

Meeting of:	RIGHTS OF WAY SUB-COMMITTEE
Date of Meeting:	11 APRIL 2025
Report Title:	PROPOSED DIVERSION OF FOOTPATH 17 PORTHCAWL
Report Owner / Corporate Director:	CORPORATE DIRECTOR COMMUNITIES
Responsible Officer:	ANDREW MASON RIGHTS OF WAY MANAGER
Policy Framework and Procedure Rules:	It is considered that there is no effect upon policy framework and procedure rules.
Executive Summary:	The implementation of planning consent P/23/119/FUL, full planning application for the development of a new detached two storey dwelling next to 15 The Burrows, Porthcawl, CF36 5AJ will require a section of Footpath 17, Porthcawl, to be diverted. An application to divert that part of the footpath affected by the application has been submitted and consultations undertaken with various individuals and statutory bodies in accordance with the Council's standard consultation process for Public Path Orders. Consideration of any objections is contained within the body of the report. Further to these considerations the report seeks authorisation for the making of an Order pursuant to Section 257 of the Town & Country Planning Act 1990.

1. Purpose of 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 adjoining 15 The Burrows, Porthcawl, CF36 5AJ.

2. Background

- 2.1 The implementation of planning consent P/23/119/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. Current situation/ proposal

- 3.1 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 52 metres to Point B (Grid Ref. SS 84147743) the route then continues in a north north-easterly direction for approximately 8 metres to Point C (Grid Ref. SS 84147743). The approximate length of the footpath to be diverted is 60 metres but the width is currently undefined in the Definitive Statement. The footpath has a natural surface.
- 3.2 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 10 metres to Point E (Grid Ref. SS 84107744) before continuing in an east south-easterly direction for approximately 8 metres to Point F (Grid Ref. SS 84107743), the route then continues in a general easterly direction for approximately 34 metres to Point G (Grid Ref. SS 84147743) before turning and running in a north-easterly direction for approximately 4 metres to Point C (Grid Ref. SS 84147743). The approximate length of the new route is 56 metres. The new footpath will have a width of 1.5 metres and a tarmacadam surface with path edging as per the rest of Footpath 17, Porthcawl, through the housing estate.
- 3.3 As will be noted from the diversion order plan, the new footpath will start on the eastern edge of the footway on The Burrows (Point D) 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 66 metres.
- 3.4 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 for a previous planning application. 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 at that time.

- 3.5 Unfortunately, the previous footpath diversion order process could not be completed due to the time limit of planning consent P/17/595/FUL elapsing. As such, a new application to divert that section of Footpath 17, Porthcawl, was submitted with a similar specification as previously submitted in 2017.
- 3.6 A request to divert this section of Footpath 17, Porthcawl, was submitted on the 18th February 2023 in anticipation of the granting of planning consent. Planning consent was granted on the 21st April 2023 and the formal application to divert the footpath was received on the 6th January 2025.
- 3.7 In accordance with the Council's 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 in March 2023 following the submission of the proposal in anticipation of the most recent planning application being granted consent. During the consultation process numerous representations were received in relation to the proposed diversion. These are outlined below.
- a, Bridgend Ramblers – No objection
 - b. South Wales Police Designing out Crime Officer – No comment.
 - c. The British Horse Society (BHS) – Objected to the proposal on the following grounds:
 - 1. *That the specification for the proposed new route is inadequate. Even if only as a footpath, a recorded width of 1.5m is insufficient. The plans accompanying the planning application relating to the development indicate the construction of a 1.5m wide tarmac path but set within a wider corridor. There is nothing to prevent the owner of the land from fencing in the route in the future thus creating a narrow, enclosed, and uninviting route. The recorded width of the route should be a level width of a minimum of 3m in an urban / suburban setting such as this.*
 - 2. *I would like to refer to the rights of way improvement plan, Guidance for Local authorities 2016.*
 - 3. *Improvement plans are intended to be the prime means by which local highway authorities will identify the changes to be made in respect of the management and improvement of their local rights of way network to make better provision for walkers, cyclists, equestrians and for those who face barriers in accessing the countryside. Public rights of way have an important role to play in improving and sustaining health and well-being and in meeting the objectives outlined in the Well-being of Future Generations Act (2015). Research of the benefits of horse riding is available along with their contributions to local economy. Equestrians are a*

