

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.*



**Cyfarwyddiaeth y Prif Weithredwr / Chief  
Executive's Directorate**

Deialu uniongyrchol / Direct line /: 01656 643696 /  
643147

Gofynnwch am / Ask for: Mrs Julie Ellams

Ein cyf / Our ref:

Eich cyf / Your ref:

**Dyddiad/Date:** Wednesday, 2 January 2019

Dear Councillor,

**RIGHTS OF WAY SUB-COMMITTEE**

A meeting of the Rights of Way Sub-Committee will be held in the Committee Rooms 2/3 - Civic Offices Angel Street Bridgend CF31 4WB on **Tuesday, 8 January 2019 at 11:00**.

**AGENDA**

1. Apologies for Absence  
To receive apologies for absence from Members.
2. Declarations of Interest  
To receive declarations of personal and prejudicial interest (if any) from Members/Officers in accordance with the provisions of the Members Code of Conduct adopted by Council from 1 September 2008.
3. Approval of Minutes 3 - 6  
To receive for approval the Minutes of the Rights of Way Sub-Committee of 7/9/17.
4. Proposed Diversion of Footpath No 17, Porthcawl 7 - 26
5. Urgent Items  
To consider any other item(s) of business in respect of which notice has been given in accordance with Rule 4 of the Council Procedure Rules and which the person presiding at the meeting is of the opinion should by reason of special circumstances be transacted at the meeting as a matter of urgency.

Yours faithfully

**K Watson**

Head of Legal and Regulatory Services

Councillors:

DK Edwards

RM Granville

Councillors

RME Stirman

G Thomas

Councillors

CA Webster

**By receiving this Agenda Pack electronically you will save the Authority approx. £0.52 in printing costs**



## RIGHTS OF WAY SUB-COMMITTEE - THURSDAY, 7 SEPTEMBER 2017

### MINUTES OF A MEETING OF THE RIGHTS OF WAY SUB-COMMITTEE HELD IN COMMITTEE ROOMS 2/3 - CIVIC OFFICES ANGEL STREET BRIDGEND CF31 4WB ON THURSDAY, 7 SEPTEMBER 2017 AT 14:00

#### Present

Councillor RMI Shaw – Chairperson

TH Beedle

RME Stirman

CA Webster

#### Apologies for Absence

G Thomas and T Thomas

#### Officers:

Jane Dessent

Solicitor

Andrew Mason

Rights of Way Manager

Andrew Rees

Senior Democratic Services Officer - Committees

#### 1. APOLOGIES FOR ABSENCE

Apologies for absence were received from the following Members:

Councillor G Thomas

Councillor T Thomas

#### 2. DECLARATIONS OF INTEREST

None

#### 3. APPROVAL OF MINUTES

RESOLVED: That the minutes of the meetings of the Rights of Way Sub-Committee of 7 February 2014 and 22 February 2016 be approved as a true and accurate record.

#### 4. URGENT ITEMS

There were no urgent items.

#### 5. PROPOSED DIVERSION OF FOOTPATH NO 4, COMMUNITY OF COITY HIGHER

The Rights of Way Manager presented the report of the Corporate Director Communities which sought authorisation for the making of an Order pursuant to section 257 of the Town and Country Planning Act 1990 on land to the west of Newlands Avenue, Brackla Industrial Estate.

The Rights of Way Manager reported that the implementation of planning consents P/14/464/OUT, outline application for up to 220 dwellings on Land East Of A4061, Bridgend Northern Distributor Road (BNDR), Coity and P/16/420/RES for reserved matters for 220 dwellings with associated vehicular & pedestrian accesses and parking (at the same location) required the diversion of a section of Footpath 4, Coity Higher. He outlined to the Sub-Committee plans which show the consent curtilages of both planning consents and which showed the section of the footpath which was proposed to be diverted between Points A-B-C-D-E-F.

The Rights of Way Manager reported that currently the route commenced at Point A (Grid Ref. SS 91358127) and proceeds in a southerly direction to the Rehab-Invacare site at Point B (Grid Ref. SS 91408110) before turning west for approximately 255 feet to Point C (Grid Ref. SS 91348107) and then south for approximately 320 feet to Point D (Grid Ref. SS 91378098) and then in a generally easterly direction for 250 feet or so to Point E (Grid Ref. SS 91448101) on the southern boundary of the Rehab-Invacare Site. The path continued in a general southerly direction across fields to a point approximately 209 metres north east of the north eastern corner of the rear garden of No. 29 Badgers Mead, Brackla (Grid Ref. SS 91468094) and continues in a southerly direction for approximately 52 metres to Point F (Grid Ref. SS 91448083). The approximate length of the footpath to be diverted is 549 metres with a width of between 0.7 and 1.8 metres. He stated that the footpath has a mixture of natural and tarmacadam surfaces.

