

# Public Document Pack



County Hall  
Rhadyr  
Usk  
NP15 1GA

Dydd Mercher, 9 Rhagfyr 2020

## **Pwyllgor Trwyddedu a Rheleiddio**

**Dydd Iau, 17eg Rhagfyr, 2020 at 2.00 pm  
Remote Meeting**

### **AGENDA**

<b>Item No</b>	<b>Item</b>	<b>Pages</b>
1.	Ymddiheuriadau am absenoldeb	
2.	Datganiadau o Fuddiant	
3.	Deddf Cynllunio Tref a Gwlad 1990 – Adran 257 Gorchymyn Llwybr Cyhoeddus 37 (rhan) Cil-y-coed.	1 - 58

**Paul Matthews**

**Prif Weithredwr**

MONMOUTHSHIRE COUNTY COUNCIL  
CYNGOR SIR FYNWY

THE CONSTITUTION OF THE COMMITTEE IS AS FOLLOWS:

County Councillors:

B. Strong  
J. Higginson  
S. Howarth  
A. Easson  
S.B. Jones  
M.Lane  
R.Roden  
J.Treharne  
R. Edwards  
D. Evans  
L. Guppy  
A. Webb

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# Aims and Values of Monmouthshire County Council

## Our purpose

Building Sustainable and Resilient Communities

### Objectives we are working towards

- Giving people the best possible start in life
- A thriving and connected county
- Maximise the Potential of the natural and built environment
- Lifelong well-being
- A future focused council

## Our Values

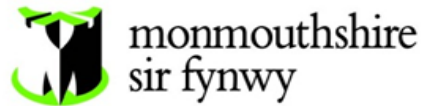
**Openness.** We are open and honest. People have the chance to get involved in decisions that affect them, tell us what matters and do things for themselves/their communities. If we cannot do something to help, we'll say so; if it will take a while to get the answer we'll explain why; if we can't answer immediately we'll try to connect you to the people who can help – building trust and engagement is a key foundation.

**Fairness.** We provide fair chances, to help people and communities thrive. If something does not seem fair, we will listen and help explain why. We will always try to treat everyone fairly and consistently. We cannot always make everyone happy, but will commit to listening and explaining why we did what we did.

**Flexibility.** We will continue to change and be flexible to enable delivery of the most effective and efficient services. This means a genuine commitment to working with everyone to embrace new ways of working.

**Teamwork.** We will work with you and our partners to support and inspire everyone to get involved so we can achieve great things together. We don't see ourselves as the 'fixers' or problem-solvers, but we will make the best of the ideas, assets and resources available to make sure we do the things that most positively impact our people and places.





<b>SUBJECT:</b>	<b>TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 257 PUBLIC PATH ORDER, FOOTPATH 37 (part) CALDICOT</b>
<b>MEETING:</b>	<b>LICENCING &amp; REGULATORY COMMITTEE – RIGHTS OF WAY ADVISORY PANEL</b>
<b>DATE:</b>	<b>17 DECEMBER 2020</b>
<b>DIVISION/WARDS AFFECTED:</b>	<b>CALDICOT</b>

## 1. PURPOSE:

- 1.1 To consider the request to make and confirm, a public path diversion order under section 257 of the Town and Country Planning Act 1990, to enable development in accordance with approved planning permission.

## 2. RECOMMENDATIONS:

- 2.1 Having regard to the relevant legislation, tests, guidance and policy that the Licensing and Regulatory Rights of Way Advisory Committee authorise the making of a diversion order for Footpath 37 Caldicot under Section 257 of the Town & Country Planning Act 1990 and to confirm the order if no objections are received.

## 3. KEY ISSUES:

- 3.1 On 5th March 2020 planning permission was granted under reference DM/2019/01761 for 130 dwellings, associated infrastructure and landscaping on land to the East of Church Road, Caldicot.
- 3.2 The developer has applied for a path order to divert Public Footpath 37, Caldicot in such a way as to accommodate the development that would otherwise obstruct the footpath.
- 3.3 The Council, under Section 257 of the 1990 Town and Country Planning Act (T&CP Act) may by order, stop up or divert a footpath, bridleway or restricted byway if it is satisfied that it is necessary to do so in order to enable development to be carried out in accordance with planning permission.
- 3.4 Any orders changing the public path network should comply with Legislative tests and take into consideration guidance and policy.
- 3.5 The Council ran a pre-order consultation. It received five objections (appendices 12 to 16), three had no comments and five had no objections. These are detailed in the report attached.

3.6 A full report detailing the proposed order, legislation, guidance, policy and objections is appended to this report (appendix 1)

#### **4.0 EQUALITY AND FUTURE GENERATIONS EVALUATION (INCLUDES SOCIAL JUSTICE, SAFE GUARDING AND CORPORATE PARENTING)**

4.1 The proposal will allow approved development (DM/2019/01761 ) which some local residents see as having a negative impact on their character of the area, such as loss of views and immediate access to open countryside. The development will however provide employment, 130 dwellings including a proportion of affordable houses and a community park. The community park will provide a large area of public open space. Access to open countryside will still be available. The diverted footpath will have a width of 2 and 3m as outlined in the schedule and will be surfaced, giving a path that is more accessible to disabled people at all times of the year. An EQAFG evaluation has been included in appendix 3.

#### **5.0 OPTIONS APPRAISAL**

<b>Option</b>	<b>Positive</b>	<b>Negative</b>	<b>Comment</b>
To make the order	Allow development in accordance with planning application.	Loss of more direct footpath.  The order could still fail at inquiry if found to be deficient.	If the order were not made there is no guarantee that the public could continue to be able to use the land as they already are as evidence on the ground is suggesting that many are not using the recorded alignment of the path.
Not to make the order	Retention of valued rural path.	Prevent the development in accordance with planning application.  A new planning application would then be submitted and this would not necessarily protect the rural nature of the path	

## **6.0 EVALUATION CRITERIA**

6.1 An evaluation assessment has been included in appendix 4 for the future evaluation of whether the decision has been successfully implemented.

## **7.0 REASONS:**

7.1 A path order needs to be made to enable development of 130 dwellings, associated infrastructure and landscaping in accordance with approved planning permission. The proposed scheme is compliant with the relevant legislation, guidance and policy as outlined in the attached report that explains all the guidance and legislation in detail.

7.2 The objections principally refer to a change in the character of the footpath, from rural to urban and that it would cross five vehicular tracks. The change in character is an inevitable consequence of development. The proposed replacement path does cross five vehicular tracks but it would largely run through open space away from vehicular traffic. Given the constraints of the site it is held that this is not an unreasonable departure from guidance.

## **8.0 RESOURCE IMPLICATIONS:**

8.1 Order costs including stationary, officer time and newspaper adverts will be recharged to the applicant. If the order is made and objections received, then at the Planning Inspector's request it is possible that a Public Inquiry or hearing could be called at the Authority's expense. Written representations are another option available to the Planning Inspectors. Although ultimate responsibility for the surface of the path will remain with Monmouthshire County Council, if the development is allowed to go ahead the path would be incorporated into Public Open Space for which a commuted sum has or will have been secured.

## **9.0 CONSULTEES**

9.1 Consultees included the Local Member, The Town Council, Statutory Undertakers, user groups and local residents. Appendix 2 and the attached report lists all of the consultees and summarises their responses.

## **10.0 BACKGROUND PAPERS:**

Appendix 1: Report

Appendix 2 Consultation Responses

Appendix 3 Equality and Future Generations Evaluation (includes Social Justice, Safe Guarding and Corporate Parenting)

Appendix 4 Evaluation Criteria

**11.0 AUTHOR:**

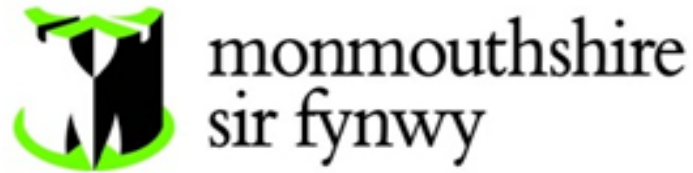
Shaun Pritchard  
Assistant Public Rights of Way Officer

**12.0 CONTACT DETAILS:**

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# **Town and Country Planning Act 1990, section 257 Public Path Order Footpath 37 Caldicot (part).**

