the final few metres prior to meeting the estate road footway – this is to accommodate a property boundary;
- 5.6.3 The applicant maintains that the diversion of the route B-F-C (**Appendix 6**) is required to avoid conflict between the proposed private road use and the public right of way. The gradient of the ground is also stated to be inconsistent with maintaining the public right of way on its original alignment given the change in levels and the need for a retaining wall.
- 5.6.4 The alternative route is proposed to be on a footway adjacent to a vehicular carriageway for approximately 104 metres, 48 metres of which will be protected by a metal knee rail to prevent vehicles mounting, and therefore parking on the public right of way.

5.6.5 The developer also agreed to the installation of a table top structure at the crossing point of the estate road to further slow vehicles at this location.

## 5.7 Conclusion

5.7.1 The necessity test associated with making an Order under s257 of the Town and Country Planning Act 1990 has been met as the Public Rights of Way are incompatible with the development granted planning permission.

## 6. ASSUMPTIONS

6.1 There are no assumptions made.

## 7. LINKS TO RELEVANT COUNCIL POLICIES

7.1 **Corporate Plan 2018-2023.** Public Rights of Way link to the Well-being objectives:

7.1.1 4 – Promote a modern, integrated and sustainable transport system that increases opportunity, promotes prosperity and minimises the adverse impacts on the environment;

7.1.2 5 - Creating a county borough that supports a healthy lifestyle in accordance with the Sustainable Development Principle within the Wellbeing of Future Generations (Wales) Act 2015;

7.1.3 6 - Support citizens to remain independent and improve their well-being.

## 8. WELL-BEING OF FUTURE GENERATIONS

8.1 The report links directly to the Well-being goals within the Well-being of Future Generations Act (Wales) 2015:

- **A more equal Wales**
- **A healthier Wales**
- **A Wales of cohesive communities**
- **A resilient Wales**
- **A globally responsible Wales**

8.2 It is consistent with all five ways of working within the Act:

8.2.1 Long Term: Maintaining access to, and use of Public Rights of Way will help CCBC to reduce our contribution to global warming by promoting sustainable development opportunities. A high quality, and more commodious alternative should encourage use.

8.2.2 Integration: The Well-being goals are being met as described in 7.1.1 – 7.1.3.

8.2.3 Involvement: The design of the development has been scrutinised from an early stage, and the prescribed organisations, statutory undertakers, the developers and other Council departments have been involved to maximise the benefits, and minimise any negative factors.

8.2.4 Collaboration: Working with different bodies including the developer, user groups

and other Council departments, has led to an improved infrastructure which is easier for all to use, and will benefit the wider community.

- 8.2.5 Prevention: Early involvement in the design and consultation with user groups has resulted in preventing damage or loss of quality of the infrastructure, and has also prevented unnecessary limitations to the public.

## **9. EQUALITIES IMPLICATIONS**

- 9.1 An Equality Impact Assessment (EIA) screening has been completed in accordance with the Council's Strategic Equality Plan and supplementary guidance (**Appendix 3**). The proposed alterations will have no impact to the protected characteristics of Age, Gender Reassignment, Marriage & Civil Partnership, Pregnancy and Maternity, Race, Religion & Belief, Sex or Sexual Orientation. The protected characteristic of Disability has been considered. As a standard we aim to improve path surfaces, widths, gradients and cambers, as well as reducing the number of structures where possible, or improving their accessibility if they cannot be removed. The proposal has been altered to eliminate any impact to persons with disabilities therefore a full EIA has not been carried out.

## **10. FINANCIAL IMPLICATIONS**

- 10.1 There are costs associated with advertising an Order, if made, which are recovered from the applicant. The applicant has agreed to cover all costs in the covering letter of the application (**Appendix 1**).

## **11. PERSONNEL IMPLICATIONS**

- 11.1 Officer time in preparation of materials and posting notices on site are relevant personnel implications to the making of an Order.

## **12. CONSULTATIONS**

- 12.1 A consultation has been carried out with statutory consultees as listed below:

### Prescribed Organisations:

British Horse Society  
Byways and Bridleways Trust  
Open Spaces Society  
The Ramblers' Association

### Statutory Undertakers:

British Telecom / Openreach  
Dwr Cymru / Welsh Water  
Wales and West Utilites  
Western Power

Caerphilly County Borough Council:

Mr R. Tranter - Head of Legal Services  
Mr M. Woodland - Senior Solicitor  
Mr P. Griffiths - Green Spaces Strategy and Cemeteries Manager  
Rights of Way Cabinet Committee:  
Cllr Gordon, Cllr Morgan, Cllr Mrs Phipps, Cllr Ridgewell, and Cllr Mrs Stenner  
Local Councillors:  
Cllr Mrs Aldworth, Cllr Ms Gale and Cllr Havard

12.2 Responses were received from the Open Spaces Society, the Ramblers' Association and BT Openreach.

12.2.1 The Open Spaces Society stated they will object to an Order proposing the alterations sought (**Appendix 7**);

12.2.2 The Ramblers' Association stated:

*"1) The RA seek all PROW potentially affected by development should retain a rural aspect;  
2) Welsh Government guidance is not to align PROW onto either estate roads, their footways or private drives or gardens;  
3) The PROW could remain unchanged if the site layout were to be redesigned to accommodate the route."*

12.2.3 BT Openreach stated that apparatus is in the vicinity (**Appendix 8**), however they do not object subject to retaining access rights to their apparatus – the proposed alterations to the Public Rights of Way network will not affect this access. It is noted that the details within BT Openreach's response were not accurate – referring to a location other than this. The matter was queried, and they have been provided opportunity to correct what is presumed to be an error. No further response has been received from BT Openreach.

