

**BRIDGEND COUNTY BOROUGH COUNCIL**  
**REPORT OF THE CORPORATE DIRECTOR - COMMUNITIES**  
**RIGHTS OF WAY SUB COMMITTEE**  
**29 JANUARY 2010**

ITEM	SUBJECT
1.	PROPOSED DIVERSION OF FOOTPATHS NOS 3,7 AND 9, COMMUNITY OF ST BRIDES MINOR

# **1. PROPOSED DIVERSION OF FOOTPATHS NOs 3, 7 and 9, COMMUNITY OF ST BRIDES MINOR.**

## **1.1 PURPOSE OF REPORT**

- 1.2 This report requests authorisation for the making of Orders which will seek to divert Footpaths 3, 7 and 9, Community of St Brides Minor.

## **2 CONNECTION TO CORPORATE IMPROVEMENT PLAN / OTHER CORPORATE POLICY.**

- 2.1 The Corporate Improvement Plan 2009/12 contains the Council's corporate objectives, which in turn are directed and informed by the priorities embodied in the Community Strategy.
- 2.2 Public rights of way in general and the Rights of Way Improvement Plan in particular are mentioned under 'A Diverse and Sustainable Economy' within the Corporate Improvement Plan. The processing of public path orders is identified as Action Point 2.11 within Action Theme 2 'The Definitive Map and Statement' of the Council's RoWIP which has been designated to complement the Council's policies as well as other national and regional policies.

## **3 BACKGROUND**

- 3.1 Planning consent P/09/538/RES for 222 dwellings and associated works at Phase 2, Parc Tyn y Coed, Sarn, necessitates the diversion of the above footpaths.
- 3.2 The diversion of Footpath 3 (see AB on Appendix A) will primarily be located in open space at the rear of the proposed houses. A short section at the east end of the diversion will be located within the field to the east of the planning consent, following a request by the land owner who wishes the diversion to be more directly linked with the continuation of the footpath south of Maendy Farm. (It was initially proposed to divert the path due north within and along the east boundary of the planning consent, to the point where the existing route of Footpath 3 leaves the consent curtilage).
- 3.3 The diversion of Footpath 7 (BCDE) will utilise, or run adjacent to, public open space for its entire length, except for a short section which will cross the road west of Point C.
- 3.4 While the southern part of Footpath 9 will be retained in its current position in a future area of public open space, the planning consent necessitates the localised diversion of its northern part (EH). The greater part of the diversion between Points E and F will run adjacent to public open space, but approaching point F, and beyond this to Point G, the route will utilise a combination of a pathway between houses and a roadside pavement. The existing underpass at Point H will form an emergency vehicle access and cycle path link, and the diversion will utilise this.
- 3.5 The Environment Agency stated in relation to the previous planning application and subsequent consent at the site (P/08/442/RES) that its prior written consent is required for any proposed works or structures in, under, over, or within 7 metres of the top of the bank of the River Ogmere and Nant Bryncethin for biodiversity reasons. In

view of this, Barratt agreed to site the diversions of Footpaths 3 and 7 at a position at least 7 metres from the top of the bank of the Nant Bryncethin. Similarly, in the case of the latest consent (P/09/538/RES), length AB of the diversion of Footpath 3, and length BC of the diversion of Footpath 7, which will both be surfaced in 1.4 metres wide blinded hardcore, will in general, be sited outside of the 7 metres wide reserve adjacent to the Nant Bryncethin. However, a short length of the diversion adjacent to Plot 368 north west of Point B (see plan), will lie within this easement, and this situation is acceptable to the Environment Agency.

- 3.6 The section of the diversion of Footpath 7 between Points C and D will be surfaced with 2.5 metres wide tarmac as this length will utilise a cycle path. The remainder of the diversion of Footpath 7 between Points D and E will be surfaced with 1.8 metres wide tarmac. Length EFGH of the diversion of Footpath 9 will be surfaced with 1.8 metres wide tarmac.
- 3.7 The diversions will be signposted.
- 3.8 Consultations have been undertaken with the local County Borough member, St Brides Minor Community Council, Bridgend and District Ramblers, South Wales Police, other user groups and public utilities in relation to the diversions.
- 3.9 The Campaign for the Protection of Rural Wales (hereafter referred to as CPRW) objected to the diversion of Footpath 7 (BCDE), and suggested that a direct route should be considered between Points A and H at the foot or the top of the railway embankment. CPRW also stated that the diversion of Footpath 7 along CDE is only of use to users of Footpath 3 from the west when the bridge over the Nant Bryncethin south west of Point B is reinstated.
- 3.10 CPRW does not object to the diversion of Footpath 9 (EFGH) but states that it is undesirable. It asked how far the footpath will be from the walls of houses and states its assumption that it will not be fenced on the river side. CPRW asked that access from the diversion between Points E and F, to the road north of Point D is considered, in order to provide a shorter route to the road.
- 3.11 CPRW confirms that the diversion of Footpath 3 (AB) is acceptable provided that the bridge south west of Point B is reinstated.
- 3.12 A holding reply justifying the reasons for the diversions was sent to CPRW, and I contacted the developer in this connection. I subsequently advised CPRW of the developers comments and asked them whether they will withdraw their objection. At the time of compilation of the report, no indication has been received that the objection has been withdrawn and the Sub Committee will be verbally advised of any developments in this connection. The exchange of correspondence with CPRW is referred to later in the report.
- 3.13 No other objections have been received.
- 3.14 Although South Wales Police do not object to the diversions, they have concerns, and their views are summarised as follows.