**Report for Licensing and Regulatory Committee Rights of  
Way Advisory Committee 17 December 2020**

**Version 3, Final, 9 December 2020 RR**

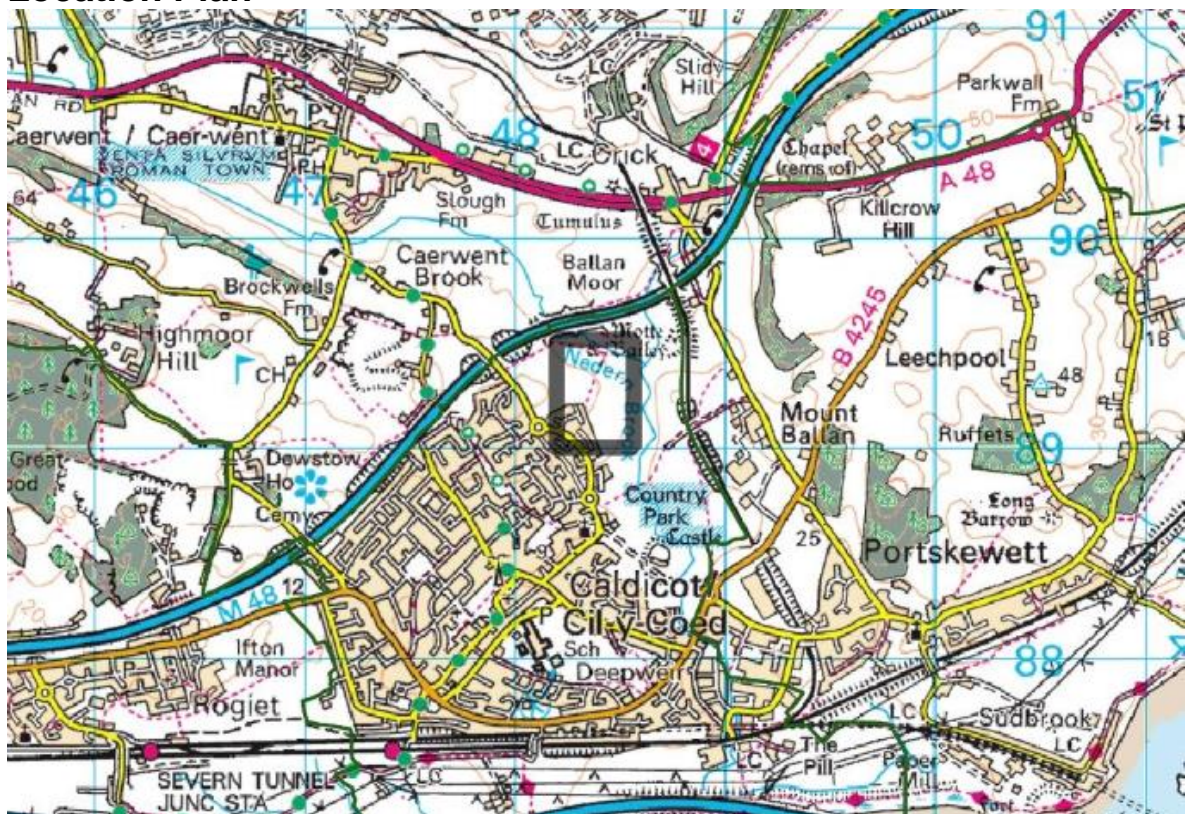


# 1. Purpose

- 1.1 In deciding whether to make an Order the Authority is exercising a power, not a duty. If decisions are objected to they may be tested at an inquiry, hearing or by written representations to the Welsh Assembly Government. Decisions must be readily justified under the criteria of the relevant Acts.
- 1.2 This report has therefore been compiled to act within the approach to be fair, impartial and operating the principles of natural justice. It sets out the full background, legislation, policy, objections and other evidence in respect to a request for an order to be made under section 257 of the Town and Country Planning Act 1990 for public Footpath 37(part) Caldicot. Its purpose is to assist Members of the Licensing and Regulatory Rights of Way Advisory Committee to make a decision on whether or not an order should be made diverting part of Footpath 37 Caldicot and to inform all other interested parties.

# 2. Background

## Location Plan



- 2.1 On 5th March 2020 planning permission was granted under reference DM/2019/01761 for 130 dwellings, associated infrastructure and landscaping on land to the East of Church Road, Caldicot.
- 2.2 Appendix 1 includes a site plan of the approved planning application

Excerpt of Appendix 1. Site plan of the approved development.



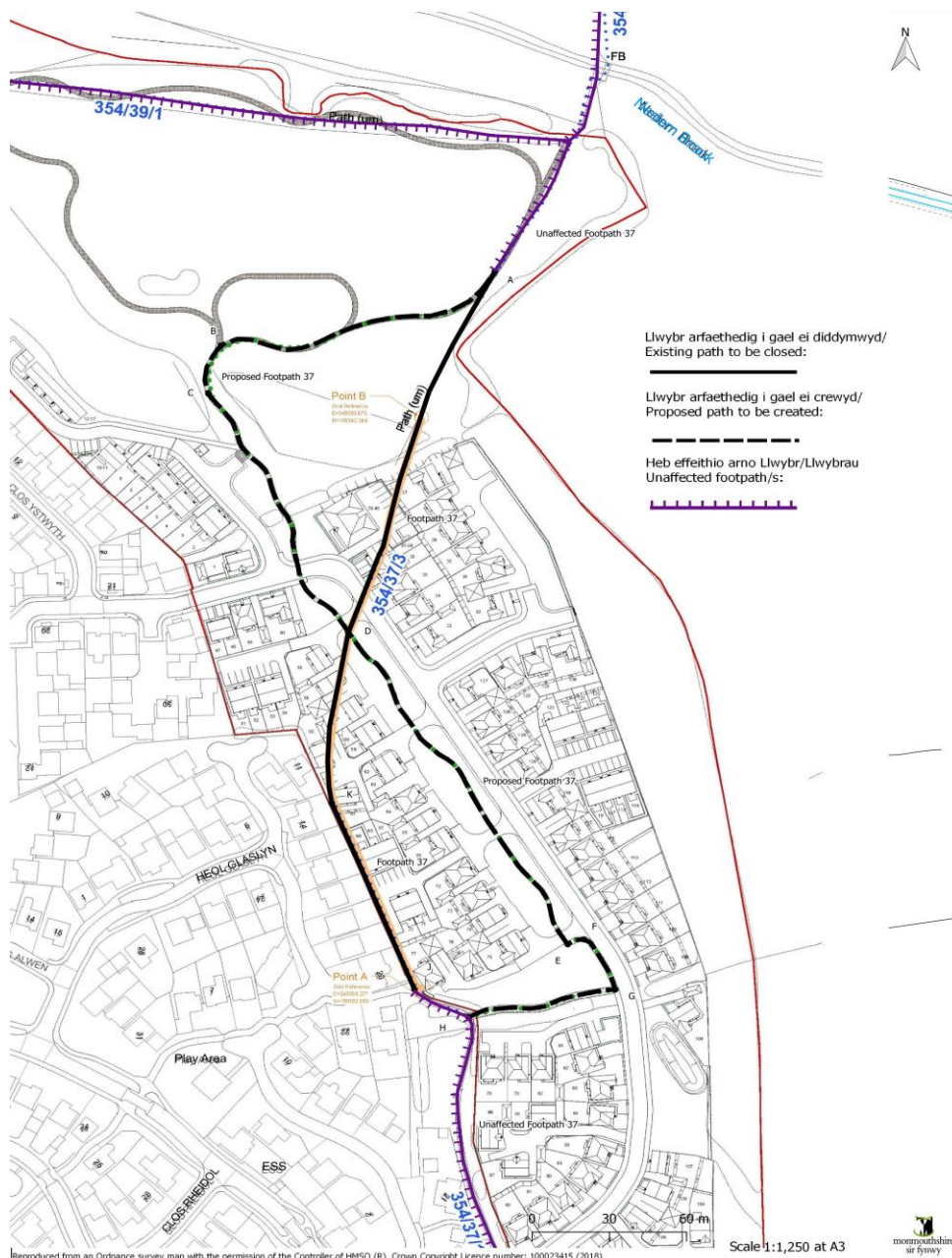
2.3 The development if constructed would however obstruct Public Footpath 37, Caldicot. The developer has therefore applied for a path order to divert Public Footpath 37, Caldicot in such a way as to accommodate the development.

2.4 The Council has powers to divert footpaths if it is satisfied that it is necessary to do so in order to enable development to be carried out in accordance with planning permission.

2.5 Appendix 2 sets out the proposed Order Plan and Appendix 3 the proposed Order Schedule.

2.6 Appendix 4 indicates the existing alignment of Footpath 37, its proposed diverted alignment and how they relate to the proposed development.

Extract of Appendix 4



### 3. Legislation/Policy Issues

- 3.1 The Council, under Section 257 of the 1990 Town and Country Planning Act (T&CP Act) has discretionary powers by order, stop up or divert footpaths if it is satisfied that it is necessary to do so in order to enable development to be carried out in accordance with planning permission.
- 3.2 The council should therefore consider if the proposal meets the requirements of the legislation. It should also consider all of the other relevant legislation, supplementary guidance and policy.
- 3.3 Successful path orders made under s257 TCPA 90 are Made, Confirmed and Certified.

#### 3.4 Section 257 of the Town and Country Planning Act 1990

*“257 Footpaths [bridleways and restricted byways] affected by development: orders by other authorities.*

*(1) Subject to section 259, a competent authority may by order authorise the stopping up or diversion of any footpath [bridleway or restricted byway] if they are satisfied that it is necessary to do so in order to enable development to be carried out—*

*(a) in accordance with planning permission granted under Part III [or section 293A], or*

*(b) by a government department.*

*(1A) Subject to section 259, a competent authority may by order authorise the stopping up or diversion of any footpath, bridleway or restricted byway if they are satisfied that—*

*(a) an application for planning permission in respect of development has been made under Part 3, and*

*(b) if the application were granted it would be necessary to authorise the stopping up or diversion in order to enable the development to be carried out.]*

*(2) An order under this section may, if the competent authority are satisfied that it should do so, provide—*

*(a) for the creation of an alternative highway for use as a replacement for the one authorised by the order to be stopped up or diverted, or for the improvement of an existing highway for such use;*

*(b) for authorising or requiring works to be carried out in relation to any footpath [bridleway or restricted byway] for whose stopping up or diversion, creation or improvement provision is made by the order;*

*(c) for the preservation of any rights of statutory undertakers in respect of any apparatus of theirs which immediately before the date of the order is under, in, on, over, along or across any such footpath [bridleway or restricted byway];*

*(d) for requiring any person named in the order to pay, or make contributions in respect of, the cost of carrying out any such works.*

*(3) An order may be made under this section authorising the stopping up or diversion of a footpath [bridleway or restricted byway], which is temporarily stopped up or diverted under any other enactment.*

*(4) In this section “competent authority” means—*

*(a) in the case of development authorised by a planning permission, the local planning authority who granted the permission or, in the case of a permission granted by the Secretary of State [or by the Welsh Ministers], who would have had power to grant it;*

*(b) in the case of development carried out by a government department, the local planning authority who would have had power to grant planning permission on an application in respect of the development in question if such an application had fallen to be made.”*

### **3.5 Section 259 of the Town and Country Planning Act 1990**

*“259 Confirmation of orders made by other authorities.*

*(1) An order made under section 257 or 258 shall not take effect unless confirmed by the [appropriate national authority] or unless confirmed, as an unopposed order, by the authority who made it.*

*(1A) An order under section 257(1A) may not be confirmed unless the [appropriate national authority] or (as the case may be) the authority is satisfied—*

*(a) that planning permission in respect of the development has been granted, and*

*(b) it is necessary to authorise the stopping up or diversion in order to enable the development to be carried out in accordance with the permission.]*

*(2) The [appropriate national authority] shall not confirm [any order under section 257(1) or 258] unless satisfied as to every matter as to which the authority making the order are required under section 257 or, as the case may be, section 258 to be satisfied.*

*(3) The time specified—*

*(a) in an order under section 257 as the time from which a footpath [bridleway or restricted byway] is to be stopped up or diverted; or*

*(b) in an order under section 258 as the time from which a right of way is to be extinguished, shall not be earlier than confirmation of the order.*

*(4) Schedule 14 shall have effect with respect to the confirmation of orders under section 257 or 258 and the publicity for such orders after they are confirmed”*

### 3.6 Other relevant Legislation, Guidance and Policy.

In addition to the T&CPA legislation the council should consider the following Legislation, Guidance and Policy.