### **13. STATUTORY POWER**

13.1 Section 257 Town and Country Planning Act 1990

Author: **Countryside and Rights of Way Assistant – Mr S. Denbury**

Background Papers:

- (i) section 257 Town and Country Planning Act 1990
- (ii) Guidance for Local Authorities on Public Rights of Way – October 2016 (Welsh Government)

Appendices:

- Appendix 1 Application Form including Plan
- Appendix 2 Amended Plan
- Appendix 3 Equalities Impact Assessment screening
- Appendix 4 Location plan 1:10,000 scale
- Appendix 5 Site layout plan 1:2,000 scale
- Appendix 6 PROW Detail plan 1:1,000 scale
- Appendix 7 Objection from the Open Spaces Society
- Appendix 8 BT Openreach response

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Public Rights of Way,  
Countryside and Landscape Service,  
Caerphilly County Borough Council,  
Ty Bargoed,  
1 St. Gwladys Way,  
Bargoed,  
CF81 8AB

Our ref: RM/  
Your ref: P.R.O.W. N°26 Bedwas

19<sup>th</sup> November 2018

Dear Sirs,

Section 257 Town and Country Planning Act 1990  
Diversion of Footpath N°26 Bedwas.

With reference to the above, I enclose, for your due consideration, the completed application forms and requested documentation.

I should be pleased, therefore, if you could register the application to divert the footpath and confirm that any costs incurred will be met by Messrs. Llanmoor Homes.

Yours faithfully,  
Llanmoor Development Co. Ltd.

**R. Milsom**



**APPLICATION FORM FOR  
DIVERSION OR EXTINGUISHMENT OF  
PUBLIC FOOTPATH / BRIDLEWAY / RESTRICTED BYWAY**

SECTIONS 118 AND 119 OF THE HIGHWAYS ACT 1980  
SECTION 257 OF THE TOWN AND COUNTRY PLANNING ACT 1990

**IMPORTANT**

No authority for the extinguishment or diversion of a highway is conferred unless and until a Public Path Extinguishment or Diversion Order has been made, confirmed and come into effect. Any preliminary obstruction of, or interference with, the highway concerned may not only be an offence, but may make it impossible to proceed with the making of an Order.

**1. NAME AND ADDRESS OF APPLICANT**

Name: LLANMOOR HOMES  
Postal Address: 63-65 TALBOT ROAD, TALBOT GREEN  
PONTYCLUN, RHONDDA CYNON TAFF  
Email address george@llanmoor- Telephone No: 01443 226888  
homes.co.uk

**2. NAME AND ADDRESS OF AGENT(S)**

Name: RON MILSON  
Postal Address: AS ABOVE  
Email Address ronaldmilsom@ Telephone No: 01477409767  
btinternet.com

**3. PARTICULARS OF RIGHT OF WAY TO BE EXTINGUISHED/DIVERTED\***

- a) Footpath / Bridleway /Restricted Byway\* No. 26  
b) Parish of BEDWAS  
c) Length in metres of section to be extinguished/diverted 120M  
d) Width in metres of section to be extinguished/diverted UNDEFINED  
e) Description of length to be extinguished/diverted by reference to terminal points on plan to accompany this application  
LENGTHS OF PATH IDENTIFIED AS A-C  
AND D-F ON THE ATTACHED PLAN

- (f) Is the existing route freely available to the public? If NOT, please give reasons:

YES

**4. REASONS FOR THE EXTINGUISHMENT/DIVERSION\* OF THE PATH**

TO ALLOW DEVELOPMENT TO TAKE PLACE  
IN ACCORDANCE WITH APPROVED PLANNING  
APPLICATION NO. 18/0440/RM

**Please Note:**

- i) A path can be extinguished under **Section 118 of the Highways Act 1980** only if it can be shown that it is no longer needed for public use; or
- ii) A path can be diverted under **Section 119 of the Highways Act 1980** in the interests of the landowner/occupier/lessee, or of the public, or
- iii) A path can be diverted or stopped up under **Section 257 of the Town and Country Planning Act 1990** in order to allow development to take place.

If an extinguishment application, please give details of an alternative route, or the reasons why an alternative route is not considered necessary.

**5. PLANNING APPLICATION DETAILS**

This section is only to be completed if a path is to be extinguished or diverted under 4 (iii) above, please give details of Planning Permission.

- a) Application number 18/0440/RM
- b) Date permission granted 8/8/18
- c) If permission not yet granted, date application submitted \_\_\_\_\_
- d) Nature of development HOUSING DEVELOPMENT
- e) Date development expected to begin ALREADY COMMENCED

6. **PARTICULARS OF NEW PATH TO BE PROVIDED (if applicable)**

- a) Length in metres 155 M
- b) Width in metres 1.8 M
- c) Surface TARMAC
- d) Description of length to be provided by reference to terminal points on plan to accompany this application  
LENGTHS A-B-C AND D-E-F AS  
IDENTIFIED ON THE ATTACHED PLAN
- e) What works do you propose to undertake to bring the new path into a condition fit for use by the public?  
PATH TO BE CONSTRUCTED TO LOCAL  
AUTHORITY ADOPTION STANDARDS

7. **RELEVANT CONSIDERATIONS**

In what way would the proposals affect the following factors, as set out in the PPO Policy:

- a) Connectivity NONE
- b) Equalities Impact NONE
- c) Gaps & Gates NONE
- d) Gradients GRADIENTS TO BE NO STEEPER  
THAN LOCAL AUTHORITY REQUIREMENTS
- e) Maintenance DIVERTED PATH TO BE  
MAINTAINED AS PART OF PUBLIC HIGHWAY
- f) Safety NONE
- g) Status DIVERTED PATH TO BE ADOPTED  
AS PART OF PUBLIC HIGHWAY
- h) Width CONSISTENT WIDTH OF 1.8M
- i) Features of Interest NONE

**8. PARTICULARS OF OWNERSHIP**

- a) Applicant's interest (*owner/occupier/lessee*) in the land over which the existing path referred to in this application passes.

OWNER

---



---

- b) Applicant's interest in the land over which the new path is to be provided

---



---

- c) Do any other persons have an interest in the land over which existing or proposed paths pass? If so, give names and addresses of persons and nature of interest

---



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- d) If other persons have an interest in the land affected, please tick to confirm that a copy of their written permission for the proposals to go ahead is enclosed.

