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County Hall
Rhadyr
Usk
NP15 1GA

Friday, 20 January 2023

Notice of meeting

Licensing and Regulatory Rights of Way Panel

Monday, 30th January, 2023 at 10.00 am
The Council Chamber, County Hall, The Rhadyr, Usk, NP15 1GA with remote attendance

AGENDA

Item No	Item	Pages
1.	**Apologies for Absence.**	
2.	**Declarations of Interest.**	
3.	**Wildlife and Countryside Act 1981 - Section 53 Definitive Map Modification Order Route, A to G, Footpaths 83 and 84 Caldicot - The Seawall.**	1 - 150

Paul Matthews

Chief Executive

MONMOUTHSHIRE COUNTY COUNCIL
CYNGOR SIR FYNWY

THE CONSTITUTION OF THE COMMITTEE IS AS FOLLOWS:

County Councillor John Crook	Magor East with Undy;	Welsh Labour/Llafur Cymru
County Councillor Tony Easson	Dewstow;	Welsh Labour/Llafur Cymru
County Councillor Lisa Dymock	Portskewett;	Welsh Conservative Party
County Councillor Christopher Edwards	St. Kingsmark;	Welsh Conservative Party
County Councillor Simon Howarth	Llanelly Hill;	Independent Group
County Councillor Jane Lucas	Osbaston;	Welsh Conservative Party
County Councillor Alistair Neill	Gobion Fawr;	Welsh Conservative Party
County Councillor Sue Riley	Bulwark and Thornwell;	Welsh Labour/Llafur Cymru
County Councillor Dale Rooke	Chepstow Castle & Larkfield;	Welsh Labour/Llafur Cymru
County Councillor Jackie Strong	Caldicot Cross;	Welsh Labour/Llafur Cymru
County Councillor Ann Webb	St Arvans;	Welsh Conservative Party
County Councillor Armand Watts	Bulwark and Thornwell;	Welsh Labour/Llafur Cymru

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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.

Kindness: We will show kindness to all those we work with putting the importance of relationships and the connections we have with one another at the heart of all interactions.

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SUBJECT: **WILDLIFE AND COUNTRYSIDE ACT 1981 – SECTION 53 DEFINITIVE MAP MODIFICATION ORDER ROUTE, A TO G, FOOTPATHS 83 AND 84 CALDICOT – THE SEAWALL**
MEETING: **LICENSING & REGULATORY COMMITTEE - RIGHTS OF WAY PANEL**
DATE: **30th JANUARY 2023**
DIVISION/WARDS AFFECTED: CALDICOT

1. PURPOSE:

1.1 Under Section 53 of the Wildlife and Countryside Act 1981, the Authority has a duty to keep the Definitive Map and Statement under constant review. To meet this duty the Council is required to consider and determine cases with a view to making an order to change the Definitive Map and Statement (DM&S).

1.2 The purpose of the report is to consider all the historical evidence and decide whether or not to add the alleged footpaths to the DM&S for Monmouthshire. The Routes to be added in the community of Caldicot, (location plan Appendix 1) are detailed on the order map (Appendix 2).

1.3 The Authority is acting in a quasi-judicial capacity and must reach a decision based on the evidence presented (Appendix 3). We are not required to resolve conflicts in the evidence and there may well be evidence on both sides of the issue. We must weigh up the evidence using the test of the *'balance of probabilities'*, and, if on this balance, it is reasonable to conclude that the evidence shows that change should be made, we must do so. Although officers have considered the evidence, and made a recommendation based on their appraisal, members must themselves consider the evidence and reach their own conclusions. If a modification order is made anyone has a right to object. The matter would then be determined by the Planning and Environment Decisions Wales (PEDW).

2. RECOMMENDATIONS:

2.1 Members are invited to consider evidence provided (Appendix 3) and agree that rights of way that are not shown on the Definitive Map and Statement *"subsists, or is reasonably alleged to subsist",* on the crest of the seawall and that the status of the ways are footpaths.

2.2 If this is agreed, then to authorise the Head of Local Democracy and Legal Services to make a Definitive Map Modification order, under section 53(3)(c)(i) of the Wildlife and Countryside Act 1981 for the Routes, A to G, to classify them as footpaths, numbers 83 and 84 Caldicot (354), and to confirm the order if no objections are received.

3. KEY ISSUES:

3.1 The registered public footpaths formally known as 6 Caldicot and 13 Rogiet (6 Caldicot 354/6) run along the southern boundary of Severnside Rifle Range. They do not form part of the Wales Coast Path. Their alignment is in part unavailable due to historic works altering the sea defences in the area.

3.2 The public consequently have been using alternative alignments through the site. User testimony, counter information, historic documents, sentry boxes, flagstaffs, kissing gates and aerial photography all suggest the existence of an alternative path along the crest of the seawall and over the greater earth mound behind the targets.

3.3 People counter evidence shows that when the public were restricted to walking five miles from home the numbers using the path rose dramatically. This resulted in the occupier placing barriers across the alternative alignment(s) to exclude the public and advising them that they cannot use it. This action has *'brought into question'* the status of the route(s). The '*bringing into question'* of the route on the crest of the sea wall along with the public's response has required research into the Definitive Map and Statement (DM&S) coupled with an investigation into historical and modern documents to determine whether public rights do already exist through the site.

3.4 A pre-order consultation was carried out between the 6th December 2021 to the 31st January 2022 and evidence investigated.

3.5 Need, nuisance, suitability or maintenance issues of the route, are not matters which can be considered under WCA 1981 legislation. These are things which will be considered under different legislation if an order is confirmed.

4. EQUALITY AND FUTURE GENERATION EVALUATION (INCLUDES SOCIAL JUSTICE, SAFEGUARDING AND CORPORATE PARENTING)

4.1 An EQIA has been included in Appendix 4. The recommendation has positive impacts in that if a path order is confirmed it would provide links to the Wales Coast Path providing health, well-being and econmic benefits to the local communities. It would also provide for safer communities in that it would help resolve the anti-social behaviour and tresspass issues and ensure a safe route. Monitoring the impact on the Rifle Range business and the need for improved communications and maintaining co-operative working and partnerships is noted as an action.

5. OPTIONS APPRAISAL

Option	Positive	Negative	Comment
To make the order	Meets legal tests on evidence Provides links in network		Assists towards providing clarity on legal status of route, therefore providing method of dealing with enforcement of route and antisocial behaviour.

Option	Positive	Negative	Comment
Not to make the order		Could lead to a successful legal challenge resulting in Welsh Government requiring us to make an order	This would result in dead end footpaths and no resolution to the ongoing antisocial behaviour and safety issues at the Rifle Range.

6. EVALUATION CRITERIA

6.1 If a decision is made that an order should be made than the Head of Law/ Monitoring Officer will be instructed to make a Definitive Map Modification Order in accordance with the procedures contained in the Wildlife and Countryside Act 1981, Schedule 15 and in accordance with Regulations 1993 Statutory Instrument 1993 No12.

6.2 Notice of making the Order will be posted on site and published in a newspaper circulating in the locality. A period not being less than 42 days from the date of the first publication of the notice 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.

6.3 If objections are made and not withdrawn, the Order Making Authority will submit the Order for confirmation to the Planning and Environment Decisions Wales (PEDW).

6.4 Confirmation of the order would allow this Authority along with other partners to ensure the safe opening of the route along the crest of the seawall and deal with antisocial behaviour and trespass issues, by installing measures such as kissing gates and fencing. The route would be registered on the Definitive Map and Statement.

7. REASONS

7.1 The Authority is under a duty to keep the Definitive Map under review and evidence has been produced to show that a path requires adding to the Definitive Map and Statement.

8. RESOURCE IMPLICATIONS

8.1 The consideration of the Definitive Map Modification Order falls within existing budgets.

9. CONSULTEES

9.1 The public consultation was on the website and a consultation letter was sent to 63 consultees as detailed in appendix 3 chapter 5. These included Cabinet Member, Local Members, The Town Council's, statutory undertakers, user groups, landowners and occupier of Severnside Rifle Range, local residents, Legal Services, Green Infrastructure, Countryside Access, Environmental Health, Natural Resources Wales, Highways and Gwent Police.

10. BACKGROUND PAPERS:

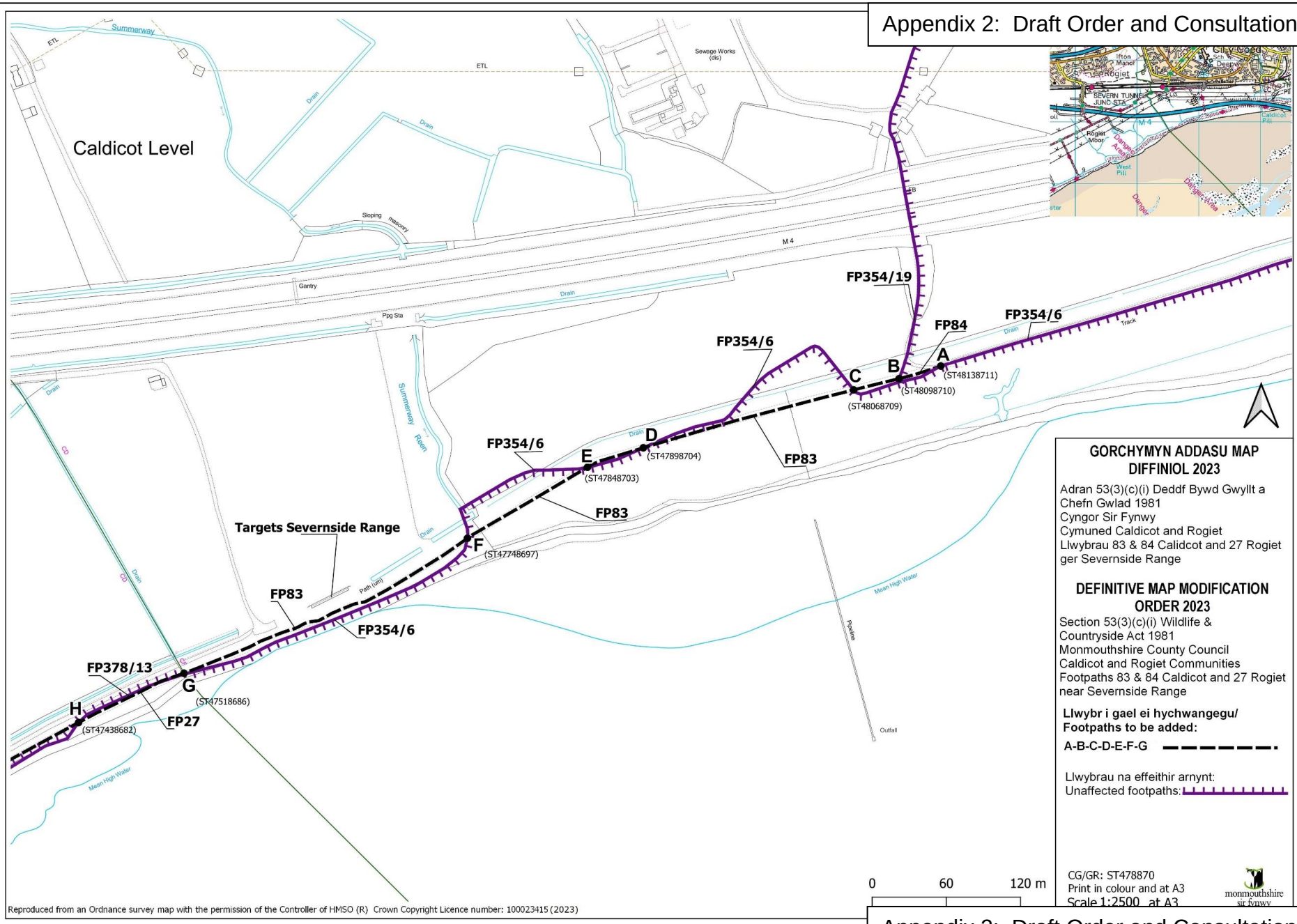
- Location map (Appendix 1)
- Draft Order and Consultation map (Appendix 2)
- Evidential Report and Appendices bundle (Appendix 3)

- Equality and Future Generations Evaluation (includes Social Justice, Safe Guarding and Corporate Parenting) (Appendix 4)

11. AUTHOR & CONTACT DETAILS:

Ruth Rourke Countryside Access Manager
E-mail: ruthrourke@monmouthshire.gov.uk | Tel: 01633 644860

Appendix 1: Location map



Appendix 2: Draft Order and Consultation map

Appendix 3

Evidential Report

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Equality and Future Generations Evaluation

Name of the Officer Ruth Rourke **Phone no: 01633 644860** **E-mail: ruthrourke@monmouthshire.gov.uk** Mandy Mussell **Phone no: 01633 644183** **E-mail: mandymussell@monmouthshire.gov.uk**	**Please give a brief description of the aims of the proposal** **WILDLIFE AND COUNTRYSIDE ACT 1981 – SECTION 53 DEFINITIVE MAP MODIFICATION ORDER ROUTE, A TO G, FOOTPATHS 83 AND 84 CALDICOT – THE SEAWALL** To determine whether or not the routes are reasonably alleged to exist as footpaths and if so to make a Definitive Map Modification Order and confirm the order if no objectons are made.
Name of Service area: MonLife	**Date 18th August 2022**

1. **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	Path would be open to all ages	None	
Disability	If the path order is confirmed there may be opportunity to improve the surface of the footpath and there will be opportunity to ensure that any furniture required meets our policy on “Least Restrictive access” to ensure the path is made as accessible as possible.	None	The Countryside Access service has a policy of improving paths to allow for greater access by all wherever possible. If an order is confirmed this will be taken into account as part of discussions and plans to open the path and to maintain it in the future.

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?
Gender reassignment	None	None	
Marriage or civil partnership	None	None	None
Pregnancy or maternity	None	None	None
Race	None	None	None
Religion or Belief	None	None	None
Sex	None	None	None
Sexual Orientation	none	None	none

2. The Socio-economic Duty and Social Justice

The Socio-economic Duty requires public bodies to **have due regard to the need to reduce inequalities of outcome which result from socio-economic disadvantage when taking key decisions This duty aligns with our commitment as an authority to Social Justice.**

	Describe any positive impacts your proposal has in respect of people suffering socio economic disadvantage	**Describe any negative impacts your proposal has in respect of people suffering socio economic disadvantage.**	**What has been/will be done to mitigate any negative impacts or better contribute to positive impacts?**
Socio-economic Duty and Social Justice	The route is important for all people, for both its recreational value and for the important part that it plays in their physical and emotional health and well-being. Paths are free for all too use regardless of their social or cultural background.	The Sevenside Rifle Range has been affected by the amount of people using the path since lockdown. It is expected that this will reduce to more normal numbers as the public are not now confined to walking a distance from their house. There have been rifle ranges along the sea wall since 1902 which have until now been successfully managed by Flagstaffs and sentries. Nevertheless the impact on the business remains a concern.	Public rights of way provide opportunities for active travel, economic and social benefits which contribute to communities. Paths such as these which are closed after a long period of use are often emotive and result in local dischord and antisocial behaviour. Providing certainty on status will help resolve such issues in the long term including putting measures in place to address issues of trespass and vandalism within the Sevenside Rifle Range.

3. Policy making and the Welsh language.

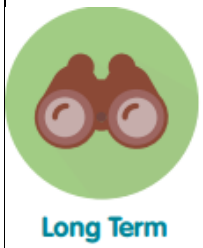
How does your proposal impact on the following aspects of the Council's Welsh Language Standards:	Describe the positive impacts of this proposal	Describe the negative impacts of this proposal	What has been/will be done to mitigate any negative impacts or better contribute to positive impacts
Policy Making Effects on the use of the Welsh language, Promoting Welsh language Treating the Welsh language no less favourably	We have given this consideration and none have been identified at this stage.	We have given this consideration and none have been identified at this stage.	If an order is made it will be translated according to policy and we will look to see if we can improve any futher aspects of the order making process.
Operational Recruitment & Training of workforce	We will continue to seek to recruit Welsh speaking staff in order to provide an effective Welsh language service.	We have given this consideration and none have been identified at this stage.	Will seek when recruiting to increase the level of Welsh speaking staff
Service delivery Use of Welsh language in service delivery Promoting use of the language	The Order will be made both in Welsh and English and will be available on our website in both languages. If an order is made comments can be made in English or Welsh. If the order goes to PEDW the Inspector will ask participants if they wish to hold an inquiry in Welsh or English.	We have given this consideration and none have been identified at this stage.	Pre- consultation has occurred on our website in both English and Welsh. We have asked consultees if they wish to have a welsh translation at the committee meeting.If an order is made it will be translated according to policy and we will look to see if we can improve any futher aspects of the order making process.

4. **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?
A prosperous Wales Efficient use of resources, skilled, educated people, generates wealth, provides jobs	Positive – The path is an important link to the Wales Coast Path. It provides opportunities for both linear and circular route. The paths provide economic opportunities and benefits in the area and across Wales.	Data shows that there was a significant rise in the numbers of people using the seawall path during covid. This had an impact on the private rifle range who feel they could not use the site whilst so many walkers were present. This resulted in them closing the route. People counters will be monitored to see if the numbers reduce back to the levels pre covid. Environmental Health have been working on ensuring the site practices are robust and safe. We will, if the order is confirmed, work closely with the occupier to ensure adequate signage and a route is available that has the least impact on his business that we are able to do, given legislative requirements that we have to work under.
A resilient Wales Maintain and enhance biodiversity and ecosystems that support resilience and can adapt to change (e.g. climate change)	Positive – If the order is made and confirmed the public are afforded views across a special landscape and the biodiversity it contains. There has been no identified impact by the historical use along the seawall on the environment. .	The Authority's Bodiversity Officer and Natural Resources Wales have been consulted and would would be involved with any plans to open up paths should the order be made and confirmed in order to enhance biodiversity and protect the sea wall. Consideration to essential measures to reduce vanadlaism and trespass will help protect the environment if the path order is made and confirmed.
A healthier Wales People's physical and mental wellbeing is maximized and health impacts are understood	Positive – Public Footpaths provide a means of free exercise which has proven benefits to public health and well being.	The current situation negatively impacts on local people and the occupier of the Sevenside Range. Clarifying status would open up avenues to seek to resolve matters on the ground and reduce this negative impact in the long term.
A Wales of cohesive communities Communities are attractive, viable, safe and well connected	Positive – If an order is confirmed it would enable a safe route to be re-opened for the public, connecting communities.	Full consideration would be given to re-opening both the definitive routes and new route when the order is confirmed, in a safe way. The Specialist Environmental Health Officer has been involved and will continue to do so with regards safety

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?
		aspects at the Rifle Range. Opportunities have and will then continue to be discussed with concerned parties regarding the best approach to protect the environment, secure private land from anti social behaviour and keep the pubic to one safe route with operation of safety in place such as red flags etc.
A globally responsible Wales Taking account of impact on global well-being when considering local social, economic and environmental wellbeing		
A Wales of vibrant culture and thriving Welsh language Culture, heritage and Welsh language are promoted and protected. People are encouraged to do sport, art and recreation	Positive – walking gives the public opportunity to experience heritage and culture.	Any signage on site will be produced in both English and Welsh. We will consider where improvements can be made to ensure the order making process considers and facilitates the use of Welsh language.
A more equal Wales People can fulfil their potential no matter what their background or circumstances		The public feel that the closure of the path by the occupier of the site was unfair. This DMMO process enables all to share their views and evidence and be involved in the process of establishing the routes status, if any.

5. 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?
 Balancing short term need with long term and planning for the future	Short term the only action that could take place is to temporarily close the existing paths in the interests of public safety. Long term these paths will need to either be re-opened or closed by formal order. Issues around the impact on the sea wall and suitable engineering solutions to re-opening the path are on-going. Consideration of what would be involved to re-open the sea wall has also occurred. Longterm, the only way to resolve the ongoing trespass and anti social issues at Sevenside is to clarify the status of the route along the sea wall. Legislation states that it is not until this has been established can any enforcement action or necessary maintenance will then occur. Once this is complete then we can work with NRW and other interested parties to put measures in place to secure the safety of the public and occupiers at the site.	We shall look at how we might improve information to the public regarding this site and how we can keep them up to date with progress as it is made. Todate we have offered the possibility of looking at a package of orders that would enable there to be one useable path to the public, that would also be acceptable to the Firing Range. But the Occupier does not want any path opened. We will keep communication channels open with the Occupier should the order be confirmed and they wish to revisit this opportunity. We shall continue to have open dialogue with the landowners, Occupier and Natural Resources Wales regarding an acceptable solution to providing a safe route for the public. It is important that long term all parties are happy with the end result or the issues that have occurred on this site will continue to occur in years ahead.
 Working together with other partners to deliver objectives	A full public consultation has been held. There has been ongoing partnership working for the past two years with different partners such as NRW and the Police. Partnership working is central to the delivery of a safe route on the ground and resolving the conflict, trespass and antisocial behaviour that has occurred.	The order making process includes a list of 63 statutory consultees who will continue to be involved at its various stages. There is also considerable reliance on partnership delivery to communicate the correct messages to the public and to help in future establish and maintain routes. Partners include Police, Town Councils, Natural Resources Wales and other partners and agencies.

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?
 Involving those with an interest and seeking their views	The Countryside Access Team have published articles in the press and on social media periodically. We have maintained closure notices and information around the issues on the Authority's website. A pre-order public consultation has been carried out as detailed in the evidential report. Statutory Consultees, including those individuals who have shown an interest, have been made aware of the final evidential report and conclusion. If an order is made it will be sent to the landowners and statutory consultees, notice will be placed on site and in a local paper and the order will be made available on our website. Legislation gives 42 days for any objections. If objections are received and not withdrawn the matter then goes to the Planning Environment Department Wales who will decide whether or not to confirm the order by way of written representations, Public Inquiry or Hearing.	
 Putting resources into preventing problems occurring or getting worse	We will maintain temporary traffic regulation orders keeping the site closed , the interest of public safety until the status can be resolved. Resolving the status is the only way in wich we are able to progress with any further actions.	

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?
 Considering impact on all wellbeing goals together and on other bodies	Securing safe and available access to the countryside is important to the economic health and well being of the local communities involved. The current position is draining resources of several organisations and is not sustainable. Working in partnership and following the legislation will enable all to move forward in a proactive maner.	Ensure communication is on-going between parties and there are regular updates and communication strategy is in place.

Council has agreed the need to consider the impact its decisions has on the following important responsibilities: 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?**
Safeguarding	N/A	N/A	N/A
Corporate Parenting	N/A	N/A	

6. What evidence and data has informed the development of your proposal?

- Consultations with landowner and Occupier of Sevenside Range
- Pre Order public consultation
- Historical Records including Ordnance Survey Maps, Finance Map and Definitive Maps (as detailed in evidential report)
- Aerial Photographs 1947 to 2020
- People Counter and Strava data
- Wildlife and Countryside Act 1981 and other relevant Acts.

7. 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 positive impact that securing safe access can have on local communities and any opportunities to perhaps improve the route for all. The positive impact in working in partnership to improve communication and work towards reducing antisocial behaviour. The challenges of better understanding future demand for the path and its impact on the Rifle Range business. Developing improved on-going communications with public and engaging occupier so as to end up with safe available route that works in everyones interests and is properly recorded.

8. 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
Put the evidence to Licensing and Regulatory Rights of Way Committee	L&R 30th January 2023	**R. Rourke**
Make Order (depending on result of above) and consider objections to it if any are made.	March 2022	Legal Services

9. 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.

Version No.	Decision making stage	Date considered	Brief description of any amendments made following consideration
1	Licensing and Regulatory Rights of Way Report		
2			

monmouthshire sir fynwy

Monmouthshire County Council

MonLife

Countryside Access

Evidential Report Edition 3:

Definitive Map Modification Order

TO ADD ROUTE, A TO G, FOOTPATHS 83 AND 84 CALDICOT TO THE DEFINITIVE MAP AND STATEMENT

Related to registered Footpaths 6 Caldicot (354) and 13 Rogiet (378)

The Seawall

File Ref: 01_'20Mod - Seawall Caldicot Rogiet

2023

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Appendices — Appendix number

Glossary

AWCP ..... All-Wales Coast Path
CAMS ..... Countryside Access Management System
DMMO ..... Definitive Map Modification Order
DM&S ..... Definitive Map and Statement
HA 1980 ..... Highways Act 1980
FP ..... Footpath
GRO ..... Gwent Record Office
MCC ..... Monmouthshire County Council
NLW-online ..... National Library Wales
NLS-online ..... National Library Scotland
NRW ..... Natural Resources Wales
PROW ..... Public Rights of Way
WCA 1981 ..... Wildlife and Countryside Act 1981
WG ..... Welsh Government

1. INTRODUCTION

1.1. The registered public footpaths formally known as 6 Caldicot and 13 Rogiet (6 Caldicot 354/6) run along the southern boundary of Severnside Rifle Range. They do not form part of the All-Wales Coast Path. Their alignment is in part unavailable due to historic works altering the sea defences in the area (location map Appendix 1.1).

1.2. The public consequently have been using alternative alignments through the site. There is much evidence to support this. Some suggesting that the public have been walking along the seawall and over the greater earth mound behind the targets, also referred to as the Severnside Range *"butts"* or *"bullet catcher".* User testimony, counter information, historic documents, and aerial photography all suggest the existence of an alternative path through the site.

1.3. Counter evidence shows that when the public were restricted to walking five miles from home the numbers using the path rose dramatically. This resulted in the occupier placing barriers across the alternative alignment(s) to exclude the public and is telling them that they cannot use it. This action has '*brought into question'* the status of the route(s). This means it has become necessary to write an evidential report to resolve this dispute.

