

Public Document Pack

Cyngor Bwrdeistref Sirol Pen-y-bont ar Ogwr

Bridgend County Borough Council



Swyddfeydd Dinesig, Stryd yr Angel, Pen-y-bont, CF31 4WB / Civic Offices, Angel Street, Bridgend, CF31 4WB

*Rydym yn croesawu gohebiaeth yn Gymraeg.
Rhowch wybod i ni os mai Cymraeg yw eich
dewis iaith.*

*We welcome correspondence in Welsh. Please
let us know if your language choice is Welsh.*



Annwyl Cyngorydd,

IS BWYLLGOR HAWLIAU TRAMWY

Cynhelir Cyfarfod Is Bwyllgor Hawliau Tramwy o bell - trwy Dimau Microsoft ar **Dydd Mawrth, 5 Hydref 2021** am **14:00**.

AGENDA

1. Ymddiheuriadau am absenoldeb
Derbyn ymddiheuriadau am absenoldeb gan Aelodau.
2. Datganiadau o fuddiant
Derbyn datganiadau o ddiddordeb personol a rhagfarnol (os o gwbl) gan Aelodau / Swyddogion yn unol â darpariaethau'r Cod Ymddygiad Aelodau a fabwysiadwyd gan y Cyngor o 1 Medi 2008.
3. Cymeradwyaeth Cofnodion 3 - 8
I dderbyn am gymeradwyaeth y Cofnodion cyfarfod y 08/01/2019.
4. Gwyo Arfaethedig Llwybr Troed 19, Coychurch Is a Rhan Arfaethedig 9 - 24
Diddymu Llwybr Troed 18 Coychurch Is
5. Materion Brys
I ystyried unrhyw eitemau o fusnes y, oherwydd amgylchiadau arbennig y cadeirydd o'r farn y dylid eu hystyried yn y cyfarfod fel mater o frys yn unol â Rhan 4 (pharagraff 4) o'r Rheolau Trefn y Cyngor yn y Cyfansoddiad.

Nodyn: Sylwch: Yn sgil yr angen i gadw pellter cymdeithasol, ni fydd y cyfarfod hwn yn cael ei gynnal yn ei leoliad arferol. Yn hytrach, bydd hwn yn gyfarfod rhithwir a bydd Aelodau a Swyddogion yn mynychu o bell. Bydd y cyfarfod yn cael ei recordio i'w ddarlledu ar wefan y Cyngor cyn gynted ag sy'n ymarferol ar ôl y cyfarfod. Os oes gennych unrhyw gwestiwn am hyn, cysylltwch â cabinet_committee@bridgend.gov.uk neu ffoniwch 01656 643147 / 643148.

Yn ddiffuant

K Watson

Prif Swyddog – Gwasanaethau Cyfreithiol, Adnoddau Dynol a Rheoleiddio

Ffôn/Tel: 01656 643643

Facs/Fax: 01656 668126

Ebost/Email: talktous@bridgend.gov.uk

Negeseuon SMS/ SMS Messaging: 07581 157014

[Twitter@bridgendCBC](https://twitter.com/bridgendCBC)

Gwefan/Website: www.bridgend.gov.uk

Cyfnwidi testun: Rhowch 18001 o flaen unrhyw un o'n rhifau ffon ar gyfer y gwasanaeth trosglwyddo testun

Text relay: Put 18001 before any of our phone numbers for the text relay service

Rydym yn croesawu gohebiaeth yn y Gymraeg. Rhowch wybod i ni os yw eich dewis iaith yw'r Gymraeg

We welcome correspondence in Welsh. Please let us know if your language choice is Welsh

Dosbarthiad:

Cynghowrwyr
DK Edwards
RM Granville

Cynghorwyr
JC Radcliffe
G Thomas

Cynghorwyr
MC Voisey
CA Webster

IS BWYLLGOR HAWLIAU TRAMWY - DYDD MAWRTH, 8 IONAWR 2019

COFNODION CYFARFOD Y IS BWYLLGOR HAWLIAU TRAMWY A GYNHALIWDYD YN SWYDDFEYDD DINESIG, STRYD YR ANGEL, PEN-Y-BONT AR OGWR CF31 4WB DYDD MAWRTH, 8 IONAWR 2019, AM 11:00

Presennol

Y Cyngorydd – Cadeirydd

RM Granville

RME Stirman

G Thomas

CA Webster

Ymddiheuriadau am Absenoldeb

DK Edwards a/ac JC Radcliffe

Swyddogion:

Jane Dessent

Cyfreithiwr

Julie Ellams

Swyddog Gwasanaethau Democraidd - Pwyllgorau

Andrew Mason

Rheolwr Hawliau Tramwy

Michael Pitman

Prentis Gweinyddol Busnes

6. DATGANIADAU O GYSYLLTIAD

Dim

7. CYMERADWYO'R COFNODION

PENDERFYNWYD: Cymeradwyo cofnodion cyfarfod yr Is-bwyllgor Hawliau Tramwy ar 7 Medi 2017 fel cofnod gwir a chywir.

8. DARGYFEIRIAD ARFAETHEDIG LLWYBR TROED 17, PORTHCRAWL

Estynnodd y Cadeirydd wahoddiad i'r Is-bwyllgor ddarllen y papur a ddosbarthwyd ar ddechrau'r cyfarfod gan Mr Wheeler, Cymdeithas Ceffylau Prydain. Yna gofynnodd i'r Rheolwr Hawliau Tramwy gyflwyno'r adroddiad.

Cyflwynodd y Rheolwr Hawliau Tramwy'r adroddiad yn gofyn am awdurdod i wneud Gorchymyn yn unol ag Adran 257 Deddf Cynllunio Gwlad a Thref 1990 ar dir nesaf at 15 The Burrows, Porthcawl, CF36 5AJ.

Adroddodd y Rheolwr Hawliau Tramwy y byddai gweithrediad caniatâd cynllunio P/17/595/FUL, cais cynllunio llawn i ddatblygu anhedd-dy deulawr ar wahân newydd gyda thair ystafell wely nesaf at 15 The Burrows, Porthcawl, CF36 5AJ yn gofyn am ddargyfeirio rhan o Lwybr Troed 17, Porthcawl. Esboniodd fod y cynllun yn Atodiad A yr adroddiad yn dangos cwrtill caniatâd y caniatâd cynllunio. Dangoswyd y rhan o'r llwybr troed y cynigiwyd ei dargyfeirio rhwng Pwyntiau A-B-C ar y cynllun yn Atodiad B yr adroddiad. Ychwanegodd fod y datblygiad arfaethedig hefyd yn cael ei effeithio gan ddau gais am Orchmynion Addasu Mapiau Diffiniol i uwchraddio Llwyr Troed 17 Porthcawl yn Llwyr Troed Ceffylau a gyflwynwyd gan Gymdeithas Ceffylau Prydain.

Amlinellodd y Rheolwr Hawliau Tramwy'r llwybr fel y disgrifiwyd yn y Datganiad Diffiniol a ddangoswyd ar y cynllun yn Atodiad B. Esboniodd fod hyd bras y llwybr troed i'w dargyfeirio'n 55 metr ond bod y lled heb ei ddiffinio ar hyn o bryd yn y Datganiad Diffiniol ac roedd ganddo arwyneb naturiol. Roedd trywydd amgen arfaethedig Llwyr Troed 17, Porthcawl yn rhedeg o bwynt D i bwynt C a ddengys yn atodiad B hefyd. Hyd bras y

Ilwybr newydd oedd 51 metr, gyda lled o 1.5 metr ac arwyneb tarmacadam gyda godreion llwybr.