- Welsh Government Guidance for Local Authorities on Public Rights of Way October 2016 (appendix 5)
- Monmouthshire County Council Policy as set out in its Application & Guidance Pack for Public Path Diversion and Extinguishment Orders under the Town and Country Planning Act 1990 s257 (appendix 6)
- Environment (Wales) Act 2016
- Equality Act 2010
- Active Travel (Wales) Act 2013
- The Well-being of Future Generations Act 2015
- [Monmouthshire's Countryside Access, Protocol and Operational Management Guide](#) and [Monmouthshire's Countryside Access Improvement Plan](#)

## 4. Consultees

4.1 The council ran a pre-order consultation. Consultees included the Local Member, Caldicot Town Council, the statutory undertakers, user groups and local residents.

4.2 The following is a complete list with a summary of the responses. Full copies of objections can be found in Appendices 12-16.

	<b>Name</b>	<b>Organisation</b>	<b>Summary of Representations</b>
1	Ms K Stinchcombe	Biodiversity Officer	No comment
2	Mrs C Hunter	The Open Spaces Society	No response
3	Mr A Thomas	Lower Wye Valley Ramblers association	Content with the proposals.
4	Laura Bazely	MCC Legal Services	I note that the proposed path may not be as convenient for the public as the proposed path – it is not as direct a path
5	Matthew Lewis	Environment & Culture Manager	No response
6	Ruth Rourke	Countryside Access Manager	No objection

7	Bradley Griffiths	Western Power Distribution	We do not have any equipment or cable on the marked development.
8	Openreach, Network Alterations	Openreach	Acknowledgement of receipt of details
9	External Relations Team	Natural Resources Wales	No comment
10	Plant Protection	Cadent/National Grid	No objection
11	Sharon Grey	Dwr Cymru / Welsh Water	We withdraw our objection.
12	Mrs Gail McIntyre	Clerk, Caldicot Town Council	No comment
13	Cllr Jo Watkins	MCC	I think the pathway looks fine but residents are complaining about the fact it crosses roads. & I am completely fine about the footpath moving as it needs to for the development to go ahead, although I know a number of residents are not.
14	Mr Kevin Hall	Local resident	Path order plan misleading as sections of path labelled unaffected will be lose their unspoilt views over Nedern Valley, the SSSI, Caldicot Castle and Severn Bridge. Proposal in breach of Welsh Government guidance to 'avoid estate roads' by diverting a well-used country pathway onto an urban walkway straddling a high pressure gas main and crosses cul-de-sac roads at least 5 times. Misleading street scene provided by developer showing one row of development and not the whole scheme.
15	Mrs Julie Griffiths	Local resident	Impact on wellbeing and mental health due to change of the path from one that crosses open countryside to an urban walkway through a housing estate crossing five estate roads.
16	Mr Kevin Larkin	Local resident	No response
17	Ms Sian Crawford	Local resident	No response
18	Mrs Victoria Silcox	Local resident	Loss of a safe, tranquil walkway in open space to one through a housing estate that crosses many roads and is not in keeping with public expectation of a public path. Path should be revised to avoid the need to cross estate roads and obstruction by traffic. Building of expensive houses seems more important than people's rights to safely enjoy

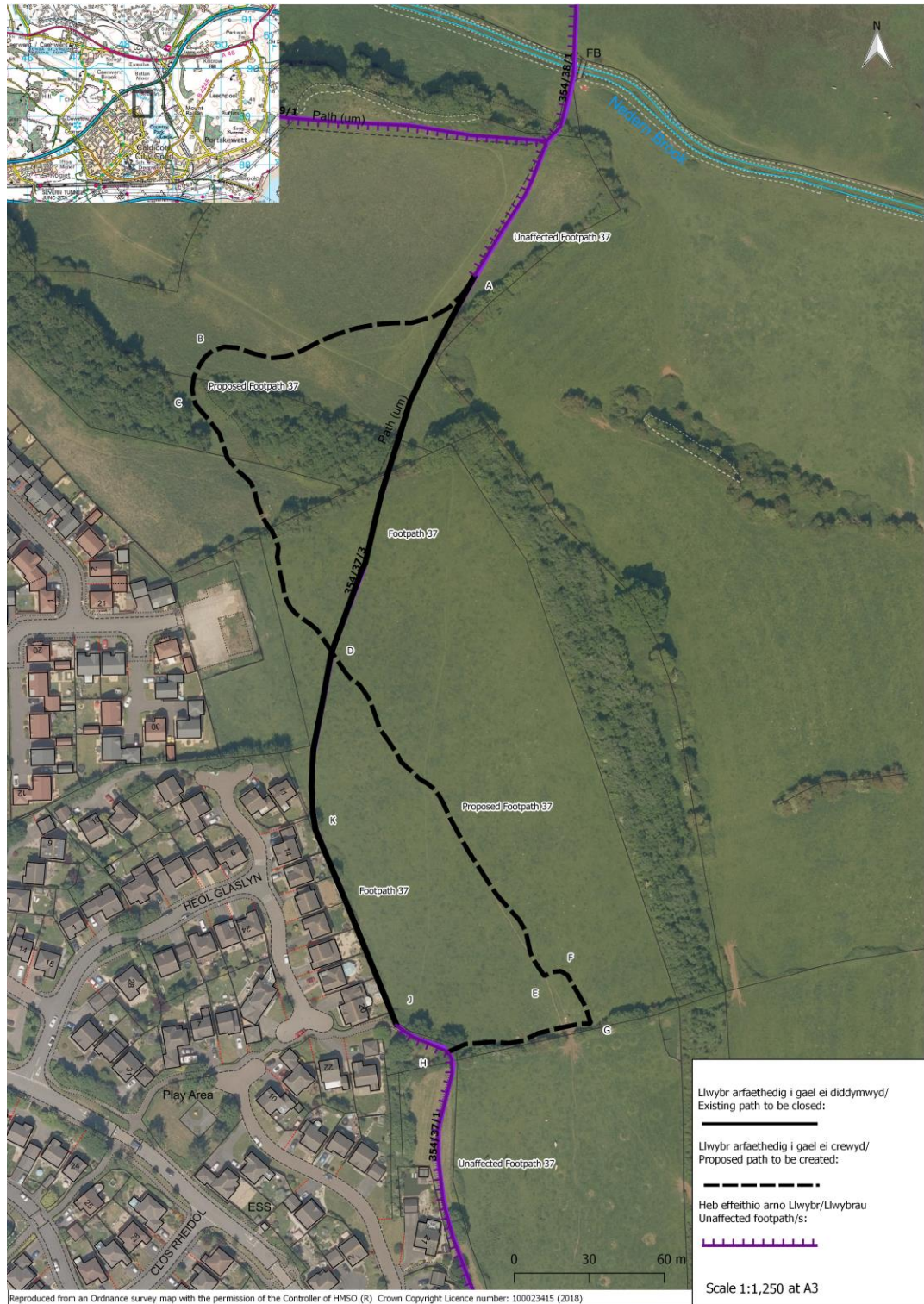


			open space.
19	Mrs Katie Obrien	Local resident	Change in character from a rural path that provides access to the SSSI, is surrounded by nature and can be enjoyed safely by children to an unsafe polluted path that crosses five roads and puts children at risk.
20	Mr Philip Nicholson	Local resident	No response
21	Mr George Rice	Local resident	Loss of path used by people enjoying the countryside and provides access to the SSSI and Nedern brook to an estate path crossing numerous roads. The existing path should be retained and the layout of the site set out to accommodate it.
22	Mrs Tessa Savigear	Local resident	No response
23	11 Heol Glaslyn	Local resident	No response
24	12 Heol Glaslyn	Local resident	No response
25	14 Heol Glaslyn	Local resident	No response
26	15 Heol Glaslyn	Local resident	No response
27	16 Heol Glaslyn	Local resident	No response
28	22 Heol Glaslyn	Local resident	No response

## 5. Photographs

5.1 The following images demonstrate the character of the existing site and how the proposed order relates to it.

### Proposed Order Plan over Aerial Photography.



Looking north from a point on Unaffected Footpath 37 towards point H



Looking north east from a point between points A and D towards point A



Looking north from approximately point H to point D



Looking west from approximately point G to point H



5.2 Google Earth images indicating the approximate alignment of the path and its proposed replacement. The solid black line represents the existing path and the broken black line its replacement.



## 6. Application of Tests, Guidance & Policy

6.1 The following section assesses how the proposed order complies with relevant legislation, guidance and policy

### 6.2 Town and Country Planning Act 1990

Section 257 of the Town and Country Planning Act 1990

*“257 Footpaths [bridleways and restricted byways] affected by development: orders by other authorities.*

*(1) Subject to section 259, a competent authority may by order authorise the stopping up or diversion of any footpath [bridleway or restricted byway] if they are satisfied that it is necessary to do so in order to enable development to be carried out—*

*(a) in accordance with planning permission granted under Part III*

6.3 Officer comment: It is necessary to divert or extinguish Footpath 37, Caldicot to enable the development DM/2019/01761 to be carried out. This test is therefore satisfied.

Section 259 of the Town and Country Planning Act 1990

*“259 Confirmation of orders made by other authorities.*

*(1) An order made under section 257 or 258 shall not take effect unless confirmed by the [appropriate national authority] or unless confirmed, as an unopposed order, by the authority who made it.*

*[(1A) An order under section 257(1A) may not be confirmed unless the [appropriate national authority] or (as the case may be) the authority is satisfied—*

*(a) that planning permission in respect of the development has been granted, and*

*(b) it is necessary to authorise the stopping up or diversion in order to enable the development to be carried out in accordance with the permission.]*

*(2) The [appropriate national authority] shall not confirm [any order under section 257(1) or 258] unless satisfied as to every matter as to which the authority making the order are required under section 257 or, as the case may be, section 258 to be satisfied.*

6.4 Officer comment: Planning permission has been granted and it is necessary to divert the Footpath to enable the development to be carried out in accordance with the permission. These tests have therefore been satisfied.