**9. THIS APPLICATION MUST BE ACCOMPANIED BY A PLAN TO A SCALE NOT LESS THAN 1:2500 (ON A CURRENT ORDNANCE SURVEY BASE) SHOWING-**

- i) section of path to be extinguished
- ii) new path to be provided

Please tick box to confirm a plan is enclosed



**DECLARATION**

I/We understand that no authority for the extinguishment of a public right of way is conferred unless and until any order made has been confirmed and come into effect and notice of this has been published.

I/We declare that the public right of way to be stopped up is not obstructed and that it is fully available to the public. (Subject to Article 3(f) above).

I/We hereby agree that if a diversion/extinguishment order is made I/We will defray any compensation which becomes payable under section 121 of the Highways Act 1980 in consequence of the coming into operation of the Order and any expenses which are incurred in bringing the new site of the path into a fit condition for use by the public.

I/We agree to pay the charges for processing the Order once it has been made and once it has been confirmed and agree to pay for the costs of advertising the Order when it is made, when it is confirmed and when it comes into effect if this is different from the date of confirmation. The Authority's Scale for Charges for Public Path Orders is available from Council Offices.

I/We apply for the extinguishment/diversions of the highway described above.

I/We declare that to the best of my/our knowledge and belief all the particulars given are true and accurate.

Signed ..... *R Milson* ..... Date *5/11/18* .....

Name ..... *RON MILSON* .....

Signed ..... Date .....

Name .....

On completion, this form, should be returned, together with the plan and copies of any consents if appropriate, to:

*Public Rights of Way, Countryside and Landscape Service, Caerphilly County Borough Council, Ty Bargoed, 1 St Gwladys Way, Bargoed, CF81 8AB*

Town and Country Planning Act 1990 Section 257 Diversion of F.P. No. 26 BEDWAS



<b>EXISTING PATH</b> A ——— C 55 Metres D ——— F 65 Metres		<b>DIVERTED PATH</b> A ——— B ——— C 75 Metres D ——— E ——— F 80 Metres		Project Title <b>Pandy Road, Bedwas, Caerphilly</b> Drawing Title Public Footpath Diversion	Rev. : Scale 1:1250@A3 Project No. 1680	Date November 2018 Drawing No. FD-02	Drawn by PC Revision. -	Date : Public Rights of Way Countryside and Landscape Services Caerphilly County Borough Council Tŷ Bargoed 1 St. Gwladys Way BARGOED CF81 8AB
--	--	--	--	--	---	---	----------------------------------	---

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**Legend**

- Public Open Space-Area 1  
0.416ha [1.02ac]  
incl. MUGA
- Public Open Space-Area 2  
0.712ha [1.76ac]  
incl. 400sqm LEAP
- Existing PROW
- PROW diversion
- New public footpath connections

*REVISOR PROW ROUTE  
FOLLOWING MEETING WITH  
RAMBLERS - TBC  
ACCEPTABLE*

REV	DESCRIPTION	DATE
D	Layout revised to match TP-01 rev 01, MUGA position revised.	12.06.18
C	POSS split into two areas.	07.05.18
B	Drainage elements added.	01.05.18
A	Layout revised to match TP-01 rev 01. Affordability not revised.	29.06.18

CLIENT  
**Llanmoor Homes**  
JOB TITLE  
**Pandy Road, Bedwas, Caerphilly.**  
DRAWING TITLE  
**Public Open Space Plan**

SCALE @ A2	DATE	DRAWN BY
1:1250	March '18	PC
JOB NO.	DRAWING NO.	REVISION
1680	POS-01	D



10 Gold Tops  
Newport  
NP20 4PH  
t. 01633 844970  
e. info@hammond-ltd.co.uk

[www.hammond-ltd.co.uk](http://www.hammond-ltd.co.uk)

© Hammond Architectural Limited 2018  
Figured dimensions must be taken in preference to scaled dimensions and any discrepancies are to be referred to Hammond Architectural Ltd. Contractors, subcontractors and suppliers must verify all dimensions on site before commencing any work or making any workshop drawings.

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## CCBC - Equality Impact Assessment Screening Form

This completed form must be appended to any report being submitted for a decision if it determines that a full Equality Impact Assessment is not required

### SECTION 1

Which service area and directorate are you from?	
Service Area:	Green Space Strategy and Cemeteries
Directorate:	Communities

For the majority of these questions, you can tick more than one box as more than one option may be relevant

Q1(a) WHAT ARE YOU SCREENING FOR RELEVANCE?					
Service/Function	Policy/Procedure	Project	Strategy	Plan	Proposal
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Q1(b) Please name and describe here: <i>(Press F1 for guidance – top row on keyboard)</i>
The function being screened is the diversion of public rights of way under section 257 of the Town and Country Planning Act 1990 to allow development to proceed following the grant of planning permission.

Q2(a) WHAT DOES Q1a RELATE TO?		
Direct front line service delivery (High)	Indirect front line service delivery (Medium)	Indirect back room service delivery (Low)
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Q2(b) DO YOUR CUSTOMERS/CLIENTS ACCESS THIS...?			
Because they need to (High)	Because they have to (Medium)	Because it is automatically provided to everyone in the county borough (Medium)	On an internal basis i.e. staff (Low)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Q3 WHAT IS THE POTENTIAL IMPACT ON THE FOLLOWING... High, Medium and Low do not mean the same as positive or negative – a high impact could be a positive impact on a particular group... Is your proposal likely to impact disproportionately in any way (good or bad) on a particular group?**

	High Impact (High)	Medium Impact (Medium)	Low Impact (Low)	Don't Know (High)
Children/Young People	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Older People (50+)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Any other age group	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Disability	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Race (including refugees)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Asylum Seekers	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Gypsies & Travellers	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Religion or (non-)belief	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sex	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sexual Orientation	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Gender Reassignment	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Welsh Language	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Poverty/social exclusion	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Carers (inc. Young carers)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Community Cohesion	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marriage & Civil Partnership	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Pregnancy & Maternity	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**Q4 WHAT ENGAGEMENT / CONSULTATION / CO-PRODUCTIVE APPROACHES WILL YOU UNDERTAKE? Please provide details below – either of your planned activities or your reasons for not undertaking engagement. (Press F1 for guidance – top row on keyboard)**

The Order under s257 of the Town and Country Planning Act 1990 will be available for public consultation, advertised in a local newspaper, posted at the ends of the affected paths and will be available from Legal Services, Ty Penallta. The notice will be in Welsh and English. The Order will also be sent to the prescribed organisations which are: British Horse Society, Byways and Bridleways Trust, Open Spaces Society, and The Ramblers Association for comment. The statutory undertakers will also be notified (Dwr Cymru, British Telecom / Openreach, Wales and West Utilities and Western Power).