The Rights of Way Manager reported that the proposed alternative route of Footpath 4, Coity Higher, runs from Point A (Grid Ref. SS 913581270) on the plan and proceeds in a west south-westerly direction for approximately 27 metres to Point G (Grid Ref. SS 91328126) it then continues in a north westerly direction for approximately 26 metres to Point H (Grid Ref. SS 91308127) before continuing in a general north north-easterly direction for 28 metres to Point I (Grid Ref. SS 91308130), the route then continues in a north westerly direction for a further 37 metres to Point J (Grid Ref. SS 91278131) before continuing in a south westerly direction for approximately 12 metres to Point K (Grid Ref. SS 91268130), the route then proceeds in a general south south-easterly direction for a further 319 metres to Point L (Grid Ref. SS 91348099) before continuing in a south westerly direction for 20 metres to Point M (Grid Ref. SS 91338098), and thence in a general south south-easterly direction for 25 metres to Point N (Grid Ref. SS 91338096) then in a south westerly direction for 28 metres to Point O (Grid Ref. SS 91328094), it then continues in a south easterly direction for approximately 49 metres to Point P (Grid Ref. SS 91358091), before continuing in a west north-westerly direction along an estate footway for 69 metres to Point Q (Grid Ref. SS 91418093) before crossing an estate road in a southerly direction for approximately 11 metres to Point R (Grid Ref. SS 91428092) before continuing in a west north-westerly direction, also on an estate footway, for approximately 29 metres to Point S (Grid Ref. SS 91448093) before finally proceeding in a south westerly direction for approximately 45 metres, where it joins Footpath 4 Coity Higher at Point F (Grid Ref. SS 91468088). The Rights of Way Manager informed the Sub-Committee that the approximate length of the route is 724 metres and the widths and surfaces of the new route would be from Points A-G-H-I - 1.8 metres wide with a tarmacadam surface; Points I-J - 2 metres wide with a tarmacadam surface; Points J-K-L - 1.4 metres wide with a natural surface. He stated that following discussion with the developer, Points L-M-N-O would now be 2 metres wide with a tarmacadam surface whilst Points O-P would be 3 metres wide with a tarmacadam surface. Points P-Q-R-S-F would be 1.8 metres wide with a tarmacadam surface.

The Rights of Way Manager reported that the diversion of this section of Footpath 4, Coity Higher was originally discussed with the developer in 2014 when outline planning consent was sought (P/14/464/OUT) but could not be acted upon until the reserved matters application was granted in 2016 (P/16/420/RES) as required by the relevant legislation. However during the 2016 planning application process the Rights of Way section received an application from the developer to divert that section of Footpath 4, Coity Higher. He stated that the original diversion application submitted by the developer, as shown on the plan, diverted users of the footpath onto the cycle track that runs adjacent to the Bridgend Northern Distributor Road (BNDR), Point Z on the plan.

The Rights of Way Manager outlined the outcome of the consultation undertaken with the local County Borough Council members, Coity Higher Community Council, the British Horse Society, Bridgend Ramblers Association, other user groups and interested

bodies, South Wales Police and public utilities, which resulted in three representations being received in relation to the proposed diversion. That Rights of Way Manager stated that whilst the initial consultation was being carried out, the Rights of Way Section obtained information which indicated that a Prohibition of Pedestrian Order was in place for the BNDR, including the adjacent cycle track, that the proposed diversion of Footpath 4 would join Point Z on the plan. He informed the Sub-Committee that this would make it illegal for users of the footpath to use that route and as such, would create a dead end route. Discussions were held with the developer to discuss this issue, which resulted in a new diversion route being proposed.

The Rights of Way Manager outlined the outcome of the second consultation undertaken on the proposed new route, which resulted in one representation being received from the Bridgend Ramblers who had no objection to the proposal. He stated that the developer is required, as part of the development to extend the cycle route from the Brackla link roundabout to the roundabout at the south west corner of the Parc Derwen development – junction of the A4061 and Heol West Plas. The developer was also required to rescind that part of the Prohibition of Pedestrian Order to enable the newly constructed route to become a shared use pedestrian/cycle route. Once this happens the developer has confirmed that they will enter into a Footpath Creation Agreement with the Council to register as a public footpath that section of the original proposed route as shown between Points X-Y-Z on the map to ensure that there is a link from the new development to the cycle track.

The Rights of Way Manager informed the Sub-Committee that of the 220 proposed properties to be constructed within the development area, approximately 43 are affected by the existing alignment of Footpath 4 Coity Higher and of these 43 properties one has been partially constructed to roof level and groundworks have commenced on some of the other properties that are affected. He outlined the reasons for processing the Order as soon as possible in that provided no objections are received it was anticipated that the diversion proposal currently under consideration would be completed prior to the building works themselves being completed. It was anticipated that the diversion order would be completed whilst the Temporary Diversion of the footpath remains in place. Although the current Temporary Diversion expires on the 19 September an application is being submitted to Welsh Government for the order to be extended for a further 6 months. The Rights of Way Manager advised that the Council had recently received confirmation from the Welsh Government which agreed that the Temporary Diversion could be extended and that it would now remain in force until the 19th March 2018. He also informed the Sub-Committee that completion of the diversion in a timely manner would resolve any issues that prospective purchasers of properties within the development may have obtaining mortgages if the existing public footpath was not diverted prior to them being built and purchased.

The Rights of Way Manager outlined to the Sub-Committee the comments of the Group Manager – Highways and Fleet in relation to the diversion.

RESOLVED: (1) That authorisation be given for the Corporate Director, Operational and Partnership Services to make the necessary Order to seek to realign Footpath 4, Coity Higher, to the route shown on Appendix B to the report, and to confirm the Order provided no objections or representations are made within the prescribed period, or if any so made are withdrawn.

(2) That the Corporate Director, Operational and Partnership Services be authorised to forward the Order to the Welsh Government for determination, if any objections received are not withdrawn.

**RIGHTS OF WAY SUB-COMMITTEE - THURSDAY, 7 SEPTEMBER 2017**

(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.

The meeting closed at 14:18

## BRIDGEND COUNTY BOROUGH COUNCIL

### REPORT TO RIGHTS OF WAY SUB COMMITTEE

8 JANUARY 2019

#### REPORT OF THE CORPORATE DIRECTOR - COMMUNITIES

#### PROPOSED DIVERSION OF FOOTPATH NO 17, PORTHCAWL

##### 1 Purpose of this report

- 1.1 This report requests authorisation for the making of an Order pursuant to Section 257 of the Town & Country Planning Act 1990 on land next to No. 15 The Burrows, Porthcawl, CF36 5AJ.

