



## **RIGHTS OF WAY CABINET COMMITTEE**

**MINUTES OF THE MEETING HELD AT MULTI-LOCATIONAL MEETING -  
PENALLTA HOUSE AND VIA MICROSOFT TEAMS ON TUESDAY, 17 JANUARY  
2023 AT 10.30 AM**

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PRESENT

Councillor C. Morgan (Chair)

Councillors:

P. Leonard, J. Pritchard, E. Stenner

Together with:

P. Griffiths (Green Space Strategy and Cemeteries Manager). S. Denbury (Countryside and Rights of Way Assistant), and J. Thomas (Committee Services Officer).

Also in Attendance:

Councillor C. Cuss (Local Ward Member), P. Jones (The South Wales Representative of the Green Lanes Association).

### **RECORDING AND ARRANGEMENTS**

The Chair reminded those present that the meeting was being live streamed, and a recording would be made available to view via the Council's website, except for discussions involving confidential or exempt items. [Click Here To View](#).

#### **1 APOLOGIES FOR ABSENCE**

An apology for absence was received from Councillor J. Simmonds

#### **2 DECLARATIONS OF INTEREST**

There were no declarations of interest made at the beginning or during the course of the meeting.

#### **3 RIGHTS OF WAY CABINET MINUTES - 26TH MARCH 2021**

RESOLVED that the minutes of the meeting held on 26<sup>th</sup> March 2021 were noted.

**4 APPLICATION FOR AN ORDER UNDER SECTION 257 OF THE TOWN AND COUNTRY PLANNING ACT 1990 TO DIVERT A PUBLIC RIGHT OF WAY (RESTRICTED BYWAY 11 RHYMNEY) AT THE FORMER ROYAL BRITISH LEGION CLUB, RHYMNEY**

The Countryside and Rights of Way Assistant, Stefan Denbury presented the report which asked the Cabinet Rights of Way Committee to consider and determine an application to divert a public right of way – Restricted Byway 11 in the former Parish of Rhymney – at the former Royal British Legion Club site in order to permit a development that has been granted planning permission to be carried out.

The Officer reminded the Members that a site visit took place on 10<sup>th</sup> January 2023 by Members of the Rights of Way Committee and Officers.

The Members noted that public rights of way are recorded on the Definitive Map and Statement and as such are afforded Highway status and the same protection in law. Section 257 of the Town and Country Planning Act 1990 provides a mechanism for local authorities to extinguish or divert public footpaths, bridleways and restricted byways where their existence is incompatible with a development granted by planning permission.

The Officer advised Members that the application which is referred to in the report is a development that consists of three dwellings, one of which when constructed will obstruct the public right of way. Therefore, the Officer advised the Members that the necessity test has been fulfilled.

The Members were advised that WG guidance on this matter states:

*“Even where a case of necessity is made out, an authority still has discretion whether to make an Order or not. However, having concluded that the planning permission should be granted, there must be good reasons for deciding that an Order, which would permit implementation of that permission, should not be made.”*

The Members were advised that in coming to a judgement as to whether to make an Order, they should take into account, the interests of the general public, the potential effects of the Order on some members of the public and any potential financial loss to members of the public.

Following a query raised by a Cabinet Member, the Local Ward Member Councillor Cuss advised the Members that only positive feedback has been received in relation to the development.

Following consideration and discussion it was moved and seconded that the application be deferred in order to explore further options for an alternative route. By way of electronic vote unanimously agreed.

RESOLVED that for the reasons contained in the Officers Report an Order under s257 town and Country Planning Act 1990 to divert Restricted Byway 11 Rhymney as detailed in appendix 2 of the officer’s report be approved.

The meeting closed at 10.45am.

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CHAIR