

**NEATH PORT TALBOT COUNTY BOROUGH COUNCIL**

**ENVIRONMENT AND HIGHWAYS CABINET BOARD**

**28 January 2016**

**REPORT OF HEAD OF LEGAL SERVICES – D.MICHAEL**

**SECTION A – MATTER FOR DECISION**

**WARDS AFFECTED: ALLTWEN AND RHOS**

**PROPOSED DIVERSION OF FOOTPATH NO. 41 COMMUNITY OF CILYBEBYLL**

**Purpose of report**

To consider the proposal to divert a 150 metre length of this footpath

**Background**

Between points A and B shown on Plan No.1 this public footpath passes through a yard used by large, heavy plant and other farm vehicles as well as storing various agricultural machinery. It is relatively secluded and affords no views of the immediate countryside.

The proposed alternative between points B and C passes through a woodland and between points C and D alongside the edge of a field.

All the usual organisations and individual consultees have been contacted and no one has raised any objections.

The local representative of the Ramblers Association supports this proposal. He stated that given the section A-E has not been accessible to the public for some time; the public have had to walk along the busy Neath Road between points F and G as shown on plan No.2. Other public paths and minor highways can be reached from point H. In his view re-opening the total length of footpath No.41 will enable the public to avoid walking a considerable distance via this road.

If this diversion is to be approved then a kissing gate will be required alongside an existing gate at point B as shown on plan No.1 and

another kissing gate or field gate will be required to re-join the path at point E. In addition two bridges of approximately 2 metres in length will be needed to cross over ditches at point C and over another ditch between points D and E.

### Grounds for Making a Diversion Order Under Section 119 of the Highways Act 1980

A public path diversion order can be made under this Section of the Highways Act 1980 if it can be shown to be either in the interest of the owner or occupiers of the land or and or of the public.

It should therefore be expedient to divert the path for either or both these referred to above.

The proposed diversion can be said to be both in the interest of the owner and occupier of Waun Fawr Farm as it removes the possible conflict between the public and those operating the vehicles in the yard. It also provides a safer passage for the public as well as a route which gives better views across the surrounding fields to the east.

Section 119 of the Highways Act 1980 states: "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 convenient to the public."

In this example the two points of termination of the proposed alternative are not being altered and remain on the registered public footpath at point A and E.

The Council can require works to be undertaken on the proposed alternative so that the order will not come into force until the Council certifies the work has been completed to a satisfactory condition.

No resurfacing work will be required, but the two gates and two small bridges referred to will have to be installed before the Order can take effect. There are monies available to finance the necessary work.

Compensation could be payable to anyone who considers the value of their land has been adversely affected by the confirmation of the Order. The owners of the land containing the proposed alternative have agreed to this diversion. Therefore it is not considered any such claim will be made.

This Council may not confirm an unopposed Order nor the Welsh Ministers confirm an opposed Order, unless they are satisfied it is expedient to do so and that the proposed alternative will not be substantially less convenient to the public.

The difference in distance is 150 metres for A–E and 185 metres from A–B–C–D–E.

Also regard has to 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 proposed path.

As already indicated the proposed alternative is considered to be better for the public in that it affords better views across the adjacent fields and avoids the need to walk through a working yard.

Removing the existing paths from A–B would be advantageous to the owners and occupiers of their land.

Consequently it is evident the owner does not envisage this will have any adverse effect on the use made of the land.

## **Appendices**

Plan No.1 and No.2

## **Recommendation**

That a diversion order be made under Section 119 of the Highways Act 1980 to divert part of the footpath No. 41 from points A–E to A–B–C–D–E and if no objections are received to confirm the same as an unopposed order.