##### 2 Connection to Corporate Improvement Objectives / Other Corporate Priorities.

- 2.1 The improvement in access to the rights of way network that the diversion of this section of Footpath 17, Porthcawl will achieve will help to deliver two of the Council's corporate priorities as identified in the Corporate Plan 2018 – 2022, including:

Supporting a Successful Economy  
Helping people to be more self-reliant

- 2.2 Improving physical access to public rights of way is also a major element in the Council's 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 implementation of planning consent P/17/595/FUL, full planning application for the development of a new detached two storey dwelling house with three bedrooms next to 15 The Burrows, Porthcawl, CF36 5AJ will require a section of Footpath 17, Porthcawl to be diverted. The plan in **Appendix A** to the report shows the consent curtilage of the planning consent. The section of the footpath which is proposed to be diverted is shown between Points A-B-C on the plan in **Appendix B** to the report.
- 3.2 The proposed development is also affected by two applications for Definitive Map Modification Orders to upgrade Footpath 17 Porthcawl to a Bridleway submitted by the British Horse Society. Further details on these are provided in paragraph 4.6 below.

##### 4 CURRENT SITUATION/PROPOSAL

###### Current Route and Proposed Diversion

- 4.1 Currently the route as described in the Definitive Statement commences at Point A (Grid Ref. SS 84097743), as shown on the plan in **Appendix B**, and proceeds in a general easterly direction for approximately 50 metres to Point B (Grid Ref. SS 84147743) the route then continues in a general north easterly direction for approximately 5 metres to Point C (Grid Ref. SS 84147744). The approximate length of the footpath to be diverted is 55 metres but the width is currently undefined in the Definitive Statement. The footpath has a natural surface.

- 4.2 The proposed alternative route of Footpath 17, Porthcawl, runs from Point D (Grid Ref. SS 84097744) on the plan (**Appendix B**), and proceeds in a general easterly direction for approximately 8 metres to Point E (Grid Ref. SS 84107744) before continuing in an east south-easterly direction for approximately 11 metres to Point F (Grid Ref. SS 84117744), the route then continues in a general easterly direction for approximately 32 metres to Point C (Grid Ref. SS 84147744). The approximate length of the new route is 51 metres. The new footpath will have a width of 1.5 metres and a tarmac surface with path edging as per the rest of Footpath 17 Porthcawl through the housing estate.
- 4.3 As will be noted from the diversion order plan, the new footpath will start (Point D) on the eastern edge of the footway on The Burrows approximately 11 metres north of the point where the existing footpath leaves the same residential street (Point A on the plan). This slight alteration to the point where the route commences on The Burrows is perfectly acceptable within the scope of the legislation. Furthermore, the reason why the footpath diversion is not shown as running along the footway of The Burrows i.e. between Points A and D is because the footway is already shown as part of the maintainable highway and the legislation does not allow for public rights of way to be created over existing highways. Taking into account the additional section of footway that users of the footpath will now have to use, the total length of the alternative route is 62 metres.
- 4.4 The diversion of this section of Footpath 17 Porthcawl was originally discussed in November 2016 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. The proposed alternative route was agreed in principal by the Rights of Way Section.
- 4.5 The application to divert this section of Footpath 17, Porthcawl was submitted on the 14<sup>th</sup> August 2017. The application was received following the Rights of Way Sections comments in relation to planning application P/17/595/FUL.
- 4.6 In relation to the two DMMO applications affecting this site the outcome of the Council's investigations was that two DMMO's should be made to upgrade Footpath 17 Porthcawl to a bridleway with a width of 1.5 metres. Although the decision to make the two order's had been made prior to the submission of the diversion application the orders themselves had not been made. In fact Order No. 2 2018 was made on the 19<sup>th</sup> March 2018 and Order No. 7 2018 was made on the 18<sup>th</sup> September 2018.
- 4.7 In accordance with the Councils standard consultation process for Public Path Orders the local County Borough Council members, Porthcawl Town 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 2017. During the consultation process numerous representations were received in relation to the proposed diversion. These are outlined below.
- 4.8 Bridgend Ramblers – No objection
- 4.9 South Wales Police Designing out Crime Officer – Commented that fencing should run adjacent to the diversion and should be at least 1.8 metres high and that vehicular access should also be prevented onto the footpath. Other points raised were that the new route would be favourable if it was:



- As straight as possible
- Wide
- Well lit
- Devoid of potential hiding places
- Overlooked by surrounding buildings and activities

4.10 The British Horse Society (BHS) – Objected to the proposal on the following grounds.

1. That the two Definitive Map Modification Order applications to upgrade that section of Footpath 17 to a bridleway should be made prior to the determination of the proposed diversion of the footpath.
2. The Councils statement in its consultation letter that ‘if the application to divert the footpath is successful this will not have any bearing on the determination of the Modification Order’ was grossly misleading.
3. The Council only referred to one Definitive Map Modification Order application in its consultation letter whereas, there have been two affecting this particular footpath. Whilst the Council did reject the original application, subsequently accepted by the planning inspectorate on appeal, it did, in fact, accept the second application and agreed that a Modification Order should be made in respect of the second application.
4. The Modification Orders should be determined prior to the diversion order.
5. The BHS does not believe they are being treated fairly and, in fact, feel they are being discriminated against.
6. Diverting the footpath to the north side of the development in question would make it ‘clearly not so convenient and commodious’.

