

MINUTES OF A MEETING OF THE RIGHTS OF WAY SUB-COMMITTEE HELD IN THE COUNCIL CHAMBER, CIVIC OFFICES, ANGEL STREET, BRIDGEND ON MONDAY, 21 NOVEMBER 2011 AT 10.00AM

Present:-

Councillor M Gregory - Chairperson

Councillors

N Clarke
E Dodd
M Lewis

Officers:

K Davies - Rights of Way Officer
C D Lewis - Rights of Way Assistant
J Dessent - Assistant Solicitor (Commercial)
M A Galvin - Senior Democratic Services Officer - Committees

Invitee: G J Wheeler - British Horse Society

26 APOLOGIES FOR ABSENCE

Apologies for absence were received from the following Members for the reasons so stated:-

Councillor R Shepherd - Unwell
Councillor H Williams - Work commitments

27 DECLARATIONS OF INTEREST

None.

28 MINUTES OF PREVIOUS MEETING

RESOLVED: That the minutes of the Rights of Way Sub-Committee held on 11 October 2011, be approved as a true and accurate record.

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

The Corporate Director - Communities submitted a report, the purpose of which, was 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.

The Rights of Way Officer gave some background information, and confirmed that 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 20 August 2002.

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.

It was proposed to address some of these anomalies by creating a network that was 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 needed to be extinguished and created on alternative routes.

Section 258 of the Town and Country Planning Act 1990 allowed a Council to extinguish public rights of way over land that had been acquired or appropriated for planning purposes and is currently held by the authority. In order to extinguish the same the Council needed to be satisfied that an alternative public right of way will be provided for replacements for those to be extinguished.

As the majority of the land remained in Council ownership the aim would be to process an extinguishment order under section 258 of the Town and 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

The Rights of Way Officer gave an overhead presentation showing Plan A (**Appendix A**) to the report which detailed the existing rights of way network at a scale of 1:7500, based on the Definitive Map for Bridgend. This plan also illustrated, by highlighting them orange, the footpaths affected by the scheme.

The series of diversions, extinguishments, and creations that were being proposed were illustrated on Plan B in **Appendix A**. She confirmed that if all the proposals were successful then the resultant net affect on the Rights of Way Network was as illustrated on Plan C in **Appendix A**. The area of Open Access land had also been included, as shown shaded light green for information purposes. Plan C also included other changes to the Rights of Way Network that had 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.

The proposals had 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, which had now been opened.

It was 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, aimed 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.

Each proposal was set out in turn and more detailed in the Schedule of the report. The intention was to improve the network of paths in the area when the proposals were viewed as a whole.

The Rights of Way Officer confirmed that it was proposed to extinguish all or part of the registered footpaths known as 4, 23, 24, 26, 27, 32A, 57, and 57A Maesteg. The sections proposed to be extinguished were highlighted by a red zig zag on "Plan B". It was 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 were included in Schedule 1 of **Appendix B** (all measurements stated were approximate)

All of these sections of paths were situated on the land acquired by the Council as a result of a Compulsory Purchase Order she confirmed. Where any land had been acquired under this provision the authority could 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 was therefore proposed to utilise this provision to extinguish all or part of the footpaths as described in Schedule 1 to the report. To enable such an order to be made the authority had been satisfied that alternative rights of way had been or would be provided or that an alternative was not required. It was intended that a series of new paths would be created for use as public rights of way as alternative routes, as described in the report.

To enable an extinguishment order to be made, the authority had to be satisfied that alternative rights of way had been or would be provided or that an alternative was not required. Accordingly, the Rights of Way Officer explained that new routes, or sections of routes, would 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** to the report and marked as route A.

The additional new registered public rights of way to be created were shown on "Plan B" in **Appendix A** and marked B, C, D, E, F, G, H, J, K, L, M, N, and O, and were detailed in Schedule 2 attached to the report. An additional route, shown marked P on "Plan B", was to be created as a permissive route only for the time being due to the potential development of the plateau area for sports pitches

The scheme would be authorised under delegated powers Scheme B2 of the Delegation of Functions.

