

BRIDGEND COUNTY BOROUGH COUNCIL
REPORT OF THE EXECUTIVE DIRECTOR ENVIRONMENT
RIGHTS OF WAY PANEL
1st April 2008
TRANSPORTATION AND ENGINEERING DEPARTMENT

ITEM	SUBJECT
1.	PROPOSED DIVERSION OF FOOTPATHS NOS. 11 AND 16, COMMUNITY OF NEWCASTLE HIGHER

- 1. PROPOSED DIVERSION OF FOOTPATHS NOS. 11 AND 16, COMMUNITY OF NEWCASTLE HIGHER**
- 1.1 PURPOSE OF REPORT**
- 1.2 This report requests authorisation for the making of an Order(s) which will seek to divert Footpaths 11 and 16, Newcastle Higher. It will be realised that this issue was deferred by the Rights of Way Panel of 10 March 2008 in order for officers to investigate whether there are sufficient powers available to the Rights of Way Panel to implement any conditions regarding the provision of a “ Mosquito “ device or CCTV camera within the underpass east of Point D on Appendix A attached to this report.
- 2. CONNECTION TO CORPORATE IMPROVEMENT PLAN / OTHER CORPORATE POLICY**
- 2.1 Not applicable.
- 3. BACKGROUND**
- 3.1 Planning consent P/07/920/RES for residential development and associated highway drainage works – 152 dwellings, necessitates the diversion of Footpaths 11 and 16, Newcastle Higher.
- 3.2 It is proposed to divert Footpath 11 in two places. Length AH of the footpath (see Appendix A) will be diverted from the northern side of a drainage ditch to the southern side of the ditch along the unofficial route which is currently used by the public (also AH). This footpath through public open space will be surfaced in blinded hardcore to a width of 1.4 metres. At this time it is not proposed that a handrail will be provided between the ditch and the diversion as the developer anticipates that the banks of the ditch will be provided to a gentle gradient of 1 in 4. Discussions are continuing on the design of the ditch with the Authority’s Drainage and Parks sections however; Length FC of the path will be diverted along a combination of open space and pavement (FE) and will reach the proposed diversion of Footpath 16 at the pavement adjacent to the estate road (Point E) at the northern side of the open space .
- 3.3 The diversions will be signposted/way marked.
- 3.4 Footpath 11 at the south eastern entry to the site (south east of Point G) will not be diverted and will be retained in public open space. The footpath will be surfaced with blinded hardcore to a width of 0.9 metres (the width of the path prescribed on the Definitive Map Statement). The route of the footpath between Points G and H will also be retained in its current location and will be surfaced with blinded hardcore to a width of 1.4 metres.
- 3.5 It was anticipated that Footpath 11 would be diagonally diverted through the centre of the open space south of Point E as opposed to the peripheral diversion over the southern and western sides of the open space which is now proposed. The British Horse Society is concerned that the path at this location may subside into the

attenuation tanks which will be placed below the surface of the open space and it is unclear whether they will object to the diversion. It has thus been decided to implement the originally proposed diversion along the southern and western edge of the open space.

- 3.6 The Horse Society has been advised that the developer confirms that the design of the attenuation tanks is such that no subsidence will take place.
- 3.7 The length of Footpath 16 which lies within the site will be diverted from both ends. The easternmost diversion of this path (existing route CD along DG) will utilise a 3-4 metres wide corridor at the rear of the proposed dwellings and will connect with the section of Footpath 11 which will be retained along its current route in public open space at the south east part of the site. This diversion will be provided in 1.5 metre wide blinded hardcore and will formalise the unofficial route in this area which has been used by the public as a link between Footpaths 11 and 6; the westernmost diversion of this path (BE in lieu of BC) will run eastwards from the site boundary and will utilise the pavement to connect with the diversion of Footpath 11 at the northern side of the public open space at Point E. This diversion will be 2.0 metres wide.
- 3.8 The diversions will be signposted/way marked.
- 3.9 In accordance with usual practice, consultations were undertaken with Newcastle Higher Community Council, the County Borough Council member, Bridgend and District Ramblers, South Wales Police, other user groups and public utilities on the diversions now proposed when the planning application was first submitted.
- 3.10 No objection to the diversion was received.
- 3.11 Bridgend Ramblers suggested however that a link path be provided between Footpaths 11 and 16 at the western site boundary as part of the County Borough Council's Rights of Way Improvement Plan. The developer advises that he does not own all the land accommodating the route identified by the Ramblers. At my suggestion, the developer is prepared to allow the route to travel through the public open space adjacent to the properties on his lower western boundary. The owner of the adjacent land has not indicated whether he is prepared to accept the footpath creation and my investigations continue in this connection. I have no objection in principle to the provision of this path.
- 3.12 Additionally, South Wales Police raised concerns in relation to the following matters on security grounds.
- 3.13 The underpass on Footpath 16 (east of Point D) stating that whenever possible alternative pedestrian crossings should be used in place of an underpass; the diversion of Footpath 16 along route DG on Appendix A (but the Police also state that although this is not ideal from a crime prevention point of view; this route is preferable to the original proposal of the developer to divert the path along pavements and link paths within the housing estate). The Police also state that consideration should be given to the possibility that offenders could climb the rear fences of the dwellings adjacent to the footpath and add that higher fences, defensible planting, sloping landforms, banking and ditches can all help improve security of rear