4.11 It is worth noting that during the Councils consultation process the British Horse Society representative forwarded a copy of the consultation to a number of other horse riders in the area. This resulted in representations being received from 22 members of the public. One person submitted their email twice whilst a second submitted two identical emails within the space of a few minutes as well as a third completely different email at a different time. Below is a summary of the objections that were submitted by those 22 people:

- 4.11.1 Eleven riders stated the planning application would encroach on the lane which has an order to make it a bridleway which requires at least a width of 1.5 metres.
- 4.11.2 Nine indicated that the Council should make the Modification Order to upgrade the footpath to a bridleway prior to the diversion so that the route would be classed as a bridleway during discussions.
- 4.11.3 Five riders stated that the width (1.5 metres) was too narrow and would make it unsafe for horses and members of the public to pass.

4.11.4 Three felt that the diversion of this ancient route will be to the detriment of its upgrade to a bridleway.

4.11.5 Three also stated that equestrians were being discriminated against.

4.11.6 One rider felt that it was important to encourage the enjoyment of bridleways.

4.11.7 One also added that as a keen rider they believe that it is important to encourage the enjoyment of bridleways and safeguard their access for future generations.

4.12 It appears to the Rights of Way section that there are six main points that are the basis of the majority of the objections to the proposal. These have been listed below with the Councils response to each one.

- The majority of the riders were concerned that the planning application encroached on to a lane which, at the time had an order waiting to be made for the route to be shown as a bridleway. That order was made on the 19<sup>th</sup> March 2018 and is known as Order No. 2 2018. Nine of those believe that the Definitive Map Modification Order (DMMO) to upgrade Footpath 17 Porthcawl (Order No. 2 2018) should be dealt with prior to the diversion of the footpath. It is correct that the decision to make a DMMO upgrading Footpath 17 to a bridleway was made more than 3 years prior to the date on which the application to divert the footpath was received. Unfortunately, the publishing and subsequent determination of the DMMO's was not progressed prior to the diversion application having been received due to resource issues within the Council. Members should be aware, however, that since the pre-order consultation was undertaken the Council has published 4 DMMO's within the Newton/Merthyr Mawr area (Order No's 1, 2, 3 and 7 2018), including the two affecting Footpath 17 Porthcawl (order Nos.2 & 7 2018), and these have attracted approximately 200 objections, 84 emails/letters of support, 2 petitions objecting to the orders with 70 signatures and 1 petition supporting the orders with 47 signatures. Prior to the publication of the 3 DMMO's discussions took place with the Legal Department who advised that it would not be appropriate to delay the making of the Order under consideration today pending the determination of the DMMOs that affect Footpath 17 Porthcawl, given that they are separate legal processes and additionally objections were expected which would mean that it would be some considerable time before the DMMOs were determined.
- It has been suggested by the British Horse Society that diverting the route and making the alternative a public bridleway would remove any objections from equestrians. There are a number of ways the Council could facilitate this. Firstly, the footpath affected by the development could be extinguished and then the proposed alternative could be created as a bridleway. Secondly, the footpath is diverted as per the current proposal and then the Council makes a separate creation order for a bridleway over the new footpath. However, should the Council take forward either of these options, it presumes that the DMMOs (Order Nos. 2 & 7 2018) will be confirmed. If the DMMO was not confirmed this would mean that there would be a short section of bridleway leading to a footpath on either side.

- Of the 22 representations received, 5 riders state that the width of 1.5 metres for the proposed diversion would not be wide enough yet 11 others state that the bridleway requires a width of at least 1.5 metres. The Council agrees that if it were diverting this route as a public bridleway then its minimum width requirement would usually be no less than 2.5 metres. However, the proposal seeks to divert a public footpath which currently has no defined width. In such cases the Council would normally request that the width of the diverted footpath should be 1.4 metres if bounded on one side and 1.8 metres if bounded on both sides. In this particular case the footpath is not immediately bounded on both sides and therefore, 1.4 metres would be sufficient. However, the developer has agreed to surface the route to 1.5 metres as that is the width of the tarmac path from The Burrows to Birch Walk. It is also worth noting that a report prepared by a consultant in relation to the British Horse Society's DMMO applications to the Council submitted in 2007, which ultimately resulted in Order Nos. 2 and 7, found that without significant evidence to suggest that the bridleway should be any wider, the upgrading of Footpath 17 Porthcawl should be limited to a width of 1.5 metres. It is possible that should an Inspector acting on behalf of the Welsh Government determine that the DMMO's (Order Nos. 2 & 7) should be confirmed, they could also record a width of route that is wider than the proposed width of 1.5 metres. If this was the case, then the Council would have to determine how it might be able to accommodate such a change. There are currently three options to resolve this issue which are outlined below;
  - The developer could extend the proposed width of the footpath by a maximum of approximately 1-2 metres but this would require substantial earthworks to ensure retention of the garden of the adjacent property (No. 11 The Burrows).
  - The applicant submits a Public Path Order application to extinguish part of the width, as shown on the confirmed DMMO, to get it back to the proposed 1.5 metres.
  - The developer has to reconsider their application which could potentially mean re-designing the entire site, dwelling and landscaping.
- In relation to the equestrians who submit that the diversion of the footpath would be to the detriment of the application to upgrade the footpath to a bridleway the Council reiterates what it has advised equestrians previously in that regard. It is the Council's contention, despite the County Access and Bridleways Officer indicating that it is grossly misleading that if the application to divert the footpath is successful, that this will not have any bearing on the determination of the Modification Order. In terms of the DMMO, the Inspector acting on behalf of the Welsh Ministers will be looking to determine 'on the balance of probabilities' whether equestrian rights have been shown to exist on the route included within the British Horse Society's original application. The Inspector will be considering evidence which, in some cases, may predate the existence of the residential estate and therefore the width of the route or even its alignment may eventually alter from that shown in the Order. If that or anything else happens in the meantime such as the currently proposed diversion, then the Council will have to deal with it at the appropriate time. If the property being constructed in accordance with P/17/595/FUL is completed prior to the determination of the DMMO's, then in addition to the three options that the developer has as outlined above, the Council would also have to consider taking enforcement action if any part of the bridleway was obstructed.

