



RIGHTS OF WAY CABINET – 1ST DECEMBER 2016

SUBJECT: APPLICATION FOR A MODIFICATION ORDER TO VARY THE MONMOUTHSHIRE COUNTY COUNCIL DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY IN RESPECT OF THE STATUS OF THE PATH (RESTRICTED BYWAY 367 IN THE COMMUNITY OF ABERCARN) AND DIVERSION OF A SECTION OF THE RIGHT OF WAY

REPORT BY: INTERIM CHIEF EXECUTIVE

1. PURPOSE OF REPORT

- 1.1 To confirm a correction to the Minutes of the Rights of Way Cabinet Meeting held on the 15th September 2014, when a report on the above was considered.

2. SUMMARY

- 2.1 The report set outs details of a correction to the Minutes of the Rights of Way Cabinet which needs to be addressed.
- 2.2 Following confirmation of the Minutes as a true record it was noted that a correction was required to the Minutes as Recommendation 9(i) had been omitted and an incorrect Section of the Highways Act 1980 had been quoted.
- 2.3 The Rights of Way Cabinet Committee has not met for some time which is the reason the Minutes have been unable to be corrected earlier.
- 2.4 A Modification Order has been produced to change the status of Restricted Byway 367 in the Community of Abercarn to a Footpath. Following the advertising of the Modification Order objections were received to the Order and as the objectors would not withdraw their objections the Order was sent to the Welsh Ministers to determine. The Planning Inspectorate has arranged for the Modification Order to be considered by a Planning Inspector at a Public Inquiry on the 7th February 2017.

3. LINKS TO STRATEGY

- 3.1 The Well-being of Future Generations (Wales) Act became law in April 2015. The Act is about improving the social, economic, environmental and cultural well-being of Wales. It requires the Authority to closely consider the long term aim to work better with people and communities and each other, look to prevent problems and take a more joined-up approach in our actions.
- 3.2 Links can be made to all seven of the Well Being Goals however of these four are probably relevant, these being:-

- A resilient Wales
- A healthier Wales
- A Wales of cohesive communities
- A globally responsible Wales

Links can be made to include the other three Well Being Goals within the Rights of Way improvement Plan and the Countryside Strategy:-

- A prosperous Wales
- A more equal Wales
- A Wales of vibrant culture and thriving Welsh language:-

In addition to the Well Being of Future Generations Act the Rights of Way network has significant links to a wide range of other Acts and Strategies notably the Countryside and Rights of Way Act 2000, the Countryside Rights of Way improvement Plan (2007), the Caerphilly Countryside Strategy and emerging Caerphilly Active Travel Plan. The network and usage of the network has links to various social, economic and environmental strategies.

4. THE REPORT

- 4.1 A copy of the Minutes of the Rights of Way Cabinet held on 15th September, 2014 are attached as Document No. 1.
- 4.2 Members were asked to consider two matters concerning the application. The first was whether the status of the right of way should be reclassified as a footpath (as per Para 3.1 (i) of the report) and secondly, whether the route should be diverted.
- 4.3 Although Members agreed to the following recommendation in 9 (i) of the report:-
- (i) Supporting the application as made that the status of the Definitive Map and Statement should be varied to change it from a Restricted Byway to a Footpath
- this was not included in the minutes.
- 4.4 It has been noted that the report contained a further error in that it refers to Section 118 of the Highways Act 1980, which is a stopping of the right of way, but should read refer to Section 119 for diversion of a right of way.
- 4.5 Members resolved to agree to the recommendation 9.1 (iii) and this was included in the minutes. However, as the Members supported the application to vary the status of the Restricted Byway to a Footpath the width of the alternative right of way or path should be 1.8 metres not 3 metres.
- 4.6 To deal with the foregoing errors it is recommended that the minutes are corrected to record that Members resolve to agree 9 (i) of the report and that the following be approved as a change to the report:-
- (i) Approve the diversion of the right of way as shown in Document No. 15 which will be processed under Section 119 of the Highways Act 1980 in accordance with the following descriptions:-

and that in the description of the alternative way or path that the reference to 3 metres if restricted byway should be deleted.

