



ENVIRONMENT AND HIGHWAYS CABINET BOARD

***Immediately Following Scrutiny Committee on
THURSDAY, 13TH NOVEMBER 2014***

COMMITTEE ROOMS A/B - NEATH CIVIC CENTRE

PART 1

1. To agree the Chairman for this Meeting
2. To receive any declarations of interest from Members
3. To receive the Minutes of the previous Environment and Highways Cabinet Board held on 9th September, 2014 (*Pages 1 - 8*)

To receive the Report of The Head of Engineering and Transport

4. Christmas Car Parking 2014 (*Pages 9 - 12*)
5. Delegation of Power - Section 291 of the Highways Act 1980 (*Pages 13 - 16*)
6. List of Approved Contractors (*Pages 17 - 24*)
7. Revocation and Proposal of Traffic Orders - Bridge Street and Quay Road, Neath (*Pages 25 - 32*)
8. Traffic Order - Alltwen Hill, Neath (*Pages 33 - 40*)
9. Traffic Order - Pembroke Terrace and Water Street, Port Talbot (*Pages 41 - 48*)
10. Award to Civil Enforcement Officer (*Pages 49 - 50*)

11. Port Talbot Parkway Railway Station - Community Award
(Pages 51 - 52)

12. Urgency Action 1265 - Glynteg House (Pages 53 - 54)

Report of the Head of Legal Services

13. Alleged Public Bridleway, Glyncoirwg (Pages 55 - 66)

14. Alleged Public Footpaths, Glynneath (Pages 67 - 90)

15. Application to Delete Footpath 23, Blaenhondden (Pages 91 - 136)

To receive the Forward Work Programme 2014/15 (Page 137)

16. Any urgent items (whether public or exempt) at the discretion of the Chairman pursuant to Statutory Instrument 2001 No 2290 (as amended)

S.Phillips
Chief Executive

Civic Centre
Port Talbot

Thursday, 6th November 2014

Cabinet Board Members:

Councillors: E.V.Latham and Mrs.S.Miller

Notes:

- (1) *If any Cabinet Board Member is unable to attend, any other Cabinet Member may substitute as a voting Member on the Committee. Members are asked to make these arrangements direct and then to advise the committee Section.*
- (2) *The views of the earlier Scrutiny Committee are to be taken into account in arriving at decisions (pre decision scrutiny process).*

EXECUTIVE DECISION RECORD

CABINET BOARD – 9TH SEPTEMBER 2014

ENVIRONMENT AND HIGHWAYS CABINET BOARD

Cabinet Board Members:

Councillors: E.V.Latham and Mrs.S.Miller

Officers in Attendance:

D.Griffiths, R.George, Mrs.A.Manchipp, A.Lewis, Ms.V.Seller, V.Thomas and Mrs.T.Davies

1. **APPOINTMENT OF CHAIRMAN**

Agreed that Councillor E.V.Latham be appointed Chairman for the meeting.

2. **MINUTES OF THE ENVIRONMENT AND HIGHWAYS CABINET BOARD HELD ON 11TH JULY, 2014**

Noted by the Committee.

3. **CORPORATE COMMENTS, COMPLIMENTS AND COMPLAINTS POLICY AND PROCEDURE**

Decision:

That the Comments, Compliments and Complaints monitoring report, be noted.

4. **ENVIRONMENT AND HIGHWAYS PERFORMANCE INDICATORS, QUARTER 1 OF 2014/2015**

Decision:

That the Environment and Highways Performance Indicators for Quarter 1 2014/15 monitoring report, be noted.

5. **LAND AT LOWER BRYNAMMAN - ORDER OF EXCHANGE (COMMON LAND)**

Decision:

That the application to amend the Register of Common Land, as detailed within the circulated report, be approved.

Reason for Decision:

To record correctly the status of the two parcels of land.

Implementation of Decision:

The decision will be implemented after the three day call-in period.

6. **PROPOSED PROHIBITION OF WAITING AT ANY TIME ORDER AT Ffordd Amazon, Crymlyn Burrows**

Decision:

That having due regard to the Equalities Impact Assessment screening, approval be given for the proposed measures to be advertised, as indicated on the attached plan (Appendix A to the circulated report) and, subject to there being no objections, the Prohibition of Waiting at Any Time Order at Ffordd Amazon, Crymlyn Burrows, be implemented.

Reason for Decision:

To prevent indiscriminate parking in the interests of road safety.

Implementation of Decision:

The decision will be implemented after the three day call-in period.

Consultation:

This item has been subject to external consultation.

7. **PROPOSED PROHIBITION OF WAITING, LOADING AND UNLOADING AT ANY TIME ORDER COMMERCIAL ROAD, RESOLVEN**

Members noted the correct Plan, as tabled at the meeting.

Decision:

That having due regard to the Equalities Impact Assessment screening:-

- a. The objection be overruled and the objector informed accordingly;
- b. The objector be advised that there was an Individual Disabled Parking Place scheme available;
- c. The Prohibition of Waiting, Loading and Unloading at Any Time Order on Commercial Road, Resolven, be implemented as previously advertised.

Reason for Decision:

To prevent indiscriminate parking in the interest of road safety.

Implementation of Decision:

The decision will be implemented after the three day call-in period.

Consultation:

This item has been subject to external consultation.

8. **INDIVIDUAL DISABLED PARKING PLACE AT 6 HAFOD STREET, PORT TALBOT**

The Head of Engineering and Transport made a verbal amendment at the meeting to the recommendation, to include the following text (in italics).

Decision:

That, having due regard to the Equalities Impact Assessment Screening, the objections be overruled, *the Individual Disabled Parking Place at 6 Hafod Street, Port Talbot* be implemented as advertised and the objectors informed accordingly.

Reason for Decision:

The applicant has provided evidence to support their children's disabilities and that by providing a bay directly outside of their property it should not impact on the objectors current parking arrangements.

Implementation of Decision:

The decision will be implemented after the three day call-in period.

Consultation:

This item has been subject to external consultation.

9. **RENEWAL OF VEHICLE BRAKE TESTING EQUIPMENT**

Decisions:

1. That VLT Test Systems limited (Buckinghamshire) be approved as the Council's sole supplier and installer of Brake Testing Equipment;
2. That financial regulations and contract procure rules 3(x) be applied in order to accept a single quotation for the supply and installation, contained in 1. above.

Reason for Decisions:

To continue to set high vehicle maintenance safety standards for the Authority's fleet of vehicles as stipulated by the Authority's operator's licence.

Implementation of Decisions:

The decisions will be implemented after the three day call-in period.

Consultation:

This item has been subject to external consultation.

10. **EXTENDING HOSPITAL PILOT SCHEME AND EXTENDING LIMITED SUNDAY SERVICES**

Decision:

That the report be noted.

11. **BUS BAY ALLOCATION, VICTORIA GARDENS BUS STATION, NEATH**

Decision:

That the report be noted.

12. **SWITCH DEED OF TERMINATION**

Members received a tabled copy of the Deed of Termination, which had re numbered Clauses to accord with the original SWITCH Agreement.

Decision:

That the Director of Environment be given delegated authority to agree the terms of the Deed of Termination to dissolve the SWITCH Consortium, as detailed within the circulated report.

Reason for Decision:

To complete the dissolution of the SWITCH Consortium.

Implementation of Decision:

The decision will be implemented after the three day call-in period.

Consultation:

This item has been subject to external consultation.

13. **2014 AIR QUALITY PROGRESS REPORT AND DETAILED ASSESSMENT REPORTS**

Decisions:

1. That the contents of the 2014 Air Quality Progress Report and 2014 Detailed Assessment Report, be noted;
2. That both reports be made available to the public and other stakeholders via the Authority's website and a copy sent to the Welsh Government for information.

Reason for Decisions:

To provide information about air quality in accordance with legislative requirements.

Implementation of Decisions:

The decisions will be implemented after the three day call-in period.

14. **CONTAMINATED LAND STRATEGY 2014**

Decision:

That the 12 week consultation process for the Contaminated Land Strategy 2014, as detailed within the circulated report, be approved, and the findings used to produce a Revised Contaminated Land Strategy for implementation within the Authority.

Reason for Decision:

A change in Welsh Government's Contaminated Land Statutory Guidance and recent financial constraints has led to the need to revise the Authority's current Contaminated Land Strategy to make it fit for the future.

Implementation of Decision:

The decision will be implemented after the three day call-in period.

15. **FORWARD WORK PROGRAMME 2014/15**

Decision:

That the Environment and Highways Cabinet Board Forward Work Programme, as circulated at the meeting, be noted.

CHAIRMAN

This page is intentionally left blank

ENVIRONMENT AND HIGHWAYS CABINET BOARD

REPORT OF THE HEAD OF ENGINEERING AND TRANSPORT – D.W. GRIFFITHS

13TH NOVEMBER 2014

SECTION A– MATTER FOR DECISION

**WARD(S) AFFECTED: NEATH NORTH DIVISION
PORT TALBOT
PONTARDAWE**

CHRISTMAS CAR PARKING

Purpose of Report

To seek Members' approval for free Christmas 2014 car parking arrangements in Neath, Port Talbot, and Pontardawe town centres.

Background

Last year the Authority granted limited free parking for one week prior to Christmas.

It was agreed last year that the Council offer free car parking in Short Stay Car Parks only from 10.30 am onwards from Saturday 14th December 2013 to Tuesday, 24th December 2013 inclusive (it should be noted that parking charges still applied between 8.00am and 10.30am).

Parking charges were applied all day in the Long Stay Car Parks at Milland Road Neath, Station Road Port Talbot and the By Pass Car Park Pontardawe (Long Stay section) over this period.

However this year it is proposed to offer free car parking in all the authorities pay and display car parks as well as the pay on exit car park at Milland Road from Saturday 13th December 2014 to Wednesday 24th December inclusive.

Screening Assessment has been undertaken to assist the Council in discharging its Public Sector Equality Duty under the Equality Act 2010. After completing the assessment it has been determined that this function does not require an Equality Impact Assessment.

Financial Implications

Last year there was a loss of income of circa £15,000 income for the whole of Neath and Port Talbot CBC car parks.

Lost car park income has to be absorbed by the consolidated parking management account.

Consultation Outcome

No consultation is required under the constitution.

Sustainability Appraisal

A period of free parking is likely to attract increased numbers of Christmas shoppers thereby improving business turnover for traders.

Recommendation

It is recommended having due regard to the Equalities Impact Assessment screening, that free parking is implemented in Neath, Port Talbot and Pontardawe Pay and Display Car Parks and pay on exit car park for dates specified above.

Reasons For Proposed Decision

To encourage trading during the Christmas period.

List of Background Papers

Equality Impact Assessment Screening Form

Appendices

None

Officer Contact

Steve Cook, Parking Manager

Tel: 01639 763968

E- mail: s.cook@npt.gov.uk

COMPLIANCE STATEMENT

CHRISTMAS CAR PARKING

(a) **Implementation of Decision**

The decision is proposed for implementation after the three day call-in period.

(b) **Sustainability Appraisal**

Community Plan Impacts

Economic Prosperity	-	No Impact
Education and Lifelong Learning	-	No Impact
Better Health and Well Being	-	No Impact
Environment and Transport	-	No Impact
Crime and Disorder	-	No Impact

Other Impacts

Welsh Language	-	No Impact
Sustainable Development	-	No Impact
Equalities	-	No Impact
Social Inclusion	-	Positive

(c) **Consultation**

Consultation would be undertaken when the temporary order is advertised.

ENVIRONMENT AND HIGHWAYS CABINET BOARD

JOINT REPORT OF THE HEAD OF ENGINEERING AND TRANSPORT – D.W. GRIFFITHS AND HEAD OF STREETCARE – M. ROBERTS

13TH NOVEMBER 2014

SECTION A– MATTER FOR DECISION

WARD(S) AFFECTED: ALL

DELEGATION OF POWER TO SIGN AND SERVE NOTICE UNDER SECTION 291 OF THE HIGHWAYS ACT 1980 TO ENTER PRIVATE LAND TO UNDERTAKE THE COUNCIL'S STATUTORY DUTIES

Purpose of Report

To obtain Member's approval to delegate authority under Section 291 of the Highways Act 1980 to enable officers to enter land as required to undertake the Council's statutory duties under the Act.

Background

The proposed delegation of authority will allow officers to serve notice to enter land for the purpose of undertaking the Council's statutory duties and functions in relation to the Act, and negate the need to have the permission of the landowner to enter the land.

Officers will always try and make contact with the landowner in the first instance, however there are many areas of land within the Authority which are not registered with the Land Registry making this difficult and sometimes impossible. Also, some owners may withhold consent or request unreasonable conditions of entry.

A Screening Assessment has been undertaken to assist the Council in discharging its Public Sector Equality Duty under the Equality Act 2010. After completing the assessment it has been determined that this function does not require an Equality Impact Assessment.

Financial Implications

None. However, the Council would be liable for a compensation claim for any damages as a result of the Authority exercising its powers.

Consultation Outcome

There has been no requirements under the Constitution for external consultation on this item.

Sustainability Appraisal

The delegation of powers will make it easier to undertake highway works without delay and some significant amounts of Officer time.

Recommendation(s)

It is recommended having due regard to the Equalities Impact Assessment screening, that;

Authority is delegated to the Director of Environment, Head of Engineering and Transport and Head of Streetcare (and other named officers) to sign and serve notice to enter land in accordance with Section 291 of the Highways Act 1980 where required to undertake the Council's statutory duties.

Reason for Proposed Decision

To ensure the Council's statutory duties can be undertaken in a timely manner.

List of Background Papers

Equality Impact Assessment Screening Form

Appendices

None

Officer Contact

Hasan Hasan
Engineering Manager
☎01639 686463
✉ h.hasan@npt.gov.uk

COMPLIANCE STATEMENT

DELEGATION OF POWER TO SIGN AND SERVE NOTICE UNDER SECTION 291 OF THE HIGHWAYS ACT 1980 TO ENTER PRIVATE LAND TO UNDERTAKE THE COUNCIL'S STATUTORY DUTIES

(a) **Implementation of Decision**

The decision is proposed for implementation after the three day call in period

(b) **Sustainability Appraisal**

Community Plan impacts

Economic Prosperity	-	Positive Impact
Education & Lifelong Learning	-	Positive Impact
Better Health & Well Being	-	Positive Impact
Environment & Transport	-	Positive Impact
Crime & Disorder	-	Positive Impact

Other Impacts

Welsh Language	-	No Impact
Sustainable Development	-	Positive Impact
Equalities	-	Positive Impact
Social Inclusion	-	Positive Impact

(c) **Consultation**

There has been no requirement under the Constitution for external consultation on this item.

This page is intentionally left blank

ENVIRONMENT AND HIGHWAYS CABINET BOARD

REPORT OF THE HEAD OF ENGINEERING AND TRANSPORT – D.W. GRIFFITHS

13TH NOVEMBER 2014

SECTION A– MATTER FOR DECISION

WARD(S) AFFECTED: ALL

LIST OF APPROVED CONTRACTORS

Purpose of Report

To seek Members' approval to amend the Select List of Contractors.

Background

Members will be aware that on previous occasion's reports concerning the compilation of the Select List of Contractors have been presented to Cabinet Board. Members are updated on a regular basis on outstanding issues relating to the lists.

The full list of categories are set out in Appendix A for your information.

The following firms have applied to be included in the list:-

	<u>FIRM</u>	<u>CATEGORY</u>
1	MPE Ltd (Metal Polishers)	23, 24 & 84
2	Electratest Wales and South West	111 – PAT Testing & Electrical/Installation Condition Reports
3	AFG Engineering	2,3 24, & 97
4	Peter Simmons Construction	71
5	SIBCAS Ltd	10
6	Ken Parfitt	111 – PAT Testing

Screening Assessment has been undertaken to assist the Council in discharging its Public Sector Equality Duty under the Equality Act 2010. After completing the assessment it has been determined that this function does not require an Equality Impact Assessment.

Financial Implications

None

Consultation Outcome

The Select List is promoted on NPT web pages through local events.

Sustainability Appraisal

The process gives local companies an opportunity to provide goods and services to the Council.

Recommendation

It is recommended, having due regard to the Equalities Impact Assessment screening, that: -

Contractor 1- 6 be included on the Select List for the relevant categories.

Reasons For Proposed Decision

To keep the Select List up-to-date and as far as possible ensure a competitive procurement process.

These recommendations to be adopted for the purpose of supplying a List of Contractors for invitation to tender within the relevant category.

List of Background Papers

Equalities Impact Assessment Screening Form

Appendices

Appendix A – Select List of Categories

Officer Contact

Brian Biscoe, Senior Programme Manager

Tel No. 01639 686915

Email: b.biscoe@npt.gov.uk

COMPLIANCE STATEMENT

LIST OF APPROVED CONTRACTORS

(a) **Implementation of Decision**

The decision is proposed for implementation after the three day call-in period.

(b) **Sustainability Appraisal**

Community Plan Impacts

Economic Prosperity	-	Positive
Education and Lifelong Learning	-	No Impact
Better Health and Well Being	-	No Impact
Environment and Transport	-	Postive
Crime and Disorder	-	No Impact

Other Impacts

Welsh Language	-	No Impact
Sustainable Development	-	No Impact
Equalities	-	No Impact
Social Inclusion	-	No Impact

(c) **Consultation**

There is no requirement for external consultation.

General Services

1. Signs
2. Plant Hire
3. Security
4. Clinical Waste
5. Pest Control
6. Re-Cycling
7. Waste Disposal (eg. Car, Computers, Steel)
8. Crowd Control
9. Traffic Management
10. Portable Buildings
11. Scaffolding

Building Construction / Maintenance

12. Building Construction £50,000 - £200,000
13. Building Construction £200,000 - £1m
14. Building Construction Over £1m
15. Minor Building Works below £50,000
16. Works of Adaptation below £5,000
17. Re-Roofing
 - a) Felt & Asphalt below £10,000 / above £10,000
 - b) Tiles & Slate below £10,000 / above £10,000
 - c) GRP
 - d) High Performance Coverings
 - e) Sheeting & Cladding
18. Supply & Installation of Floor Finishes
 - a) Flexible Sheet, Tiles, Carpets
 - b) Jointless
 - c) Rigid Tiles, Slabs, Mosaics
 - d) Wood
19. Plastering
20. Painting & Decorating
21. Supply & Installation of Windows / Doors
(Windows to BS 7412, Doors to PAS 23/1, PAS 24/1 to BS 7950 Kitemark Scheme)
 - a) PVCU (using Aluplast System)
 - b) Timber
 - c) Aluminium
 - d) Steel
 - e) Roller Shutter
 - f) Security Doors
 - g) Automatic Doors
22. Suspended Ceilings
23. Welding / Fabrication below £5,000
24. Welding / Fabrication above £5,000
25. Stonework Repair / Restoration / Cleaning
26. Glazing & Safety Filming
27. Wall Tie Replacement
28. External Wall Insulation
29. Damp Proofing / Dry Rot / Woodworm Treatment
30. Cavity Wall and / or Loft Insulation
31. Asbestos Handling & Removal, Asbestos Surveys & Asbestos Consultancy Services
32. Window Blinds
33. Shop Fitters – Specialist Joinery
34. Refurbishment of Laboratories
35. Clearance of Void properties
36. Works to Listed Buildings

Mechanical & Electrical Engineering

37. Domestic (including Housing) Plumbing & Central Heating below £50,000
38. Domestic (including Housing) Plumbing & Central Heating above £50,000
39. Commercial Heating & Ventilating below £100,000
40. Commercial Heating & Ventilating above £100,000
41. Domestic (including Housing) Electrical Installation below £50,000
42. Domestic (including Housing) Electrical Installation above £50,000
43. Commercial Electrical Installations below £100,000
44. Commercial Electrical Installations above £100,000
45. Gas Boiler Maintenance
46. Maintenance of Building Management Systems for Heating & Ventilation

Mechanical & Electrical Specialist Services

47. CCTV
48. Intruder Alarms
49. Fire Alarms
50. Warden Call System
51. Lifts
52. Swimming Pool Plant Equipment
53. Water Systems Cleaning & Chlorination
54. Ductwork System Cleaning & Sterilisation
55. Domestic & Commercial Kitchen Equipment Maintenance
56. Supply & Installation of Specialist Kitchen Equipment / Fittings
57. Installation, Testing & Maintenance of Local Exhaust Ventilation (LEV)
58. Water Systems – Risk Assessment
59. Supply & Installation of Pipework & Ductwork Installation
60. Supply, Installation and / or Servicing of Automatic Door Systems
61. PA Systems / Sound Systems
62. Stage Lighting
63. Service / Repair of Kilns
64. Supply, Installation & Servicing of Leisure Services Equipment
65. Specialist Steelwork (stainless Steel & Fabricated Works)
66. Lightning Conductors
67. Fire Fighting Equipment including Hose Reels
68. Smoke / Fire Detectors
69. Stage Equipment including Curtains, Gantry, Special Effects etc.
70. Computer / Telephone Cabling

Civil Engineering

71. Civil Engineering £0 – £25,000
72. Civil Engineering £25,000 – £250,000
73. Civil Engineering £250,000 – £1m
74. Civil Engineering over £1m
75. Land Reclamation
76. Sewers & Drainage
77. Hard & Soft Landscaping
78. Ground Investigation
79. Demolition
80. Surfacing, Carriageway & Footways
81. Surface Dressing
82. Road Markings & Reflective Road Studs
83. Carriageway Slurry Surfacing & Footways
84. Fencing
85. Gabion & Blockstone
86. Steel Fabrication below £25,000
87. Steel Fabrication above £25,000
88. Bridge Works, New & Maintenance

Civil Engineering Specialists

89. Concrete Repairs
90. Diving Inspections & Works within Water
91. Bridge Deck Expansion Joints
92. Bridge Deck Water Proofing
93. Soil Nailing
94. Sewer Relining
95. Sewer Surveys
96. Safety Fencing
97. Bridge Parapets (Manufacture & Installation)
98. Access Plant for Inspection
99. Bridge Parapet Painting
100. Painting of Structural Steelwork
101. Arboriculturalist
102. Weedspraying
103. Weather Forecasting
104. Playground Equipment
105. Specialist Cleaning
106. Synthetic Pitches and Sports Facilities
107. Bus / Cycle Shelters
108. Traffic Signals
109. Street Lighting
110. Street Furniture
111. Specialist Contractor not listed above – please specify type of work -

This page is intentionally left blank

ENVIRONMENT AND HIGHWAYS CABINET BOARD

REPORT OF THE HEAD OF ENGINEERING AND TRANSPORT – D.W. GRIFFITHS

13TH NOVEMBER 2014

SECTION A– MATTER FOR DECISION

WARD(S) AFFECTED: NEATH NORTH

REVOCAION OF EXISTING ORDERS: BRIDGE STREET AND QUAY ROAD, NEATH
PROPOSED PROHIBITION OF WAITING, LOADING AND UNLOADING: BRIDGE STREET, NEATH.
PROPOSED LIMITED WAITING: BRIDGE STREET, NEATH
PROPOSED PROHIBITION OF WAITING: BRIDGE STREET AND QUAY ROAD, NEATH

Purpose of Report

To consider the response received following the advertisement of the proposed Traffic Scheme at Bridge Street and Quay Road, Neath as shown in Appendix A and to consider a revised scheme being advertised to aid delivery of goods to a nearby business as illustrated at Appendix C.