- Eleven riders raised issues related to the planning application itself. Members however should be aware that the granting of planning permission does not guarantee that the diversion or extinguishment of a public right of way affected will be achieved. Members must decide whether the proposed route meets the requirements of the legislation and further information in this regard is provided in section 4.15.2 below.
- As well as their representations, a number of equestrians refer to a kissing gate prohibiting access along the route. The kissing gate in question was erected on Footpath 19 Porthcawl, 244 metres to the west of the current proposal in approximately 2002 when that footpath was created. This was because of illegal use of the route by horse riders and motor vehicles. Members should note that access to the section of footpath currently being considered for diversion was restricted in 2002 by the installation of an 'A' frame. It has always been the Councils intention that should higher rights be determined to exist the kissing gate and 'A' frame would be removed.

4.13 In relation to the British Horse Society's Objections, the majority have been covered in the above or will be responded to in section 4.15.3 below. In relation to their claim that they are not being treated fairly, Members are advised that an Equality Impact Assessment has been carried out and this shows that there are no implications or impacts on specific equality groups. Lastly, in relation to their objection on the grounds that the diverted route is 'clearly not so convenient and commodious' the Council would disagree. Whilst the description of the diverted route is 4 metres shorter than the existing route, when adding the additional 11 metres along the footway which the public will have to use, the new route is 7 metres longer than the existing route. This is very minor when the total length of Footpath 17 Porthcawl is 457 metres. Furthermore, routes that are diverted under the Town and Country Planning Act 1990 are not required to be 'as convenient or commodious', as that is the criteria for diverting routes under the Highways Act. In terms of this particular diversion the Council only has to be satisfied that it is necessary in order to enable the development to be carried out.

4.14 Porthcawl Town Council – Although no formal response was received from the Town Council in relation to the pre-order consultation sent out by the Rights of Way section, the Town Council did object to the planning application on the grounds that the deviation of the footpath was not acceptable and the alteration would set a unacceptable precedent. The Town Council's grounds for objecting to the Planning Application were noted during the planning application process but it was felt more appropriate that they should be addressed as part of the formal application procedure to divert the public right of way. In relation to their objection which indicates that the alteration sets an 'unacceptable precedent', Members will be aware that the legislation enables developers to submit applications to divert public rights of way affected by development. This application does not, therefore, set any kind of precedent. In terms of the diversion being 'unacceptable' then the Town Council does not indicate why it is 'unacceptable' and therefore it is difficult to comment on this other than to indicate, as detailed in 4.15 below, why the Diversion Order should not be made.

#### **4.15 GROUP MANAGER – HIGHWAY SERVICES.**

4.15.1 In order to facilitate the construction of a new detached two storey dwelling house with three bedrooms as per planning consent P/17/595/FUL next to 15 The

Burrows, Porthcawl, CF36 5AJ a section of Footpath 17, Porthcawl will need to be diverted under section 257 the Town and Country Planning Act 1990.

4.15.2 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.’*

4.15.3 In regard to the three considerations outlined above Members are advised as follows:

- The interests of the public can be said to be satisfied because although the proposed diversion is slightly longer than the existing route this is very minor when the total length of Footpath 17, Porthcawl is considered. In addition the current footpath has a natural surface whereas the proposed surface will be tarmac and the current width is undefined whereas the new width will have a defined width of 1.5 metres. The developer will be responsible for the works to provide the diversion and the provision of the new route.
- The footpath is being moved from one side of an area of open ground to the other. As a result it will be between approximately 5 and 10 metres closer to the boundary of No. 11 The Burrows. It should be noted, however, that just because the proposed footpath is closer to the boundary of No. 11 The Burrows the diversion of the footpath would be negligible due to the topography of the land as users of the footpath would be closer to a bank and fencing, so would not be easily able to see over into the adjoining property, or indeed be seen by the residents of No.11 The Burrows. The Rights of Way section agrees that properties will still be affected by the

route albeit to a greater or lesser extent. Therefore there does not appear to be any additional effects of the Order on any adjoining properties.

- It may be considered that the Order could have a detrimental effect on equestrian users – with the path being diverted before the DMMO is determined. However, the route is currently only a public footpath and therefore the matter must be processed as such. It is not known at this point of time whether the DMMO's Nos. 2 & 7 will be confirmed. If the DMMO's are confirmed then the Council will have to deal with any new issues that arise at that time. The various options available to the Council and the developer are outlined in paragraph 4.12.
- The Council is unaware of any potential financial loss to members of the public.

## **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 diversion of this footpath will not prejudice recreation along the public rights of way network for any sections of the community. There are no other implications or impact on specific equality groups.

## **7. WELL-BEING OF FUTURE GENERATIONS (WALES) ACT 2015 IMPLICATIONS**

7.1 The duty has been considered in the assessment of this application. It is considered that there would be no significant or unacceptable impacts upon the achievement of wellbeing goals/objectives as a result of the proposed diversion. The assessment is attached at **Appendix C**.

## **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 order process and the implementation of any works required by the Council.

## **9 RECOMMENDATION**

9.1 That authorisation be given for the Head of Legal and Regulatory Services to make the necessary Order to seek to realign Footpath 17, Porthcawl, to the route shown on **Appendix B** to the report, and to confirm the Order provided no objections or representations are made within the prescribed period, or if any so made are withdrawn.