- 3.15 Diversion of Footpath 7 (BCDE) – South Wales Police state that this is satisfactory and provides good natural surveillance, but that defensible planting should be considered at the west side of Plot 201 (north west of Point C), where the diversion would run adjacent to the side boundary of the dwelling.
- 3.16 Diversion of Footpath 3 (AB) – South Wales Police state that this will seriously compromise the security of properties adjacent to the diversion. The Police state that higher fences, defensible planting, sloping landforms, banking and ditches can all help to improve the security of rear boundaries. It is also stated that from a crime prevention point of view, the best route for the footpath, although not ideal, is along the pavement to the front of the houses, as this will not lead a potential offender to assume that his behaviour will go unnoticed.
- 3.17 Diversion of Footpath 9 (EFGH) – South Wales Police state that this runs adjacent to car parking spaces south of Point F and vehicles are thus vulnerable to criminal activity. They also state that the houses at Point H may be vulnerable to burglary, vehicle crime and anti social behaviour due to the location of the footpath. The Police recommend that the footpath be omitted from the development, but recognise that this will be difficult to achieve as the footpath is an existing public right of way. The Police concede however, that length FG of the diversion benefits from natural surveillance.
- 3.18 When “designing” a footpath, South Wales Police state that the following are highly recommended.
- Closure of any underused footpaths, particularly footpaths at rear of premises.
  - The footpath should be kept as straight and as wide as possible, well lit, avoid any potential hiding places and should be overlooked by the surrounding properties.
  - Where the footpath is located adjacent to shrubbed and planted areas, a clear verge distance of approximately 1.5 metres should be maintained to eliminate hiding places.
  - A maintenance programme should ensure that plant growth is not allowed to obstruct sightlines. Shrubs should not exceed 1 metre in height, and the lower branches of trees should not be below 2 metres.
  - Dedicated pedestrian routes should avoid sudden (blind) bends, or changes in direction which may provide hiding places.
  - Where a footpath is unavoidable, it should be wide, short and direct, with the point of exit clearly visible at the point of entry.
  - Consideration should be given to the installation of barriers or bollards to prevent vehicles or motor cycles using the path.
  - Houses should be orientated to face access routes and especially focus on points of entry into the development to provide intensive surveillance.
- 3.19 I liaised with the developer in relation to the Police concerns, and details of this are subsequently referred to in the report.

#### **4 CURRENT SITUATION/PROPOSAL**

- 4.1 The proposed diversions largely comply with the routes identified in the Maendy Farm Development Brief, which was approved as part of the outline planning consent for the site.

- 4.2 Welsh Office Circular 5/93 (DOE Circular 2/93) states that the diversions of footpaths should avoid estate roads (pavements) wherever possible and preference should be given to the use of made up estate paths through landscaped or open space areas away from vehicular traffic. The proposed diversions will, in the main, utilise surfaced footpaths through, or adjacent to, public open space/landscaped areas away from vehicular traffic, in compliance with this advice.
- 4.3 My views on the objection/comments of CPRW, and the concerns of South Wales Police are as follows.
- 4.4 The diversion of Footpath 7 (BCDE) utilises public open space in accordance with the advice of Welsh Office Circular 5/93 (DOE Circular 2/93) referred to. In relation to the objector's suggestion that a direct route should be considered between Points A and H at the foot or top of the railway embankment, route BCDE would be closer to the original route of Footpath 7 than the route suggested by CPRW. In addition, a more direct route would be available along streets as an alternative to BCDE, if the public wished to avail themselves of this. It should be borne in mind that the current footpaths are used for recreational purposes, not as a direct access to shops or a school etc. Neither will the new diversions be used as a direct access to such facilities. I suggest it is reasonable to accept that the alternative routes should be provided to compliment this recreational use in as pleasant an environment as is possible, even if the routes are slightly longer than the paths which they seek to replace. The public open space allocation for the site lies at its western boundary, adjacent to the River Ogmore, and thus, a diversion between Points A and H would not be accommodated in open space.
- 4.5 The objector states that the diversion of Footpath 7 along CDE is only of use for users of Footpath 3 from the west when the bridge is reinstated. CDE will also provide continuity of access along the statutory footpath network in a north westerly direction. In addition, CDE enables a circular walk to be used, in association with the unaffected section of Footpath 9 adjacent to the River Ogmore, and the footpath which will be created along the northern bank of the Nant Bryncethin (see black dots on the attached plan).
- 4.6 In relation to CPRW's comments on the diversion of Footpath 9 (EFGH), they were advised that the new footpath will be 1.8 metres wide and that there will be a minimum distance of 1.5 metres between the houses fronting the diversion and the edge of the 1.8 metres wide footpath closest to them. CPRW was also advised that diversion EF will not be fenced on the river side. The developer confirms that a link path will be provided eastwards from a point mid way along EF, to provide a route via the road. The objector was also advised that walkers will anyway be able to progress northward from Point D along the roadside pavement, if they wish to take a more direct route to Point H.
- 4.7 CPRW has also been provided with confirmation that a timber footbridge will be built south west of Point B, where Footpath 3 crosses the Nant Bryncethin south of the site.
- 4.8 In response to their concerns, South Wales Police has been advised that, in addition to the screen wall which will be constructed around the garden of Plot 201 (see plan), the developer will provide defensible planting along the west boundary of the plot, between the wall and the diversion of Footpath 7 (CD). The developer has also been