### 6.5 Welsh Government Guidance for Local Authorities on Public Rights of Way October 2016 (appendix 5)

*6.58. The necessity test entails examining the activities authorised by the planning permission (both operational development and changes of use) to see whether they are, or are not, compatible with the retention of highway rights. An activity which would involve obstruction of a highway (for example, the erection of a structure across the line of a highway or*

*introducing a use such as outdoor storage or long-term parking) would be incompatible with the highway and so make out a case of necessity.*

6.6 Officer comment: The approved development would permanently obstruct path 37 on its present alignment.. It is therefore necessary to move the path.

6.59. *Even where a case of necessity is made out, an authority still has discretion whether to make an Order or not. However, having concluded that the planning permission should be granted, there must be good reasons for deciding that an Order, which would permit implementation of that permission, should not be made.*

6.7 Officer comment: The authority must decide if there is a good reason not to make the order.

*6.60. In coming to a judgment as to whether to make an Order, the following should be taken into account:*

- *The interests of the general public.*
- *The potential effects of the Order on some members of the public, such as occupiers of property adjoining the highway.*
- *Any potential financial loss to members of the public.*

6.8 Officer comment: The pre-order consultations generated numerous responses the details of which have been set out in section 4, Consultees.

*6.61. When making a diversion, the new path must either commence or terminate at some point on the line of the original way. However, alternative ways need not do so and may, for instance, run parallel to the route being stopped up. To avoid the creation of a cul-de-sac and to enable the public, where appropriate, to return to that part of the original way not affected by the development, any alternative way provided should be linked via another highway to the original way.*

6.9 Officer comment: The proposed replacement path commences and terminates on the line of the original way.

*6.63. When making a Diversion Order under s. 257 of the TCPA 1990, the authority should consider any works that will be required to bring an alternative way into a fit condition for public use. Where necessary, the Order, as specified by Schedule 1 of the Town and Country Planning (Public Path Orders) Regulations 1993 should state within its paragraph 3 that the diversion will not have effect until the authority certifies that the requirements defined in its paragraph 2 have been complied with. Note that certification achieved by completion of works must be advertised to the public in a local newspaper.*

6.10 Officer comment: The majority of the proposed replacement path will be made and have a minimum width of 2m. Only a short section connected to the existing path running through grassland will remain unmade.

6.65. *Where the development, insofar as it affects a right of way, is completed before the necessary Order to divert or extinguish the right of way has been made or confirmed, the powers under s. 257 and s. 259 of the TCPA 1990 to make and confirm Orders are no longer available.*

6.11 officer comment: Construction has started on site but the development but is not yet substantially complete.

*7.9. When an existing right of way needs to be revised to accommodate the planned development, any alternative alignment should avoid the use of estate roads, drives, gardens or other private areas wherever possible and preference should be given to the use of made-up estate paths through landscaped or open space areas away from vehicular traffic. The potential of alternative routes to encourage sustainable transport and active travel should also be considered.*

6.12 Officer comment:- The proposed route crosses 5 vehicular roads but would run largely through landscaped or open space areas away from vehicular traffic.

### **6.13 Monmouthshire County Council Procedure as set out in its Application & Guidance Pack for Public Path Diversion and Extinguishment Orders under the Town and Country Planning Act 1990 s257 (appendix 6)**

*“When applying for a public path order it is important to consider the following:*

#### *Landownership*

*The very first thing to consider before applying for a public path order is that you, as the applicant own all the land over which the diverted route is to cross. If you do not, you must seek the landowners written consent before you can continue. The County Council will not be able to process your application without this.*

6.14 Officer comment: All of the affected land is controlled by the applicant.

### **6.15 The Legal Tests**

Legislation requires that certain tests must be considered for public path orders. Different tests apply to diversion and extinguishment orders as outlined below.

#### ***The Legal Tests for Town and Country Planning Act Orders***

*Before making an order the Authority must be satisfied that:*

- Regard has been had to the need for an alternative highway to be provided
- The development affecting the route has not already been carried out
- The route shown in the order as the alternative route is not an existing Public Right of Way.



- 6.16 Officer comment: The present path is very well used albeit not always on its precise legally recorded alignment. There is therefore a need for the path. The development works have started but are not yet substantially complete. The proposed alternative route is not an existing Public Right of Way.

*The authority has the power to require the applicant to cover the costs of the order and the cost of making up the new path, as well as any compensation that may be payable.*

- 6.17 Officer comment: The applicant has agreed to pay the order processing costs. If however an order is made and opposed its confirmation will be determined by the Welsh Government via the Planning Inspectorate. The cost of any consequential public inquiry or hearing would be borne by Monmouthshire County Council. It is possible that the Inspectorate might chose written representations to determine the case.

### **6.18 Design and Development Considerations**

*Work should not be started on site until any necessary legal orders to alter the network have been made and confirmed by the Council.*

- 6.18 Officer comment: The development works have started but are not yet substantially complete The developer has agreed that no permanent works are to take place on the legally path alignment until any path order is confirmed.
- 6.19 *DOE Circular 5/94 (Welsh Office 16/94) requires that care must be taken to plan out crime. "Care should be taken that well-intentioned segregation schemes for pedestrians and cyclists do not lead to over-isolation, especially at night. Wherever possible, footpaths and alleyways should be wide, clear of hiding places, well lit and should follow a direct route ....sensitive and skilled design should be capable of reconciling the need for acceptable landscaping and the need to produce safe environments. Generally speaking, however, landscaping schemes should avoid creating hidden areas, near footpaths for example where crime is easier to commit."*
- 6.20 Officer comment: The proposed replacement path would be generally overlooked and open in character.
- 6.21 *Public footpaths should have a minimum width of 2 metres and bridleways, restricted byways and byways a width of 3.5 metres. If the way is to be enclosed by fencing, hedging, or buildings then footpaths should be of a minimum width of 4 metres and bridleways and byways 6 metres. However, within new development, wider paths may be required to reflect the anticipated heavier usage of these paths, any safety issues and would ensure that users of PROW have adequate space to pass each other and that there is a feeling of spaciousness.*
- 6.22 Officer comment: The majority of the replacement path would have a recorded width of 2m with one section recorded at 3m. The path is not to be enclosed and would be open in character.

6.23 *When a PROW is replaced or realigned it should be constructed to at least the same specification as the original, although where there is known to be a potential for greater usage, appropriate surfacing, widening and lighting may be required. In these circumstances, PROW are to be made up in accordance to the Council's adoption standard.*

6.24 Officer comment: The existing path is unmade and runs through pasture. The majority of the proposed replacement path would have a resin bound sealed surface and have a recorded width of 2m.

6.25 Monmouthshire's Countryside Access Policy, Protocol and Operational Management Guide sets out policy on removing barriers and improving access for all. *The Countryside Access Service is committed to providing the best possible level of service to its customers. In delivering our work we undertake assessments of the likely impact on the diverse communities and individuals who access our services. Where potential adverse impacts are identified, we seek to mitigate them and ensure discrimination is prevented. Where opportunities to improve the service are provided, or the accessibility of the public rights of way network are identified, we will do our best to bring about those improvements within resources available.*

6.26 Monmouthshire's Countryside Access Improvement Plan 2020- 2030 Chapter 11 encourages active healthy lifestyles through: *"addressing barriers that prevent use and working in partnership with planning, developers and others to create well-designed, accessible environments that encourage active travel and walking, cycling and horse riding as recreational pursuits..*

6.27 Officer comment: The proposed new alignment contains no barriers such as gates or stiles. Existing site boundary gates are already of a high standard.

6.28 [Environment \(Wales\) Act 2016](#)

**6 Biodiversity and resilience of ecosystems duty**

*(1)A public authority must seek to maintain and enhance biodiversity in the exercise of functions in relation to Wales, and in so doing promote the resilience of ecosystems, so far as consistent with the proper exercise of those functions.*

6.29 Officer Comment: Biodiversity provision have largely been considered and agreed as part of the planning consent. The new path would run over land under the control of MCC. It will be therefore managed to its standards.

6.30 **Equality Act 2010 (appendix 8)**

*2010 CHAPTER 15*

*An Act to make provision to require Ministers of the Crown and others when making strategic decisions about the exercise of their functions to have*

*regard to the desirability of reducing socio-economic inequalities; to reform and harmonise equality law and restate the greater part of the enactments relating to discrimination and harassment related to certain personal characteristics; to enable certain employers to be required to publish information about the differences in pay between male and female employees; to prohibit victimisation in certain circumstances; to require the exercise of certain functions to be with regard to the need to eliminate discrimination and other prohibited conduct; to enable duties to be imposed in relation to the exercise of public procurement functions; to increase equality of opportunity; to amend the law relating to rights and responsibilities in family relationships; and for connected purposes.*

6.31 Officer comment: Monmouthshire County Council is committed to the Equality Act. As previously stated in this report Monmouthshire's Countryside Access Policy, Protocol and Operational Management Guide (page 20 section 7.3) In this context this legislation relates mostly to accessibility. The proposed replacement path would to be made to a high standard therefore accessible by a larger percentage of the population.

### **6.32 Active Travel (Wales) Act 2013**

*"9 Provision for walkers and cyclists in exercise of certain functions.*

*(1) The Welsh Ministers and each local authority must, in the exercise of their functions under Parts 3, 4, 5, 9 and 12 of the Highways Act 1980 (creation, maintenance and improvement of highways, interference with highways and acquisition etc. of land), in so far as it is practicable to do so, take reasonable steps to enhance the provision made for walkers and cyclists.*

*(2) The Welsh Ministers and each local authority must have regard to the needs of walkers and cyclists in the exercise of their functions under—*  
*(a) Parts 1, 2, 4 and 7 of the Road Traffic Regulation Act 1984 (general and special traffic regulation, parking places and obstructions),*  
*(b) Part 3 of the New Roads and Street Works Act 1991 (street works), and*  
*(c) Part 2 of the Traffic Management Act 2004 (network management by local traffic authorities)."*

*"10 Duty to exercise functions to promote active travel*

*(1) The Welsh Ministers and local authorities must exercise their functions under this Act in a manner designed to—*

*(a) promote active travel journeys, and*  
*(b) secure new active travel routes and related facilities and improvements in existing active travel routes and related facilities.*

*(2) Each local authority must make a report to the Welsh Ministers specifying what it has done in each financial year in the performance of the duty imposed on it by subsection (1).*  
*"*

6.33 Officer comment: The proposed section of the replacement path likely to be used in an active travel capacity (travel required to go about usual daily business but not leisure) would be made up to high standard and have a

sealed resin surface. The section between points G and H on the proposed order plan would be 3m wide and built to cycle/footway multiuser standards. The 2m wide sections mostly have public vehicular carriageways running parallel to them so their width is less of a concern.