Esboniodd y Rheolwr Hawliau Tramwy y byddai'r llwybr troed newydd yn dechrau rhyw 11 metr i'r gogledd i bwynt lle'r oedd y llwybr troed oedd yn bodoli'n gadael yr un stryd. Roedd y newid hwn yn gwbl dderbyniol o fewn cwmpas y ddeddfwriaeth. Y rheswm pam na ddangoswyd y dargyfeiriad fel un oedd yn rhedeg ar hyd llwybr troed The Burrows oedd oherwydd bod y llwybr troed eisoes yn cael ei ddangos fel rhan o'r briffordd y gellir ei chynnal. O ystyried y rhan ychwanegol hon, 62 metr oedd cyfanswm hyd y llwybr amgen.

Adroddodd y Rheolwr Hawliau Tramwy fod y cais i ddargyfeirio'r llwybr troed wedi'i gyflwyno ar 14 Awst 2017 yn dilyn y sylwadau Hawliau Tramwy mewn perthynas â'r cais cynllunio. Esboniodd mewn perthynas â'r ddau gais Gorchymyn Addasu Mapiau Diffiniol oedd yn effeithio ar y safle hwn, mai canlyniad ymchwiliadau'r Cyngor oedd y dylid gwneud dau Orchymyn Addasu Mapiau Diffiniol i uwchraddio Llwybr Troed 17 yn llwybr ceffylau gyda lled o 1.5 metr. Gwnaed y penderfyniad cyn cyflwyno'r cais dargyfeirio ond ni wnaed y gorchmynion tan fis Mawrth a mis Medi 2018.

Yna, amlinellodd y Rheolwr Hawliau Tramwy'r sylwadau a dderbyniwyd yn ystod y broses ymgynghori ar gyfer dargyfeiriad arfaethedig Llwybr Troed 17 fel y manylwyd yn yr adroddiad. Ni dderbyniwyd gwrthwynebiad gan Gymdeithas y Cerddwyr a chyflwynodd Heddlu De Cymru rai sylwadau mewn perthynas â'r cynnig fel y manylir yn yr adroddiad. Gwrthwynebodd Cymdeithas Ceffylau Prydain y cynnig fel yr amlinellir yn yr adroddiad. Yn ogystal, anfonodd Cymdeithas Ceffylau Prydain gopi o'r ymgynghoriad ymlaen at farchogion eraill yn yr ardal a arweiniodd at dderbyn sylwadau gan 22 aelod o'r cyhoedd.

Ymddengys bod chwe phrif bwynt oedd yn sail i fwyafrif y gwrthwynebiadau i'r cynnig. Crynhodd y Rheolwr Hawliau Tramwy bob gwrthwynebiad ac ymateb y Cyngor i bob un.

- Credodd mwyafrif y marchogion y dylid ymdrin â'r Gorchymyn Addasu Mapiau Diffiniol i uwchraddio Llwybr Troed 17 Porthcawl cyn dargyfeirio'r llwybr troed. Gwnaed y penderfyniad mewn perthynas â'r Gorchymyn 3 blynedd cyn y dyddiad y derbyniwyd y cais i ddargyfeirio ond nid oedd y penderfyniad wedi'i symud yn ei flaen cyn y dyddiad y cafwyd y cais i ddargyfeirio. Ers ymgymryd â'r ymgynghoriad cyn y gorchymyn, cyhoeddwyd 4 Gorchymyn Addasu Mapiau Diffiniol o fewn ardal Drenewydd yn Notais/Merthyr Mawr (Gorchmynion 1, 2, 3 a 7 2018), gan gynnwys y ddau sy'n effeithio ar Llwybr Troed 17 Porthcawl (gorchmynion 2 a 7 2018) a denodd y rhain rhyw 200 o wrthwynebiadau, 84 trwy e-bost/llythyr o gefnogaeth a 2 ddeiseb, un gyda 70 o lofnodion yn gwrthwynebu, ac 1 ddeiseb gyda 47 o lofnodion yn cefnogi. Gofynnwyd am gyngor a chafwyd cyngor cyfreithiol na fyddai'n briodol gohirio'r Gorchymyn Dargyfeirio o gofio'u bod yn brosesau cyfreithiol ar wahân ac roedd disgwyl gwrthwynebiadau a fyddai'n golygu y gallai gymryd amser sylweddol cyn i'r Gorchmynion Addasu Mapiau Diffiniol gael eu penderfynu.
- Awgrymodd Cymdeithas Ceffylau Prydain y byddai dargyfeirio'r llwybr a gwneud y llwybr arall yn llwybr ceffylau cyhoeddus yn cael gwared ar unrhyw wrthwynebiad gan farchogion. Petai'r Cyngor yn hwyluso hyn, byddai ar y sail y byddai'r ddau Orchymyn Addasu Mapiau Diffiniol yn cael eu cadarnhau. Pe na fydden nhw, gallai hyn arwain at ran fer o'r llwybr ceffylau'n arwain at llwybr troed ar bob ochr.
- Mynegwyd pryderon oherwydd nad yw'r lled o 1.5 metr ar gyfer y dargyfeiriad arfaethedig yn ddigon llydan a datganodd eraill fod angen lled o 1.5 metr o leiaf ar y llwybr ceffylau. Fel rheol, byddai'r Cyngor yn gofyn

am isafswm gofyniad lled o ddim llai na 2.5 metr petai'n dargyfeirio llwybr ceffylau. Fodd bynnag, roedd y cynnig yn ceisio dargyfeirio llwybr troed cyhoeddus heb led diffiniedig ar hyn o bryd. Yn yr achosion hynny, fel rheol byddai'r Cyngor yn gofyn y dylai'r llwybr troed wedi'i ddargyfeirio fod yn 1.4m o gael terfyn ar un ochr ac 1.8 metr o gael terfyn ar y ddwy ochr. Yn yr achos hwn, nid oedd terfyn di-oed ar y ddwy ochr ac felly, byddai 1.4m yn ddigon. Roedd y datblygwr wedi cytuno i arwynebu'r llwybr i 1.5 metr gan mai dyna oedd lled y llwybr tarmac o The Burrows i Birch Walk. Ychwanegodd fod adroddiad a baratowyd gan ymgynghorydd mewn perthynas â cheisiadau Gorchymyn Addasu Mapiau Diffiniol Cymdeithas Ceffylau Prydain a gyflwynwyd i'r Cyngor yn 2007, wedi canfod, heb dystiolaeth sylweddol i awgrymu y dylai'r llwybr ceffylau fod yn lletach, dylid cyfyngu ar y gwaith o uwchraddio Llwybr Troed 17 Porthcawl i led o 1.5 metr. Dywedodd hefyd petai Arolygydd sy'n gweithredu ar ran Llywodraeth Cymru'n penderfynu y dylid cadarnhau'r Gorchymynion Addasu Mapiau Diffiniol (Gorchymynion 2 a 7), gallent hefyd gofnodi lled llwybr oedd yn lletach na'r lled arfaethedig o 1.5 metr. Os dyma oedd yr achos, yna byddai'n rhaid i'r Cyngor benderfynu sut gallai ddarparu ar gyfer y fath newid ac roedd tri dewis ar gael ar hyn o bryd fel yr amlinellir yn yr adroddiad.

