

CYNGOR SIR POWYS COUNTY COUNCIL

**PLANNING, TAXI LICENSING AND RIGHTS OF WAY COMMITTEE
10 August 2023**

**REPORT BY: HEAD OF HIGHWAYS, TRANSPORT AND
RECYCLING**

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

REPORT FOR: DECISION

Proposal to divert part of footpaths 3 and 51, on land at Brynygroes Farm, Ystradgynlais SA9 1LF (Community of Ystradgynlais.)

Background:

The need for a diversion of part of footpaths 3 and 51 has arisen because the development subject of planning permission 20/1314/FUL would lie on the line of part of footpath 3. The approved planning permission is for a residential development and associated works on land at Brynygroes Farm, Ystradgynlais. The applicant's plan, as submitted during the planning permission process showing the development and the footpath diversion is at Appendix A. The initial proposed line of the footpath diversion can be found at Appendix B, but this was subsequently amended during the consultation process and the revised proposal is shown on the plan at Appendix C.

The applicant for the proposed diversion of the footpaths is Morgan Construction Wales. The diversion proposal also affects land owned by a private landowner.

Current Definitive routes:

The length of footpath 51 to be diverted commences on the track leading from coronation park at OS Grid Reference SN 7860, 1048 (point A as shown on plan at appendix C) and continues in a generally north-easterly direction for approximately 153 metres across "The Patch" Common (a woodland area) to OSGR SN 7868,1061 (point I). It continues in a generally northerly direction for approximately 83 metres to cross the haul road and run adjacent to the farm access track to meet footpath 3 and bridleway 75 at OSGR SN 7868, 1070 (point J). The total length of the footpath 51 to be diverted is approximately 236 metres. The width is undefined in the statement.

The length of footpath 3 to be diverted commences at a point where it meets footpath 51 and bridleway 75 at OSGR SN 7868, 1070 (point J) and continues in a generally north north-westerly direction adjacent to the farm access track and a watercourse for 197 metres to OSGR SN7864,1088 (point H). The total

length of the footpath 51 and 3 combined to be diverted is approximately 433 metres. The width is undefined in the statement.

Proposed alternative route:

The proposed alternative route for footpath 51 commences on the track leading from coronation park at OS Grid Reference SN 7860, 1048 (point A as shown on plan at appendix C) and continues in a generally north north-easterly direction for approximately 51 metres to OSGR SN 9179, 5136 (point B). It then exits the track to run in a north-eastwardly direction across “The Patch” common (woodland area) for approximately 109 metres to OSGR SN 7869,1061 (point C). It continues in a north-northeasterly direction for approximately 15 metres to cross the haul road to OSGR SN 7870,1062 (point D). It continues in a generally northerly direction along a footway adjacent to the main access road to the residential development for approximately 80 metres to meet bridleway 75 that crosses the site at OSGR SN 7869, 1071 (point E).

The proposed alternative route for footpath 3 continues from OSGR SN 7869, 1071 (point E) in a generally north north-westerly direction for approximately 152 metres to follow a footway to OSGR SN 7866,1084 (point G). It follows in a north-westerly direction for approximately 48 metres to cross the entrance road to the residential development and continues to OSGR SN7864,1088 (point H). The total length of the proposed new footpaths 51 and 3 combined is approximately 455 metres. The proposed width is 2 metres.

Works required:

The works to make the new route ready for use will be undertaken by the applicant. The length between points A-B-C will be stoned and the length running between points D-E-F-G-H adjacent to the residential development will be finished in tarmacadam.

Consultation:

Aspri Planning on behalf of the applicant carried out pre-Order Consultation in October 2022 based on the proposal plan shown in appendix B. Following initial concerns expressed by consultees, a revised proposal was put forward and this can be viewed at appendix C. The full list of consultation responses and replies made by Aspri Planning can be found at appendix D. The representatives for the Ramblers Association and The Open Spaces Society have stated that they would object to the order.

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 20/1314/FUL has been granted for a residential development and associated works that will lie on the line of footpath 3. 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 and Environment Decisions Wales (PEDW), 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 3.
2. Approve the making of a diversion Order. Given the outstanding objections, there is a significant 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 PEDW for determination.

If a diversion Order is made, opposed, and submitted to the PEDW, the Council can decide to support, remain neutral with respect to, or oppose the confirmation of the Order.

If the Council decides to support the Order, then it must make a case as to why the Order should be confirmed. If the Council chooses to remain neutral or oppose the confirmation of the Order, that responsibility lies with the applicant.

This diversion is considered to be primarily in the interest of the applicant, as the diversion is needed to allow them to implement the planning permission that has been granted.

Given that and as the proposal meets the legal criteria for the making of a diversion Order, it is proposed that a diversion Order be made. If it is opposed, then unless significant new information comes to light, it is proposed that the Order should be submitted to PEDW for determination, but that the Council should remain neutral with respect to its confirmation.

RECOMMENDATIONS:

1. That an Order be made to divert footpaths 3 and 51, at land at Brynygroes in the community of Ystragynlais as shown on the plan at appendix C;
2. That if the Order is made and opposed, unless significant new information comes to light, it is submitted to Planning and Environment Decisions Wales for determination;

3. That the Council takes a neutral stance with respect to confirmation of the Order, if it is submitted to the Planning and Environment Decisions Wales for determination.

APPENDICES:

- Appendix A 20/1314/FUL Applicant's PROW Diversion Plan
- Appendix B Plan of diversion route for proposed Order_v1
- Appendix C Plan of diversion route for proposed Order_v2
- Appendix D Summary of consultation responses