Q5(a) HOW VISIBLE IS THIS INITIATIVE TO THE GENERAL PUBLIC?		
High Visibility (High)	Medium Visibility (Medium)	Low Visibility (Low)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

(b) WHAT IS THE POTENTIAL RISK TO THE COUNCIL'S REPUTATION? (Consider the following impacts – legal, financial, political, media, public perception etc...)		
High Risk (High)	Medium Risk (Medium)	Low Risk (Low)
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Q6 Will this initiative have an impact (however minor) on any other Council service?	
Yes	No
<input type="checkbox"/>	<input checked="" type="checkbox"/>
If Yes, please provide details below	

Q7 HOW DID YOU SCORE? Please tick the relevant box	
<p>Q3 counts as one despite the large number of groups – use the highest recorded impact when calculating your score.</p> <p>This is not an exact science – a high result might not necessarily result in a full EIA report e.g. it may be governed by other legislation or by Welsh Government, resulting in a lack of control at our end.</p> <p>The most important thing is your answer to Q8...</p>	
Mostly <u>HIGH</u> and/or <u>MEDIUM</u> → HIGH PRIORITY →	<input type="checkbox"/> EIA to be completed. Please go to Section 2.
Mostly <u>LOW</u> → LOW PRIORITY/NOT RELEVANT →	<input checked="" type="checkbox"/> Do not complete EIA. Go to Q8 followed by Section 2.

**Q8 If you determine that this initiative is not relevant for an EIA report; you must provide a full explanation here. Please ensure that you cover all of the relevant protected characteristic groups. (Press F1 for guidance – top row on keyboard)**

The Order if successful, will alter the route of a public right of way. Through consultation with prescribed organisations and statutory undertakers and in conjunction with the appropriate legislation and Welsh Government Guidance on Public Rights of Way, the proposed alterations will have no impact to the protected characteristics of Age, Gender Reassignment, Marriage & Civil Partnership, Pregnancy and Maternity, Race, Religion & Belief, Sex or Sexual Orientation. The protected characteristic of Disability has been considered in relation to the Equalities Act 2010, and British Standard BS5709:2018. The proposal has been altered to minimise any impact to persons with disabilities.

## SECTION 2

<b>Screening Completed by:</b>	
<b>Name:</b>	<b>Stefan Denbury</b>
<b>Job Title:</b>	<b>Countryside and Rights of Way Assistant</b>
<b>Date:</b>	<b>1<sup>st</sup> December 2020</b>

<b>Head of Service Approval:</b>	
<b>Name:</b>	<b>Rob Hartshorn</b>
<b>Job Title:</b>	<b>Head of Public Protection, Community &amp; Leisure Services</b>
<b>Date:</b>	<b>16<sup>th</sup> December 2020</b>

