



RIGHTS OF WAY CABINET COMMITTEE – 26TH MARCH 2021

**SUBJECT: DEFERED PUBLIC RIGHTS OF WAY CABINET COMMITTEE MEETINGS
2ND OCTOBER 2020 AND 15TH JANUARY 2021:- 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 reports placed before the Public Rights of Way Cabinet Committee on 2nd October 2020 and 15th January 2021 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 2nd 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 had not reached agreement, and the land transfer had not taken place.

2.3 The Public Rights of Way Cabinet Committee reconvened the meeting on 15th January 2021 where the matter was reconsidered.

2.4 The Public Rights of Way Cabinet Committee resolved to defer a decision until a further alternative route to the North of the development through the retail park had been explored.

2.5 To date, no reply has been received from the landowner of the retail park.

2.6 During this period, the landowner of the Wildlife Corridor (Mackworth Grange / Bond Demolition) and the developer (Taylor Wimpey) have now agreed matters relating to

the transfer of land known as the Wildlife Corridor and the parcel of land to the North (at the end of the Catnic access road). (**Appendices 12, 13 and 14**)

- 2.7 This report sets out:
- i) the background;
 - ii) analysis of the route to the North over the retail park which Members sought further investigation;
 - iii) Progress of the land transfer of the land referred to as the 'Wildlife Corridor'.

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 2nd 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 route which the Committee wished to be explored as an alternative to the North of the housing development through the retail park is under the control of a third party.
- 5.3 Two routes were subsequently explored: a) a low level route following the bottom of the retaining wall for the plateau the housing development was constructed upon and an access road for the retail park; and b) a high level route following the perimeter of the house boundaries closely and is on the same level as the plateau the housing development was constructed upon (**Appendix 2**).
- 5.4 The owners of this land were sent a letter initially seeking comment upon the low-level route as this was the route suggested by the Committee.
- 5.5 No response has yet been received from the owners or their agents.
- 5.6 As previously discussed, the Authority may choose to make an Order on the land of a third party, however compensation will be required, and this figure has not been

explored at present, and may constitute a significant sum.

- 5.7 The low level route as it presently stands is an access road, with insufficient roadside margin to create a minimum width footpath, which is presently obstructed largely by overhanging vegetation and existing signage. **(Appendices 6, 7 and 8)**
- 5.8 As well as a road for private light vehicles accessing the stores of What! and Wickes, the route forms the delivery access to both stores for heavy goods vehicles, and without a formal refuge, the public users may be placed at risk from such vehicles given the blind nature of the corner to the South of Wickes **(Appendix 8)**.
- 5.9 The route also requires users to negotiate a slope of an approximate 45° incline. Whereas this may be reduced slightly by the construction of a ramped access, there is little scope given the required sweep for the delivery vehicles, and therefore a stepped access would most likely be required **(Appendix 9)**.
- 5.10 Officers also investigated another route which followed the top of the retaining structure.
- 5.11 There are no guard rails to protect the public from the edge and there is a considerable drop to the road below.
- 5.12 The route is covered in a substantial quantity of vegetation, as well as a large number of mature trees – trees which currently provide a level of screening between the retail area and the houses as well as providing ecological benefit and softening the development's appearance.
- 5.13 The proximity to the houses and their rear boundaries may increase the possibility of antisocial behaviour complaints and requests for clearance of vegetation and litter.
- 5.14 A substantial number of objections would be considered likely from these properties if this option were to be favoured.
- 5.15 These routes provided little amenity value to either the public at large or residents who would not be able to directly access the routes.
- 5.16 The Order of 2014 proposed to utilise the highway footways predominantly with links to the Eastern end of the Catnic Road, and another where the access ramp is to the South. This Order received opposition given its length on what will become an adopted highway. The subsequent revised Order of 2015 brought the Wildlife Corridor into the equation to overcome this opposition.
- 5.17 The authority have now been made aware that an agreement regarding the 'Wildlife Corridor' (referred to in **2.1**) has now been made, and the transfer of land has been completed **(Appendices 12, 13 and 14)**.
- 5.18 Whereas this route was considered the preferred option at the meeting of 2nd October 2020, and hence members deferred for further negotiations, there are a number of points the Committee should consider when making their decision which will affect users. The route has been divided into Northern and Southern sections for ease of reference:
- 5.19 The Northern section is of a varying width and is approximately 1 metre at a point adjacent to the garage North of the corridor **(Appendix 16)** and is subject to a steep camber. This will need to be widened to be acceptable for use as a public right of

way. Additional width at this pinch point could only be obtained by amending the profile of the drainage channel, or by taking additional land from the unoccupied properties to the North East, however the garage is a physical constraint. The majority of the route however is considerably wider and flatter, and much of the length could be accommodated on a path between 1.8 and 3 metres wide.

- 5.20 The Committee should consider users of the path, and how they should pass one another. User widths are provided by the Fieldfare Trust and include 1.2 metres for an adult and helper, 0.7 metres for a wheelchair and 1.1 metres for an adult with a child or guide dog. (**Appendix 10**)
- 5.21 The Northern section is adjacent to a number of unsold properties and therefore future occupiers would be purchasing with the knowledge that a Public Footpath abuts the property.
- 5.22 Providing the width can be made satisfactory, the Northern route would meet the tests of the HA80.
- 5.23 The Southern section is also of a varying width, and is generally 1.2 metres wide between the property boundary fence and the top of the embankment. A further narrowing is experienced at the bend, and it may be possible to widen the usable surface at this point.
- 5.24 The Southern section runs adjacent to two occupied, and one unsold properties. The occupied properties may provide opposition, although as stated previously, crime, insurance, antisocial behaviour etc. are not tests of s119 of the Highways Act 1980. (**Appendix 11**) (No.60 is presently unoccupied.)
- 5.25 The Southern section also terminates at a height above the lane referred to as 'Pontypany Lane', and a suitable solution of safe access would be required.
- 5.26 The lane referred to as 'Pontypany Lane' to the South of the Wildlife Corridor is unregistered with the Land Registry, and as stated previously, compensation may be payable to the landowner should they be discovered or come forward following the making of an Order (**Appendix 15**).
- 5.27 The Southern section can be recorded as a public right of way in the future.
- 5.28 Both sections are adjacent to a drainage channel, and the safety of users must be considered. The addition of any form of barrier, fence or structure along the route will lead to an additional burden of maintenance upon the Authority.
- 5.29 If the Committee are minded to proceed along the same or similar approach to 2015 (5.16) where there were effectively two routes - given the applicant is now in possession of the required land – an additional Order or Orders will be required in the form of s25 HA80 Creation Orders to create the additional route as a s119 HA80 (Diversion) Order can only amend the route of an existing Public Right of Way, it cannot create additional routes.
- 5.30 The Committee are therefore 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.
- 5.31 3.1.4 of this report provides scope to alter the alignment of the applicant's proposed route to make a more accessible and commodious route.