5. WELL-BEING OF FUTURE GENERATIONS

5.1 This report contributes to the Well Being Goals as set out in Section 3 earlier.

5.2 The Act not only identifies goals but advocates five ways of working to ensure that the objectives and sustainability are met and this report has been prepared with that in mind.

5.3 Whilst the Public Rights of Way network contributes to all seven Well Being Goals in part the most pertinent four are:-

1. A Resilient Wales

The network extends to over 500 miles and many of these routes have been in place prior to the use of motor vehicles. As such they are often the easiest and most direct routes of access between points. This encourages their use and has benefits in addressing long term issues including health, climate change and poverty all of which assist in making an adaptable but resilient county borough.

2. A Healthier Wales

Usage of the network, be it for recreation or daily business has significant benefits for a physical and mental health and helps address a number of significant health concerns within the county borough notably obesity, cardio vascular and diabetes which are probably problematic in CCBC. Usage of the network is increasing year on year.

3. A Wales of Cohesive Communities

The network links communities and facilities with each other and is usable by the vast majority of residents. A comprehensive and integrated network provides a fully functional and usable access system that benefits all and allows communities to function both directly e.g. ability to access services and individually e.g. through helping prevent or overcome underlying problems such as health and sustainable transport.

4. A Globally Responsible Wales

The carbon impact of the rights of way network is minimal and promotes sustainable transport on a number of counts. Increased local usage has a global effect in terms of slowing climate change and its impacts.

5.4 The provision of access helps meet both short and longer term needs and objectives without prejudicing the viability of the network for future generations. Rights of Way and access are fundamental to the daily life of most people and as such the network integrates and is necessary to meet many objectives of the Authority. The designation process, for rights of way, has involved extensive consultation with communities, groups and individuals and collaboration takes place with other interested parties in terms of the management and maintenance of the network. Formal consultation forms part of these processes, including this report.

6. EQUALITIES IMPLICATIONS

6.1 An Equalities Impact Assessment is not needed because the issues covered are for information purposes only, therefore the Council's full EIA process does not need to be applied.

7. FINANCIAL IMPLICATIONS

- 7.1 There are no financial implications in respect of correcting the minutes of the Rights of Way Cabinet Meeting held on 15th September, 2016.

8. PERSONNEL IMPLICATIONS

- 8.1 None.

9. CONSULTATIONS

- 9.1 See list of Consultees.

10. RECOMMENDATIONS

- 10.1 It is recommended that the errors in the Minutes of the Rights of Way Cabinet held on the 15th September, 2014, be amended to correctly record the resolutions made by Members at that meeting as follows:-

- i) Supporting the application as made that the status of the Definitive Map and Statement should be varied to change it from a Restricted Byway to a Footpath and
- iii) Approve the diversion of the right of way as shown in Document No. 15 which will be processed under Section 119 of the Highways Act 1980 in accordance with the following descriptions:-

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

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

Description of alternative path or way:-

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

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

11. REASONS FOR THE RECOMMENDATIONS

- 11.1 To correct the errors in the minutes of the meeting of the 15th September 2014.
- 11.2 To comply with its duty to keep the definitive map and statement under continuous review.

12. STATUTORY POWER

- 12.1 Section 53 of the Wildlife and Countryside Act 1981. Section 119 of the Highways Act 1980. This is a Cabinet function delegated to this Committee.

Author: Mrs June E. Piper, CROW Support Officer
Consultees: Mr. Tim Stephens, Development Control Manager.
Mr. Phil Griffiths, Manager, Countryside and Landscape Services.
Mrs Gail Williams, Monitoring Officer/Principal Solicitor.

List of Documents:

1. Copy of Minutes of the Rights of Way Cabinet held on the 15th September, 2016.