9.2 That the Head of Legal and Regulatory Services be authorised to forward the Order 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.

**MARK SHEPHARD  
CORPORATE DIRECTOR - COMMUNITIES**

**CONTACT OFFICER**

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

Telephone: 01656 642595/Email: [mathew.palmer@bridgend.gov.uk](mailto: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 17 Porthcawl (14<sup>th</sup> August 2017 – present)  
Equality Impact Assessment  
File A763/1/213C (26<sup>th</sup> November 2007 – present)  
File A763/1/213A (26<sup>th</sup> November 2007 – present)

**DIRECTIONS TO SITE.**

The Rights of Way Sub Committee of 29 January 2010 agreed that future Rights of Way Sub Committee reports shall provide directions to, and the postcode of sites. This will ensure that the sites are easily located for the purpose of the site meeting prior to the Rights of Way Sub Committee at the Civic Offices. In compliance with this, the directions to the site and its postcode are as follows.

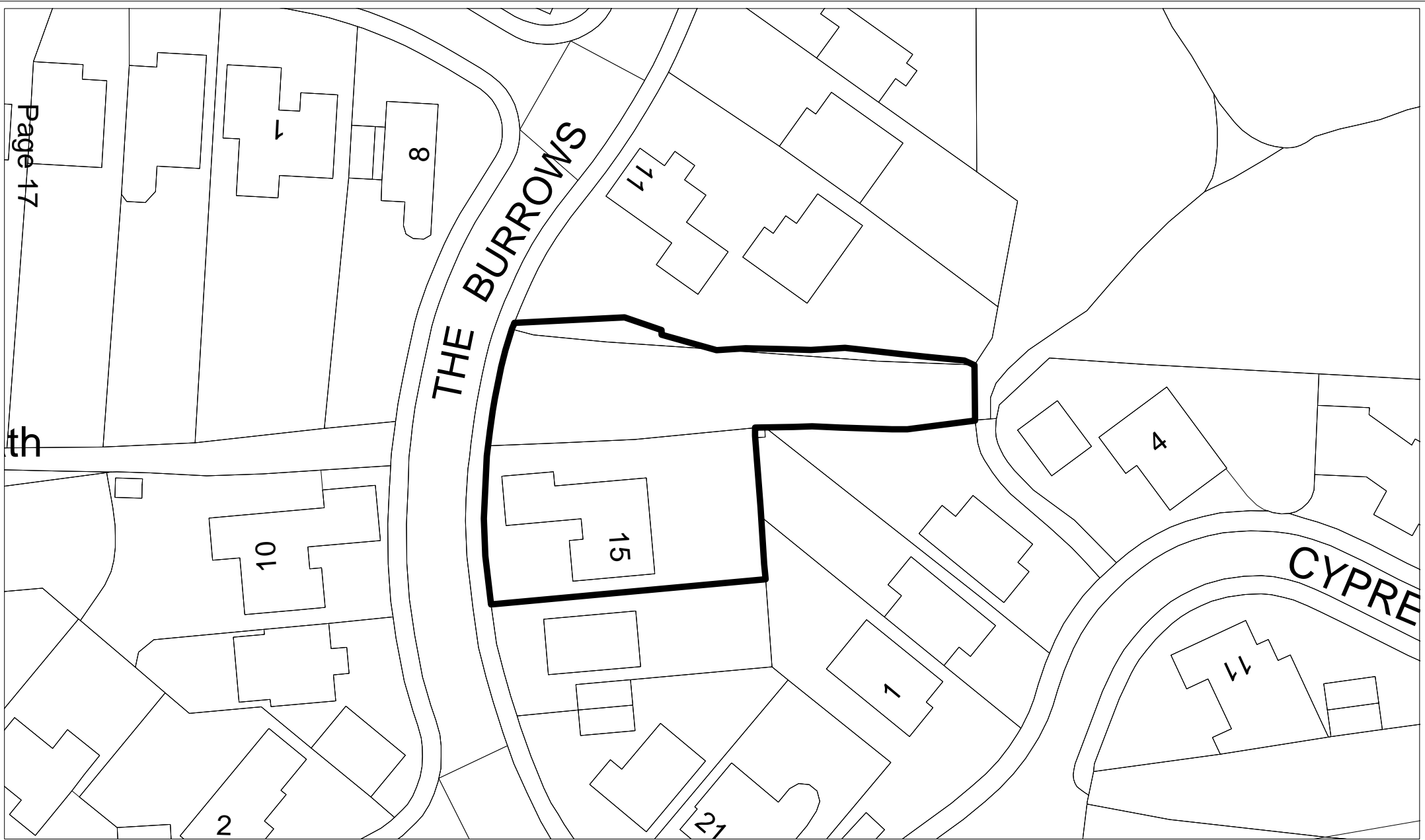
Members are requested to meet at (Point A shown on the attached map (**Appendix B**)). The meeting point (as if coming from the Civic Offices) is accessed by proceeding north along Angel Street, then going straight ahead at the lights onto Park Street (A473). Proceed for approximately 2.1 miles to a roundabout, take the 2<sup>nd</sup> exit carrying along the A473, before taking the 2<sup>nd</sup> exit at the next roundabout to join the A48 (Port Talbot/Porthcawl). Continue along the A48 to another roundabout, take the 1<sup>st</sup> exit (Porthcawl/A4106) onto Bridgend Road. Continue along Bridgend Road until you reach the next roundabout (2.1 miles), take the 1<sup>st</sup> exit (Newton), before taking your 1<sup>st</sup> left onto Manor Grove, then your 2<sup>nd</sup> right onto Danygraig Avenue, then the 3<sup>rd</sup> right onto Birch Walk, you will then need to take your 1<sup>st</sup> left onto Rowan Drive, then 2<sup>nd</sup> right onto Lime Tree Way before finally taking the 1<sup>st</sup> left onto The Burrows. The location of the site meeting is on your left some 85 metres from the junction with Lime Tree Way. There is limited on road parking near to the start point on The Burrows, The Firs or Cypress Gardens.