- 5.32 Options C and D from the report of 15th January 2021 (**Appendices 3 and 4**) are given as an improvement over the route sought in the application for 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.
- 5.33 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. Taylor Wimpey are agreeable to this suggestion.
- 5.34 A dropped kerb should also be included adjacent to property number 58 to allow for accessibility. Taylor Wimpey are agreeable to this suggestion.
- 5.35 3.1.4 of this report also provides that an Order may include any part of the Wildlife Corridor as the Committee requires, but the needs of the public must be considered and balanced against a decision to make such an Order (particularly with regard to accessibility).
- 5.36 **Conclusion**
- 5.37 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 C (**Appendix 3**) to the West side of Rhiw'r Coedtir provides opportunity for a more accessible and commodious route over that sought in the original application (Option A – **Appendix 5**).
- 5.38 The Authority can refuse to make an Order under s119 of the HA80 to divert the Public Right of Way, and instead 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.
- 5.39 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.
- 5.40 In the meeting of 15th January 2021 the original alternative route sought in the application, and an alternative to avoid the need for regrading the footpath were considered less favourable for reasons of accessibility and the Committee instead favoured the more accessible routes shown as Options C and D (**Appendices 3 and 4**).
- 5.41 The option of utilising the Wildlife Corridor has become available since the last Committee meeting, and an Order under s119 of the HA80 to divert the public right of way – Option E (**Appendix 11**) can be considered as an alternative to the options previously considered.
- 5.42 A route on the alignment of C-D-E-F-J-G-B (as shown on **Appendix 11**) would, if the surface were brought into a satisfactory condition between C-D-E, meet the tests of s119 of the Highways Act 1980.

- 5.43 Routes on the alignment of D-H and F-G would, if brought into a satisfactory condition be accepted in principle as alternative, off-road, traffic free routes under s25 HA80 (Creation) Agreements.

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 2nd October 2020 (Appendix 1)**

8. WELL-BEING OF FUTURE GENERATIONS

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

9. EQUALITIES IMPLICATIONS

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

10. FINANCIAL IMPLICATIONS

- 10.1 All options are considered to have possible financial implications to this Authority regardless of the decision.
- 10.2 In relation to Option D (**Appendix 4**), 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.
- 10.3 Should the Committee resolve to refuse to make an Order under section 119 of the HA80 (Diversion) but resolve to make an Order under s118 of the HA80 (Extinguishment) objections would be expected from user groups and the general public. The Authority cannot confirm an opposed Order and 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 either s118 (Extinguishment) or s119 (Diversion) 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 remain obstructed and a further resolution will need to be reached to overcome this issue.
- 10.5 With regard to the Wildlife Corridor itself, the land is solely owned by the applicant, and therefore under their control. Should the Committee resolve to make an Order under section 119 of the HA80 (Diversion) to reroute the footpath through the Wildlife Corridor, objections could still be received from the public if the route is considered unacceptable for any reason. 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.

- 10.6 Land necessary to implement the full route over the Southern Wildlife Corridor is not registered with the Land Registry, and is not believed to be under the control of either Taylor Wimpey or Mackworth Grange / Bond Demolition. If an Order is made to either divert the public footpath, or create a new public footpath on this land, the landowner will be entitled to claim compensation. The value of such compensation is unknown at present.
- 10.7 Members are advised that costs associated with the making of an Order are covered by the applicant.
- 10.8 Costs associated with the works required to bring the alternative route into a satisfactory condition for public use are usually borne by the applicant by undertaking the work themselves.
- 10.9 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 2nd October 2020 (Appendix 1)**

12. CONSULTATIONS

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

13. STATUTORY POWER

- 13.1 section 119 of the Highways Act 1980
- 13.2 section 25 of the Highways Act 1980

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

Background Papers:

- i. Section 119 Highways Act 1980;
- ii. Section 25 Highways Act 1980;
- iii. Guidance for Local Authorities on Public Rights of Way – October 2016 (Welsh Government);
- iv. BS8300-1:2018 Design of an accessible and inclusive built environment.

Appendices:

- Appendix 1 Report of 15th January 2021 including Appendices
- Appendix 2 Plan showing routes explored to the North of the development
- Appendix 3 Option to divert under s119 Highways Act 1980 (Option C from 15th January 2021 report)
- Appendix 4 Option to divert under s119 Highways Act 1980 (Option D from 15th January 2021 report)

- Appendix 5 Original route from the application (referred to as Option A in the previous reports)
- Appendix 6 Entrance road to the retail park
- Appendix 7 Width of margin at toe of retaining wall
- Appendix 8 Delivery road – Blind bend and signage in margin
- Appendix 9 Embankment to overcome.
- Appendix 10 Fieldfare Trust – user widths
- Appendix 11 Option to divert under s119 Highways Act 1980 (Option E)
- Appendix 12 Land Transfer plan – Land off Catnic access road
- Appendix 13 Land Transfer plan – Land off Southern pedestrian access
- Appendix 14 Land Transfer plan – Land at the Wildlife Corridor
- Appendix 15 Land Registry – South section
- Appendix 16 Photograph of the pinch point on the North section



PUBLIC RIGHTS OF WAY CABINET COMMITTEE – 15TH JANUARY 2021

SUBJECT: DEFERED PUBLIC RIGHTS OF WAY CABINET COMMITTEE MEETING 2ND 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 2nd 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 2nd 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 2nd 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 2nd October 2020 (Appendix 1)**

8. WELL-BEING OF FUTURE GENERATIONS

8.1 **This information is detailed in the report of 2nd October 2020 (Appendix 1)**

9. EQUALITIES IMPLICATIONS

9.1 **This information is detailed in the report of 2nd 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 2nd October 2020 (Appendix 1)**

12. CONSULTATIONS

No further consultations have been carried out since the previous report of 2nd 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 2nd 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 20th 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 4th 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 15th March 2014, and Mr B. Williams on 25th 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 4th 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 27th 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 th September 2019 |
| Appendix 2 | s119 HA80 application plan 27 th September 2019 |
| Appendix 3 | EIA Screening |
| Appendix 4 | s119 HA80 Order 20 th August 1998 |
| Appendix 5 | s257 TCPA 90 Order 4 th 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 |

**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.

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 4th 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