1.4. Under Section 53 of the Wildlife and Countryside Act 1981, the Authority has a duty to keep the Definitive Map and Statement under constant review. The *'bringing into question'* of the Route on the crest of the sea wall along with the public's response has required research into the Definitive Map and Statement (DM&S) coupled with an investigation into historical and modern documents to determine whether, on balance, public rights do already exist through the site.

1.5. To be able to study the detail within the enlarged sections of the historical maps the Report has been split in two. This Report deals with the Route between points, A to G (Fig. 1.1 and at Appendix 1.2). The second report will address the alignments between points, G to N (Appendix 1.3)

1.6. The alignment of FPs 6 Caldicot and 13 Rogiet (6 Caldicot 354/6) between points A to G is examined (Fig. 1.1).

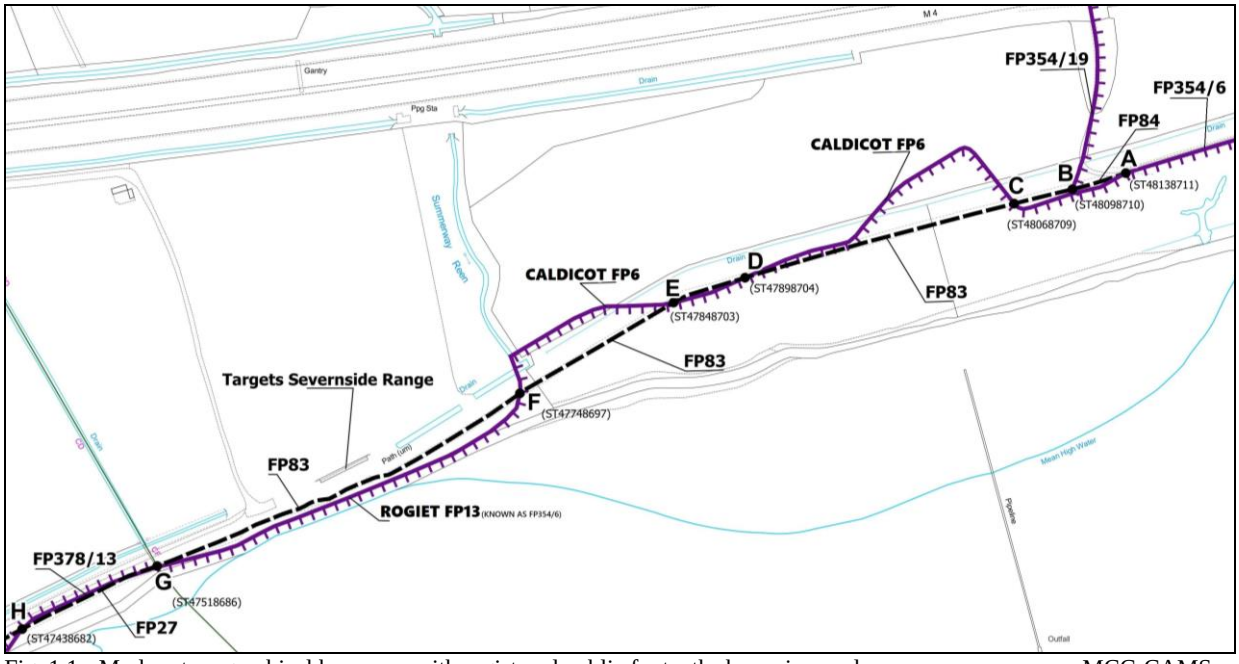


Fig. 1.1: Modern topographical base map with registered public footpath shown in purple. MCC-CAMS
The bold black broken line, A to G, indicates the alignment of the used route along the top of the seawall.

1.7. The investigation shows that there are now two route alignments (Fig.1.1). The bold purple line with short bars at intervals, indicates the legal registered Definitive alignment of FPs 6 Caldicot and 13 Rogiet (6 Caldicot 354/6), and the bold black broken line, illustrates the crest of the seawall that represents the main route used by walkers.

1.8. Although, the aerial photographs (chapter 9) demonstrate that there are a few routes behind the target of Severnside Rifle Range the alignment marked by the bold black broken line is the main one used by the public along the crest of the seawall.

1.9. Research into the historical mapping and documents has clarified that the seawall was realigned and that the public have continued to use the crest of the seawall. The provision of sentry boxes and footpath furniture installed on the new alignment has informed and invited the public, when safe, to the use and enjoyment of the Route, A to G, on the crest of the seawall.

2. LEGAL TESTS

2.1. The Definitive Map and Statement (DM&S) is conclusive evidence to the existence of registered public rights of way.

2.2. Under section 53 of the Wildlife & Countryside Act 1981 (WCA 1981) the duty of the Authority is to make Definitive Map Modification Orders (DMMOs) to modify the DM&S as soon as reasonably practicable on the occurrence of certain specified events under section 53(3).

2.3. Monmouthshire County Council are responsible for the preparation and the continuous review of the DM&S under section 53(2) of the WCA1981.

Wildlife and Countryside Act 1981 section 53(2)

(2) as regards every definitive map and statement, the surveying authority shall:

a) as soon as reasonably practicable after the commencement date, by order make such modifications to the map and statement as appear to them to be requisite in consequence of the occurrence, before that date, of any of the events specified in subsection (3); and

b) as from that date, keep the map and statement under continuous review and as soon as reasonably practicable after the occurrence on or after that date, of any of those events, by order make such modification to the map and statement as appear to them to be requisite in consequence of the occurrence of that event.

2.4. The Wildlife and Countryside Act (WCA) 1981 is the legislation used to make any changes to the Definitive Map and Statement. Section 53(3)(c)(i) of the WCA 1981 provides the legal tests that allow for a route that *'subsists or is reasonably alleged to subsist'* which has not been recorded and ought to be registered on the Definitive Map and Statement (DM&S).

Wildlife and Countryside Act 1981 section 53(3)

(3) The event referred to in subsection (2) is as follows –

(c) the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows –

(i) that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path, a restricted byway or, subject to section 54A, a byway open to all traffic;

Highways Act 1980 section 31

2.5. The Highways Act 1980 (HA 1980) section 31(1) provides the statutory foundation for a presumption of the dedication of a public footpath following 20 years user. It is therefore necessary to consider the HA 1980 in assessing the tests.

S. 31(1) Where a way over any land, other than a way of such a character that use of it by the public could not give rise at Common Law to any presumption of dedication, has been actually enjoyed by the public as of right and without interruption for a full period of 20 years, the way is to be deemed to have been dedicated as a Highway unless there is sufficient evidence that there was no intention during that period to dedicate it.

2.6. Under the Highways Act 1980 there will be a presumption of dedication if

a) It has been used by the public *"as of right"*, *"without interruption or a full period of 20 years"* (calculated retrospectively from the date when the public right was brought into question)

b) The use is not such that it could not give rise to a presumption of dedication under common law

2.7. This presumption applies **unless** there is sufficient evidence to the contrary. Case law around S53 of the WCA 1981 has held that at this stage the threshold need only be to reasonably allege that a way subsists.

Common Law

2.8. The HA 1980 section 31(1) has also, to a certain extent, codified common law by setting out the circumstances whereby a presumption of dedication arises. For there to be a presumption of dedication at common law use must be *"as of right"* and *"without interruption".* Case Law[1] interprets *"as of right"* to mean *"without force", "without secrecy"* or *"without permission".*

2.9. Principles of common law accept local custom as being capable of giving rise to a valid legally enforceable right, provided that the custom is ancient in origin, has been exercised continuously, is certain, and is reasonable. However, long usage cannot, if the usage is criminal, give rise to the acquisition of rights. In other words, if the usage is enabled by causing criminal damage this is deemed illegal and does not result in acquiring the rights.

2.10. Ways cannot be claimed where use has been criminal or where access barred by any statutory provision.

i) Examination of all the historical evidence, within this Report, suggests that there is no statutory provision preventing the use of the Route on the crest of the seawall.

2.11. In this case, the historical evidence shows that a route has been available along the crest of the seawall for a long time, with provision of flag staffs, sentry boxes and kissing gates demonstrating that the landowners have acknowledged that a public right exists. This footpath furniture further demonstrates that usage has occurred continuously, is certain, and is reasonable.

2.12. Furthermore, common law is not bound by the *"20-year rule"*. In some cases, and because of certain criteria, rather low periods were accepted as sufficient; for example, in R v Petrie (1985) eight years, in Rugby Charity Trustees v Merryweather (1790) six and in Rowley v Tottenham Urban District Council (1914), three.

2.13. Halsbury states[2]:

i) *"Both dedication by the owner and user by the public must occur to create a highway otherwise than by statute. User by the public is a sufficient acceptance. And – an intention to dedicate land as a highway may only be inferred against a person who was at the material time in a position to make an effective dedication, that is, as a rule, a*

[1] R v Oxfordshire County Council and others, ex parte Sunningwell Parish Council (House of Lords, 1999) introduced the meaning of "as of right" and introduced the tripartite test (nec vi, nec clam, nec precario).
[2] Halsbury's Laws of England (Volume 55 'Highways')

person who is absolute owner in fee simple; and at common law, the question of dedication is one of fact to be determined from the evidence. User by the public is no more than evidence and is not conclusive evidence… any presumption raised by that user may be rebutted. Where there is satisfactory evidence of user by the public, dedication may be inferred even though there is no evidence to show who was the owner at the time or that he had the capacity to dedicate. The onus of proving that there was no one who could have dedicated the way lies on the person who denies the alleged dedication".

2.14. It is understood that the inference of dedication may arise in three ways:

i) First, the inference may arise from the fact that the owner has done exactly what one would expect from any owner who intended to dedicate a new highway. For example, to express dedication allowing the public free use as demonstrated by the provision of sentry boxes on top of the seawall installed for public safety.

ii) Second, the inference has been drawn mainly from evidence that the way was already recognized as being a highway by the start of the period covered by living memory, coupled with the absence of anything to show that the public recognition was misplaced. In this type of case the **common law** approach simply distinguishes that the facts all conclude the same thing, and that it is immaterial that the claimant cannot identify the early owners or show the actual date when dedication was likely to have occurred[3].

iii) Third, a dedication may be inferred from use and enjoyment by the public as of right, known by the owner and conceded by him. The owner's recognition of the fact that the public is using the way as a highway may itself be a matter for inference, rather than clearly proven fact[4].

2.15. The first and third options apply to the Route, A to G, which utilizes the crest of the seawall.

2.16. For there to be a presumption of dedication at common law use must be *"as of right"* and *"without interruption".* Case Law interprets *"as of right"* to mean *"without force", "without secrecy"* or *"without permission".*

2.17. In this case *"as of right"* is met because users have walked the crest of the seawall. The location of the kissing gates, sentry boxes, flag staffs and signs have located the alignment of the Route on the crest of the seawall. The implications of *"without force", "without secrecy" and "without permission"* are demonstrated in this case by walkers using the footpath furniture provided that is along the crest of the seawall. The provision of the kissing gates, sentry boxes, flag staffs and signs for walkers all come together to indicate that the Route has been used *"without secrecy".* The provision of a sign stating, *"When red flags are flying live firing in progress. Wait for clearance from sentry before crossing.",* gives no indication of the Route being permissive.

2.18. In this case *"without interruption"* is met because the crest of the seawall has been used by walkers for longer than *"50 years"* without any trouble. The manager of Severnside Rifle Range also states that he has *"no issue with walkers".*

[3] See e.g., Williams Ellis v Cobb [1935] 1 KB310 (CA)
[4] See e.g., Parker J in Webb v Baldwin and others (1911) 75 JP 564 at p565

3. LAND REGISTRY

Landownership

3.1. The ownership of land does not prevent the registration of a public right of way on to the Definitive Map and Statement (DM&S)

Freehold Title

3.2. Title number CYM70715 (Appendices 3.1.1 to 3.1.2) shows the Freehold which is owned by Sophie Rebecca Park, Alicia Diane Sarah Park, Adam Brandon Turner Park and Verity Lydia Park.

3.3. The land is owned by Ms S.R. Park, Ms A.D.S. Park, Mr A.B.T. Park and Ms V.L. Park. The land, edged blue, is recorded as having been leased for 10 years from 27 November 2003 to Severn Tunnel Rifle Range Caldicot.

3.4. After contacting the landowners, a Mr N. Park, replied on the 15th September 2021, stating (Appendices 3.2.1 to 3.2.2):

i) "I can see how the erosion of the original footpath has caused this problem and it is obviously fortunate that there is a good alternative route along the Wales Coastal Path. From my limited experience of footpaths, I can imagine how difficult it is for you to sort this out. I am concerned about the safety of people being made to walk over the butts both because they are an unstable, soft sand structure for capturing stray bullets and because they are on an extant firing range. From our perspective as landowners this is clearly not an attractive place for a footpath. I understand that you are talking to HSE and other parties about this. Please inform me about the outcome. I am obviously keen to work with MCC to find a sensible solution to this issue."

Leasehold Title

3.5. CYM440764 is the Leasehold title of Severnside Rifle Range that on the 24th March 2009 lists the proprietor as Mr R Williams (Appendices 3.3.1 to 3.3.2). The lease was for 10 years from 2003 and the Rifle Range are still in operation on this lease.

3.6. The Freehold Title CYM543522 (Appendices 3.4.1 to 3.4.3) and landowner for the land crossed by the Route, section A to F, is listed as Mrs W.S.J. Pugh. Mrs Pugh's letter, received by MCC on the 7th October 2021 (Appendix 3.5.1), states that she is *"agreeable to the footpath"*. Mrs Pugh informs us of how to contact her daughter who is believed to have details of a person who rents the land. Mrs Jane Pugh-Lokier has contacted the Authority and has made no objection, but instead has expressed an interest in her family being informed at each stage of the order making process.

4. OJBECTIONS

4.1. Mr Richard Williams, the leasehold proprietor of Severnside Rifle Range, Caldicot, sent an objection letter to MCC's enforcement officer on the 14th June 2021, that states:

i) "With reference to your letter of 4 June 2021 referring to the path on the Seawall at the Firing Range, it was made clear to us by Rebecca Loder of N.R.W. that the Seawall serves as a Coastal Sea Defence only and not a footpath and any person using it will cause erosion due to footfall.

ii) Also regarding the Rifle Butts I must stress the danger they face if walking over it as it is designed as a bullet catcher not a footpath and due to the steep falls on both sides could cause serious injury if they fell or it could collapse under them. It is because of this when you appeared on the Seawall during my meeting with N.R.W. I instructed you and your Colleague to get off. You said that you were putting up new signs and you wanted to put up another sign on the other side, so I gave you permission to use the Range to gain access and not over the Butts for your own safety.

iii) When you mention the obstruction along the Seawall due to public response, Firstly the public should not be using this route as it is not and never was a footpath, and the footpath in the river has a temporary closure on it because it is hazardous.

iv) Secondly, we put it there as a matter of public safety to prevent people from walking over our Butts because of the danger involved. We are currently in discussion with N.R.W. regarding this barricade and not yourselves as it was never a footpath.

v) We as responsible people are doing all we can to protect the public but now we feel that you as Rights of Way Officer must do more as we have done all we can regarding public safety.

vi) This is why we wish to note that we are not taking responsibility for any injury or loss to person or persons crossing this area, but the onus is on yourselves to prevent further access and danger to the public."

4.2. Lisa Dymock the MonLife Cabinet Member had a site visit with two site managers of Severnside Rifle Range in September 2021. At this meeting it was clear that the managers would consider working with Monmouthshire County Council and look at possible alternatives that were both good for the public and the firing range but that also met with the tests required under public path order making laws. Conversations regarding this are on-going but cannot be considered within this report as its purpose is just to consider whether public highway rights already exist. The Wildlife and Countryside Act 1981 (WCA) does not take into account need, nuisance and/or security.

5. PRE-ORDER CONSULTATION

5.1. The pre-order consultation was arranged for the week commencing Monday 6th December 2021 with the period ending on the 31st January 2022.

5.2. After which the pre-order consultation report was amended to include any relevant evidence regarding whether a public right exists. The observed need, nuisance, or security of the alignment of the Route utilising the crest of the seawall is not assessed under the Wildlife and Countryside Act 1981.

5.3. As objections to the consultation have been received the Report will be taken to committee to decide whether a right of way is *"reasonably alleged to subsist"* and if so an order should be made.

Pre-Order Consultation results - 2021			
1	Lisa Dymock	Cabinet Member	Multi agency meeting 1st November 2021 - No comments
2	Ian Saunders	Chief Operating Officer MonLife	Multi agency meeting 1st November 2021 - No comments
3	Matthew Lewis	Environment & Culture Manager MonLife	No comments - File location for coastal path aerial photographs
4	Ruth Rourke	Countryside Access Manager	Continuous input
5	Kate Stinchcombe	Senior Biodiversity & Ecology Officer	No comments
6	Denzil Turbervill	Legal Services	No comments from a legal perspective.
7	Shaun Pritchard	Enforcement Officer	Continuous input
8	Kristian. J. Williams	Specialist Environmental Health Officer	No comments regarding route registration. Draws attention to the laws surrounding Health & Safety at work.
9	Ms P Cottnam	NRW Regional Coastal Access Officer	No Objection
10	Mr D. Davies	MP Monmouth	No reply
11	Ms Jessica Morden	MP	No reply
12	Councillor Evans	Caldicot (West End)	No reply
13	Councillor Guppy	Rogiet	No reply
14	Councillor Eason	Caldicot	No reply
15	Ms Sarah King	Clerk, Caldicot Town Council	No reply
16	Ms Catherine Baker	Clerk, Rogiet Community Council	No comments: Continuous input regarding temporary closure notices
17	Christine Hunter	Open Spaces Services	No reply
18	Sir/Madam	The Byways & bridleway Trust	No reply
19	Mr S. Wheeler	National Resources Wales (NRW)	I have nothing to add from the perspective of my role in NRW, but I have forwarded the proposal to colleagues who I believe may be interested to see it.
20	Mr J Askew	Tread Lightly Area Ambassador	No reply
21	Mr D Wyatt	GLASS	No reply
22	Sir/Madam	CTC national Cycle Charity	No reply
23	Sir/Madam	LARA	No reply
24	Sir/Madam	ACU Auto-Cycle Union Ltd	No reply
25	British Telecom	Openreach, Network Alterations	No Objection
26	National Grid Plan location enquiries	National Grid Plan Protection	No Objection
27	Sir/Madam	Welsh Water	No Objection: Legal and Developer Services Department state that if the applicant needs access to our apparatus will they remain unfettered and if they are doing any excavation works close to our apparatus, please be aware of their location.
28	Bradley Griffiths	Western Power	No objection from WPD
29	Ms A Underwood	The British Horse Society	No objection

Pre-Order Consultation results - 2021			
30	Mr A Thomas	Lower Wye Valley Ramblers Association	No objection
31	Mr R. Williams	Occupier: Severnside Range, Rogiet	Multi agency meeting 1st November 2021 Objection – reply 26th January 2022
32	Mr C. Carter	Occupier: Severnside Range, Rogiet	Objection – Multi agency meeting 1st November 2021
33	Mr N. Park	Landowner	Objection – Multi agency meeting 1st November 2021
34	Mr A. J. Morgan	Occupier: Cardiff Small Arms Club	Objection
35	Mrs J. Pugh-Lokier	Landowner	No Objection
36	Mr G. Purnell	NRW Senior Advisor (Development & Flood Risk)	No Objection: Whilst we have no objections to the proposed route, it is essential that measures can be put in place to prevent the ongoing issues of trespass and vandalism within the Severnside Rifle Range site…
37	Ms C. Morgan	NRW	No reply
38	Ms R. Loder	NRW	No reply
39	Philip Poole	NRW	No Objection: From a maintenance perspective we have no significant concerns with this…
40	Mark Scaife	NRW	No reply
41	Darren Brown	NRW	No reply
42	Rachel Thomas	NRW	No reply
43	Mrs Hilary Baynton	Public	No Objection: …always walked the seawall
44	Mr T. Shute	Public	No Objection: The obvious course of action is to reinstate the footpath.
45	Mr A. Robertson	Public: Cardiff Marriot Hotel, Head Chef	No reply
46	Mr S. Mayo	Public	No Objection: …now and always been a footpath
47	Ms J. Watkins	Community Cllr for Caldicot Castle	No reply
48	Mr R.C. Morgan	Public	No Objection: telephone reply 7th December 2020
49	Mr Mike Smith	Public	No Objection: Local people would expect and have always believed the Route of the footpath is along the seawall.
50	Mr P. Hickman	Public	No reply
51	Sir/Madam	Rambler's Association Path watch	No reply
52	Ms L. Dale	Public	No reply
53	Mr D. Morgan	Long Distance Walkers Association Chair ldwa.org.uk	No Objection: I agree that the line of the path on the ground is now reflected in your document.
54	Mr P. Williams	Public	No Objection
55	Mr A. Wheeler	Public	No Objection
56	Mr G. Monkley	Public	No Objection
57	Mr D. Humble	South Gwent Ramblers	No Objection
58	Mr S. Matthews	Senior Coastal Operations Officer	No Objection…requires access to coastal locations for Search and Rescue operations.
59	Mr D. Tewdrig-Jones	Public	No Objection: …This historic right of way may have been varied over the years as sea defences were upgraded but as a general route, I believe it would have been used for many hundreds of years.
60	Mr M. Kimberley	Public	No reply
61	Ms N. Hughes	Gwent Police	No reply
62	Mr D. A. J. Smerald	Member of Severnside Range	Objection: Blatant disregard from the public who simply do not see the red flags, hear the gunfire, or read any of the signage posted.
63	Mr E. Stevens	Public	No Objection: …this footpath has always been an important one to me…
64	Mr J. Purnell	Public	No Objection:

Land manager reply

5.4. The reply to the pre-order consultation from Mr R. Williams the manager of Severnside Rifle Range, dated 26th January 2022, (Appendices 5.1 to 5.28), makes reference to matters mainly surrounding, security, nuisance and need, which are principles that do not have any influence regarding whether the public right of way *"subsists"* or is *"reasonably alleged to subsist"*.

5.5. Remarks Mr Williams: Severnside Rifle Range: Letter dated 26th January 2022.

i) Re: your pre-order consultation evidential report of which we find parts to be incorrect and misleading.

ii) Page 1 1.2 - The earth mound behind the targets is our butts, which is designed to stop bullets and is maintained at an angle of 34 degrees, and up to the time when the Ministry of Defence (M.O.D) stopped using it in the early 90's had wooden fences across the top for various safety reasons as shown in photographs (Appendix 5.6).

5.6. Officer Comment:

i) None of the historical aerial photographs show wooden fences to cross the Route between points F and G. The 1971 aerial photograph does not show the sentry boxes at points F and G. All the aerial photographs dated 1984 to 2020 (chapter 9) show the sentry boxes at points F and G. Furthermore, if wooden fences were across the Route at the location shown on the 1990 photographs would the sentry boxes and kissing gates have been required? Moreover, if wooden fences were across the section of the Route, F to G, then there would be evidence of numerous complaints made to the Authority in the 1990s initiating a Definitive Map Modification Order.

5.7. Remarks Mr Williams:

i) As to your counter evidence, we understand that the counter was situated near the M.O.D Range which is approximately 1 mile west of our Range and therefore does not lend evidence of usage on ours.

ii) Appendix 5.7 is a "Photo of the Military Range to the west side of Severnside Range Access by supplied photos (Appendices 5.8 and 5.9) demonstrates that the walkers are using the Military Range not Severnside Range. The linetop counter MM04 is on the Military range, so pages 49 -11.5 and 11.6 are factually incorrect (It is the Military Range not Severnside Range)"

5.8. Officer Comment:

i) The counter does show the use in the area for both rifle ranges regardless of the distance from the Severnside Range. This is demonstrated by the Strava Heat maps (Fig.11.8 & 11.9). Therefore, the combination of both the counter and the Strava data show continuous and regular use of the crest of the seawall.

ii) The photographic evidence of additional routes (Appendices 5.8 and 5.9) is not a valid reason to refute the existence of the Route, A to G. Instead, it further demonstrates that walkers, having been prevented from walking along the Route at points F and G, have had to find an immediate alternative or turn back. The Strava Heat maps (Fig.11.8 & 11.9) show, with red lines, alternative routes made. However, these other routes have not been obstructed and brought into question and are therefore not the subject of this report.

5.9. Remarks Mr Williams:

i) Page 1 1.3 - The barriers referred to were installed because our gates were cut up by vandals and on several occasions had cattle come through and if not stopped could gain access to the motor way and/or train lines which could result in a serious accident.

5.10. Officer Comment:

i) The installation of the barriers has obstructed the alleged public right of way that uses the crest of the seawall bring the Route into question. The vandalization of *"our gates"* suggest that vehicular users were attempting to gain access to the site via larger field gates and not the kissing gates. The evidence of tyre marks on the photographs Appendix 5.12 shows vehicular use. It is unknown if vehicular use is by members of the various clubs or by the vandals. However, your report of vandals cutting up *"your gates"* does greatly imply vehicular use. Additionally, there is no reporting of the kissing gates being cut up or removed which is more evidence that walkers have not caused the type of damage described.

5.11. Remarks Mr Williams:

i) Page 4 2.8 - There has been much criminal activity along this section of the sea wall, being gates constantly destroyed, fly tipping, arson, theft, and damage to our signs, target frames destroyed, scramble bikes on our target area, locks on our units being glued, flag poles stolen on 2 occasions, and constant drug use. We have Police reference and crime numbers to support this. (Appendix 5.10 and 5.11)

5.12. Officer Comment:

i) The tests under the Wildlife and Countryside Act 1981 do not take into account the need, nuisance and/or security regarding whether a public right already exists. That is the nuisance and/or any related security needs associated with criminal activity such as gates being destroyed, fly tipping, arson, theft, damage to signs and target frames, to list a few.

ii) The report here of *"scrambler bikes"* is interesting as this type of use in the area along with any possible associated criminal behaviour confirms that there are probably no higher public rights such as cyclist or motor vehicular users. The pre-consultation report has already ruled out higher rights (such as a bridleway or restricted byway – for cyclists; or a byway open to all traffic – for motor vehicular users) and is assessing the Route to have public footpath rights.