The wearing of Wellington boots or other waterproof footwear is strongly recommended.

The postcode for The Burrows is CF36 5AJ. This postcode is south of the meeting point when using Google maps.

It is advised that you park nearby and walk to the starting point as there is limited on street parking.





**BRIDGEND COUNTY BOROUGH COUNCIL**

**COMMUNITIES DIRECTORATE**

*Corporate Director  
Communities*

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

**APPENDIX A**

**Planning Application P/17/595/FUL**

Compiled from CAMS by M Palmer

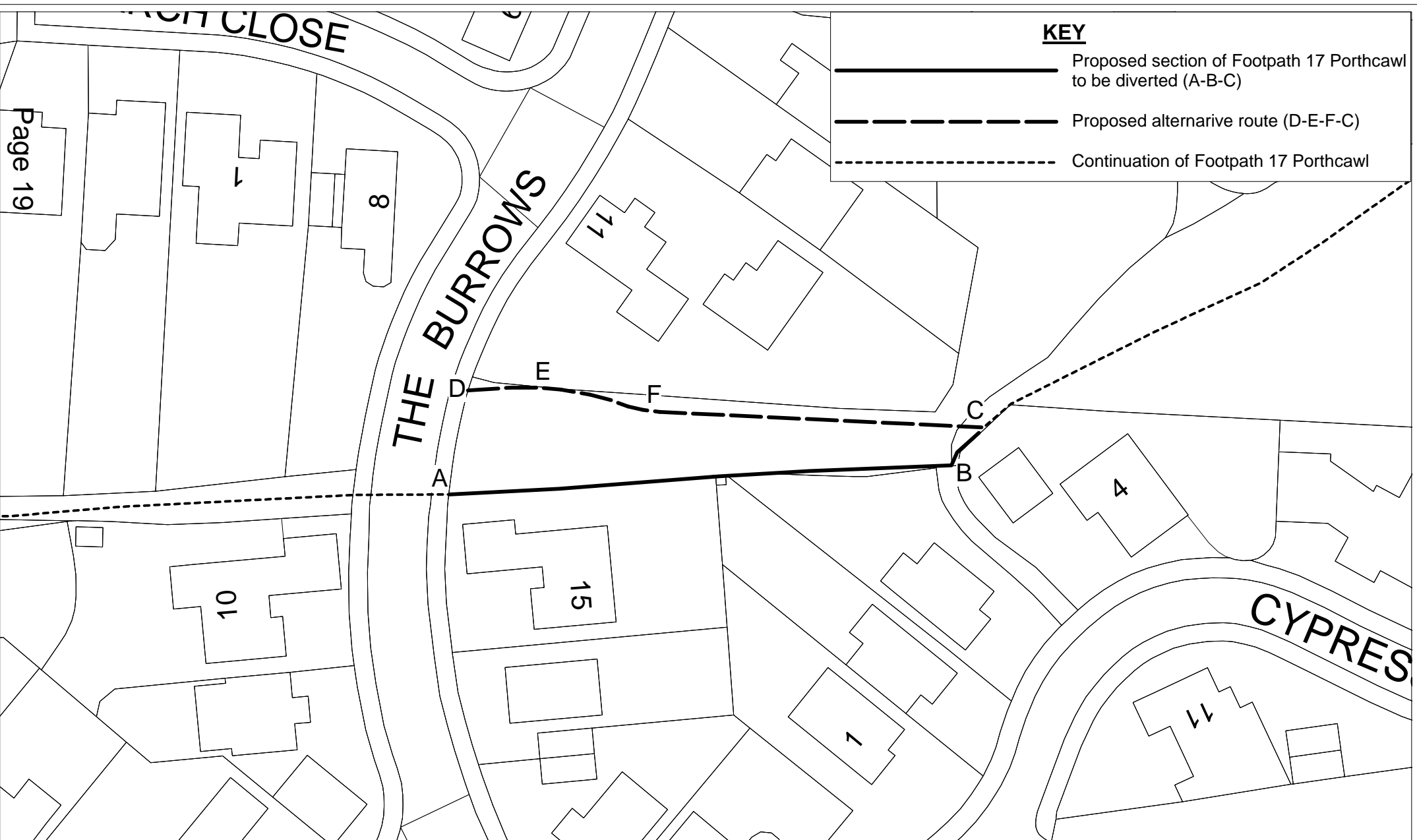


This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office. © Crown Copyright  
Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.  
Licence Number: 100023405,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




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

Scale 1:500

This page is intentionally left blank



**KEY**

-  Proposed section of Footpath 17 Porthcawl to be diverted (A-B-C)
-  Proposed alternative route (D-E-F-C)
-  Continuation of Footpath 17 Porthcawl