### **6.34 Well-being of Future Generations (Wales) Act 2015**

*The Well-being of Future Generations (Wales) Act is about improving the social, economic, environmental and cultural well-being of Wales.*

*It will make the public bodies listed in the Act think more about the long-term, work better with people and communities and each other, look to prevent problems and take a more joined-up approach.*

*Its goals include:*

#### *6.35 A prosperous Wales*

6.36 Officer comment: Proposal will permit approved planning application to take place that in turn will provide employment, housing and a community park.

#### *6.37 A resilient Wales*

6.38 Officer comment: Enhanced accessibility might help reduce the reliance on cars and public transport and their consequential emissions. The new community park will be under MCC's control and therefore managed with its biodiversity values.

#### *6.39 A healthier Wales*

6.40 Officer comment: Enhanced path accessibility and new community park could encourage physical exercise with its health and wellbeing benefits.

#### *6.41 A more equal Wales*

6.42 Officer comment: The community park will provide open space for all. Additionally, the path might help reduce the reliance on cars and public transport with their associated costs. The development contains a proportion of affordable housing.

#### *6.43 A Wales of cohesive communities*

6.44 Officer comment: Enhanced accessibility might encourage more people to spend time outdoors helping to form and cement community bonds.

#### *6.45 A Wales of vibrant culture and thriving Welsh Language.*

6.46 Officer comment: The community park will provide open space to allow exercise and sport. Signage under MCC's control would be bilingual.

#### *6.47 A globally responsible Wales*

6.48 Comment: Enhanced accessibility could help reduce reliance on cars and public transport and therefore reduce emissions.

6.49 [Monmouthshire's Countryside Access Policy, Protocol and Operational Management Guide](#) (chapter 10 page 28)

*Where a public right of way is affected by development the path must be kept on the legal alignment wherever possible or diverted under the Town & Country Planning Act 1990 prior to any works being carried out. The use of Estate Roads should be avoided wherever possible and preference given to the use of estate paths through landscaped or open spaces away from vehicular traffic. The County Council requires either a minimum width of 2 metres for footpaths and 3 metres for bridleways or the full width previously enjoyed by the public, if greater.*

*10.2 Public Rights of Way are protected by law.*

*Any interference with, or obstruction of or attempt to move a Public Right of Way can only be done by legal means. It is important therefore. That Public Rights of Way are identified at any early stage in the development process because the identification of a Public Right of Way at a later stage in the development process may result in significant delays, halt development and may make properties unsaleable. Monmouthshire County Council has a duty to keep Public Rights of Way open and available for use by the public and will therefore take such action as may (including direct enforcement action and prosecution) to ensure that members of the public are not inconvenienced in their use of the Public Rights of Way network. It should be noted that granting of planning permission does not give permission to obstruct a public right of way.*

*Developers must ensure that:*

- There is no diminution in the width of the right of way*
- No builder's materials are stored on a right of way*
- No damage or substantial alteration, either temporary or permanent, is caused to the surface of the public right of way*
- Vehicle movements are arranged so as not to interfere with the public's use of the way*
- No additional barriers (e.g. gates) are placed across the right of way*
- No wildlife fencing or other ecological protection measures are placed across a right of way or allowed to interfere with a right of way.*
- The safety of members of the public using the rights of way is ensured at all times.*

6.50 Officer Comment: Works have started on site and there is a temporary path closure in place. The temporary closure was issued on the basis that no permanent works were to take place on the existing recorded alignment of the path until any path order was confirmed. The applicant also agreed to provide an alternative through route the site while the closure was in force.

## 7.0 Consideration of Consultation Responses.

7.1 The following section comments on the issues raised.

### **7.2 Laura Bazely, MCC Legal Services**

*I note that the proposed path may not be as convenient for the public as the proposed path – it is not as direct a path*

7.3 Officer comment: The proposed replacement path is approximately 150m longer than the original path which has a length of approximately 350m. It would in most part however, have a sealed surface rather than running over an unmade grass path.

### **7.4 Cllr Jo Watkins, MCC**

*I think the pathway looks fine but residents are complaining about the fact it crosses roads, I am completely fine about the footpath moving as it needs to for the development to go ahead, although I know a number of residents are not.*

7.5 Officer comments: None

### **7.6 Mr Kevin Hall, Local resident (full response appendix 12)**

*Path order plan misleading as sections of path labelled unaffected will be lose their unspoilt views over Nedern Valley, the SSSI, Caldicot Castle and Severn Bridge. Proposal in breach of Welsh Government guidance to 'avoid estate roads' by diverting a well-used country pathway onto an urban walkway straddling a high pressure gas main and crosses cul-de-sac roads at least 5 times. Misleading street scene provided by developer showing one row of development and not the whole scheme.*

7.7 Officer comment: The sections of path labelled unaffected fall outside of the scope of the proposed order. Any loss of views from sections of path outside of the order would be a matter for Planning. The proposed new alignment does cross 5 vehicular roads but it would run largely through open space away from vehicular traffic over the balance of its length as required by the guidance. The proposed path does roughly follow the alignment of a buried high-pressure gas main. The misleading street scene I suspect would also be a matter for Planning.

### **7.8 Mrs Julie Griffiths, Local resident (full response appendix 13)**

*Impact on wellbeing and mental health due to change of the path from one that crosses open countryside to an urban walkway through a housing estate crossing five estate roads.*

7.9 Officer comment: The different character of the replacement path is an inevitable consequence of development but its proposed new alignment would runs largely through open space away from vehicular traffic. The proposed changes allow the construction of the approved development, which includes a community park. This park might help offset the loss of the existing rural path.

### **7.10 Mrs Victoria Silcox, Local resident (full response appendix 14)**

*Loss of a safe, tranquil walkway in open space to one through a housing estate that crosses many roads and is not in keeping with public expectation of a public path. Path should be revised to avoid the need to cross estate roads and obstruction by traffic. Building of expensive houses seems more important than people's rights to safely enjoy open space.*

7.11 Officer comment: The different character of the replacement path is an inevitable consequence of development but its proposed new alignment would run largely through open space away from vehicular traffic. The proposed changes allow the construction of the approved development, which includes a community park. This park might help offset the loss of the existing rural path. The decision to build the houses would be a matter for Planning.

**7.12 Mrs Katie O'Brien, Local resident (full response appendix 15)**

*Change in character from a rural path that provides access to the SSSI, is surrounded by nature and can be enjoyed safely by children to an unsafe polluted path that crosses five roads and puts children at risk.*

7.13 Officer comment: The different character of the replacement path is an inevitable consequence of development but its proposed new alignment would run largely through open space away from vehicular traffic. The proposed changes allow the construction of the approved development, which includes a community park. This park might help offset the loss of the existing rural path. The proposed path alignment would continue to provide access to the SSSI.

**7.14 Mr George Rice, Local resident (full response appendix 16)**

*Loss of path used by people enjoying the countryside and provides access to the SSSI and Nedern brook to an estate path crossing numerous roads. The existing path should be retained and the layout of the site set out to accommodate it.*

7.15 Officer comment: The different character of the replacement path is an inevitable consequence of development but its proposed new alignment would run largely through open space away from vehicular traffic. The proposed changes allow the construction of the approved development, which includes a community park. This park might help offset the loss of the existing rural path. The fact that a high pressure gas main runs through the site means it makes sense for the new path alignment to follow it as otherwise the site would have been very constrained. The proposed path alignment would continue to provide access to the SSSI.

## **8.0 Recommendation**

8.1 That the Licensing and Regulatory Rights of Way Advisory Committee authorise the making of the diversion order for Footpath 37 Caldicot under Section 257 of the Town & Country Planning Act 1990 as set out in this report and to confirm the order if no objections are received.

**AUTHOR:**

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- Site Key**
- Site Boundary
  - 1.8m high close board fence
  - 1.8m high brick screen wall
  - 1.8m high personnel gate
  - 1.2m stock proof fence
  - Parking space
  - Affordable unit - Social Rented
  - Easement/Exclusion Zone
  - Raised Surface
  - Proposed hedgerows & trees
  - Existing Trees & Vegetation



- K: Roof profiles to the adapted burglarize at plot 18 updated 14.02.20
- J: Affordable house type amended to suit new internal floor arrangement, floors updated. Layout house type substituted with Affordable. New affordable house type added to plot 18. Affordable and affordable updated where house types have been updated. House type schedule revised. Number of units in each plot updated. Plot with new open space reserved to 2m and changed to coloured terrain, staggered barriers positioned where path joins highway. 28.01.20
- H: Minor changes carried out to layout to address comments from LA. Proposed the colours and new hedgerows updated to meet landscape architect information. Footpath leading into community park now clearly shows where main road great changes to hedges from. Site collection side removed from front of plot 52. Area of existing vegetation reduced to the front of plot 93 to allow for elevation made system to be needed. 19.01.20
- G: The 2nd Cherry house types previously allocated at plots 18 & 19 have now been relocated to plot 52 (plots 122 & 123). Plot 19 now a 2 storey bungalow (formerly located at plot 122). Plot number 19 relocated next to plots 17, 18 and former plot 122 of site. The bungalow remains unchanged, plots 18, 19 and 117-122 all updated as a result of the plot area. New gardens at plots 18 & 19 and 124-125 also updated. Minor adjustment to the alignment of easement to the front of plot 93. 08.01.20
- F: Footpath link to front of plot 1841 reserved to 2m and above as new road grant. Drive serving plots 78-80 updated to improve access to parking for plot 78. Maintenance access gate opposite plot 130 more clearly shown. Updated basin and retaining wall positions imported from engineers site info. 18.12.19
- E: Changes serving plots 72 and 73 moved back 3.5m. 18.12.19
- D: Plot 1, 49, 115-118 & 124-127 moved further back from back edge of footpath to avoid 3m easement for proposed water main under adopted path. 18.12.19
- C: Site entrance to plots 25-26 revised following comments from highways. Plot 24 is swapped with 8 & with minor adjustments to road alignment to suit. Extent of some raised tables updated to avoid clashing with access to driveway, wheelchair access updated. Footpath link through open space updated. Additional screen walls added at plots 10-11, 22-23, rear of 20-48, 29, 81, 84, 86, 116, & 124. Existing hedgerows re-located to front of plots 78-80. 06.12.19
- B: Layout updated following comments from LA. Plot 10-17, 20-26, 30-46, 117-122 re-planned. Adopted roads with verges added to plots 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000. 02.12.19
- A: Layout updated as a result of revised gas pipe easement 20m location. 08.11.19