5.13. Remarks Mr Williams:

i) Page 4 2.12 - The Sentry boxes were erected by the M.O.D when the sea defence wall was raised and the main reason is to watch for shipping into our danger area.

5.14. Officer Comment:

i) It is noted that sentry boxes are situated at the east and west boundaries of both Rifle Ranges. In connection with this section of the Route, A to G, the sentry boxes for Severnside Rifle Range have lookouts both directed seawards and overlooking the alignment of the Route that is along the crest of the sea wall. (Fig. 5.1). Furthermore, the sign directed to the walking public is on the wall of the sentry box that is facing any on-coming walkers beyond a kissing gate. Alternatively, the sign is not on the wall that is facing out to sea (Fig. 5.1: Photograph A).

Photo A: Sentry box: Point F: 2008

Photo B: Sentry box: Point F: 5th March 2008: Ref.C01_0323

Photo C: Sentry box: Point G: 5th March 2008 Ref.C01_0323

Fig. 5.1: MCC Office Files

5.15. Remarks Mr Williams:

i) Page 29 8.1 - The target butts which I presume you call the crest of the sea wall, was never cut above seawall height, and the sea wall was only cut once a year and we're told this was done to inspect the sea wall when needed.

5.16. Officer Comment:

i) The Field Officers and Wardens report that, for a period from pre-2007 to 2012, they carried out regular cutting back of surface vegetation along *"the top of the seawall where people walked"*. The proactive biannual cutting of the surface, *"where people walked",* ceased when the promoted Wales Coast Path was opened in about May 2012.

ii) The Field Warden is aware that NRW also *"cut the top of the seawall once a year".* This is confirmed by Mr P. Poole from Natural Resources Wales, Integrated

Engineering, who reports that they deliver an annual maintenance program along the seawall.

5.17. Remarks Mr Williams:

i) Why does the report want to place a footpath over our butts when Mr Blomley [sic] now retired as Footpath Enforcement Officer, and his colleague Mr S. Pritchard put a notice on this route in 2020 because of the dangers faced because of the steep sides on this route, and both agreed for this route to be closed permanently.

ii) They both commented that they could not understand why anyone would want to walk in front of 2 live firing ranges, at a meeting held on Wednesday 29th July 2020 at 11.00 on site.

5.18. Officer Comment:

i) The report is not placing a new path over the butts. The obstructions installed across the alleged Route, at points F and G, has brought it into question instigating the Definitive Map Modification Order to register a route that already exists. The 2020 notices posted on site were temporary closure notices due to the barriers having been placed on the east and west boundaries of Severnside Rifle Range. There has never been any intention to close the public footpath permanently.

ii) The context of the comment, "*they could not understand why anyone would want to walk in front of 2 live firing ranges",* should not be misunderstood. That is, people would not want to or should not desire to proceed past a warden and a red flag when they can hear gun shots. The purpose of the flagpoles alongside the sentry boxes with notices facing the on-coming public stating, *"WHEN RED FLAGS ARE FLYING LIVE FIRING IN PROGRESS WAIT FOR CLEARANCE FROM SENTRY BEFORE CROSSING",* is all there to instruct the public, telling them they may proceed along the Route when it is safe to do so and not when live firing is in progress (Fig. 5.2).

Fig. 5.2: Site photograph: Point F: 24th April 2008 MCC

5.19. Remarks Mr Williams:

i) I have been using this Range for nearly 50 years and have never had any issue with walkers, but I must raise the question, why do you want to modify the definitive map when an alternative route is already in place and being used?

ii) Appendix 5.12 a "photo of coastal foot path to the north-east side of Severnside Range which demonstrates is well used by walkers and no evidence of walkers turning to the west to cross Severnside Range."

5.20. Officer Comment:

i) It is very interesting to note that you report that having used the range for nearly 50 years state that you, *"have never had any issue with walkers".*

ii) The Definitive Map Modification Order seeks to formalise the alignment of the public footpath path along the crest of the sea wall as historical evidence demonstrates that this is the Route used by walkers. The flagpoles, sentry boxes with windows directed along the crest of the seawall, the signage stating what the public should do if a red flag is flying and the kissing gates all show that it is *"reasonable to allege that a public footpath subsists".*

iii) Although not readily seen in this photograph (Appendix 5.12), there is evidence of walkers turning west. The difference of heavy and lighter use is demonstrated in the Strava Heat map where the white/yellow colour denotes greater use, and the orange/yellow colour denotes less (Fig.11.8). The All-Wales Coast Path (AWCP) is a promoted route resulting in it being frequently used thereby needing to be maintained regularly which has caused it to be even more heavily used.

5.21. Remarks Mr Williams:

i) Also enclosed is a signed petition objecting to these proposals. (Appendices 5.17 to 5.28)

5.22. Officer Comment:

i) The petition is not an insignificant collection of signatures. However, it is irrelevant in this instance. The reason for this is that the "*need*" (that is anyone's "need" either the club members or the public) is not evidence and does not demonstrate whether a public right may or may not *"subsist"* or is *"reasonably alleged to subsist".* Furthermore, the reason that there is already *"an alternative route"* is again not a reason to assert that the alleged Route is no longer needed.

5.23. A letter from Mr Peter G. Payne, submitted as evidence by Mr Williams of Severnside Range, dated the 26th January 2022 (Appendix 5.15), states.

i) "I was brought up until my late teens at Rogiet and then moved to Caldicot. I played down the moor's on the foreshore, we know that there was a military shooting range on the foreshore at Caldicot, when the red flags were fly or when we could here firing we would keep well away. I was never aware of a footpath through it."

5.24. Officer Comment:

i) Although Mr Payne reports that he was unaware of a footpath through the Rifle Range, he did play in the area, and he did recall the red flags. The red flags are a provision made by the Rifle Range operators to warn people that firing was happening and Mr Payne obeyed the warning instructions and stayed away.

5.25. A letter from Mr L Kealaher dated 18th January 2022, submitted as evidence by Mr Williams of Severnside Range (Appendix 5.16), states.

i) "Whilst walking my dog last year near Oak's Bridge, Caldicot on the coastal footpath I was approached by a male who introduced his self as Shaun Pritchard, Public Rights of Way Enforcement Officer. He asked if I was going to walk across the seawall throughout Severnside Range I said that I did not think I was allowed as it was private ground and a shooting range.

ii) He proceeded to tell me that he was going to make it a footpath and he encouraged me to write to his office stating that I used it regularly and the more people that wrote in he would make sure that the path is forced through even though it is private ground. This I declined to do. I feel I need to bring this man's actions to someone's attention."

5.26. Officer Comment

i) There are some points in this letter that do not ring true in connection with what the Enforcement Officer is reported to have said. The Enforcement Officer was in the area and saw a walker and stuck up a conversation regarding the temporary footpath closure. This gentleman has chosen to misinterpret the explanations made.

ii) The path will not be forced through. The legislation allows for evidence to support whether public rights of way are shown to have *"reasonably alleged to subsist".* The evidence investigated and collated in this report such as historical mapping, aerial photographs, site photographs and user evidence shows that a public right of way already exists along the crest of the seawall.

iii) There are many public rights of way that cross private ground. Private ground does not prevent the registration of a public right of way. Even Mr Williams of Severnside Rifle Range reports that he has *"never had any issues with walkers".*

iv) A Definitive Map Modification Order has been instigated by the installation of barriers across the alleged public right of way on the crest of the seawall. The DMMO process is complex and has many stages of consultation prior to the confirmation of the order if made. The Enforcement Officer was only trying to explain the process to Mr Kealaher and if interested he was welcome to write in.

v) In respect of the tests specified under the Wildlife and Countryside Act 1981 for a Definitive Map Modification Order (DMMO), the landowner of Severnside Rifle Range has no evidence supporting the objection to the recording of the footpath along the crest of the seawall.

Club member reply

5.27. An email dated 7th December 2021, from Mr D.A.J. Smerald, a member of the Severnside Rifle Range, states.

i) "I'm a member of the Severnside Range and wanted to add my two cents to the proposal. Being a member of said for the past six years I have seen a blatant disregard from the public regarding the range. They simply do not see the red flags, hear the gunfire or read any of the signage posted.

ii) On many occasions we have had to quickly make safe (unload the firearms) and stop firing as people will walk over the berm for their own amusement. Cyclists have opened and come through the gates and cycled past the firing lines before. I myself have been on sentry duty and had to warn members of the public that the range is live and it would be incredibly dangerous for them to walk over the berm on many occasions.

iii) The public simply do not understand the laws and the signage in place that is there for their own protection. The proposed route should be further away from the back of the berm in my opinion. Better yet the council would construct a higher berm to add protection for the public foot path. The range itself has always put public safety first and foremost. The addition of a higher berm and public footpath being further down towards the water would be an ideal solution for both parties.

iv) I hope this has given you some insight on the matter from a member of the club. Severnside is an important historical and cultural place. Its members are from all creeds and walks of life and the community is welcoming to all license owners to enjoy their legal sport.

5.28. Officer Comment:

i) A Definitive Map Modification Order (DMMO) is not a proposal. The report that, *"on many occasions we have had to quickly make safe"*, reinforces that there has always been people walking in the area.

ii) The obstructions placed at points F and G have brought the Route, A to G, into question and have unintentionally antagonized some, which has resulted in more property damage. However, the perceived need, nuisance and/or security is not taken into account under the WCA 1981 legislation when determining whether a route *"subsists"* or *"is reasonably alleged to subsist".*

iii) If the DMMO is confirmed and a public footpath along the crest of the seawall is registered then the behaviour of walkers, cyclist and other users will be addressed.

iv) Both the Rifle Ranges have installed, flagpoles, sentry boxes, signage, and kissing gates on the crest of the seawall that demonstrates their responsibility to public safety. It is also reported that there have never been any problems in the past with walkers. However, there are reports of cyclists and/or motor vehicle users accessing the site with force which has been demonstrated by the cutting of locks on kissing gates nearby. This use of force does not allow for the registration of any higher rights such as bridleways or restricted byways.

v) The constructions of a higher berm (butts) or the surface of the footpath located at the toe of the seawall on the seaward side does not prevent the making of the DMMO that has been triggered by the obstructions installed. Any development works can only be considered after the DMMO is determined.

Other replies

5.29. The consultation replies from Natural Resources Wales (NRW), dated 5th January 2022, and the Authority's subsequent replies (Appendices 5.29 to 5.29.3) mainly make reference to matters surrounding maintenance, need, nuisance and/or security which are principles that do not have any influence regarding whether a public right of way may or may not already exist.

5.30. In respect of the tests specified under the Wildlife and Countryside Act 1981 for a Definitive Map Modification Order (DMMO), NRW have no evidence or objection to the recording of the footpath along the crest of the seawall.

5.31. Emails dated 7th December 2021 (Appendix 5.30), from Mr K. Williams, MCC's Environmental Health Officer, makes reference to matters regarding safety and the obvious challengers to safety management should a pedestrian stray onto the range when the Rifle Range is being used.

5.32. Severnside Rifle Range has addressed this risk for several years by flying red flags and posting sentries when the Rifle Range is live. The concern of the status of the route(s) and their relation to any perceived need, nuisance, security, or suitability cannot be taken into account under S53 of the WCA 1981.

Email replies from Users

5.33. Email from Mr M. Smith, dated 6th December 2021, states.

i) That's good, it's what local people would expect and have always believed is the route of the Footpath along the seawall, this proposal is confirmation of that position and I am very pleased to see it.

5.34. Email from Mr T. Shute, dated 6th December 2021, states;

i) Having read the statement by you and viewing the attached maps with the public footpath/right of way, showing the public access passing the Severnside range directly behind the said property, is in accordance with what is fact and custom and practise over a period of over a hundred years. I commend you for finally accepting the obvious course of action to reinstate the footpath as before the dispute with the range operators. It is sad that Natural Welsh Resources having acknowledged that the illegal Barricade built on both ends of the range, and the trenches dug across the sea defences are against the law and should be removed forthwith, not to mention the Fly Tipping over the sea wall of which they have updated photos on a regular basis from myself and others. They say its up to Monmouth County Council to initiate proceedings to force the Range operators to reinstate the site to its former condition, pass the buck or what?

ii) We all look forward to the return of our footpath and our place of Outstanding Natural Beauty.

5.35. Email from Mr S.P. Mayo, dated 8th December 2021, states;

i) I have been walking along the seawall for the last 60+ years, my parents and grandparents before me. This has always been a walkway, long before the Prince of Wales bridge / M4 was built. We have never had any trouble from the military firing range even after they have moved closer to the Rogiet end, they have a ceasefire to let walkers go by. When talking to the military and the police that shoot there they have also said that it is now and always has been a footpath. I have been down to the site with Welsh resources were they have taken photos. MCC have a map at the castle park in Caldicot showing that there is a public footpath running along the seawall. This was a beautiful walk with stunning views now the walkway has been dug up with heavy machinery and has a lot of possibly contaminated barrels which could possibly cause damage to the environment and wildlife (no one knows what was stored in them prior to them being dumped there).

5.36. Email from Mr E. Stevens, dated 10th December 2021, states.

i) I have just been reading through all the information on the consultation on the path between Caldicot and Rogiet through the firing range. I have been using this path since 1987, when I moved to Sudbrook as a child with my family and used regularly without any problem at all until the barricade was constructed and access stopped. Before 2000 I was probably using the path on average once a month, and since 2000 much more regularly as I am a keen bird watcher and this was part of my regular patch and since 2006 owner of a border collie that up until the last few years needed long walks every day. Between 2000 and 2020 I was probably using the path at least twice a week often three or four times a week, and never once did I have a problem. I have always assumed that this was the official footpath as there were always gates or Stiles for access and signs informing you how to cross safely and the guard boxes and flags. I'm sorry if none of this is of any interest or use to you but I thought I should send something as this footpath has always an important to me and I hope to be able to use it again soon or if not some alternative route, as at the moment the only other option to get to the other side is the Welsh coast path which is much longer.

5.37. Email from Mrs H. Baynton, dated 11th December 2021, states.

i) *"The footpath in question is defined on the Royal Ordinance Survey Map as a public footpath. The council have a tourist information map at Caldicot Castle with walks around the area and the footpath in question is displayed as a public footpath.*

ii) *I don't know if you have any background information from Monmouthshire Council so here goes with some…*

iii) *On Caldicot side the Severnside Rifle Range initially blocked the kissing gate when that didn't stop people walking the seawall, they blocked the kissing gate with a skip and large oil drums. On Rogiet side they removed the kissing gate and erected a corrugated iron fence with the side painted with anti-vandal paint*

iv) *They compromised the seawall defences by digging two deep trenches through the footpath in question, which goes over the buttress*

v) *Nothing to do with the footpath but they have been fly-tipping over the sea wall with building rubble i.e., red bricks, paving slabs, broken concrete, toilet, sink, tiles etc.*

vi) *I have lived in the area for a number of years my husband's family go back generations and his father and grandfather have always walked the seawall.*

vii) *On a few occasions when I have walked the seawall from fisherman's lane (Rogiet) to seven side rifle range they have been shooting and they have not had a sentry on duty. After a few times of this happening, I informed the police.*

viii) *The previous users of the rifle club have always been friendly and polite and allowed the public to walk across the seawall which has always been out [sic "our"] right…."*

5.38. Email from Mr Tewdrig-Jones dated 27th December 2021, states.

i) *"I am delighted to her [sic hear] that this case is now being progressed. This historic right of way may have been varied over the years as sea defences were upgraded but as a general route, I believe it would have been used for many hundreds of years. Having it deliberately obstructed by the rifle club to safeguard their own self-interest is, I would suggest, contrary to highway law and the rights of the public to pass and repass along these longstanding routes.*

ii) *I am sure that your historic maps and detailed research will provide more accurate information than I would be able to supply but if I can be of any further assistance please let me know and if you don't mind keeping me informed of progress I would be grateful. I look forward to being able to use the route again in due course."*

Officer Comments on replies from users

5.39. Mr Smith and Mr Shute draw attention to the Council's decision. The obstructions made across the seawall at points F and G have brought the Route, A to G, into question. This is not a proposal. It is instead a Definitive Map Modification Order that is the legal mechanism available to amend the Definitive Map and Statement. The Authority is unable to proceed with enforcement until after the Definitive Map Modification Order has been confirmed.

5.40. Mr Mayo reports that the Route, A to G, has been used for the last 60 plus years. He also points out that the military and the police who have used the area were always aware of the footpath. It is important to note that Severnside Rifle Range was, in the 1990s, previously managed by the military and that there had never been any issues until recently.

5.41. Mr Stevens reports using the Route since 1987 and confirms using it twice a week from 2000 to 2020 assuming it was the official path because of there always being gates or stiles for access and signs informing you how to cross safely and the guard boxes and flag.

5.42. Mrs Baynton reports various issues that have been addressed in this report. The reference of the Route alignment shown on the ordnance survey and tourist information maps does not prove that the Route, A to G is public. However, there is a registered public footpath in the area although the alignment of it does not always use the crest of the seawall. This Definitive Map and Modification Order seeks to formalise the alignment of a public footpath that utilises the crest of the seawall. This witness report maintains that her and her family walked the seawall for several years and during that time have never had any issue until the ownership of the Rifle Range changed.

5.43. Mr Tewdrig-Jones verifies that the Route, A to G, generally used the crest of the seawall prior to the upgrading of the sea defences. This is confirmed by all the historical mapping aerial photographs and other documentation investigated in this report.

6. EVIDENCE - HISTORICAL MAPS

Highways Act 1980 section 32

6.1. The Highways Act 1980 section 32 stipulates that historical documentation should be studied to clarify the alignments, widths, and status of a public right of way.

Highways Act 1980

(32) A court or other tribunal, before determining whether a way has or has not been dedicated as a highway, or the date on which such dedication, if any, took place, shall take into consideration any map, plan or history of the locality or other relevant document which is tendered in evidence, and shall give such weight thereto as the court or tribunal considers justified by the circumstances, including the antiquity of the tendered document, the status of the person by whom and the purpose for which it was made or compiled, and the custody in which it has been kept and from which it is produced.

A list of the historical documents examined - continued		
Figure	**EVIDENCE**	**Page**
Fig. 9.5A & B	1984 Aerial Photograph: WG	45
Fig. 9.6A & B	1985 Aerial Photograph: WG	46
Fig. 9.7A & B	2000 Aerial Photograph: MCC-CAMS	47
Fig. 9.8A & B	2005 Aerial Photograph: MCC-CAMS	48
Fig. 9.9	2017 site photograph showing greater earth mound	49
Fig. 9.10	2009 Aerial Photograph: Google Earth	49
Fig. 9.11	2010 Aerial Photograph: MCC-CAMS	50
Fig. 9.12A & B	2014 Aerial Photograph: Google Earth	51
Fig. 9.13A & B	2017 Aerial Photograph A - Google Earth: Photograph B – MCC-CAMS	52
Fig. 9.14A & B	2020 Aerial Photograph: Google Earth	53
Fig. 9.15	1970s Ordnance Survey Map 2nd National Grid – MCC-MonMaps	54

1830s Commercial Maps

6.2. The Price's Map 1823 (Fig. 6.1) does not show FPs 6 & 13 at this limited scale. The reference *"Com^{n} Sea"* is the same area marked on the Tithe Map (Fig. 6.5) as "Common".

Fig. 6.1: 1823 Price's Map: not to scale GRO

6.3. The 1830s Cassini map (Fig. 6.2) shows two roads. One crosses a solid black wavy line, representing *"Summerway Gout" (Fig. 6.5),* and runs north of the area named *"Common Sea"* to proceed towards "*West Pill" (Fig. 6.2).* The second road lies parallel and closer to the sea's edge ending at *"Summerway Gout"*. Even at this small scale, 1:10000, there is enough detail to notice a footpath alignment marked by a black broken line, across Rogiet Moor differing from minor roads marked by parallel solid lines passing between *"West Pill"* and *"Common Sea".* There is no colour on this map to distinguish between roads and drains. However, man-made drains would require access to enable their construction. Road access to the common.

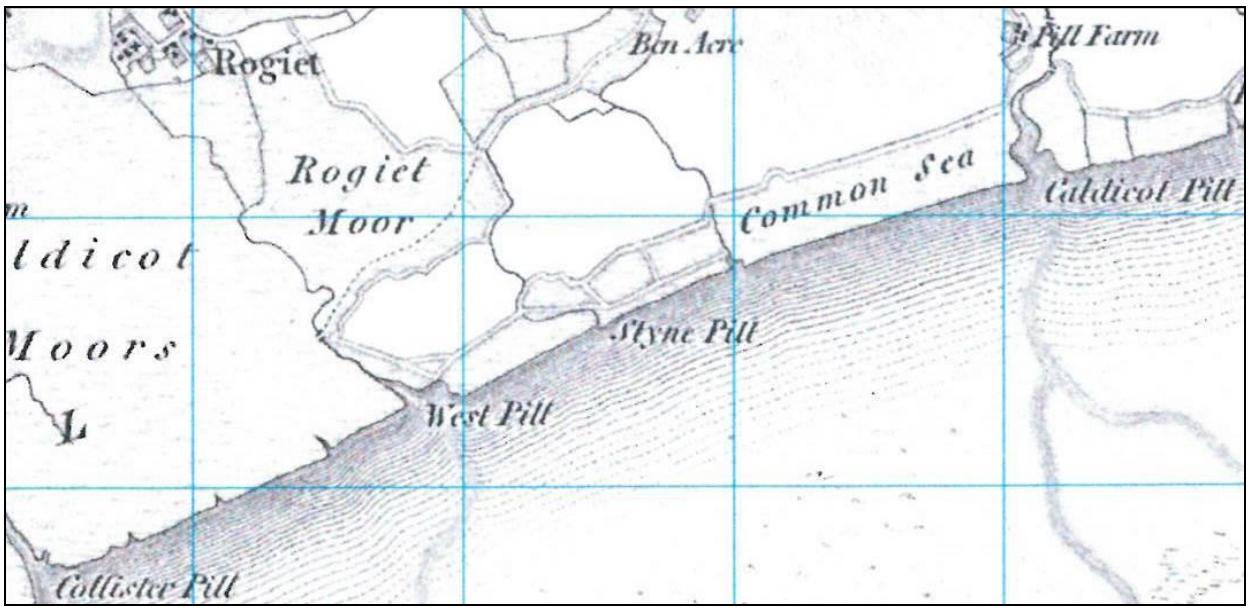


Fig. 6.2: 1830 Cassini Map Old Series, Map 172 Bristol & Bath: not to scale MCC

6.4. The 1830 David & Charles Map (Fig.6.3) is notably poor in quality when enlarged. However, the roads and footpaths depicted on the Cassini Map are also faintly represented on the David & Charles Map.

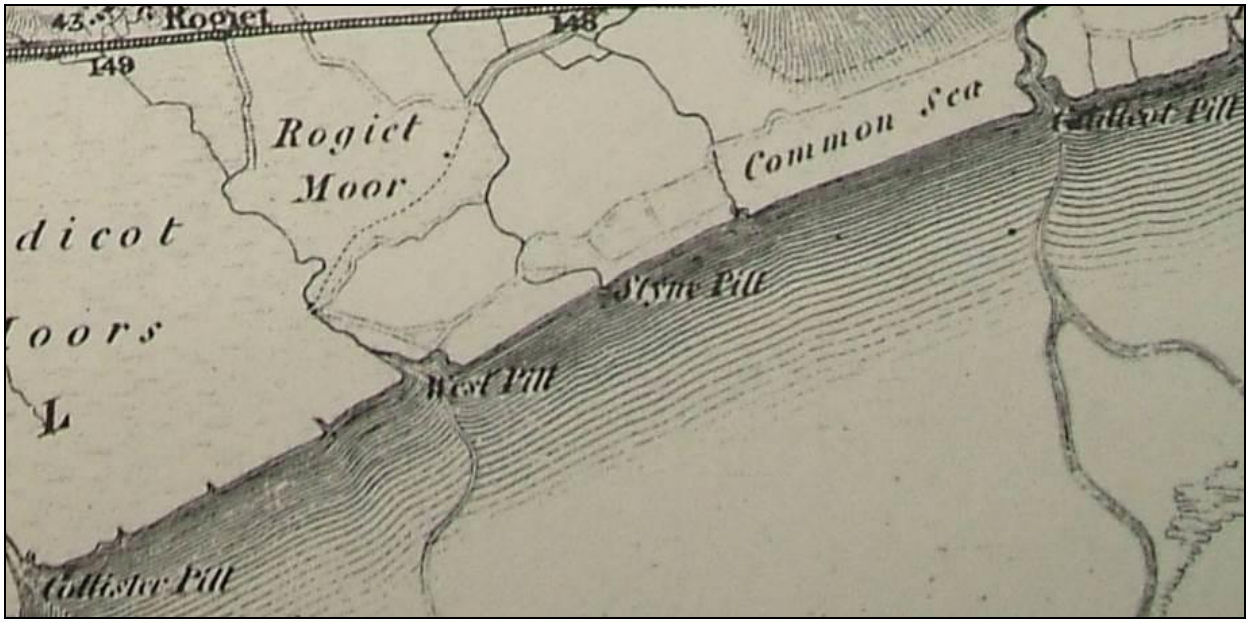


Fig. 6.3: 1830 David & Charles Map: not to scale MCC

6.5. The 1830 Ordnance Survey (OS) Map (Fig. 6.4) again shows the roads and footpath with the same alignments as those depicted on the Cassini and David & Charles Maps. However, on the 1830 OS Map the area of interest *"Summerway Gout" (Fig. 6.5)* is obscured by the cut/fold made to this map. In this instance the Cassini and David & Charles maps have become useful in clearly depicting all the roads in the area investigated.