Background

The scheme is necessary to prevent indiscriminate parking in the interests of road safety.

Screening Assessment has been undertaken to assist the Council in discharging its Public Sector Equality Duty under the Equality Act 2010. After completing the assessment it has been determined that this function does not require an Equality Impact Assessment.

Financial Implications

The work will be funded by the capital works programme

Consultation Outcome

List of Consultees

Cllr A R Lockyer

Cllr M Protheroe

Residents affected by the proposals.

As part of the consultation exercise circular letters (Appendix B) were delivered by hand. Notices were also put up on nearby lamp posts.

During the consultation period 1 letter of was received. A summary of the contents is listed below.

Letter 1

- Requests that approximately 5 metres of limited waiting bay is replaced with no waiting, loading or unloading at any time

Observation on objections

The request will help large delivery lorries manoeuvre in and out of a nearby access.

The existing limited waiting can be revoked to assist with large delivery vehicles with a no waiting, loading or unloading order.

Sustainability Appraisal

The scheme is necessary to aid delivery of goods to a nearby business in the interests of road safety.

Recommendation

It is recommended having due regard to the Equalities Impact Assessment screening, that;

1. The objection be upheld and the objector be informed accordingly;
2. That the scheme be re-advertised as illustrated in Appendix C;
3. That subject to there being no objections for the Traffic Regulation Order to be implemented.

Reasons for Proposed Decision

To prevent indiscriminate parking in the interests of road safety

Appendices

Appendix A

Appendix B

Appendix C

List of Background Papers

TR25

Equality Impact Assessment Screening Form

Officer Contact

Carl Price – Technician

Tel No. 01639 686493

E-mail: c.price3@npt.gov.uk

COMPLIANCE STATEMENT

REVOCAION OF EXISTING ORDERS: BRIDGE STREET AND QUAY ROAD, NEATH

PROPOSED PROHIBITION OF WAITING, LOADING AND UNLOADING: BRIDGE STREET, NEATH.

PROPOSED LIMITED WAITING: BRIDGE STREET, NEATH

PROPOSED PROHIBITION OF WAITING: BRIDGE STREET AND QUAY ROAD, NEATH

(a) **Implementation of Decision**

The decision is proposed for implementation after the three day call-in period.

(b) **Sustainability Appraisal**

Community Plan Impacts

Economic Prosperity	-	Positive
Education and Lifelong Learning	-	No Impact
Better Health and Well Being	-	Positive
Environment and Transport	-	Positive
Crime and Disorder	-	No Impact

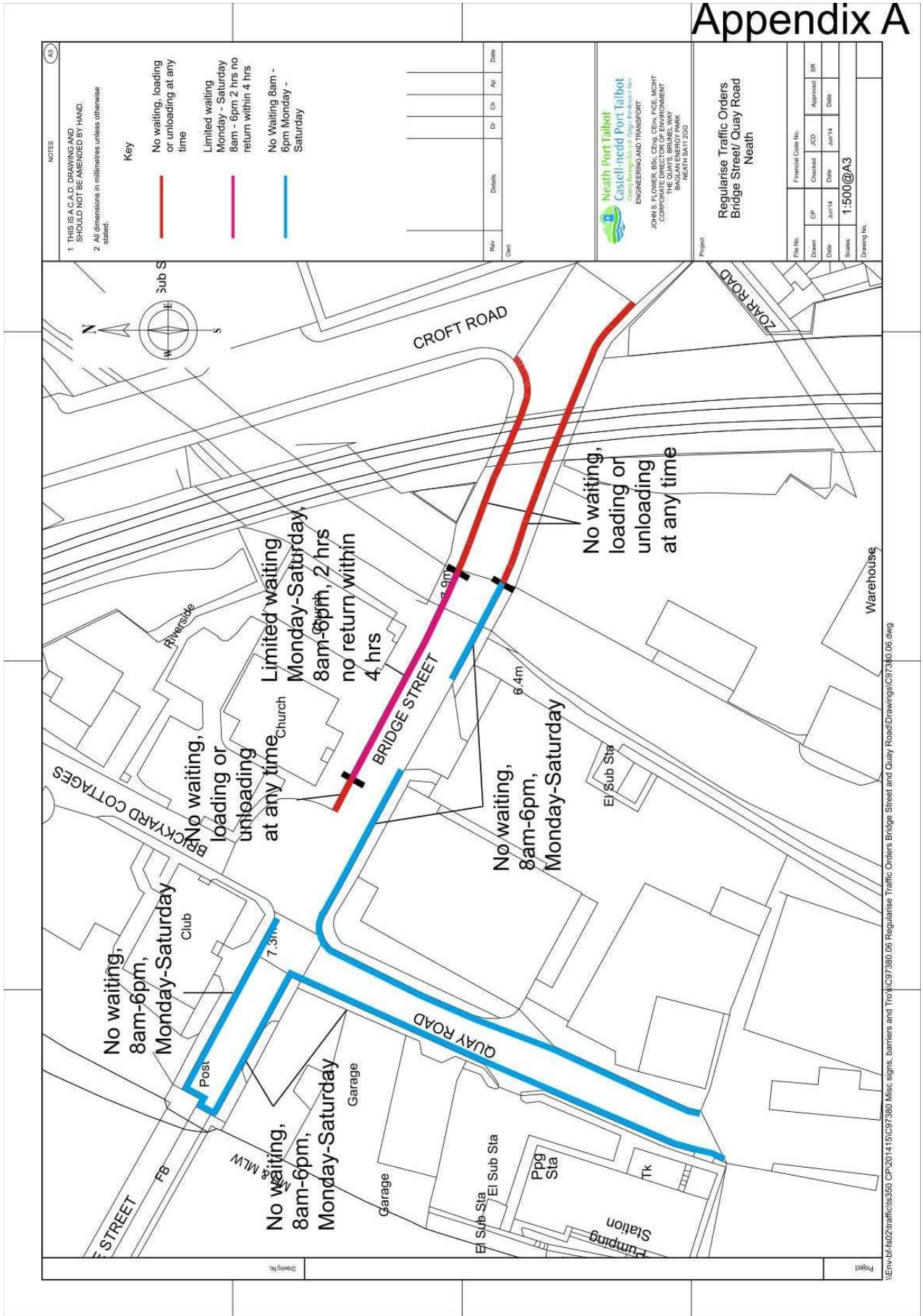
Other Impacts

Welsh Language	-	No Impact
Sustainable Development	-	Positive
Equalities	-	No Impact
Social Inclusion	-	No Impact

(c) **Consultation**

This item has been subject to external consultation.

Appendix A





Neath Port Talbot
Castell-nedd Port Talbot
County Borough Council / Cyngor Bwrdeistref Sirol

Making a difference / Gwahaniaeth er gwell

The Occupier

23rd July 2014

01639 686493

c.price3@npt.gov.uk

Date Dyddiad

Direct Line Rhif Ffôn

email e-bost

Mr C Price

TR25/CP/SD

Contact Cyswllt

Your Ref Eich Cyf

Our Ref Ein Cyf

Dear Sir/Madam

Re: **Proposed Traffic Orders**
Bridge Street/Quay Road, Neath

It is the intention of Neath Port Talbot County Borough Council to regularise traffic orders along Bridge Street and Quay Road, Neath

A copy of the proposed Order, Statement of Reasons and an appropriate plan may be inspected during normal office hours at the main reception desks in the Civic Centres at Neath and Port Talbot, The Quays, Baglan and Pontardawe Library.

Any comments should be submitted in writing to reach the Head of Engineering and Transport, Neath Port Talbot County Borough Council, The Quays, Brunel Way, Baglan Energy Park, Neath, SA11 2GG by 13th August 2014.

Should you require any further information please contact my Officer on the above telephone number.

Yours faithfully

For Head of Engineering and Transport

Environment
Yr Amgylchedd

www.npt.gov.uk

David W Griffiths
Head of Engineering & Transport
The Quays, Brunel Way, Baglan Energy Park,
Neath SA11 2GG
Tel: 01639 686868 Fax: 01639 686100

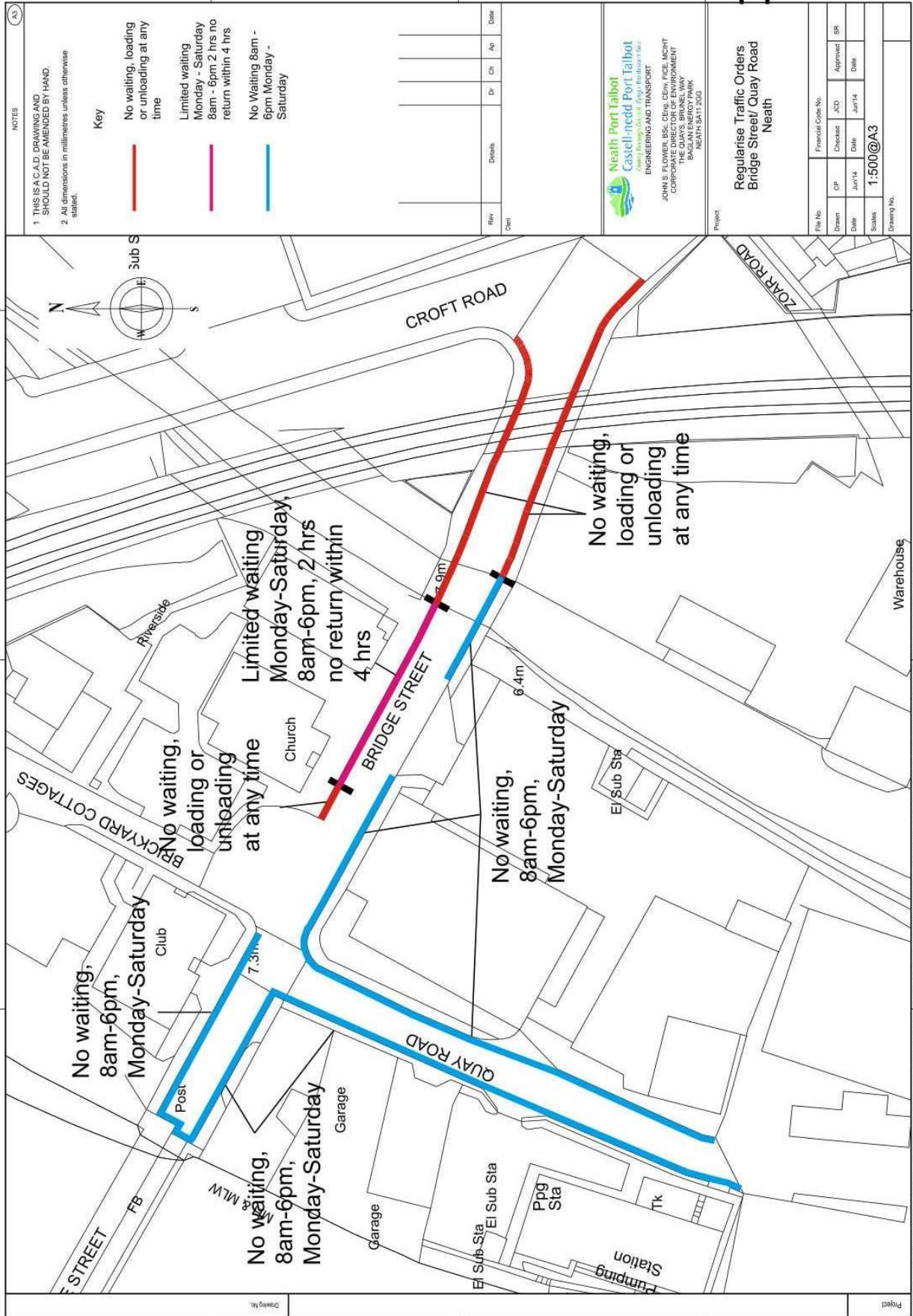
The Council welcomes
correspondence in English or Welsh

David W Griffiths
Pennaeth Peirianteg a Chludiant
Y Ceiau, Ffordd Brunel, Parc Ynni Baglan,
Castell-nedd SA11 2GG
Ffôn 01639 686868 Ffacs 01639 686100

Mae'r Cyngor yn croesawu gohebiaeth
yn y Gymraeg neu'r Saesneg



Appendix C



NOTES

- 1 THIS IS A CALD. DRAWING AND SHOULD NOT BE AMENDED BY HAND.
- 2 All dimensions in millimetres unless otherwise stated.

Key

- No waiting, loading or unloading at any time
- Limited waiting Monday - Saturday 8am - 6pm 2 hrs no return within 4 hrs
- No Waiting 8am - 6pm Monday - Saturday

Rev	Details	Di	Ch	Ap	Date

Neath Port Talbot
 Castlefield Port Talbot
 ENGINEERING AND TRANSPORT
 JOHN S. EVANS BSc, CEng, CEM, FICE, MCHT
 CORPORATE DIRECTOR OF ENVIRONMENT
 THE QUAYS, BRUNEL WAY
 BAGLAN ENERGY PARK
 NEATH SA11 5BB

Project: **Regulairse Traffic Orders Bridge Street/ Quay Road Neath**

File No.	CP	Checked	JCD	Approved	SR
Drawn	Jun14	Date	Jun14	Date	
Scale	1:500@A3				
Drawing No.					

\\env-bf602\traffic350 CP\2014\15\CP97380 Misc signs, barriers and Tro\CP97380.06 Regulairse Traffic Orders Bridge Street and Quay Road\Drawings\CP97380.06 Appendix C.dwg

This page is intentionally left blank

ENVIRONMENT AND HIGHWAYS CABINET BOARD

REPORT OF THE HEAD OF ENGINEERING AND TRANSPORT – D.W. GRIFFITHS

13TH NOVEMBER 2014

SECTION A– MATTER FOR DECISION

WARD(S) AFFECTED: ALLTWEN

PROPOSED PROHIBITION OF WAITING AT ANY TIME ORDER – ALLTWEN HILL, ALLTWEN

Purpose of Report

To consider the response received following the advertisement of the proposed no waiting at any time order as indicated in Appendix A and whether to implement the Traffic Regulation Order in the interests of Road Safety.

Background

The scheme is necessary to reduce the possibility of vehicles travelling up Alltwen Hill in a southerly direction crashing head-on with vehicles exiting Alltwen Triangle to travel down Alltwen Hill in a northerly direction.

In July 2014 the proposals were advertised at the same time a consultation exercise was undertaken to all properties affected by the scheme. Appendix B.

Screening Assessment has been undertaken to assist the Council in discharging its Public Sector Equality Duty under the Equality Act 2010. After completing the assessment it has been determined that this function does not require an Equality Impact Assessment.

Financial Implications

At the start of the financial year funding of £2k was allocated for this scheme as part of the 2014-15 Capital Works Programme.

Consultation Outcome

List of Consultees

Councillor D. Lewis

Residents affected by proposal.

Following the consultation exercise 6 letters of objection were received. Letters 1 and 2 are from the same household in Alltwen and Letters 3 and 4 are from the same household in Winch Wen, Swansea. A summary of their contents are listed below.

Letters 1 and 2 stated reasons for objection:

- The parking restrictions are outside two of the neighbours properties who are both elderly. Although they do not drive they have frequent visits from carers, doctors, nurses etc. and removing the parking will cause them to be more isolated.
- The residents have four children aged four and under the eldest of which is disabled. At present they can be walked across the road one at a time but removal of the parking will endanger their lives as there is no alternative parking available. Removal would also discriminate against the needs of the disabled child and make it difficult for family and professional carers to visit.
- Removal would also have direct impact on the value of house prices for which compensation should be paid and/or money provided to adapt the property to make parking possible.
- The parking is not in the best of places but it does slow traffic down in what is a 20mph advisory zone. By removing the parking it will increase speeds and make the junction an accident hotspot.
- The parking could be moved further up the road or make The Triangle a one-way system.

Letters 3 and 4 stated reasons for objection:

- As regular visitors to our daughters house to cover school times it would be difficult for us to park and as one of is disabled and walking any distance is a problem.
- You are discriminating against the disabled and elderly. People won't be able to have carers visitor's health care as they will have nowhere to park.

- If the proposals go ahead there will be accidents. Drivers take no notice of the 20 mph sign and cars will speed up by the rugby club whereas they have to slow down for the parked cars at the moment making it easier for pedestrians to cross.
- The parking should be moved further up the road and make the junction at The Triangle a no entry thus making the traffic turn right at the top of the hill as the bus does which gives drivers clearer vision to turn right and the traffic coming down the hill can see and be seen.
- The bus bay should be converted to residents parking.

Letter 5 stated reasons for objection:

- There is no parking on Dyffryn Road in front of my house and the costs would be prohibitive to provide off-street parking.
- I applied for a residents parking permit on Alltwen Hill but was declined as I do not live on hill and if the parking is taken away I will have nowhere to park within reasonable walking distance of my house. Both my partner and I have disabilities but not severe enough to qualify for a blue badge.
- There is no problem on Alltwen Hill and parked cars slow the traffic down. The main problem is indiscriminate parking on double yellow lines forcing young mothers with buggies into the road and blocking the view of drivers coming out of Dyffryn Road.
- The parking could be moved further up the road or remove the bus bay markings on The Triangle as the bus no longer stops there.

Letters 6 stated reasons for objection:

- At the moment parked cars means that traffic coming up and going down the hill have to slow down. To remove the parking would increase speeds on the road and a bad accident will happen as drivers do not take any notice of signs.
- The parking could be moved further up the road or make The Triangle a one-way system.
- Parking for people who live on the hill such as my friend who has a disabled child will find it difficult to cope as they have frequent visits from carers, doctors, nurses etc.

Observation of Objections

At present vehicles travelling up Alltwen Hill are confronted with parked vehicles opposite the junction with The Triangle. This forces vehicles onto the wrong side of the road bringing them into direct conflict with vehicles exiting

The Triangle to drive down Alltwen Hill. To move the uncontrolled parking further up or down Alltwen Hill would be to move the problem from one area to another. The bus bay could be removed but there is currently a prohibition of waiting at any time order running through the bay which would need to be revoked. Consideration was given to this but if cars were parked where the bus bay is located it would again force vehicles onto the wrong side of the road which could potentially lead to head on collisions to those entering The Triangle from Gwyn Street. A No Entry feature was also considered at the junction although calculations proved vehicles could not make the right turn from Gwyn's Place into The Triangle. Modifications could be made to the highway but the costs would prove prohibitive. There is potential for vehicle speeds to increase with no vehicles parked at that location on Alltwen Hill to slow them down. Parking for residents will be reduced in the area.

The Local Member supports the recommendation.

Sustainability Appraisal

It is envisaged that the proposals will improve the visibility for all road users at the junction of Alltwen Hill and The Triangle with a view to improving road safety.

Recommendation

It is recommended having due regard to the Equalities Impact Assessment screening, that:

1. The objections be overruled and that the objectors be advised accordingly.
2. The bus bay markings are removed but the existing double yellow lines remain.
3. The prohibition of waiting at any time Traffic Regulations Order is implemented as legally advertised.

Reasons For Proposed Decision

The proposal to introduce a prohibition of waiting at any time order on Alltwen Hill is to improve visibility for all road users in the area in the interests of road safety. The scheme as designed achieves this objective.

List of Background Papers

TR25

Equality Impact Assessment Screening Form

Appendices

Appendix A

Appendix B

Officer Contact

Daniel Long – Senior Technician

Tel No. 01639 686488

E-mail: d.long@npt.gov.uk

COMPLIANCE STATEMENT

PROPOSED PROHIBITION OF WAITING AT ANY TIME ORDER – ALLTWEN HILL, ALLTWEN

(a) **Implementation of Decision**

The decision is proposed for implementation after the three day call-in period.