- Roedd rhai marchogion yn poeni y byddai dargyfeiriad y llwybr troed yn andwyol i'r cais i uwchraddio'r llwybr troed i lwybr ceffylau. Dadl y Cyngor yw na fyddai hyn yn effeithio ar benderfyniad y Gorchymyn Addasu.
- Cododd rhai marchogion faterion yn ymwneud â'r cais cynllunio ei hun. Esboniodd y Rheolwr Hawliau Tramwy nad oedd rhoi caniatâd cynllunio'n sicrhau y byddai hawl tramwy cyhoeddus yr effeithiwyd arni'n cael ei dargyfeirio neu ei dileu.
- Cyfeiriodd nifer o farchogion at gât mochyn oedd yn gwahardd mynediad ar hyd y llwybr. Esboniodd y Rheolwr Hawliau Tramwy fod y gât mochyn dan sylw wedi'i godi ar lwybr troed gwahanol 244 metr i gyfeiriad y gorllewin o'r cynnig cyfredol oherwydd defnydd anghyfreithlon o'r llwybr gan farchogion a cherbydau modur. Gosodwyd ffrâm "A" ar y rhan o'r llwybr troed a ystyrir ar hyn o bryd a bwriad y Cyngor oedd petai hawliau uwch yn cael eu penderfynu, byddai'r ffrâm "A" yn cael ei thynnu ymaith.

Mewn perthynas â honiad Cymdeithas Ceffylau Prydain nad oeddent yn cael eu trin yn deg, esboniodd y Rheolwr Hawliau Tramwy fod Asesiad o Effaith ar Gydraddoldeb wedi'i gynnal a oedd yn dangos nad oedd goblygiadau nac effeithiau ar grwpiau cydraddoldeb penodol. Mewn perthynas â'u gwrthwynebiad ar y sail na fyddai'r llwybr dargyfeiriedig mor gyfleus a helaeth, byddai'r llwybr newydd 7 metr yn hwy na'r llwybr presennol, newid mân pan oedd y cyfanswm hyd yn 457 metr. Nid oedd angen i lwybrau oedd yn cael eu dargyfeirio dan Ddeddf Cynllunio Gwlad a Thref 1990 fod mor gyfleus a helaeth ond roedd rhaid i'r Cyngor fod yn fodlon ei fod yn angenrheidiol er mwyn galluogi i'r datblygiad gael ei gyflawni.

Amlinellodd y Rheolwr Hawliau Tramwy natur gwrthwynebiad Cyngor Tref Porthcawl i'r cais cynllunio am y rhesymau nad oedd gwro'r llwybr troed yn dderbyniol ac y byddai'n gosod cynsail. Nodwyd y gwrthwynebiadau yn ystod proses y cais cynllunio ond aed i'r afael yn ffurfiol â nhw fel rhan o'r weithdrefn ymgeisio ffurfiol i ddargyfeirio'r hawl tramwy cyhoeddus. Ychwanegodd fod y

ddeddfwriaeth yn galluogi'r datblygwyr i gyflwyno ceisiadau i ddargyfeirio hawliau tramwy cyhoeddus oedd yn cael eu heffeithio gan ddatblygiad heb osod unrhyw fath o gynsail. O ran bod y dargyfeiriad yn annerbyniol, nid oedd arwydd pam yr oedd hyn yn annerbyniol ac felly roedd hi'n anodd rhoi sylwadau ar hyn.

Amlinellodd y Rheolwr Hawliau Tramwy Ganllawiau Llywodraeth Cymru i Awdurdodau Lleol ar Hawliau Tramwy Cyhoeddus a rhoddodd fanylion y tair ystyriaeth a sut yr oedd y Cyngor wedi'u hystyried.

Gofynnodd Aelod am eglurhad eu bod nhw ond yn ystyried y dargyfeiriad arfaethedig o'r llwybr troed ac nid uwchraddio'r llwybr troed i lwybr ceffylau. Cadarnhawyd hwn yna gofynnodd yr un aelod a allai'r pwyllgor ofyn bod y ffrâm "A" yn cael ei throsglwyddo gyda'r llwybr troed. Datganodd y Rheolwr Hawliau Tramwy y gellid gwneud hyn os oedd y pwyllgor yn cytuno.

Gofynnodd y Cadeirydd i Mr Wheeler o Gymdeithas Ceffylau Prydain roi manylion y pryderon yr oedd ganddo mewn perthynas â'r cynnig. Cyfeiriodd Mr Wheeler at y papur a ddisbarthodd a'r pwyntiau oedd yn ffurfio sail y gwrthwynebiadau i'r dargyfeiriad arfaethedig, yn enwedig yr ail bwynt yn ymwneud ag awgrym gan Gymdeithas Ceffylau Prydain y byddai dargyfeirio'r llwybr a gwneud llwybr ceffylau cyhoeddus arall yn cael gwared ar unrhyw wrthwynebiad gan farchogion. Ymateb y Cyngor oedd pe na fyddai'r Gorchmynion Addasu Mapiau Diffiniol yn cael eu cadarnhau, byddai rhan fer o'r llwybr ceffylau'n arwain at lwybr troed ar bob ochr. Ymatebodd Mr Wheeler mai nid fel hyn oedd pethau ac nid oedd rhagdybiaeth o lwyddiant ynghlwm ychwaith oherwydd nid oedd yn bwysig. Datganodd y byddai o fantais wrth ddatrys y mater hirsefydlog rhwng marchogion a'r Cyngor sef bod y Cyngor wedi'u ffensio allan o'r Man Agored Cyhoeddus yn Newton Burrows lle dylen nhw yn ôl y gyfraith gael eu caniatáu i gael awyr iach ac ymarfer corff. Ychwanegodd y nodwyd yn yr adroddiad y byddai'r cynnig presennol yn achosi toriad ym mharhad yr hawl tramwy, sef na fyddai'r llwybr ceffylau newydd a grëwyd yn dechrau ar hawl tramwy cyhoeddus ac nid ar lwybr troed ac yn dod i ben yn y Man Agored Cyhoeddus yn syth cyn pwynt C. Dywedodd petai hyn yn cael ei wneud, byddai'n codi'r gwrthwynebiad marchogol mewn egwyddor.

Yr ail bwynt a godwyd gan Mr Wheeler oedd pam oedd y bwlch oedd yn lletya'r llwybr troed heb ei ddatblygu yn y lle cyntaf. Credai mai'r ateb oedd bod gweddill priffordd hynafol yn derfyn bras i linellau cwrtil tŷ rhif 11 a 15, ac roedd hynny wedi'i nodi yn Nyfarniad Clostiroedd 1864. Ychwanegodd o edrych am yn ôl ac i'r chwith o The Burrows ac yn ôl tuag at Birch Walk, fod gerddi cefn yr adeiladau hyn bron yn ddwbl o ran hyd yn oddeutu 2005 pan alluogodd datblygiad tebyg i dŷ ychwanegol gael ei wasgu i mewn i Birch Walk. Esboniodd fod camau gwreiddiol y datblygiadau fan hyn wedi parchu llinellau terfyn yr hen briffordd, ond yn anffodus, nid dyma oedd yr achos mwyach a'r anffawd i'r gymuned farchogol oedd bod pobl a sefydliadau'n gwrthwynebu'r defnydd parhaus ohonynt fel Llwybrau Ceffylau oherwydd nid oeddent yn ddigon llydan rhagor. Dyma pam y dadleuon nhw'n gryf fod dargyfeirio'r hawl tramwy fel llwybr troed nid yn unig yn niweidiol ond yn angheuol i unrhyw ddefnydd posibl i'r dyfodol fel llwybr ceffylau. Roedd y llwybr rhwng Birch Walk a'r Burrows eisoes yn rhy gul. Casglodd mewn perthynas â'r haeriad fod marchogion yn cael eu trin yn annheg a bod yr adroddiad wedi casglu nad oedd hyn yn wir, ymatebodd fod rhyw 50 o'r

