



SUBJECT:	HIGHWAYS ACT 1980 – SECTION 119 PUBLIC PATH DIVERSION ORDER, FOOTPATH 1 USK
MEETING:	TAXI & REGULATORY COMMITTEE – RIGHTS OF WAY ADVISORY PANEL
DATE:	23 FEBRUARY 2026
DIVISION/WARDS AFFECTED:	USK

1. PURPOSE:

- 1.1 To consider an application submitted by Usk Athletic Club (Usk AC) to divert the above footpath.
- 1.2 To consider the objection to the proposed order in relation to the relevant legal tests that apply to Highways Act Orders under Section 119.
- 1.3 To make a recommendation to:
 - a) Either make or not make the order.
 - b) In the event of making an order, and that order is unopposed, that authority be given to Legal Services to subsequently confirm the order.

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 1 Usk under Section 119 Highways Act 1980 and to confirm the order if no objections are received.

3. KEY ISSUES:

- 3.1 On 24th March 2023 a path order application was received by Monmouthshire County Council (MCC) Countryside Access Team, which sought to divert a public footpath in the Usk Community.
- 3.2 The applicant sought the footpath diversion in their interests, and that of the public to address safety issues affecting the site.

- 3.3 The application proposes to divert Footpath 1 in the Usk Community, from its current alignment to an alternative route initially on the same parcel of land, and thereafter in adjacent fields.
- 3.3 The Authority under Section 119 of the Highways Act 1980 may by order, divert a footpath, bridleway or restricted byway if it is satisfied that it is in the interests of either the landowner or the public.
- 3.4 Any orders changing the public path network should comply with legislative tests and take into consideration guidance and policy.
- 3.5 A full report detailing the proposed order, legislation, guidance, policy and objection is appended to this report (Appendix 1).
- 3.6 MCC ran a pre-order consultation. It received fifteen positive or neutral responses and one objection. The nature of the objection is also detailed in the report (Appendix 1).

4.0 EQUALITY AND FUTURE GENERATIONS EVALUATION (INCLUDES SOCIAL JUSTICE, SAFEGUARDING AND CORPORATE PARENTING)

- 4.1 The relevant part of the proposal would allow the legal alignment of the existing footpath to be moved on to a new alignment running adjacent with the current alignment, only on the other side of the tennis courts. The new alignment is sought by the landowners affected by the existing footpath, and they have cited safety reasons for the application. All the landowners affected by the further proposed path changes have consented to the changes. The diverted footpath will have a minimum width of 2 metres, with greater width at the rear of the tennis courts, as outlined in the Schedule (Full Report Appendix 1.3). It will incorporate an accessible gradient at both ends so the route is no less accessible to path users with sight or mobility issues. An EQAFG evaluation has been included in Appendix 3.

5.0 OPTIONS APPRAISAL

Option	Positive	Negative	Comment
To make the order	Allow the diversion and address the safety concerns of the applicants. More accessible.	The order could still fail at inquiry if found to be deficient.	The person making the objection has not offered any alternative to the proposal, other than for the current path to remain in its existing alignment. This has been

			discounted for the safety reasons affecting the current route.
Not to make the order	The current legal alignment of the footpath would still be available to the public.	Failure to address the safety issues.	

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 That the concurrent diversion and extinguishment order meets the required tests, set out by the Highway Act 1980, Section 119.
- 7.2 With regards to the objection, it must be considered whether the change of alignment to Public Footpath 1 is likely to reduce the risk to path users. It is the Officer's opinion that the path should be moved for safety reasons.
- 7.3 The Rights of Way Advisory Committee, in coming to their decision needs to be satisfied that the order meets the relevant tests as outlined in the Highways Act 1980 Section 119 and set out in the attached report (Appendix 1) for making the order.
- 7.4 If the Rights of Way Advisory panel decides to adopt the recommendation made, then an order will be advertised and posted on site. After the statutory period of 28 days, in which any member of the public would be allowed to object, should the objection be maintained, or another received, then the case would be directed to Planning and

Environment Wales (PEDW), to appoint an Inspector to make a decision. If no objections are received, then the order can be confirmed by MCC under delegated powers.

8.0 RESOURCE IMPLICATIONS:

- 8.1 If the order is made then order costs including Rights of Way Officer's, and Legal Officer's time, and newspaper adverts will be recharged to the applicant. If the order is made and objections are 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. It is unknown as to whether the person objecting would object again at public consultation stage, if the Committee decided to make the order.

9.0 CONSULTEES

- 9.1 Consultees included the Local Member, The Community Council, Statutory Undertakers and User Groups. Appendix 2 lists all of the consultees and summarises their responses.

10.0 BACKGROUND PAPERS:

Appendix 1: Full Report.

Appendix 2: Consultation Responses.

Appendix 3: Equality and Future Generations Evaluation (includes Social Justice, Safeguarding and Corporate Parenting).

Appendix 4: Evaluation Criteria.

11.0 AUTHOR:

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