(b) **Sustainability Appraisal**

Community Plan Impacts

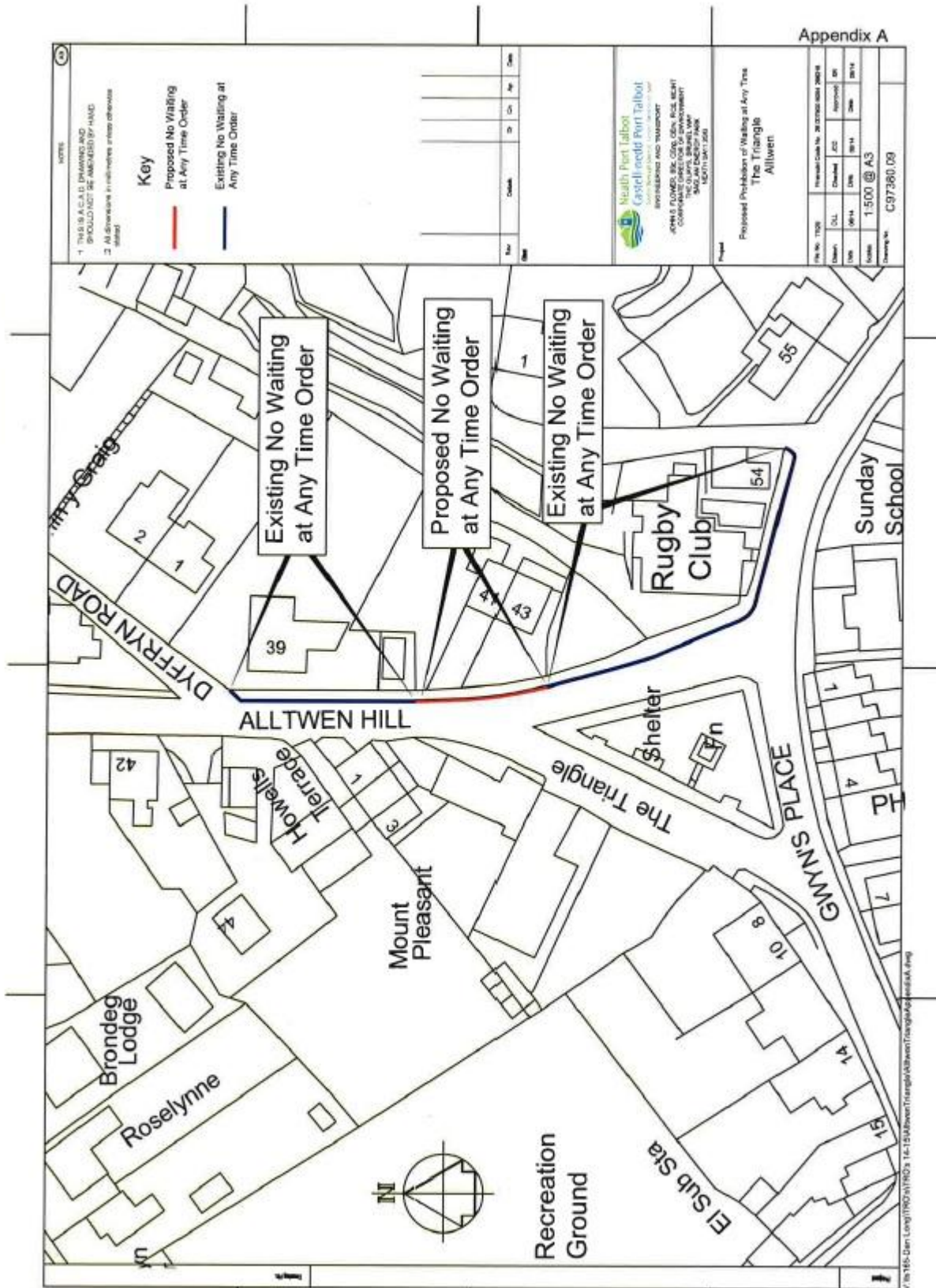
Economic Prosperity	-	No Impact
Education and Lifelong Learning	-	No Impact
Better Health and Well Being	-	No Impact
Environment and Transport	-	Positive
Crime and Disorder	-	No Impact

Other Impacts

Welsh Language	-	No Impact
Sustainable Development	-	Positive
Equalities	-	Positive
Social Inclusion	-	Positive

(c) **Consultation**

The item has been subject to external consultation.





17th July 2014 Date Dyddiad
01639 686488 Direct Line Rhif Ffôn
d.long@npt.gov.uk email ebostr

Mr D L Long Contact Cyswilt
TR25/DLL/SD Your Ref Eich Cyf
Our Ref Ein Cyf

The Occupier

Appendix B

Dear Sir/Madam,

Re: **Prohibition of Waiting at Any Time**
Alltwn Hill, Alltwn

It is the intention of Neath Port Talbot County Borough Council to implement the Prohibition of Waiting at Any Time Order as indicated on the attached plan.

A copy of the proposed Order, Statement of Reasons and an appropriate plan may be inspected during normal office hours at the main reception desks in the Civic Centres at Neath and Port Talbot, The Quays, Baglan and Pontardawe Library.

Any comments should be submitted in writing to reach the Head of Engineering and Transport, Neath Port Talbot County Borough Council, The Quays, Brunel Way, Baglan Energy Park, Neath, SA11 2GG by 12th August 2014.

Should you require any further information please contact my officer on the above telephone number.

Yours faithfully,

For Head of Engineering and Transport
Enc

Environment
Yr Amgylchedd

www.npt.gov.uk

David W Griffiths
Head of Engineering & Transport
The Quays, Brunel Way, Baglan Energy Park,
Neath SA11 2GG
Tel: 01639 686868 Fax: 01639 686100

The Council welcomes
correspondence in English or Welsh

David W Griffiths
Pennaeth Peirianeg a Chludiant
Y Ceiau, Ffordd Brunel, Parc Ynni Baglan,
Castell-nedd SA11 2GG
Ffôn 01639 686868 Ffacs 01639 686100

Mae'r Cyngor yn croesawu gohebiaeth
yn y Gymraeg neu'r Saesneg



ENVIRONMENT AND HIGHWAYS CABINET BOARD

REPORT OF THE HEAD OF ENGINEERING AND TRANSPORT – D.W. GRIFFITHS

13TH NOVEMBER 2014

SECTION A– MATTER FOR DECISION

WARD(S) AFFECTED: ABERAVON

PROPOSED PROHIBITION OF WAITING AT ANY TIME ORDER PEMBROKE TERRACE AND WATER STREET, PORT TALBOT

Purpose of Report

To consider the response received, following the advertisement of the proposed no waiting at any time order as indicated in Appendix A, and whether to implement the traffic regulation order as illustrated in Appendix C.

Background

The scheme is necessary to improve the visibility for vehicles entering and leaving Pembroke Terrace at its junction with Water Street, Port Talbot.

In July 2014 the proposals were advertised at the same time a consultation exercise was undertaken to all properties affected by the scheme. Appendix B.

Screening Assessment has been undertaken to assist the Council in discharging its Public Sector Equality Duty under the Equality Act 2010. After completing the assessment it has been determined that this function does not require an Equality Impact Assessment.

Financial Implications

At the start of the financial year funding of £2k was allocated for this scheme as part of the 2014-15 Capital Works Programme.

Consultation Outcome

List of Consultees

Councillor C. P. Golding
Councillor M. Jones
Councillor A. Taylor

Residents affected by proposal.

Following the consultation exercise 1 letter of objection was received. A summary its contents are listed below.

Letter 1 stated reason for objection:

- The resident stated that he is not happy with the scheme as he has lived at 190 Water Street for seven years and that the proposed double yellow lines is taking away his right to park outside of his property.

Observation of Objections

The scheme was designed to allow 10 metres visibility either side of Pembroke Terrace at its junction with Water Street using the guidelines as per the Highway Code. The proposed double yellow lines extend 8 ½ metres in front of 192 Water Street and a further 1 ½ metres in front of the objectors property.

Sustainability Appraisal

It is envisaged that the proposals will improve the visibility for all road users in the Pembroke Terrace/Water Street area with a view to improving road safety.

Recommendation

It is recommended having due regard to the Equalities Impact Assessment screening, that:

1. The objection be upheld and that the objector be advised accordingly;
2. That the double yellow lines are withdrawn from the front of 190 Water Street but the remainder of the Legal Order be progressed as advertised, Appendix C.

Reasons For Proposed Decision

The reduction of the double yellow lines from 10 metres in length to 8 ½ metres in length should not unduly affect the visibility of road users in the Pembroke Terrace/Water Street area.

There is no requirement to re-advertise due to the minor alteration to the scheme.

List of Background Papers

TR25
Equality Impact Assessment Screening Form

Appendices

Appendix A
Appendix B
Appendix C

Officer Contact

Daniel Long – Senior Technician
Tel No. 01639 686488
E-mail: d.long@npt.gov.uk

COMPLIANCE STATEMENT

PROPOSED PROHIBITION OF WAITING AT ANY TIME ORDER PEMBROKE TERRACE AND WATER STREET, PORT TALBOT

(a) **Implementation of Decision**

The decision is proposed for implementation after the three day call-in period.

(b) **Sustainability Appraisal**

Community Plan Impacts

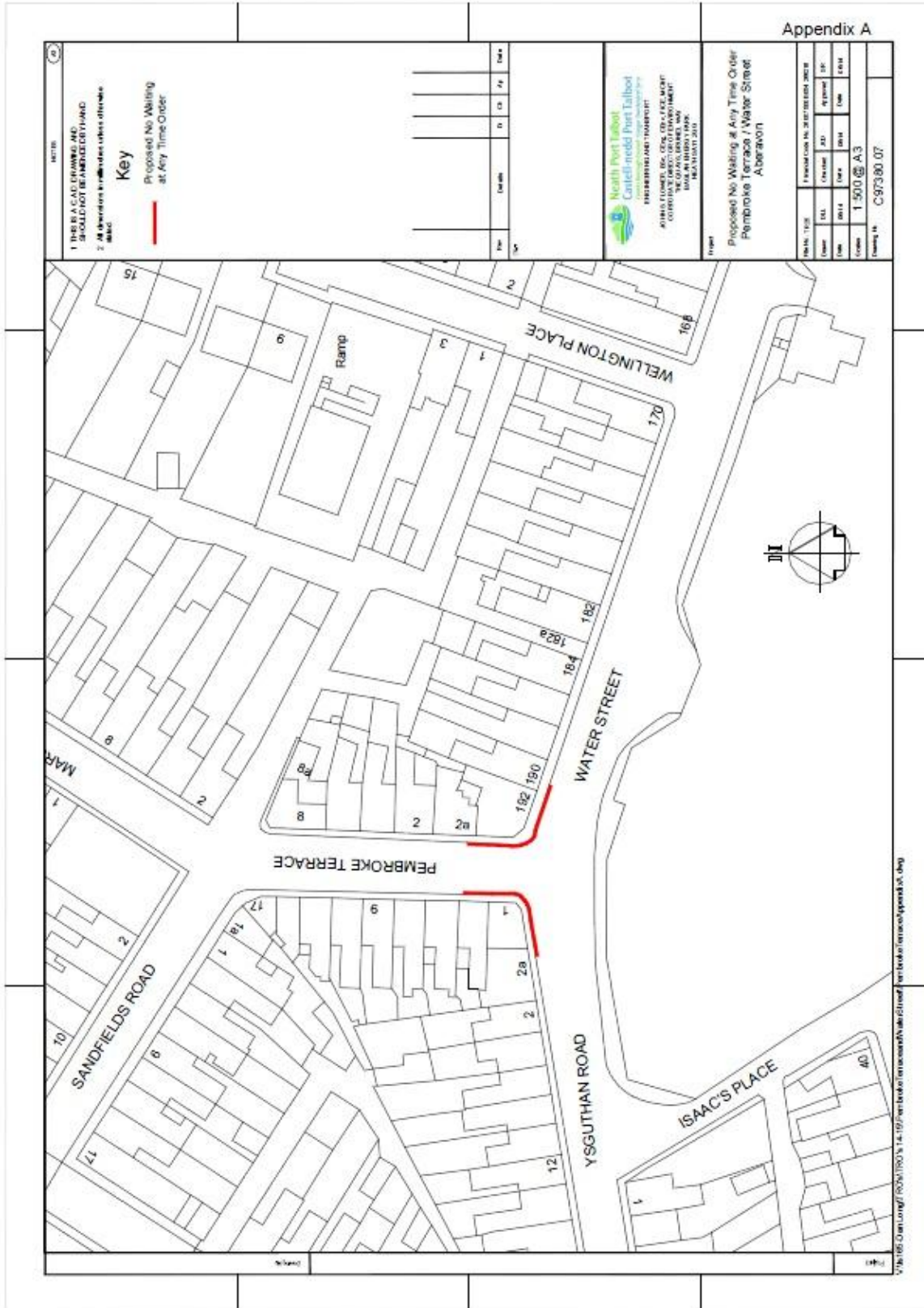
Economic Prosperity	-	No Impact
Education and Lifelong Learning	-	No Impact
Better Health and Well Being	-	No Impact
Environment and Transport	-	Positive
Crime and Disorder	-	No Impact

Other Impacts

Welsh Language	-	No Impact
Sustainable Development	-	Positive
Equalities	-	Positive
Social Inclusion	-	Positive

(c) **Consultation**

The item has been subject to external consultation.





25th July 2014 Date Dyddiad
01639 686488 Direct Line Rhif Ffôn
d.long@npt.gov.uk email ebost

Mr D L Long Contact Cyswilt
TR25/DLL/SD Your Ref Eich Cyf
Our Ref Ein Cyf

The Occupier

Tr Appendix B

Dear Sir/Madam,

**Re: Prohibition of Waiting at Any Time
Pembroke Terrace and Water Street, Aberavon**

It is the intention of Neath Port Talbot County Borough Council to implement the Prohibition of Waiting at Any Time Order as indicated on the attached plan.

A copy of the proposed Order, Statement of Reasons and an appropriate plan may be inspected during normal office hours at the main reception desks in the Civic Centres at Neath and Port Talbot, The Quays, Baglan and Pontardawe Library.

Any comments should be submitted in writing to reach the Head of Engineering and Transport, Neath Port Talbot County Borough Council, The Quays, Brunel Way, Baglan Energy Park, Neath, SA11 2GG by 15th August 2014.

Should you require any further information please contact my officer on the above telephone number.

Yours faithfully,

For Head of Engineering and Transport
Enc

Environment
Yr Amgylchedd

www.npt.gov.uk

David W Griffiths
Head of Engineering & Transport
The Quays, Brunel Way, Baglan Energy Park,
Neath SA11 2GG
Tel: 01639 686868 Fax: 01639 686100

The Council welcomes
correspondence in English or Welsh

David W Griffiths
Pennaeth Peirianeg a Chludiant
Y Ceiau, Ffordd Brunel, Parc Ynni Baglan,
Castell-nedd SA11 2GG
Ffôn 01639 686868 Ffacs 01639 686100

Mae'r Cyngor yn croesawu gohebiaeth
yn y Gymraeg neu'r Saesneg





This page is intentionally left blank

ENVIRONMENT AND HIGHWAYS CABINET BOARD

REPORT OF HEAD OF ENGINEERING AND TRANSPORT

13TH NOVEMBER 2014

SECTION B– MATTER FOR INFORMATION

WARD(S) AFFECTED: None

AWARD TO CIVIL ENFORCEMENT OFFICER

Purpose of Report

To bring to Members attention to an award presented by South Wales Police to one of the Authority's Civil Enforcement Officers.

Background

Police Officers and members of the public who have made an extraordinary contribution to the community in Swansea and Neath Port Talbot were recognised at a recent awards ceremony. One of the recipients was a Civil Enforcement Officer employed by the Authority.

On the afternoon of 22nd April 2014 Christopher Simmons along with PCs Robert Bending and Andrew Hedley performed CPR on a man who had collapsed in St Mary's car park in Port Talbot, their actions gave paramedics the best opportunity to save the man's life.

The brave and quick-thinking Traffic Warden was praised for giving emergency treatment to an elderly man who had collapsed in Port Talbot.

The enforcement officer was on duty in the town centre when a man in his 70s, travelling with his wife, suffered a suspected cardiac arrest, at St Mary's car park near the bus station.

An eye-witness said a young male traffic warden rushed to help the man and gave him swift medical help.

"He performed CPR on the man until the paramedics, including the air ambulance, arrived," she said.

"He was the only person to step forward and help while a crowd gathered and just watched.

"It was the brave actions and quick-thinking of the officer that saved this man's life," she said.

It is proposed that a photo is taken with the Leader and Director of Environment in recognition of the award.

Appendices

None

List of Background Papers

Not applicable

Officer Contact

Steve Cook, Parking Manager
Tel.No. 01639 6863968
E.Mail: s.cook@npt.gov.uk

ENVIRONMENT AND HIGHWAYS CABINET BOARD

REPORT OF HEAD OF ENGINEERING AND TRANSPORT

13TH NOVEMBER 2014

SECTION B– MATTER FOR INFORMATION

**WARD(S) AFFECTED: MARGAM
PORT TALBOT**

PORT TALBOT PARKWAY RAILWAY STATION – COMMUNITY AWARD – KIER CONSTRUCTION

Purpose of Report

To inform Members of the CIRIA ‘BIG Challenge’ Community Engagement Award won by Kier, contractors on the Port Talbot Parkway Station development.

Background

Kier are the contractors for Network Rail constructing the Port Talbot Railway Station development. They have recently received a Community Engagement Award from CIRIA (the Construction Industry Research and Information Association) for their work entitled ‘Discovering What Birds Like to Eat: Port Talbot Railway Station’.

This is testimony to the time and effort Kier took to engage with Central Junior School for Rail Week, which includes the wildlife workshops, safety related activities, safety poster competition for the dangers of level crossings and construction sessions with straws etc.

Delivering to approximately 226 children over 3 days Kier has run several workshops on ‘wildlife and the environment’ with the children at the School. The aim of workshops was to inspire and demonstrate the importance of looking after and understanding the local wildlife and environment as well as introducing hands on activities including making bird feeders and dissecting owl pellets.

An important aspect of the workshops included enhancing the pupil's awareness about the dangers of playing on/near building sites and railways to ensure the children living near our sites are kept safe.

Further information can found at <http://www.bigchallenge.info/#!big-challenge-award-winners/c1nud>

Appendices

None

List of Background Papers

Not applicable

Officer Contact

Brian Biscoe, Programme and Commissioning Manager

Tel No. 01639 686915

Email: b.biscoe@npt.gov.uk

ENVIRONMENT AND HIGHWAYS CABINET BOARD

REPORT OF THE HEAD OF CORPORATE STRATEGY AND DEMOCRATIC SERVICES

13TH NOVEMBER 2014

SECTION B – MATTER FOR INFORMATION

WARDS AFFECTED: PONTARDAWE

OFFICER URGENCY ACTION - GLYNTEG HOUSE, GELLIGRON ROAD, PONTARDAWE

The following urgency decision has been determined by the Head of Engineering and Transport in consultation with the requisite Members, for immediate implementation. There is no call-in of this matter.

Urgency Action No: 1265

Date: 11th September, 2014

Re: Glynteg House, Gelligron Road, Pontardawe

The Urgency Action sought approval to give delegated authority to the Head of Engineering and Transport and the Head of Streetcare and such other Officers as they may authorise in order to gain entry onto private land at Glynteg House, Gelligron Road, Pontardawe, under Section 291 of the Highways Act 1980 to enable essential maintenance works to the highway wall to be undertaken, thus allowing the Council to undertake its statutory duties.

RESOLVED: that the report be noted.

This page is intentionally left blank

ENVIRONMENT AND HIGHWAYS CABINET BOARD

REPORT OF HEAD OF LEGAL SERVICES – DAVID MICHAEL

13TH NOVEMBER 2014

SECTION A – MATTER FOR DECISION

WARD AFFECTED: GLYNCORRWG

ALLEGED PUBLIC BRIDLEWAY – AVON STREET TO BRIDLEWAY 18, GLYNCORRWG

Purpose of Report

To consider an application for a public bridleway from Avon Street to Bridleway 18 Glyncorrwg.

Background

- 1.1 An application was submitted in 2008 and supported by 32 persons who claim a public bridleway exists along the route shown on the attached plan at Appendix 5. Details of how the matter was processed are detailed in Appendix 1. Of those who submitted user evidence forms, there are 25 persons, who themselves have stated they have ridden horses via this way for at least 20 years. All have said they have also walked the path.
- 1.2 The basis of the application is that through continuous and uninterrupted use, there is a presumption the way has become dedicated to the public under Section 31 of the Highways Act 1980. The relevant extract of which can be found in Appendix 2.
- 1.3 This Council is under an obligation to consider the application under the provisions of the Wildlife and Countryside Act 1981, the relevant extract being included in Appendix 3.
- 1.4 In addition to considering the tests under Section 31 of the Highways Act 1980, it is also incumbent on the Council to have regard to the possibility that presumed dedication of the way has occurred under Common Law. The tests for which are included within Appendix 4.

- 1.5 In order to consider whether the way has been the subject of a presumed dedication, it is necessary to determine the minimum period of twenty years, known as the relevant period. This is calculated by counting retrospectively from the first date at which the alleged right of way was called into question. If however, the date of the application precedes this date, then it is the application date which can be said to call into question the existence of the alleged public path.
- 1.6 One point of termination of the path is at Avon Street and is currently obstructed by a caravan and car. To the rear of both is a padlocked gate, with only sufficient room on the side to enable a person on foot to pass. As such, the route cannot be used by equestrians.
- 1.7 A site visit on the 21st October 2011 revealed a caravan only but on the 7th August 2013 a car had been parked alongside the caravan containing a note stating “permissive footpath” and denying a footpath exists. The path passes diagonally up slope immediately after passing through the gate and is only wide enough to permit one person to walk. However on an accompanied site visit, one of the Claimant said the path used to be wide enough for two people to ride alongside each other. At one point the slope on the uphill side of the path has partially collapsed which makes progress even on foot, difficult.
- 1.8 Nine people were interviewed; eight by telephone, two no longer wished to support the claim and another said he has not ridden the path at all. Four on providing further details, stated they did not ride the path for the length of time quoted in their user evidence forms. Whilst those forms reflected use of the way until 2008, after being interviewed said their use ended in 1990, 2000, 2006, 2003 or 2005. Consequently the accuracy of the remainder of the information contained in the user evidence forms may not be reliable.
- 1.9 According to the Principal Claimant, the caravan was placed across the entrance to the path in 2011 but the gate appeared in about 2005 or 2006. However, another supporter said the caravan first appeared in 2005 or 2006 but could not recall when the gate was installed. Another who said he ceased using the path somewhere between 2003 and 2005 said he does not recall seeing a gate or caravan. Consequently it is likely that either the caravan and/or gate first blocked the path in or around 2005 and so this date can be taken to be the occasion when the alleged existence of the public path was first called into question. Therefore the relevant period would be 1985-2005.