## **Reasons for the proposed decision**

The grounds set out under section 119 of the Highways Act 1980 can be satisfied. Furthermore the owners and occupiers of the land wish to see

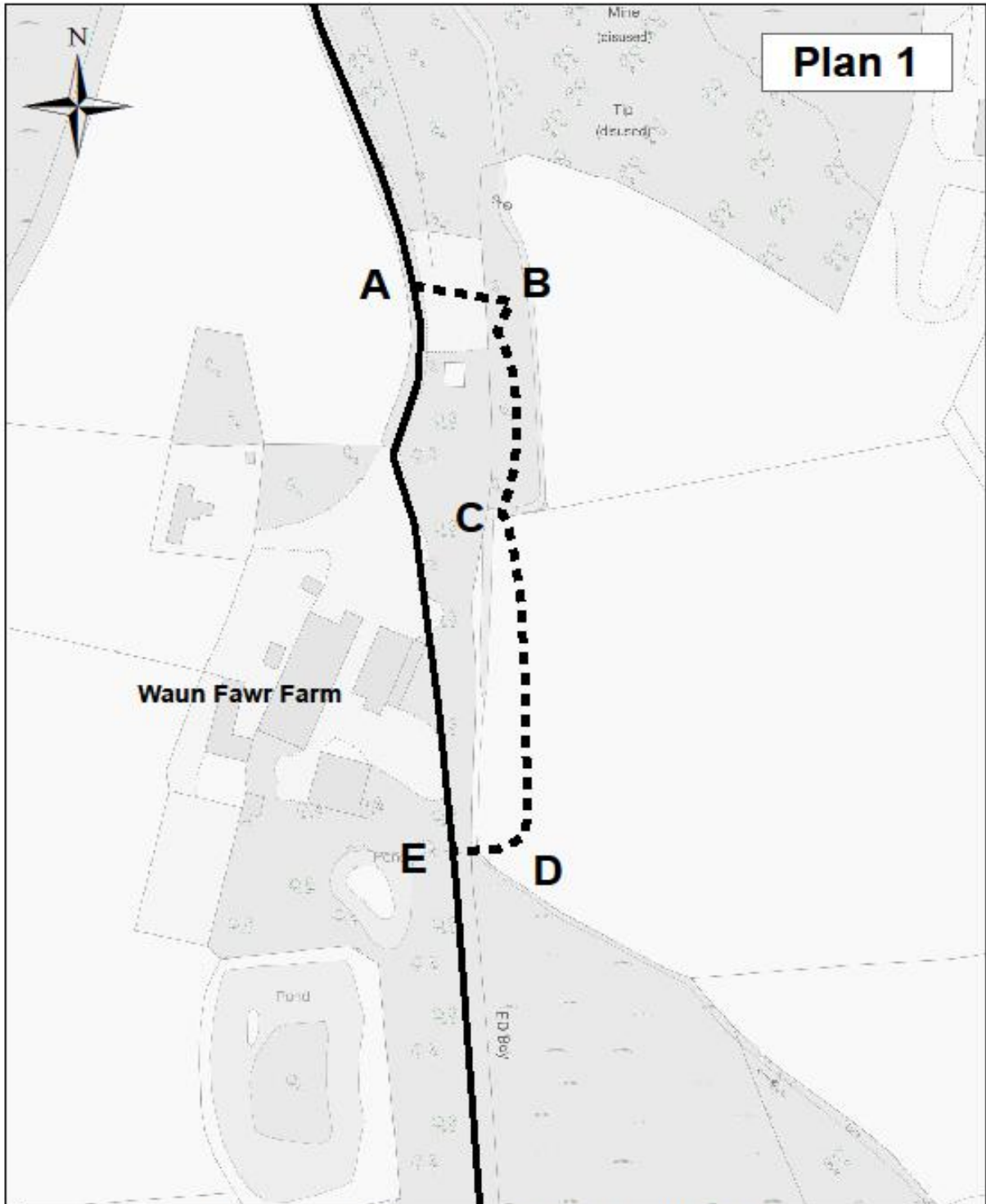
this proposal progressed and no objections have been made from any member of the public or the consulted organisations.

### **List of Background Papers**

MO8/44

### **Officer Contact**

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



**Plan 1**

**Waun Fawr Farm**

**Proposed Diversion of Footpath 41 Rhos**

Existing Route     **—————**  
 Proposed Route    **- - - - -**

Scale 1:1250  
 Grid Ref 2735 2026 - 2735 2024

Crown Copyright and Database Right 2015.  
 Ordnance Survey 100023392

