

No.

## PLANNING SUB-COMMITTEE (PUBLIC RIGHTS OF WAY)

Minutes of a Remote meeting held on 13<sup>th</sup> January 2022.

The Sub-Committee agenda is available [here](#).

The Meeting recording is available [here](#).

Present: Councillors J.C. Bird, C.A. Cave, P. Drake and V.P. Driscoll.

Also present: Councillors P.G. King (Cabinet Member for Neighbourhood Services and Transport) and E. Williams (Cabinet Member for Legal, Regulatory and Planning Services).

<b>Name of Public Speaker</b>	<b>Agenda Item: *See NB below</b>	<b>Reason for Speaking</b>
K. Medhurst	Application for Modification of Definitive Map and Statement Wildlife and Countryside Act 1981 s53(3)(c)(i) - Caradoc Avenue to Dyfan Road, Barry.	The applicant or their representative.

(a) Appointment of Chair –

RESOLVED – T H A T Councillor Bird be appointed as Chair for the Sub-Committee for the remainder of the current Municipal year.

(b) Appointment of Vice-Chair –

RESOLVED – T H A T Councillor Drake be appointed as Vice-Chair for the Sub-Committee for the remainder of the current Municipal year.

(c) Announcement –

Prior to the commencement of the business of the Committee, the Chair read the following statement and asked that all meeting participants introduce themselves: “May I remind everyone present that the meeting will be live streamed as well as recorded via the internet and this recording archived for future viewing.”

(d) Minutes –

RESOLVED – T H A T the minutes of the meeting held on 28<sup>th</sup> April 2016 be accepted.

No.

(e) Declarations of Interest –

No declarations were received.

(f) Application for Modification of Definitive Map and Statement Wildlife and Countryside Act 1981 S53(3)(C)(I) - Caradoc Avenue to Dyfan Road, Barry (MD) –

The Team Leader for Countryside Services introduced the report, the contents of which detailed a claim that a route running from Caradoc Avenue to Dyfan Road should be recorded as a public footpath in the Definitive Map and Statement with a width of 1.7 meters.

The report set out the relevant evidence and legal tests, including the weight that could be given to such evidence, to inform a determination on whether or not to make a Definitive Map Modification Order (DMMO).

Members were apprised on the following matters by way of a PowerPoint presentation delivered by Mr Gwyn Teague:

- Application effect,
- Legal Framework – Highways Act 1980 s31,
- Legal Framework – Common Law,
- Landowner notification,
- Site ownership and mapping background,
- User evidence,
- Documentary evidence, and
- Case assessment.

In conclusion, Mr Teague reiterated the contents of paragraph 7.6 (section 7 – conclusions) of the appended investigation report that stated that due to the use being “by right” rather than “as of right” (i.e., being exercised on land already publicly available) the application failed to meet all of the tests of Section 31 of the Highways Act 1980 and therefore no public right of way should be recorded on the definitive map due to use by right.

Following Mr Teague’s presentation, no questions or comments were raised by the Sub-Committee.

Having considered the contents of the report and the representations given by the Public Speaker, it was subsequently

**RESOLVED – T H A T** the application to make a Definitive Map Modification Order in respect of a route running from Caradoc Avenue to Dyfan Road, Barry being recorded as a public footpath with a width of 1.7 meters be declined.

Reason for decision

As per the legal tests and evidence set out within the appended investigation report.

No.

(g) Highways Act 1980 S119 Proposed Public Path Diversion Order Footpath No. 39 Wenvoe (MD) –

The Team Leader for Countryside Services introduced the report, the purpose of which was to consider an application made by the Council's Public Rights of Way Section to divert public footpath No.39 Wenvoe.

In support of the Team Leader, Mr Gwyn Teague advised that the existing definitive alignment of the footpath crossed a working farmyard and through a barn that had been on the alignment of the footpath for over 35 years. The proposed diversion would move the footpath onto a field adjacent to the farm complex and details of the proposed change were provided in Appendix 1 of the report.

An objection to the proposal had been received from the Friends of the Earth Barry and Vale organisation as part of a broad pre-Order consultation, consulting the Ward Member, the Community Council, the landowner, user groups and utility companies.

The objection was provided in Appendix 2 to the report and the Council's subsequent response was set out for Committee members on slide 6 of the PowerPoint presentation provided by Mr Teague during the meeting.

Following the presentation, Cllr Drake asked if the current footpath ran directly through a working farmyard, to which, the Chair confirmed that was the case and, in his experience of farming, confirmed the safety concerns and logistical difficulties felt by farmers with members of the public using a working farm environment as a thoroughfare.

With no further questions or comments, the Sub-Committee subsequently

RESOLVED – T H A T the Council, being the relevant highway authority, proceed with making the Order to divert part of Footpath No.39 Wenvoe, as described in the order plan and schedule attached at Appendix 1 to the Sub-Committee Report and, subject to no objections being received, confirm the Order.

Reason for decision

The diversion of the footpath was expedient in the interests of the public. The existing definitive alignment of the footpath crossed a working farmyard and through a barn that had been on the alignment of the footpath for over 35 years. The diversion would move the footpath onto a field adjacent to the farm complex.

(h) Highways Act 1980 S119 Proposed Public Path Diversion Order Footpath No. 6 St Donats (MD) –

The Team Leader for Countryside Services introduced the report, the purpose of which was to consider an application made by the Council's Public Rights of Way Section to divert public footpath No.6 St Donats.

No.

The Officer added that additional late representations had been received from the Friends of the Earth Barry and Vale organisation in relation to the matter that had been shared with the Sub-Committee members prior to the meeting.

In support of the Team Leader, Mr Gwyn Teague advised that the existing definitive alignment of the public footpath passed close to the cliff edge and therefore the proposed diverted route would move the definitive alignment inland further from the cliff edge onto the alignment already used informally by the public. Further details of the proposed change were provided in Appendix 1 of the report.

An objection to the proposal had been received from the Friends of the Earth Barry and Vale organisation as part of a broad pre-Order consultation, consulting Ward Members, the Community Council, the landowner, user groups and utility companies.

The objection was provided in Appendix 2 to the report and the Council's subsequent response was set out for Sub-Committee members on slide 6 of the PowerPoint presentation provided by Mr Teague during the meeting.

With no questions or comments, the Sub-Committee subsequently

**RESOLVED – T H A T** the Council, being the relevant highway authority, proceed with making the Order to divert part of Footpath No.6 St Donats, as described in the order plan and schedule attached at Appendix 1 to the Sub-Committee Report and, subject to no objections being received, confirm the Order.

#### Reason for decision

The diversion of the footpath was expedient in the public interest. The existing definitive alignment passed close to the cliff edge; the diverted route would move the definitive alignment inland further from the cliff edge.

\*N:B It is noted that the column heading within the public speaker table on page 1 of the relevant Decision Notice for the meeting, as published on Thursday 20<sup>th</sup> January 2022, should of read 'Agenda Item' as per this minute document.