- 1.10 Even assuming the information in the other user evidence forms may not be accurate, given the number of supporters, it is fair to conclude that the way has been in use throughout this twenty year period on foot and on horseback.

Crown Land

- 2.1 The land over which the claimed bridleway passes is under the ownership of Natural Resources Wales (until recently the Forestry Commission). It was conveyed to the Minister of Agriculture, Fisheries and Food in 1963 from the Dunraven Estate. In effect, it is Crown land and unless a special agreement has been made between the Crown and the Council under the Highways Act 1980, Section 31 of the same Act (Appendix 1) does not apply (nor even to land held in trust by the Crown). There is no evidence of any special agreement under Section 327 of the Highways Act 1980. Consequently, there cannot be a presumption of dedication over this land under Section 31 for the period 1985-2005.
- 2.2 The implication therefore is that for Section 31 of the Highways Act 1980 to apply, the applicant would have to show there was presumed dedication prior to the acquisition of the land in 1963 by the Minister of Agriculture, Fisheries and Food. Therefore the relevant period for this purpose would be 1943-1963. There is no evidence of any use earlier than 1956 and so the application of Section 31 must be dismissed.

Common Land Dedication

- 3.1 The Planning Inspectorate's guidelines on "Definitive Map Orders: Consistency Guidelines provide advice that under Common Law there can be a presumption of dedication of a way over Crown land.
- 3.2 There are two distinct elements that are required to allow dedication under Common Law:
- (i) There must be positive action on behalf of the owner that clearly shows an intent to dedicate;
 - (ii) The public must use the land in a manner consistent with the intended use of dedication.

Consequently, mere use of the way with the presumed inference that the path is dedicated would be insufficient.

3.3 Since approximately 2005, a gate was placed across the path making it impossible for equestrians to continue. Natural Resources Wales have stated they have no records of the locked gate nor do they consider it is one they installed but say it could be a gate installed during an earlier time. They do not hold the key, nor have they removed the gate.

3.4 In summary, Natural Resources Wales have stated:

- (i) They have not managed the route as if it were a public right of way;
- (ii) It is not maintained by them and do not apply the tree safety inspection regime appropriate for public rights of way;
- (iii) They do not recognise use of the route has been by right, nor do they have any records of use by equestrians or bicycles. (They acknowledge members of the community have used the route as a “desire” line to reach Bridleway No. 18).

As landowners their position is that they do not nor have ever taken any measures to show any intent to dedicate the path as a public one. Consequently, it cannot be presumed that the present owners have ever taken any proactive measures to encourage or enable public use of the path.

3.5 Consequently, even though it is acknowledged the path is in use, of itself use under Common Law, as already indicated, is not sufficient to raise the presumption the way has been dedicated.

Conclusion

4.1 It is evident neither a statutory presumption of dedication nor under Common Law can be inferred and so even though the application has been well supported, for the reasons already given, it cannot be concluded that the way has been dedicated to the public.

Appendices

Appendices 1,2,3,4 and Plan attached at Appendix 5 to this report.

Recommendations

That no Modification Order be made and so the application be refused.

Reasons for Proposed Decision

It cannot be concluded that the way claimed has been dedicated to the public because neither a statutory presumption of dedication nor under common law can be inferred.

List of Background Papers

Officer Contact

Mr. Iwan Davies – Principal Solicitor – Litigation

Tel No: 01639 763151

Email: i.g.davies@npt.gov.uk

COMPLIANCE STATEMENT

ALLEGED PUBLIC BRIDLEWAY – AVON STREET TO BRIDLEWAY 18, GLYNCORRWG

(a) Implementation of Decision

The decision is proposed for implementation after the three day call-in period.

(b) Sustainability Appraisal

Community Plan Impacts

Economic Prosperity	..	No Impact
Education & Lifelong Learning	..	No Impact
Better Health & Wellbeing	..	No Impact
Environment & Transport	..	No Impact
Crime & Disorder	..	No Impact

Other Impacts

Welsh Language	..	No Impact
Sustainable Development	..	No Impact
Equalities	..	No Impact
Social Inclusion		No Impact

(c) Consultation

This item has been subject to external consultation

APPENDIX 1

- (a) The applicant was unable to provide information on the ownership of the land so notices addressed to the owner/occupier were posted on site.
- (b) The application as with any other is subject to its level of priority at the time of its making. As such it could not be processed until October 2011.
- (c) A site visit was undertaken on the 21st October 2011 with the letters being sent in December 2011 and January 2012 to nineteen claimants requesting further information.
- (d) Only four responded; one said he had no knowledge of the claim; one was no longer interested; one had not ridden the route since 1990 and another had not used the route since 2001. Therefore due to the inadequate response and the lack of evidence, it was not possible to evaluate the validity of the application.
- (e) The principal claimant did not respond until April 2012 and did not attend a pre-arranged interview the following year in August 2013.
- (f) A further fourteen letters were sent to Claimants on the 2nd and 4th May 2012, but only four people responded, one of whom stated he had not ridden the path.
- (g) Clarification was sought from the Forestry Commission in May 2012 as to whether they could prove they have title to the land and on what basis they object. No clarification was received at that time.
- (h) In addition a further nine letters were sent to claimants on the 17th May 2012, 19th November 2012 and 16th July 2013. One claimant responded and was interviewed. A further email to the Forestry was sent on the 1st August 2013 to which a response was received on the 12th September 2013 showing their land ownership of the path.

HIGHWAYS ACT, 1980

Section 31. Dedication of way as a highway presumed after public use for 20 years.

Where a public way over land, other than a way of such a character that use of it by the public could not give rise at common law to any presumption of dedication, has actually been enjoyed by the public as of right and without interruption of a full period of 20 years, the way is deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during this period to dedicate it.

For Section 31(1) Highways Act, 1981 to operate and give rise to a presumption of dedication the following criteria must be satisfied:

- the physical nature of the path must be such as is capable of being a public right of way
- the use must be 'brought into question', i.e. challenged or disputed in some way
- use must have taken place without interruption over the period of twenty years before the date on which the right is brought into question
- use must be *as of right* i.e. without force, without stealth or without permission and in the belief that the route was public
- there must be insufficient evidence that the landowner did not intend to dedicate a right of type being claimed
- use must be by the public at large

WILDLIFE AND COUNTRYSIDE ACT, 1981

Section 53 Duty to keep the Definitive Map and Statement under continuous review.

- (2) As regards every Definitive Map and Statement, the Surveying Authority shall:
 - (a) as soon as reasonably practical after commencement date, by order make such modifications to the map and statement as appear to them to be requisite in consequence of the occurrence, before that date, of any of the events specified in Sub-Section 3; and
 - (b) as from that date, keep the map and statement under continuous review and as soon as reasonably practicable after the occurrence on or after that date, of any of those events, by order make such modifications to the map and statement as appear to them to be requisite in consequence of the occurrence of that event.

- (3) The events referred to in Sub-Section 2 are as follows:
 - (b) the expiration, in relation to anyway in the area to which the map relates of any period such that the enjoyment by the public of the way during that period rises a presumption that the way has been dedicated as a public path or restricted byway;
 - (c) the discovery by the Authority of evidence which (when considered with all other relevant evidence available to them) shows:
 - (i) that a right of way which is not shown on the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path, a restricted byway or, subject to Section 54A a byway open to all traffic;
 - (ii) that a highway shown in the map and statement as a highway of a particular description ought to be there shown as a highway of a different description;
 - (iii) that there is no public right of way over land shown in the map and statement as a highway of any description or any other particulars contained in the map and statement require modification.

DEDICATION UNDER COMMON LAW

No minimum period of use is required, but the claimants must show that it can be inferred by the landowners conduct, that he or she had actually dedicated the route. User of right, is not of itself necessarily sufficient. Under statute, twenty years, if proved to have been uninterrupted will be sufficient to show presumed dedication.

Under common law it is still possible that use was due to the landowners tolerance rather than because that landowner had intended to dedicate. Consequently there needs to be evidence that the landowner (or owners) for whatever period is being considered, acquiesced to that use and took measures to facilitate public use.

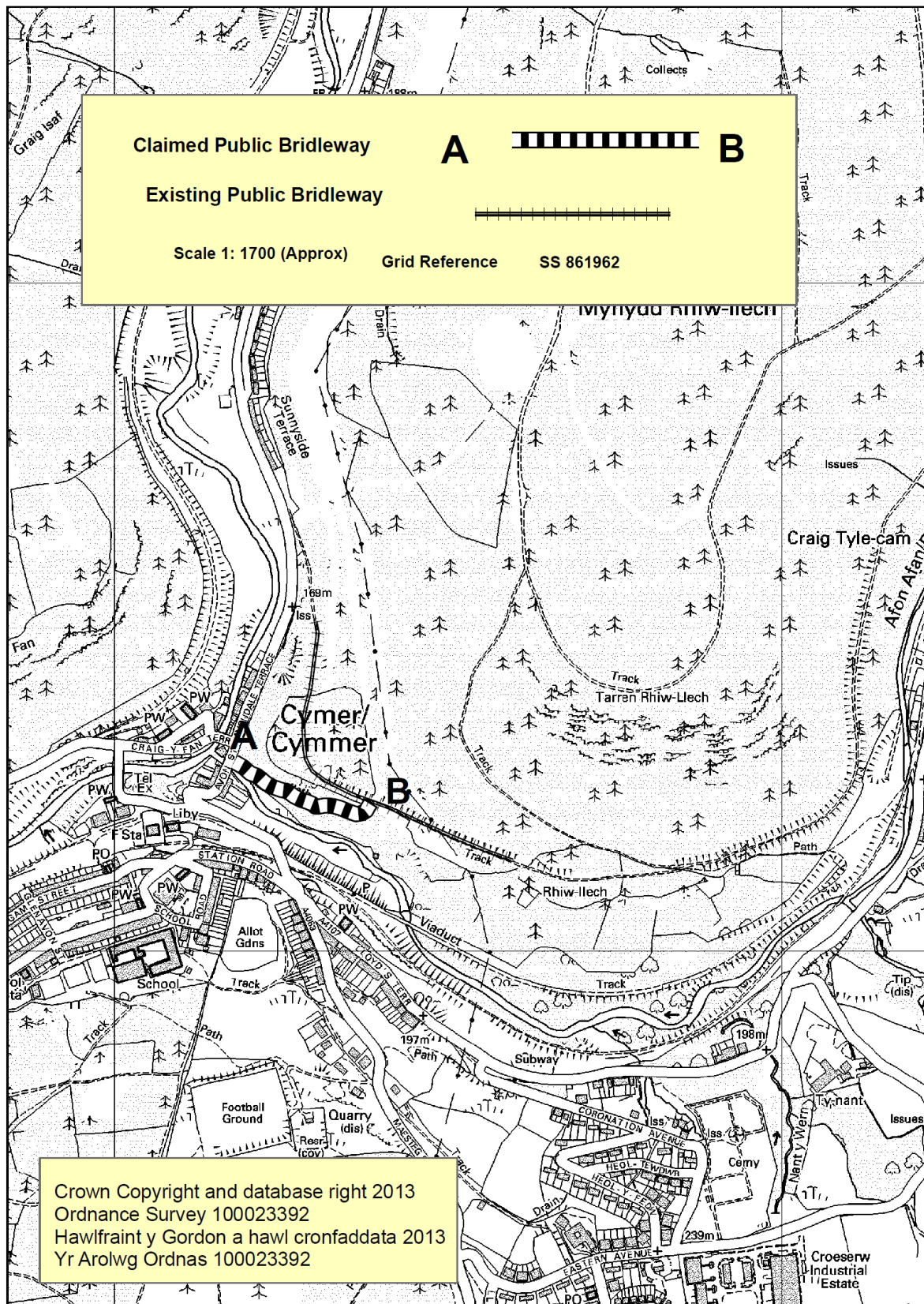
Obviously this means the landowners have to be identified and evidence that they wished to have the route dedicated to the public.

No minimum period of use is required, but the claimants must show that it can be inferred by the landowners conduct, that he or she had actually dedicated the route. Use is not of itself necessarily sufficient as opposed to section 31 of the Highways Act 1980 where after twenty years, if proved to have been uninterrupted will be sufficient to show presumed dedication.

Under common law it is still possible that use was due to the landowners tolerance rather than because that landowner had intended to dedicate. Consequently there needs to be evidence that the landowner (or owners) for whatever period is being considered, acquiesced to that use and took measures to facilitate public use.

This means the landowners have to be identified and that there is evidence to show they wished to have the route dedicated to the public.

APPENDIX 5 - PLAN



This page is intentionally left blank

ENVIRONMENT AND HIGHWAYS CABINET BOARD

REPORT OF HEAD OF LEGAL SERVICES – DAVID MICHAEL

13TH NOVEMBER 2014

SECTION A – MATTER FOR DECISION

WARD AFFECTED: GLYNNEATH

ALLEGED PUBLIC FOOTPATHS FROM PARK AVENUE, ROBERT STREET AND ADDOLDY ROAD, COMMUNITY OF GLYNNEATH

Purpose of Report

To consider making a Modification Order to add three public footpaths at the site of the Miners Welfare Hall Glynneath.

Background

- 1.1. On the 17 February 2011 this Board agreed to make a Modification order to recognise the paths shown on the attached plan as public footpaths. A copy of that report is attached at Appendix 1 and the plan is attached at Appendix 2.
- 1.2 The Land over which the claimed path crosses is subject to an approved planning application granted on the 19th November 2009.(ref P2007/1648)
- 1.3 The drawings of the new layout of the site showed the Developer was going to accommodate the modification order route within the development. Given there were slight variations to its alignment it would have been possible to divert the path without first having to make the modification order. This could be done provided there was general agreement between the path users, the landowner and this Council.

However the possible development did not proceed and so the Modification Order was made on the 21 June 2012 in accordance with the original decision by the Board. However that Order contained some errors and so was never advertised in the local press nor served on the statutory consultees. As such another modification order will have to be made.

The relevant date of a Modification order as determined by this Council cannot be more than six months earlier than its making. Consequently authority will be required to re-make the Order as prescribed and recommended previously.

A site inspection was made on the 14th August 2013 when it was evident that no building or preparatory works have yet started. Therefore the position has not changed since February 2011.

Appendices

Appendix 1 – copy of report of 17th February 2011 and copy of Plan at Appendix 2.

Recommendation

That a Modification Order be made in accordance with the decision of this Board of the 17th February 2011 and if no objection so are made to confirm the same as an unopposed order.

Reasons for Proposed Decision

Sufficient evidence has been provided to reasonably allege that these rights of way subsist and that a Modification Order should be made.

List of Background Papers

None

Officer Contact

Mr. Iwan Davies – Principal Solicitor – Litigation
Tel No: 01639 763151
Email: i.g.davies@npt.gov.uk

COMPLIANCE STATEMENT

ALLEGED PUBLIC FOOTPATHS FROM PARK AVENUE, ROBERT STREET AND ADDOLDY ROAD, COMMUNITY OF GLYNNEATH

(a) Implementation of Decision

The decision is proposed for implementation after the three day call0-in period.

(b) Sustainability Appraisal

Community Plan Impacts

Economic Prosperity	..	No Impact
Education & Lifelong Learning	..	No Impact
Better Health & Wellbeing	..	No Impact
Environment & Transport	..	No Impact
Crime & Disorder	..	No Impact

Other Impacts

Welsh Language	..	No Impact
Sustainable Development	..	No Impact
Equalities	..	No Impact
Social Inclusion	..	No Impact

(c) Consultation

This item has been subject to external consultation

**ENVIRONMENT AND HIGHWAYS CABINET BOARD
17TH FEBRUARY 2011**

**REPORT OF THE HEAD OF LEGAL & DEMOCRATIC SERVICES –
MR. D. MICHAEL**

INDEX OF REPORT ITEM

PART 1 – Doc Code: EHB-170211-REP-FS-DM

SECTION A – MATTER FOR DECISION		
Report Item	Page Nos.	Ward Affected
1. Alleged Public Rights of Way, Park Avenue, Gelliceibryn, Robert Street and Addoldy Road in the Community of Glynneath	2-20	Glynneath

PART 1
SECTION A, ITEM 1

**ALLEGED PUBLIC RIGHTS OF WAY PARK AVENUE,
GELLICEIBRYN, ROBERT STREET AND ADDOLDY ROAD IN THE
COMMUNITY OF GLYNNEATH**

PURPOSE OF REPORT

To consider making a modification order to add three public footpaths at the site of the Miners Welfare Hall in Glynneath.

INTRODUCTION

The application is for a Modification Order to add three public footpaths to the Definitive Map and Statement through the site at the Miners Welfare Hall being (i) Gelliceibryn to the main road, Park Avenue (A-F) (ii) Robert Street to Welfare Hall and Park Avenue (A-E) and (iii) Park Avenue to Addoldy Road (A-C-B1-B). The routes being claimed are shown on the attached plan.

The applications were made by a Mrs Marion Rees of 17 Rock Street, Glynneath on 10th March 2003 and 14th October 2004.

Ninety-six (96) claimants submitted evidence forms and statements in support of the application alleging an average use of 40.47 years of the paths. The claimants lived in 27 different roads/streets. Plans marked 'No.2' 'No.3' and 'No.4' are attached showing by way of coloured dots the distribution of the claimants and the position of various schools and churches/chapels in the area.

An application for planning permission reference P2007/1648 was submitted on 22nd November 2007 by Mr Malcolm Roe, the former owner, with a Full Plans Approved Decision Date of 19th November 2009. The planning application is to build 18 residential dwellings which implemented would impact on the alleged public rights of way.

INFORMAL CONSULTATIONS

All the usual organisations and consultees have been contacted including Glynneath Community Council and the Local Members. Councillor Dr Morgan has offered his support for the claims and one objection was submitted by Mr Roe, the former landowner.

The land was sold to Bridgend Plant Limited on 18th August 2010. In correspondence from their Architects, Jenkins Gould Partnership, dated 21st December 2010 they have advised that they are in complete agreement with the proposals for the public footpaths. See letter attached at Appendix VI

LEGAL PRINCIPLES

Under the provisions of the Wildlife and Countryside Act 1981 Section 53(2), this Council is obliged to keep the Council's record of public rights of way, known as the Definitive Map and Statement under continuous review. Claims for additions to the Map and Statement are called "Schedule 14 applications" as they are made under this provision to the 1981 Act. They often are based on the public being able to demonstrate their long-term use of the path whether by showing:

- (a) the minimum period of twenty years, as is required by Section 31 of the Highways Act;
- (b) a greater or lesser period than twenty years but under common law;

The Council is also obliged to make amendments to the Map and Statement where it discovers other evidence that shows a public path exists.

The manner by which the Definitive Map and Statement can be changed is by making a Modification Order, which modifies that Map and Statement. That Order will be subject to objections and representations but can only be confirmed by this Council if it is unopposed. If it is opposed the Order has to be referred to the National Assembly for Wales for determination.

In terms of applications to add routes, under the provisions of Section 31 to the Highways Act 1980 (Appendix 1) a public right of way will be deemed to have been dedicated to the public if a minimum period of twenty years uninterrupted use can be shown to have been enjoyed by the public provisions of Section 53(b) to the Wildlife and Countryside Act 1981 therefore apply (Appendix II)

This twenty year period is calculated by counting retrospectively from the first occasion the public's alleged right to use the way was brought into question. This usually happens when the path is blocked by something like a locked gate or fence. When the twenty year period has been identified it is usually termed the "relevant period". If there is no physical barring of the way then the relevant period is counted retrospectively from the date a Schedule 14 application is made.

Another means by which a path may be presumed to have been dedicated is under common law (Appendix III). In these circumstances the landowner

would have to show that he or she had not just acquiesced to public use but in some way facilitated or encouraged that use. The owner of all the land containing the claimed public path would therefore have to be identified but the period of use need not necessarily be twenty years and could be for a lesser period.

In addition, the Council may discover other evidence which suggests a public path exists. Under the provision in Section 53(3)(c)(i) to the Wildlife and Countryside Act 1981, a Council is obliged to make a Modification even if it is only reasonable to allege such a way exists (Appendix II). Such evidence could include user evidence and/or documentary evidence.

In order to decide whether a public right of way exists, it is necessary to identify a minimum period of twenty years' use which will satisfy the provisions of Section 31 of the Highways Act 1980 (Appendix 1). This period is calculated by counting retrospectively from the first occasion the public's alleged right to use the way was brought into question. This usually occurs when the path is blocked or that use is challenged by someone. The evidence suggests that this occurred on 28th August 2004

THE PLANNING CONSENT

The former owner of the land to which the planning is subject, Mr Malcolm Roe, objected to the applications for the registration of the footpaths. However, as previously stated above, the new owner is in complete agreement with the proposals for the public footpaths.

The affect on the claimed paths with regard to the planning permission is that there are conditions attached, in particular, Condition 19 which states that *'Prior to commencement of work on site a scheme shall be submitted to and approved in writing by the Local Planning Authority showing safeguarded alleged rights of way within the curtilage of plot 7 and plot 17. Reason In the interests of clarity'*. Plot 7 and Plot 17 relate to the routes marked at Point 'F' and 'D' on plan No.1.