REV. DESCRIPTION DATE

CLIENT: **DAVID WILSON HOMES**  
WHERE QUALITY LIVES

JOB TITLE: **Church Road, Caldicot**

DRAWING TITLE: **Overall Site Planning Layout**

SCALE @ A1: 1:1000 DATE: October '19 DRAWN BY: RW

JOB NO.: 1856 DRAWING NO.: PL-01 REVISION: K

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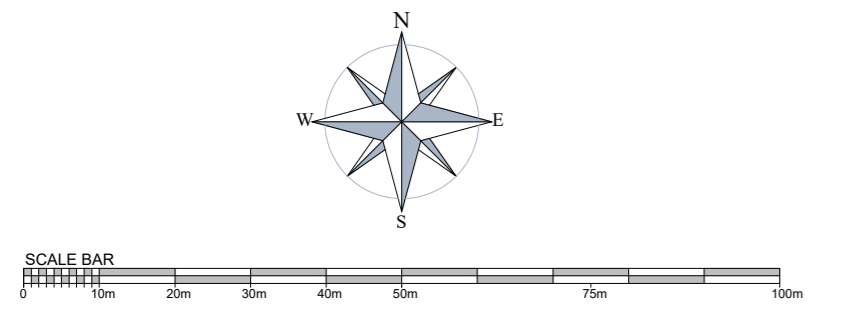
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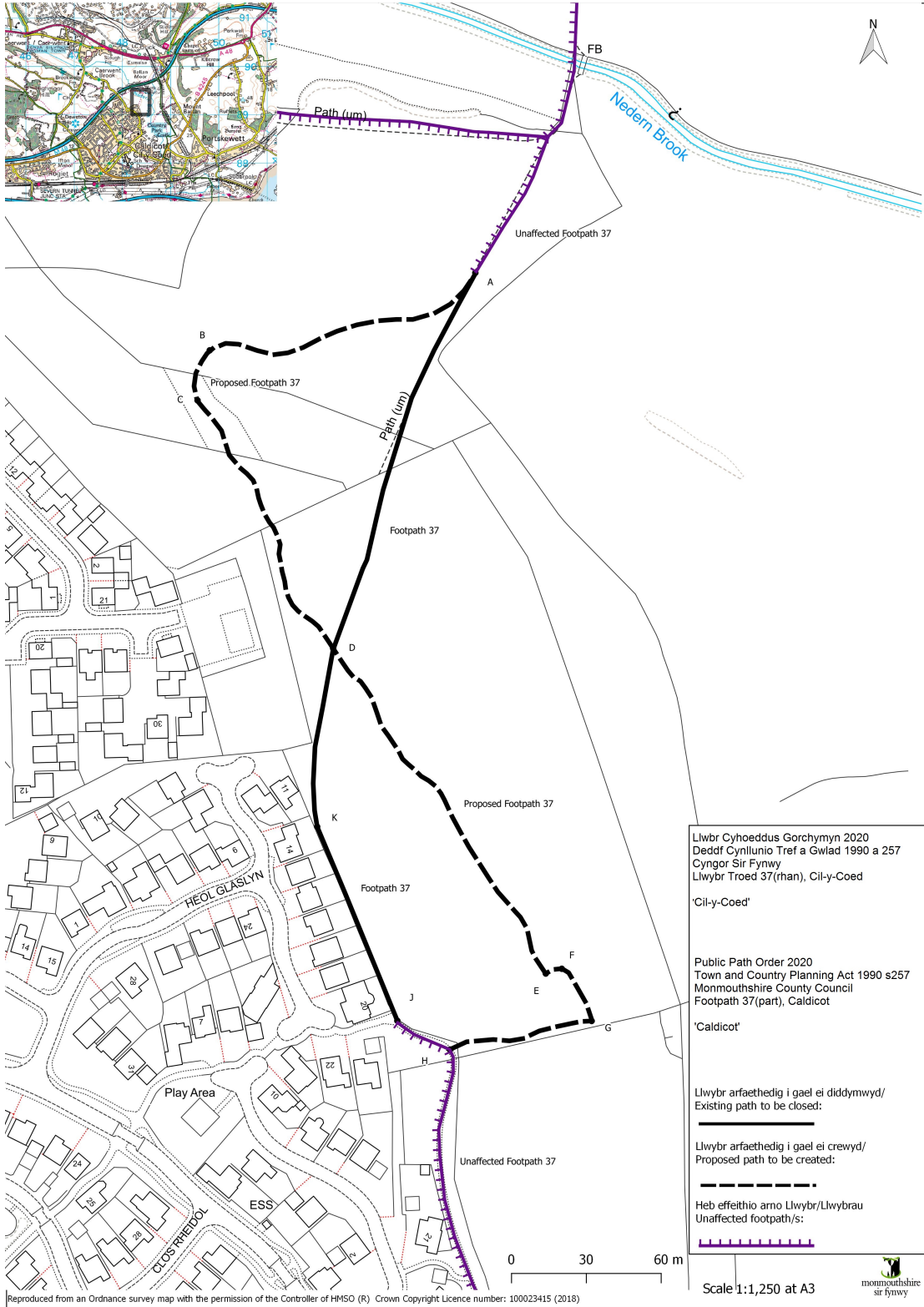
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**House Type Schedule**

House Type Name	Number of Persons	Number of Bedrooms	House Type Area	Total Unit Area	Total Number of Units
Yardhouse (YHWS)	2	1	658	7672	12
Ash (ASH)	2	1	570	6840	12
Senior (SPH) Bungalow	4	2	657	1314	2
Adapted Bungalow (BANG)	4	2	847	847	2
Drive (DRV)	4	2	961	13776	16
LARCH (LARC)	5	3	998	3992	4
Cherry (CHRY)	7	3	758	758	1
<b>Affordable Units Total</b>					<b>45</b>
HT Code	House Type Name	Number of Bedrooms	House Type Area	Total Unit Area	Total Number of Units
P204	Willow (WILL)	2	620	6200	10
P382	Acorn (ACOR)	3	832	5824	7
P341	Holly (HOLL)	3	1001	7007	7
H002	Hoppy (HOPY)	4	2081	6486	6
H049	Albany (ALBE)	3	1070	8560	8
H086	Holloway (HOLL)	4	1220	7320	6
H025	Mermaid (MERM)	4	1395	8370	6
H018	Exeter (EXET)	4	1484	17808	12
H056	Avondale (AVON)	4	1493	19363	13
H009	Horseshoe (HORS)	4	1536	11368	10
<b>Private Sale Total</b>					<b>85</b>
<b>Total Number of Units and Coverage (ft²)</b>					<b>130</b>



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Llwybr Cyhoeddus Gorchymyn 2020  
 Deddf Cynllunio Tref a Gwlad 1990 a 257  
 Cyngor Sir Fynwy  
 Llwybr Troed 37(rhan), Cil-y-Coed  
 'Cil-y-Coed'


Public Path Order 2020  
 Town and Country Planning Act 1990 s257  
 Monmouthshire County Council  
 Footpath 37(part), Caldicot  
 'Caldicot'

Llwybr arfaethedig i gael ei diddymwyd/  
 Existing path to be closed:  
 ————

Llwybr arfaethedig i gael ei crewyd/  
 Proposed path to be created:  
 - - - - -

Heb effeithio arno Llwybr/Llwybrau  
 Unaffected footpath/s:  
 ————

Scale 1:1,250 at A3



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<p><b>Name of the Officer</b> completing the evaluation Shaun Pritchard</p> <p><b>Phone no:</b> 01633 644676 <b>E-mail:</b> shaunpritchard@monmouthshire.gov.uk</p>	<p><b>Please give a brief description of the aims of the proposal</b></p> <p>Diversion of Footpath to accommodate an approved housing development application.</p>
<p><b>Name of Service area</b></p> <p>Public Rights of Way, Monlife</p>	<p><b>Date</b> 03/12/2020</p>

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**Are your proposals going to affect any people or groups of people with protected characteristics?** Please explain the impact, the evidence you have used and any action you are taking below.




Protected Characteristics	Describe any positive impacts your proposal has on the protected characteristic	Describe any negative impacts your proposal has on the protected characteristic	What has been/will be done to mitigate any negative impacts or better contribute to positive impacts?
Age	Existing path crosses pasture. Proposed path to be made and therefore more accessible for people of all ages.	None	
Disability	Existing path crosses pasture. Proposed path to be partially surfaced with no new structures and have a greater width than current path as per policies on removing barriers enabling more people to enjoy access to the countryside.	None	Design considered in pre-app with Green Infrastructure Team
Gender reassignment	Not relevant		

Protected Characteristics	Describe any positive impacts your proposal has on the protected characteristic	Describe any negative impacts your proposal has on the protected characteristic	What has been/will be done to mitigate any negative impacts or better contribute to positive impacts?
Marriage or civil partnership	Not relevant		
Pregnancy or maternity	Not relevant		
Race	Not relevant		
Religion or Belief	Not relevant		
Sex	Not relevant		
Sexual Orientation	Not relevant		
Welsh Language	Any signage to be bilingual	None	
Poverty	Enhanced accessibility might help reduce the reliance of cars and public transport and their associated cost. Housing development permitted by the proposed order includes a proportion of affordable housing.	None	



**2. Does your proposal deliver any of the well-being goals below?** Please explain the impact (positive and negative) you expect, together with suggestions of how to mitigate negative impacts or better contribute to the goal. There's no need to put something in every box if it is not relevant!