Page 19



**BRIDGEND COUNTY BOROUGH COUNCIL**

**COMMUNITIES DIRECTORATE**

*Corporate Director  
Communities*

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

**APPENDIX B**

Compiled from CAMS by M Palmer



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 1:500

This page is intentionally left blank

## WELL-BEING OF FUTURE GENERATIONS (WALES) ACT 2015 ASSESSMENT

<b>Project Description (key aims):</b>	
<b>Diversion of Footpath 17 Porthcawl under T&amp;CPA'90</b>	
<b>Section 1</b>	<b>Complete the table below to assess how well you have applied the 5 ways of working.</b>
<b>Long-term</b>  (The importance of balancing short term needs with the need to safeguard the ability to also meet long term needs)	<b>1. How does your project / activity balance short-term need with the long-term and planning for the future?</b>  ➤ In the short-term the diversion of Footpath 17 Porthcawl enables the landowner to complete a development for which planning permission has been granted whilst long-term this 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.
<b>Prevention</b>  (How acting to prevent problems occurring or getting worse may help public bodies meet their objectives)	<b>2. How does your project / activity put resources into preventing problems occurring or getting worse?</b>  ➤ Any works required to implement the proposed diversion will be paid for by the developer. By upgrading the surface of the route this will reduce maintenance.
<b>Integration</b>  (Considering how the public body's well-being objectives may impact upon each of the wellbeing goals, on their objectives, or on the objectives of other public bodies)	<b>3. How does your project / activity deliver economic, social, environmental &amp; cultural outcomes together?</b>  ➤ 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.
<b>Collaboration</b>  (Acting in	<b>4. How does your project / activity involve working together with partners (internal and external) to deliver well-being objectives?</b>

<p>collaboration with any other person (or different parts of the body itself) that could help the body meet its well-being objectives)</p>	<ul style="list-style-type: none"> <li>➤ The developer must provide a suitable alternative that is no less commodious to users of the existing footpath. The diverted route is open to objection and cannot be implemented until all objections are withdrawn or, where objections do remain the Order is confirmed by the Planning Inspectorate.</li> </ul>
<p><b>Involvement</b>  (The importance of involving people with an interest in achieving the well-being goals, and ensuring that those people reflect the diversity of the area which the body serves)</p>	<p><b>5. How does your project / activity involve stakeholders with an interest in achieving the well-being goals? How do those stakeholders reflect the diversity of the area?</b></p> <ul style="list-style-type: none"> <li>➤ Consultations are carried out with statutory consultees as well as local members and community councils and their views are considered before a decision is made to make the order.</li> </ul>

Section 2 Assess how well your project / activity will result in multiple benefits for our communities and contribute to the national well-being goals (use Appendix 1 to help you).		
Description of the Well-being goals	How will your project / activity deliver benefits to our communities under the national well-being goals?	Is there any way to maximise the benefits or minimise any negative impacts to our communities (and the contribution to the national well-being goals)?
<p><b>A prosperous Wales</b> An innovative, productive and low carbon society which recognises the limits of the global environment and therefore uses resources efficiently and proportionately (including acting on climate change); and which develops a skilled and well-educated population in an economy which generates wealth and provides employment opportunities, allowing people to take advantage of the wealth generated through securing decent work.</p>	The diverted route will enable members of the public to continue to use the footpath and the improvements to the route will create a more enjoyable and easier to use route.	No
<p><b>A resilient Wales</b> A nation which maintains and enhances a biodiverse natural environment with healthy functioning ecosystems that support social, economic and ecological resilience and the capacity to adapt to change (for example climate change).</p>	By encouraging members of the public to use new routes this will have a positive impact on the amount of vehicles used for short commutes.	No
<p><b>A healthier Wales</b> A society in which people's physical and mental well-being is maximised and in which choices and behaviours that benefit future health are understood.</p>	New routes with improved surfaces and infrastructure will allow more people to enjoy the PRow network.	No

<p><b>A more equal Wales</b> A society that enables people to fulfil their potential no matter what their background or circumstances (including their socio economic background and circumstances).</p>	<p>As this proposal is to divert a public footpath only pedestrians will be legally allowed to use the diverted route. However with an updated route surface additional groups with protected characteristics will be able to use the route.</p>	<p>No</p>
<p><b>A Wales of cohesive communities</b> Attractive, viable, safe and well-connected communities.</p>	<p>The new route of the footpath would help improve the traffic free link between Newton and Merthyr Mawr Warren and is designed through the development to make it attractive to use as well as safe.</p>	<p>No</p>
<p><b>A Wales of vibrant culture and thriving Welsh language</b> A society that promotes and protects culture, heritage and the Welsh language, and which encourages people to participate in the arts, and sports and recreation.</p>	<p>The new route will improve links between communities/areas of interest/importance.</p>	<p>No</p>
<p><b>A globally responsible Wales</b> A nation which, when doing anything to improve the economic, social, environmental and cultural well-being of Wales, takes account of whether doing such a thing may make a positive contribution to global well-being.</p>	<p>The new route supplied by the developer will allow for a wider range of members of the public to access the numerous services afforded to them.</p>	<p>No</p>



<b>Section 3 Will your project / activity affect people or groups of people with protected characteristics? Explain what will be done to maximise any positive impacts or minimise any negative impacts</b>			
Protected characteristics	Will your project / activity have any positive impacts on those with a protected characteristic?	Will your project / activity have any negative impacts on those with a protected characteristic?	Is there any way to maximise any positive impacts or minimise any negative impacts?
Age:	Yes	No	The new route will have an improved surface which would mean it will be easier to use.
Gender reassignment:	No	No	
Marriage or civil partnership:	No	No	
Pregnancy or maternity:	Yes	No	The new route will have an improved surface which would mean it will be easier to use.
Disability:	Yes	No	The new route will have an improved surface which would mean it will be easier to use.
Religion or Belief:	No	No	
Race:	No	No	
Sex:	No	No	
Welsh Language:	No	No	

<b>Section 4 Identify decision meeting for Project/activity e.g. Cabinet, Council or delegated decision taken by Executive Members and/or Chief Officers</b>	
<b>Compiling Officers Name:</b>	Mathew Palmer
<b>Compiling Officers Job Title:</b>	Rights of Way Officer
<b>Date completed:</b>	18/09/18