THE USER EVIDENCE IN GENERAL

Of the ninety-six (96) claimants initially supporting the application the evidence of sixty-four (64) cannot be relied upon as there were one or more reasons why their evidence could not be utilised. These include the following reasons: three (3) are now deceased; fourteen (14) no longer live at their address; nine (9) were under twenty years of age; five (5) did not complete their Information Sheet; eleven (11) did not use as a highway to a highway; sixteen (16) have not

responded to correspondence; three (3) did not want to go to an Inquiry; one (1) did not want to be interviewed; one (1) was not a resident; one (1) was not a resident and had insufficient usage.

There are now thirty-two (32) claimants who are continuing to support the application and these allege an average use of 46.63 years. These include twenty-six (26) who have provided interviews, two (2) of which have moved to Cwmgwrach but still support the claim; one (1) is no longer at their address; two (2) include a special user group

The principal claimant said she maintains a section of path immediate west of Rock Street outside her home and cuts back the hedge. She mentioned that Neath Port Talbot Borough Council used to clear the path from Park Avenue (Point A) to Gelliceibryn (Point F). Some claimants were not sure who maintained the paths whilst other claimants stated that maintenance was possibly carried out by Neath Port Talbot Borough Council, or the Miners' Welfare Committee or local villagers. One claimant stated that the Community Council maintained up to 1992.

Four (4) claimants at two addresses in Rock Street have their gardens adjacent to one path. Connections to the path are by way of a gate and the other by open garden although it is stated that they have also accessed the claimed routes from highway to highway. It could be said that they are likely to be exercising a private right of access rather than a public right.

Ten (10) of the twenty-six people interviewed live in close proximity to the lane. The question therefore is whether their use represents that of the general public or whether the claimants could be classed as a special user group. A special user group is defined in more detail in Appendix IV but it means a group of people who live in close proximity to the path and for whom the path provides a useful means of access.

Twenty-six claimants (26) were interviewed of which fourteen (14) live in close proximity to the routes and so could be said to represent a special user group; twelve (12) claimants reside in and around the Glynneath area.

Of the twenty-six (26) claimants interviewed one (1) person no longer lived at their address and two (2) did not wish to attend an Inquiry. All stated that the routes are used and they regularly see others using it on foot, especially schoolchildren and adults to access the various nearby schools. Vehicular access is also used from Point A to access the library and Trem-y-Glyn Nursing Home.

None have said they have ever required permission to use the paths and said they have not been challenged. The first time they have been aware of a challenge was when the Welfare Hall at point D was demolished in 2004 and railings and gates were erected by Mr Roe, the former landowner, preventing access to the area. Gates were placed initially around the Welfare Hall during demolition but later moved to Point C. A gate was also placed at the passageway to Robert Street at Point D. Railings were erected at the entrance to Gelliceibryn at Point F and railings were also placed on the west side of the car park leading up to the gates at Point C. One claimant mentioned seeing 'Private Land' Notices but did not state where these were exactly situated.

All or some of the railings and gates were later removed or opened with sections of the railings being cut out by persons unknown.

All those interviewed stated that there was always open access through the routes. One claimant stated that access was available 'day and night' with a further claimant stating that they had 'midnight picnics' within the area.

It has been stated by many claimants that there used to be a shop (Doyle's shop) adjacent to the passageway at Points D to E which the local community often visited especially on the way to the Welfare Hall Cinema and the Concert Hall in Park Avenue (exiting at Point A).

Claimants stated that even though there were double gates at Park Avenue (Point A) and Addoldy Road (Point B) which may have been locked at certain times there were also kissing/turnstile gates alongside at both points which were always open. Kissing/turnstile gates were also located at Welfare Hall to Robert Street (Points D-E) and at Gelliceibryn (Point F). Details of these by the claimants interviewed are shown in Appendix V with various comments.

A letter received on behalf of Glynneath Town Council dated 3rd September 2009 states that:-

'the gates at the Addoldy Road entrance to the Welfare Park at Glynneath have always been open. They were never closed from mid 1980's up to 2004/5'.

Some claimants mentioned further gates which were located near Earlsfield Close, which leads on to Park Avenue, the remnants of the posts having been incorporated into residential properties. Claimants also mentioned railings along the path from F to D.

Evidence that the park was open at all times prior to 2004 is shown by the Notice on the wall of the park at Addoldy Road (Point B). Although certain letters are missing from the Notice it is still capable of clarity and warns that

‘Members of the public using the footpath through the park after lighting up time do so at their own risk’.

THE CLAIMED ROUTES

As to Gelliceibryn to main road, Park Avenue: Points F-A

The claimed route begins at Point F as a pedestrian path with a concrete surface and heads in a South Easterly direction for approximately 260 metres passing to the east of the site of the former Welfare Hall. At Point D the path passes the entrance to another claimed route before continuing near the Trem-y-Glyn Home. The path then becomes a pedestrian/vehicular route continuing past the Library and finally exiting on to Park Avenue Point A.

The path from Point F to Points D, C and A being registered under Title Numbers CYM37769 and CYM72357 to Bridgend Plant Limited of Brodawel, Coychurch, Bridgend, CF35 5BU.

Thirteen (13) claimants have used this route for an average of 39.92 years their reasons include access for local schools, connecting roads, the bus stop, the chapel, to visit friends, the Post Office, the village, the local club, for walking, to go shopping, dog walking and canvassing.

Routes have also been used to attend the library, park and Trem-y-Glyn Nursing Home.

Two properties with four claimants have gardens backing onto one of the routes and so they could be said to be exercising a private right rather than a public right. One property (one claimant) does not use the routes so much nowadays.

There is evidence from the majority of evidence sheets obtained that the routes have always been open. Even though there were large gates at Point A (Park Avenue) which were locked at certain times there were also kissing/turnstile gates to the side of these which remained open.

Conclusion:

It is evident the period of use needed to show presumed dedication can be satisfied.

No evidence has been forwarded to refute the allegation that such dedications have occurred. In fact, some members of Glynneath Town Council confirm that the routes have been used for a considerable amount of years.

There are a significant number of people living outside the immediate vicinity of the paths to show that the routes have been used by the general public.

Consequently, on the balance of probabilities, there is sufficient evidence to conclude that public footpaths exist via the routes claimed.

As to Robert Street to Welfare Hall and Park Avenue: Points E-A

The claimed route begins at Point E from Robert Street as a pedestrian lane with a concrete surface and heads in a South Westerly direction for approximately 30 metres to Point D being the exit to the lane and the area where the now demolished Miners' Welfare Hall was situated. The pedestrian route continues to Point C where it opens into a pedestrian and vehicular area exiting on to Park Avenue (Point A) being for a further distance of 130 metres.

From Point E to Point D the ownership is unknown but may belong to the Abernant Estate. Enquiries have been made of the Estate's solicitors, however, the solicitors' costs for investigating Estate papers has been considered too costly by the instructing department.

Thirteen (13) claimants have used this route for an average of 43.85 years. Their reasons include to access the school, connecting roads, the bus stop, the chapel, to visit people, for walking, to go shopping and dog walking. It was also stated by one claimant that this route was often used to attend the cinema at the Welfare Hall (E-D) and the Concert Hall situated on Park Avenue (E-A).

It has been stated by many claimants that there used to be a shop (Doyle's shop) adjacent to this passageway which the local community often visited especially on the way to the Welfare Hall Cinema and Concert Hall in Park Avenue.

Some claimants have stated that there was an emergency/fire exit from the Welfare Hall for evacuation to Robert Street or Gelliceibryn.

The route has also been used to attend the library, park and Trem-y-Glyn Nursing Home

Two properties (four claimants) have gardens backing onto one of the routes and so they could be said to be exercising a private right rather than a public right. One property (one claimant) does not use the routes so much nowadays.

There is evidence from the majority of evidence sheets obtained that the routes have always been open. Even though there were large gates at Point A (Park Avenue) which were locked at certain times there were also kissing/turnstile gates to the side, which remained open.

Conclusion:

It is evident the period of use needed to show presumed dedication can be satisfied.

No evidence has been forwarded to refute the allegation that such dedications have occurred. In fact, some members of Glynneath Town Council confirm that the routes have been used for a considerable amount of years.

There are a significant number of people living outside the immediate vicinity of the paths to show that the routes have been used by the public.

Consequently, on the balance of probabilities, there is sufficient evidence to conclude that public footpaths exist via the routes claimed.

As to Park Avenue to Addoldy Road: Points A-B

The claimed route begins at Point A from Park Avenue as a pedestrian/vehicular route with a concrete/tarmac surface and heads in a North Westerly direction before changing to a Westerly direction for approximately 300 metres to Point B exiting on to Addoldy Road.

From Point A to Point D the land is registered to Bridgend Plant Limited. From Point D to Point B being approximately 215 metres the land is under the ownership of Glynneath Town Council.

All known land owners have been informed of the applications.

Eighteen (18) claimants have used this route for an average of 44.89 years which includes access for connecting routes, the bus stop, the village, the chapel, the local club, the school, to visit people, to go shopping, walking, canvassing and dog walking.

Routes also used to attend the library and park.

There is evidence from the majority of evidence sheets obtained that the routes have always been open. Even though there were large gates at Point A (Park Avenue) and Point B (Addoldy Road) which were locked at certain times there were also kissing/turnstile gates to the side of these which remained open.

Conclusion:

It is evident the period of use needed to show presumed dedication can be satisfied.

No evidence has been forwarded to refute the allegation that such dedications have occurred. In fact, some members of Glynneath Town Council confirm that the routes have been used for a considerable amount of years.

There are a significant number of people living outside the immediate vicinity of the paths to show that the routes have been used by the public.

Consequently, on the balance of probabilities, there is sufficient evidence to conclude that public footpaths exist via the routes claimed.

RECOMMENDATION

That a Modification Order be made under the provisions of Section 53 of the Wildlife and Countryside Act 1981 to register the paths shown F-A, E-A and A-B on the attached plan and if no objections are made to confirm the same as an unopposed Order.

REASON FOR PROPOSED DECISION

Sufficient evidence has been provided to reasonably allege that these rights of way subsist and that a Modification Order should be made.

LIST OF BACKGROUND PAPERS

Relevant Footpaths file.

WARD AFFECTED

Glynneath.

OFFICER CONTACT

Mr. Brian Thorne – Principal Solicitor
Tel No: 01639 763151
Email: b.thorne@npt.gov.uk

COMPLIANCE STATEMENT

ALLEGED PUBLIC RIGHTS OF WAY PARK AVENUE, GELLICEIBRYN, ROBERT STREET AND ADDOLDY ROAD IN THE COMMUNITY OF GLYNNEATH

(a) **Implementation of Decision**

The decision is proposed for implementation after the three day call-in period.

(b) **Sustainability Appraisal**

Community Plan Impacts

Economic Prosperity	-	no impact
Education & Lifelong Learning	-	no impact
Better Health & Well Being	-	no impact
Environment & Transport	-	no impact
Crime & Disorder	-	no impact

Other Impacts

Welsh Language	-	no impact
Sustainable Development	-	no impact
Equalities	-	no impact
Social Inclusion	-	no impact

(c) **Consultation**

There has been no requirement under the Constitution for external consultation on this item. Consultation however has taken place with the Community Council and interested parties.

APPENDIX I

HIGHWAYS ACT, 1980

Section 31. Dedication of way as a highway presumed after public use for 20 years.

Where a public way over land, other than a way of such a character that use of it by the public could not give rise at common law to any presumption of dedication, has actually been enjoyed by the public as of right and without interruption of a full period of 20 years, the way is deemed to have been dedicated as a highway unless there is sufficient that there was no intention during this period to dedicate it.

For Section 31(1) Highways Act, 1981 to operate and give rise to a presumption of dedication the following criteria must be satisfied:

- the physical nature of the path must be such as is capable of being a public right of way
- the use must be 'brought into question', i.e. challenged or disputed in some way
- use must have taken place without interruption over the period of twenty years before the date on which the right is brought into question
- use must be *as of right* i.e. without force, without stealth or without permission and in the belief that the route was public
- there must be insufficient evidence that the landowner did not intend to dedicate a right of type being claimed
- Use must be by the public at large

WILDLIFE AND COUNTRYSIDE ACT, 1981

Section 53 Duty to keep the Definitive Map and Statement under continuous review.

- (2) As regards every definitive map and statement, the surveying authority shall keep the map and statement under continuous review and as soon as possible after the occurrence of any of [events specified in sub section (3)] by order make such modifications to the map and statement as appear to them to be requisite in consequence of the occurrence of that event.
- (3) The events referred to in sub section (2) are as follows:-
- (b) the expiration, in relation to anyway in the area to which the map relates of any period such that the enjoyment by the public of the way during that period raises a presumption that the way has been dedicated as a public path or restricted byway;
- (c) the discovery by the Authority of evidence which (when considered with all other relevant evidence available to them) shows:
- (i) that a right of way which is not shown on the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path, a restricted byway or, subject to section 54A a byway open to all traffic;
- (ii) that a highway shown in the map and statement as a highway of a particular description ought to be there shown as a highway of a different description.
- (iii) That there is no public right of way over land shown in the map and statement as a highway of any description ,or any other particulars contained in the map and statement require modification.

DEDICATION UNDER COMMON LAW

No minimum period of use is required, but the claimants must show that it can be inferred by the landowners conduct, that he or she had actually dedicated the route. User of right, is not of itself necessarily sufficient. Under statute, twenty years, if proved to have been uninterrupted will be sufficient to show presumed dedication.

Under common law it is still possible that use was due to the landowners tolerance rather than because that landowner had intended to dedicate. Consequently there needs to be evidence that the landowner (or owners) for whatever period is being considered, acquiesced to that use and took measures to facilitate public use.

Obviously this means the landowners have to be identified and evidence that they wished to have the route dedicated to the public.

SPECIAL USER GROUPS

- (a) The Planning Inspectorate has produced advice on this matter in that they say there is no strict legal interpretation of the term ‘public’. The dictionary definition being ‘the people as a whole’ or ‘the community in general’. Arguably and sensibly that use should be by a number of people who together may be taken to represent the people as a whole/the community.

However, Coleridge LJ in *R –v- Residents of Southampton 1887* said that “‘use by the public’ must not be taken in its widest sense – for it is a common knowledge that in many cases only the local residents ever use a particular road or bridge”. Consequently, use wholly or largely by local people maybe use by the public as depending on the circumstances of the case, that use could be by a number of people who may sensibly be taken to represent the local people as a whole/the local community”.

- (b) In contrast to this view was the decision made by Lord Parke in *Poole –v- Huskinson 1834* who concluded: “there may be dedication to the public for a limited purpose....but there cannot be dedication to a limited part of the public”. This case was quoted by an Inspector in 1997 appointed to consider an application to add a public bridleway to the Definitive Map for North Yorkshire County Council. Here the route had also been in use for 40 to 50 years. That Inspector concluded: “In the case before Lord Parke, residents of the same parish were held to constitute a limited part of the public and I therefore believe the inhabitants of the Parish of Cliffs should also be held to constitute a limited part”. The Inspector refused to confirm the Order.

APPENDIX V

**POSITION OF TURNSTILE/GATES /RAILINGS AT VARIOUS POINTS
ON SITE**

Interviewee Number	POINT 'A' ON PLAN	POINT 'B' ON PLAN	POINT 'C' ON PLAN	POINT 'D' ON PLAN	POINT 'E' ON PLAN	POINT 'F' ON PLAN	COMMENTS
No.1		X				X	
No.2	X	X				X	
No.3		X				X	
No.4	X	X		X		X	Railings D-F on path
No.5	X	X		X	X	X	Remains of turnstile at tennis court area/houses
No.6							Can't remember gates; paths always open; turnstile taken down prior to 1978. Railings along Gelliceibryn
No.7						X	Not locked at any time; open access
No.8						X	Entrances not locked at any time
No.9	X	X			X	X	
No.10				X		X	Access A-B
No.11		X			X	X	
No.12						X	Handrails to point F
No.13							Paths always open
No.14	X	X				X	Remembers

							entrance also at Earlsfied
No.15						X	Points A and B always open
No.16				X			Paths always open & accessible
No.17							Paths always open & accessible
No.18		X		X		X	Always open access; used to be a kissing gate @ Earlsfield
No.19		X		X			Always open access
No.20		X		X		X	Access always open
No.21		X					Access always open
No.22	X	X					
No.23		X		X		X	
No.24		X		X		X	
No.25		X		X		X	Always open access
No.26	X	X		X		X	



21st December 2010

Our ref. JG / 10.19

Legal & Democratic Services
City & County of Swansea
Civic Centre
Oystermouth Road
Swansea
SA1 3SN



For the attention of Mrs J Shoemark

Dear Madam,

**PROPOSED RESIDENTIAL DEVELOPMENT AT OLD WELFARE HALL
SITE OFF PARK AVENUE, GLYNNEATH, NEATH**

Further to our recent telephone conversation we write to confirm that our clients Bridgend Plant Limited are completely in agreement with the proposals for the public footpaths. We enclose a copy of our proposed layout (that has already been lodged with the Planning Department of Neath Port Talbot Council) indicating the proposed footpath positions.

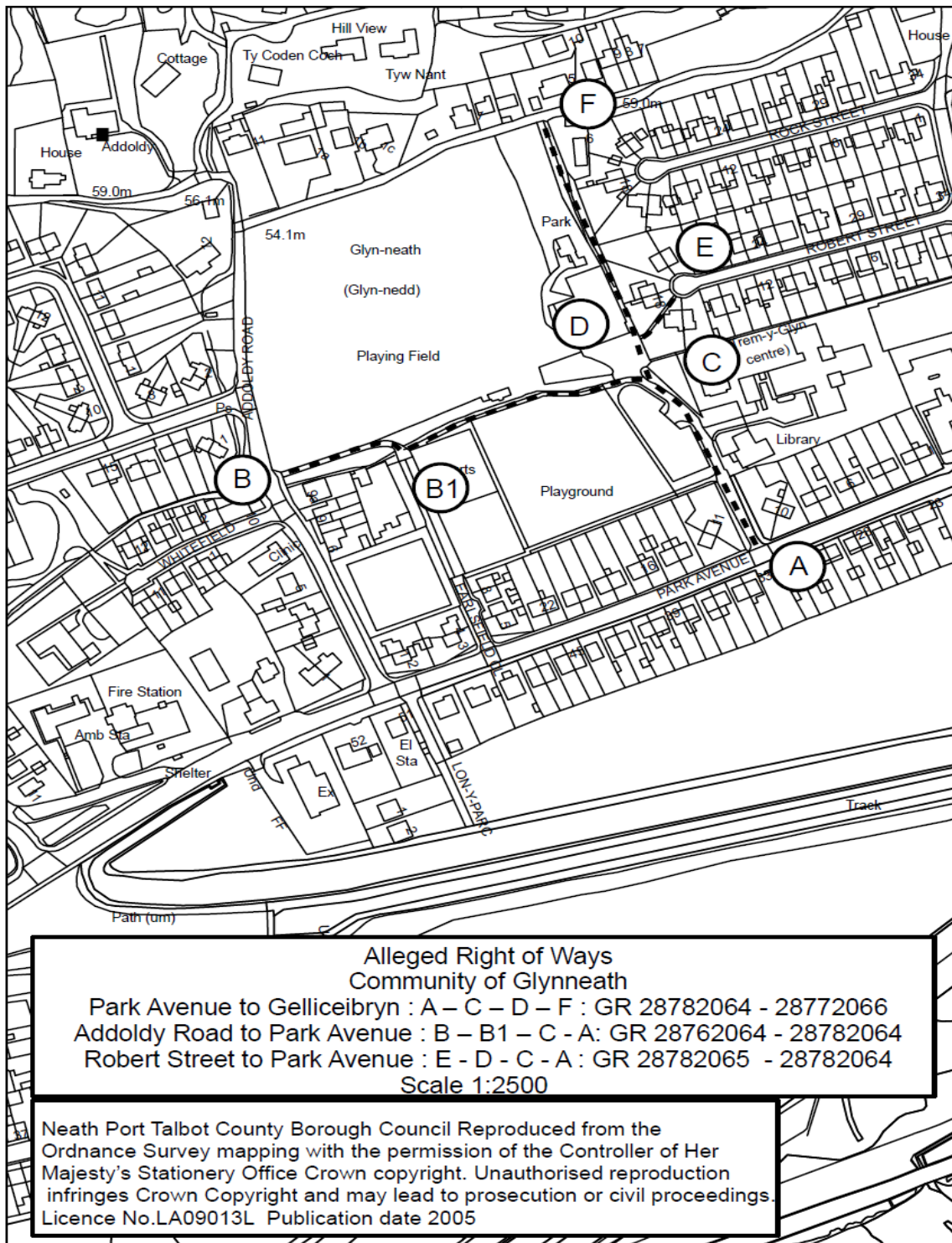
We trust that this information is satisfactory.