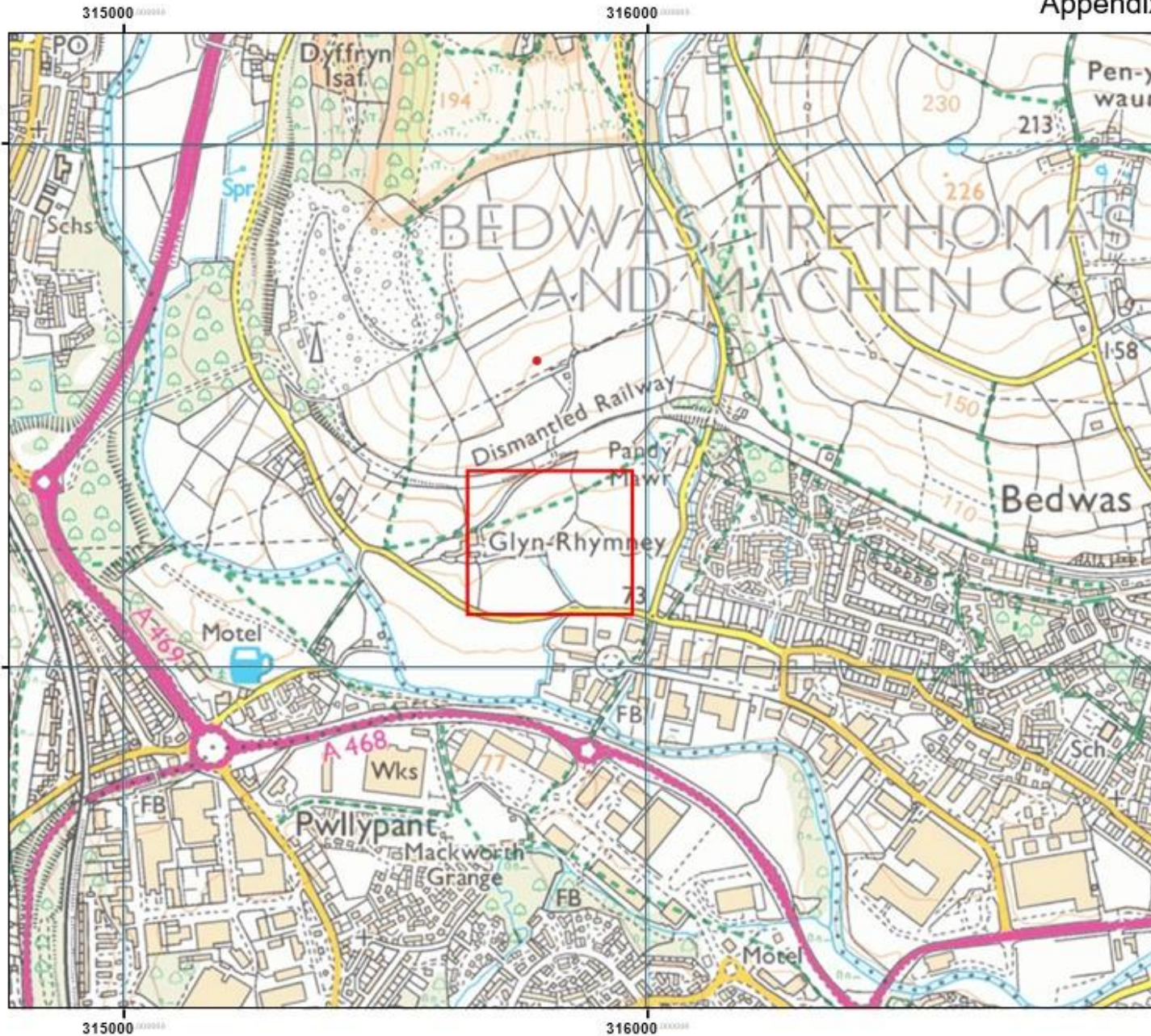


Legend



1:10,000 at A4

OS Products: © 100025372, 2020




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Appendix 5



Proposed Public Path  
Diversion Order  
Town and Country Planning  
Act 1990 s257  
Llanmor Homes,  
Pandy Road, Bedwas,  
18/PPO/003

**Legend**

-  *Llwybr arfaethedig i gael ei crewyd / Proposed path to be created*
-  *Llwybr arfaethedig i gael ei diddymu / Existing path to be closed*
-  *Heb effeithio arno / Unaffected footpath/s*

1:2,000 at A4  
OS Products: © 100025372, 2020

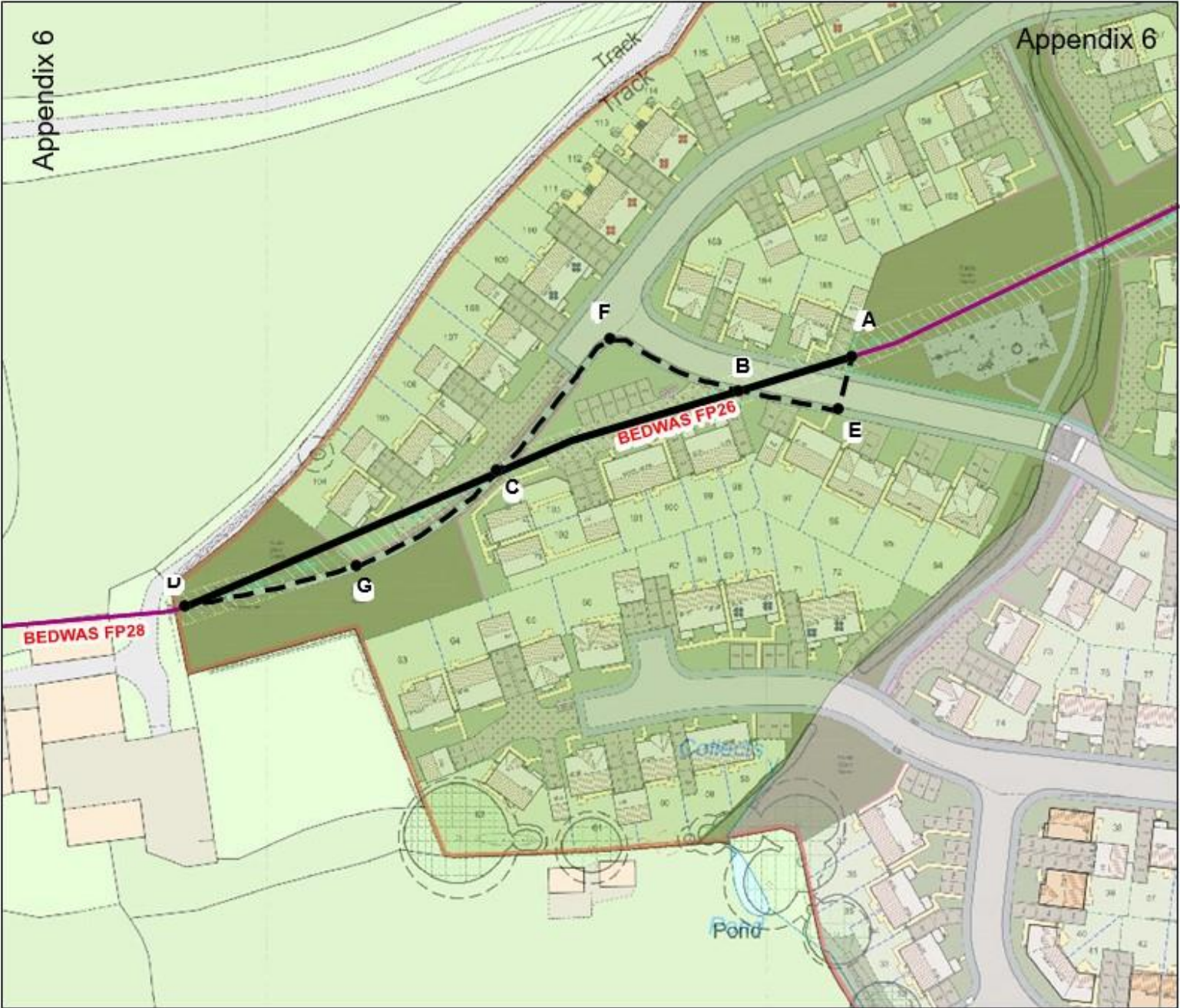
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Proposed Public Path  
Diversion Order  
Town and Country Planning  
Act 1990 s257  
Llanmor Homes,  
Bandy Road, Bedwas,  
18/PPO/003

Legend

- ~~Uwbyr arfaethedig i gael ei crewyd / Proposed path to be created~~
- ~~Uwbyr arfaethedig i gael ei diddymwyd / Existing path to be closed~~
- Heb effeithio arno / Unaffected footpath/s



1:1,000 at A4  
OS Products: © 100025372, 2020

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Maggie Thomas



Tel:  
Email:

**TEL** 01491 573535  
**EMAIL** [hq@oss.org.uk](mailto:hq@oss.org.uk)  
**WEB** [www.oss.org.uk](http://www.oss.org.uk)

15/7/20

Dear Stefan,

Thank you for the update.

