

BRIDGEND COUNTY BOROUGH COUNCIL
REPORT OF THE CORPORATE DIRECTOR - COMMUNITIES
RIGHTS OF WAY SUB COMMITTEE

21 November 2011

ITEM	SUBJECT
1.	PROPOSED DIVERSIONS/EXTINGUISHMENTS/CREATIONS OF PUBLIC PATHS AT THE MAESTEG WASHERY RECLAMATION SCHEME SITE

1. PROPOSED DIVERSIONS/EXTINGUISHMENTS/CREATIONS OF PUBLIC PATHS AT THE MAESTEG WASHERY RECLAMATION SCHEME SITE

1.1 PURPOSE OF REPORT

- 1.2 The purpose of the report is to request authorisation for the making of a number of Orders which will seek to realign the network of public paths across the Maesteg Washery Scheme Site.

2. CONNECTION TO CORPORATE IMPROVEMENT OBJECTIVES/ OTHER CORPORATE PRIORITIES

- 2.1 The Corporate Improvement Plan 2010/13 contains the Council's Strategic Themes, one of which is Green Spaces and a priority is 'improving physical access to public rights of way in line with the Rights of Way Improvement Plan (RoWIP). The RoWIP has been designed to complement the Council's policies as well as other national and regional Policies.

3 BACKGROUND

- 3.1 The area known as the Maesteg Washery Reclamation Scheme Site was identified as needing a major reclamation project and was acquired by the Council under section 226 of the Town and Country Planning Act 1990 by virtue of a Compulsory Purchase Order which was confirmed by the Welsh Assembly Government on 20th August 2002.
- 3.2 Approximately 150 hectares was purchased which consisted of numerous waste tips, areas of contamination and over 80 different mine entrances. A major landscaping exercise was undertaken to reclaim the area back into beneficial use. However, some of the original registered rights of way were slightly realigned or obstructed by this exercise. Since that time a number of proposals for the rights of way have been investigated and there are a number of paths being used on an informal basis across the site, no action to formally recognise these routes has been taken to date.
- 3.3 It is proposed to address some of these anomalies by creating a network that is fit for purpose and to make provisions for access for as many sectors of the community as possible. In order to achieve the same a number of Registered Public Paths need to be extinguished and created on alternative routes.
- 3.4 Section 258 of the Town and Country Planning Act 1990 allows a Council to extinguish public rights of way over land that has been acquired or appropriated for planning purposes and is currently held by the authority. In order to extinguish the same the Council need to be satisfied that an alternative public right of way will be provided for replacements for those to be extinguished.
- 3.5 As the majority of the land remains in council ownership the aim will be to process an extinguishment order under section 258 of the Town & Country Planning Act 1990, and on confirmation of that order to dedicate the new routes on Council owned land. Where some sections are not on Council owned land it is anticipated that diversions or creation agreements can be secured to create the proposed network

4. CURRENT SITUATION /PROPOSAL

- 4.1 Plan A in **Appendix A** to this report shows the existing rights of way network at a scale of 1:7500, based on the Definitive Map for Bridgend. This plan also illustrates, by highlighting them orange, the footpaths affected by the scheme.
- 4.2 The series of diversions, extinguishments, and creations that are being proposed are illustrated on Plan B in **Appendix A**. If all the proposals are successful then the resultant net affect on the Rights of Way Network is illustrated on Plan C in **Appendix A**. The area of Open Access land has also been included, as shown shaded light green, for information purposes. Plan C also includes other changes to the Rights of Way Network that have already been made by previous footpath orders, including the recent diversion of Footpath 59 Maesteg as reported to the Rights of Way Sub Committee on 11th October 2010, and a recent diversion of Footpath 23 Maesteg at Cwrt-y-Mwnws Farm.
- 4.3 The proposals have also been developed to take into account the current scheme for the alterations and additions to the Llynfi Valley Community Route that were reported to Cabinet on 7th September 2010.
- 4.4 It is suggested that the current proposals will ensure suitable access is provided for the public to compensate for the loss of some original routes. In addition the proposals, when including the community route, aim to increase the Bridgend Rights of Way network by over 6 km in the area to meet the aims identified in the Rights of Way Improvement plan, together with other Council and Welsh Assembly Government proposals for increasing access to the countryside.
- 4.5 Each proposal is set out in turn below and more details on each of the proposals are contained within the Schedules attached. The intention is to improve the network of paths in the area when the proposals are viewed as a whole.
- 4.6 **Proposal 1 Extinguishment of sections of Public Footpaths 4, 23, 24, 26, 27, 32A, 57, and 57A, Maesteg**
- 4.6.1 It is proposed to extinguish all or part (as specified in Schedule 1 of Appendix B of this report) of the registered footpaths known as 4, 23, 24, 26, 27, 32A, 57, and 57A Maesteg. The sections proposed to be extinguished are highlighted by a red zig zag on "Plan B". It is no longer possible to walk the majority of these routes due to the changes in topography and/or sections of substantial overgrowth, waterlogging, or watercourses blocking the routes or making them inconvenient to use. Detailed plans at a scale of 1:2500 and a description for each of these paths are included in Schedule 1 of **Appendix B** (all measurements stated are approximate)
- 4.6.2 All of these sections of paths are situated on the land acquired by the Council as a result of the Compulsory Purchase Order made under section 226(1)(a) and (3)(a) of the Town and Country Planning Act 1990. Where any land has been acquired under this provision the authority may extinguish any footpath by order under section 258 of that Act, as long as the land continues to be held by the Council for the same purpose that it was originally acquired or appropriated. It is therefore proposed to utilise this provision to extinguish all or part of the footpaths as described in Schedule 1. To

enable such an order to be made the authority must be satisfied that alternative rights of way have been or will be provided or that an alternative is not required. It is intended that a series of new paths will be created for use as public rights of way as alternative routes, as described below in proposal 2.