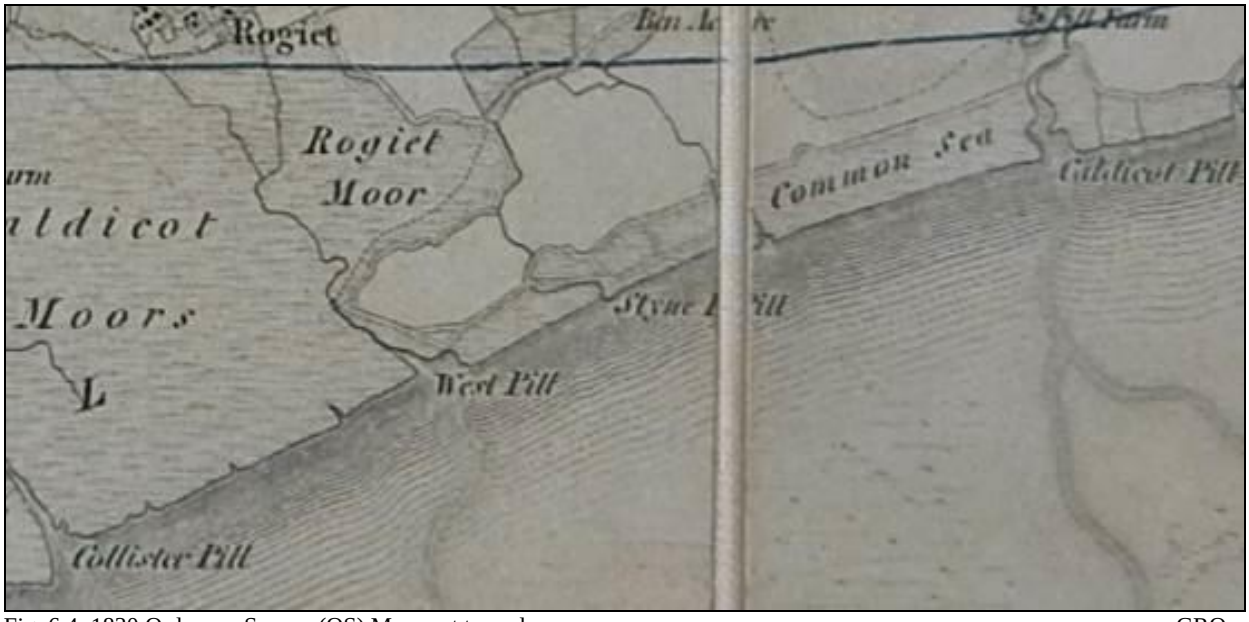


Fig. 6.4: 1830 Ordnance Survey (OS) Map: not to scale GRO

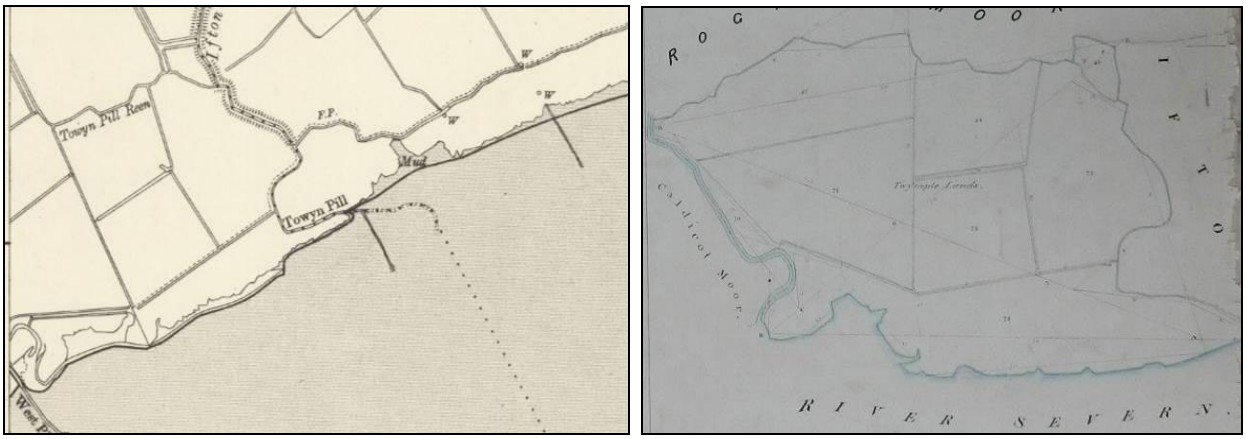
6.6. The 1830s maps record a road close to the sea's edge and this suggests that a *'custom ancient in origin'* under **common law** has occurred. The effect of the sea levels, the tidal changes and development of seawalls may have changed the alignments of the old roads.

Tithe Map

6.7. The 1843 Tithe Map for Caldicot (Fig. 6.5) held by the National Library Wales, online view, suggests the alignment for FP 6 Caldicot. There are roads shaded brown and rivers shaded blue on the 1843 Tithe Map. However, other maps need to be studied together with this one to best interpret the depiction of the feature along the northern boundary of the area marked *"Common".* The double parallel lines mark a similar alignment for the road, previously observed on the 1830s maps, but it is not shaded in the conventional way for roads. However, the 1858 Tithe Map (Fig.6.7) does show this feature shaded blue for the depiction of drains.

Fig. 6.5: (1902 OS map on the left, no tithe map available) | 1843 Tithe Map Caldicot on the right: not to scale. NLW-online

6.8. Furthermore, there is no retained Tithe Map for the neighbouring community referred to as *"St Brides - Ifton Parish"*. The 1842 Tithe map (Fig.6.6), covering the Community of Rogiet, does not extend over the area being investigated and is therefore not relevant to this Report.



1902 Ordnance Survey (OS) Map: NLS-online: 1842 Tithe Map Rogiet: GRO:

Fig. 6.6: The 1902 OS Map and the 1842 Tithe Map: extract: not to scale

Tithe Map copy

6.9. The *"Map of Caldicot Parish, Monmouthshire, 1858. Corrected and copied from the Tithe map by J P Williams" (Fig. 6.7)*, shows clearly the roads shaded brown and highlights in blue the parallel lines bounding the northern side of the area referred to as *"Common"* marked with the number 1 (circled in red on Fig. 6.7). The Common land has been previously recorded on all historical maps examined so far. When this map is compared with the 1830s maps it shows that there are now no roads in the area and the drains are marked by parallel lines and shaded blue.

6.10. The combination of both the Tithe maps for Caldicot joined with no tithe map for Rogiet reduces the support for public vehicular or equestrian rights along or near the seawall.

Fig. 6.7: 1858 Caldicot Parish Map: *"Corrected and copied from the Tithe Map":* extract: not to scale GRO

Inclosure Award Map

6.11. The 1851 Inclosure Award map entitled *"Part 2 Caldicot Cwm Newton Inclosure, Caldicot Moor, Rogiett Moor, Ben Acre and Common Sea"* and dated 18th August 1853 (Fig.6.8) does not show any drains or roads south of Ben Acre even though *"Common Sea"* is referenced in the title.

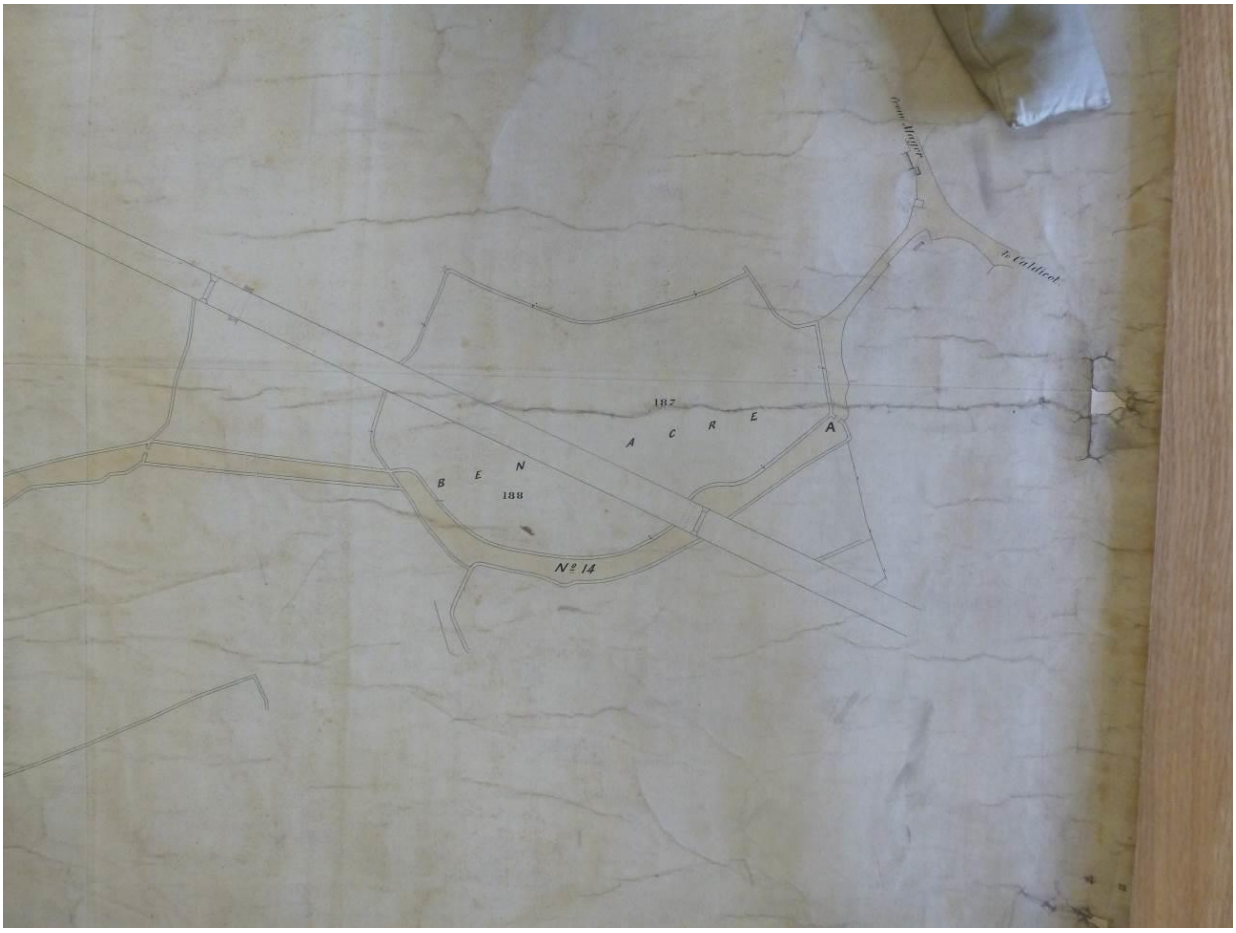


Fig. 6.8: 1851 Inclosure Award: not to scale GRO

Ordnance Survey Maps

6.12. The 1887 Ordnance Survey Map, Sheet 35, (OS surveyed: 1881) (Fig. 6.9), shows the drains with black solid lines marked on the same alignments as depicted on the 1843 Caldicot Tithe Map and the 1858 Caldicot Parish (Copied Tithe) Map. Parallel to this is also marked a raised feature illustrated by short black triangles along with the words *"Foot Bridge"* suggesting that the raised feature has a footpath along it.

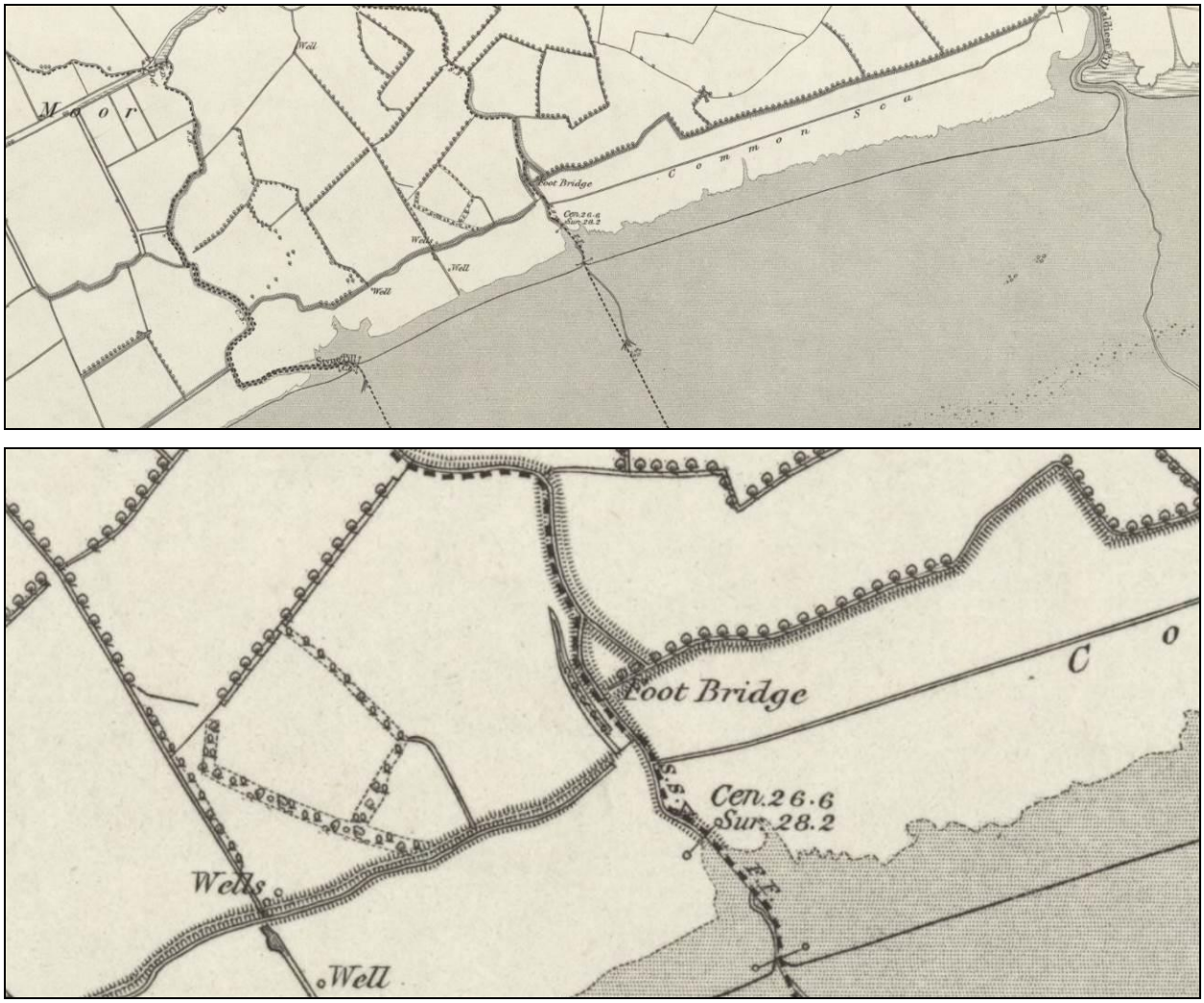


Fig. 6.9: 1887 Ordnance Survey Map six inch: Sheet 35 (OS Surveyed 1881): not to scale NLS-online

6.13. The conventional signs and writings for Ordnance Survey (Fig. 6.10) show that the "Main or Minor Roads" are either "Fenced" when they are depicted with parallel solid lines or "Unfenced" when shown by parallel broken lines. In this instance the solid lines with triangles are known as drains. The combination of the triangles and the spaces between the triangles represents a raised broken line. These marks for main or minor roads combined with the words *"Foot Bridge"* suggests that the way alongside the drain is a footpath.

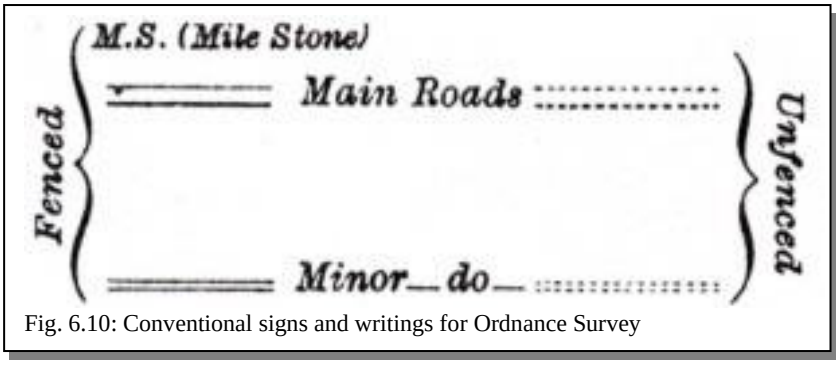
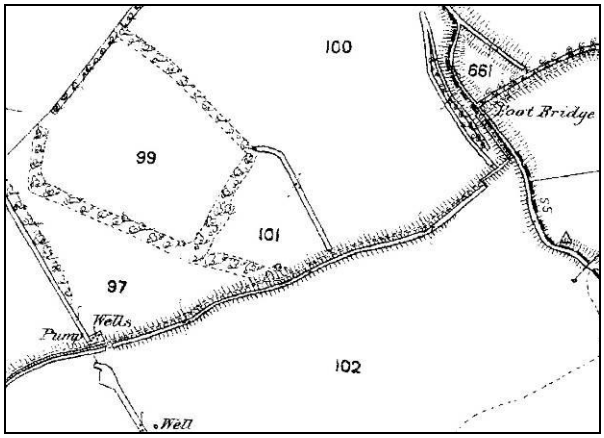
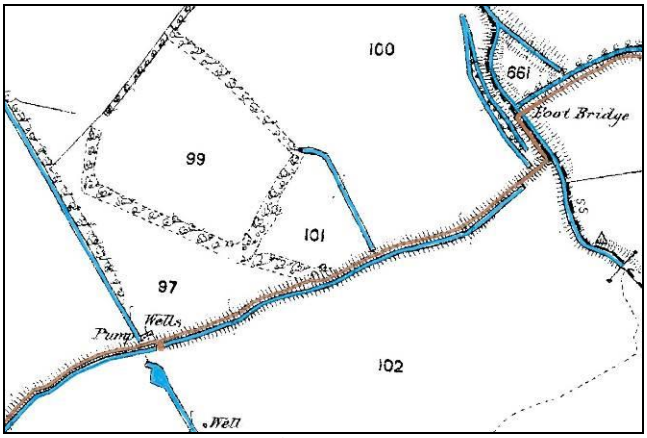


Fig. 6.10: Conventional signs and writings for Ordnance Survey

6.14. The 1887 OS Map (Fig. 6.11) has many close markings detailing several different features parallel to each other. These marks are black solid lines and black broken lines that represent raised ground and ground that has been cut into.



OS Map Sheet 35.3 (surveyed 1881 published 1887)



OS Map Sheet 35.3 copied with footpath highlighted brown, drains blue

Fig. 6.11: 1887 Ordnance Survey Map 1:2500: not to scale MCC-CAMS

6.15. To best understand the topographical features represented, the same extract map has been coloured by referring to the historical maps examined. The blue highlights the drains, and the brown shows the alignment of the footpath. The 1887 OS Map is another document that suggests that a *'custom ancient in origin'* under **common law** has occurred.

6.16. The 1901 Ordnance Survey Map, sheet 35.3 (Fig. 6.12) shows similar alignments for both the drain and the footpath as shown on the previous 1887 OS Map.

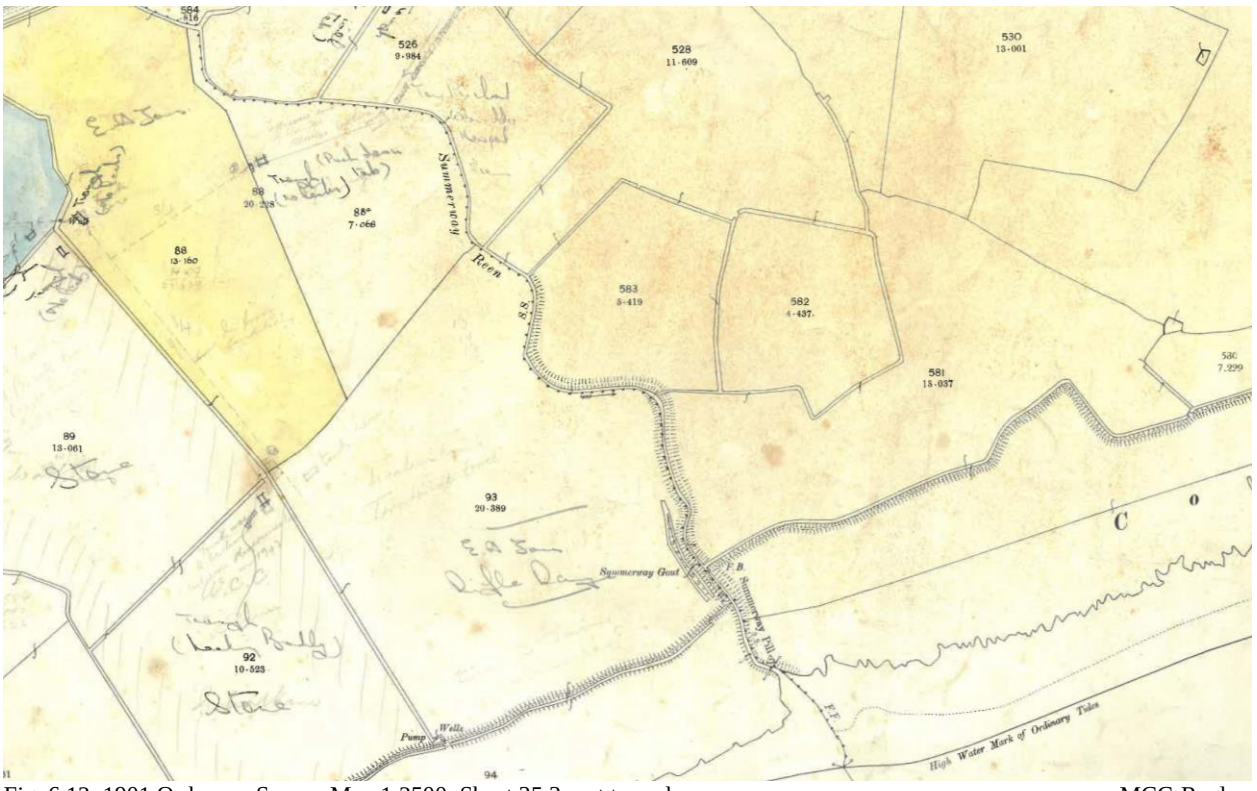


Fig. 6.12: 1901 Ordnance Survey Map 1:2500: Sheet 35.3: not to scale MCC-Raglan

6.17. The 1900 – 1949 Ordnance Survey Map, sheet 35.3 (Fig. 6.13) is from the Countryside Access Management System (CAMS) and a specific publication date for this map is not available. However, on comparison with other OS maps at a different scale, it is probably dated 1922 (Fig. 6.14). Establishing the date of the map suggests that Severnside Rifle Range was possibly constructed between 1901 and 1922.