sylwadau'n cefnogi'r gorchmynion llwybr ceffylau, roedd pob un ond fe ac un arall wrth fenywod oedd yn golygu bod 96% o'r marchogion wedi'u heffeithio'n negyddol arnynt. Yn wir, menywod yn gyfan gwbl fu'n erfyn ar y Cyngor yn 2011 mewn perthynas â'r diffyg mynediad i farchogion i Fannau Agored Cyhoeddus ac nid oedd unrhyw gynnydd o gwbl wedi'i wneud yn hyn o beth.

Ymatebodd y Rheolwr Hawliau Tramwy, o ran y pwynt cyntaf a godwyd am gynigion dargyfeirio, roedd 200 o wrthwynebiadau wedi dod i law i'r Gorchmynion Addasu, felly ni fyddai hyn yn ateb a fyddai'n gweddu i bawb. Ychwanegodd fod y llwybr i Birch Walk yn eiddo i'r Datblygwyr a werthodd y tir i'r trigolion ac a gulhaodd led y bwlch. Cynhaliwyd asesiad o les a ddynododd fod y llwybr yn cael ei ddefnyddio gan gerddwyr hefyd a byddai gwella'r arwyneb o les iddynt a bod hyn yn gwrthbwysu nifer y marchogion oedd yn defnyddio'r llwybr hwn.

Ymatebodd Mr Wheeler fod yr adroddiad wedi'i ddyddio ym mis Medi ac felly, dylai fod wedi cael cyfle i gyfrannu at yr adroddiad yn gynharach. Gallai'r gwrthwynebiadau a ddaeth i law arwain at Orchmynion Addasu'n methu. Gwnaed deiseb yn 2011 oherwydd nad oedd y marchogion, benywaidd yn bennaf, yn gallu cael mynediad i'r twyni ac nid oedd ganddynt unrhyw le i farchogaeth a oedd yn eu rhoi nhw mewn sefyllfa beryglus. Roedd y busnesau a arferai ddibynnu ar fynediad i'r traeth yn methu hysbysebu oherwydd roeddent wedi cael eu ffensio allan o'r traeth ac roedd yr hyn a ddefnyddid fel llwybr ceffylau bellach yn rhy gul.

Esboniodd y Rheolwr Hawliau Tramwy nad oedd yr ardal o dir yr oedd Mr Wheeler yn cyfeirio ati (yr ardal i gefn pwynt C ar atodiad B) yn dir agored cyhoeddus ac felly byddai defnydd o'r ardal hon yn tresmasu yn erbyn y tiffeddiannwr.

Cadarnhaodd y Rheolwr Hawliau Tramwy y byddai'r Cyngor yn y dyfodol yn edrych ar y man agored cyhoeddus presennol yn ardal Newton i weld a allai gael ei agor lan i farchogion ond o ran beth oedd yn cael ei ystyried y tro hwn, ni fyddai'n bosibl.

Datganodd Mr Wheeler ei fod yn deall y cyfyngiadau ond roedd marchogion yn rhydd i farchogaeth yna nawr. Cadarnhaodd yr Asiant nad oedd yr ardal dan sylw'n fan agored cyhoeddus.

Gofynnodd aelod am eglurhad o'r term "lled heb ei ddiffinio". Esboniodd y Rheolwr Hawliau Tramwy y gallai fod yn unrhyw beth rhwng 1 a 34 troedfedd ac roedd yn seiliedig yn aml ar dystiolaeth hanesyddol. Trafododd yr aelodau nifer o bwytiau gan gynnwys Deddf Parciau Cenedlaethol a Mynediad i Gefn Gwlad 1949 a'r map diffiniol ac os nad oedd lled wedi'i gofnodi, y rheswm oedd oherwydd bod y llwyr yn llydan ac nid yn gul.

PENDERFYNWYD:

- 1 Bod awdurdod yn cael ei roi i Bennaeth y Gwasanaethau Cyfreithiol a Rheoleiddio wneud y Gorchmynyn angenrheidiol i geisio ailosod Llwybr Troed 17, Porthcawl, i'r llwybr a welir ar

Atodiad B i'r adroddiad, a chadarnhau'r Gorchymyn ar yr amod na wnaed unrhyw wrthwynebiad neu sylwadau o fewn y cyfnod rhagnodedig, neu os tynnir yn ôl rhai a wnaed.

- 2 Bod Pennaeth y Gwasanaethau Cyfreithiol a Rheoleiddio'n cael awdurdod i symud y Gorchymyn ymlaen i Lywodraeth Cymru benderfynu arno, os na thynnir unrhyw wrthwynebiad yn ôl.
- 3 Bod y Gorchymyn/Gorchmynion yn eithrio unrhyw ran o'r dargyfeiriad sy'n defnyddio priffyrdd y mae modd i Gyngor Bwrdeistref Sirol Pen-y-bont ar Ogwr eu cynnal a chadw gan fod hawliau cyhoeddus eisoes yn bodoli drostynt.
- 4 Y dylai'r ffrâm "A" sy'n bodoli ar Lwybr Troed 17 ar hyn o bryd gael ei gosod ar y llwybr newydd.

9. **EITEMAU BRYG**

Dim.

Daeth y cyfarfod i ben am 12:00

BRIDGEND COUNTY BOROUGH COUNCIL
REPORT TO RIGHTS OF WAY SUB COMMITTEE

5 OCTOBER 2021

REPORT OF THE CORPORATE CHIEF EXECUTIVE - COMMUNITIES

**PROPOSED DIVERSION OF FOOTPATH 19, COYCHUCH LOWER AND
PROPOSED PART EXTINGUISHMENT OF FOOTPATH 18, COYCHURCH LOWER**

1. Purpose of report

- 1.1 The purpose of this report is to request authorisation for the making of two Orders pursuant to Section 257 (diversion) and Section 258 (Extinguishment) of the Town & Country Planning Act 1990, on land east of the A48 (Crack Hill), Brocastle, Bridgend, CF31 5AU.

2. Connection to corporate well-being objectives / other corporate priorities

- 2.1 This report assists in the achievement of the following corporate well-being objectives under the **Well-being of Future Generations (Wales) Act 2015**:-

1. **Supporting a successful sustainable economy** – taking steps to make the county borough a great place to do business, for people to live, work, study and visit, and to ensure that our schools are focussed on raising the skills, qualifications and ambitions for all people in the county borough.
2. **Helping people and communities to be more healthy and resilient** - taking steps to reduce or prevent people from becoming vulnerable or dependent on the Council and its services. Supporting individuals and communities to build resilience, and enable them to develop solutions to have active, healthy and independent lives.