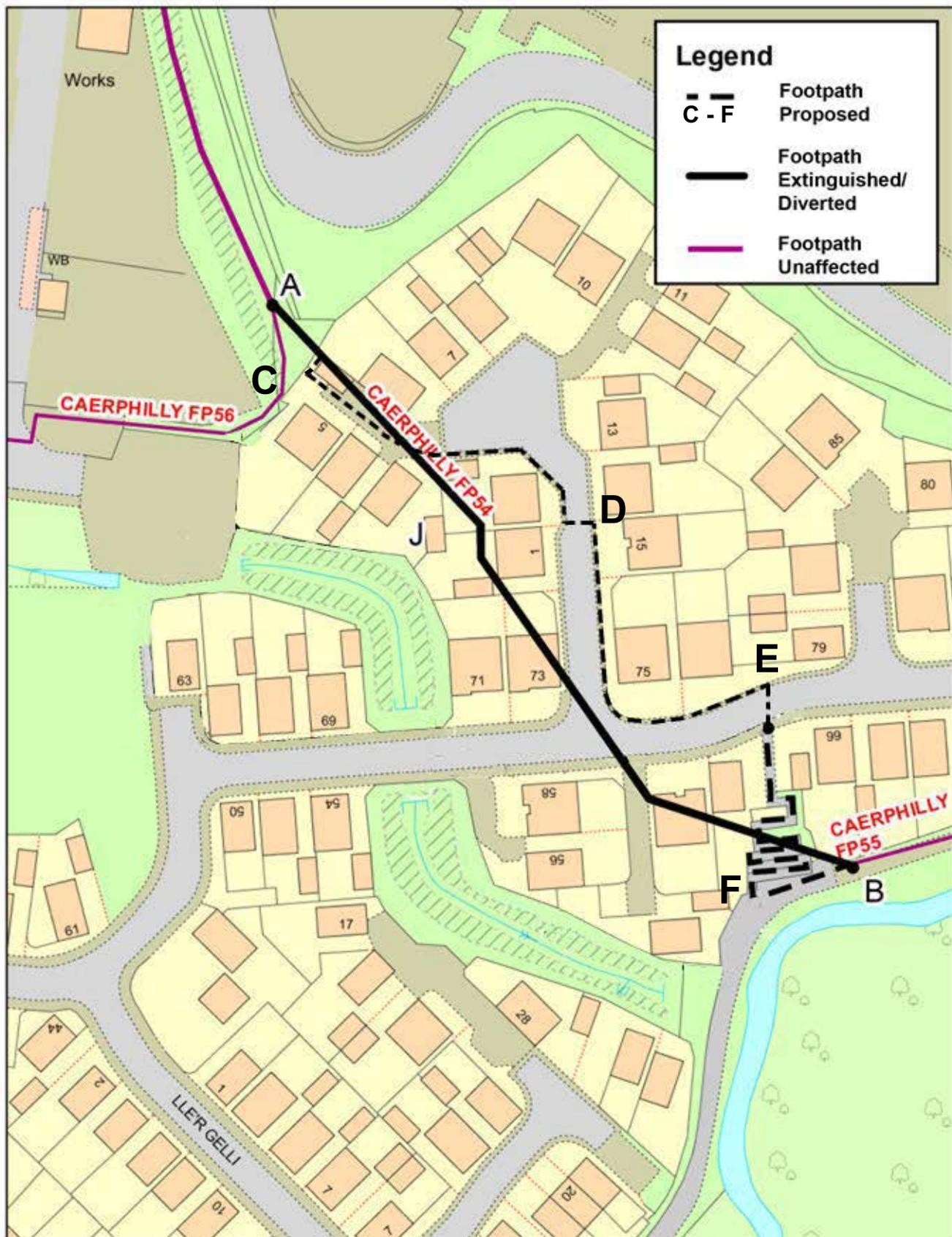


Date **04/09/2019**

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





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:

Name:	Stefan Denbury
Job Title:	Countryside and Rights of Way Assistant
Date:	28th January 2020

Head of Service Approval:

Name:	
Job Title:	
Date:	

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..... [Signature]
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., Pontygwindy 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 *20th August* 1998.

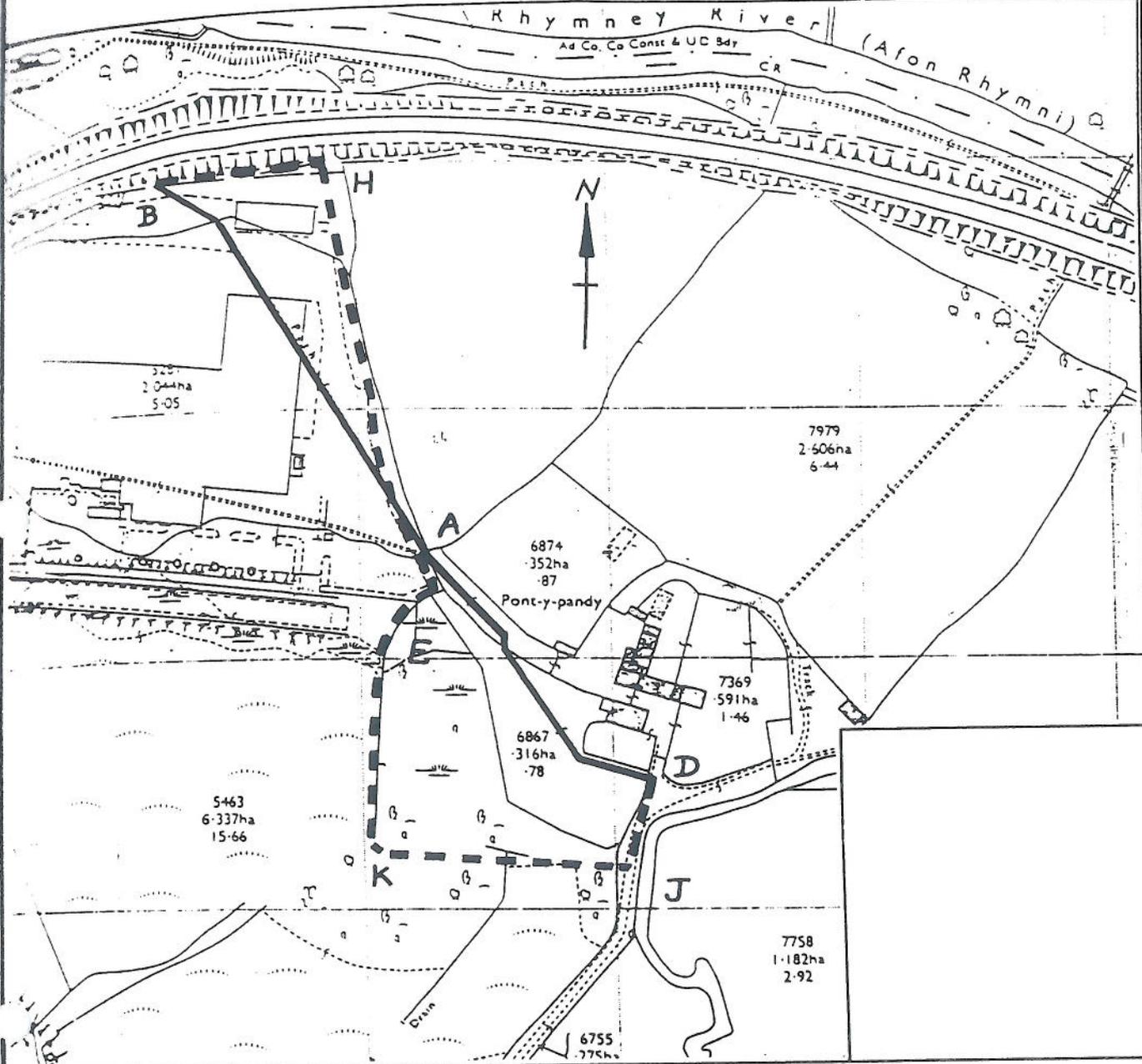
The Common Seal
Of Caerphilly County
Borough Council was
Hereunto Affixed in
the Presence of:

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: Pontypany 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
 20th day of August in the year One
 Thousand Nine Hundred and Ninety Eight

J.S. Medicus
 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

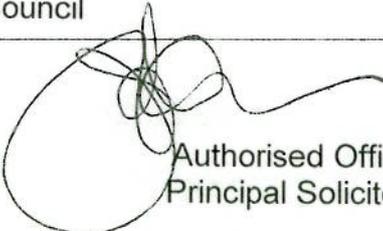
Description of site of alternative highway

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 4th day of March 2015

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


Authorised Officer
Principal Solicitor

20154

Denbury, Stefan

From: Michael Wells
Sent: 29 October 2019 12:23
To: Denbury, Stefan
Subject: FW: Footpath 54 Diversion

Good Afternoon Mr Denbury,

Thank you for meeting with us again on 18th October.

We are writing to you to give our formal objection to the proposed footpath diversion that went out to consultation on Friday 11th 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 18th 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.

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

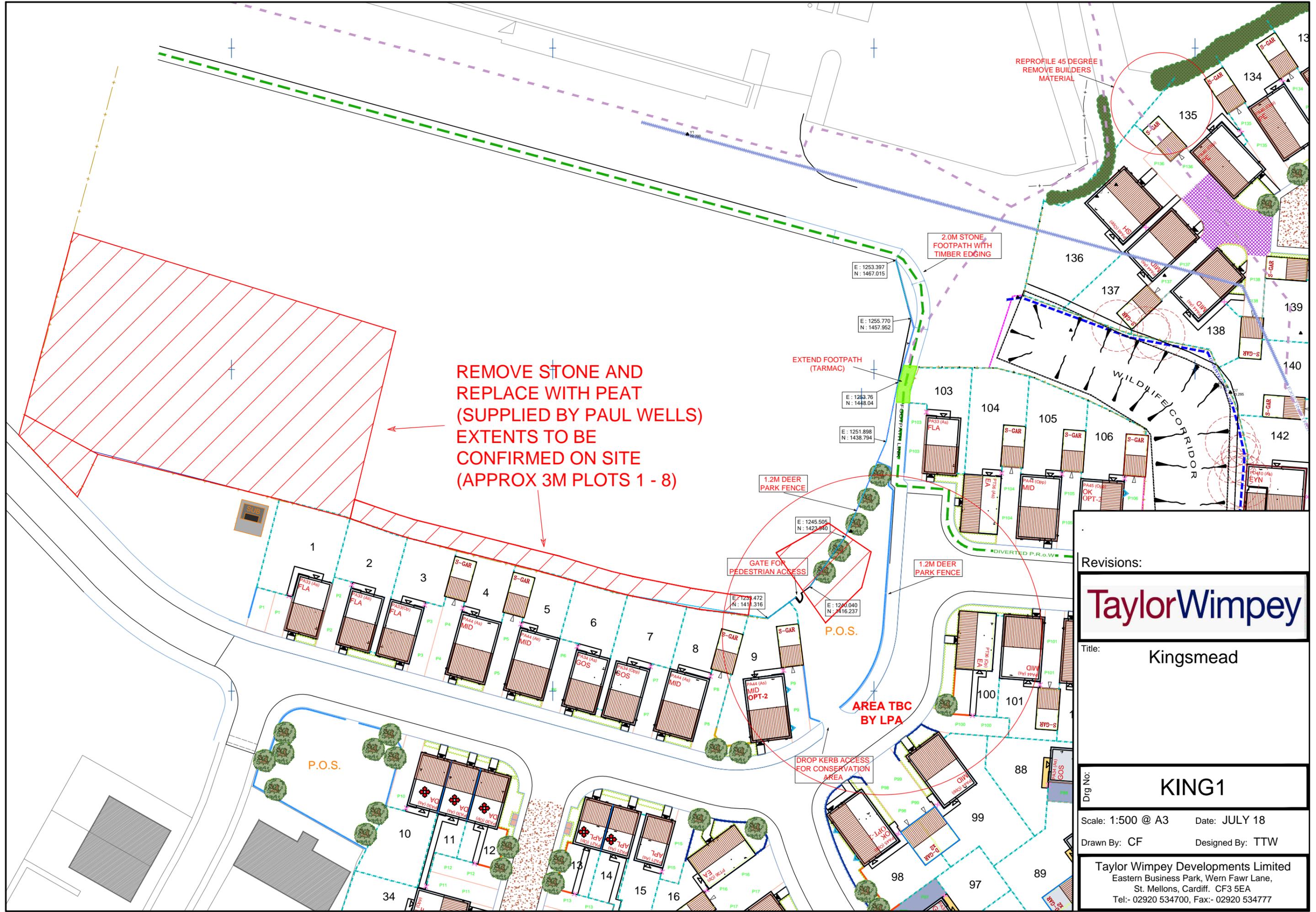
Kind regards

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



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

Denbury, Stefan

From: Michael Wells
Sent: 29 November 2019 16:01
To: Denbury, Stefan
Cc: Paul Wells
Subject: Footpath 54
Attachments: Ramp.jpg

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.