I am pleased to see that Llanmor has taken on the concerns expressed by Gelligaer Ramblers in the meeting and has kept the footpath on its legal line going through the Public Open Space Area 2. I trust that the engineering difficulties, that were outlined in the meeting, of keeping it on this line have been overcome and that the footpath is safe to use now and in the foreseeable future.

I am also pleased to see that there has been some effort to stop vehicles parking on the pavement, by the erection of a metal knee rail. Nevertheless I am disappointed that such measures have not been used in other places. Whilst it is accepted that rails cannot be erected so as to block access to houses and flats there could be extra knee rails to block vehicles parking anywhere on the pavements where the public footpath has been diverted.

We are told by national Government, Welsh Government and by our local authority that more must be done to make it easier for people to walk for pleasure and as part of their daily routine for shopping etc. People will not walk when it is dangerous to do so and it



**The Open Spaces Society 25a Bell Street Henley-on-Thames RG9 2BA**



Charity no 1144840 Registered in England and Wales, limited company no 7846516

appears to be an accepted part of life that motorists can and will park on pavements with impunity. Either our rights of way must be totally protected and not be diverted onto pavements or pavements must be protected so that they cannot be used as parking

Appendix 7

I am still not totally happy that the plans indicate that the public right of way has been protected and therefore I will oppose the plan.

Yours sincerely,

Maggie Thomas

Correspondent for the Open Spaces Society for Caerphilly County Borough



**The Open Spaces Society 25a Bell Street Henley-on-Thames RG9 2BA**



Charity no 1144840 Registered in England and Wales, limited company no 7846516



CAERPHILLY COUNTY BOROUGH COUNCIL  
 Penallta House  
 Tredomen Park  
 Ystrad Mynach  
 Hengoed  
 CF82 7PG

Our Ref: 843558 CAB FP 26 BEDWAS  
 Your Ref: FP26 CAB LLANMOOR HOMES  
 5th of October 2020

**FAO: Mr S Denbury**

Dear Sir,

**CAERPHILLY COUNTY BOROUGH COUNCIL**  
**TOWN AND COUNTRY PLANNING ACT 1990 S.257**

**DIVERSION OF FOOTPATH NO. 26 IN THE COMMUNITY OF BEDWAS.**

**APPLICATION FROM LLANMOOR HOMES TO MAKE AN ORDER UNDER SECTION 257 OF THE TOWN AND COUNTRY PLANNING ACT 1990 TO DIVERT PART OF FOOTPATH 26 IN THE COMMUNITY OF BEDWAS TO ALLOW DEVELOPMENT GRANTED BY PLANNING PERMISSION 18/0440/RM - NGR 315681 189260 TO NGR 316108 189413**

**PLEASE ACCEPT THIS LETTER AS COUNTER NOTICE TO ANY NOTICE GIVEN OR PENDING UNDER THE TELECOMMUNICATIONS ACT 1984**

Thank you for your correspondence dated 22nd September 2020 and Drawing Number Plan No.: "Notice of making of Public Path Diversion Order FP 10, Adfa, Newtown SY16 3DB in the community of Dwyriw Scale 1:500 OSGR SJ 063,009". I am returning a copy of an ordnance survey map marked up showing the approximate position of Openreach apparatus.

Openreach plant does exist in the vicinity and its position will be located on site if requested.

Please contact our Plant Protection Officer by emailing [cbyd@openreach.co.uk](mailto:cbyd@openreach.co.uk), **Openreach Click before you dig**. This will provide you with free on-site advice and check of location for any Openreach apparatus. Should any Openreach plant be located in the area to be stopped up then please contact [networkalterationsuk@openreach.co.uk](mailto:networkalterationsuk@openreach.co.uk) for an estimate for diverting the plant. **Damage however caused is repaired on a chargeable basis.** On the information available, alteration or diversion of Openreach plant may be necessary.

Openreach works are present proposed in the area.

**WE DO NOT OBJECT** to the proposal providing all existing rights are maintained and any costs of diversionary work necessitated by subsequent development are born by the applicant. If you wish to discuss your proposals further, please do not hesitate to contact me.