3. Background

- 3.1 The implementation of the following planning consents will require a section of Footpath 19, Coychurch Lower to be diverted. They are:

- P/16/549/OUT - outline planning application for the development of up to 71,441sq.m. of B1, B2 and B8 employment floor space, including access, car parking, diversion of public rights of way, site remediation, drainage, landscaping and associated engineering operations, which received conditional consent (outline) on the 7th July 2017.
- P/17/1044/NMA - non-material amendment to Conditions 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 18, 19, 20, 21, 22, 23 & 24 of P/16/549/OUT to change the wording of the conditions, granted Non-Material Amendment conditional consent on the 10th January 2018.

- P/18/492/RES - reserved matters to P/16/549/OUT for approval of landscaping within the development site, granted conditional consent (reserved matters) on the 25th February 2019 at land east of the A48 (Crack Hill), Brocastle, Bridgend, CF31 5AU.
- P/20/269/RLX – Variation of condition 1 of P/16/549/OUT to amend to illustrative masterplan and parameters, granted conditional consent (RLX) on the 30th June 2020 at land east of the A48 (Crack Hill), Brocastle, Bridgend, CF35 5AU.

3.2 To enable Footpath 19 Coychurch Lower to be diverted as proposed by the applicant it will also be necessary to extinguish a section of Footpath 18 Coychurch Lower. This will maintain the integrity of the rights of way network by avoiding the creation of a cul-de-sac route. Additionally, the opportunity has also been taken during discussions with the applicant to create two link paths from Footpath 19 Coychurch Lower to link into an estate footway and an estate link path. The two new paths will be created either by Agreement or Order using the Council's separate powers under the Highways Act 1980. The plan in **Appendix A** to the report shows the consent curtilage of the planning consent. The section of Footpath 19 Coychurch Lower which is proposed to be diverted is shown between Points A-B on the plan in **Appendix B** to the report. This plan also shows the proposed alternative route for Footpath 19 Coychurch Lower between Points A-C-D-E-F-G-H-I & J-K-L; the section of Footpath 18 Coychurch Lower which is proposed to be extinguished between Points J-W; and, for completeness, the two new links to be created between Points A-M-N-O-P-Q and R-S-T-U-V.

4. Current situation/proposal

Current Route and Proposed Diversion

- 4.1 Currently Footpath 19, Coychurch Lower commences at Point A (Grid Ref. SS 92857765), as shown on the plan in **Appendix B**, and proceeds in a general east north-easterly direction for approximately 615 metres to its termination point at the Brocastle Brook (County Borough Boundary) at Point B (Grid Ref. SS 93407790). The definitive width of the route is undefined. The footpath has a natural surface.
- 4.2 The proposed alternative route of Footpath 19, Coychurch Lower, runs from Point A (Grid Ref. SS 92867765) on the plan (**Appendix B**), and proceeds in a north westerly direction for 124 metres to Point C (Grid Ref. SS 92767773) before continuing in a north north-easterly direction for 12 metres to Point D (Grid Ref. SS 92777775), it then continues in an east north-easterly direction for approximately 144 metres to Point E (Grid Ref. SS 92917777), where it turns and runs in a northerly direction for 88 metres to Point F (Grid Ref. SS 92927786), before proceeding in a north easterly direction for 32 metres to Point G (Grid Ref. SS 92947788), it then continues in an east north-easterly direction for 162 metres to Point H (Grid Ref. SS 93107791), before finally running in a north easterly direction for 144 metres to its junction with Footpath 18 Coychurch Lower at Point I (Grid Ref. SS 93237797).
- 4.3 The additional alternative route of Footpath 19 Coychurch Lower commences from its junction with Footpath 18 Coychurch Lower at Point J (Grid Ref. SS 93327789), and continues in a general easterly direction for 58 metres to Point K (Grid Ref. SS

93387789), before turning and running in a north easterly direction for 18 metres to its termination point at the Brocastle Brook at Point L (Grid Ref. SS 93397790).

- 4.4 The approximate total length of the new routes will be 782 metres with a width of 2 metres. The footpath will have a natural surface throughout its entire length.
- 4.5 The section of Footpath 18, Coychurch Lower which is to be extinguished currently commences at Point J (Grid Ref. SS93327789), as shown on the plan in **Appendix B**, and proceeds in a south easterly direction for approximately 7 metres to Point W (Grid Ref. SS 93337789).
- 4.6 Members should note that a small section of Footpath 19 Coychurch Lower (approximately 8 metres) will not be affected by the proposed diversion. The section of route not affected by the diversion is shown between Points A and X on the plan in **Appendix B**. Retaining this link will provide access to the A48 and the existing rights of way network in the Vale of Glamorgan via the public footpath directly opposite.
- 4.7 The diversion of this section of Footpath 19, Coychurch Lower was originally discussed in April 2018 when the agent for the applicant sought advice from the Rights of Way Section for the possible diversion of the footpath. As a result of those discussions the agent submitted a proposal for the diversion of the footpath. However the Rights of Way Section were not happy with the original proposal as this showed most of the proposed diverted route of Footpath 19 Coychurch Lower using estate footways. Discussions then continued between both parties until the currently proposed alternative route was agreed in principal by the Rights of Way Section. During those early discussions, the applicant informed the Rights of Way Section that they wished to create two additional link paths within the development site. As a result, the Rights of Way Manager agreed in principal to create the two additional link paths as public footpaths.
- 4.8 The application to divert this section of Footpath 19, Coychurch Lower as well as creating two additional link paths was submitted on the 18th June 2018. The application was received as a result of comments made by the Rights of Way Section in regards to planning application P/16/549/OUT.
- 4.9 Whilst preparing the documents to carry out a consultation in line with the Councils standard pre-order consultation process in 2018, the Rights of Way Section noted that if the proposed diversion were to be successful this would leave Footpath 18 Coychurch Lower as a cul-de-sac route. The Council wrote to the applicant's agent asking if they would be willing to agree to include the extinguishment of a short section of Footpath 18 Coychurch Lower in their application so that this potential anomaly could be resolved. The agent confirmed that the amendments to the application were acceptable to them and the applicants.
- 4.10 In accordance with the Councils standard consultation process for Public Path Orders the local County Borough Council member, Coychurch Lower Community Council, the British Horse Society, Bridgend Ramblers Association, other user groups and interested bodies, South Wales Police and public utilities, were all consulted on the proposal in September 2018. During the consultation process

numerous representations were received in relation to the proposed diversion. These are outlined below.