The Rights of Way Officer confirmed that a section of Footpath 27 Maesteg that was affected by the reclamation works did not run entirely on the Councils land and as such could not be included within the extinguishment order as outlined in proposal 1 above. A separate diversion order under section 119 the Highways Act 1980 would therefore need to be made to bring into effect the route that is currently available for use by the public and this would be authorised under delegated powers.

In addition the Rights of Way Officer explained that the rights of way section is also hoping to create an additional section of footpath as shown as route S on plan B to the report. The majority of land required for this proposal was not under the ownership of the Council and as such the Rights of Way Section were in negotiations with the current landowners in order to achieve the creation of this new section of route.

Authorisation to make the order or agreement would be sought under delegated powers the Rights of Way Officer added.

Consultations had 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 had been received to the proposals.

The Rights of Way Officer stated that as the majority of the proposals lied on County Borough Council owned land, the Property Services section had also been consulted and raised no objection to any of the proposals.

The Invitee referred to that part of the report that made reference to the consultation process that had taken place, and he pointed out that one of the consultees were the Local Access Forum, who had under written the report.

He asked if there had been any subsequent charges to the report before Members that affected any of the reports proposals.

The Rights of Way Officer confirmed that there had been one change, and that was that route P was now a permissive route rather that a permanent route, in order to accommodate the potential development of the plateau. This route would however become permanent in due course.

RESOLVED: That

1. 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.
2. 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.

30 PROPOSED DIVERSION OF FOOTPATH NO. 20, COMMUNITY OF OGMORE VALLEY

The Corporate Director - Communities submitted a report, requesting authorisation for the making of an Order(s) which would seek to divert Footpath No. 20 Community of Ogmore Valley.

The Rights of Way Assistant advised that Planning Consent P/06417/FUL for a wind farm consisting of ten turbines with associated mast, substations and a new access at Pant y Wal north west of Gilfach Goch, necessitated the diversion of the above footpath to avoid oversailing by Turbine 7 of the Consent (Appendix 'A' to the report showed the location of the diversion).

The site was comprised of the above planning consent and planning consent P/06/1080/FUL for 4 wind turbines, sub-station, tracks, mast etc at Fforch Nest. The sites were to be developed simultaneously and combined they would be served by a joint access track (Consent P/08/962/FUL)

The Rights of Way Assistant confirmed that the proposed diversion will lie on the west side of Turbine 7 (see appendix B to the report) at a distance of 100 metres from the turbine. In accordance with the County Borough Councils usual specifications, it would be 1.4 metres wide if unfenced or fenced on one side, or 1.8 metres wide if fenced on both sides. The diversion would be waymarked at 25

metre intervals. A culvert would be provided where the diversion will cross a shallow drainage ditch. The route would be surfaced in blinded hardcore adjacent to this drainage ditch. The remainder of the route would utilise a grass surface which would be cleared of reeds. The mesh fence on the west side of the mid section of the diversion contains barbed wire which would be removed, advised the Right of Way Assistant.

He added that the turbine rotors would be 90 metres long extending to a distance of 45 metres either side of the turbine column. The diversion will lie 55 metres clear of the rotors.

The Rights of Way Assistant clarified that consultations had been undertaken with the local County Borough Council Ward member, Ogmere Valley Community Council, Bridgend Ramblers Association, South Wales Police, other user groups and public utilities in relation to the diversion, and no objections had been received.

The Rights of Way Assistant advised that Footpath 20, Community of Ogmere Valley required diversion in order to avoid the over sailing of the path by Turbine 7. The length of footpath that was proposed for diversion was very remote and could only be accessed by ramblers after a lengthy walk. It was therefore considered that the proposed localised diversion (275 metres or so long), which will only be 82 metres or so longer than the existing footpath which it seeks to replace, would be no less convenient to use.