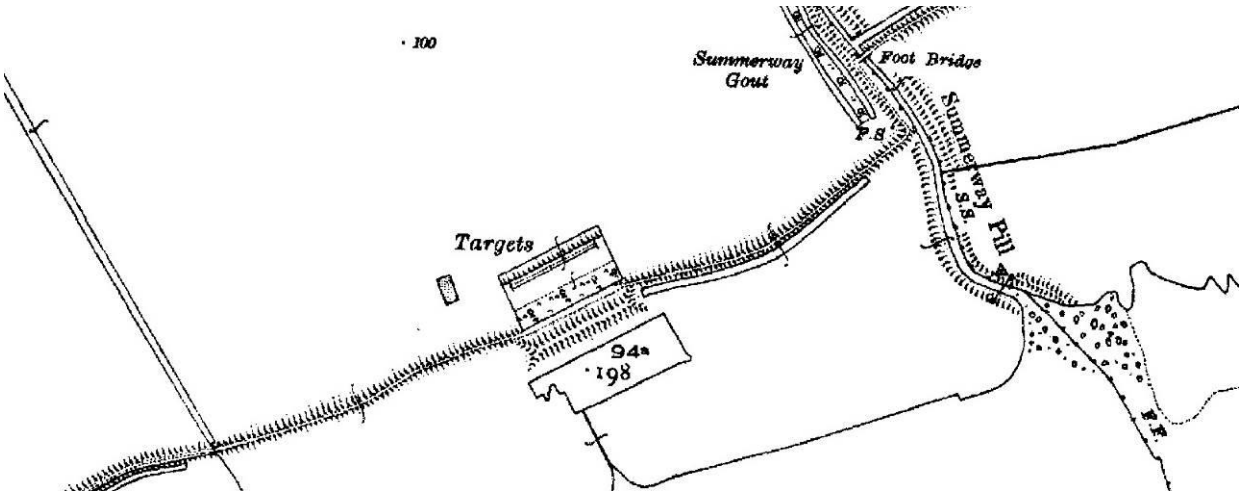


Fig. 6.13: Date range 1900 -1949: Ordnance Survey Map 1:2500: not to scale MCC-CAMS

6.18. The footpath is again shown on a raised feature that is on the same alignment as that depicted on the 1887 OS Map (Fig.6.11). However, the 1900-1949 and the 1922 OS Maps show that the location of Severnside Rifle Range is marked by the features referred to as *"Targets"* along with the distance marker of *"100"* and the location of a *"Flagstaff (F.S)".*

6.19. The construction of Severnside Rifle Range also included the *"Flagstaff"* located near the known and accepted footpath. The presence of this *"Flagstaff"* suggests that a warning system of raising a flag told the public that the firing range was in use and the area was temporarily out of bounds. The footpath, notably on raised ground, passed behind the area marked *"Targets"* and another feature of high ground that is alongside the plot numbered *"94a.198".*

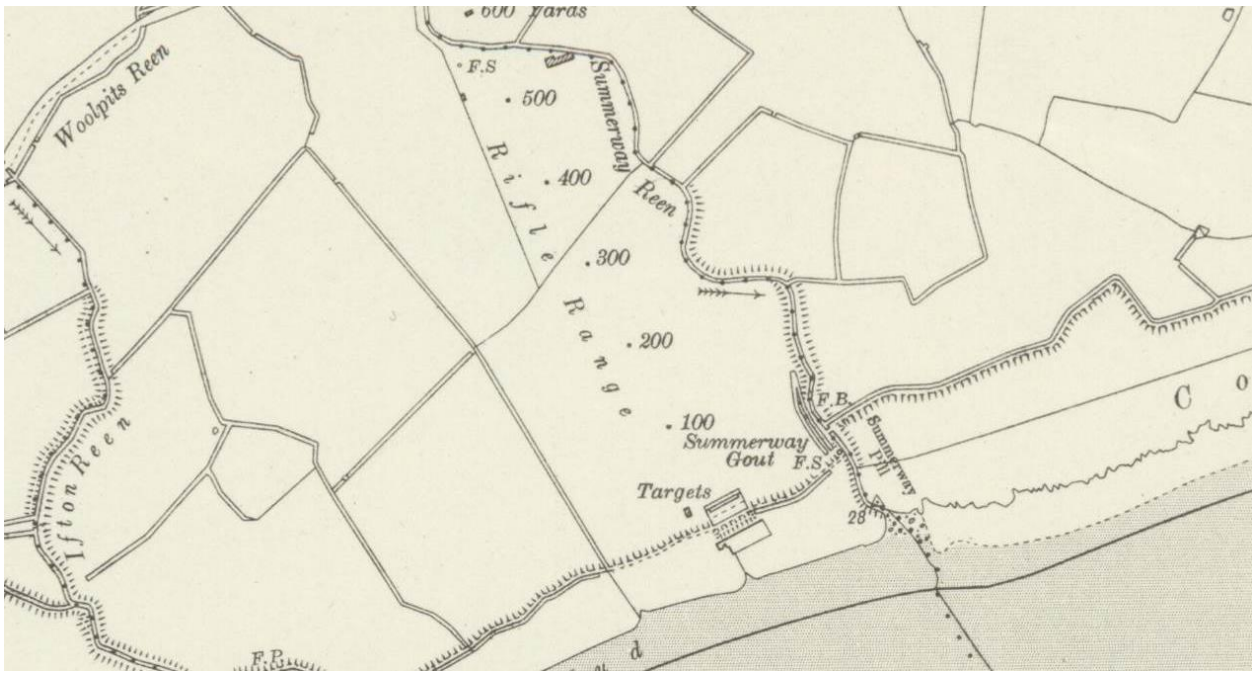


Fig. 6.14: 1922 Ordnance Survey Map six inch (Revised 1918 to 1919): not to scale NLS-online

6.20. The Ordnance Survey book of reference might describe the feature numbered *"94a.198"* marked on the 1900s OS Map (Fig. 6.13) as being a man-made tidal pond or lagoon.

6.21. Many of the water features are marked blue on the colour-printed 1947 OS map Provisional Edition sheet 31/48 (Fig.6.15) which confirms that the plot *"94a.198"* is a man-made tidal pond or lagoon. This 1: 25,000 OS Map still has the symbols for *"F.P."* marked alongside the alignment depicted on the OS maps which has been there since 1887.

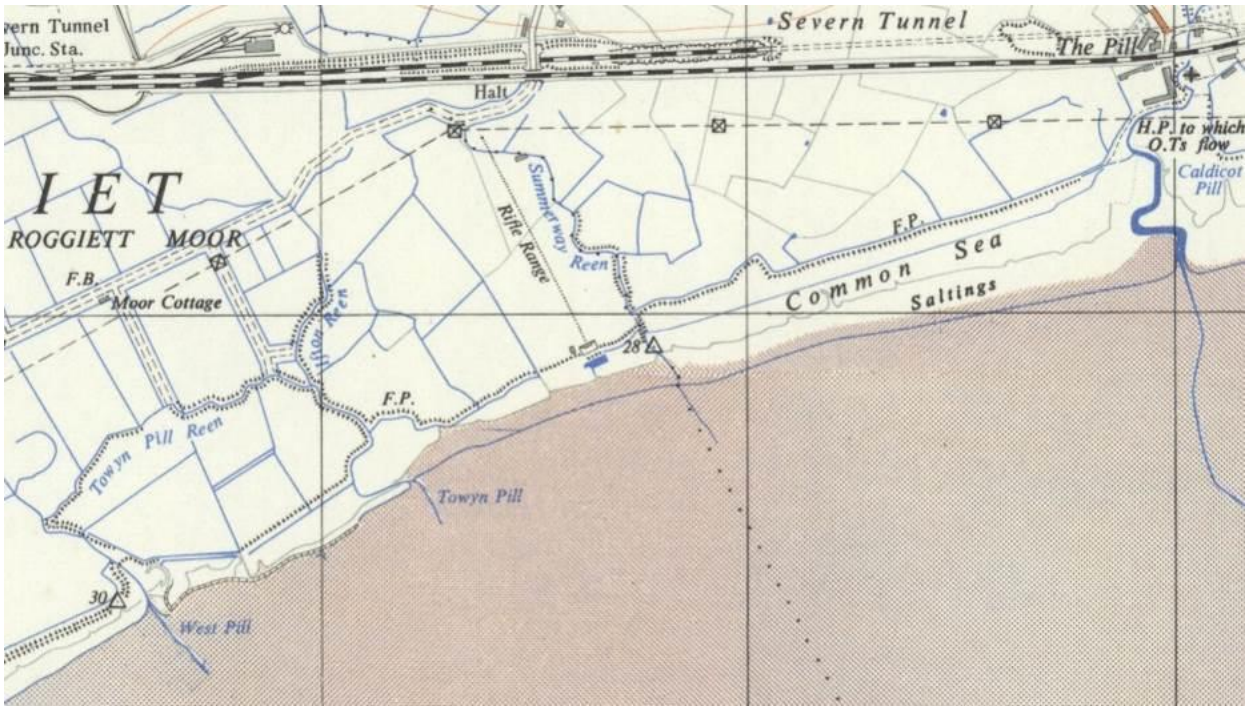


Fig. 6.15: 1947 Ordnance Survey Map 1:25,000: not to scale NLS-online

6.22. The 1954 Ordnance Survey Map (Revised 1949) (Fig. 6.16), although at the smaller scale of six inches to a statute mile, still shows the alignments of the drains and footpaths which remain the same. The *"Flagstaff" (FS)* also remains in the same location.

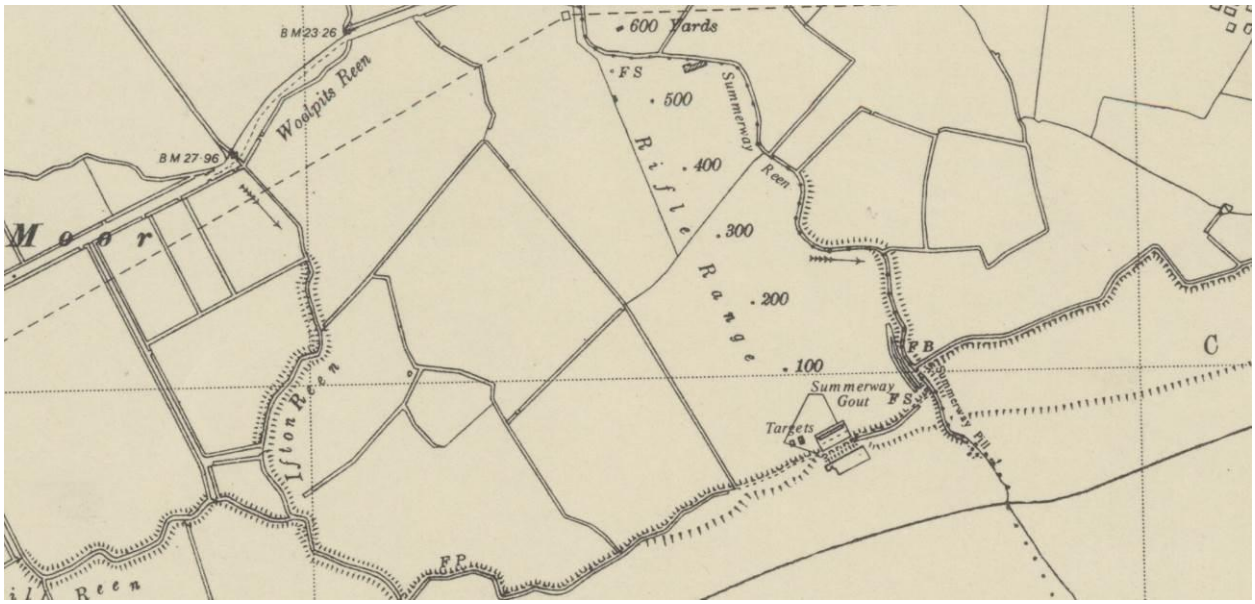


Fig. 6.16: 1954 Ordnance Survey six-inch Map (Revised 1949): not to scale. MCC-CAMS

6.23. The map referenced in an email submitted by Mr J Purnell is dated 1965. The 2nd Series National Grid OS Map published 1973[5] (Fig. 6.17) in comparison is a clearer copy and better depicts the general change of the alignment of the seawall.

6.24. The *"Foot Bridge"* that has never before been marked on any historical OS maps is now detailed on the 2nd Series National Grid Map and the *"Foot Bridge"* located on the old footpath/seawall alignment is no longer marked.

6.25. Approximately between 1954 and 1965 the seawall and drains were realigned.

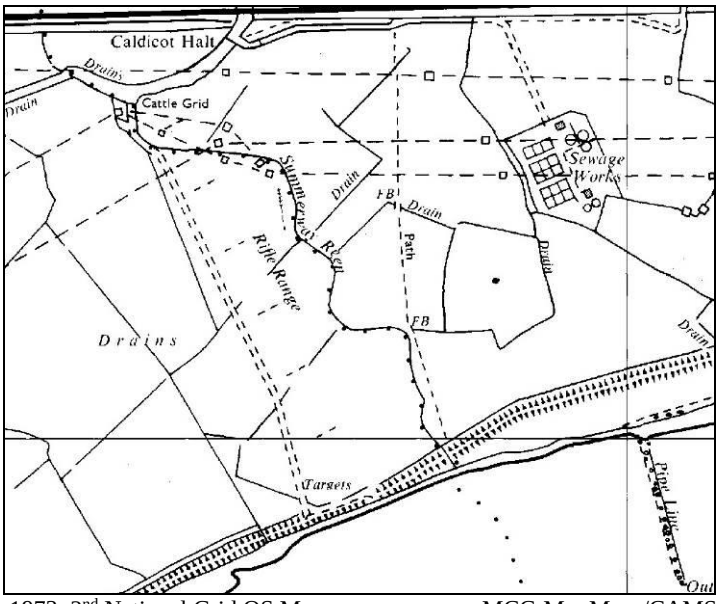


Fig. 6.17: 1965 Ordnance Survey: not to scale 1973: 2nd National Grid OS Map MCC-MonMaps/CAMS

6.26. The 1970s National Grid Series Ordnance Survey Maps 1:2500 (Fig. 6.18) at a larger scale details the topographical features that explain the limited marks on the 1965 and 1973 OS Maps. The 1970s map is used to study the black ordnance survey marks that clearly illustrate the physical changes to the topography of the area. The yellow pencil outlines and marks have no significance to this investigation.

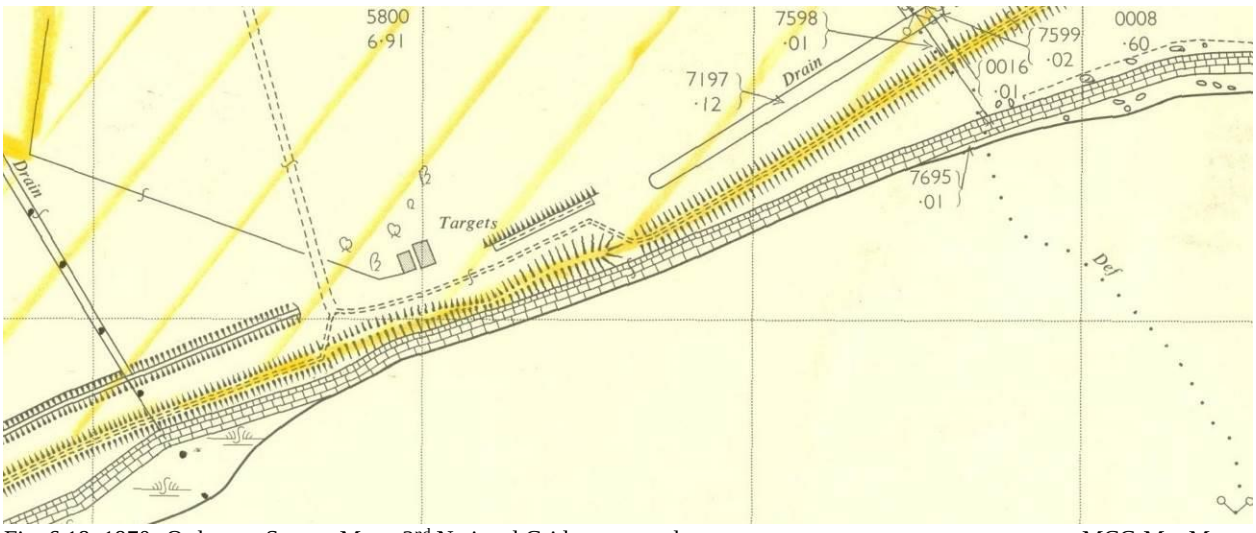


Fig. 6.18: 1970s Ordnance Survey Map: 2nd National Grid: not to scale MCC-MonMaps

[5] Ordnance Survey maps a descriptive manual by JB Harley - Pages 49 to 51

6.27. The 1901 and the 1970s OS maps overlaid (Fig. 6.19) show the significant changes made to the alignment of the seawall and drains. The 1901 drain alignments are highlighted blue. The effect of seawall realignment has reduced and changed the location of the drains. Moreover, the alignments of both the footpath/seawall and drains have swapped south of the "Targets". In other words, the earlier OS mapping shows the alignment of the footpath/seawall to be inland while the drain is outside or on the seaward side. The 1970s OS Map depicts the *"Drain"* to be inland and the footpath/seawall to be outside.

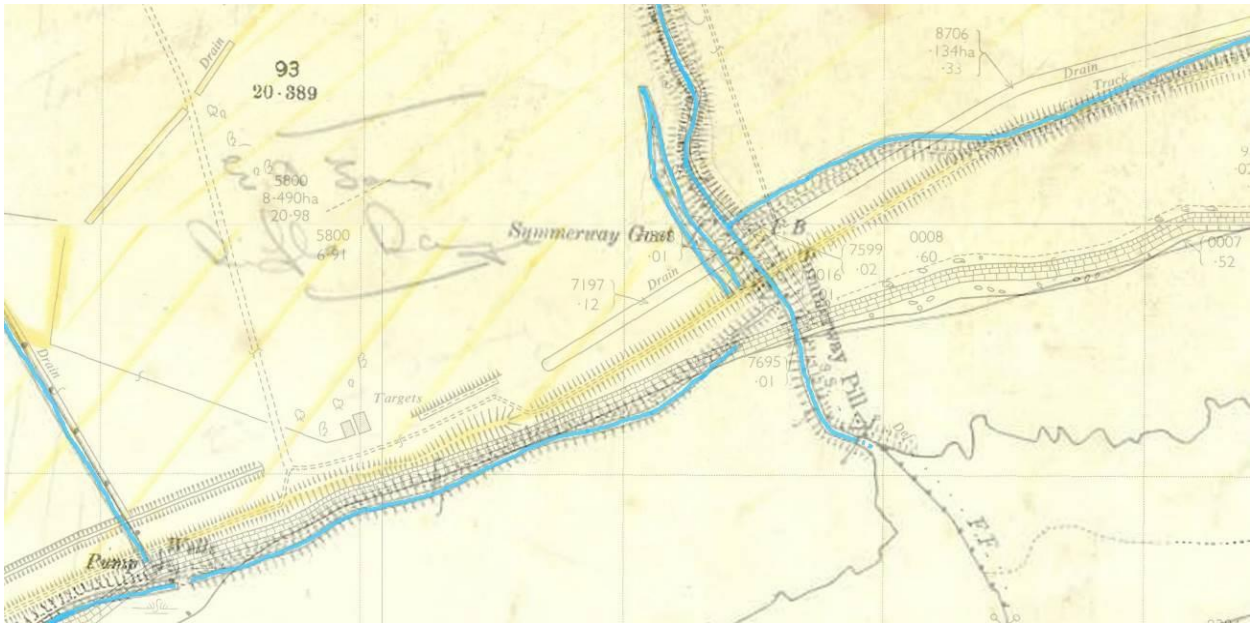


Fig. 6.19: 1901 and 1970s OS maps overlaid: not to scale MCC

6.28. The overlay of the 1901 OS Map with modern topographical line from the Countryside Access Management System (CAMS) (Fig. 6.20) suggests that the alignment for public footpath 6 Caldicot [formerly 13 Rogiet] deviates south of the alignment of the current seawall. The limitations of this overlay may suggest a larger earth mound (*"butts"* or *"bullet catcher")* between the targets and the seawall that has reported to have been backfilled. There are aerial and site photographs that show the larger earth mound has repeatedly been cut into.

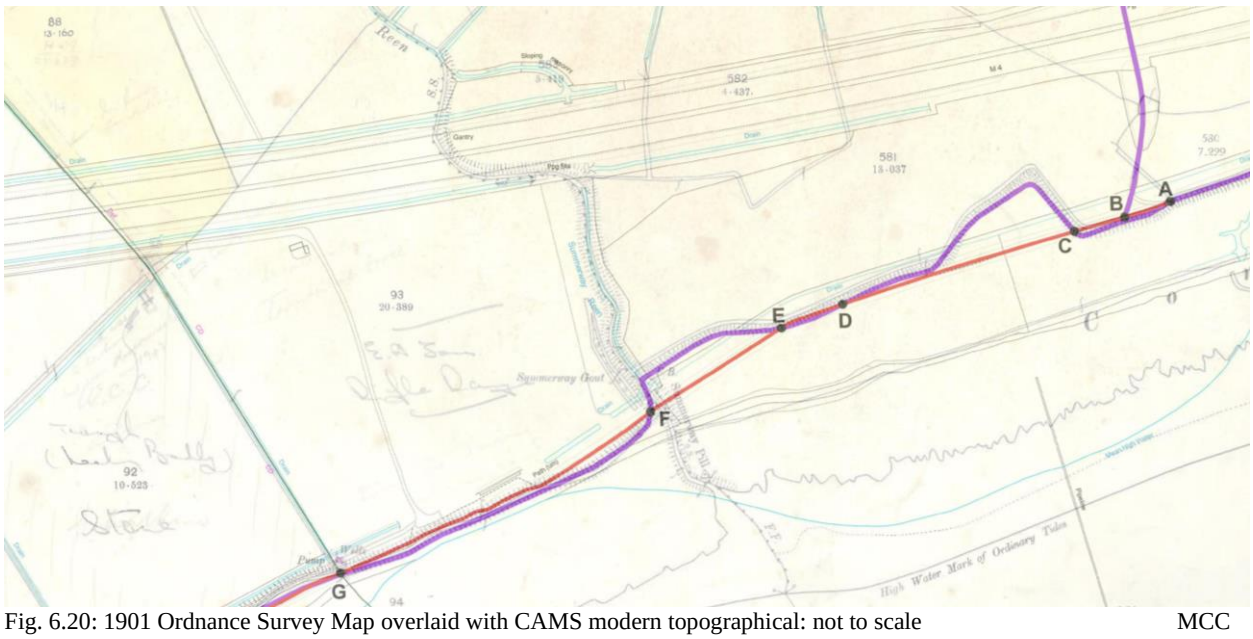


Fig. 6.20: 1901 Ordnance Survey Map overlaid with CAMS modern topographical: not to scale MCC

The 1910 Finance Act Map

6.29. The 1910 Finance Act Maps provided for the levy and collection of a duty on the increment value of all land in the United Kingdom. Under this system private owners were required to surrender to the state part of the increase in the site value of their land, which resulted from the expenditure of public money on communal developments such as roads, common land, or public services.

6.30. Typically, the 1910 Finance Act maps, registers and field books are firstly a record of land values. However, the information contained within this data set is important when considering whether public rights of way already exist.

6.31. The 1910 Finance Act Map, working sheet 35.3 (Fig. 6.21) does not show the Route in question as *'uncoloured'* or *'white out'*. This means that when this map is taken together with all the historical information investigated it is reasonable to determine that there are no public vehicular or equestrian rights.

Fig. 6.21: 1910 Finance Act Map: Sheet 35_3: not to scale GRO

6.32. The 1910 Finance Act map working sheet 35.3 has the words *"Butts"* and *"Rifle Range"* marked in pencil across the plot numbered 2. This indicates the location of the Rifle Range in 1909-1910 which precedes the start of the First World War in 1914.

6.33. The base map for the 1910 Finance Act map is the 1901 Ordnance Survey Map (Fig. 6.12) and this shows the alignment of a footpath along with the symbols for footpaths *"F.P."* and footbridge *"F.B."*.

6.34. The Finance Act Register that references the plot numbers on the accompanying map has not been found at the Gwent Record Office for the community of *"St Brides - Ifton Parish"*

or *"Ifton Rogiet"*. Furthermore, the catalogue listing the Finance Act field book records, kept at the National Archives, again does not list the community of *"St Brides -Ifton Parish"* or *"Ifton Rogiet".* Therefore, no further information can be obtained from the 1910 Finance Act Records.

6.35. However, there remains plenty of evidence supporting the location of the footpath on the crest of the seawall. All the historical evidence investigated here proves, on balance, that the alignment of the public right of way already exists on the crest of the seawall.

6.36. Research into the local county record offices for byelaws for both Rifle Ranges has been done and to date none have been found. It is noted on the Government website that Rogiet Moor Rifle Range (M.O.D.) may have had a byelaw in the past as it references that *"no copy of the byelaw document is currently available" (Fig.6.22).*

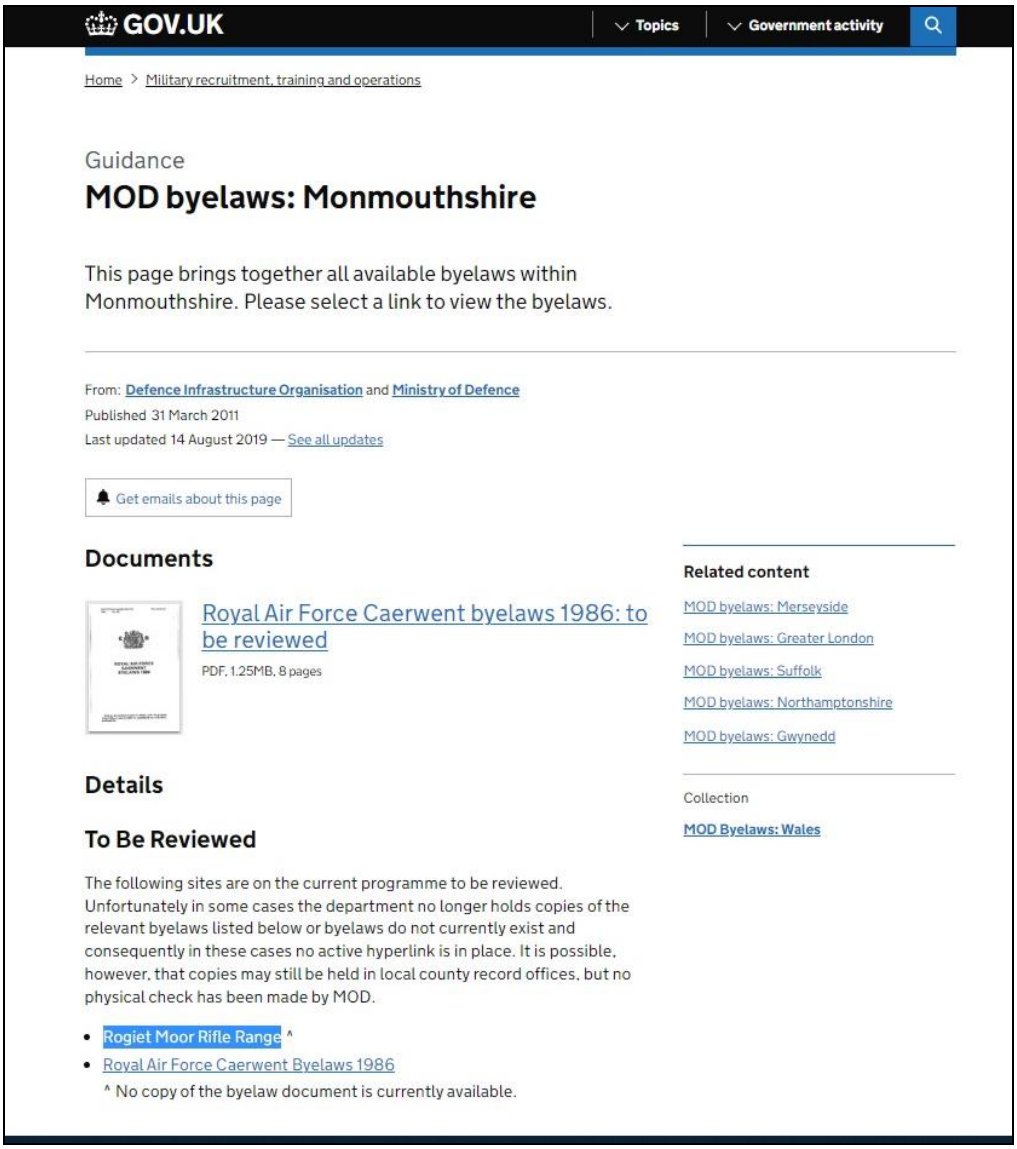


Fig. 6.22: Print screen extract of GOV.UK website referencing M.O.D. byelaws: Monmouthshire online

6.37. To verify this the Military of Defence (M.O.D.) agencies were contacted and the Senior Access & Recreation Advisor for Technical Services of the Defence Infrastructure Organisation (DIO) replied. His email dated 26th August 2022 (Fig. 6.23) stated that:

"…the Byelaw Team confirm that neither the current nor former Rogiet Moor MOD range has ever had byelaws, so the statement online is misleading."