- 4.11 Bridgend Ramblers – No objection
- 4.12 Wales & West Utilities – No objection
- 4.13 Coychurch Lower Community Council – No objection
- 4.14 South Wales Police Design out Crime Officer – No objection
- 4.15 Dwr Cymru Welsh Water (DCWW) – objected as they have apparatus in the area that is affected by the proposal. This objection was forwarded onto the agent acting on behalf of the applicant as all works that DCWW were concerned about would be carried out by a contractor appointed by the agent/applicant. Further discussions took place between the agent and DCWW and a final email was sent stating that as a result of those discussions DCWW would be withdrawing their objection.
- 4.16 Due to proposed changes to the planning consent (P/16/549/OUT) which had previously been granted, a request was made to the Rights of Way Section asking to postpone the application to divert the footpaths until such time as a decision was made with regards to planning application P/20/269/RLX.
- 4.17 The diversion application process was paused until the outcome of the proposed changes to the planning application was granted consent. Once consent had been granted amended proposals for the diversion of Footpath 19 Coychurch Lower were submitted.
- 4.18 In accordance with the Councils standard consultation process for Public Path Orders the local County Borough Council member, Coychurch Lower Community Council, the British Horse Society, Bridgend Ramblers Association, other user groups and interested bodies, South Wales Police and public utilities, were all consulted on the new proposals in July 2020. During the second consultation process further representations were received in relation to the proposed diversion. These are outlined below.
- 4.19 Wales & West Utilities – No objection
- 4.20 Bridgend Ramblers – No objection
- 4.21 Cllr Elaine Venables – Although no formal objection was received Cllr Venables was concerned that the proposed diversion of Footpath 19 Coychurch Lower would be very close to the current alignment of Footpath 18 Coychurch Lower.
- 4.22 Natural Resources Wales – No objection
- 4.23 South Wales Police Design out Crime Officer – No objection
- 4.24 Openreach – No objection
- 4.25 Dwr Cymru Welsh Water - objected for the same reasons as outlined in paragraph 4.15. The objection was forwarded to the applicant's agent and following further

discussions between the agent and DCWW the Council received an email advising that DCWW would be withdrawing their objection.

- 4.26 During the preparation of this report the Rights of Way section was made aware that as part of the planning process a number of areas within the development site were earmarked for new enhanced landscape planting. Further discussions then took place with the agent acting on behalf of the applicant/landowner which resulted in the Rights of Way section being advised that one area would affect the proposed diversion of Footpaths 19 Coychurch Lower whilst another would affect that section of Footpath 18 Coychurch Lower which runs through the site and which is not going to be diverted.
- 4.27 A further site visit was carried out between the Rights of Way Section, the agent acting on behalf of the landowner and the contractor carrying out the works on site in February 2021 to discuss the issue of the requirements for the enhanced landscaping areas. In order to protect the saplings in the new enhanced landscape planting areas, the applicant/landowner decided to fence off the areas with rabbit proof fencing whilst they matured over a period of 5 years. The alternative would have been to use individual tree guards but it was deemed more appropriate to use the fencing due to the size of the areas, the number of new saplings requiring protection and the ease of ongoing maintenance. During that meeting, the Rights of Way Section were advised that the rabbit proof fencing would need to fully enclose the areas concerned, and that stiles were the preferred option to gain access to the areas as any other furniture used, such as pedestrian gates or kissing gates would cause a break in the fencing which could potentially allow rabbits to squeeze through, no matter how small the gap.
- 4.28 The Council agreed that they would allow the fencing to be erected and remain in place for a maximum of 5 years at both sites provided the applicant/landowner agreed to:
- Physically create two alternative permissive paths around the enhanced landscape planting areas each with a minimum width of 2 metres for those not wishing or able to climb over the stiles which will be erected on the proposed diverted route of Footpath 19 Coychurch Lower and the existing route of Footpath 18 Coychurch Lower. The routes would be maintained by the landowner for the duration of the fencing being in place up to a maximum of 5 years.
 - The applicant/landowner would install and maintain stiles in the fences at the points where the proposed route of Footpath 19 Coychurch Lower and the existing route of Footpath 18 Coychurch Lower passed through the enhanced landscape planting areas to enable those wishing to use the Definitive alignments of the public footpath. The locations of the proposed stiles are indicated by four 'X's on the plan in **Appendix C**. The two stiles on the proposed diverted route of Footpath 19 Coychurch Lower would be shown as a limitation in the Order.
 - The applicant/landowner would remove the stiles at the end of the 5 year period when the fences would also be removed.

- 4.29 The Council has received written confirmation from the applicant/landowner agreeing to the conditions.
- 4.30 With regards to the surface of the permissive routes, the Council can confirm that they are of the same physical characteristics as the remainder of Footpaths 18 and 19 Coychurch Lower, and as such, would not have a long term detrimental effect on users of the footpaths.
- 4.31 In order to facilitate the development of up to 71,441sq.m. of B1, B2 and B8 employment floor space, including access, car parking, diversion of public rights of way, site remediation, drainage, landscaping and associated engineering operations as per planning consent P/16/549/OUT at land east of the A48 (Crack Hill), Brocastle, Bridgend, CF31 5AU a section of Footpath 19, Coychurch Lower will need to be diverted. In addition part of Footpath 18 Coychurch Lower will need to be extinguished and two link paths will be created.
- 4.32 The Welsh Governments Guidance for Local Authorities on Public Rights of Way – August 2016 states:

‘Before making an Order the Council must be satisfied that it is necessary to do so in order to enable development to be carried out in accordance with planning permission that has been granted.’

As Members are aware, it should not be assumed that an Order should be made simply because planning permission has been granted.

‘In determining whether an Order is ‘necessary’ the Council must examine the activities authorised by the planning permission to see whether they are, or are not, compatible with the retention of highway rights. An activity which would involve obstruction of a highway (for example, the erection of a structure across the line of a highway or introducing a use such as outdoor storage or long-term parking) would be incompatible with the highway and so make out a case of necessity.’

‘Even where a case of necessity is made out, an authority still has discretion whether to make an Order or not. However, having concluded that the planning permission should be granted, there must be good reasons for deciding that an Order, which would permit implementation of that permission, should not be made.’

‘In coming to a judgment as to whether to make an Order, the following should be taken into account:

- *The interests of the general public.*
- *The potential effects of the Order on some members of the public, such as occupiers of property adjoining the highway.*
- *Any potential financial loss to members of the public.’*

- 4.33 In regard to the three considerations outlined above Members are advised as follows:
- The Council is aware that the new route will be 227 metres longer than the existing route and that for the first 5 years four stiles will be installed on the route. However, the stiles will be removed after 5 years and during the time

they are in situ a separate alternative path without any structures will be made available. Consideration was given to diverting the path closer to the development but this was not possible on the northern side of any potential building. And, if the diversion was taken to the south of any potential building the alternative route would have had to utilise the estate footways. As has already been indicated in paragraph 4.7 this was deemed to be unacceptable as the proposal would not have met current guidelines for the diversion of footpaths. In the long term the proposed diversion enables the Rights of Way network to be protected from obstruction for the enjoyment of the public. It also enables the network to be accurately recorded and maintained and will allow for the footpath to remain as a continuous off-road walking route for members of the public between the A48 and the County Borough Boundary. For these reasons it is considered that the test that the proposal is in the interests of the public can be said to be satisfied.

- There does not appear to be any additional effects of the Order on any adjoining properties.
- The Council is unaware of any potential financial loss to members of the public. The developer will be responsible for any works that are required to provide the diversion and the provision of the new routes.

5. Effect upon policy framework and procedure rules

5.1 It is considered that there is no effect upon policy framework and procedure rules.

6. Equality Act 2010 implications

6.1 An initial Equality Impact Assessment screening has identified that there would be no negative impact on those with one or more of the protected characteristics, on socio-economic disadvantage or the use of the Welsh language. It is therefore not necessary to carry out a full EIA on this policy or proposal.

7. Well-being of Future Generations (Wales) Act 2015 implications

7.1 The Well-being of Future Generations (Wales) Act 2015 Assessment Template has been completed and a summary of the implications from the assessment relating to the five ways of working is outlined below in respect of the proposal:

- **Long-term**

The diversion, part extinguishment and creation of two link paths routes will enable the Rights of Way network to be protected from obstruction for the enjoyment of the public. It also enables the network to be accurately recorded and maintained.