Yours faithfully

*Marty Bunn*

Marty Bunn  
 Repayment Projects Engineer

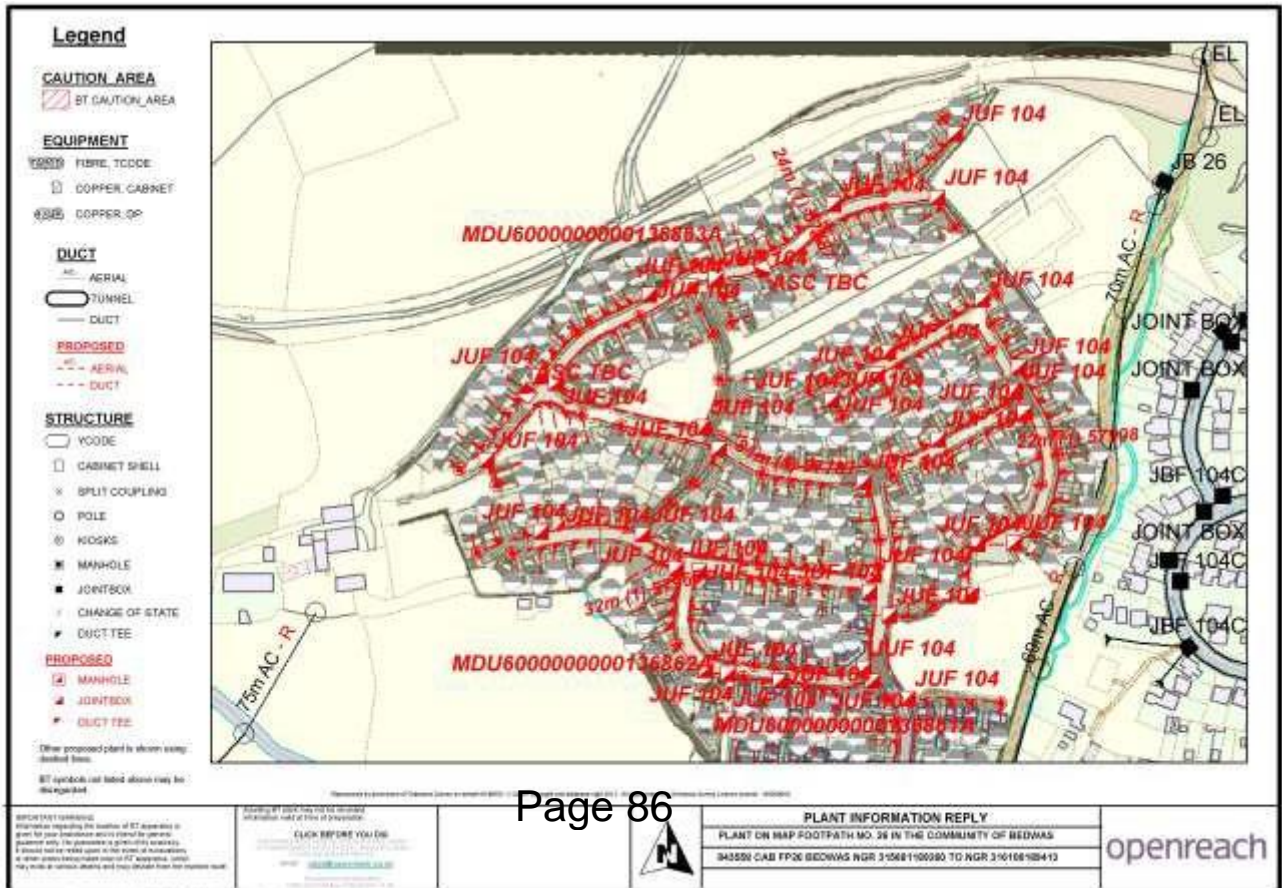
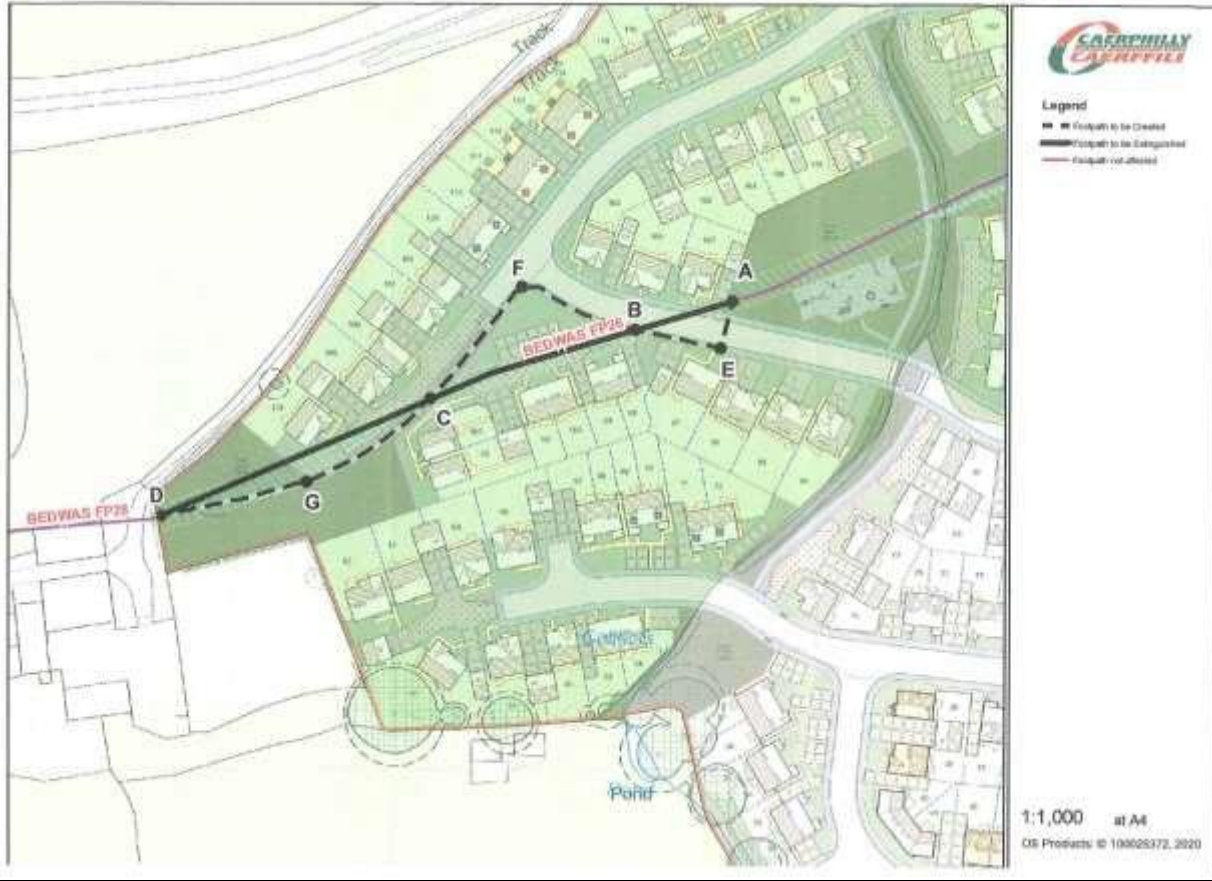
**Repayments (Alterations)**

