

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 THE ALLEGED PUBLIC PATH FROM HODGSON'S ROAD TO FOOTPATH NO. 194, COMMUNITY OF YSTALYFERA

Purpose of the Report

To consider the proposal to divert the alleged public footpath from points A to C via points A-B-B1-D shown on plan no.1

Background

The housing development has prevented the public from using the path which once crossed an open field, so a diversion order could be made at the same time as a modification order, should the application for the modification order be agreed.

The planning permission required paths at points B1 and in the vicinity of D to be set out at either end of the two development sites linking the footways from the hammer heads of the estate roads to the field and riverside path respectively. Both paths are in existence and are intended to become the subject of S.38 Adoption Agreements under the Highways Act 1980. However the two paths at points B1 and D do not link to registered public paths and so presently form cul de sac paths even though the intention is that they will be adopted.

The Carreg-Yr-Afon Trustees have requested the claimed public path if diverted, be set out along the perimeter of their land. This would result in it passing over an elevated section alongside the perimeter fence A-B-B1, shown by a broken line.

Any diversion order for the whole length of the claimed path would have to be made under S.119 of the Highways Act 1980.

Conditions under which a diversion order could be made under s.119 of the 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 - Clearly it would be in the interests of Taylor Wimpey and Barratts to re-route the path and also those occupiers and owners of the newly acquired houses through which the path crosses.

Secondly given there has been no public access from at least 2005 it is also in the interest of the public to regain a means of access through the site to the river. This could also be said to benefit the new occupiers of the housing development who would be able to access Hodgsons Road from point B1 which was the intention of the planning condition to set out this link to the field. Furthermore, it ensures the occupants of the new development have formal access to the riverside path and those other paths and cycleway on the southern side of the river at point D.

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 one connected to it, which is substantially as convenient to the public.

Comment - The point of termination at point A is unaltered but point C is being moved to point D, which would not be on a highway connected to point C until and if such time the route that is the subject of an application for registration from point F to E is agreed should be registered and confirmed as a public path.

This 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 length of path between points B and E running along the footway is already in a suitable condition for public use. The Trustees of the Carreg-Yr-Afon Estate have agreed that this Council could improve the proposed path between points A-B-B1 to whatever standard it considers necessary, should the order be confirmed.

Compensation could become payable to any owner and occupier of land crossed by or affected by the path if they can establish the value of their land becomes adversely affected by the confirmation of the order. The Council could require the developers of the housing estate to agree to defray such costs.

Comment - At the present time it is not known if such claims will be made.

This 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. Also 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 existing path.
- (c) its effect on the land affected by the proposed path.

Comment - As indicated above, the provision of a route through the site for those living outside and within the development would provide a more convenient a route. The land served by the existing path (as it previously once was) has changed from a field to a housing estate. However, the proposed route is for its most part already in place and provides access to the river as did the original path.

Consultation

This item has been subject to external consultation

Appendices

Plan No. 1

Recommendations

That a Diversion Order be made under S.119 of the Highways Act 1980 to re-route the path from A-C-E to A-B1-D and if no objections are received to confirm the same as unopposed.

Reasons for Proposed Decision

For the above reasons the proposal will secure the public with a link between Hodgson's Road and the river walk and Footpath No. 194. It also provides those residents of the housing development with a means of accessing Hodgsons Road on foot. Therefore it could be said to be in the interests of the public and the landowners and occupiers of the site.

It is not known whether compensation will be sought, but it is evident the intention was always to provide footpath links at either end of the site and eventually to adopt the footway.

If this diversion order is to be made then it can only be done if and when the route F to E is confirmed as a public path.

List of Background Papers

M08/59

Officer Contact

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Alleged Public Footpath from Hodgsons Road to Riverside Path A - C
 Alleged Public Footpath from Hodgsons to Footpath 194 Ystalyfera G - E
 Alleged Public Footpath from Hodgsons to Weir A - F

PLAN 1



