

Meeting of:	<b>Public Rights of Way Sub Committee</b>
Date of Meeting:	<b>Thursday, 13 January 2022</b>
Relevant Scrutiny Committee:	Environment and Regeneration
Report Title:	Highways Act 1980 s119 Proposed Public Path Diversion Order Footpath No.6 St Donats
Purpose of Report:	To consider an application to divert the above footpath. The application is made by Public Rights of Way Section.
Report Owner:	Gwyn Teague, Public Rights of Way Officer
Responsible Officer:	Phil Chappell, Operational Manager, Regeneration
Elected Member and Officer Consultation:	<p>Councillor Hanks, Ward Member</p> <p>Councillor John, Ward Member</p> <p>Councillor Norman, Ward Member</p> <p>Councillor Williams, Ward Member</p> <p>Councillor Burnett, Cabinet Member</p> <p>Legal Services</p> <p>Ecology</p> <p>Regeneration</p> <p>Development Management</p>
Policy Framework:	This report is a matter for decision by the Public Rights of Way Sub-Committee.

Executive Summary:

- The purpose of this report is to consider an application to divert public footpath No.6 St Donats. The application is made by the Public Rights of Way Section, detail of the proposed change to the public footpath is provided in Appendix 1.
- The existing definitive alignment of the public footpath passes close to the cliff edge, the diverted route would move the definitive alignment inland further from the cliff edge onto the alignment already used informally by the public.
- An objection to the proposal was received following a broad pre-order consultation, consulting Ward Members, the Community Council, the landowner, user groups and utility companies. The objection is provided in Appendix 2.

## **Recommendation**

1. That the Council, being the relevant highway authority proceed with the making of an Order to divert part of Footpath No.6 St Donats, as described in the attached order plans and schedules (Appendix 1) and subject to no objections being received, to confirm the Order.

## **Reason for Recommendation**

1. The diversion of the footpath is expedient in the public interest. The existing definitive alignment passes close to the cliff edge, the diverted route would move the definitive alignment inland further from the cliff edge.

## **1. Background**

- 1.1 Public Footpath No.6 runs parallel to the sea cliffs to the south of Atlantic College, the footpath provides a link in the public rights of way network linking Llantwit Major to Nash Point. The footpath is part of the promoted Wales Coast Path.
- 1.2 The effect of the diversion of the footpath would be to divert a section of the alignment that runs very close to the cliff edge to a safer alignment further from the cliff edge; from the alignment A-B-C (bold line) to A-D-E-C (dashed line) as shown on the Order map.
- 1.3 The Order plan and schedule are included describing the changes in greater detail (Appendix 1).

## **2. Key Issues for Consideration**

- 2.1 In deciding whether to make a diversion order it is reasonable to consider both the tests for making the Order and for confirming the Order (R. (Hargrave) v. Stroud District Council [2002]). Even if all the tests are met, the Council may exercise its discretion not to make the Order.
- 2.2 Before making a diversion order it must appear to the Council that it is expedient to divert the path in the interests either of the public or of the owner, lessee or occupier of the land crossed by the path.
- 2.3 The Authority must also be satisfied that the diversion order does not alter any point of termination of the path, other than to another point on the same path, or another highway connected with it, and which is substantially as convenient to the public:
- 2.4 Before confirming an order, the Council, or the Secretary of State, if the order is opposed, must be satisfied that:
- 2.5 a) The diversion is expedient in the interests of the person(s) stated in the order,

- 2.6** b) The path will not be substantially less convenient to the public as a consequence of the diversion,
- 2.7** c) It is expedient to confirm the order having regard to the effect it will have on public enjoyment of the path as a whole, on other land served by the existing path and on land affected by any proposed new path, taking into account the provision for compensation.
- 2.8** Convenience should be interpreted as meaning ease of use, whereas enjoyment can take into account other factors such as the views to be enjoyed from the path or way.
- 2.9** In applying the tests to the current case it is noted that:
- i) The proposed diversion retains connection to the same highways.
  - ii) The proposed alternative route is no less convenient to the public and far safer.
  - iii) The owner of the land crossed by both the original and new route has been consulted and accepts the proposal.
- 2.10** A consultation was undertaken on the 22nd August 2021 allowing 21 days to respond. Concerns to the proposal were received by Friends of the Earth Barry and Vale (Appendix 2). The correspondence was as follows:
- 2.11** Friends of the Earth Barry and Vale:  
Thank you for sending details of this proposal.  
We agree with it in principle; it appears to implement the de-facto situation already in place.  
This is part of the Wales Coastal Path; we would ask if the changes give a path of appropriate high standard?  
The section D-E is narrow, hemmed in by the fence; 1.5m width is hardly adequate for passing a group of walkers as commonly encountered on this route. The section near point C is at the top of the sliding coastal slope; if no stabilisation works are proposed, we ask that the field fence is set back so the path can be rolled back at this point if needed in future years.
- 2.12** The Public Rights of Way Section responded addressing the concerns raised and asked that Friends of the Earth Barry and Vale indicate if it were their intention to object to the proposal as it stands (Appendix 3). No response has been received. The Council's response was:  
Thank you for responding to my consultation.  
We don't agree that the width available now is insufficient, your proposal to increase the width would involve cutting into the hedgerow which we would like to avoid if at all possible. As you have noted the proposal implements the de-facto situation already in place, we have received no complaints relating to the width of the path or difficulty in passing on the path.  
The coastline is regularly monitored and if in the future the path appears to be at risk we will contact the landowner regarding the moving of the path to the landward side of the fence line.  
Would you please contact me to indicate if it is your intention to object to the proposal as it stands. An aerial photo shows the current definitive map alignment of the footpath and evidence of usage on the ground (Appendix 4).