From: Nevitt, James Mr (DIO TS-SHEPS ESC AR 1)
Sent: 26 August 2022 10:18
To: Mussell, Mandy MandyMussell@monmouthshire.gov.uk; Pritchard, Shaun ShaunPritchard@monmouthshire.gov.uk
Subject: RE: 2022 08 17 Byelaws - Rogiet Moor Rifle Range

Dear Mandy, Shaun,

I have had the Byelaw Team confirm that neither the current nor former Rogiet Moor MOD range has ever had byelaws, so the statement online is misleading. There is intent to byelaw the site, but clearly this is not relevant in this context.

I will make separate comment on the claim.

Very best,

James
James Nevitt
Senior Access & Recreation Advisor (Environmental Support & Compliance Team)
Technical Services - Defence Infrastructure Organisation
Building 88 | Westdown Camp | Tilshead | Wiltshire | SP3 4RS

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Defence Infrastructure Organisation

Fig. 6.23: Email dated 26th August 2022 from DIO about Rogiet Moor Byelaws: MCC

7. DEFINITIVE MAP AND STATEMENT

The Draft Definitive Map

7.1. The 1952 Draft Definitive Map, sheet 35, at a scale of 1:10560 (Fig. 7.1), shows footpaths marked by bold blue lines. The misinterpretation of the marks that represent drains and those that depict footpaths is notable on this map. The footpath marked by a solid bold blue line is on the drain alignment and not the raised footpath alongside.

7.2. The faint bold red line along with the rough symbol *"F.P."* is the marking of an additional footpath. This extra marking of a footpath alignment is the result of the required consultation of the Draft Definitive Map that was published on the 16th December 1952. These additions were derived from submissions made by the local representative of the Ramblers Association.

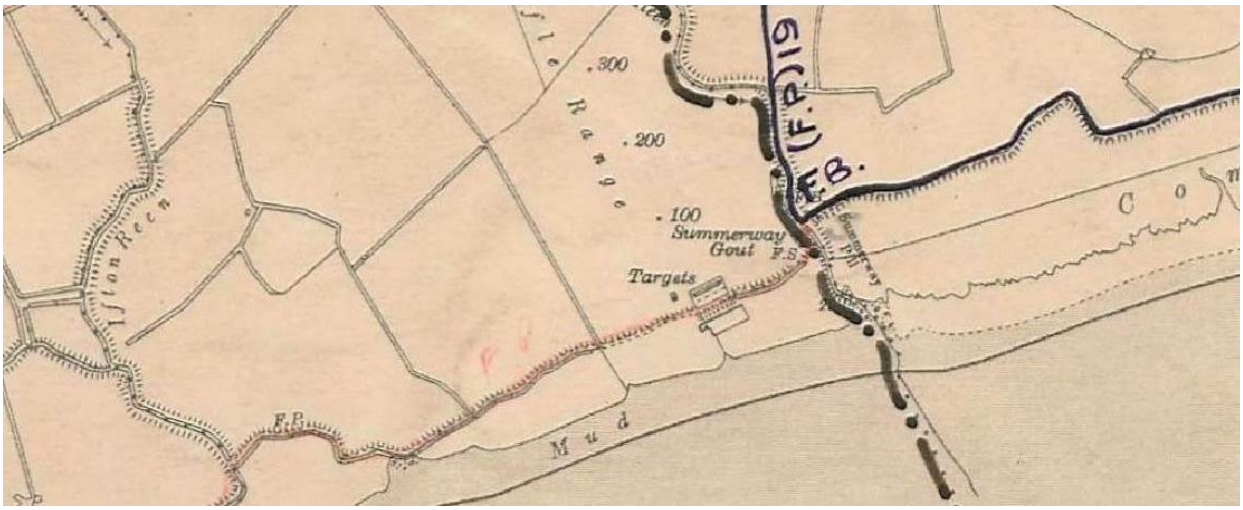


Fig. 7.1: Enlarged Extract of Draft Definitive Map: sheet 35 MCC-CAMS

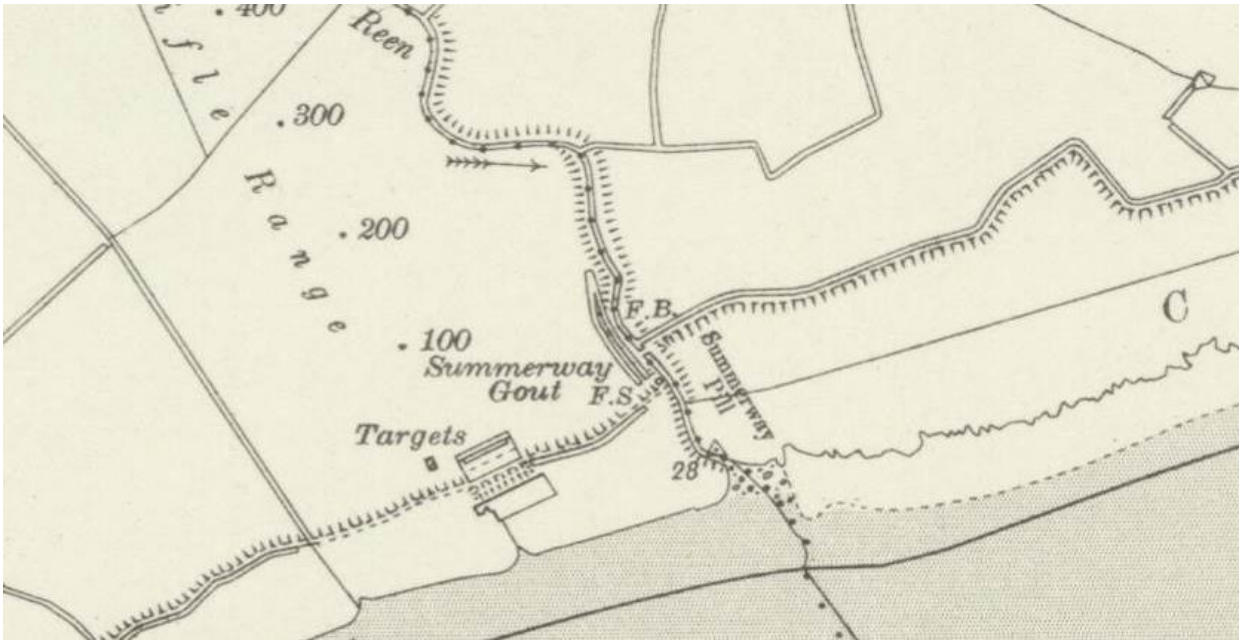


Fig. 7.2: 1922 OS Map six inch: not to scale NLS-online

7.3. The 1922 OS Map (Fig. 7.2) is unblemished from the additional marks that are on the Draft Definitive Map. The alignments of footpaths and drains on the 1922 OS Map (Fig. 7.2) follow the same alignments marked by blue and brown lines coloured on the 1887 OS Map (Fig. 6.11).

The Additions and Deletions Map

7.4. The footpath marked red on the Draft Definitive Map has been transposed onto the Additions and Deletions Map (Fig. 7.3). The public footpath alignment to be added is marked by a large bold red line.

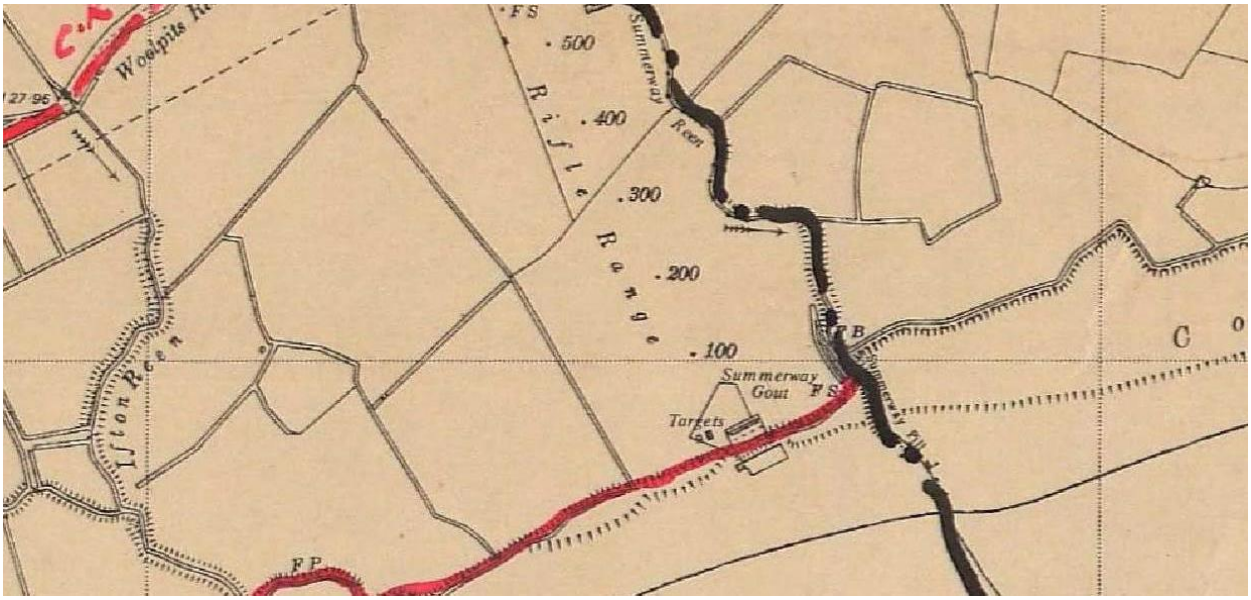


Fig. 7.3: Enlarged Extract of the Additions and Deletions Map: sheet 35 MCC-CAMS

7.5. The Draft Map along with the Additions and Deletions Map have been taken together to record all the public rights of way alignments on to the Provisional Definitive Map.

The 1967 Definitive Map

7.6. The Provisional Map was advertised on the 17th September 1965 which was available for landowners to make any further changes. After the period of consultation was over and no changes were made the Provisional Map was renamed the Definitive Map and the County Council finally published on 3rd November 1967 the Definitive Map and Statement for the County of Monmouthshire (except for Caldicot Parish which was published in January 1973).

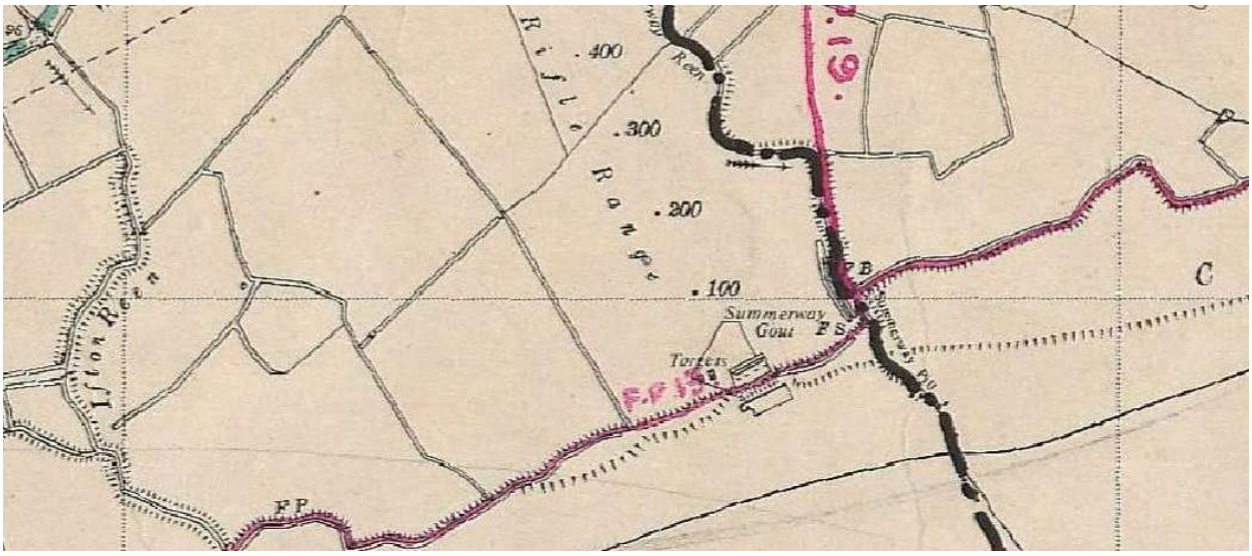


Fig. 7.4: Enlarged Extract of the Definitive Map: sheet 35 MCC-CAMS

7.7. The Definitive Map (Fig. 7.4) shows the alignments of footpaths marked by bold red [purple] lines along with the symbols *"F.P."* and the path number. The boundary between

Caldicot and Rogiet has changed since the publication of the Map. The legal numbering for the alignment that passes behind the *"Targets"* is formally F.P.13 Rogiet. The modern referenced number is now 6 Caldicot and a DMMO to update this is required.

7.8. The alignment utilised has been depicted in all Ordnance Survey maps investigated and the 1954 Ordnance Survey Map, at a scale of 1:10560 (Fig. 7.5), is the base map used for the Definitive Map and Statement. With reference to a colour map to distinguish between the positions of the drains in relation to the other features, both Footpaths 6 and 13 have been drawn on the OS marks that depict the raised footpath and not within the drain as shown on the Draft Definitive Map.

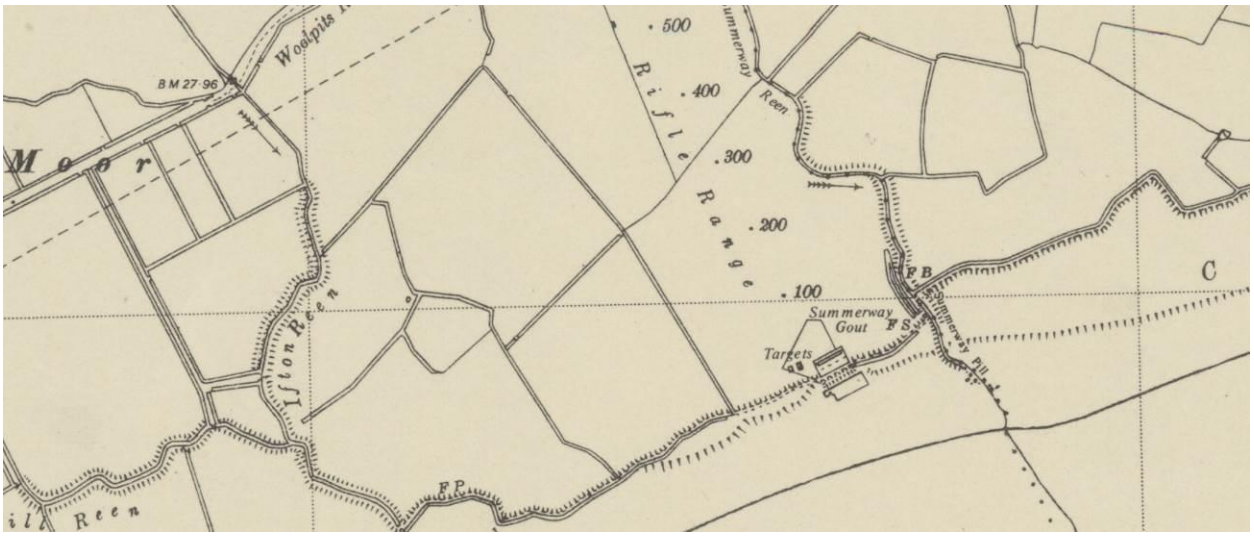


Fig. 7.5: 1954 Ordnance Survey six-inch Map (Revised 1949): not to scale. MCC-CAMS

The Definitive Map Statement

7.9. The Definitive Map Statement for Footpath 6 Caldicot

"To Ifton Seabank. Fishermans Walk (continuation of No 1).
Referred to in Parish Council Minute Book. Footbridge and FP shown on OS Map 1901 and 1921/22. W H Baker, Locomotive Driver, British Railways, 'Mornington', Caldicot, Mon – M G Price, Shunter British Railways, 'Crossing House', Undy, Magor, Mon 29th November 1950.

From Caldicot Pill at the point where footpaths No 3 and 5 converge along the seabank proceeds in a westerly direction for the most part to a stile (needs repairs) and immediately over a footbridge constructed of masonry at Summerway Pill which is on the common boundary between the parishes of Caldicot and Ifton-Rogiet as indicted on the map. Width undefined. Not metalled. This FP proceeds along the seabank into the parish of Ifton Rogiet.

SPECIAL NOTE. The right of way shown on the Inclosure map Part 2 – 1851 was 20 ft wide and was awarded for the Reverend Edmund Timberville Williams as Vicar of Caldicot and his successors Vicars of Caldicot. This extended from Caldicot Pill to a point approximately halfway along this section only. The exact termination point of this private right of way described in the Inclosure award as the way to No 7 is shown on the 1901 OS Map as being incorporated with 580. OS 580 is really 4, 6 and 7 combined on the Inclosure map."

7.10. The Definitive Map Statement for Footpath 13 Rogiet

"Shore path. From its junction with FPs 48 and 52 (Undy Parish) along foreshore to join FPs 19 and 6 (Caldicot Parish)."

7.11. The statement for Footpath 6 Caldicot is very detailed. The statement for Footpath 13 Rogiet is limited.

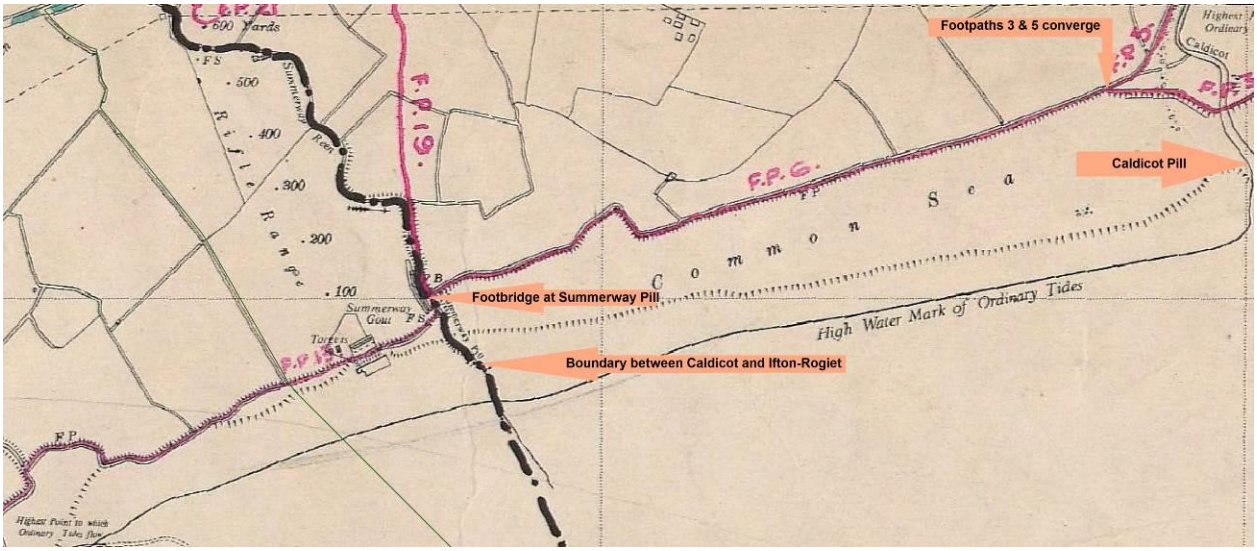


Fig. 7.6: The Definitive Map with added detail to assist with the Definitive Statement MCC-CAMS

Definitive Statement – FP6 Caldicot

7.12. The description for the FP6 Caldicot, surveyed on Monday 29th November 1950, refers to the Ordnance Survey maps also examined in this report, particularly 1901 OS Map (Fig. 6.12).

7.13. All the historical OS maps investigated record the *"Foot Bridge"*. The Definitive Statement further describes it to be *"masonry"* and crossing *"Summerway Pill".* This statement clearly locates the footpath/footbridge over *"Summerway Pill"* and not over any other nearby drains.

7.14. Footpath 6 Caldicot is described as having no defined width, being unsurfaced and to continue along the *"seabank"* to the neighbouring parish of Ifton-Rogiet.

7.15. The *"SPECIAL NOTE"* included in the Definitive Map Statement referencing the 1851 Inclosure Award Part 2 gives no further evidence to the Route, A to G, along the *"seabank"*.

7.16. The extract of the 1851 Inclosure Award (Fig. 6.8) displaying the location of *"Ben Acre"* does not show plots 4, 6 and 7 as these plot numbers are east of the Route, A to G, being investigated. The area referenced as *"Ben Acre"* along with *"No 14"* is north of Severnside Rifle Range and there are no drains and footpaths illustrated on the Inclosure Award map south of this area.

7.17. Moreover, the 1901 OS map plot numbers 93, 94 and 581 are in the location of the footpath/seawall being investigated. The location of plot number 580 on the 1901 OS map (Fig. 6.12) (and reported as being numbered 4, 6 and 7 on the Inclosure Award map) is a good distance to the east near Caldicot Pill.

Definitive Statement – FP13 Rogiet

7.18. The description for the FP13 Rogiet, does not give a survey date as the way was added after the Draft Definitive Map consultation.

7.19. The Definitive Statement describes the way as a *"Shore path"* and to proceed along the *"foreshore"*. However, there are no further details of width, surface or any probable changes to surface gradients or features.

7.20. Although the Definitive Map and Statement was published in 1967 (except for Caldicot Parish which was published in January 1973) the mapping used as the basis to the Definitive Map is, in this instance, dated 1954.

8. Historical Maintenance

8.1. The Field Officers and Wardens report that, for a period from about pre-2007 to 2012, they carried out regular cutting back of surface vegetation along *"the top of the seawall where people walked"*. The proactive biannual cutting of the surface, *"where people walked*", ceased when the promoted All Wales Coast Path was opened in about May 2012.

8.2. The Field Warden is aware that NRW also *"cut the top of the seawall once a year".* This is confirmed by Mr P. Poole from Natural Resources Wales, Integrated Engineering, who reports that they deliver an annual maintenance program along the seawall.

8.3. The public path office files have been investigated. However, there are no records of any historical complaints made from any parties interested in the area. The only complaints received are those made in July 2020 when the Route was obstructed. The obstructions are shown in Appendices 10.1 and 10.2.

8.4. To obtain closer access to the site with vehicles the Field Officer contacted Mr Richard Williams, of Severnside Range, using the retained business card with contact details (Fig. 8.1).

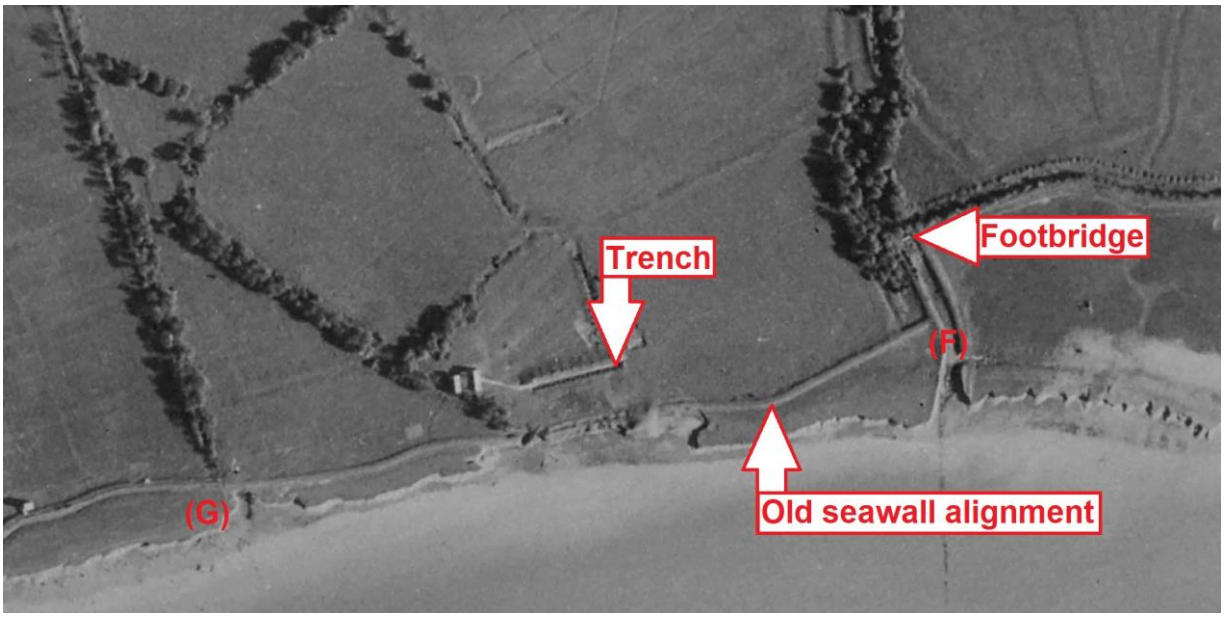
Fig. 8.1: Business card and contact information for Severnside Range: Private details redacted for the purposes of this report: MCC-Raglan Office

9. AERIAL PHOTOGRAPHS

9.1. The 1947 to 2017 aerial photographs detail the section of FP13 Rogiet [CAMs number 354/6] that has been brought into question and passes behind Severnside Rifle Range.