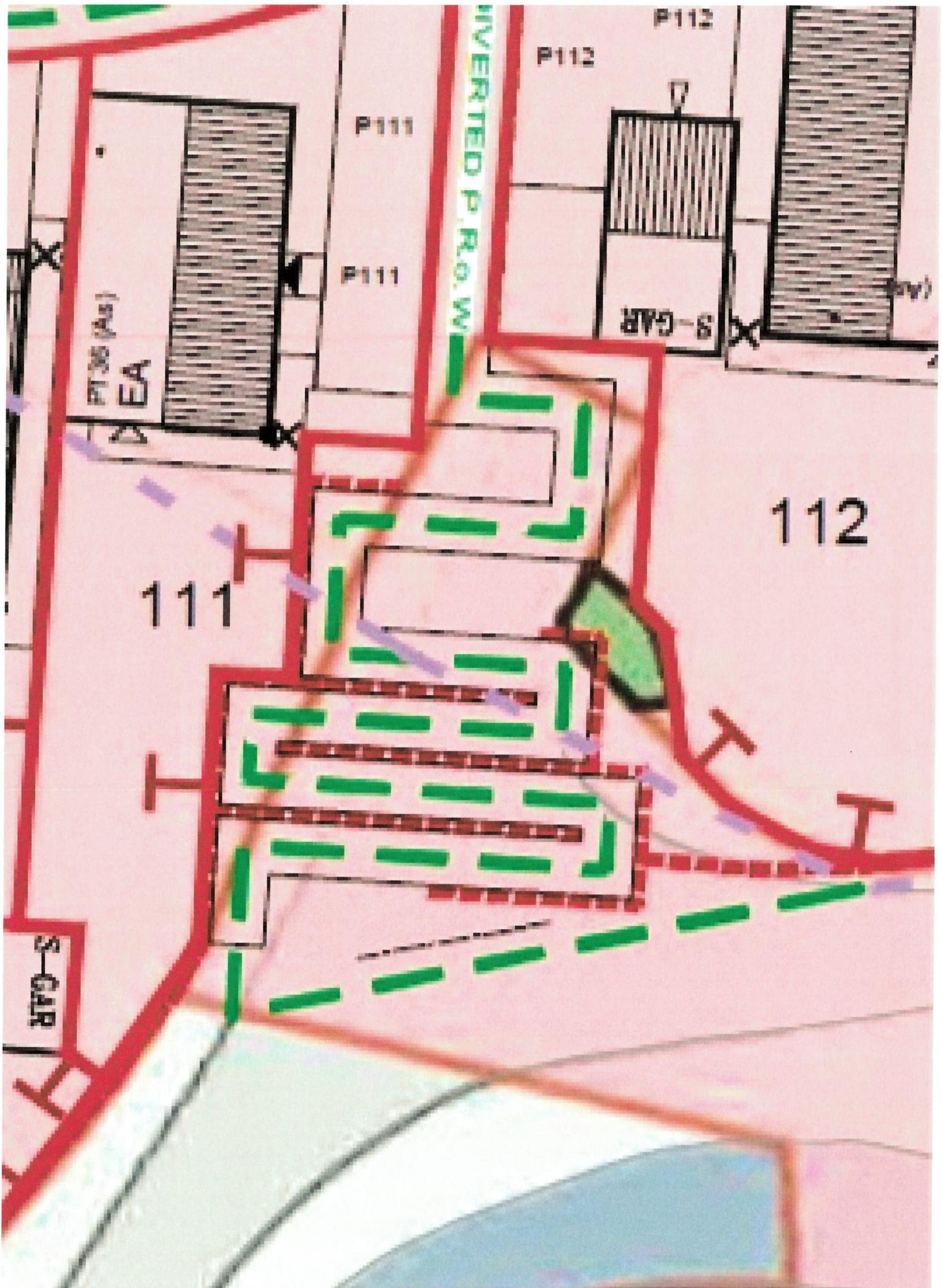
Kind regards

Mike Wells
Contracts Manager

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

Tel No:
Mob No: 07957 12345
[www: bonddemolition.co.uk](http://www.bonddemolition.co.uk)