boundaries; that barriers or bollards should be considered to prevent vehicular and motor cycle use on the footpath diversions/retained paths where appropriate; that 1.5 metres be reserved between footpaths and planted areas and that vegetation between footpaths and trees and shrubs be graded to avoid potential hiding places.

4. ASSISTANT DIRECTOR – TRANSPORTATION & ENGINEERING COMMENTS

- 4.1 Despite the misgivings of South Wales Police in relation to the use of the underpass on Footpath 16, it will be appreciated that the footpath has always followed this route. The underpass is short, wide and straight and affords good forward visibility so that the point of exit is clearly visible from the point of entry. It has also been provided with lighting columns. The foregoing characteristics comply with Police design advice in cases where the use of an underpass is unavoidable. The underpass focuses on a pelican crossing at Bridgend Road, Aberkenfig. The underpass is the most effective way of negotiating the railway embankment and promotes safety by ensuring that walkers (and future residents of the housing estate) are able to cross from one side of the track to the other without possible conflict with rail traffic.
- 4.2 It is appreciated that the diversion of Footpath 16 along DG may give rise to security concerns. It will be recalled that the diversion behind the proposed houses will utilise a corridor of 3 – 4 metres in width. The diversion will also use open space at its southern end. The alternative will be to utilise a route largely along pavements and it will be realised that this will be of little amenity value for walkers. In view of this and as the developer has advised that the rear fences of the houses will be sited on the raised level of the house gardens, it is hoped that the heightened rear boundaries will assuage the concerns of South Wales Police in this connection.
- 4.3 I would advise the Panel that the fences referred to will be 1.8 metres high and that the house gardens will be between 0.3 metres and 0.5 metres higher than the footpath diversion.
- 4.4 In relation to the diversion of Footpath 11 over the south and west sides of the public open space south of Point E (adjacent to the vehicular access to the dwellings on the south and west sides of the open space), it will be appreciated that the whole area of the open space will be accessible to the public. I do not consider that it is crucial at this location to site the diversion across the centre of the open space in view of this.
- 4.5 It will be realised that the greater part of the diversions referred to in this report, and other sections of footpaths which have not been included in the diversions as referred to within this report, have been accommodated in open space in accordance with the advice of Welsh Office Circular 5/93 (DOE Circular 2/93) which states that the use of estate roads for footpath diversions should be avoided wherever possible and preference given to the use of made up estate paths through landscaped or open space areas away from vehicular traffic.

