

**CYNGOR SIR POWYS COUNTY COUNCIL.**

**CABINET EXECUTIVE  
10 April 2018**

**REPORT AUTHOR:** County Councillor Phyl Davies  
Portfolio Holder for Highways, Recycling and Assets

**SUBJECT:** Llanfair Caereinion link bridge and footway

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**REPORT FOR:** Decision

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**1. Summary**

1.1 This report seeks to determine the future status and responsibilities for Llanfair Caereinion link bridge and footway.

**2. Proposal**

2.1 Llanfair Caereinion footbridge was built by Montgomeryshire District Council with linking footways to Banwy Industrial Estate and Glanyrafon. A location plan is included at Annex 1.

2.2 The bridge is a timber structure spanning Afon Banwy with stone surface footway approaches of around 170 metres with the bridge and immediate approaches adding a further 44 metres.

2.3 Banwy Industrial Estate road is not listed as a highway maintainable at public expense as defined under section 36(6) of the Highways Act 1980. Glanyrafon is listed as an unclassified road with reference number U6029.

2.4 A summary of correspondence identified is attached as Annex 2. This shows that the bridge was built by Montgomeryshire District Council (Planning / Regeneration service) with Powys County Council providing some site investigation and design services at no cost.

2.5 The correspondence indicates that agreement was reached between the District Council and Powys County Council to adopt the paths and bridge as a public right of way on satisfactory completion, with the highways department undertaking inspection and maintenance work. At this time maintenance of the rights of way network sat under the highways service but was subsequently combined with the definitive map and policy team under the County Council Planning service. The maintenance of surfaced rights of way in urban areas remained with the highways service.

- 2.6 The bridge and paths have not been added to the definitive map but it is not clear if this was because of concerns over some parts of the bridge structure as identified in the correspondence.
- 2.7 After local government reorganisation in 1996, when District and County Council functions combined under a single unitary authority, the responsibilities of the asset fell under the property and regeneration service.
- 2.8 In the intervening period the highway service has undertaken some safety repairs on a non-prejudicial basis but the bridge and paths are not included in any routine inspection or maintenance programmes. With the bridge now over 25 years old it is important that it be incorporated into appropriate regular programmes.
- 2.9 A condition assessment of the bridge or paths has not been undertaken but it is likely that significant work will now be required to maintain their integrity. Determining future responsibility will place additional immediate and ongoing financial burden.
- 2.10 Section 31 of the Highways Act 1980 makes provision for the dedication of way as highway to be presumed after public use for 20 years. The requirements of the section are considered to have been met and the way has therefore become a public highway for pedestrians.
- 2.11 The correspondence mentioned at 2.4 and referenced in Annex 2 contains two communication relating to a draft agreement between Montgomeryshire District Council and the land owner for the land owner to “ .... dedicate to the public a right of way on foot across the land when a proposed footbridge across the River Banwy leading from the proposed footpath to the railway station has been constructed”. The agreement has reached an advanced form and has clearly been the subject of exchanges between the County Council, District Council and land owners solicitor. The draft includes a plan that corresponds in the main with the layout of the footpath and bridge as constructed. No signed agreement has been located to date but given that the layout of footpaths and bridge correlate with that in the draft agreement it would seem reasonable to assume that agreement was subsequently reached.

### **3. Options Considered / Available**

- 3.1 Option1 – Do Nothing  
Continue to provide non-prejudicial repairs when identified and recognise that the way has become a public highway following 20 years use. There are no identified advantages to this option. The key disadvantages are that the authority is at risk from a lack of planned inspection and repair which could result in a lack of defence in the case of a personal injury claim.

- 3.2 Option 2 – Assign responsibility to Property or Countryside Services and recognise that the way has become a public highway following 20 years use.

The key advantages are that: inspection and repair can be appropriately managed; the safety of users is protected; there is an identified point of contact for concerns.

- 3.3 Option 3 – Assign responsibility to the Highways service area, recognise that the way has become a public highway following 20 years use and add it to the list of streets as a pedestrian highway maintainable at public expense.

The key advantages are that: inspection and repair can be appropriately managed; the safety of users is protected; there is an identified point of contact for concerns.