4.7 Proposal 2 Creation of new sections of Footpaths and Bridleways

- 4.7.1 As stated above in paragraph 4.6.2., to enable an extinguishment order under section 258 of the Town and Country Planning Act 1994 to be made, the authority must be satisfied that alternative rights of way have been or will be provided or that an alternative is not required. Accordingly it is proposed that new routes, or sections of routes, will be created for use as alternative public rights of way to come into effect on the confirmation of the proposed extinguishment order. In addition a new section of cycle route has already been dedicated by the Council across the site as shown by blue long dashed lines on “Plan B” in **Appendix A** and marked as route A.
- 4.7.2 The additional new registered public rights of way to be created are shown on “Plan B” in **Appendix A** and marked B, C, D, E, F, G, H, J, K, L, M, N, and O, and are detailed in Schedule 2 attached. Further detailed plans for these creations are included at a scale of 1: 7500 and 1:2500 in Schedule 2. An additional route, shown marked P on “Plan B”, is to be created as a permissive route only for the time being due to the potential development of the plateau area for sports pitches
- 4.7.3 In order to create new registered public rights of way a creation order under section 26 of the Highways Act 1980 could be made, however as all the proposed new routes are situated on land under the ownership of the authority it is possible to create the new routes by dedication. This process negates the need for the procedures laid down by the Highways Act 1980 legislation to be followed offering a more expedited and cost effective alternative to the Council. It is proposed therefore to dedicate the routes for public access to come into effect on the date of the confirmation of the extinguishment order. The dedication will be authorised under delegated powers granted to the Chief Executive under paragraph 3.37 of Scheme B2 of the Delegation of Functions.

4.8 Proposal 3 Diversion of Footpath 27 Maesteg

- 4.8.1. A section of Footpath 27 Maesteg that was affected by the reclamation works does not run entirely on the Councils land and as such cannot be included within the extinguishment order as outlined in proposal 1 above. A separate diversion order under section 119 the Highways Act 1980 will therefore need to be made to bring into effect the route that is currently available for use by the public.
- 4.8.2 The proposed diversion will be in the interests of the public as the original route is impassable due to the topography and the fact that there is no river bridge on the current definitive alignment. The proposed diversion will link the footpath onto the dedicated section of cycle route and a detailed description of the proposed diversion together with a plan at a scale of 1: 2500 is included in Schedule 3. The proposed new route created by the diversion is shown as route R on Plan B in **Appendix A**.

- 4.8.3. As members will be aware as the diversion will be made under the Highways Act 1980 authorisation for the same is outside of the remit of the Rights of Way Sub Committee and authorisation to make the order will be sought under delegated powers.

4.9 Proposal 4 Creation of new Public Footpath by agreement/order

- 4.9.1 In order to secure the best public access that is feasible in the area, and to complement not only the series of measures outlined above, but also current proposals to create additional community cycle routes within the area, the rights of way section is also hoping to create an additional section of footpath as shown as route S on plan B. The majority of land required for this proposal is not under the ownership of the Council and as such the Rights of Way Section is in negotiations with the current landowners in order to achieve the creation of this new section of route. The proposed new footpath will link the proposed bridleway with Footpath 3A Maesteg as shown on the plan included in Schedule 4 of **Appendix B**. The proposed creation may be processed either as a creation agreement or creation order under the Highways Act 1980.
- 4.9.2 As per paragraph 4.8.3 above as the creation order or agreement will be made under the Highways Act 1980 authorisation for the same is outside of the remit of the Rights of Way Sub Committee and authorisation to make the order or agreement will be sought under delegated powers.
- 4.10. Consultations have been undertaken with the local County Borough Council members, Maesteg Town Council, Maesteg Ramblers Association, South Wales Police, other user groups and public utilities in relation to all the proposals outlined... No objections have been received.
- 4.11. As stated the majority of the proposals lie on County Borough Council owned land. The Property Services section has also been consulted and raised no objection to any of the proposals.
- 4.12 Due regard has been taken of the needs of agriculture, forestry and nature conservation and for the purpose of conserving biodiversity in connection with all of the proposals.

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 IMPACT ASSESSMENT

- 6.1 An Equality Impact Assessment has been undertaken and the series of proposals is intended to increase recreation facilities for all sections of the community by providing a network of paths for different abilities with no obstructions. There are no other implications or impacts on specific equality groups.

7 FINANCIAL IMPLICATIONS

- 7.1 Apart from some minor vegetation clearance there are no physical works needed to bring the proposed new footpaths into a fit state for use by the public. The costs of the necessary advertisement fees in connection with the proposed orders will be met from funding allocated to the Council under the Rights of Way Improvement Plan.

8 RECOMMENDATION

- 8.1 It is recommended that the Sub-Committee approve the following:-
- a. Authorisation be given for the Assistant Chief Executive Legal and Regulatory Services to make the necessary Order to seek to extinguish all or parts of the registered footpaths known as 4, 23, 24, 26, 27, 32A, 57, and 57A Maesteg as detailed in Schedule 1 to **Appendix B** and to confirm the Order provided no objections or representations are made within the prescribed period, or if any so made are withdrawn.
 - b. The Assistant Chief Executive Legal and Regulatory Services be authorised to forward the Order to the Welsh Assembly Government for determination, if any objections received are not withdrawn.

Corporate Director - Communities
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Background documents - Equality Impact Assessment