### **3. How do proposals evidence the Five Ways of Working and contribute to our Well-being Objectives?**

- 3.1** The Well-being of Future Generations (Wales) Act 2015 is about sustainable development. The Act sets out a 'sustainable development principle' which specifies that the public bodies listed in the Act must act in a manner which seeks to ensure the needs of the present are met without compromising the ability of future generations to meet their own needs. In meeting their sustainability duty, each body must set objectives that highlight the work the body will undertake to contribute to meeting the seven Well-being Goals for Wales.
- 3.2** The activities set out in this report will contribute to the national well-being goals and help ensure we have a resilient Wales, the five ways of working will be embedded throughout the response to determine the application to divert public footpath No.6 St Donats. We have worked collaboratively with other partners and consultation has taken place with the community in order to shape our response.

### **4. Resources and Legal Considerations**

#### **Financial**

- 4.1** The cost of making the Orders will be met by the Wales Coast Path Grant

#### **Employment**

- 4.2** None

#### **Legal (Including Equalities)**

- 4.3** The power to make an order is discretionary only. No right of appeal exists against the Authority's decision not to make an order.
- 4.4** No furniture such as gates or barriers will be installed on the new route.

### **5. Background Papers**

Appendix 1 - Order plan and schedule

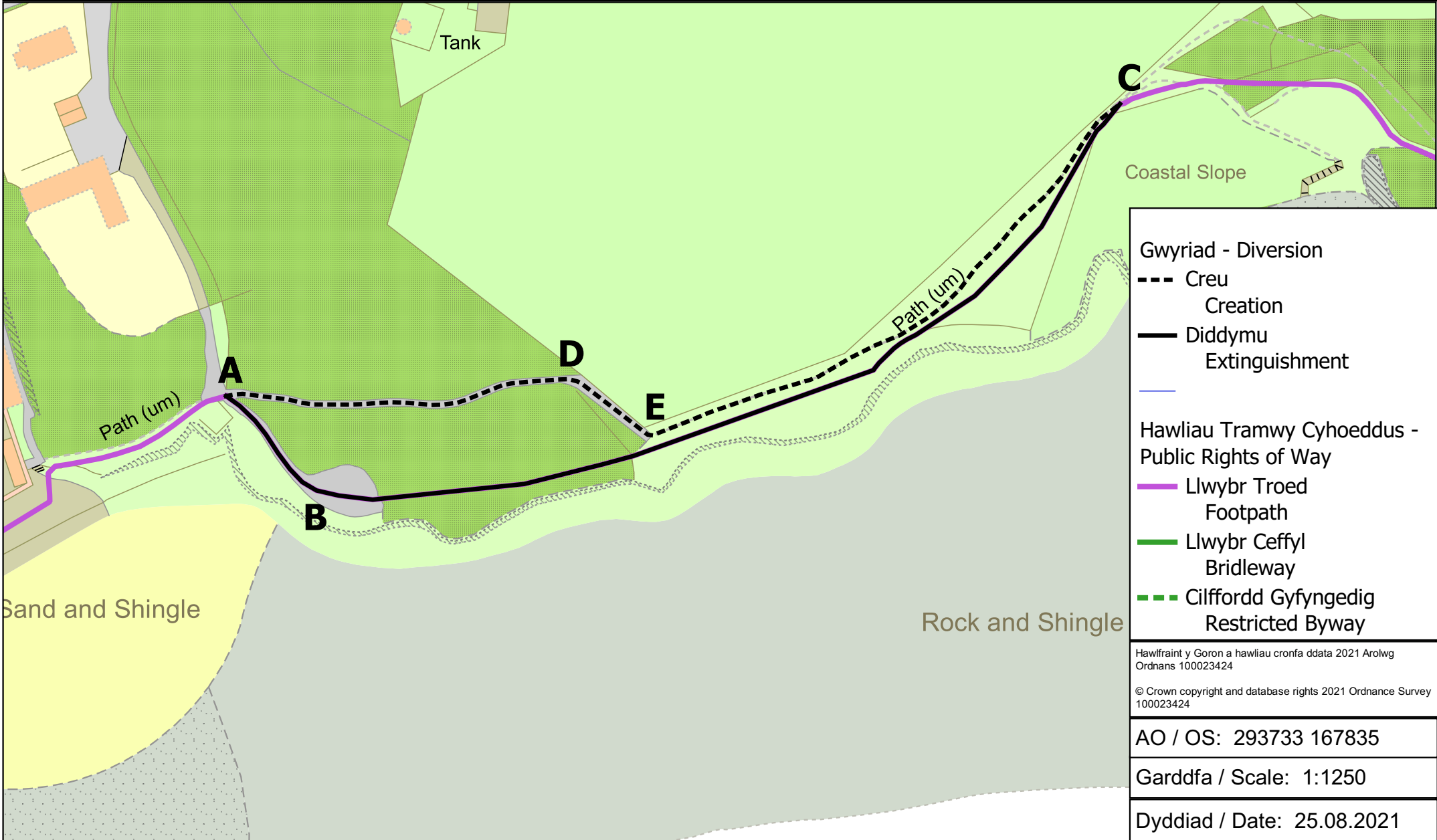
Appendix 2 - Objection Friends of the Earth Barry and Vale