PP pp 603H  
 Stadium House  
 5 Park Street  
 Cardiff  
 CF10 1NT

**email:** [marty.bunn@openreach.co.uk](mailto:marty.bunn@openreach.co.uk)  
**tele:** 001173025265  
**mob:** 007484539139

Page 85

**Openreach Limited**  
 Registered Office: Kelvin House  
 123 Judd Street, London WC1H 9NP  
 Registered in England and Wales no. 10690039



PLANT INFORMATION REPLY	
PLANT ON MAP FOOTPATH MO. 26 IN THE COMMUNITY OF BEDWAS	
945551 CAB FP26 BEDWAS NGR 315681100390 TO NGR 31610818413	





## SPECIAL REQUIREMENTS WHEN WORKING IN THE VICINITY OF OPENREACH APPARATUS

- 1 In this special requirement the following terms shall have these meanings assigned to them:-
  - a) 'Company' means Openreach – a BT Group Company
  - b) 'Company Representative' means the staff of Openreach, or its authorised representatives or Agents
  - c) 'Apparatus' means all boxes, cabinets, poles and plant including any associated cabling and/or ducting owned by Openreach.
- 2 All works in the public highway are subject to the New Roads and Street Works Act 1991, and the Promoter of the work is legally responsible to bear the cost of safeguarding Apparatus. The "highway" includes carriageway, verges, footpaths, etc.
- 3 Before commencing any work, or moving of heavy plant or equipment over any portion of the site the contractor shall confirm details of Apparatus, owned, leased or rented by the Company, within the site, with the Company Representative, who can be contacted for free on site assistance during office hours, prior to commencement of works :-

E-mail : [cbyd@openreach.co.uk](mailto:cbyd@openreach.co.uk)

Seven working days notice is required.  
(Office hours : Monday to Friday 08:00 to 17:00)

Further information is available at:

<http://www.ournetwork.openreach.co.uk/locating-our-network/letting-us-know-about-streetworks.aspx>

Compliance with the above requirements does not relieve the Contractor of any of his obligations under the Contract.

- 4 Apparatus maps are also available at: <http://www.ournetwork.openreach.co.uk/locating-our-network/maps-by-email.aspx>
- 5 Where such details show that the works or the movement of plant or equipment may endanger the Apparatus, the Contractor must give the Company Representative at least 7 days notice of the date on which it is intended to commence such works or the movement of plant or equipment in order that the presence of any sub-surface Apparatus can be indicated by markers to be supplied by the Company and placed by the Contractor under supervision of the Company Representative. The Contractor shall ensure that all Apparatus, particularly surface running cable, is adequately protected from damage and the Engineer shall approve such protective measures.
- 6 In the event of a Company marker being disturbed for any reason it shall not be replaced other than in the exact position and to its former depth unless the repositioning is carried out at the direction and under the supervision of the Company Representative.
- 7 The Contractor shall take particular care in relation to the protection of Apparatus, where such Apparatus includes the presence within the site of optical fibre and/or co-axial cabling. The Contractor shall make every effort to avoid the disturbance of the Company's network which, if damaged, can prove costly to reinstate. The Contractor shall make every effort to avoid the disturbance of Apparatus more than is absolutely necessary for the completion of the works in accordance with the Contract.

When excavating, or backfilling around Apparatus, the Company Representative shall be given adequate notice, which should be not less than 7 days, of the Contractor's intentions in order that he may supervise the works. The Contractor should note that the normal depth of cover for Apparatus and ducts is as follows :-

- a) in footways 350mm, which is to be maintained
- b) in carriageways 600mm, which is to be maintained.

Where the 350/600mm depth of cover cannot be maintained the Contractor shall carry out the instructions of the Company Representative for the protection of the Apparatus. Where the required depth of cover cannot be maintained over cabling, such cables may have to be diverted.

- 8 All excavation adjacent to Apparatus is to be carried out by hand until the exact extent and/or location of Apparatus is known. Mechanical borers and/or excavators shall not be used within 1.0 metre of Apparatus or 2.0 metres of any pole without the supervisory presence of a Company Representative. To prevent any movement of Apparatus during excavation, complete shuttering shall be used as directed by the Engineer if :-
- a) excavation is deeper than the depth of cover of adjacent Apparatus
  - b) excavation is within 1.0 metre of Apparatus in stable soil
  - c) excavation is within 5.0 metres of Apparatus in unstable soil

If for completion of the works the Contractor intends using any of the following: -

- a) pile driving equipment within 10.0 metres of Apparatus
- b) explosives within 20.0 metres of Apparatus
- c) laser equipment within 10.0 metres of Apparatus

- the Contractor shall advise the Company Representative, in writing, in order that any special protective measures for the Apparatus affected may be arranged.

- 9 All Company manhole, joint box and/or other access points and chambers within the site shall be kept clear and unobstructed. Access for vehicles, winches, cable drums and/or any further equipment required by the Company for the maintenance of its Apparatus must be maintained at all reasonable times. The Contractor should particularly note the footway type chambers are not specified for carriageway loading and will need to be adequately protected and/or demolished and rebuilt under supervision of a Company Representative where such chambers are likely to be placed at risk, either temporarily or permanently, from the movement of plant and/or equipment on the site. The Company Representative shall be given reasonable access to all Apparatus and chambers when required. Where OPENREACH installs Apparatus during the works this new Apparatus shall be treated as existing Apparatus for the purpose of these Special Requirements.
- 10 For Frame and Covers that necessitate a change in level please contact the local office. If you wish to provide recessed frames and covers they will have to be supplied by the Company's agreed supplier. The Contractor must be prepared to supply and install such frames and covers in future, and must supply names of who will be liable for future maintenance.
- 11 In the event of any damage whatsoever to Apparatus the Contractor must immediately inform BT and report the occurrence as follows :-

**Call Openreach fault reporting on: 0800 0232023**

**WARNING**

**Entry into all Openreach underground structures is prohibited to all unauthorised personnel.**