9.2. The 1947 aerial photograph (Fig. 9.1) shows the old alignment of the seawall.

Photograph A: WG



Photograph B:

Fig. 9.1: 1947 Aerial photograph. WG

9.3. The photograph (Fig. 9.1B) with labels shows a footbridge that is in the same location as the footbridge marked on many of the OS map 1900 - 1949 (Fig. 6.13). The same footbridge is also noted on the Definitive Map and Statement (Fig. 7.6).

9.4. The 1951 aerial photograph (Fig. 9.2) shows the early construction of the sea defences south of the *"Targets"* at the Severnside Rifle Range. This photograph gives the evidence that the development of the sea defences was undertaken during the period approximately starting in the early 1950s and continuing until completed in about 1965.

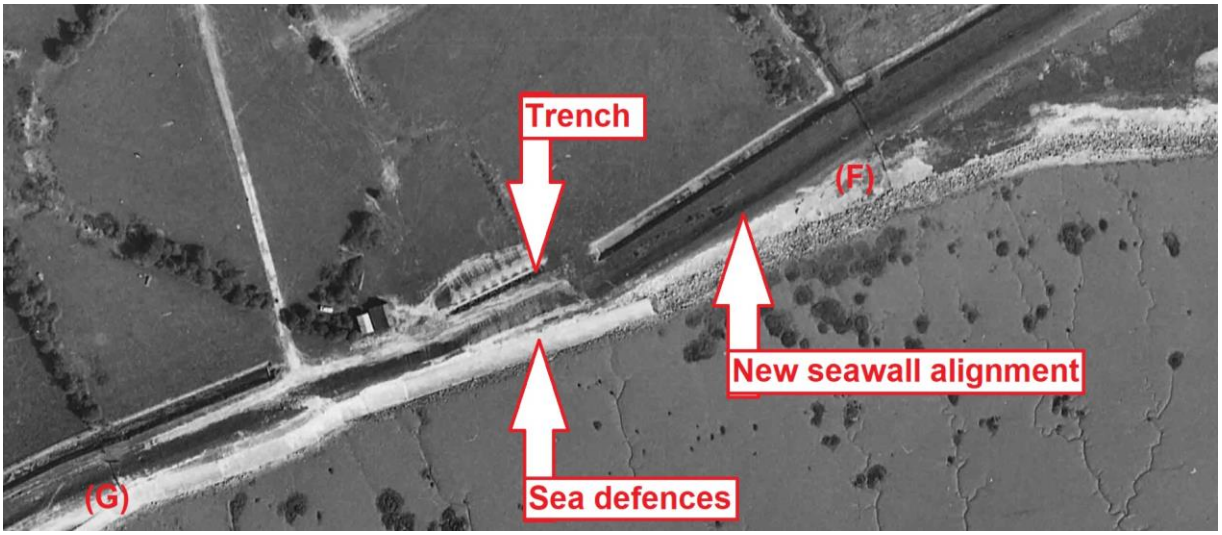
Photograph A: WG

Photograph B: showing 1951 Seawall construction

Fig. 9.2: 1951 Aerial photograph (21 Aug 51: 1951 5134 RAF540_579 122:) WG

9.5. The 1966 aerial photograph (Fig. 9.3) shows the alignment of the sea defences to have been changed.

Photograph A: WG



Photograph B: showing 1966

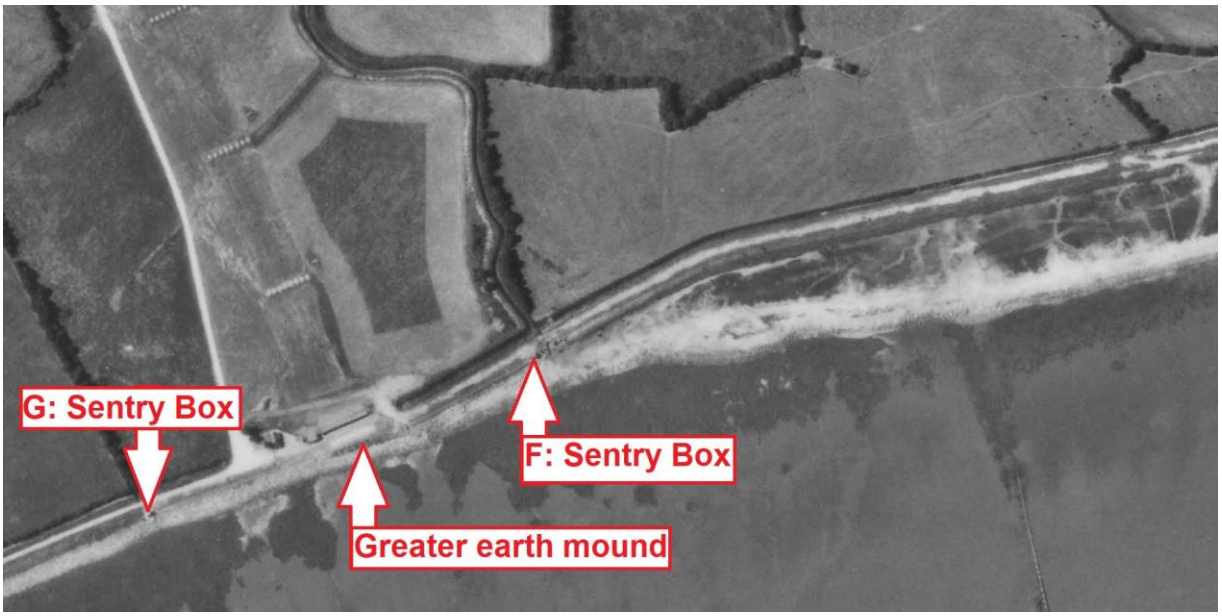
Fig. 9.3: 1966 Aerial photograph (21 Aug 51: 1951 5134 RAF540_579 122:) WG

9.6. The 1971 aerial photograph (Fig. 9.4) shows no further changes to the sea defences.

Fig. 9.4: 1971 Aerial photograph (7156 RAF38_3764 F41 108) WG

9.7. The 1984 aerial photograph (Fig. 9.5) shows a greater earth mound and the location of sentry boxes at points F & G. Additionally, from point F and proceeding southwest there is a faint narrow grey line illustrating the location of the footpath on the crest of the seawall.

Photograph A: WG



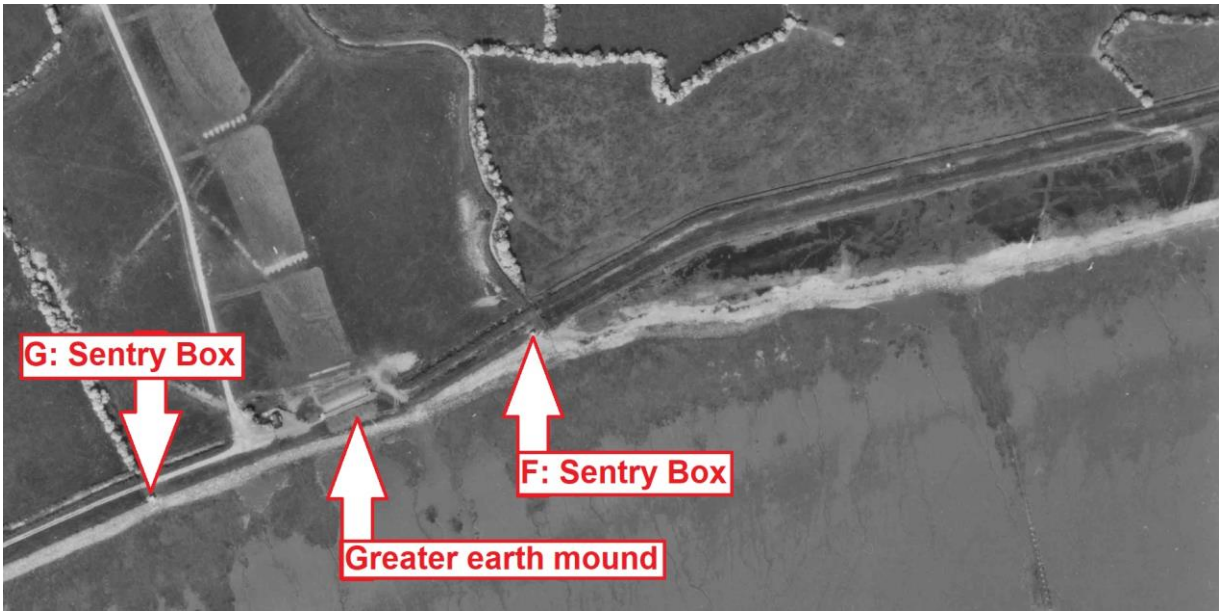
Photograph B:

Fig. 9.5: 1984 Aerial photograph. WG

9.8. The 1985 aerial photograph (Fig. 9.6) shows again the sentry boxes located at points F & G.

9.9. Additionally, on this aerial photograph there are lighter marks at the south-eastern corner of the greater earth mound that indicate access available at its seaward side. This suggests that the greater earth mound has been pushed over the sea defences or “back filled” as reported by Mr J Purnell (chapter 11: point 11.2.iii).

Photograph A: WG



Photograph B:

Fig. 9.6: 1985 Aerial photograph. WG

2000 Aerial photograph

9.10. The 2000 aerial photograph A (Fig 9.7) shows extensive motor vehicular use of the area mainly on the inland side of the seawall. Although this photograph is unclear there are visible narrow white lines denoting the used route alignment to remain on the crest of the seawall.

Photograph A: MCC-CAMS

Photograph B: The alignment of public right of way marked purple overlaid

Fig. 9.7: 2000 Aerial photograph MCC-CAMS

9.11. The 2000 aerial photograph B shows the alignment of the registered public right of way marked by a purple line. The clarity of this photograph is not good. However, the registered alignment is in part unavailable due to historic works altering the sea defences in the area.

2005 Aerial photograph

9.12. The 2005 aerial photograph (Fig. 9.8) shows more clearly the single alignment of the used footpath on the crest of the seawall between the two sentry boxes, points F and G.

Photograph A: MCC-CAMS

Photograph B: The alignment of public right of way marked purple overlaid

Fig. 9.8: 2005 Aerial photograph MCC-CAMS

9.13. The 2005 aerial photograph B has the alignment of the registered public right of way marked by a purple line overlaid. The clarity of this photograph is better and shows that the registered alignment does not, in parts, use the crest of the sea wall.

9.14. The steepness of the greater earth mound is better demonstrated in the 2017 site photograph (Fig. 9.9). This site photograph shows that the greater earth mound has been cut into and has eight scars. This cutting of the greater earth mound is probably the catalyst that is beginning to affect the sea wall.

9.15. Site photographs, 7, 8 and 10 (Appendices 10.1 & 10.2), taken in 2020 show other cuts made into the top of the greater earth mound that do severely affect the earth mound.

Fig. 9.9: 2017 site photograph showing greater earth mound MCC-CAMS

9.16. Even with the limitations of both the aerial photograph and the site photograph the difference of surface vegetation and exposed sand suggests that the greater earth mound is regularly cut into and has moved. While in contrast the seawall in the middle distance is notably a permanent structure with a much lower height.

2009 and 2010 Aerial photographs

9.17. The 2009 and 2010 aerial photographs are similar (Fig. 9.10 & 9.11) and again show the single alignment of the used footpath on the crest of the seawall between the two sentry boxes, points F and G (Fig. 9.11).

Fig. 9.10: 2009 Aerial Photograph Google earth

9.18. The 2009 aerial photograph (Fig. 9.10) shows that the shadow cast by the greater earth mound conceals the eight scars shown on the 2005 aerial photograph. However, the comparison of the shadows cast in the 2009/2010 aerial photographs demonstrate that there is a greater earth mound behind the targets than that of the seawall on either side. In other words, the shadow cast by the seawall is comparatively shallower than that caused by the greater earth mound of the larger target backstop.

9.19. The 2009 aerial photograph with longer shadows than the 2005 aerial photograph shows the seawall and the target area in detailed relief. The footpath between the two sentry boxes is on the crest of the seawall and passes along the top of the greater earth mound behind the target area. There are other worn marks showing routes around and in front of the smaller target mound area, but these would probably be for the management of Severnside Rifle Range.

9.20. Although, the shadow cast here makes it difficult to interpret the aerial photograph, it is possible that the seawall has been affected by the constant movement and changes made to the greater earth mound. The 2009 aerial photograph shows that the greater earth mound has changed shape and in this aerial photograph appears to have a straighter edge in comparison to all the other aerial photographs.

9.21. The 2010 aerial photograph (Fig. 9.11) has the alignment of the registered public right of way marked by a purple line overlaid and a red arrow pointing the location of the greater earth mound. The clarity of this photograph again shows that the registered alignment does not quite use the crest of the sea wall along most of its length.

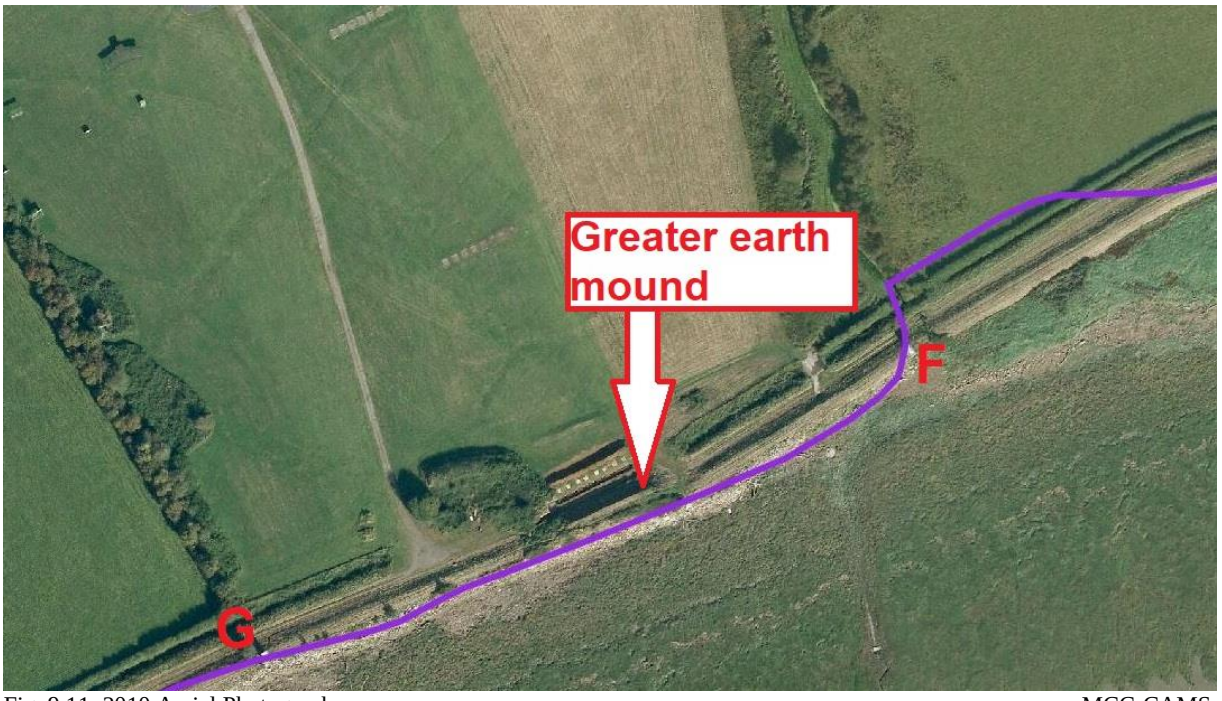


Fig. 9.11: 2010 Aerial Photograph: MCC-CAMS

2014 Aerial photograph

9.22. The 2014 aerial photograph (Fig. 9.12) shows that the greater earth mound with the eight scars as there is no longer a shadow obscuring the feature. A better view of the greater earth mound is seen in the 2017 site photograph (Fig. 9.9).

Photograph A: Google earth

Photograph B:

Fig. 9.12: 2014 Aerial Photograph Google earth

9.23. The 2014 aerial photograph B has been marked up to show a building at the east end of the targets, a trench, the greater earth mound, and the used footpath that on this photograph has a dark line probably caused by the height of the vegetation on the sea ward side.

2017 Aerial photograph

9.24. The 2017 aerial photograph (Fig. 9.13) again has less shadow and although faint there is still a single narrow worn line shown between the sentry boxes.

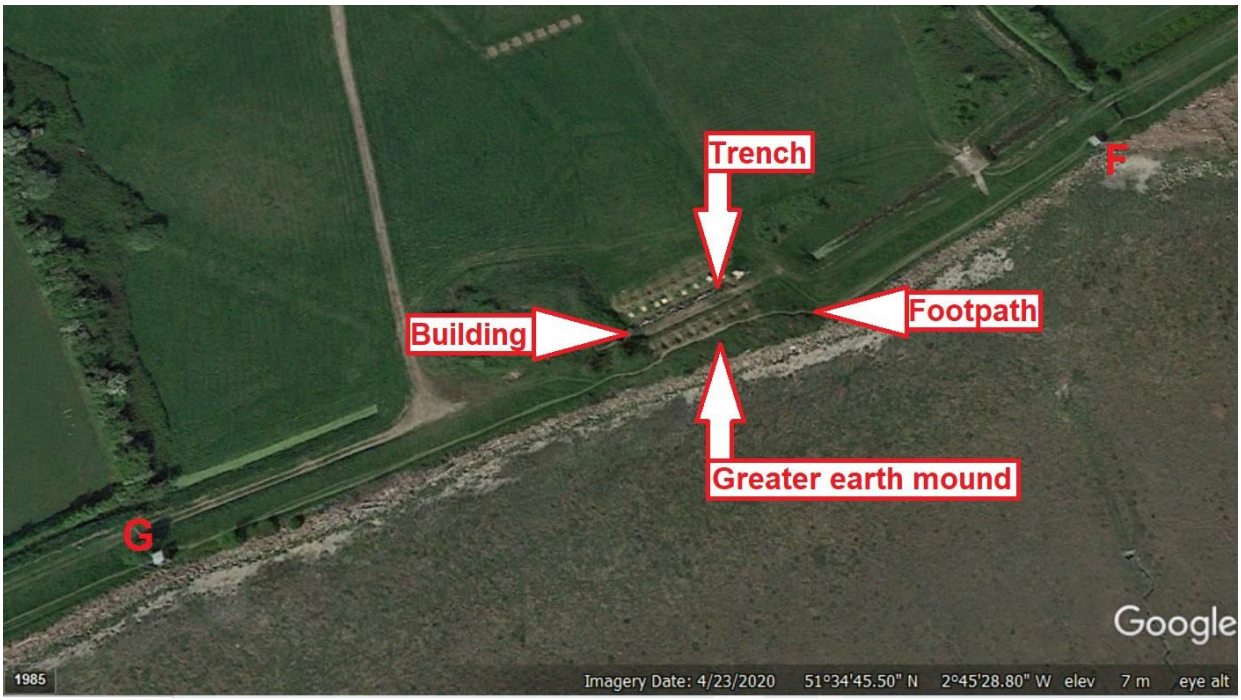
Photograph A: Google earth

Photograph B:
Fig. 9.13: 2017 Aerial Photograph MCC-CAMS

9.25. The 2017 aerial photograph B has the alignment of the registered public right of way marked by a purple line overlaid. This alignment is passing over land coloured brown indicating that it is in an area that is regularly affected by the sea tides.

9.26. The 2020 aerial photograph (Fig. 9.14) again has less shadow. This photograph shows the more pronounced and narrow worn lines that indicate the walked alignment of the Route between points F and G the location of the sentry boxes. This worn line is also clearly shown to ascend the greater earth mound.

Photograph A: Google earth



Photograph B:

Fig. 9.14: 2020 Aerial Photograph (23rd April 2020) Google earth

9.27. The 2020 aerial photograph B is labelled to show the location of the used footpath where it ascends the greater earth mound, the trench, and the building. This aerial photograph shows that there has been regular use of the footpath on the crest of the seawall.

Summary - Aerial photographs

9.28. Comparing the aerial photographs with the 1970s OS Map it is noted that the alignment of the footpath marked by parallel broken lines does not ascend to the crest of the greater earth mound as shown in all the aerial photographs. In other words, the detail marked on the 1970s OS Map (repeated here Fig. 9.15) is limited but generally the footpath utilises the crest of the seawall on either side of the greater earth mound.

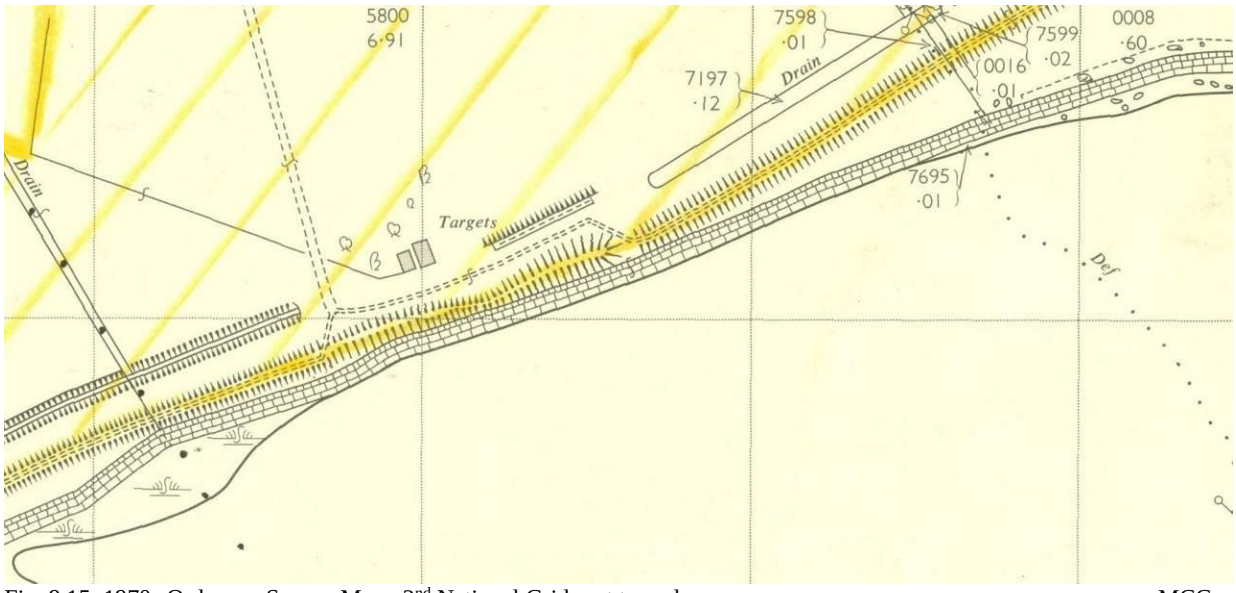


Fig. 9.15: 1970s Ordnance Survey Map: 2nd National Grid: not to scale MCC

9.29. The aerial photographs, in contrast to the 1970s OS map, show that the alignment of the used Route is unfailingly on the crest of seawall and the greater earth mound and not on the way depicted between the parallel broken lines, the symbol for footpaths.

9.30. The comparison made between the aerial photographs, the Definitive Map (Fig. 7.4) and the 1970s OS Map (Fig. 9.15) shows that there are significant changes in the alignment of the seawall.

9.31. Furthermore, the aerial photographs consistently show the regular changes being made to the greater earth mound. The vehicles used to work on the greater earth mound have caused tracks to circumnavigate the area. However, there seems never to have been a way through as suggested by the symbol for a footpath marked on the 1970s OS map.

9.32. The trench for the *"Targets"* steel structure has remain unchanged throughout the years and evident in all the aerial photographs studied.

9.33. The investigation of the aerial photographs demonstrates that provision for keeping walkers safe was made with the appearance of sentry boxes in 1984 at points F & G.

9.34. Comparison of all the aerial photographs together with the other historical documents shows that the sea defences have protected the land beyond. This means that the used footpath along the crest of the seawall has remain unaffected on this alignment for a long time.

10. SITE PHOTOGRAPHS (Appendices 10.1 & 10.2)

Historical site photographs

Site photograph - Survey 2008

10.1. The work for the All-Wales Coast Path was undertaken in 2007/08 soon after the Coastal Access Officer had been appointed. A photograph taken at the site in 2008 (Fig.10.1) shows a metal kissing gate on the crest of the seawall. This evidence suggests that the kissing gate was installed prior to the work being undertaken for the new promoted Wales Coast Path. The installation of the kissing gate was to prevent cattle going onto the site which suggests that the footpath furniture had been there for a long time prior to the 2008 site visit.

Fig. 10.1: 2008 Site photograph MCC

10.2. Moreover, the 2008 site photograph shows the Severnside Rifle Range in use. The presence of a warden at the western sentry box, point F, indicates that the Rifle Range operators acknowledged and accepted that the crest of the seawall was used by walkers. Provision for everyone's safety and enjoyment of the area was made and is demonstrated in this photograph.

10.3. The notice on the sentry box, point F, states *"When red flags are fly live firing in progress. Wait for Clearance from sentry before crossing".* An additional and primary implication of this notice is that when the red flags are <u>not</u> flying then the public are able to use the Route along the crest of the seawall.

Recent Site photographs

July 2020

10.4. In July 2020 the field warden, on a site survey, took photographs of the kissing gate at the sentry box, point F (Fig. 10.2).