Well Being Goal	Does the proposal contribute to this goal? Describe the positive and negative impacts.	What actions have been/will be taken to mitigate any negative impacts or better contribute to positive impacts?
<b>A prosperous Wales</b> Efficient use of resources, skilled, educated people, generates wealth, provides jobs	Proposal will permit approved planning application to take place which in turn will provide employment, housing and a community park.	
<b>A resilient Wales</b> Maintain and enhance biodiversity and ecosystems that support resilience and can adapt to change (e.g. climate change)	Enhanced accessibility might help reduce the reliance of cars and public transport and their associated CO2 emissions. The new community park will be under MCC's control and therefore managed with its biodiversity values.	
<b>A healthier Wales</b> People's physical and mental wellbeing is maximized and health impacts are understood	Enhanced path accessibility and new community park should encourage physical exercise with its health and wellbeing benefits.	
<b>A Wales of cohesive communities</b> Communities are attractive, viable, safe and well connected	Enhanced accessibility encourage more people to spend time outdoors helping to cement community bonds	
<b>A globally responsible Wales</b> Taking account of impact on global well-being when considering local social, economic and environmental wellbeing	Enhanced accessibility could help reduce reliance on cars and public transport and therefore their associated CO2 emissions.	
<b>A Wales of vibrant culture and thriving Welsh language</b> Culture, heritage and Welsh language are promoted and protected. People are encouraged to do sport, art and recreation	Community park will provide open space to allow exercise and sport. Signage under MCC's control would be bilingual	
<b>A more equal Wales</b> People can fulfil their potential no matter what their background or circumstances	Community park will provide open space for all. Additionally, the path might help reduce the reliance on cars and public transport with their associated costs.	

3. How has your proposal embedded and prioritised the sustainable governance principles in its development?

Sustainable Development Principle	Does your proposal demonstrate you have met this principle? If yes, describe how. If not explain why.	Are there any additional actions to be taken to mitigate any negative impacts or better contribute to positive impacts?
 <p>Long Term</p> <p>Balancing short term need with long term and planning for the future</p>	<p>The proposal by its nature is long term</p>	
 <p>Collaboration</p> <p>Working together with other partners to deliver objectives</p>	<p>Proposed path alignment, materials and construction details determined by working with the developer.</p>	
 <p>Involvement</p> <p>Involving those with an interest and seeking their views</p>	<p>Usual, ecologists, user groups, community groups and statutory undertakers were consulted also a number of residents who live adjacent to the site as well as those that commented at planning stage on the path.</p>	



Sustainable Development Principle	Does your proposal demonstrate you have met this principle? If yes, describe how. If not explain why.	Are there any additional actions to be taken to mitigate any negative impacts or better contribute to positive impacts?
 <p><b>Prevention</b></p> <p>Putting resources into preventing problems occurring or getting worse</p>	<p>Much of the new path alignment to be made up to a durable, high quality standard. This should ensure that the path remains in good condition and suitable for its purpose for a long time before any problems occur.</p>	
 <p><b>Integration</b></p> <p>Considering impact on all wellbeing goals together and on other bodies</p>	<p><i>.There is space to describe impacts on people, economy and environment under the Wellbeing Goals above, so instead focus here on how you will better integrate them and balance any competing impacts. Also think about impacts the proposal may have on other organisations</i></p>	<p>The proposal will indirectly allow the building of houses on green fields adjacent to existing dwellings. This will no doubt of an impact on the views from and character of the existing settlement.</p>

**4. Council has agreed the need to consider the impact its decisions has on the following important responsibilities: Social Justice, Corporate Parenting and Safeguarding. Are your proposals going to affect any of these responsibilities?**

	Describe any positive impacts your proposal has	Describe any negative impacts your proposal has	What will you do/ have you done to mitigate any negative impacts or better contribute to positive impacts?
Social Justice	Not relevant		
Safeguarding	Not relevant	<p><i>.Safeguarding is about ensuring that everything is in place to promote the well-being of children and vulnerable adults, preventing them from being harmed and protecting those who are at risk of abuse and neglect</i></p>	

Corporate Parenting	Not relevant		
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**5. What evidence and data has informed the development of your proposal?**

The proposal has principally informed by the approved planning application but also takes into account the following.

- Town & Country Planning Act 1990 s257
- Welsh Government Guidance for Local Authorities on Public Rights of Way October 2016
- Monmouthshire County Council Application & Guidance Pack for Public Path Diversion and Extinguishment Orders under the Town and Country Planning Act 1990 s257
- Environment (Wales) Act 2016
- Equality Act 2010
- Active Travel (Wales) Act 2013
- Consultation Responses
- The Well-being of Future Generations Act 2015
  - Monmouthshire’s Countryside Access Improvement Plan
  - Monmouthshire’s Countryside Access Policy, Protocol and operational management guide

D  
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**SUMMARY: As a result of completing this form, what are the main positive and negative impacts of your proposal, how have they informed/changed the development of the proposal so far and what will you be doing in future?**

The proposal will allow approved development (DM/2019/01761 ) which some local residents see as having a negative impact on their character of the area, such as loss of views and immediate access to open countryside. The development will however provide employment, 130 dwellings including a proportion of affordable houses and a community park. The community park will provide a large area of public open space. Access to open countryside will still be available.

**7. ACTIONS: As a result of completing this form are there any further actions you will be undertaking? Please detail them below, if applicable.**

What are you going to do	When are you going to do it?	Who is responsible
L & R Committee report	17 December 2020	R Rourke
Make Order (depending on result of above) and consider objections to it if any are made		

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**8. VERSION CONTROL:** The Equality and Future Generations Evaluation should be used at the earliest stage, such as informally within your service, and then further developed throughout the decision making process. It is important to keep a record of this process to demonstrate how you have considered and built in equality and future generations considerations wherever possible.

<b>Version No.</b>	<b>Decision making stage</b>	<b>Date considered</b>	<b>Brief description of any amendments made following consideration</b>
<b>1</b>	Council	<b>17 December 2020</b>	<i>To be decided</i>

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**Public Path Diversion Order 2020**  
**Town and Country Planning Act 1990, s257**  
**Monmouthshire County Council**  
**Public Footpath No. 37 (part), Caldicot**

**SCHEDULE**

**PART 1**

**Description of site of existing path or way**

**Section as  
indicated on  
map**

A-D-K-J Footpath continues from A (ST4838789403) in a South South Westerly direction a distance of 162m to point D (ST4833089252). From point D the Footpath continues in a Southerly direction a distance of 73m to point K (ST4832389181). From point K the Footpath continues in a South South Easterly direction a distance of 84m to unaffected Footpath 37 at point J (ST4835689103).

**PART 2**

**Description of site of alternative highway**

**Section as  
indicated on  
map**

A-B-C-D-E-F-G-H Footpath continues from point A (ST4838789403) at a width of 2m along an unmade path in a West South Westerly direction a distance of 118m to point 'B' (ST4828089372). From point B the footpath continues at a width of 2m along a made path in a South South Westerly direction a distance of 22m to point C (ST4827589352). From point C the Footpath continues at a width of 2m along a made path in a South South Easterly direction a distance of 118m to point D (ST4833089252). From point D the Footpath continues at a width of 2m along a made path in a South South Easterly direction a distance of 160m to point E (ST4841589122). From point E the Footpath continues at a width of 2m along a roadside footway in an East North Easterly direction a distance of 8m to point F (ST4842289124). From point F the Footpath continues at a width of 2m along a roadside footway in a South South Easterly direction a distance of 26m to point G (ST4843389104). From point G the footpath continues at a width of 3m along a made path in a Westerly direction a distance of 59m to unaffected Footpath 37 at point H (ST4837689092).

**PART 3**

**Description of site of existing highway to be improved**

None.



## Appendix 12

### Evaluation Criteria – Cabinet, Individual Cabinet Member Decisions & Council

<b>Title of Report:</b>	<b>TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 257 PUBLIC PATH ORDER, No. 37 (part), CALDICOT</b>
<b>Date decision was made:</b>	<b>29<sup>th</sup> January 2019</b>
<b>Report Author:</b>	<b>Shaun Pritchard. Assistant Rights of Way Officer.</b>

#### What will happen as a result of this decision being approved by Cabinet or Council?

The Head of Law/ Monitoring Officer will be instructed to make a Public Path Order in accordance with the procedures contained in the 1990 Act, and in accordance with Schedule 14 of the 1990 Act and the Town and Country Planning (Public Path Orders) Regulations 1993.

Notice of making the Order will be posted on site and published in a newspaper circulating in the locality. A period of at least 28 days will be given for the receipt of objections to the Order. If there are no objections the Order will be confirmed by the Council as an unopposed order.

In the event that objections are made and not withdrawn, authority will be given to submit the Order along with any written representations to the Planning Inspectorate for confirmation.

Should the Order be confirmed, the Order will come into operation once the alternative way or path as described in the Order has been constructed and a Certificate of Satisfactory Compliance has been issued by the Council.

12 month appraisal

Was the desired outcome achieved? What has changed as a result of the decision? Have things improved overall as a result of the decision being taken?

#### What benchmarks and/or criteria will you use to determine whether the decision has been successfully implemented?

Confirmation of the order would allow a temporary closure and permanent works associated with the approved planning application to take place on the present alignment of path 37. Certification of the order which can be done once the new path alignment is available as detailed in the order. The path would legally move at certification.

12 month appraisal

*Paint a picture of what has happened since the decision was implemented. Give an overview of how you fared against the criteria. What worked well, what didn't work well. The reasons why you might not have achieved the desired level of outcome. Detail the positive outcomes as a direct result of the decision. If something didn't work, why didn't it work and how has that effected implementation.*

#### What is the estimate cost of implementing this decision or, if the decision is designed to save money, what is the proposed saving that the decision will achieve?

Typically paths orders cost in the region of £3000 but these would be recharged to the applicant. If however the order is made and it goes to the planning inspector for determination the cost of any public inquiry would be borne by MCC.