minority group and vulnerable road users therefore look to every available opportunity of safe off-road access whether to visit a local amenity, connect with friends or to access the countryside for recreation. Shared and with the least restrictive access for all user groups helps to meet the targets of a healthier nation and should be afforded to all. A good example of inclusive thinking - Paths for everyone (Sustrans) has signed a MOU with the BHS. Promoting shared access. Promoting opportunities of choice.

- 4. FP 17 to a Bridleway would encompass all users and help to extend future non-motorised networks. Promoting least restrictive access for all, benefiting in health and well-being for all.*
- 5. With reference to the BHS' long-outstanding application for bridleway status for the route, the consultation letter states "if...the application to divert the footpath is successful this will not have any bearing on the determination of the Modification Order." Whilst this may be technically correct, it is disingenuous and misleading as the proposal will have a clear and direct impact on the ability to accommodate the bridleway in this location. It is therefore in the public interest to ensure that a suitable width corridor is provided for the proposed new route such that it could accommodate the bridleway should that be necessary. It is therefore also in BCBC's interest to do this as it will fall to the Council to set out the bridleway should the DMMO be confirmed.*
- 6. Consequently, the BHS considers that the Definitive Map Modification Order to upgrade that section of Footpath 17 to a bridleway should be determined prior to any decisions on the proposed diversion of the footpath.*

- 3.8 In regard to the British Horse Society's Objections, a summary of the Council's response is provided below in paragraphs 3.9 – 3.14.
- 3.9 The definitive width of Footpath 17 Porthcawl is undefined and at the date of the response to the British Horse Society a K-barrier was still present on this section of footpath. Prior to 2017 there was a post and rail fence enclosing the area in question and it was heavily vegetated.
- 3.10 With regards to the proposed width of the new footpath being 1.5 metres, when an existing footpath of undefined width is diverted the Authority only requires a minimum width of 1.4 metres where it is to be bounded only on one side i.e. by a fence. If the route is to be bounded on both sides then the Council would require a minimum width of 1.8 metres. The current application shows the proposed new route being bounded on one side, therefore, the applicant has provided above the minimum width required for such an application. Moreover, the northern boundary of the proposed diverted route is a natural bank and does not have any beneficial future use for the applicant. Therefore, they are extremely unlikely to erect any additional fence to the north of the new route which would confine it to the 1.5 metres.

- 3.11 The suggestion that the width of a footpath within an urban/suburban setting should be 3 metres was noted but the BHS were advised there is no legal requirement for this.
- 3.12 Turning now to the consideration of the Rights of Way Improvement Plan (RoWIP) the Council has advised that Improvement Plans have been developed to help local highway authorities identify changes to be made in respect of the management and improvement of their local rights of way network. This doesn't prevent landowners, individuals or companies from applying for Public Path Orders under any relevant legislation e.g. the Town and Country Planning Act 1990. The Council does need to take the RoWIP into account when dealing with such applications and this has been considered in this instance.
- 3.13 In regard to the Definitive Map Modification Order applications the BHS have been advised that the route in question only has a legal status of a footpath and the various applications in the area to upgrade this and other footpaths to bridleway have not been processed to conclusion. Therefore, the Council are only able to consider the diversion of the route as a footpath. The Authority are aware that changing Footpath 17 to a bridleway would allow for a greater number of users to access the rights of way network at this location. However, that will only be the case if the DMMO is confirmed.
- 3.14 The Council has considered the DMMO applications that affect the existing public right of way at this site and has agreed to process the application to divert the footpath whilst the DMMO applications are being processed to a conclusion. Should any of the Orders that have been made in relation to the DMMO applications that affect Footpath 17 Porthcawl be confirmed the Council will deal with this at the appropriate time. The Council has received a considerable number of representations and objections in relation to the outstanding DMMO's. Every effort is being made to complete the DMMO process before the diversion application is determined but this may not be possible.
- 3.15 Following receipt of the Council's response the British Horse Society advised that they wished to maintain their objections to the proposal.