advised of the Police recommendations relating to the distance between footpaths on verges and adjacent planted areas, the maximum height of shrubs on such verges, and the distance above ground level for the lower branches of trees.

- 4.9 In relation to the diversion of Footpath 3 (AB), whilst I appreciate the concerns of South Wales Police relating to the security of properties adjacent to the diversion, I informed them that their suggested route in lieu of AB, along the pavement to the front of the houses, will not be acceptable to the County Borough Council. I accept that measures should be implemented wherever possible to secure the boundaries of the adjacent dwellings however, and the Police were advised that the developer will provide defensible planting, banks and ditches to promote this. These measures will be provided in addition to a 1.8 metres high boundary fence at the rear of the dwellings.
- 4.10 As far as the diversion of Footpath 9 (EFGH) is concerned, South Wales Police were advised that the parking spaces south of Point F will not immediately be accessed by the proposed diversion, as boundary walls/fences will be erected adjacent to the diversion. It will be realised however, that a footpath link will be provided eastwards from a point mid way along EF into the site.
- 4.11 In relation to the problems envisaged by the Police at Point H, the developer confirms that, in accordance with Police advice, the footpath will be subject to natural surveillance. The developer advises that the end of terrace units at the southern end of the cul de sac south west of the tunnel, will have front doors in their end elevations overlooking the diversion. Additionally, it will be realised that the dwellings on the south side of the road which face the tunnel, will also overlook the diversion. Other characteristics which will enhance security along this length of the diversion are that it will be straight and wide, affording good sight lines, and that lockable, demountable barriers will be installed at both ends. These barriers will prevent vehicular access for other than emergency vehicles, but permit pedestrians and cycle access. I would advise members that the concurrent cycle path/footpath link at this location will be provided in red tarmacadam.
- 4.12 Bollards will also be placed at points to be agreed on the diversions at other parts of the site to prevent vehicular access.
- 4.13 The diversions of Footpaths 7 and 9 from Plot 201 (see plan) north to Road 5 south of Point H will be lit.
- 4.14 I confirmed that the closure of Footpath 9 as recommended by the Police is unacceptable, as the County Borough Council seeks to protect and promote access along the rights of way network. This network was in use for many years before the submission of the planning application, and subsequent planning consent, and continues in use to this day. In association with this objective, the diversions shown on the plan identified with the developer, to ensure that the rights of way network is retained.
- 4.15 No further response has been received from South Wales Police, but the Sub Committee will be verbally advised of any developments in this connection.

- 4.16 The County Borough Council made an Order which temporarily stops up Footpaths 7 and 9, St Brides Minor, from 16 November 2009 until the works are completed, or for a maximum period of six months. The temporary closure is necessary in the interest of public safety, to protect the public from preparatory operations which are required, prior to the construction of the site.

## **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 LEGAL IMPLICATIONS**

- 6.1 None.

## **7 FINANCIAL IMPLICATIONS**

- 7.1 Any financial implications arising from the above procedures are expected to be minimal and will be met from within existing resources.

## **8 RECOMMENDATION**

- 8.1 That authorisation be given for the Assistant Chief Executive Legal and Regulatory Services to make the necessary Orders to seek to divert Footpaths 3, 7 and 9, Community of St Brides Minor to the routes shown on Appendix A, and to confirm such orders provided no objections or representations are made within the prescribed period, or if any so made are withdrawn.
- 8.2 That the Assistant Chief Executive Legal and Regulatory Services be authorised to forward the Orders to the Welsh Assembly Government for determination, if any objections received are not withdrawn.
- 8.3 That the Orders exclude any section of the diversion which utilises highways which are maintainable by Bridgend County Borough Council, as public rights already exist over them.

**LOUISE FRADD**  
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**Background Documents: File F162, 166, 168 (26 October 2007 to existing).**



## Appendix A

## PROPOSED DIVERSION OF FOOTPATHS NOS 3,7 AND 9, COMMUNITY OF ST BRIDES MINOR