12 month appraisal

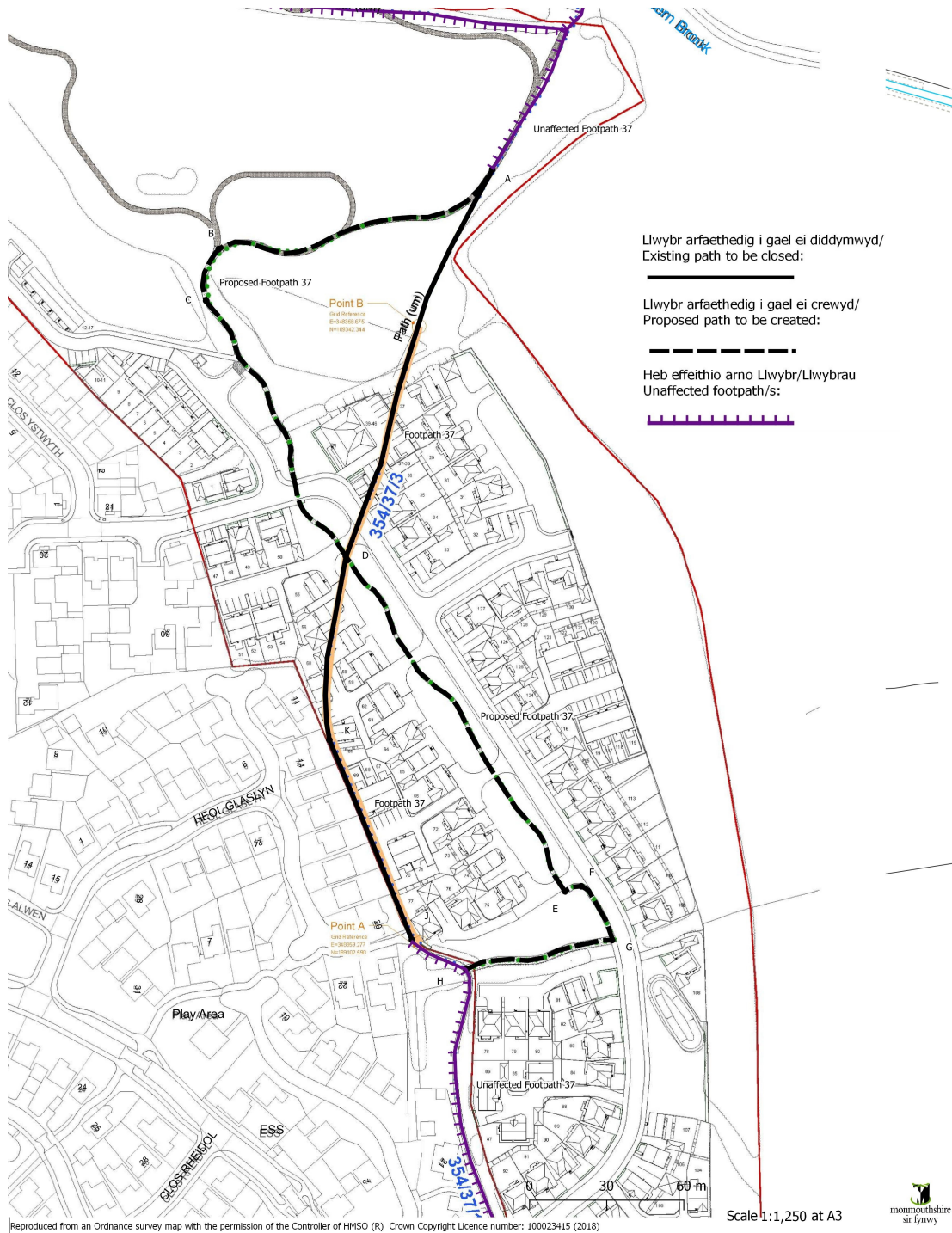
*Give an overview of whether the decision was implemented within the budget set out in the report or whether the desired amount of savings was realised. If not, give a brief overview of the reasons why and what the actual costs/savings were.*

Any other comments



Appendix 4

Proposed path order plan and approved site plan combined



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Reference to the PRW diversion plan for public footpath No 37 associated to planning application DM/2020/01761 and DM/2018/00880

Firstly I would like to point out that the comments on the drawings referring to the lower portion (southern section below letter H and G) is labeled unaffected footpath! This is a totally an untrue statement! The position is not changing but the impact of its outlook is catastrophic. The current PROW although running to the right of a small estate built almost 20 years ago it remains with the real of being in the country. If you point North on the PROW to the right there are unspoilt views across the Nedern valley and the protected SSSI taking in views of the severn bridge and Caldicot Castle. The view was that good that a viewing bench was installed a number of years ago at great expense to the tax payer to celebrate and allow walkers to enjoy the Nedern Trail to the fullest. From this point you can see all the wildlife associated with the Aquifer Fed Naturally fluctuating water body that should be classified as Priority Habitat that is flooded for many months of the year and attracts such a wide and varied variety of over wintering birds.



These views across the valley cover from the North all the way around to the S.S.E so therefore making total a considerable arc (see attached panoramic picture).



This view is now going to be replaced by a walls of bricks and motor and concrete render with no openings or green space at all because the houses are so tightly packed in maximising the available building space that has been reduced significantly because of the High Pressure Gas Main that has a build exclusion zone. So how can anyone say any part of these PROW will be unaffected?

As the Public Right of Way (PROW) this is a material consideration in the determination of planning applications to date it has been totally ignored but we trust the people responsible do not disregard the Welsh Government guidelines like the developer clearly has. How do they find it acceptable to turn a well used country pathway into an urban walkway straddling a high pressure gas main which crosses cul-de-sac roads at least 5 times. What part of avoid estate roads did they not get? Barrett Homes want to turn a country PROW into nothing short of a Barrett imposed pavement. We have already had our trust betrayed by MCC by ignoring so many objections please do not let this become another casualty? The developer has tried to fabricate the view by including a street scene but only actually showing the one row of the development if you study the plan you can see when you include multiple levels and rows of housing including garages you will not actually have any view to the East in any part of this proposed route.

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**Town and Country Planning Act 1990 – Section 257**  
**Proposed Public Path Diversion Order**  
**Public Footpath No. 37 (part), Caldicot**

Please delete as appropriate:

I have no comments to make in respect of the proposed diversion.

~~My comments are attached.~~

My comments are:

For the last 19 years my husband and myself have regularly walked footpath 37. We have enjoyed walking in open countryside enjoying the solitude of peace and quiet away from the noise of everyday life and traffic, including motor vehicles. The New proposal which has been requested to accommodate a new housing development will take away everything we have become accustomed to and enjoy. Walking is a way of life for us, it has contributed to our mental health + well being. If you agree to the new proposal then you can hardly class it as a public right of way any longer. The proposed new path is nothing more than a walkway through a housing estate and would require us to cross no less than 5 estate roads. This seriously obstructs our right of way and would clearly be unsafe to relax whilst walking such a route for fear of traffic. I sincerely hope you will consider the feelings of members of the public who regularly use this footpath before making your decision.

Name (please print): JULIE GRIFFITHS

Signed: J. Griffiths

Date: 11/05/2020

Organisation: resident of Caldicot

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**Town and Country Planning Act 1990 – Section 257  
Proposed Public Path Diversion Order  
Public Footpath No. 37 (part), Caldicot**

Please delete as appropriate:

I have no comments to make in respect of the proposed diversion.

My comments are attached.

My comments are:

I object to the proposal of diverting public footpath 37 to accommodate a new housing development. The footpath as it stands has been well used + enjoyed for many years by many members of the public, myself + family included. In fact I use it daily. The footpath provides a safe and tranquil walkway in open space, something of which we do not have an abundance of in Caldicot. The new proposed footpath is not in keeping with what you would expect of a public footpath. It would merely be a path crossing many roads through a housing estate. We have plenty of those as it is. I feel that the building of many expensive houses is being treated as more important than the peoples rights to enjoy the open space and safety of the public footpath. The proposal should be reconsidered and planning should provide for the pathway to be enjoyed without the need to cross estate roads or be obstructed by traffic.

Name (please print): Victoria Silcox

Signed: V. Silcox

Date: 22-3-20

Organisation: \_\_\_\_\_

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**Town and Country Planning Act 1990 – Section 257  
Proposed Public Path Diversion Order  
Public Footpath No. 37 (part), Caldicot**

Please delete as appropriate:

I have no comments to make in respect of the proposed diversion.

My comments are attached.

My comments are:

Having moved on to our house <sup>n 257</sup> sold completely on area, green woodlands and nature all around. We enjoy taking long walks along the current footpath with our young children they like to walk on ahead and spot nature, birds etc. with the new proposal having to cross over five new roads, I feel the safety of children and pollution levels from cars, motorbikes etc put my children in a non safe environment. With the current 'S' bend in our street (class 4th) it is an accident waiting to happen and this is the suggested new opening to the estate. The current footpath is a natural walkway showing access to SS1 Area and Babbling Brook to Nodden - which coincidentally the sign is missing from our footpath since this estate was dreamed up!

Name (please print):

Katherine O'Brien

Signed:

K O'Brien

Date:

11/03/20

Organisation:

Neighbour to New Estate

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**Town and Country Planning Act 1990 – Section 257  
Proposed Public Path Diversion Order  
Public Footpath No. 37 (part), Caldicot**

Please delete as appropriate:

~~I have no comments to make in respect of the proposed diversion.~~

My comments are attached.

My comments are:

I object to the loss of this public footpath, yes it will be loss as it is impossible to replace by diverting it through an estate, crossing numerous roads. It is no longer a footpath.

The existing footpath is used extensively by dog walkers and members of the public who enjoy walking in the countryside.

I use the path regularly to visit the adjacent SSSI and Neden Brook Wetland.

Its planned loss is an example of the erosion of public rights of way.

Name (please print):

GEORGE RICE

Signed:

GRICE

Date:

17/3/20

Organisation:

MEMBER of the PUBLIC

PTO

**Deddf Cynllunio Tref a Gwlad 1990 – Adran 257  
Gorchymyn Arfaethedig Gwirio Llwybr Cyhoeddus  
Llwybr Troed Cyhoeddus Rhif 37 (rhan) Cil-y-coed**

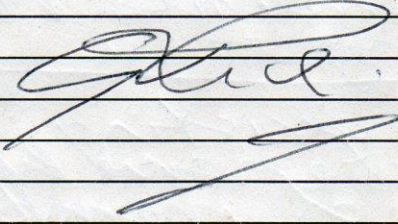
*Dileer fel sy'n berthnasol os gwelwch yn dda:*

Nid oes gennyf unrhyw sylwadau i'w gwneud yng nghyswllt y cynnig i wyro'r llwybr.

Amgaeaf fy sylwadau.

Fy sylwadau yw:

*The existing footpath should  
be retained and the  
planned layout of  
the proposed development  
be amended accordingly.*



Enw (llythrennau bras): \_\_\_\_\_

Llofnod: \_\_\_\_\_

Dyddiad: \_\_\_\_\_

Sefydliad: \_\_\_\_\_