- **Prevention**

If the proposals are not implemented Footpath 19 Coychurch Lower would become obstructed and the Council would then have to take action to remove those obstructions. This would have significant resource implications. As the applicant will be carrying out all works involved, this will mean that the

route will not become obstructed and the Council will not have to take any action.

- **Integration**

With agreed construction methods, as well as time frames, the diversion of footpaths to enable development to be implemented allows for an attractive and diverse economy that will encourage more people to use the route during their daily routine.

- **Collaboration**

The Council works closely with the applicant/developer to implement the proposed works so that the likelihood of objections is minimal.

- **Involvement**

Consultations were carried out with statutory consultees, local members and community councils to gather their views before the decision to make the order is made.

8. Financial implications

8.1 Any financial implications arising from the above procedures are expected to be minimal as the developer will be meeting the cost of the diversion and extinguishment order process and the implementation of any works required by the Council.

9. Recommendations

9.1 That authorisation be given for the Chief Officer - Legal, HR and Regulatory Services to make the necessary Orders to seek to divert Footpath 19 Coychurch Lower and to part extinguish Footpath 18 Coychurch Lower as shown on the plan in **Appendix B** to the report, and to confirm the Orders provided no objections or representations are made within the prescribed period, or if any so made are withdrawn.

9.2 That the Chief Officer - Legal, HR and Regulatory Services be authorised to forward the Order(s) to the Welsh Government for determination, if any objections received are not withdrawn.

9.3 That the Order(s) excludes any section of the diversion, which utilises highways which are maintainable by Bridgend County Borough Council, as public rights already exist over them.

Janine Nightingale
CORPORATE DIRECTOR COMMUNITIES
September 2021

Contact officer: Mr Mathew Palmer
Rights of Way and Access Land Officer

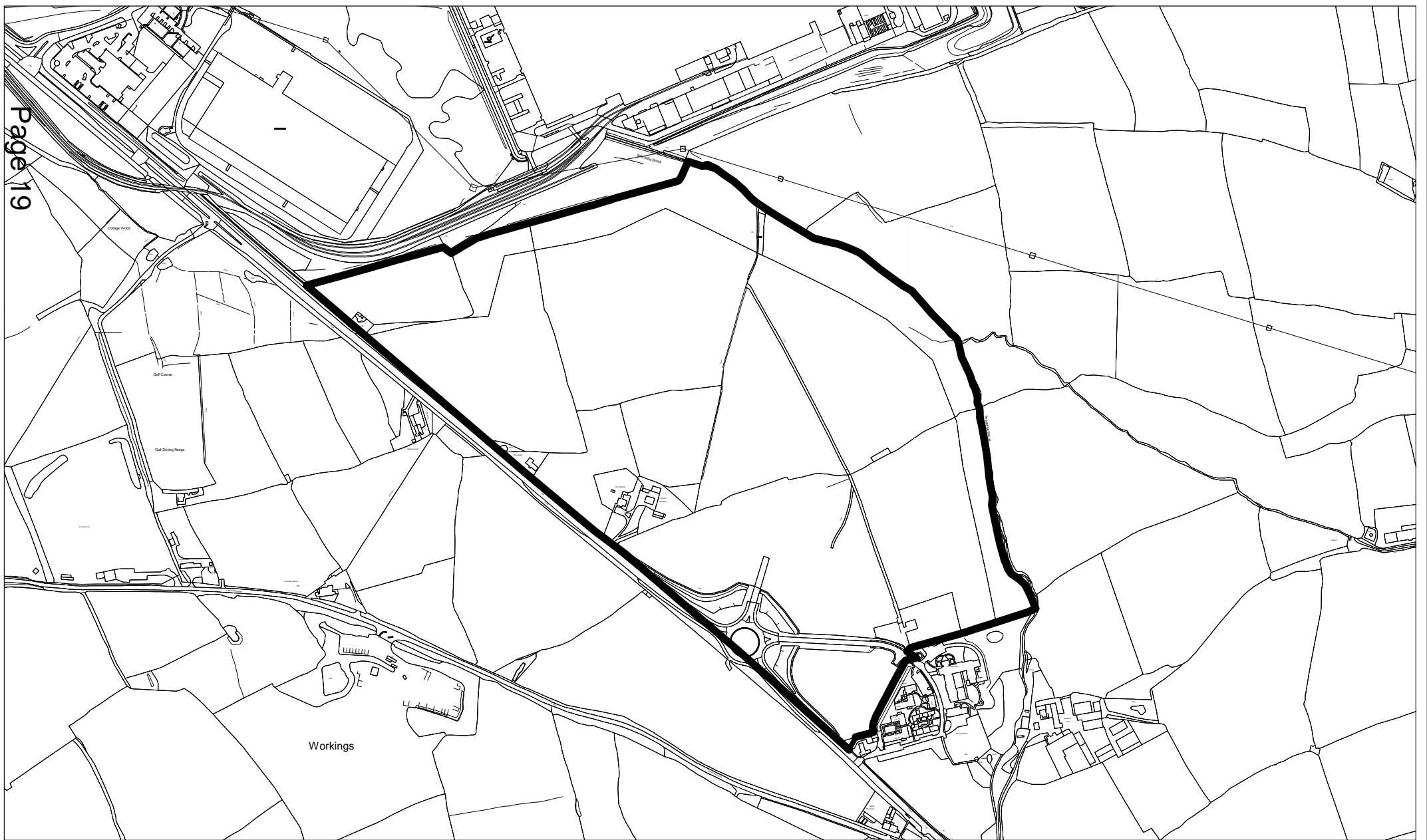
Telephone: (01656) 642595

Email: mathew.palmer@bridgend.gov.uk

Postal address: Rights of Way
Communities Directorate
Bridgend County Borough Council
Waterton Depot
Waterton Lane
Waterton
Bridgend
CF31 3YW

Background documents: File A763/1/FP 18 + 19 Coychurch Lower (8th August 2016 – present)