- 4.6 I consider that in the context of the above routes which have been largely accommodated in open space, the proposed diversion of the lengths of footpath along pavements is acceptable. It will be appreciated that the advice in Welsh Office Circular 5/93 states that this should be avoided wherever possible, and it is implicit that the document recognises that this outcome is not always achievable. This was confirmed by the Inspector who officiated at the Inquiry into the diversion of footpaths over pavements to accommodate housing development east of New Road, Kenfig Hill (Order No 2, 1997), who concluded that although Circular 5/93 requires the avoidance of estate roads wherever possible, this (Order No 2, 1997), is an example of where such avoidance is not possible. The Inspector confirmed the Order.
- 4.7 It will also be recalled that the developer is prepared to accept a new footpath within the public open space owned by him at the lower western part of the site, to accommodate the link between Footpaths 11 and 16 suggested by the Ramblers. I am continuing my investigations in this connection as the owner of the adjacent land which would be affected by the footpath has not replied to the consultation in this connection.
- 4.8 As far as the provision of the " Mosquito " device is concerned, the Assistant Director, Director Legal and Democratic Services, advises that Section 257 of the Town and Country Planning Act 1990 provides that the County Borough Council can authorise the making of an Order that requires works to be undertaken to a footpath, for whose improvement, provision is made in the Order.
- 4.9 It has also been established that under Part V of the Highways Act 1980 (Section 62 (2)) the County Borough Council can undertake, in relation to a highway maintainable at the public expense, any work (including the provision of equipment) for the improvement of the Highway.
- 4.10 This would therefore appear to provide for apparatus such as CCTV/Mosquito devices to be installed in order to improve the highway. However, the imposition of any such requirement for the developer to fund such a device must be on the basis that (1) it is practicable, ie if the developer does not own the underpass, he may not be able to obtain permission to install the apparatus on the underpass; (2) it is fair and proportionate ie in terms of the cost of implementation and the perceived/actual risk of anti-social behaviour.
- 4.11 Any such condition in this instance would have to be based on the additional and unacceptable level of anti social behaviour that is likely to arise due to the additional houses in respect of which planning consent has been obtained.
- 4.12 In view of the recent press in relation to the provision of " Mosquito " devices/possible infringement of human rights, it would not be advisable for the Authority to promote the installation of such devices at the present time.
- 4.13 South Wales Police also advise that they will not promote the product.
- 4.14 It is considered that CCTV will be a far more feasible option in this instance.

- 4.15 I am continuing my investigations in this connection and liaising with the parties concerned. A planning application has been submitted for retail development and a medical centre on land at the west side of the underpass and the applicant has been contacted in relation to the placement of a CCTV camera. This requirement can be included in a Section 106 Agreement. I confirm that the housing developer has also been contacted in this connection.
- 4.16 In view of the deadline for the compilation of this report, which has been curtailed by the forthcoming Bank Holiday, I will report verbally to the Panel with my findings.

5. CONCLUSION

- 5.1 That an Order(s) be made to seek to divert Footpaths 11 and 16, Newcastle Higher as proposed and that further consideration be given to whether the developer should be required to provide a CCTV camera or other measures (excluding the Mosquito device) at the underpass.

6. EFFECT UPON POLICY FRAMEWORK & PROCEDURE RULES

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

7. LEGAL IMPLICATIONS

- 7.1 A copy of the Report has been forwarded to the Director of Legal and Democratic Services and any observations will be reported to the Panel.

8. FINANCIAL IMPLICATIONS

- 8.1 Any financial implications arising from the above procedures are expected to be minimal and will be met from within existing resources. It is anticipated that a CCTV camera or other measures will be fully funded by the developers.

9. RECOMMENDATION

- 9.1 That authorisation be given for the Director of Legal and Democratic Services to make the necessary Order(s) to seek to divert Footpaths 11 and 16, Community of Newcastle Higher as shown on Appendix A.
- 9.2 That this/these Order(s) be confirmed provided no objections or representations are made within the prescribed period, or if any so made are withdrawn.
- 9.3 That the Director of Legal and Democratic Services be authorised to forward the Order(s) to the Welsh Assembly Government for determination if any objections received are not withdrawn.
- 9.4 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.

- 9.5 That should the batter of the southern bank of the drainage ditch adjacent and north of the proposed diversion of Footpath 11 at the south east part of the site be steeper than the 1 in 4 gradient currently anticipated by the developer, the requirement for a metal handrail be reassessed in the interest of safety. A metal handrail is currently not required.
- 9.6 That it should be ascertained that there is no objection to the diversion of Footpath 11 north westwards over the centre of the public open space south of Point E on Appendix A, the Diversion Order incorporates this route as opposed to the route over the southern and western sides of the open space referred to.
- 9.7 That further consideration be given to the feasibility of requiring the developers to fund A CCTV camera or alternative measures, following the verbal report to the Panel on this matter.