Appendix 3 - Public Rights of Way response

Appendix 4 - Aerial photography

Gwriad o Llwybr Troed Cyhoeddus Rhif 6 Sain Dunwyd, Deddf Pryffyrdd 1980, Adran 119

Diversion of part of Public Footpath No.6 St Donats, Highways Act 1980 Section 119



## SCHEDULE

### Part 1

#### DESCRIPTION OF SITE OF EXISTING PATH OR WAY

Section of path or way as indicated on map	Position	Length	Width
<b>A – B – C Footpath No.6 St Donats</b>	Commences at point A (NGR 293633 167840) and proceeds south-eastwards along the cliff edge to point B (NGR 293656 167816) the path continues east-north-eastwards parallel and close to the cliff edge to terminate at point C (NGR 293854 167912).	267 metres	undefined

### Part 2

#### DESCRIPTION OF SITE OF NEW PATH OR WAY

Section of path or way as indicated on map	Position	Length	Width
<b>A – D – E – C Footpath No.6 St Donats</b>	Commences at point A (NGR 293633 167840) and proceeds eastwards to point D (NGR 293719 167843), the path continues south-eastwards parallel and to the west side of the fence line to point E (NGR 293739 167830). The path continues parallel to the fence line east-north-eastwards on the south side of the fence line to terminate at point C (NGR 293854 167912).	257 metres	1.5 metres

### Part 3

#### LIMITATIONS AND CONDITIONS

<b>A – D – C Footpath No.6 St Donats</b>	None
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**From:** max wallis  
[REDACTED]

2021 11:40

**To:** Thomas, Sandra A

<SATHomas@valeofglamorgan.gov.uk> [REDACTED]  
[REDACTED]

**Subject:** Footpath No.6 St Donats; coastal roll-back S4/6

Thank you for sending details of this proposal.

We agree with it in principle; it appears to implement the de-facto situation already in place.

This is part of the Wales Coastal Path; we would ask if the changes give a path of appropriate high standard?

The section D-E is narrow, hemmed in by the fence; 1.5m width is hardly adequate for passing a group of walkers as commonly encountered on this route.

The section near point C is at the top of the sliding coastal slope; if no stabilisation works are proposed, we ask that the field fence is set back so the path can be rolled back at this point if needed in future years.

Max Wallis [REDACTED]

Friends of the Earth Barry&Vale



## **Thomas, Sandra A**

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**From:** Thomas, Sandra A  
**Sent:** 22 September 2021 15:19  
**To:** max wallis  
**Subject:** RE: Footpath No.6 St Donats; coastal roll-back S4/6

Dear Mr Wallis

Thank you for responding to my consultation.

We don't agree that the width available now is insufficient, your proposal to increase the width would involve cutting into the hedgerow which we would like to avoid if at all possible. As you have noted the proposal implements the de-facto situation already in place, we have received no complaints relating to the width of the path or difficulty in passing on the path.

The coastline is regularly monitored and if in the future the path appears to be at risk we will contact the landowner regarding the moving of the path to the landward side of the fence line.

Would you please contact me to indicate if it is your intention to object to the proposal as it stands.

Many thanks  
Sandra Thomas

Sandra Thomas  
Public Rights of Way Assistant / Cynorthwydd Hawliau Tramwy Cyhoeddus  
Regeneration and Planning / Adfywio a Chynllunio  
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# St Donats 6



Evidence of usage on the ground, new route will follow this alignment

Old route to be closed

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30 November 2021