GROUP MANAGER – HIGHWAYS AND GREEN SPACES.

- 3.16 In order to facilitate the construction of a new detached two storey dwelling house with three bedrooms as per planning consent P/23/119/FUL at land adjoining 15 The Burrows, Porthcawl, CF36 5AJ a section of Footpath 17, Porthcawl,, will need to be diverted.

3.17 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.’*

3.18 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.
- Although the footpath is being moved from one side of an area of open ground to the other the same 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. If the DMMO is confirmed then the Council will have to deal with any new issues that arise at that time.

- The Council is unaware of any potential financial loss to members of the public.

4. Equality implications (including Socio-economic Duty and Welsh Language)

- 4.1 The protected characteristics identified within the Equality Act, Socio-economic Duty and the impact on the use of the Welsh Language have been considered in the preparation of this report. As a public body in Wales the Council must consider the impact of strategic decisions, such as the development or the review of policies, strategies, services and functions. An initial Equality Impact Assessment (EIA) screening has identified that there would be no negative impact on those with one or more of the protected characteristics, on socio-economic disadvantage or the use of the Welsh Language. It is therefore not necessary to carry out a full EIA on this policy or proposal.

5. Well-being of Future Generations implications and connection to Corporate Well-being Objectives

- 5.1 The Well-being of Future Generations (Wales) Act 2015 Assessment Template has been completed and a summary of the implications from the assessment relating to the five ways of working is below:

- **Long-term:** 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

- **Prevention:** 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.

- **Integration:** 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..

- **Collaboration:** 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.

- **Involvement:** Consultations are carried out with statutory consultees as well as local members and Town or Community councils and their views are considered before a decision is made to make the order.

5.2 The rights of way provision will contribute to the following elements of the Bridgend County Borough Council Delivering Together Corporate Plan 2023-28:

- **Wellbeing objective 3:** ‘A county borough with thriving valleys communities. Improving community facilities and making them more accessible.’ The RoW network extends and links communities as such preserves the connectivity and accessibility of the valley communities to the county borough.

- **Wellbeing objective 7:** ‘A county borough where we support people to live healthy and happy lives, improving active travel routes and facilities so people can walk and cycle.’. The RoW network provides valuable opportunities for residents to access local routes as well as enjoy access to the countryside which helps support wellbeing.

6. Climate Change Implications

6.1 Bridgend County Borough Council’s 2030 Net Zero Carbon Strategy states that “To achieve our carbon neutral goal, we need to improve air quality, protect, and enhance our thriving green spaces, support sustainable travel, and continue to create energy efficient, good quality places to live and work to make the county borough a healthier and happier place to live.” The rights of way network promotes and supports sustainable travel and benefits the wellbeing of its residents, making the county borough a healthier and happier place to live

7. Safeguarding and Corporate Parent Implications

7.1 There are no Safeguarding and Corporate Parent Implications arising from this report.

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. Recommendations

9.1 That authorisation be given for the Chief Officer Legal and Regulatory Services, HR and Corporate Policy 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 Chief Officer Legal and Regulatory Services, HR and Corporate Policy 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.

Background documents

File A763/1/FP 17 Porthcawl (14th August 2017 – 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 2nd exit carrying along the A473, before taking the 2nd exit at the next roundabout to join the A48 (Port Talbot/Porthcawl). Continue along the A48 to another roundabout, take the 1st exit (Porthcawl/A4106) onto Bridgend Road. Continue along Bridgend Road until you reach the next roundabout (2.1 miles), take the 1st exit (Newton), before taking your 1st left onto Manor Grove, then your 2nd right onto Danygraig Avenue, then the 3rd right onto Birch Walk, you will then need to take your 1st left onto Rowan Drive, then 2nd right onto Lime Tree Way before finally taking the 1st 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 stout footwear is 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.