The major part of the development lay within open access land which enabled the public to walk from the public rights of way, without restriction, throughout a large part of the site. Turbines 8, 11 and 14 also lay within the open access land and over sail Footpaths 22, 21 and 20 respectively. As the public could legitimately walk under the over sail on the open access land if they so wish, without having to use public rights of way, arrangements had been made to provide alternative routes in lieu of the above footpaths which will lie adjacent to, and clear of the over sail referred to. These routes would be way marked and surfaced if necessary. Other works may possibly be required, if dictated by ground conditions the Rights of Way Assistant confirmed.

He added that Turbine T5 would be micro sited, so as not to over sail Footpaths 22 and 27. Turbine T7 would also be micro sited the full permitted 30 metres to the north east to provide a 45 metres offset from Bridleway 4. This would ensure that the bridleway would lie adjacent to and clear of the over sail on the east side of Turbine 7.

Although not associated with the diversion referred to above, the Rights of Way Assistant advised that Members should note from the plan at Appendix A that Footpath 5 and Bridleway 4 cross the proposed joint access track south of the turbines. The following details therefore described the measures agreed with the developer to ensure the safe use of the public rights of way which cross the track.

The Officer further confirmed that the track would be surfaced with compacted stone and where the footpath crossed this track, metal kissing gates would be installed. Equestrian gates would also be erected at the points where Bridleway 4 crossed the access track. Furthermore, the Rights of Way Assistant stated that locked gates parallel with and on either side of Bridleway 4, would be erected at the aforementioned points. This would ensure that the access track will not be usable by quad bikes and motor cycles, as the Council has a responsibility to protect the rights of the public on the open access land to the north. Permanent security gates will be erected at the site entrance and further north at the point

where Bridleway 4 crossed the access track to the north west of Cae Rosser Farm. The gates would ensure that unauthorised vehicles would not be able to use the track and open access land to the north.

The Rights of Way Assistant added that signage would also be erected at crossing points to ensure safe passage through the site, and Marshalls would be engaged by the developer if necessary. If required, vegetation would be cut back in a sympathetic manner to enhance vision at the crossing points.

The kissing and equestrian gates referred to, and the gates either side of Bridleway 4 would also be erected where Footpaths 19 and 20 and Bridleway 4 cross the access track between Turbines 10 and 7.

The section of the access track between the remainder of the turbines would also be surfaced with compacted stone, and this length of track would be temporarily fenced on both sides for the duration of the construction of the wind farm. The Rights of Way Assistant clarified that the developer would install wooden gates in the fences to enable the continued use of the public rights of way until the fences are removed.

Finally, he informed Members that the developer had advised that it would be necessary to process a number of temporary footpath diversions to facilitate the construction of the turbines. There was no objection in principle to this, as the temporary diversions will be in the interest of public safety.

Following this submission, the Rights of Way Assistant responded positively to a number of questions raised by Members and the British Horse Society invitee. The British Horse Society invitee stated that although they had not responded to the consultation letter relating to this diversion it did not mean that they are not opposed to the diversion in light of the report. There was a discussion relating to the relative distances of the diversion of Footpath 20 and the retained position of Bridleway 4 from Turbine 7, and it was

- RESOLVED:
- (1) That authorisation be given for the Assistant Chief Executive Legal and Regulatory Services to make the necessary Order/s to seek to realign Footpath 20, Community of Ogmere Valley to the route shown on Appendix B to the report, and to confirm the Order/s provided no objections or representations are made within the prescribed period, or if any so made are withdrawn.
 - (2) That the Assistant Chief Executive Legal and Regulatory Services be authorised to forward the Order/s to the Welsh Government for determination, if any objections received are not withdrawn.
 - (3) That the Order/s exclude any section of the diversion which utilises highways which are maintainable by the Council, as public rights already exist over them.

The meeting closed at 11.20am.