Gallagher Retail Park



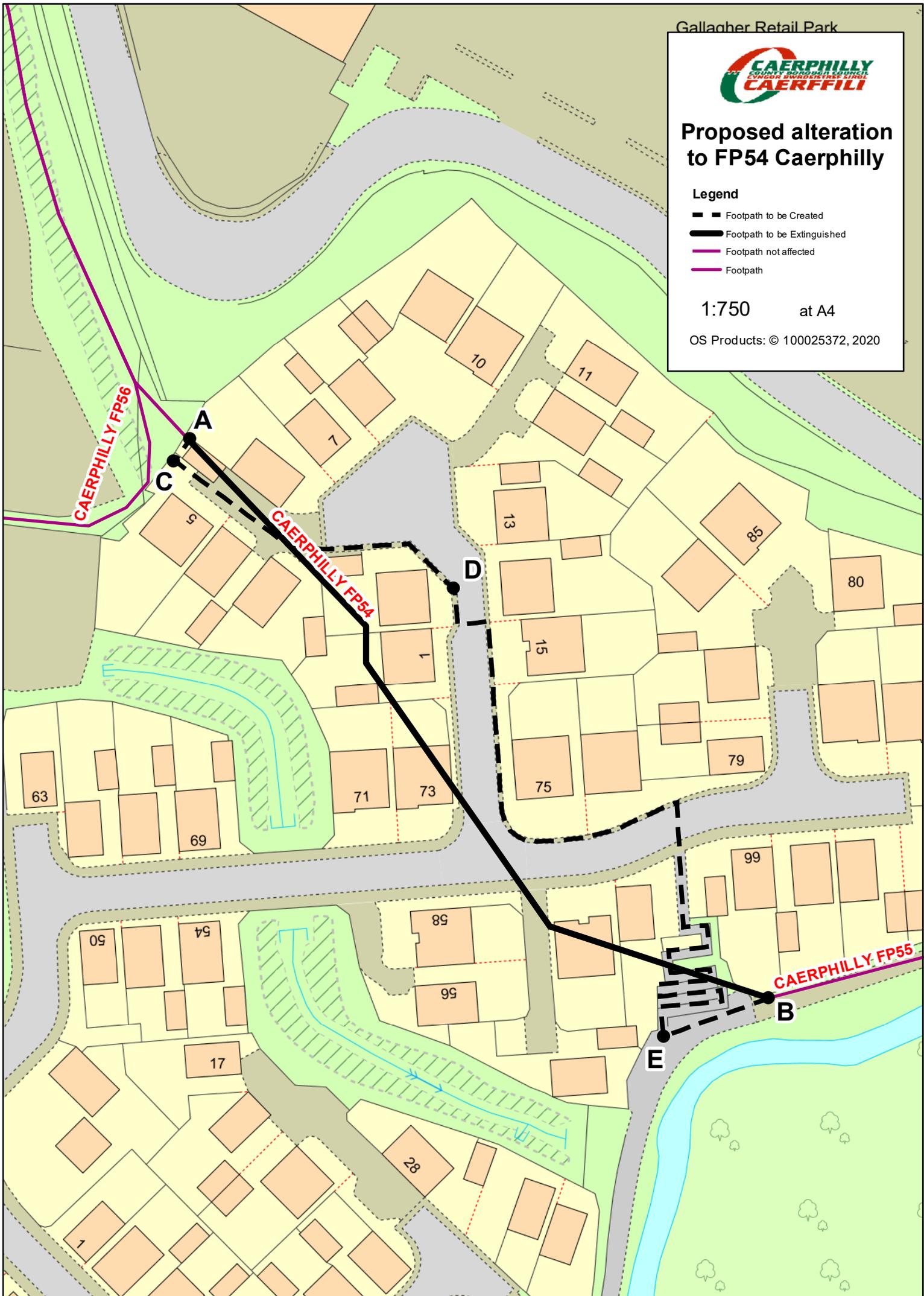
Proposed alteration to FP54 Caerphilly

Legend

- Footpath to be Created
- Footpath to be Extinguished
- Footpath not affected
- Footpath

1:750 at A4

OS Products: © 100025372, 2020





Kingsmead
FP54 Caerphilly

Option A

Legend

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



1:1,000 at A4

OS Products: © 100025372, 2020



Kingsmead
FP54 Caerphilly

Option B

Legend

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





Kingsmead
FP54 Caerphilly

Option C

Legend

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



1:1,000 at A4

OS Products: © 100025372, 2020



Kingsmead
FP54 Caerphilly

Option D

Legend

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



1:1,000 at A4

OS Products: © 100025372, 2020



Hawliau Tramwy
Cyhoeddus /
Public Rights of Way

FP54 Caerphilly
Option routes

Legend

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

1:1,250 at A4

Mae'r wybodaeth hon ar gyfer arweiniad yn unig ac nid yw'n ffurfio rhan o'r Map Diffiniol. Gallwch chi gael rhagor o gyngor ac arweiniad drwy gysylltu â ni.
This information is for guidance only and does not form part of the Definitive Map. Further advice and guidance can be obtained by contacting us.

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Kingsmead
FP54 Caerphilly

Option C

Legend

- Llwybr arfaethedig i gael ei crewyd /
Proposed path to be created
- Llwybr arfaethedig i gael ei diddymwyd /
Existing path to be closed
- Heb effeithio amo Llwybr/Llwybrau /
Unaffected footpath/s



1:1,000 at A4

OS Products: © 100025372, 2020



Kingsmead
FP54 Caerffili /
Caerphilly
Option D

Legend

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

1:1,000 at A4

Mae'r wybodaeth hon ar gyfer arweiniad yn unig ac nid yw'n ffurfio rhan o'r Map Diffiniol. Gallwch chi gael rhagor o gyngor ac arweiniad drwy gysylltu â ni.
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Appendix 5



Kingsmead
FP54 Caerphilly

Option A

Legend

- Llwybr arfaethedig i gael ei crewyd / Proposed path to be created
- Llwybr 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