Yours faithfully
for Jenkins Gould Partnership

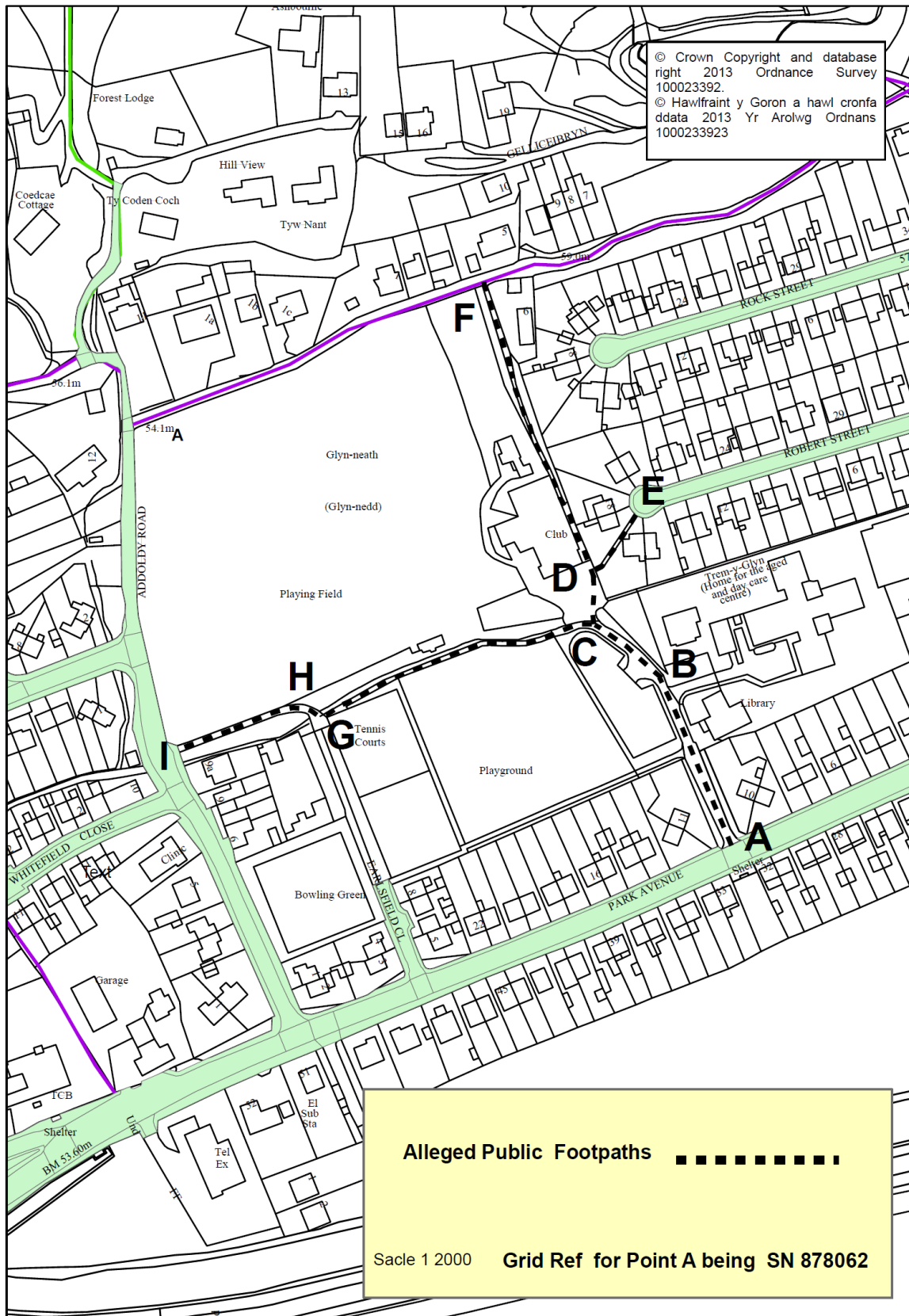

John Gould

Our Offices, Quayle Road,
Bridgend CF31 1YF
Telephone: 01626 666 894
Fax: 01626 707 831
Email: jmg@jgould.co.uk

APPENDIX VII



APPENDIX 2



This page is intentionally left blank

ENVIRONMENT AND HIGHWAYS CABINET BOARD

REPORT OF HEAD OF LEGAL SERVICES – DAVID MICHAEL

13TH NOVEMBER 2014

SECTION A – MATTER FOR DECISION

WARD AFFECTED: BLAENHONDDAN

APPLICATION TO DELETE FOOTPATH NO. 23 COMMUNITY OF BLAENHONDDAN

Purpose of Report

To consider an application to delete footpath no 23 in the community of Blaenhonddan .

Background

- 1.1. On the 27 October 2003 an application was considered by this Council to delete this public footpath on the basis it should not have been included into this Council's Definitive Map and Statement. A copy of that report has been included into Appendix 1.
- 1.2. The basis of that claim was that the path was not public in 1954, which is the relevant date of the Map and Statement. Appendix 2 provides the details of the grounds for making an application to delete a public path. Appendix 3 includes the relevant extract from the Wildlife and Countryside Act 1981 which places a duty on the Council to continually review its Definitive Map and Statement in the light of receiving any new evidence discovered or submitted to it.
- 1.3. This current application was made on the 9th May 2012 which includes additional evidence not submitted previously. The plan for this application is found before the appendices. Therefore this Council must determine the claim and take account of the previous evidence as well as the additional evidence in coming to a decision.

- 1.4. A summary of the issues dealt with in the previous report and the issues raised in this current application are included in Appendix 4
- 1.5. The decision to delete must be based on the balance of probabilities. Case law has established that significant weight should be given to the inclusion of the path into the Map and Statement. The previous report (Appendix 1 page 24) explains why there should be an initial presumption that the path is a public one. Appendix 2 to this report provides a fuller explanation.
- 1.6. Where the current application raises issues already dealt with in the previous report, reference will be made to the relevant paragraphs in that earlier report.

The Path

- 2.1. Public Footpath No. 23 commences on Main Road and proceeds via an 8 metre wide road or track for 80 metres between points A and B before continuing as a 1-2 metre wide path between points B and C. It passes under a railway bridge before crossing over the Tennant Canal via a stone footbridge to terminate on the towpath.
- 2.2. The road has also been subject to vehicular use between points A and B but is not recorded as a public carriageway. It is assumed therefore any vehicular use is limited to individuals who have a private right to drive along the road.

THE EVIDENCE

- 3.1. The current application case rests on a number of issues as follows:

Automatic extinguishment by the “Cut-off Date”

- 3.2. That the path passes over private land and no public rights existed before or after the “cut off” date of 1 January 1949. Further reference is made to this “cut off” date in relation to diversion, widening or extending the path.

Comment

The initial part of the sentence is an assertion based on the premise that if none can be shown to exist then the “cut off” provision would prevent the registration of the path after 1949.

This is a misunderstanding of current legislation. The applicant has forwarded an extract of section 53 and 54 but presumed it to be from the Wildlife and Countryside Act 1981. These provisions relate to the Countryside Act 2006 and any applications made after 2026.

Notices of Non Intent to Dedicate

- 3.3. “That notices were in place under the Rights of Way Act 1932 to prevent a right of way being established.”

Comment

Paragraph 2.6. to 2.9. from the previous report dealt with this allegation.

- 3.4. There is additional evidence from “The Joint Meeting of Neath Rural District Council with Representatives of Parish Councils relative to the question of Rights of Way 16 May 1934.”

Comment

A discussion ensued regarding the landowner’s right to be able to exercise such a discretion. Under the Rights of Way Act 1932 any landowner could erect a notice alongside a path or track to inform the public that he or she did not recognise such a public right of access existed.

- 3.5 The applicant has submitted a copy of a letter dated the 13th September 1934 from the Neath Abbey Estate to Lord Dynevor, and enclosed a schedule of the paths alongside which notices were to be erected, which from the description included what is now footpath no.23. Two types of notices were enclosed with the letter and read:

- (1) “Rights of Way Act 1932, there has been no dedication of this Way under the above Act.”
- (2) “This is a private road and the unauthorised use of the same for vehicular traffic of any kind, also bicycles is prohibited. Proceedings will be taken against offenders.”

Comment

It is not known which of the two notices were erected, precisely where along the path they were sited although the schedule of paths that were to have notices installed, compiled by the Neath Abbey Estate stated that the notice was to be placed “near the Laundry on road”.

The notice relating to unauthorised use of the road in vehicles and bicycles would have no effect on the owner’s intention to dedicate the way as a public path. The other notice would have an effect, but only for the duration the notice remained on site. However there is no evidence to show for how long which of the two notices were in place, nor for how long they were maintained on site.

- 3.6 The applicant draws attention to a letter from the Neath Abbey Estates to Lord Dynevor dated the 28th April 1933 stating “the notices will be affixed to boards and treated in such a way that they will last a considerable time and then can be easily treated and economically renewed”.

Comment

This does not provide any specific evidence as to the period the notices were kept in place.

Tithe Redemption Annuity

- 3.7 The applicant has submitted a 1935 edition of the Ordnance Survey plan and stamped with “Tithe Redemption Annuity Schedule” with the roadway shown as an enclosed parcel of land which been allocated a number and acreage with a charge levied at £1.8s.4d per annum. It lists under the Parish of Blaenhonddan the areas of land subject to this annuity and includes “lawn free premises, bungalow and garden, rough land and roadway”.

The Tithe Commutation Act 1836 replaced all tithes that were payable in kind with a monetary payment known as a tithe rent charge. These charges were made on an agreed proportion of the annual profits from the cultivation of farming made by the parishioners to the church. Further details are contained in Appendix 5 including an explanation of a tithe redemption annuity and the extinguishment of the obligation to pay a tithe rent charge.

Comment

This would indicate a tithe had been payable on the road containing Footpath No. 23 and so had some value and not exempt as a result of the land containing either public or private way. Two issues arise from this document however:-

- (i) Its provenance has not been identified and there is no reference to the apportionment or other documents which were produced in relation to a tithe redemption. The document having been considered by this Council's Archives have concluded that in itself it would not therefore be admissible as evidence. Further details of the additional research undertaken at the National Record Office, is included in Appendix 6.*
- (ii) The evidence discovered and referred to in paragraph 5.3 of the first report as contained in Appendix 1, stated no tithe was payable on the road which contradicts the implication of an annuity having been payable on this "roadway". Therefore, in the absence of any further supporting documents, it is difficult to place any significance to this plan given the research outlined in Appendix 6 would suggest that no annuity or tithe was ever paid.*

Information from Blaenhonddan Parish Council

- 3.8 The applicant makes further reference to the minutes cited in paragraphs 2.3 to 2.5 in the earlier 2003 report. These highlight the request from the Parish Council to the Neath Rural District Council to undertake repairs to the road. The applicant asks why would the Council request works when in the Parish Card they describe the condition of the path as being fair.

Comment

It is difficult to answer such a question unless the surveyor of the path could be asked what in his view constituted a "fair" condition. Secondly the Parish Council were concerned with the scavenging contractor refusing to travel along the road to access the tip. Therefore their request is more likely to be concerned with ensuring the road was kept in a suitable condition for vehicles.

Additional Minutes from Blaenhonddan Parish Council

- 3.9. The minute dated the 11th July 1938 from a meeting of the Blaenhonddan Parish Council has been submitted in addition to those considered in the earlier report from paragraph 2.3. - 2.5.

“Alleged Rights of Way. The engineer reported that during the month representatives of Blaenhonddan Parish Council had inspected the Draft Map and discussed paths claimed as public rights of way and that such paths had been coloured on the original Draft Map, and it has been arranged that representatives of the Parish Council should inspect the map and give their views therein. Resolved that the Engineer’s action in this matter be confirmed.”

Comment

There is no representation to the significance of this entry and no copy of the map referred to.

The Draft Map as referred to in the preparation of the first Definitive Map was that published in 1955 after the National Parks and Access to the Countryside Act 1949 in effect, imposed an obligation on Parish Councils to survey this path network. Consequently whatever Draft Map was being referred to in 1938 was not that published in 1955.

- 3.10. (a) That the Parish Council represented footpaths as purple lines, bridleways as green lines and road used a public paths as broken green lines (RUPPS);
- (b) that on the Parish map, Footpath 23 had originally been coloured by a broken green line, which represent RUPP’s but it was later replaced with a solid black line and the entire length is no longer shown as a public right of way;
- (c) The Parish Card of Blaenhoddan Community Council has no date of the survey, the description type can be seen to have been crossed out and altered with a different colour marker from CRF right of way to F/P and A/C road.

Comment

Paragraph 24 of the first report under the section “Comment” explains the responsibility fell to the Parish Council to survey the paths they considered had public status.

C.R.F. was a term used by a number of Parish Councils throughout England and Wales to represent a cart road used a public footpath. It was an equivalent term for roads used as a public footpath.

An examination of the Parish Map if enlarged, possibly does show a broken green line but drawn over by a solid black line. The card also crosses out the description C.R.F. to FP over A/C road, which may mean footpath over access or accommodation road. The card describes the path “Accommodation Road leading from between Cadoxton Church and the Victoria Laundry to the Tenant Canal. Pedestrians are allowed free use of the Canal Towpath and the above roadway in the access thereto.”

- 3.11 The applicant suggests that if the road had been claimed as a C.R.F. then a modification order should have been made to re classify or downgrade the road to a public footpath.

Comment

The Parish Survey initially thought to class the route as a C.R.F but presumably decided that the road had no public status and so reviewed their opinion.

No modification order could have been made as the provisions of the Wildlife and Countryside Act 1981 had not at that time come into force.

Secondly even if the path had been designated as a C.R.F it would have been reclassified at the Special Review in 1972.

- 3.12. That the Parish where they describe the condition of the path (which is recorded as fair) is on a separate piece of paper and there is no heading quoting “Glamorgan County Council National Parks and access to the Countryside Act 1949.” Nor is there any stamp quoting: “Blaenhonddan Parish Council.”

Comment

The paper referred to above is merely the reverse side of the same Parish Card which does include the headings quoted above.

- 3.13. The Council minutes describe this roadway before and after the survey in 1951 - 1952.

Comment

There is no dispute that the route provides vehicular access for those who have such an easement, but that in itself does not prejudice the coexistence of public rights.

- 3.14. Reference is made to the Council Minutes, undated but presumed to be 1949 where it was noted the Council's scavenging contractor was not prepared to continue unless the roadway was repaired.

Secondly that on the 26 March 1952 the Council engineer of the Rural District County Council had received a request from the Parish Council to construct a drainage system for the road. The Parish Council received a reply that the road was private and the Council have no right to undertake any work on the roadway.

Thirdly the Rural District Council had received a request from the Parish Council to repair the road due to its use as access to the refuse tipping site, as well as being used by the public. The Rural District Council had no liability to maintain the road. (This was referred to in paragraph 2.5. in the previous report and the ensuing responses which also pointed out that on the 9th June 1955, the District Council had by then undertaken repairs.)

Comment

The Highways Act 1835 made all public roads that had been maintainable by the inhabitants at large, maintainable by the Council. However this did not affect public paths. Nonetheless the National Parks and Access to the Countryside Act 1949 made all public paths that were in existence immediately prior to that date maintainable by the Council upon the passing of that Act.

So the issue is whether the District Council took the view as footpath No. 23 was considered to be public by 1955 they had an obligation to do the necessary repairs but only to a standard suitable for pedestrian use.

The question being whether the Rural District Council did not consider they had any liability under the 1949 Act to repair the road to a standard available for vehicular use. This of course would have been correct and was without prejudice to the liability to repair the path for pedestrian use. They eventually undertook the repairs in 1955 although it is not clear to what standard and for what type of public use.

- 3.15 The applicant considers reference to the Highways Act 1835 is irrelevant because at this time the road contained dram lines and so was not a public highway. These lines are depicted on the ordnance survey of 1877.

Comment

There is no evidence the dram lines were in existence in 1835 and by the time the second edition of the ordnance survey was published in 1899 the lines had been removed.

Secondly reference to this earlier Act merely highlights that because the road had not been maintainable at the public expense at this time, then that is a reason why the Council did not automatically assume responsibility for its repair as a carriageway.

- 3.16. That a previous internal memorandum from this Council dated the 1st December 1999 referred to the Blaenhonddan Parish Council minutes from 1949 - 1952, and that the County Council considered the road to be a private way which is why it had no right to carry out the works.

Comment

This would be consistent with the explanation offered above and under the last comment.

It should also be noted that a public path can exist but be maintainable by the owner/s of the path or by no one. Consequently the assumption that if the Council is not responsible to maintain the path, it cannot be public, is incorrect.

- 3.17. That the Parish Card states there is evidence of over sixty years' use which is incorrect as the Dynevor Estate had erected notices under the Rights of Way Act 1932

Comment

This issue has been considered in paragraph 3.4.

- 3.18. That the Parish Card which provides the information on the length of use, is not stamped with the Parish Council's name nor any reference to the National Parks and Access to the Countryside Act 1949.

Comment

As already indicated within the comment after paragraph 3.7., the Parish Card had information written on both sides and so there is no doubt it has been authenticated as a true record of that Council's findings.

- 3.19 The applicant reiterates his opinion the Dynevor Estate did erect notices but the reason there is no reference to the notice in the Parish Council Minutes is that footpath No. 23 did not exist until it was placed on the Parish Card.

Comment

The path would have been considered to be public in order for the path to be included on to the Parish Card and into all the editions of the Definitive Map and Statements. The Definitive Map does not create a path at its relevant date, but reflects the existence of one.

Secondly it appears the Dynevor Estate were aware the public were using the path in 1933.

- 3.20. The applicant has two black and white photographs of a notice, one taken from near Main Road and a second taken further along the roadway facing south east which is alleged to state "Private Road"

Comment

This was considered in the previous report under paragraph 2.10 and it is currently accepted that this is indeed the case in the sense a road being a route which conveys vehicles for private use.

- 3.21. That a memorandum from this Council date the 1 December 1999 states the Blaenhonddan Parish Council minutes from 1949 - 1952 shows the path was yet to be registered and that the advice from the previous Council was undoubtedly correct as at that stage no public right of way had been conclusively established.

Comment

This relates to the Minute dated 12 June 1952, where the then Parish Council were seeking assistance from the County Council to liaise with the District Council regarding the repair of the roadway. By 1955 that work was completed..

- 3.22. When the survey was carried out in 1951/1952 the Council were leasing a means of access to the tip from 1940/1955 and as this road was under a lease to the Council, it was not a public right of way except in accordance with the terms of the lease. A lease cannot dedicate a Right of Way to themselves without the consent of the owners.

Comment

The applicant has not provided the minute to show the Council were leasing the land, nor which Council. Nonetheless even if one of the Councils were doing so, then any dedication of the path would have to be by the owner of the freehold and to the public, not by the Council. Secondly the lease was allegedly from 1940 to access the tip which of course would have been for vehicular use. Again an indication of a private easement for a specific purpose.

- 3.23. That the easement granted to St. Cattwg's Church in 1929 is evidence there was no pre-existing public path.

Comment

This particular issue has already been dealt with in the previous report under paragraph 2.2.

One piece of additional information is from a witness, who along with the refuse contractor used to cut the grass in the graveyard from 1953 to 1959. This person said the hay was loaded into the cart which was positioned on the path by tossing the hay over the side wall, before being moved by the horse. Thus it may be the church required access via the roadway for this particular purpose.

The same witness alleges there used to be a public footpath sign at the "Neath end" of the entrance to the road, pointing along the roadway. However no date has been given for the period this was in place.

Draft Maps

- 3.24. That the Draft Definitive Map was not published in the London Gazette on the 14 September 1951 as was required.

Comment

A full account of the process which reviewed the Definitive Map and Statement was given in paragraph 3.1. - 3.8. in the previous report to this Council. This Council's predecessor complied fully with the requirement to advertise each stage of the process.

- 3.25 That the Definitive Map of 1954 shows a solid purple line for the entire length and width of the haul road for footpath No. 23. If this map had been done in the 1950's the colour coding should have been a broken green line. The Parish Map and Statement claimed this was a cart road footpath (C.R.F.) at this time.

Comment

Whilst the Parish Card originally described the path as a C.R.F., this abbreviation was subsequently crossed out and replaced with the words FP over A/C road. It is not clear when this was done, but it is possible if not probable, prior to the production of the Draft Map in 1955.

- 3.26. That the Parish Card and Definitive Statement do not read the same, the Parish Card claims a width of 10' while the Definitive Statement describes the path as undefined.

Comment

It is not possible to state why there is a difference other than to speculate, that those who compiled the Definitive Map did not know how much of the width of the initial 70 metres of the accommodation road should be regarded as public footpath.

- 3.27. That the Parish Card states "leading from accommodation road" and the Definitive Statement states "passing long an accommodation road."

Comment

This is incorrect as the Parish Card states "accommodation road leading from between Cadoxton Church and the Victoria Laundry to the Tenant canal."

The amended description “FP over A/C road” is consistent with the Definitive Statement.

“Commences on Main Road, Cadoxton, between St. Cattwg’s Church and the Victoria Laundry and proceeds southwards along accommodation road to the Tenant canal.”

- 3.28. That there are no buildings beyond the Victoria Laundry for an accommodation road.

Comment

It is assumed by this statement that access would not have been needed beyond the Laundry and so the term accommodation road is misleading. The earlier Parish minutes show the Tenant Canal Company, The Transport Commission for the railway network and the then Gas Board required access whose premises are further along the road than the laundry. The minute also recorded the fact that those companies had stated they had such a right to use this road.

- 3.29. Accommodation Road anyone proceeding southwards would walk into what was then the wall of Victoria Laundry.

Comment

This would be a criticism of the description in the Definitive Statement, as the path proceeds south south east from Main Road to the canal.

- 3.30. (i) That when the alleged footpath No. 23 was first registered to the present day there has never been a footpath sign or any way marking by means of colour coding;
- (ii) That it became law in 1968 to sign post public rights of way;
- (iii) That a footpath sign was erected in 1993 on my property without permission. When challenged I was threatened with prosecution and a fine if I removed the sign. Procedures were not followed when placing the sign on my property.