#### **4. Preferred Choice and Reasons**

- 4.1 Option 3 is the preferred choice to ensure that the council is able to discharge its responsibilities. This will allow the service to undertake an appropriate inspection and if necessary put forward a specific bid for funding for the next financial year so that any required works can be programmed accordingly.
- 4.2 The nature of the assets is most appropriately aligned with the highway service. Confirming it as a pedestrian highway and adding it to the list of streets provides surety for the future status of the asset.
- 4.3 Whilst a signed agreement has not been located it seems probable given that the bridge and footpaths have been constructed that agreement was reached between the parties.
- 4.4 in light of the Finance Officer comments below the service has the opportunity to carry out a full assessment and submit a bid for funding for 2019/2020.

#### **5. Impact Assessment**

- 5.1 Is an impact assessment required?      ~~Yes~~/No

#### **6. Corporate Improvement Plan**

- 6.1 The proposal supports the Corporate Improvement Plan by ensuring that the council discharges its statutory and common law duties.

#### **7. Local Member(s)**

- 7.1 County Councillor Gareth Jones, elected member for the ward of Llanfair Caereinion has been consulted and commented as follows:

The footpath is constructed from hardwood decking, it is in desperate need of a pressure wash (for safety reasons) and a few of the planks will need replacing.

I spoke to Cllr Phyl Davies a few months ago about the bridge and agreed that a structural engineers report would give a clear picture of the bridges state of repair.

## **8. Other Front Line Services**

Does the recommendation impact on other services run by the Council or on behalf of the Council?      Yes/~~No~~

### **8.1 Countryside Services have been consulted with regard to any issues relating to the proposal and the Definitive Map.**

They are content with the recommendation put forward, namely that the bridge and paths be added to the List of Streets.

For clarity in relation to points 2.10 and 3.2, whilst they recognise that there has been use of this path by the public over many years, they would not be able to simply assume that the requirements of section 31 of the Highways Act 1980 are met. To add a path to the Definitive Map would require research and assessment in accordance with procedures for a Definitive Map Modification Order (DMMO.) If there is a third party landowner, then they must be consulted as part of that process.

## **9. Communications**

Have Communications seen a copy of this report?      Yes/~~No~~

Communications comment: No proactive communications action required.

## **10. Support Services (Legal, Finance, Corporate Property, HR, ICT, Business Services)**

### **10.1 Legal**

The recommendations can be supported from a legal point of view.

### **10.2 Finance**

The Finance Manager Place and Resources notes the contents of the report, there is currently no funding allocated for the bridge and paths, if the service wish to bid for additional funding this would need to be included in the Finance Resource Model of the service and the funding would then be considered as part of the 2019-20 budget process.

### **10.3 Corporate Property**

The Professional Lead Strategic Property supports this proposal to regularise the responsibility for the bridge.

## 11. Scrutiny

Has this report been scrutinised? ~~Yes~~ / No?

## 12. Statutory Officers

12.1 The Solicitor to the Council (Monitoring Officer) has commented as follows: "I note the legal comment and have nothing to add to the report".

12.2 The Head of Financial Services (Acting 151 Officer) notes the comments of the Finance Manager.

## 13. Members' Interests

The Monitoring Officer is not aware of any specific interests that may arise in relation to this report. If Members have an interest they should declare it at the start of the meeting and complete the relevant notification form.

<b>Recommendations:</b>	<b>Reason for Recommendation:</b>
<b>1. That Llanfair Caereinion link bridge and paths as identified on the plan at Annex 1 to this report be recognised as pedestrian highway under section 31 of the Highways Act 1980.</b>	<b>1. To recognise public pedestrian highway rights after 20 years use.</b>
<b>2. That Llanfair Caereinion link bridge and paths as identified on the plan at Annex 1 to this report be added to the list of streets as a pedestrian highway maintainable at the public expense under section 36(6) of the Highways Act 1980.</b>	<b>2. To ensure the statutory duty to maintain the list of streets is discharged.</b>
<b>3. That the Highways, Transport and Recycling service become the responsible service for the assets.</b>	<b>3. To confirm responsibilities under the Constitution of the Council.</b>

<b>Relevant Policy (ies):</b>			
<b>Within Policy:</b>	<b>Y / N</b>	<b>Within Budget:</b>	<b>Y / N</b>

<b>Relevant Local Member(s):</b>	<b>Councillor Gareth Jones, Llanfair Caereinion</b>
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<b>Person(s) To Implement Decision:</b>	<b>Network Manager</b>
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<b>Date By When Decision To Be Implemented:</b>	<b>Cabinet Approval</b>
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**Background Papers used to prepare Report:**

Council records

Highways Act 1980