

CYNGOR SIR POWYS COUNTY COUNCIL

PLANNING, TAXI LICENSING AND RIGHTS OF WAY COMMITTEE

22 August 2019

**REPORT BY: HEAD OF HOUSING AND COMMUNITY
DEVELOPMENT**

**SUBJECT: Town and Country Planning Act 1990, section 257
Public path Order proposal**

REPORT FOR: DECISION

**Proposal to divert part of public footpath 29 on land at Severnside,
Forden (Community of Forden.)**

Background:

This report is being presented to the Committee in accordance with the Council's constitution, as the diversion proposal affects Council land. The need for a diversion of footpath 29 has arisen because the development subject of planning permission 19/0105/FUL would lie on the line of part of the footpath.

The planning permission, which was granted on 11 April 2019, is for the erection of an extension to a livestock building at Severnside – an established commercial dairy farm, approximately 1.1 miles north west of the village of Forden. The applicant's block plan, as submitted during the planning permission process showing the development is at Appendix A. The proposed line of the footpath diversion is shown on the plan at Appendix B.

The applicant for the proposed diversion of the footpath is Powys County Council as Severnside is part of the Council's Farm estate.

Current Definitive route:

Footpath 29 commences at a junction with the U2467 unclassified public highway at OS Grid Reference SJ 2187, 0181 (point A). It follows in a generally north-north westerly direction firstly along a track and then through a field parallel with the field boundary. It then turns to follow a curve along the farm access track in a more northerly direction through Severnside farmyard. From here it travels in a north easterly direction along a track and then onto a grassed surface. It ends at the field boundary at OS grid reference SJ 2212, 0262 (point H). The total length to be diverted is approximately 965 metres; the average width of the path is stated to be 4ft on the parish survey card.

Proposed alternative route:

The proposed new route of footpath 29 commences at a junction with the U2467 unclassified public highway at OS grid reference SJ 2187,0181 (point A). It follows in a generally north-north-westerly direction along the farm access

track for approximately 111 metres to OS grid reference SJ 2183,0192 (point B), where it leaves the track on its west side and passes through a field gate to bypass a cattle grid placed in the track surface. The footpath then re-joins the track and continues in generally a north-north-westerly direction for approximately 123 metres to OS grid reference SJ 2179,0203 (point C) where it turns to an east-north-easterly direction to pass through a pedestrian gate. The footpath continues across a natural grassed surface in a generally east-north-easterly direction for approximately 162 metres to OS grid reference SJ 2192,0211 (point D) where it traverses a 2metre wide boardwalk over the water course and passes through a pedestrian gate. The path then continues in an east-north-easterly direction for approximately 10 metres before turning to travel in a generally northerly direction for approximately 155 metres parallel with the field boundary. It then deviates inwardly for approximately 20 metres to pass through a field gate at OS grid reference SJ 2197,0227 (Point E). The path turns to travel in a north easterly direction for approximately 17 metres and then turns to follow a north-north-easterly direction alongside the boundary fence for approximately 83 metres and through the field gate at OS grid reference SJ 2201,0236 (point F). It then continues for approximately 144 metres alongside the field boundary fence to pass through a field gate at OS grid reference SJ 2207,0249 (point G). The path continues in north-north-easterly direction across the field for approximately 141 metres to meet the existing footpath at OS grid reference SJ 2212,0262 (point H). The total length of the proposed footpath to be created is approximately 966 metres. The width is 2 metres.

Works required:

The applicant proposes to undertake the following works to make the new path ready for use:

- Installation of a pedestrian gate together with a 2-metre-wide boardwalk over the water course at OS grid reference SJ 2192,0211 (point D)
- Installation of a pedestrian gate at OS grid reference SJ 2179,0203 (point C).

Consultation:

The applicant carried out pre-Order consultation in June 2019, and consultees were given 28 days to respond. Responses to the proposals have been received from:

- The Local Member, who has no objection to the Order as it is to improve safety for walkers and avoids a busy farmyard.
- Ramblers Association, who asked the section and statute under the application is made. A reply was given on 2nd July.
- Powys Planning Services, SP Energy Networks and Wales & West Utilities none of whom objected to the proposals.
- Open Spaces Society, who asked some questions but did not object to the proposal. The questions related to the signposting of the route, the standard of gates to be provided and whether the definitive statement, once produced lists the structures as being to a British Standard.

Forden Community Council was consulted and did not object to the proposal.

Options:

This application has been made under section 257 of the Town and Country Planning Act 1990. The legal criteria for the making of a diversion Order under this legislation is 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.

Planning permission 19/0105/FUL has been granted for the erection of an extension to the existing livestock building to accommodate a farm office, dairy and associated machinery stores that will lie on the line of footpath 29. As such, and as the development is not 'substantially complete', it is considered that the legal criteria for the making of a diversion Order are met.

If a diversion Order is made, opposed and submitted to the Planning Inspectorate, the Inspector could consider wider issues, including the suitability of the proposed new route, in deciding whether the Order should be confirmed or not. However, they will not re-open the matter of the planning merits of the development itself.

The Committee could:

1. Decide not to make a diversion Order in respect of this application; in that event, the applicant would not be able to implement the development subject of the planning permission that has been granted, as to do so would obstruct the line of footpath 29.
2. Approve the making of a diversion Order. Given that there are no outstanding objections, there is a low risk that the Order may then be formally opposed.

If a diversion Order is made and opposed, it could be formally abandoned. Alternatively, the Order could be submitted to the Planning Inspectorate for determination. In the event that there are objections to an Order that are not withdrawn, the proposal would be brought before Committee for a decision as to how to proceed, in the light of the content of any objection made.

As the proposal meets the legal criteria for the making of a diversion Order, it is proposed that a diversion Order be made.

RECOMMENDATIONS:

1. That an Order be made to divert footpath 29, on the land at Severnside, Forden as shown on the plan at appendix B;

Appendices:

- Appendix A 19/0105/FUL Applicant's Block Plan showing location of proposed extension to the livestock building
- Appendix B Plan of proposed diversion