Comment

- (i) *Two of those persons referred to who submitted evidence of their use of this path stated they recall seeing a footpath sign alongside St. Cattwg's Church. However it is not known whether this is of an earlier signpost or that stated to have been installed in 1993;*
- (ii) *Section 27 of the Countryside Act 1968 enables the Council, to erect signposts where the public path leaves the metalled road, although if after consultation with the Parish Council it is considered such signs are not needed then there would be no requirement to do so.*

Land Valuation under the 1910 Finance Act

- 4.1. A valuation was undertaken on the incremental increase in the value of all land for which a tax was liable. Owners could apply for a reduction in this tax if they admitted to the existence of a public right of way over a particular plot of land.
- 4.2. Sometimes reference is made to public paths and more particularly to strips of land which were known to be roadways (private or public) which would be excluded from the individual parcels of land. Consequently the relevant documents were checked, including the Valuation Plan based on the second edition of the Ordnance Survey from the National Record Office. This "roadway" containing footpath No. 23 is shown as a different colour to the assessment number through which it crosses. It is difficult to establish whether "the path" is linked to any other assessment number, as itself is not shown to have been allocated a number. The path has been coloured and is distinguishable from the assessment parcel through which it passes, although is not shown colourless as Neath Road which was evidently acknowledged to have been a public carriageway at that time. All that can be concluded is the path was identified as a discrete and separate unit to the adjacent land.

Conclusion

- 5.1. In addition to the conclusion in the previous report the current application misinterpreted the application of Sections 53 and 54 of the Countryside Act 2006.

- 5.2. It is apparent that the Dynevor Estate arranged to have notices placed either at the beginning or alongside this path in November 1933. There is no evidence to establish whether one or both notices were erected nor for the duration they remained in place. Therefore it is not possible to comment on the effect they would have in undermining the presumption that footpath no.23 was dedicated to the public by 1954.
- 5.3. The description of the path by the Parish Council and the manner in the way it was depicted in the Parish Map suggests that Council did not consider there was any need to retain its classification as a C.R.F. That in fact they recognised there was a public footpath via this private accommodation road rather than leave open the question as to whether the road (that is the public path) had any higher public status.
- 5.4. The question as to whether there was any public liability to maintain the road does not in itself establish whether the path is public if no such public liability exists. Nonetheless the issues under discussion at the time of the Parish Council meetings would suggest their concerns related to maintenance of the road for vehicular access.
- 5.5. The internal memorandum referred to between officers of this Council, does not in itself provide evidence and is a view expressed by one officer as a way of offering an explanation as to why there was a question over the liability for the maintenance of the path.
- 5.6. Accommodation Road as it has been frequently referred to, was to emphasise its use by a number of companies who required access along different lengths of the road to reach their premises. Private vehicular roads and public paths can and often to coexist.
- 5.7. Whether or not the path had ever been signposted in the 1950's and later, has little bearing on the question as to the public status of the road in 1954. Many public paths do not contain signposts where they leave metalled roads.
- 5.8. The recent evidence submitted along with the earlier evidence highlighted in the first report, does not show there is anything substantial to outweigh the presumption, the path was correctly included into the Definitive Map. Furthermore it is significant that no landowner or member of the public ever objected to the inclusion of this path into the

four precursors to the current Definitive Map and Statement at the time those editions were published in 1955, 1964, 1970 and 1972.

Appendices

Appendices 1-6

Recommendation

That the application be refused.

Reason for Proposed Decision

The available evidence does not outweigh the presumption that the path was correctly included onto the definitive map.

List of Background Papers

None

Officer Contact

Mr. Iwan Davies – Principal Solicitor – Litigation

Tel No: 01639 763151

Email: i.g.davies@npt.gov.uk

COMPLIANCE STATEMENT

APPLICATION TO DELETE FOOTPATH NO. 23 COMMUNITY OF BLAENHONDDAN

(a) Implementation of Decision

The decision is proposed for implementation after the three day call-in period.

(b) Sustainability Appraisal

Community Plan Impacts

Economic Prosperity	..	No Impact
Education & Lifelong Learning	..	No Impact
Better Health & Wellbeing	..	No Impact
Environment & Transport	..	No Impact
Crime & Disorder	..	No Impact

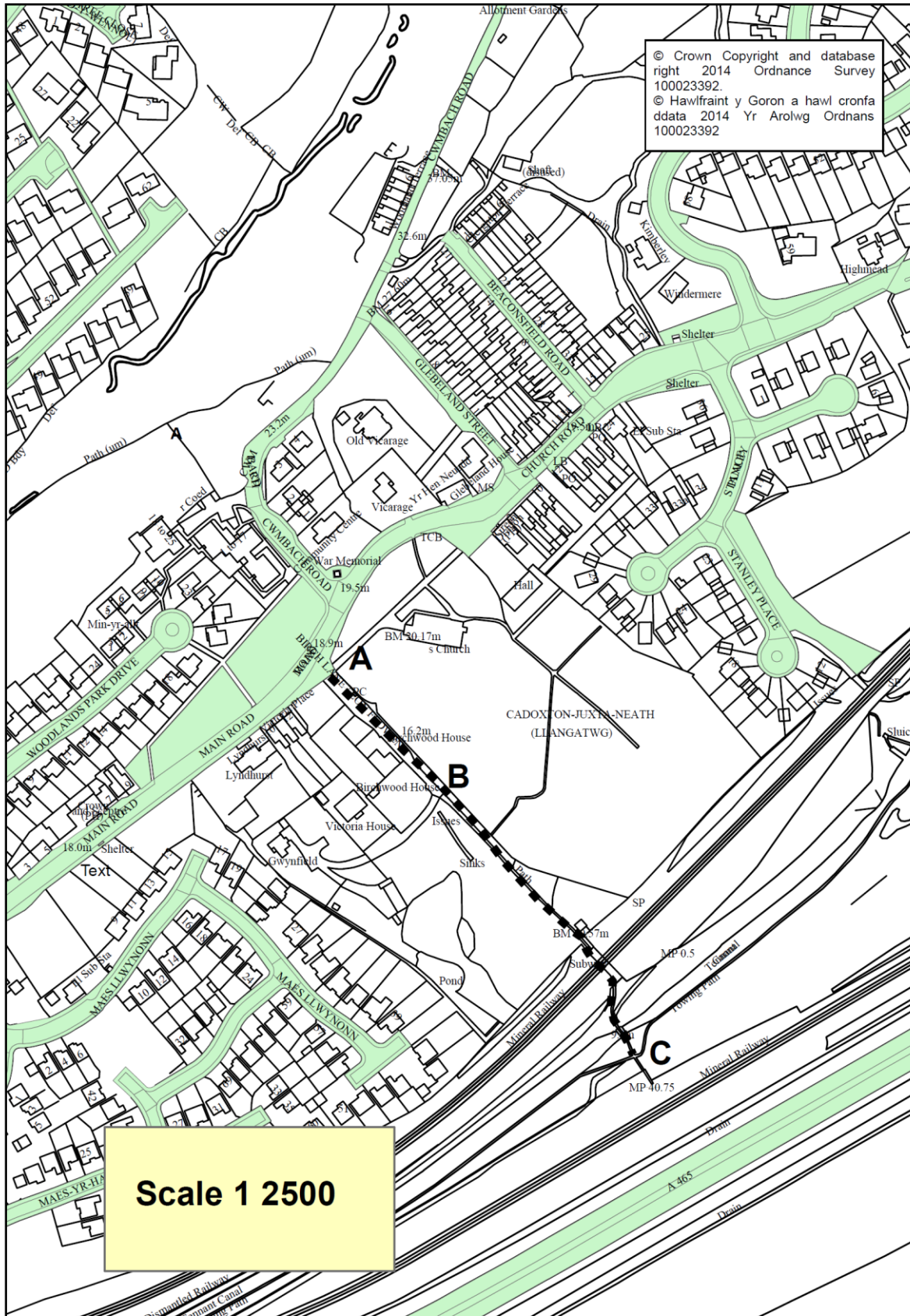
Other Impacts

Welsh Language	..	No Impact
Sustainable Development	..	No Impact
Equalities	..	No Impact
Social Inclusion	..	No Impact

(c) Consultation

This item has been subject to external consultation

Plan referred to in paragraph 1.3.
of the report



ITEM 2

**APPLICATION TO DELETE FOOTPATH NO. 23 COMMUNITY OF
BLAENHONDDAN**

Introduction

- 1.1 An application has been made by Mr Campfield to have the whole length of footpath No. 23 in this Community removed from the Definitive Map and Statement.
- 1.2 He considers that this path was incorrectly registered and has submitted evidence in support of his application.

1.3 The Path

Footpath No. 23 commences on Main Road (point A) alongside St Catwg's Church and proceeds in a generally south easterly direction for 240 metres and terminates on the towpath which runs along the southern side of the Neath Tennant Canal. (As shown on the attached plan.) The first 70 metres is approximately 8 metres wide but narrows to 1-2 metres between points B and C. It then passes under a railway bridge with a limited headroom of 5' 5" before crossing over a pedestrian stone arched bridge over the canal to link to the towpath at point D. The towpath is unregistered and was the subject of an earlier application but refused by this Committee on 6th January 2003. It is nevertheless open and available for use.

The Landowners

- 1.4 The Applicant lives in one of the adjacent properties to this footpath and has owned the land containing the path between points A and C, since 1993. However where the path passes under the railway bridge it is under the ownership of Railtrack/Network Rail and the remainder being owned by the Port Tennant Canal Company.

1.5 Consultation

All the usual organisations and affected landowners have been contacted:

- (a) the local representative of the Ramblers' Association have said they will 'strongly oppose' the application

- (b) Leeder Property Management who act for Port Tennant Canal Company state the track is used by members of the public and do not consider there are any valid grounds to delete this footpath
- (c) Blaenhonddan Community Council stated they do not support the deletion of this footpath because members of the public still use it and have been doing so for many years
- (d) Railtrack said that there is a history of trespass on the railway at this location and would support the closure of the footpath
- (e) The local Member submitted a file containing evidence in support of the retention of this path on the Definitive Map and Statement

The Relevant Legislation

1.6 The Wildlife and Countryside Act 1981 placed an obligation on all Surveying Authorities to keep their Definitive Map and Statement under continuous review and to consider any evidence that is submitted that purports to show that the Definitive Map and Statement requires amending.

1.7 The extract below quotes the relevant section of that Act:

"Wildlife and Countryside Act 1981

53 Duty to keep definitive map and statement under continuous review.

(2) As regards every definitive map and statement, the surveying authority shall keep the map and statement under continuous review and as soon as reasonably practicable after the occurrence ... of any of [the events specified in sub-section (3)] by order make such modifications to the map and statement as appear to them to be requisite in consequence of the occurrence of that event.

(3) The events referred to in sub-section (2) are as follows:-

(c) the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows:-

(iii) that there is no public right of way over land shown in the map and statement as a highway of any description, or any other particulars contained in the map and statement require modification. "

Comment

The possible deletion of a public right of way is based on the premise the path had been included on the map in error there having been no public right of way over the path at the date of the preparation of the original definitive map. That preparation commenced soon after the provisions of the National Parks and Access to the Countryside Act 1949 came into force which required the County Councils to undertake a survey of all routes considered to have such legal status. That survey was given to the Parish Councils who in 1951/1952 compiled their own written description of the routes which were recorded on what became known as the 'Parish Cards'. The routes were plotted on a 6" to 1 mile ordnance survey plans, also known as the "Parish Map". Consequently according to this Council's records, Footpath No. 23 was presumed to have had legal status when the first Definitive Map was produced and which has a relevant date of 1954. Therefore the applicant will have to show that the path was not a public right of way at this date and therefore any evidence that relates to instances after 1954 will not be relevant.

The Department of the Environment Circular 18/1990 sets out the current view which is that the onus of proof is firmly on those seeking to demonstrate the map is wrong. Paragraphs 6 and 10 of that circular give clear advice to authorities to treat the map and statement as correct, unless and until it is proved otherwise by the confirmation of a modification order.

*That Circular received judicial approval in *Trevelyan v Secretary of State for the Environment, Transport and the Regions* (2001). It concluded that any consideration of such an application to delete must start with the initial presumption that the right of way exists. The standard of proof required to show the inclusion of the path is incorrect was on the balance of probabilities. Evidence of some substance has to be put in the balance*

if it is to outweigh the initial presumption that the way had been correctly included.

It should be borne in mind that the procedure laid down under the National Parks and Access to the Countryside Act 1949 resulted in a series of consultations affording any member of the public, organisations or landowners the opportunity to object to the depiction of any of the public rights of way in the former Glamorgan and subsequent West Glamorgan County Councils.

2.1 The Evidence

Each of the pieces of evidence will have to be viewed in the context of why it suggests the path should not have been considered a public right of way on 14th September 1954. Consideration of its desirability, suitability or if it has been obstructed or overgrown since 1954 is not relevant.

2.2 Private Easement

A letter has been produced dated 31st August 1929 from the Neath Abbey Estate Office who represented the Dynevor Estate. At that time Lord Dynevor owned the section of path between points A and C. The letter was addressed to the Representative Body of the Church in Wales who had purchased some land to the rear of the adjacent church to extend the graveyard. However they wanted to obtain access to that graveyard and purchased an easement for a nominal sum. In addition the Parochial Church Council was to build at its own expense a gateway in the boundary wall. The letter also refers to the path as a private road. There is also a copy of a letter in response dated 20th October 1930 accepting the terms and conditions set out for the easement.

Comment

The implication is that if this path had been recognised as a public right of way on foot in 1929/1930, then the Parochial Church Council would not have needed to gain permission to use this path as an access into the adjacent graveyard.

There is the possibility that this easement was for vehicles, which would have no bearing on whether or not the path was considered to be a public footpath at that time. However Mr Campfield wishes to point out that the previous gap in the boundary wall has been filled with a different type of stone. That gap is too small to accommodate vehicles and therefore he

would argue that the easement referred to above would have been for pedestrian access. This reference to a 'private road' is contrary to the view of the Parish Council some twenty or so years later as it was they who included the path in their survey of public rights of way in 1951/1952 and stated in the Parish Card that it had been in use for over 60 years or more. A site inspection has revealed that the gap is too narrow to have contained a vehicular gate.

2.3 Previous Council Minutes

The applicant has provided some extracts from earlier minutes from the former Neath Rural District Council which he contends show the path could not have had public status.

2.4 That in March 1952 the Parish Council requested the then Neath District Council to improve the drainage of the road, but were told the roadway was private and in such circumstances the Council have no right to carry out any works.

2.5 That in June 1952 the Parish Council had contacted the Council to carry out repairs but their reply was that the County Council had no liability to maintain under the National Parks Act 1949.

Comment

The only related minutes found for the Blaenhoddan Parish Council were for the 2nd April 1952 which referred to the 'Roadway Cadoxton Church to canal' and that the District Council had to consider a legal difficulty before it could undertake any repairs on the road. On 14th May 1952 a reply was still being awaited and by the 12th June 1952 it was recorded that the District Council indicated that they could not expend any money. The Parish Council considered the County Council be asked to take up this issue with the District Council. On the 8th January 1953 the District Council indicated it was purchasing an alternative tipping site and therefore their decision on improvements to the roadway would be postponed. Further reference to this was made on 3rd March 1955 and that repairs would be postponed until the new tip is in operation. By the 9th June 1955 it was reported that the District Council had undertaken the repairs to this roadway. The implication is that the Council had accepted it had some liability to maintain/repair the road.

- 2.6 An unsourced minute has been forwarded and dated 3rd October 1933 which highlighted that notices had been posted by the Dynevor Estate on certain paths to the effect they had not been dedicated to the public.

Another unsourced minute reflected the Clerk to the Council (presumed to be of the former Glamorgan County Council dated 5th September 1933) had been in communication with the Dynevor Estate and various Parish Councils concerning the new provisions of the Rights of Way Act 1932 and requesting information on any notices that had been erected by landowners. It also refers to a letter from the Clerk to the Dyffryn Clydach Parish Council relating to notices erected by the Dynevor Estate.

Comment

The then new provisions of the Rights of Way Act 1932 enabled landowners to place notices on any paths they considered were not public rights of way. The notices could state that those owners did not wish to dedicate any particular routes as public rights of way and were in effect statements of non-intent.

- 2.7 Mr Campfield would say that Footpath No. 23 was at that time still part of the Dynevor Estate and whilst he cannot categorically state such notices were erected on this path it is again an indication of the Estate's desire not to have any of its paths or tracks dedicated for public use.

Comment

Unfortunately not providing the source of these minutes makes it difficult to fully appraise the context in which they were presented, in that often earlier and later minutes also make reference to the issues in hand. However the assertion that the Dynevor Estate did not wish Path 23 to be dedicated is speculative.

- 2.8 The Blaenhonddan Parish Council Minutes have been checked for the similar period 1931-1934.

On 3rd January 1933, there is reference to 'Footpaths' and quoting from the Minutes:

"the following footpaths were reported to have had notices placed near them and fixed with the following works on them.

Rights of Way Act 1932 there has been no dedication under the above Act."

There followed a short list of paths that were reported to have had such notices placed alongside or on them, Footpath No. 23 was not included. The end of the report stated:

"The Clerk was instructed to report the paths with notices on to the Clerk of the NRD Council."

Comment

This suggests that the Clerk to the Parish Council was complying with the Minute, (quoted as being 5th September 1933) and from the former Glamorgan County Council.

- 2.9 A later Minute from the Blaenhonddan Parish Council 3rd January 1934 made reference to Footpaths and that the Clerk had reported to the Neath Rural District Council a list of other paths which had notices placed on them. Again Footpath No. 23 is not included in this list.

Comment

Curiously the Minute refers to an Act 1929. Nonetheless it is clear that the Dynevor Estate had not utilised the provisions of the Rights of Way Act 1932 to refute the existence of public rights of access along Footpath No. 23. Yet according to the Minute forwarded by Mr Campfield, they did do so for routes on their land in the former Parish of Dyffryn Clydach. It has been an assumption that the granting of a private easement to the Church must have implied the Dynevor Estate did not recognise public rights along Footpath No. 23. However this now appears to be false, particularly in view of the fact the easement was granted in 1929, a date close to the passing of the Rights of Way Act 1932, and when the issues of access along paths was being considered by the Estate.

2.10 Private Signs

Mr Campfield has produced a photograph of the lane at the time the Victoria Laundry was in existence, he estimates this photograph to have been taken in about 1977. At approximately point B on the plan there is a notice, although the words cannot be identified. However Mr Campfield has stated it reads Private Road.

Comment

Even assuming such a notice stated that the road was private, this does not assist in helping to evaluate what legal status the path was considered to have at this time. A private road would be interpreted as being a route over which certain people have a right to drive vehicles.

2.11 Deposit of Boulder Across the Path

Mr Campfield has stated that Colour Care Photographic Laboratories occupied the premises of Victoria Laundry by the late 1970's and placed large boulders in the lane. He submitted a questionnaire that he asked the previous manager of the Company to make certain comments. That manager stated his knowledge of the lane spanned the period 1988-1990 but whilst the premises was vacated between 1990 and 1994 they were checked at regular intervals.

2.12 He did not recall seeing a public footpath sign, nor known the path to have ever been cleared of overgrowth, nor had the Company undertaken any work, never received any complaint from the Council or members of the public regarding employees of the company parking on the path and was never approached by the Council to remove the obstruction across the lane (presumably this is reference to the boulders).

2.13 Nine prepared statements have been submitted by previous employees of Colour Care Photographic Laboratories who all said the path was 'obstructed by very large stone boulders in the early 1980's until Colour Care vacated the premises in 1990.

Comment

It is not clear whether pedestrian access was blocked, or whether the boulders were positioned to prevent vehicular access. There is a letter however from Leeder Property Management who act for the Port Tennant Canal Company who stated their clients require vehicular access once or

twice a year to clear the culvert and who have to remove the boulders accordingly. Nonetheless whatever action was taken during the 1980's is not relevant in deciding whether or not the public footpath had already come into existence in 1954.

2.14 Removal of Ash Tip

The applicant has forwarded an extract from the local Blaenhonddan newsletter which he states was dated 1983 and which made reference to the Community Council's representations for the strict control of the removal of the disused ash tip to the rear of Colour Care. They further expressed concerns over the extent of the operation and that the volume of lorry traffic at the dangerous junction of this path with Main Road. His point is that there is no reference to the public footpath which he considers should have received attention had it been recognised as a public footpath.

2.15 The Path is a Cul de Sac

Mr Campfield wishes to point out that this footpath does not connect to another public footpath but the private canal towpath.

Comment

Whilst the towpath is not registered, public access is and has been available along it, and further evidence has recently been submitted which shows that Footpath No. 23 has been used to obtain access to this towpath. As a result of this additional evidence this Council may well have to review the possible status of the towpath in this vicinity.

2.16 Path Not Maintained

The applicant also wishes to point out that he was on this land on a daily basis, from 1979 until 1993 and that the obstruction referred to earlier, the overgrowth and signpost was not dealt with by the Council. He therefore considers this is evidence of an acceptance by the Council that it has been a private road.

Comment

Any failure by the Council to carry out its statutory duties does not detract from the fact that the route was already considered to be a public one by 1954.

2.17 An Alternative Route?

Mr Campfield has made reference to a minute from Neath Rural District Council which he quotes as being dated 1954/1955. It is entitled 'Roadway between Cadoxton Church and Tennant Canal (211). Recommendation that the above roadway be cleaned and rendered fit for pedestrians when the refuse tip at Ynysllynad is in operation'.

- 2.18 There is another route shown on the attached plan (E-F) which he believes may be the path that this minute refers to. The reason being that he states 'rendering' means 'concreting' in this context, and this "alternative" has a concrete surface and is 10' wide. However Footpath No. 23 has a stone, earth surface and is recorded on the Definitive Statement as undefined but measures up to a maximum of 20'.

Comment

A site visit has revealed a 60 metre length of path off Stanley Place which is 10' wide, concrete and well defined up to the railway line where it is blocked by a metal door. There is no defined path continuing on from this railway bridge to the canal. However:

- (a) this minute is quite specific in describing the roadway between Cadoxton Church and the Tennant Canal. Footpath No. 23 passes alongside this church, the alternative does not*
- (b) the Definitive Statement is quite clear in referring to a path commencing on Main Road and passing between St Catwg's Church and the Victoria Laundry, as does the Parish Card produced at the time of their survey in the early 1950's although curiously it describes the path as being 10' wide.*

2.19 Mr Campfield wishes to point out that there is a discrepancy in the directions quoted in the Definitive Statement. This states the path proceeds southwards along an accommodation road to the Tennant Canal. Footpath No. 23 proceeds in a south easterly direction and therefore Mr Campfield would argue the alternative path could be described as proceeding in a southerly direction.