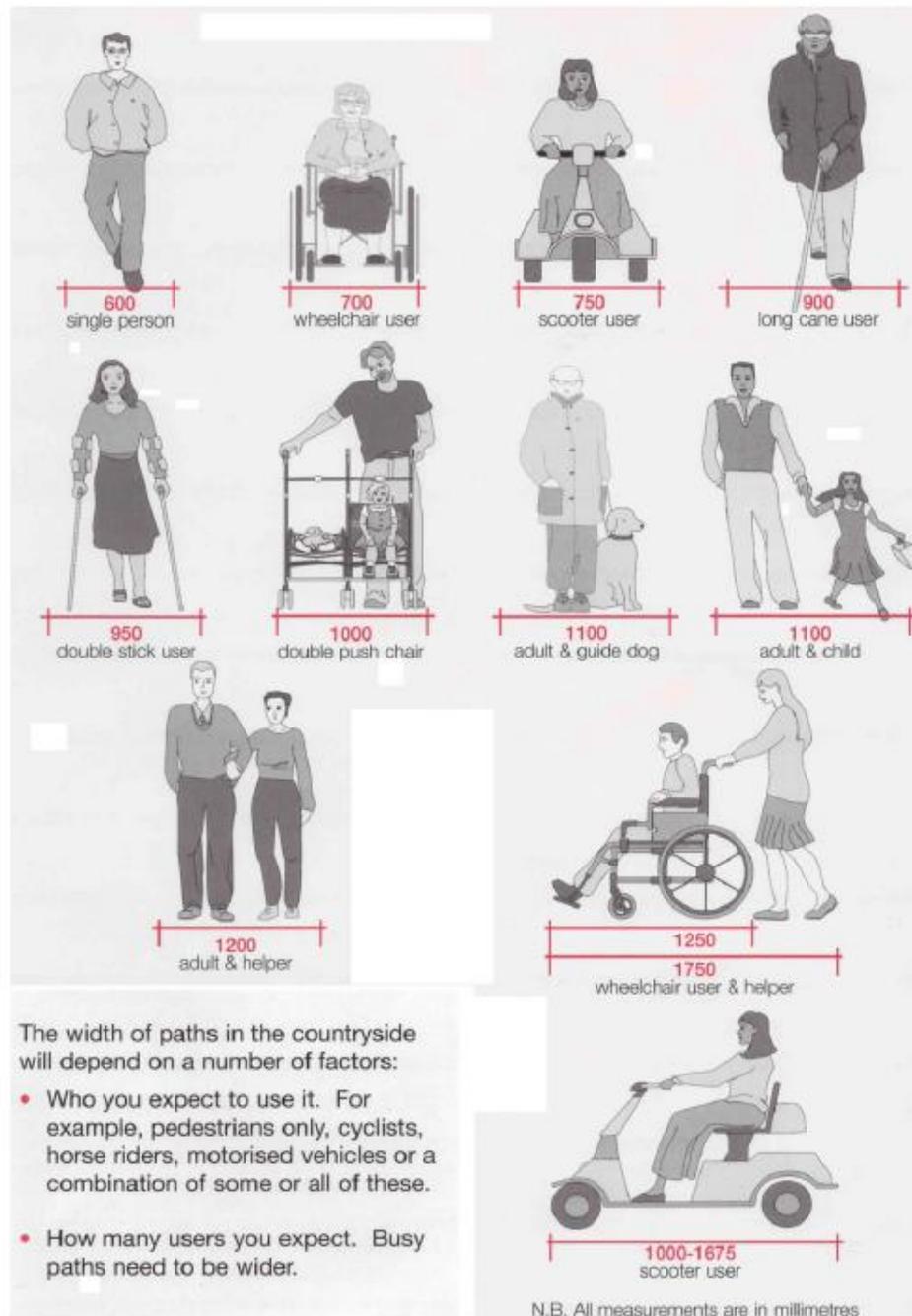


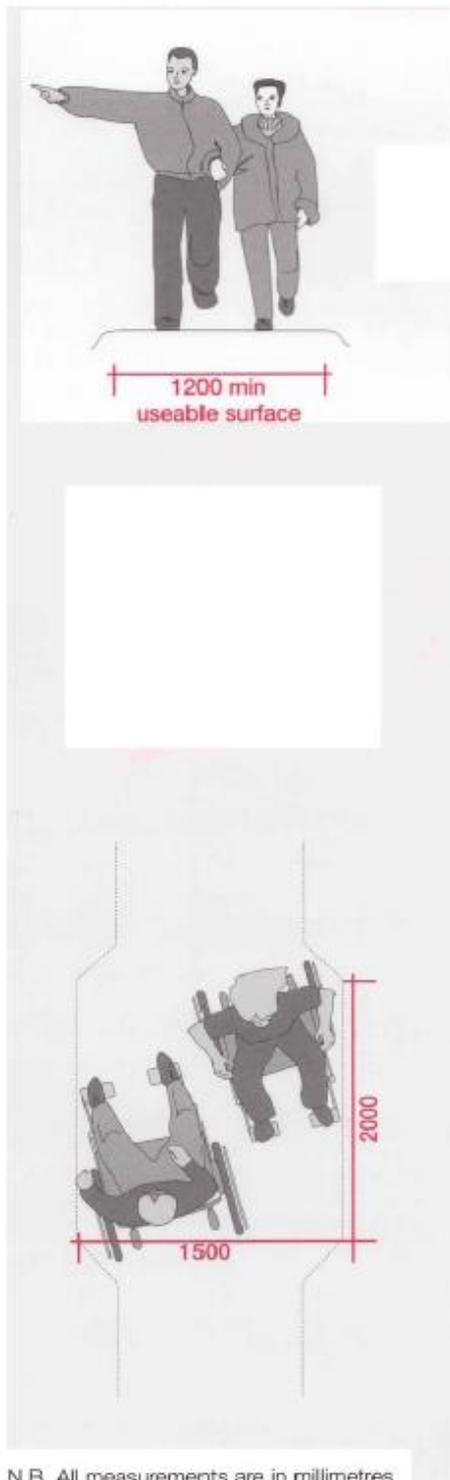


Path Users/Path Widths



1.1





N.B. All measurements are in millimetres

- To be accessible countryside paths should have a minimum of 1200mm useable surface width. This allows two people to walk along side by side and support each other if necessary.
- The path width may be reduced to 815mm for a maximum of 300mm, for example at a gateway.
- To allow for free movement of two-way traffic by all pedestrians (including wheelchair users and double pushchairs) the minimum path width should be 2000mm.
- Path edging is not essential but a clear visual distinction between the path and adjoining ground will be helpful.
- People with visual impairment need to be able to feel the difference underfoot between the path surface and the ground next to it.
- Wide paths will not be accessible unless they are well maintained to ensure no vegetation encroaches and the surface remains firm and stable.

Passing Places:

- Where the path width is less than 1500mm passing places every 50m will allow two wheelchair users to pass each other.
- Passing places should be 1500mm wide and 2000mm long. This will allow enough space for two wheelchair users plus helpers to pass each other.

This sheet should be read in conjunction with the BT Countryside for All Standards and Guidelines



Kingsmead
FP54 Caerphilly

Option E

Legend

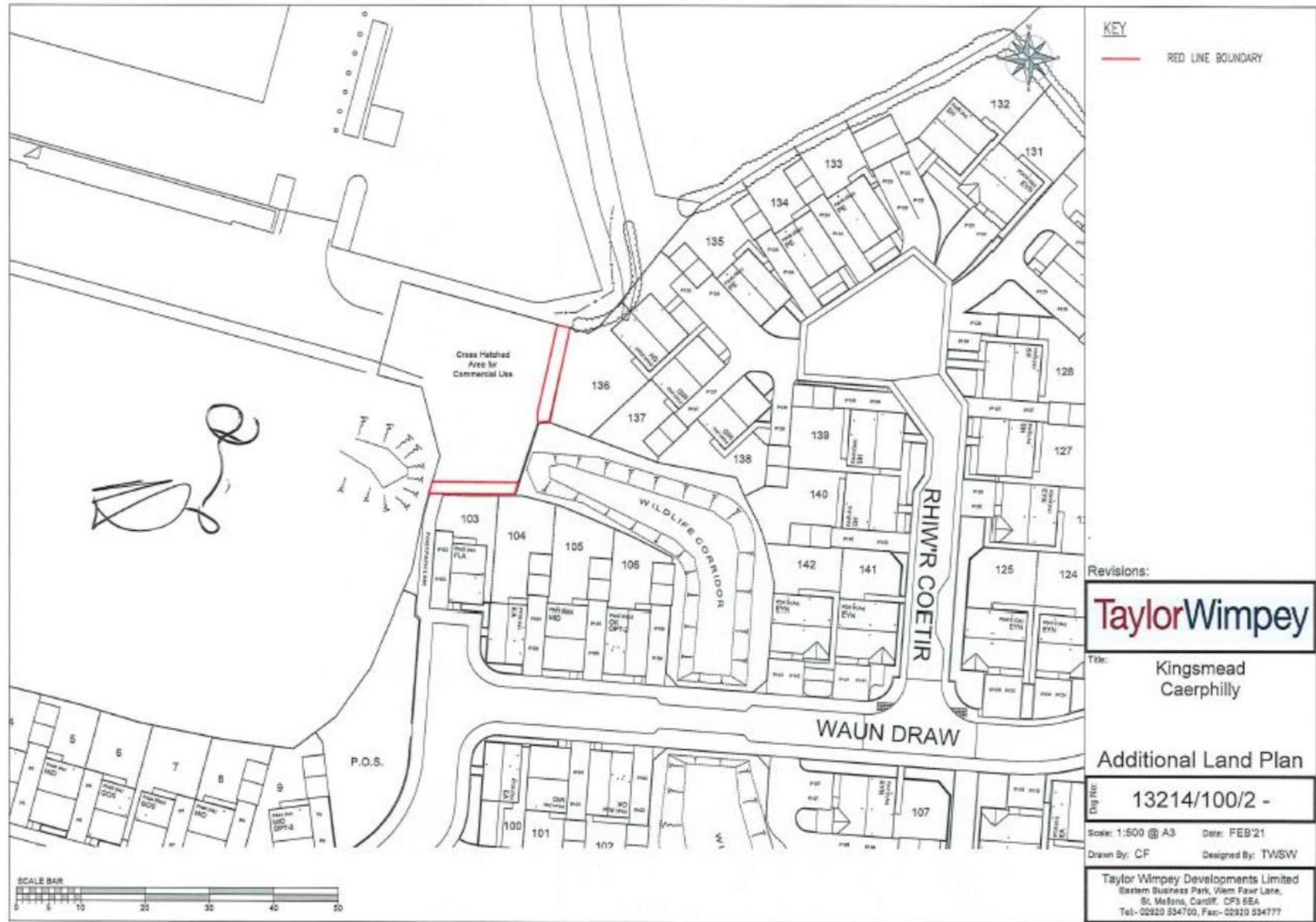
- Llwybr arfaethedig i gael ei crewyd / Proposed path to be created
- Llwybr arfaethedig i gael ei diddymwyd / Existing path to be closed
- Heb effeithio arno / Unaffected footpath/s