**RHODRI-GWYNN JONES
EXECUTIVE DIRECTOR – ENVIRONMENT**

25th March 2008

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Rights of Way Assistant**

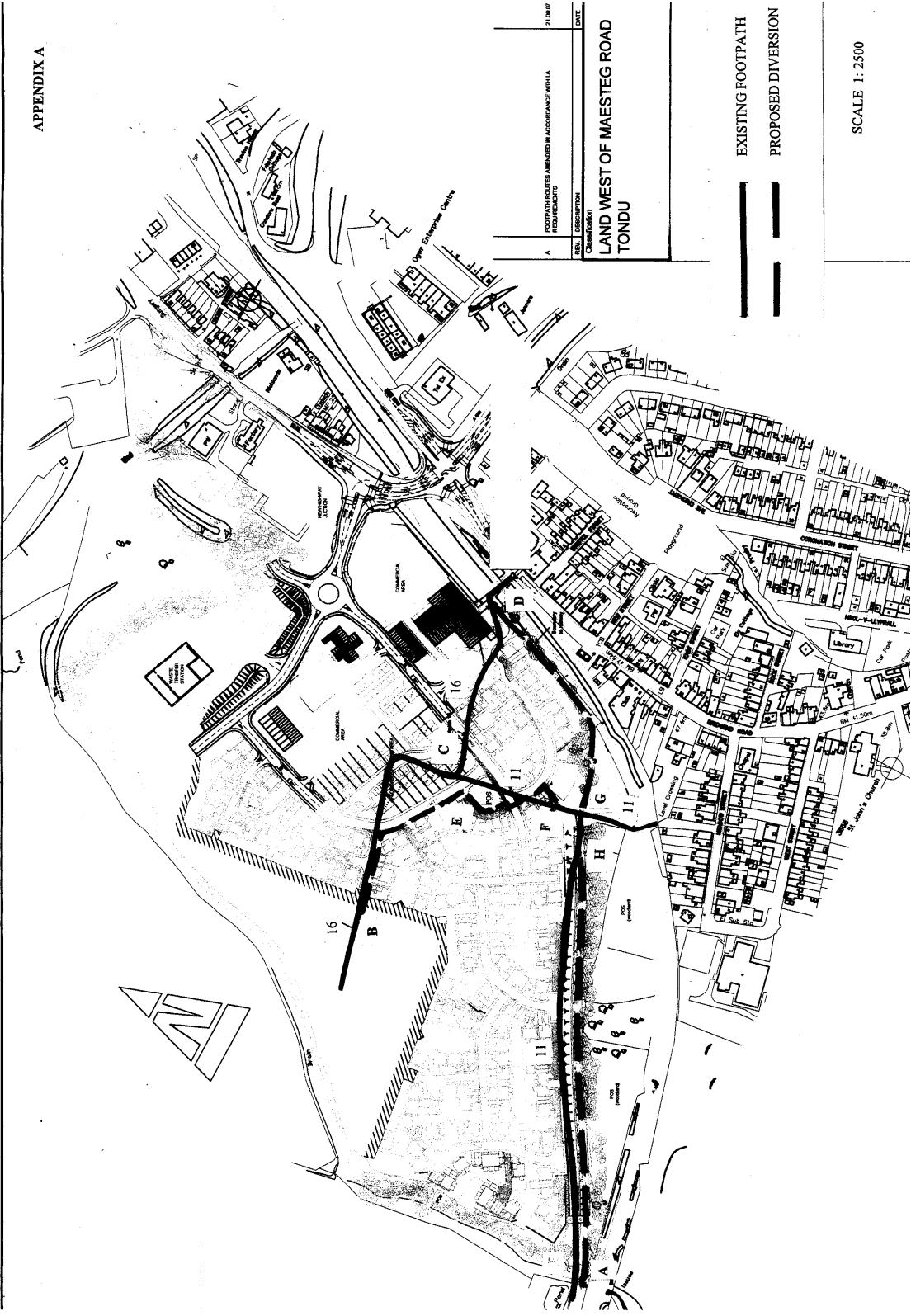
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Background Documents:

File F542, 547 From: 16.08.07 to existing.

APPENDIX A



PROJECT NUMBER: 21/08/07	
PROJECT NAME: LAND WEST OF MAESTEG ROAD, TONDUR	
NO.	DESCRIPTION
A	EXISTING FOOTPATH
B	PROPOSED DIVERSION

EXISTING FOOTPATH
 PROPOSED DIVERSION

SCALE 1:2500