This page is intentionally left blank



Cyngor Bwrdeistref Sirol



BRIDGEND COUNTY BOROUGH COUNCIL

COMMUNITIES DIRECTORATE

*Corporate Director
Communities*

Civic Offices
Angel Street
Bridgend CF31 4WB
Telephone (01656) 643643

APPENDIX A



Planning Application P/16/549/OUT

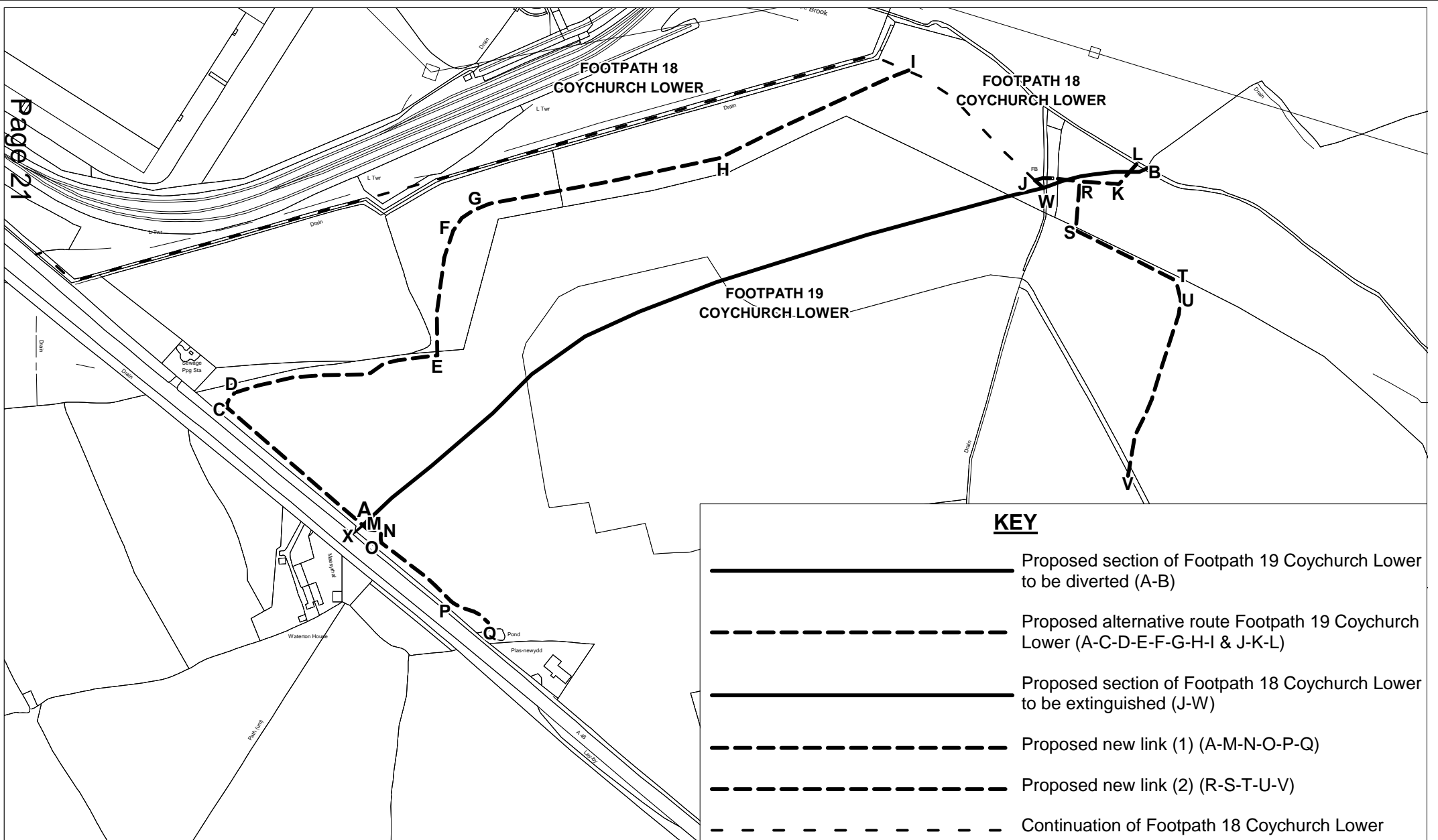


This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office. © Crown Copyright
Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.
Licence Number: 100023405, 2011.

Aerial Imagery: Cities Revealed aerial photography copyright The Geo Information Group 2010

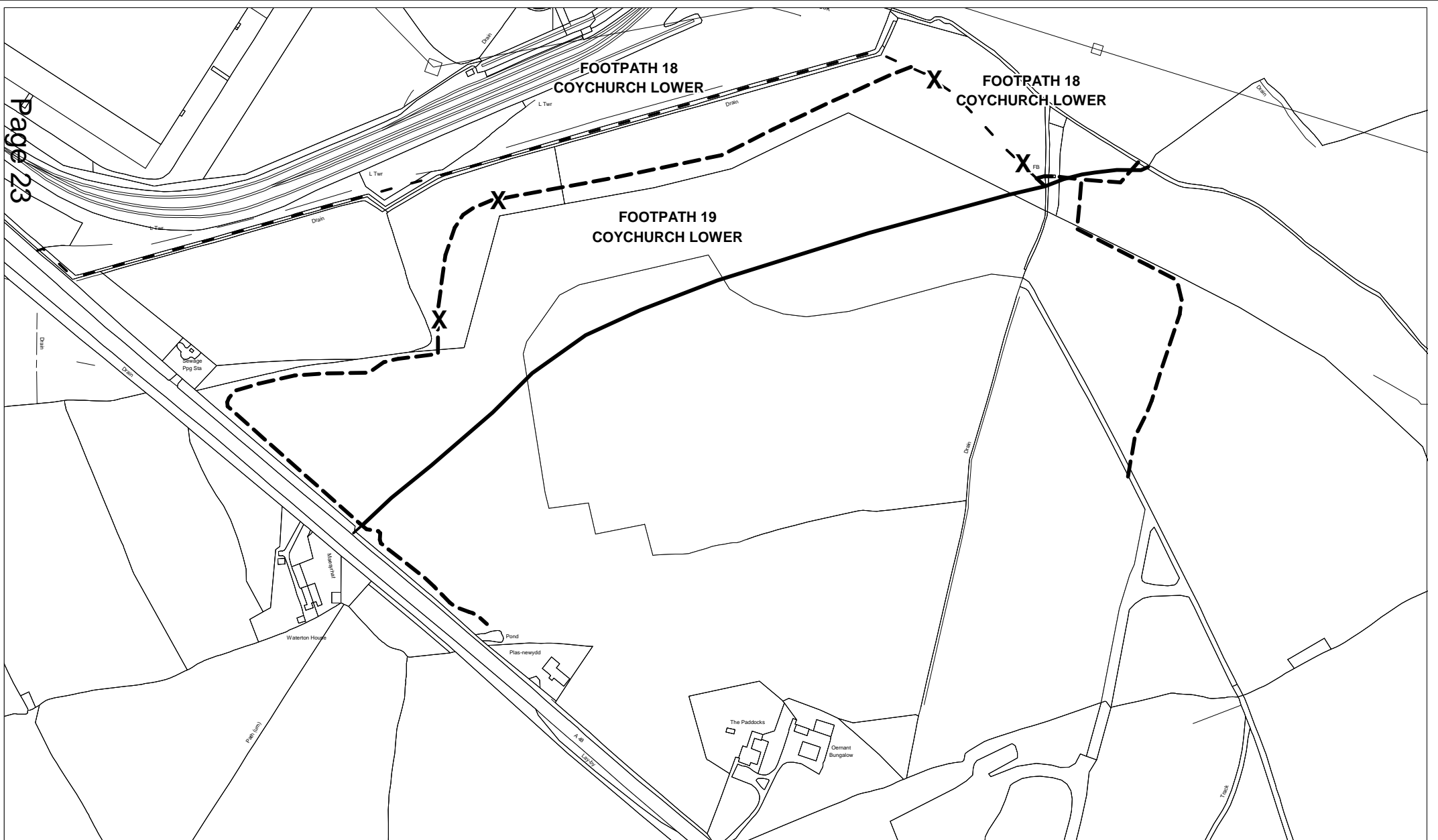
Scale 1:7500

This page is intentionally left blank



KEY	
	Proposed section of Footpath 19 Coychurch Lower to be diverted (A-B)
	Proposed alternative route Footpath 19 Coychurch Lower (A-C-D-E-F-G-H-I & J-K-L)
	Proposed section of Footpath 18 Coychurch Lower to be extinguished (J-W)
	Proposed new link (1) (A-M-N-O-P-Q)
	Proposed new link (2) (R-S-T-U-V)
	Continuation of Footpath 18 Coychurch Lower

This page is intentionally left blank



APPENDIX C

This page is intentionally left blank