

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL
ENVIRONMENT AND HIGHWAYS CABINET BOARD

29 October 2015

REPORT OF HEAD OF LEGAL SERVICES – DAVID MICHAEL

SECTION A – MATTER FOR DECISION

WARD AFFECTED: GODRE'R GRAIG

**PROPOSED DIVERSION OF FOOTPATH NO. 237 -
COMMUNITY OF YSTALYFERA**

Purpose of Report

This is a proposal to alter part of this path to coincide with the used Path which provides a more direct route for the public. That is from points A-B-C (80 metres) to A-C (60 metres) as shown in Appendix 1.

Background

Footpath No. 237 does not link one public highway to another. Whilst the eastern point is on Gnoll Road the western end of the path terminates at Point C. At this point there is a kissing gate which provides access on to land under the ownership of this Council. The area between Point C and Graig Road has been leased to the Community Council who have used the land to create a recreational area for the public, which is partly wooded and also comprises open grassland containing a number of footpaths.

The owner of the land containing the lengths A-B-C and A-C agrees with the proposal. There have been no other comments from the usual organisations that have been consulted along with the Local Member and Community Council.

Grounds for making a diversion order under Section 119 Highways Act 1980

It should be expedient to divert the path and be either in the interest of the owner/occupiers of the land or of the public.

Comment – Whilst the landowner is content to have the path diverted, it is clearly in the public's interest as it would formally recognise the route currently in use.

A diversion order should not alter the point of termination of the path if that point is not on a highway or otherwise to another point which is on the same highway or connected to it, which is substantially as convenient to the public.

Comment – the points of termination A and C are not being altered.

The Council can require certain works to be undertaken on the proposed alternative so that the order would not come into force until the Council certifies the works have been completed to a satisfactory standard.

Comment – the path A-C is a field path and passes alongside a fence for most of its length before passing into a woodland alongside the same fence. It is not considered it will require any improvement.

Compensation would become payable to any owner and occupier of the land crossed by or affected by the path, if the value of their land could be adversely affected by the confirmation of the order. The Council could require the owners of the land to agree to defray such costs.

Comment – given the owner of the land is agreeable to the diversion of the path, then it is not expected that such compensation would be sought.

The Council may not confirm an unopposed diversion order nor the Welsh Ministers, unless they are satisfied it is expedient to do so and that the proposed alternative will not be substantially less convenient to the public. In addition regard should be made to:-

- a) the effect the order would have on the public enjoyment of the path;
- b) the effect the order would have on land served by the path

c) its effect on the land affected by the proposed path.

Comment- As indicated it is considered the alternative will be more convenient to the public and therefore formalising this alternative will recognise their preference for this path. The proposal would have no adverse consequences for the land containing the current alignment of Footpath 237, nor the land needed to accommodate the proposed alternative.

Consultation

This item has been subject to external consultation

Appendices

Plan 1

Recommendation

That a diversion order is made under Section 119 of the Highways Act 1980, to divert the path from A-B-C to A-C and if no objections are received to confirm that same as unopposed.

Reasons for Proposed Decision

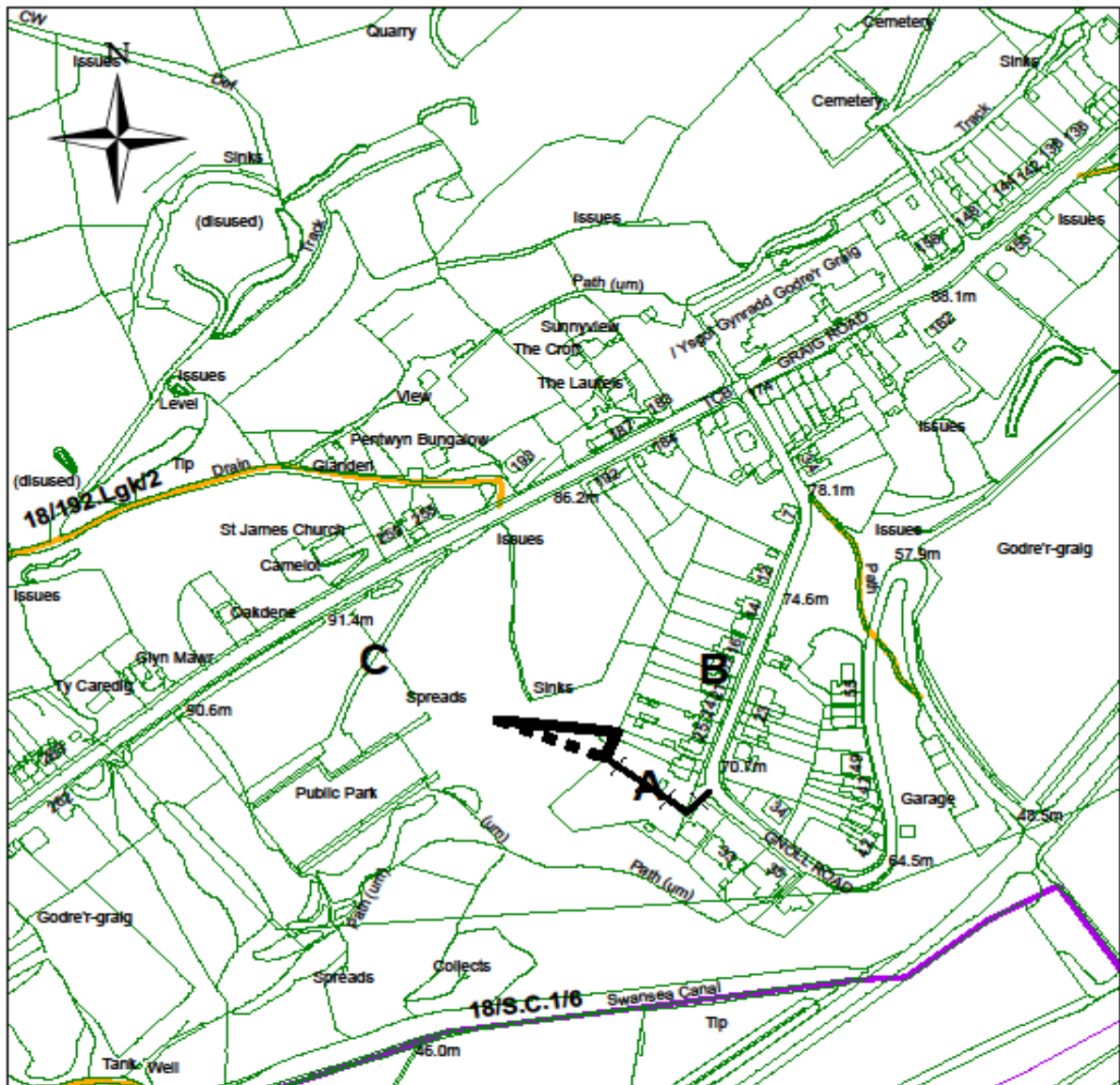
For the reasons outlined above, it is considered the tests under Section 119 to the Highways Act 1980 can be satisfied and so the diversion order be made.

List of Background Papers

M08/47

Officer Contact

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



Existing Public Footpath



Proposed Alternative



**Unaffected continuation
of the Public Footpath**



Grid Ref SS 750066

**Crown Copyright and Database Right 2015.
Ordnance Survey 100023392**