1:1,000 at A4

Mae'r wybodaeth hon ar gyfer arweiniad yn unig ac nid yw'n ffurfio rhan o'r Map Diffiniol. Gallwch chi gael rhagor o gyngor ac arweiniad drwy gysylltu â ni.

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KEY
 RED LINE BOUNDARY

Revisions:

TaylorWimpey

Title: Kingsmead
Caerphilly

Additional Land Plan

Day No: 13214/100/2 -

Scale: 1:500 @ A3 Date: FEB'21
 Drawn By: CF Designed By: TWSW

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



KEY
 — RED LINE BOUNDARY

Revisions:

TaylorWimpey

Title: Kingsmead
 Caerphilly

Land Adjoining
 Plot 112

Dwg No: 13214/100/3 -

Scale: 1:500 @ A3 Date: FEB'21
 Drawn By: CF Designed By: TWSW

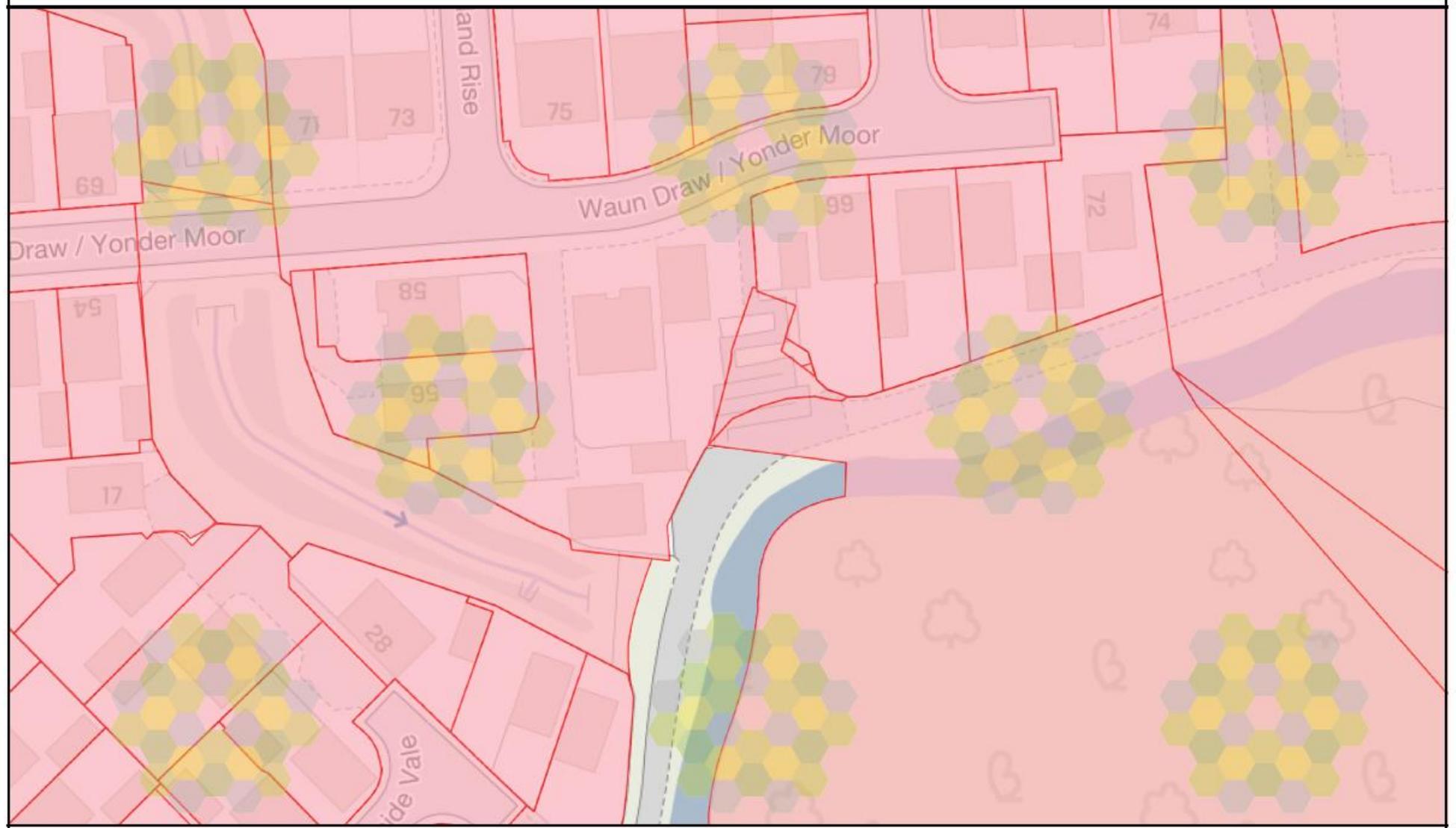
Taylor Wimpey Developments Limited
 Eastern Business Park, Wern Fawr Lane,
 St. Mellons, Cardiff, CF3 6EA
 Tel: 02920 534700, Fax: 02920 534777



BETA



MapSearch Snapshot



Map scale 1:625