Comment

Strictly speaking this is incorrect as the closest the alignment the alternative has to a southerly direction is a south south easterly before bearing south east again to the canal.

2.20 Mr Campfield also wishes to show that the Footpath No. 23 is described as proceeding to the Tennant Canal. However it passes via a footbridge over the canal which is not referred to in the statement. The alternative proceeds as far as the northern bank of the Tennant Canal and in his opinion this path fits the description more accurately.

2.21 **Access to the Canal for Barge Trips**

Mr Campfield says there is a history of residents going to the canal to alight barges for canal trips during the summer in the earlier part of the last century. He wishes to point out that at the point the alternative path meets the canal the earlier editions of the Ordnance Survey Plan, including the 1919 edition, depict a square shaped embayment into which he would say barges could have docked, to enable passengers to board.

Comment

There is the possibility that this alternative route was used but this in itself does not mean Footpath No. 23 was incorrectly registered. In addition there is no reason to assume the public could not board barges where Footpath No. 23 meets the canal. Three people have given evidence to say that the barges were boarded where Footpath No. 23 meets the canal. It should also be noted that both the Parish Card and Definitive Statement refer to Footpath No. 23 as passing along an accommodation road. It has already been noted that the Port Tennant Canal Company use this road approximately twice a year to gain access to the canal. No evidence has been forwarded to show the "alternative path" suggested by Mr Campfield is an accommodation road.

2.22 The Dramway

The earliest edition of the Ordnance Survey date 1877, shows a railway line running along the length of this path passing under the former Neath and Brecon Railway Line, bifurcating thereafter, one branch terminating on the northern bank of the canal the other branch passing over what is now a footbridge spanning the canal, and joining the Great Western Railway which is shown running approximately parallel to and to the south of the canal.

- 2.23 Mr Campfield would say a public footpath could not have existed, because people would have been forced to walk along the railway line.

Comment

The 1899 edition of the Ordnance Survey does not show the same amount of detail and it is difficult to be sure a railway line existed by this date. Certainly by the production of the 1919 edition the railway line is no longer shown.

- 2.24 Mr Campfield's point is the Parish Card states the path had been in use for 60 years, and so by implication from at least 1890. If the dramway was there until sometime in the early part of the last century how could the public have acquired such rights if there was an operational line in existence.

2.25 Comment

Apart from the fact it is unclear if the line existed by 1899, it was not a criminal offence to walk on private mineral railway lines by general statute. This in itself would not prevent the acquisition of such a right of way.

2.25 Overgrown Nature of the Path

Photographs have been produced by Mr Campfield (undated) which he states were taken in the 1980's showing Footpath No. 23 being overgrown. Whilst he purchased the path in 1993 he was leasing land from Colour Care Photographic Laboratories, and to the rear of their premises. He cleared the area including the path as he was operating a skip hire business from the 1980's. He said that until he cleared this path it was impassable and therefore he cannot understand how the Council can say it is a public footpath when no-one could use it.

- 2.26 The applicant has also stated the relevant date of the first Definitive Map is 1954 yet it was not advertised until 4th August 1970. In his opinion it should have been put into the London Gazette and one or more local newspapers not more than six months after the relevant date of its preparation.

Comment

This is factually incorrect and perhaps not unsurprisingly a misunderstanding of the procedures involved. It is worth summarising these procedures and the results of each stage to show that the review into the production of this Council's Definitive Map was comprehensive, affording the public and landowners many opportunities to make representations or objections to the inclusion of any paths within it. It is significant that at no time was any query raised with respect to Footpath No. 23 which in itself adds weight to the conclusivity of its depiction in the Definitive Map and Statement.

Evidence in Support of Retention

- 3.1 The National Parks and Countryside Act 1949 placed an obligation on every Council to carry out a survey of all possible public rights of way which enable Parish Councils to undertake the survey and supply the information to the County Council. The Parish Card already referred to described this path and it was also shown on the 1:10560 scale map used in that survey.
- 3.2 Thereafter the former Glamorgan County Council was obliged to produce a draft map and statement which had a relevant date 1954 and published on the 4th February 1955 in the London Gazette and Western Mail.
- 3.3 Any objections or representations made were considered by the appointment of a person by the Council to determine whether a modification to the draft map and statement should be made. Such hearings were held by Mr William Thomas in 1956 and 1957. No objections were made to the inclusion of Footpath No. 23
- 3.4 Any modifications that were made had to be advertised again and were placed in the London Gazette and Western Mail on the 6th May 1960. No modifications were therefore listed in that schedule.

- 3.5 The next stage in the procedure was to allow representations or objections to the previous determination by Mr William Thomas and such hearings were held by a Mr R Cornish at Neath Rural District Council offices on the 8th December 1960.
- 3.6 Following these hearings this Council's Provisional Map and statement was advertised in the London Gazette and Western Mail on 1st May 1964. This notice permitted any landowner, lessee or occupier of land over which the map showed a public right of way an opportunity to apply to what was then referred to as the Quarter Session, which was the forbearer of the Crown Court. The public had no right to apply and so landowners were in the privileged position of having a further chance to object to the depiction of routes they did not consider were public.
- 3.7 A schedule was compiled for all hearings to the Quarter Sessions for those routes in former Glamorgan County Council which were considered between September 1966 to November 1968. Footpath No. 23 is not in that list. Clearly no landowner ever took any issue with its legal status at that time and therefore it was included into this Council's first Definitive Map produced by the 2nd April 1970, notice of which was given on the 4th August 1970 again in the London Gazette and Western Mail.
- 3.8 By the 3rd August 1968 the provisions of the Countryside Act 1968 came into force which required 'all roads used as public footpaths to be reclassified into either byways open to all traffic, bridleways or footpaths'. The former Glamorgan County Council undertook a review and on the 14th March 1974 published its results in the same newspapers referred to previously.

The former Glamorgan County Council also received consent from the Welsh Office to carry out a Special Review which invited all non-County Borough, District and Parish Councils to submit claims, together with supporting evidence for the inclusion of:

- (a) new paths to the Definitive Map of 1970
- (b) exclusion of registered paths from the Definitive Map of 1970
- (c) reclassification of Roads Used as Public Paths so depicted on the Definitive Map of 1970.

It should be noted a schedule that listed all objections and representations was reported to the former Glamorgan County and no entry was listed against Footpath No. 23.

Therefore from the first occasion this path was included into the Parish Survey Map in the early 1950's until and after the production of the Draft Special Review Map of 1974, the inclusion of Footpath No. 23 has never been challenged, but accepted by the previous Parish Council, District Council, the two previous owners of the land now owned by the applicant, by the other two landowners of the remainder of the path and by the general public. All have, by implication, accepted it was already a public footpath by 1954.

4.0 Ordnance Survey Plans

The depiction of a route on the many editions of the Ordnance Survey, is not evidence that a public right of way exists. It reflects the fact that it was a surveyable feature at the time that particular map was prepared. If the path appears on a succession of editions then it assists in being able to show over what minimum period of time it has existed.

- 4.1 In the case of Footpath No. 23, the lane that commences on Main Road and represents this registered footpath first appears on the 1877 edition of the Ordnance Survey. (However it appears on the Map of 1841, dealt with later.)
- 4.2 The initial 32 metres of this lane is approximately 6 metres wide before narrowing to about 3 metres where it passes under the railway bridge which contains the Neath and Brecon Railway. The path is shown as containing a railway line which passes over the canal (via what is now the footbridge), before reaching the sidings of the Great Western Railway Line. Whilst there appears to be sufficient width to walk alongside the initial 32 metres of railway line, where the path narrows, the railway line divides into two and gives the appearance of there being insufficient width for pedestrians to walk alongside. This in itself does not rule out the possibility of a dedication given the fact it was not a criminal offence to walk along a private railway line.
- 4.3 The second edition of the Ordnance Survey is dated 1899 and no longer shows the railway line passing along the centre of the track. Only a single line is shown, nor does it connect to the Great Western Railway. The entire length of the track is about 6 metres wide.

- 4.4 By the 1919 edition of the Ordnance Survey, there is no railway line.
- 4.5 The 1968 edition which was surveyed in 1966 and shows the first 70 metres as being about 8 metres wide before eventually narrowing to a path shown being approximately 1 metre wide.

The path is shown as passing under the railway bridge and over the canal bridge to join the Great Western Railway Line, but also to link to the canal towpath.

5.0 Tithe Map and Apportionment

Around the early 1840's the majority of parishes were surveyed by tithe commissioners who were appointed by law, to levy a form of rent for land. It had to be assessed for the value of its average produce and each field to be accurately measured and allocated a permanent record (and number).

- 5.1 It was prepared under statutory authority, with great care and accuracy to show all cultivated land, arable and pasture but also had to show waste land and roads which did not produce crops, because a tithe was not payable on these (and therefore no number would be allocated to such a parcel or strip of land). Any land which was titheable would be given a number, shown on the plan and also shown in the apportionment book, which amongst other details, would describe the type of field or property concerned along with the amount payable. If there was no number then no tithe was payable.
- 5.2 The tithe map, which was produced in 1841, shows Footpath No. 23 as a spur off Main Road, at its junction with Main Road it is wider than that road and it ends as a cul de sac on the south eastern side of the canal on the towpath but significantly has no number shown in it. Consequently the implication is the footpath was of the same status as Main Road and was simply a highway which ended as a cul de sac on the towpath.
- 5.3 It should be noted that the purpose of the tithe survey was to show land that was titheable, not to show what were considered public highways. Nonetheless these documents together with all the other evidence discovered, further supports the earlier Parish Council's view, and this Council's predecessor that it was correctly shown as at least a public footpath.

5.4 The Department of the Environment Guidance Note (1989) states 'Although concerned solely with identifying tithable lands the maps do mark roads quite clearly as untithable and thus can provide useful support evidence when taken in conjunction with appropriate schedules'.

6.1 User Evidence

Nineteen letters of objection to the proposed deletion of this path were submitted by the local Member, eight of whom were interviewed and a further person who also objects to this application. Five have said they started walking this path in the 1930's, another eight from the 1940's and another one person quoted 1958.

6.2 Generally speaking the reasons given for using Footpath No. 23 was to obtain access to the canal towpath either because they wished to walk to Aberdulais or Neath and therefore were using the towpath as an alternative to Main Road.

6.3 Those interviewed were able to provide very detailed accounts of their use, the reasons and intensity of which varied over different periods. These accounts can be read in the background papers but as a summary it should be noted that:

- (a) Three were able to say that the headroom under the railway bridge (point C) was sufficient to permit a horse and cart to pass as one of the local farmers used this path to access the local refuse tip. (At present the headroom is approximately 5' 5".)
- (b) Three people, (one of whom was not interviewed) recall barge trips being organised, one of whom specifically said they stopped on the canal towpath to the rear of the church
- (c) Another resident stated he used to work as a fireman for the Great Western Railway Company (and previously for the Neath & Brecon Railway Company) and said that he used to walk home along the towpath and then via Footpath No. 23. The reason being that one of the sidings was between Cadoxton and Neath, and said there was no need to walk back to Neath. He also wished to point out that a high proportion of men in Cadoxton worked in industry, for example for the railway companies, and as bus drivers and therefore walked back to the village via this towpath and Footpath No. 23.

Conclusion

- 7.1 The evidence submitted in support of the application that addresses whether the path was correctly registered by 1954 is the easement that was granted to the Representative Body of the Church in Wales in 1929.
- 7.2 No evidence has been forwarded to show precisely what the easement related to and makes no comment on access along the remainder of the path. (Particularly for those walking from the towpath.)
- 7.3 The Tithe Map suggests it may have been a highway by even 1841, and if that is correct, it may have been considered to have higher rights than even pedestrian access.
- 7.4 The suggestion that the alternative path was intended to have been Footpath No. 23, is difficult to support, because apart from the description of its width, and surface, all descriptions refer to the path's proximity to the church. In addition there is an abundance of other evidence that the registered path has been the one in use since at least the 1930's, but no user evidence of the alternative, nor any record of there having been any complaints about the condition of the alternative being unavailable.

Nonetheless even if there is a case for the alternative being considered as a public footpath, it does not follow that Footpath No. 23 was incorrectly registered.

- 7.5 Lastly it must be borne in mind that the comprehensive procedures that were followed which resulted in the registration of this path is in itself good evidence that must be given weight in assessing this application.
- 7.6 On the balance of probabilities it must be concluded that the applicant has failed to show Footpath No. 23 was incorrectly registered.

Recommended:- that the application be refused.

Background papers: Investigation file.

Contact officer: Brian Thorne ext. 3151

APPENDIX 1cont'd.. – Plan



Neath Port Talbot County Borough Council
 Reproduced from the Ordnance Survey mapping
 with the permission of the Controller of Her
 Majesty's Stationery Office Crown copyright.
 Unauthorised reproduction infringes Crown
 Copyright and may lead to prosecution or civil
 proceedings.
 Licence No.LA09013L. Publication date 2002

**Application to Delete Footpath 23
 Community of Blaenhonddan
 Scale 1 : 2,500 Grid Ref. 2756 - 1984**

**Footpath 23 A---B---C---D
 Alternative Route? E---F**

APPENDIX 2

THE BASIS UPON WHICH A MODIFICATION ORDER MAY BE MADE TO MODIFY OR DELETE A PUBLIC RIGHT OF WAY

1. This Council must be satisfied that the existing entry in the Definitive Map and Statement is incorrect. This means that the evidence should show a mistake was made at the relevant date of the First Definitive Map, which in this case is 14th September 1954.
2. The provisions of Section 32(4)(b) to the National Parks and Access to the Countryside Act 1949 required the Authority to produce a Definitive Map and Statement. Section 56(1)(b) and (d) of the Wildlife and Countryside Act 1981 provides that, “the Definitive Map and Statement shall be conclusive evidence as to the particulars contained therein to the following extent, where the map shows a footpath the map should be conclusive evidence that there was at the relevant date a highway as shown on the map...”. So if a challenge is being made to an entry to the Map and Statement the evidence must show a mistake was made at the earliest relevant date which is the first date the path was recognised as having legal status.
3. The question therefore is what is considered sufficient evidence to show that such a mistake had been made. The 1981 Act permits a correction to be made when evidence is discovered and considered with all other relevant evidence and so a decision has to be made on the balance of probabilities that an error had been made.
4. The real difficulty lies when the evidence upon which the entries were made into the Definitive Map have been lost or that record is incomplete. This is a common predicament that this and other Authorities face, as once the procedure for finally showing a public right of way has been completed the conclusivity of the Map and Statement would have led many Authorities to be less concerned on retaining the reasons for its final inclusion. Nonetheless as a result of previous case concerning R - v- S for Environment ex parte Simms and Burrows (1990), such deletions, or downgrading and other amendments are deemed possible.

5. The issue therefore is what weight is to be given to the entry into the original map especially when the evidence which led to its inclusion is absent. It was a document prepared pursuant to an Act of Parliament and which was to be an authoritative record, it required various stages leading up to its preparation to be satisfied and gave landowners several opportunities to challenge any proposed entry. It should also be borne in mind that the map was prepared at a time when one could find local people whose memories went back very much further than today's residents.
6. This issue was addressed at the Court of Appeal concerning the case of *Trevelyan -v- Secretary of State for the Environment* (2000). It concluded there must be an initial presumption in favour of the existence of that public right of way and unless there is evidence to the contrary, it should be assumed the proper procedures were followed and that evidence did exist which made it seriously arguable that the right subsisted at the relevant date, even if no trace of that evidence survives.
7. Welsh Office Circular 45/90 on 'Modifications to the Definitive Map', advises that: 'in making an application for an order to delete...a right of way, it will be for those who contend that there is no right of way..., to prove that the map is in error by the discovery of evidence, which when considered with all other relevant evidence clearly shows that a mistake was made when the right of way was first recorded. ...it is not for the authority to demonstrate that the map is correct, but for the applicant to show that an error was made.'
8. Welsh Office Circular 5/93 on 'Public Rights of Way' states that: 'Surveying authorities, whenever they discover or are presented with evidence which suggests that a definitive map and statement should be modified, are required to take into consideration all other relevant evidence available to them concerning the status of the right of way involved. Moreover, before making an order they must be satisfied that the evidence shows on the balance of probability that a right of way....shown on the map is not in fact a public right of way. The mere assertion, without supporting evidence, that a right of way does not exist would be insufficient to satisfy that test.'

WILDLIFE AND COUNTRYSIDE ACT, 1981

Section 53 Duty to keep the Definitive Map and Statement under continuous review.

- (2) As regards every Definitive Map and Statement, the Surveying Authority shall:
- (a) as soon as reasonably practical after commencement date, by order make such modifications to the map and statement as appear to them to be requisite in consequence of the occurrence, before that date, of any of the events specified in Sub-Section 3; and
 - (b) as from that date, keep the map and statement under continuous review and as soon as reasonably practicable after the occurrence on or after that date, of any of those events, by order make such modifications to the map and statement as appear to them to be requisite in consequence of the occurrence of that event.
- (3) The events referred to in Sub-Section 2 are as follows:
- (b) the expiration, in relation to anyway in the area to which the map relates of any period such that the enjoyment by the public of the way during that period rises a presumption that the way has been dedicated as a public path or restricted byway;
 - (c) the discovery by the Authority of evidence which (when considered with all other relevant evidence available to them) shows:
 - (i) that a right of way which is not shown on the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path, a restricted byway or, subject to Section 54A a byway open to all traffic;

- (ii) that a highway shown in the map and statement as a highway of a particular description ought to be there shown as a highway of a different description;
- (iii) that there is no public right of way over land shown in the map and statement as a highway of any description or any other particulars contained in the map and statement require modification.

Summary of the Issues dealt with in Previous Report of 27 October 2003

1. Private easement.
2. Parish Council Minutes.
3. Existence of Private Notices.
4. Boulder across the path.
5. Clearance of ash tip.
6. That the path is a cul-de-sac.
7. Path not maintained.
8. An alternative path should have been recognised as the Definitive Path.
9. Barge trips would have been held from the point the alternative path meets the canal.
10. Existence of a dramway along the path.
11. Path overgrown when owner purchased the land.
12. Existence of Ordnance Survey plans do not identify public rights of way.
13. The Review of the public paths as required by the National Parks and Access to the Countryside Act 1949 and the Countryside Act 1968.
14. Tithe Map and Apportionment.
15. User evidence.

Summary of the Evidence submitted by the Applicant considered
in the present report

1. "Cut-off date of 1954".
2. Rights of Way Act 1932 and notices of non-intent to dedicate a public path;
3. Tithe Redemption Annuity.
4. Depiction of the path on the Parish Map and its description on the Parish Card.
5. Lack of maintenance of road due to it being a private way.
6. Internal Memorandum from this Council's legal department.
7. Council obtained an easement to use the road.

8. Accommodation road did not lead to anywhere beyond the former laundry.
9. Lack of signposts or waymarks.

Additional Evidence Discovered by this Council

10. The Parish Council Minutes show there was acquiescence by previous owners of part of the path.

APPENDIX 5

A Tithe Redemption Annuity refers to the extinguishment of the liability to pay tithe rent charge. Until 1918 redemption could be affected only by the payment of a lump sum. After 1918, instigated by the Tithe Act of that year, such redemption could be realised by means of terminable annual payment initially not exceeding 50 years but extended by the Tithe Act of 1925 to a maximum of 60 years. The Tithe Act of 1936 abolished all rent charges payable on land before 2nd October 1936, replaced by Redemption Annual Annuities which were payable for 60 years, ending in 1986. This was supervised by a new Tithe Rent Redemption Commission. Alternatively, such charges could be redeemed via other arrangements, but anyone to whom a tithe was due could be compensated by the Government.

Many tithes also became payable to private estates after the dissolution of the monasteries. Where the landowner was the tithe owner as in this case a situation was created in which an individual was effectively liable to pay tithes himself. This was usually resolved by merging the tithe in the land. Although unity of possession was the most common cause of the merger, tithe costs provided for merger under certain conditions. Provision for mergers to be confirmed, via declaration of mergers, were executed under the seal of the Tithe Commissioner. However merger of tithes might take place before apportionment and could have been effected by the original agreement or award and not by a separate deed. The Tithe Act 1936 provided for all tithe rent charges to be extinguished under this Act each owner of tithe rent charge was obliged to transmit to the Tithe Redemption Commission details in writing of every tithe rent charge not already redeemed.

APPENDIX 6

As the applicant was unable to provide any information on where he obtained this plan , a researcher was commissioned to obtain the District Record Map (reference IR 90) and Orders for Apportionment (reference IR 94) from the National Record Office at Kew. The 1933 edition of the Ordnance Survey Plan was used by the Commissioner to draw more accurately the parcels of land that had been identified on the original Tithe Survey Plan of 1841. The Tithe Act 1936 enabled all those who had paid a tithe to be able to be relieved from the obligation by paying an annual charge over the succeeding fifty year period. However the District Plan excludes Footpath No. 23 nor is the path given a number. Therefore no reference is made to the path in either the Orders for Apportionment, nor indeed under the Initial Redemption Returns under the earlier form IR 110.

This again undermines the reference to an annuity in the plan supplied by the applicant. All one can conclude therefore is the official documents referred to above provide the authenticated record of those annuities where implemented and they do not include the roadway. Consequently greater reliance should be placed on these records than that produced by the applicant.

This page is intentionally left blank

NOT FOR PUBLICATION

Document is Restricted

This page is intentionally left blank