Photograph A: Welding of gates:

Photograph B: Easterly view

Photograph C: Westerly view – sentry box (point F)

Photograph D: Westerly view

Fig. 10.2: July 2020 Site photographs MCC

10.5. The kissing gate had been vandalised and obstructed by welding a field gate into it. It is unknown who had vandalised the kissing gate. Other public right of way furniture in the area has been vandalised to gain illegal access. It is not known who has caused this damage but there is evidence of motor cycling and cycling at the location.

10.6. The obstruction to the kissing gate, implemented by Severnside Rifle Range in July 2020, has brought the Route, A to G, into question.

December 2020

Site photographs 1 to 8 – Appendix 10.1

10.7. Site photograph 1, looking eastwards, shows three worn parallel lines on top of the seawall. To the left of the photograph is a lower area also with worn lines. Parallel to that lower area is a drain then a hedgerow.

10.8. Site photograph 2, looking eastwards, shows a flag staff and sentry box along with a metal kissing gate at the western boundary of Severnside Rifle Range, point G on the map. All the structures are installed to accommodate walkers. The sentry box with the flagpole has been installed for public safety and is in keeping with the principle of the *"Flagstaff"* marked on the OS maps (Figs. 6.13 & 6.14). The kissing gate on top of the seawall encourages walkers to proceed. The kissing gate prevents passage by other users, such as bicycles and horse riders. In other words, if there was no public right of way then there would be no need for the sentry box, kissing gate or *"Flagstaff"*.

10.9. Site photograph 3, looking eastwards, shows a single worn line on the crest of the seawall. To the left of the photograph there are additional tracks that indicate an access road. This road probably allows for the stewards to access the sentry box.

10.10. Site photographs 4 & 6, looking eastwards, show a single worn line on the crest of the seawall. The seawall is raised in the distance. Photograph 6 is a closer view of the raised area.

10.11. Site photograph 5, looking westwards, shows the overgrowth and tide debris on the seaward side of the raised area.

10.12. Site photographs 7, looking eastwards and 8, looking westwards, show the first trench cut through the seawall causing damage to the sea defences and to the surface of the footpath.

Site photographs 9 to 16 - Appendix 10.2

10.13. Site photographs 9 & 10, looking eastwards, show the crest of the raised seawall and the second trench cut through the seawall damaging it and the surface of the footpath. Photograph 9 shows the steepness of the greater earth mound and a section of the 2.5m buried concrete and steel pit that houses the target hoisting mechanism which may be the only structure/feature in the field that has not moved since installation, sometime between 1901 and 1922.

10.14. Site photograph 11, looking westwards, shows the raised seawall. To the right of the photograph there is a part of the concrete and steel structures of the target pit. To the left of the photograph there is overgrowth that obscures the steepness but gives stability to the raised section.

10.15. Site photograph 12, looking eastwards, shows the double worn lines on top of the seawall with the sentry box and flag staff in the distance. The presence of the sentry box and flag staff indicates that the public walk in the area and that these features have been installed for their safety.

10.16. Site photographs 13, looking eastwards, and 15, looking westwards, show the build-up of drums and earth to form a large mound that obstructs the Route in question.

10.17. Site photograph 14, looking eastwards, shows the sentry box and flagstaff at the crest of the seawall. In the right of the photograph a vast quantity of tide debris is visible.

10.18. Site photograph 16, looking eastwards, shows the double worn lines on top of the seawall to continue to the distance where the footpath joins with the promoted All-Wales Coast Path.

11. USER EVIDENCE

11.1. There has been an extraordinary response to the obstructions placed across the footpaths.

Remarks Mr Williams: Severnside Rifle Range: Letter dated 26th January 2022.

i) 11.1 - There has been no obstruction across the footpath as the foot path does not exist in that position.

Officer Comment:

ii) The registered public footpath 6 Caldicot is not obstructed near point F instead the alignment of FP6 bends northwards at point F to be obstructed by the first drain. However, the alleged Route, A to G, along the crest of the seawall has been obstructed at points F and G bring the Route into question. Moreover, the registered footpaths 6 Caldicot and 13 Rogiet have been obstructed at point G, the community boundary (Appendix 1.2).

11.2. The following are a few testimonies submitted to the Order Making Authority since July 2020.

i) Mr Shute telephoned/emailed on 20th July 2020 and complained that the gates at the Severnside Rifle Range had been welded shut.

Remarks Mr Williams:

a. Mr Shute complained that the gates had been welded shut. Reason: - chains & locks continuously cut off allowing cattle & sheep possible access to railway & motorway. In order to prevent this they were welded shut, but later cut down with disc cutters.

Officer Comments:

b. Mr Shute was informing the Authority regarding the welding shut of the kissing gates (Fig. 10. 2 Photograph A) which is an obstruction and has resulted in bringing the Route into question.

c. The landowner's difficulties regarding possible public anti-social behaviour are evidenced in the site photographs (Appendices 5.11 & 5.12). Photograph A (Fig.11.1), taken in 2008, shows a functioning kissing gate and a closed field gate. Photograph B (Fig. 11.1), taken in 2009 shows a kissing gate that is still effective.

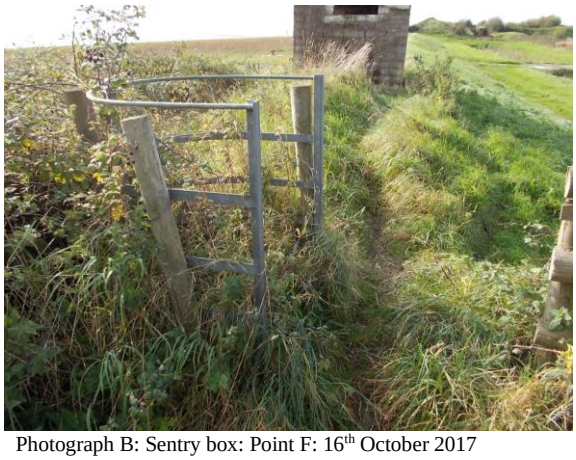
Photograph A: Sentry box: Point F: 24th April 2008

Photograph B: Sentry box: Point F: 5th November 2009

Fig. 11.1: Site photographs taken in 2008 and 2009 MCC Office Files

d. The site photographs taken in 2017 (Fig.11.2), show broken kissing gates and a partially open field gate at point F, photograph A (Fig. 11.2).

Photograph A: Sentry box: Point F: 16th October 2017



Photograph B: Sentry box: Point F: 16th October 2017

Photograph C: Sentry box: Point G: 28th September 2017

Photograph D: Sentry box: Point G: 16th October 2017

Fig. 11.2: Site photographs taken in 2017 MCC Officer files Ref: CsideCAMSPhotosEnf2017

e. The damaged caused to the kissing gates and field gate, show that some are attempting to gain access illegally with either bikes, motorbikes, or vehicles. This is further supported by the damaged caused to other kissing gates that are nearby. Therefore, it is suspected that this behaviour is not associated with walkers and their reasonable use of the kissing gates.

ii) Mr Mayo, telephoned on 25 November 2020, and said he was older than 60 and that he had been walking the top of the sea wall since childhood when he and friends used to collect spent bullets.

Remarks Mr Williams:

a. *Mr Mayo stated he had been collecting with his friends spent bullets from the top of the sea wall factually incorrect. Spent bullets are only in the bullet catcher. He was trespassing and stealing.*

Officer Comment:

b. Mr Mayo reports he is older than 60 and has been "*walking the top of the sea wall"* since childhood. Historical photographic evidence show that the greater earth mound (butts or bullet catcher) and the seawall have merged over the years.

iii) Mr J.C. Purnell, 4th December 2020, states: *"Thank you for looking at this for me. I have attached a map from 1965 that shows the coastline has not changed and the path running along sea wall. (Fig. 6.17: chapter six). What has changed is that the earth tump has been backed filled (after its sale from MOD early 1990's). The path*

ran behind the tump. However, the back filling has caused people to walk over the top as they do now. The owner has also said they want to stop fly tipping on site! I would maintain that the only fly tipping on site is from the owners who are builders and as there is a 10ft locked gate to site, they are the only people with access. And as the map shows there has been no erosion."

Remarks Mr Williams:

a. *Mr J C Purnell is factually incorrect as well there has never been a path at the back of the bullet catcher and has never been backed filled. This bullet catcher was built by the MOD and always had a steep and dangerous drop to the river. I would like to point out that he states that we are builders again factually incorrect, I have never been a builder or am a builder. The fly tipping is access to the fore shore via gates to the west side of Severnside Range (photograph evidence provided). Gates was cut off.*

Officer Comment:

b. Aerial photographs (chapter 9) and site photographs (chapter 10) all show the alignment of the Route, A to G, to continue along the greater earth mound (*"butts" or "bullet catcher"*) that, over the years, may have merged with the seawall.

c. The existence of any steep and dangerous drops to the river do not prevent a public footpath being registered. Severnside Rifle Range manager reports that for 50 years there has never been any issue with walkers, which demonstrates that walkers have enjoyed the Route regardless of the seemingly steep sides into the river. Furthermore, there are numerous registered public rights of way that already cross difficult terrain.

d. The repetitive fly tipping reported, demonstrates that those in mechanically propelled vehicles are gaining access by force to enable them to dump rubbish. This forced access and fly tipping is illegal and is not associated with the behaviour of walkers.

e. The assumption made of the landowner's trade is not relevant to the case.

iv) Mr Richard C. Morgan, telephoned on 7th December 2020, states *"The footpath along the sea wall where Caldicot firing range is located has been blocked, I have walked this path for 50 years with no problems. It is now blocked with oil drums there is a notice stating that the public footpath is now on the riverbed. The path on top of the seawall has been used by people from Caldicot for generations how can people be forced walk in the river mud to walk around the range. If the shooting club will not allow access to the path on the sea wall their licence to shoot in this range should be taken off them, this is a disgrace."*

Remarks Mr Williams:

a. *Mr Richard C Morgan, I note telephoned which would be regard as hear say he said people of Caldicot have walked there for generations, testimonial supplied by the from the people of Caldicot will state this, but he acknowledge that the definitive footpath is indeed in the river and not the bank.*

Officer Comment:

b. Mr Morgan's general comment is supported by the totality of historical evidence which, on balance, shows that a footpath along the crest of the seawall "*is reasonably alleged to subsist".* Due to the realignment of the seawall some

sections of the registered right of way remain at the toe of the seawall, on the seaward side.

v) Mr David Morgan, Chair, Long Distance Walkers Association, states: *"This public right of way is very commonly used and the practice has always been that the firing range places volunteers either side of the range to enable the safe passage of those who wish to walk by. There are similar arrangements at the military firing range further along the coast. As you might be aware, with health and wellbeing and particularly physical exercise being so important, losing accessible countryside rights of way should be a last resort."*

Remarks Mr Williams:

a. *Mr David Morgan (could be related to the above) states health and well being is particularly important, does not have concerns crossing 2 firing ranges.*

Officer Comment:

b. The relationship of two people makes no significant changes to the evidence. The flag staffs, sentry boxes, signs, and kissing gates on the crest of the seawall show established public use of the footpath. By keeping within the limitations of the signage, when the red flags were flying, the users were kept safe. It is this footpath furniture and signage that has obviously enabled Mr Morgan to exercise, thereby maintaining his health and well-being. Furthermore, the Rifle Ranges were not always in use and when the red flags were not flying then the public were able to walk without restrictions along the crest of the seawall (Fig.11.3).

Fig. 11.3: Extract of site photograph 04/09/2012.
Walker with dog near sentry box, Point F, No red flag:
MCC Ref: Coastal Access G03-9580

vi) Mr Phil Williams, regular user states: *"Riverside footpath, Caldicot. I wish to register my interest in this walk as a regular user who abides by the warning flags and marshals, if in place. I would like to point out that there is no clear signage in relation to the firing range. The Army range has guards stopping walkers entering the area."*

Remarks Mr Williams:

a. *Mr Phil Williams is correct in point out there is no clear signage to date, the fact Mr Shaun Pritchard has refused to install them after many requests.*

Officer Comment:

b. The signs on the sides of the sentry boxes as seen in site photographs (Figs.11.1 & 11.2) are now no longer evident. Mr Shaun Pritchard, MCC's Enforcement Officer, has frequently installed notices regarding the temporary closure of the registered public right of way (Fig.11.4). The Council is not going to place signage along the Route to permanently close it at the landowner's request as the actions taken by Severnside Rifle Range to obstruct the alleged public footpath have brought it into question. Only after a decision regarding the public status of the Route in question has been made will it be possible to return

the original notice along with others to curtail other types of usage, such as bicycles and motorised vehicles.

vii) Mr A. Wheeler, 11th December 2020 states: *"yes I'm interested about the ongoing issue of the moors footpath along the sea defence. I've lived in Caldicot 48 years since birth and there have never been any issues using this footpath until now. When it was just an army firing range, it was manned either end plus the red flag warning. You were allowed to pass when firing ceased. No one ever had to climb down the sea defence onto the tide line to pass. The sea defence wall has always been used as a footpath and local farmers with their livestock. What needs to be asked is why all of a sudden there seems to be a danger issue being risen. Have the firing range stopped manning live firing shoots! I would reiterate this has always been a natural right of way footpath with no complaints from anyone until now."*

Remarks Mr Williams:

a. *Mr Wheeler again factually incorrect the sea wall has always been used by local farmers with their live stock. They have grazing rights fencing are in place to prevent possible access to motorway and railway.*

Officer Comment:

b. Mr Wheeler's report regarding livestock using the area is confirmed by historical maps (chapter six). The area from point A to F was in the past given the designation *"Common Sea"* which is verified by many of the historical maps. The term *"Common Sea"* marked on the historical maps indicates the location of a common by the sea and as suggested by both Mr Wheeler and Mr Williams there have always been common grazing rights in the area.
c. Nevertheless, Mr Wheeler has also stated that *"you were allowed to pass when firing ceased",* which demonstrates that he -
    1. used the Route (that is what is meant by *"to pass"*), and
    2. obeyed the signs and waited for the firing to stop.

viii) Mr Monkley, 11th December 2020 states: *"Just a note to suggest the private firing range in Caldicot along the sea wall implement the same precautions as their neighbouring military range. Use red flags and sentries when the range is in use. This way anyone using the path will be safe. I've walked the diversion a few times and it does detract from a nice walk on the seawall, which is a shame, but it is clearly marked. Only those purposely ignoring the signs will continue onto the range. It's annoying the path is getting closed because some refuse to follow simple instructions. It's always a case of punishment for all because of the few. Maybe a range in a fairly public area should do more. You should see the lengths volunteer youth football coaches have to go to before a football match. Surely a professional range can do more."*

Remarks Mr Williams:

a. *Mr Monkey* [Monkley] *is again factually incorrect stating that the MOD range implements the same precautions as the Severnside Range. The MOD has far greater powers to stop people than a private range.*

Officer Comment:

b. The similar practice of flags, managed sentry boxes and signage can be adopted by both Rifle Ranges.

ix) Mr Humble, South Gwent Ramblers, 13 December 2020, states: *"I would like to be included in any future consultation regarding the temporary closure and subsequent reopening of this footpath."*

Remarks Mr Williams:

a. Mr Humble comments irrelevant.

Officer Comment:

b. Mr Humble is expressing his belief that the Route, A to G, is public along with his desire to be informed regarding each stage of the process to reopen the footpath.

x) Mr Matthews, Senior Coastal Operations Officer, 15 December 2020, states: *"Please could you register my interest in the above consultation. I manage Chepstow Coastguard Rescue Team who require access to coastal locations for Search and Rescue operations."*

Remarks Mr Williams

a. Mr Matthews has never in the history of the range has never or asked for access for search and rescue operation and would be impossible to launch any rescue from the sea wall apart from the fact he would require permission to cross private ground, obviously if it was requested it would be granted.

Officer Comment:

b. Mr Matthews interest and Mr Williams's remarks make no difference to the evidence collected in connection with the probable registration of a public footpath.

xi) Mr Smith, 30th December 2020, states: *"I am writing to formally object to the temporary closure of the footpath that adjoins the Severnside firing range and to register an interest in any future consultation on the status of that footpath (354/6/3). I have to say at this stage that I am disappointed with your decision to issue a temporary closure notice, in my view as a walker on that footpath which sits atop the sea wall for over 40 years, there is nothing wrong with its location or it's condition. Local people have walked that sea wall for generations and only now since the Covid-19 lockdown restrictions have come into effect are more people discovering the joys of walking in that area. It is a Right of Way designated on the Definitive Map and you should ensure that it remains so, rather than pander to the complaints from a private shooting club and/or the MOD. People were walking there long before anyone decided to create a shooting range and the walker's rights should take pre-eminence."*

Remarks Mr Williams:

a. Mr Smith completely wrong and misinformed the people have not been walking there for generations and the definitive map he refers to asks to ensure it remains, which is indeed in the river so walker rights have not been affected.

Officer Comment:

b. Mr Smith's testimony is supported by all the historical evidence investigated. The obstruction near point F has brought the alleged route into question. The totality of evidence studied suggests that a public footpath along the crest of the sea wall, *"is reasonably alleged to subsist"*. Even so, because of the repositioning of the seawall the alignment of the registered right of way is partially in the river but is also obstructed at point G.

xii) Mrs Evans, 10th March 2021, states: *"Whilst walking along the foreshore footpath from Rogiet to Caldicot, we passed through the MOD firing range with no problem. Arriving at the old rifle range, the path was dug up in two places, and totally blocked by a skip full of rubble and oil drums filled with large boulders, forcing us to leave the path and scramble around the obstructions. There was no notification of the path being closed and no alternative route advice given. We have been walking this path for over 40 years, when firing allowed without any issue."*

Remarks Mr Williams:

a. *Mr[s] Evans is correct no substantial and clear signage has not been provided by Mr Shaun Pritchard even though after a number of requests, but he has stated public safety is no concern.*

Officer Comment:

b. The sign on the side of the sentry box, point F (Fig. 11.4), has been removed. Both Mrs Evans and Mr Wheeler report walking the Route, A to G, along the crest of the seawall *"when firing allowed without issue"*.
c. Mr Shaun Pritchard has repeatedly installed notices regarding the temporary closure of the registered public right of way and these have been regularly removed.
d. The frequent placement of notices on site has demonstrated a concern for public safety. Nevertheless, with the regard to need, nuisance and/or security these are not criteria that bear any influence on whether a public right of way *"subsists"* or is *"reasonable alleged to subsist".*

Fig. 11.4: Sentry box: Point F: May 2021 MCC

xiii) Mr J. C. Purnell, 25th September 2021, further clarified the location of the *"back filling"*, states: *"As a local who grow [grew] up and still lives in the area and has regularly used this footpath. …I can confirm that your sketch 1* (Fig. 11.5*) is correct when the MOD operated the Range. If there w[h]ere no red flags flying you could cross the range via a narrow path (3, 4 feet enough for you to push a bicycle) behind the earth tump*[6] *sea wall side. The tump occupied about half of the sea wall and the path ran along remainder. After its sale, over a short time [the] tump was widened to its current state covering the entire sea wall. As a result, the public were forced to walk over the top, without interruption other than when red flag is flying as with current MOD range. Please find attached my sketch of the footpath, as it was, before backfilling. (Fig.11.6)"*

[6] The *"tump"* mentioned here is the greater earth mound (*"butts"* or *"bullet catcher")* referenced in this report.

Remarks Mr Williams:

a. *Mr J C Purnell is factually incorrect as well there has never been a path at the back of the bullet catcher and has never been backed filled. This bullet catcher was built by the MOD and always had a steep and dangerous drop to the river...*

Officer Comment:

b. After examining all the aerial and site photographs, I sketched a cross-section of the area behind the "Targets" (Fig. 11.5).
c. Mr Purnell's sketch of the footpath overlying the December 2020 site photograph confirmed my interpretations (Fig. 11.6).
d. The aerial and site photographs (chapters 9 & 10) all show the alignment of the Route, A to G, to continue along the top of the greater earth mound (*"butts" or "bullet catcher"*) that, over the years, has merged with the seawall.

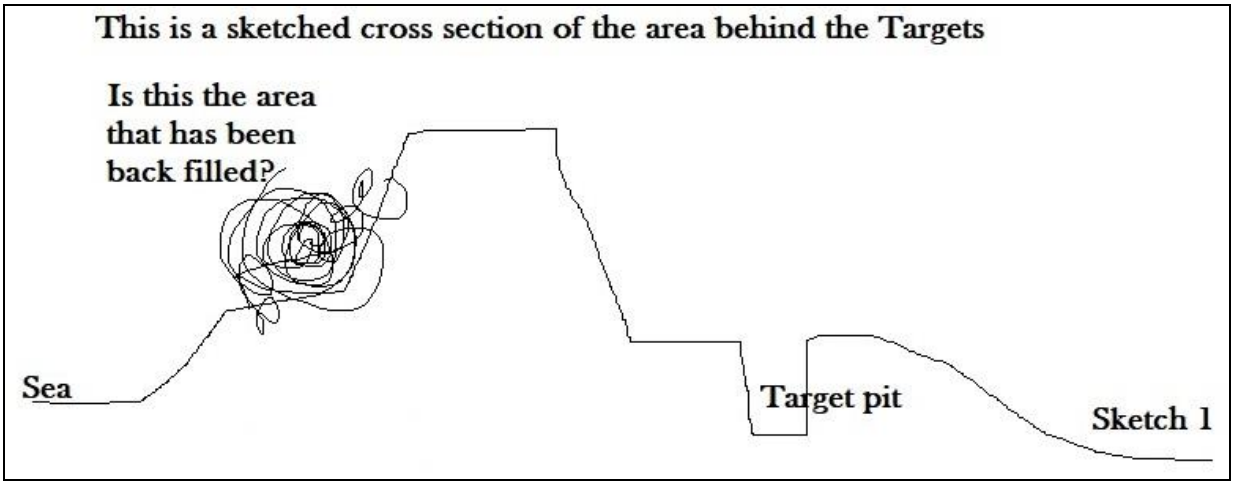


Fig. 11.5: Sketched cross-section sketch for the area behind the "Targets". MCC

Fig. 11.6: Mr Purnell's sketch of the footpath overlaying the December 2020 site photograph 11: MCC

11.3. The testimonies submitted to the Order Making Authority are supportive user evidence which when taken together with the totality of evidence supports the making of the Order to record the Route that utilises the crest of the seawall.

11.4. The use of the crest of the seawall by walkers has been provided for and taken for granted by all parties for both the M.O.D and Severnside Rifle Ranges. Furthermore, the entire length of the seawall has been used by walkers for a considerably long time.

The counter information

11.5. The Linetop counter MM04 at the Army Rifle Range is a slab sensor installed in December 2007. The counter's battery must be changed every 6 to 12 months therefore annual reports have been made since then. There are no other registered rights of way to walk in the area, other than the Route that is for most of its length along the crest of the seawall, which means that the numbers of users recorded are mainly for the Route being investigated.

11.6. The table (Fig. 11.7) shows a steady flow of people of between 100 to 272 in 2019. In stark contrast there is a huge fluctuation in usage in 2020.

Linetop Counter MM04 Army range costal path gate									
	2013	2014	2015	2016	2017	2018	2019	2020	2021
January	26	91	96	24	NA	122	167	150	448
February	24	91	55	29	NA	63	171	8	292
March	137	155	161	97	NA	76	151	0	653
April	85	227	220	152	67	150	272	2	843
May	86	181	237	258	133	140	270	1168	449
June	64	171	201	94	99	65	203	1766	305
July	194	140	129	95	64	92	196	891	224
August	197	154	250	230	112	133	253	789	264
September	156	138	203	141	116	246	258	631	244
October	195	76	138	69	138	228	209	374	172
November	149	74	76	NA	128	132	150	405	170
December	101	66	47	NA	118	195	109	220	190
TOTAL	1414	1564	1813	1189	975	1642	2409	6404	4254

Fig. 11.7: Linetop Counter data: 2013 to 2021 MCC

11.7. In January 2020, the counter records 150 people using the Route then there is a significant drop in numbers with eight users recorded in February, no users in March and two users in April. The significant drop, to zero users, in March 2020 coincides with the first covid-19 lockdown.

11.8. Then in May/June 2020, the counter records a significant increase in usage to 1168 people. This reflects the Governments instruction to both, *"go out for exercise"* but *"to remain within a five-mile radius of your home"*.

11.9. The drop in numbers of people using the Route in July 2020 relates to the report of obstructions installed by the Severnside Rifle Range operators.

The Strava/Metro heat map.

11.10. Strava/Metro, who have given permission for the use of their heatmap for the purposes of this report, work with millions of people who track their walks, runs and rides to the Strava app on their mobile phone or GPS device every week. The privacy of the individual is removed from the dataset and what is left is a vast source of trends and insights in a form of the Strava Heat map along with other analysis tools. This data collected is limited to the individuals who have the Strava app on their device.

11.11. The intensity of the heat line located along the crest of the seawall, shown on the Strava map (Fig. 11.8) during the period December 2018 to November 2020, is significant.

11.12. The intensely white/yellow line shown in the top left and right corners of the Strava map (Fig. 11.8) indicates that the All-Wales Coast Path (AWCP) to have the greater amount of usage.

Fig. 11.8: Strava Metro data: 2018 to 2020: This report includes aggregated and de-identified data from Strava Metro.

11.13. The yellow line shown on the bottom left passes the M.O.D Rifle Range shows that there is less use of the crest of the seawall when compared with the more heavily used AWCP. The Severnside Rifle Range (directly north of the white hand icon (Fig. 11.8) is passed by an orange line that indicates a slight drop in usage when compared with other sections of the Strava map.

11.14. The comparison between the 2018 to 2020 Strava map (Fig. 11.8) with the 2020 to 2021 Strava map (Fig.11.9) shows a decline in the usage of the crest of the seawall near the Severnside Rifle Range.

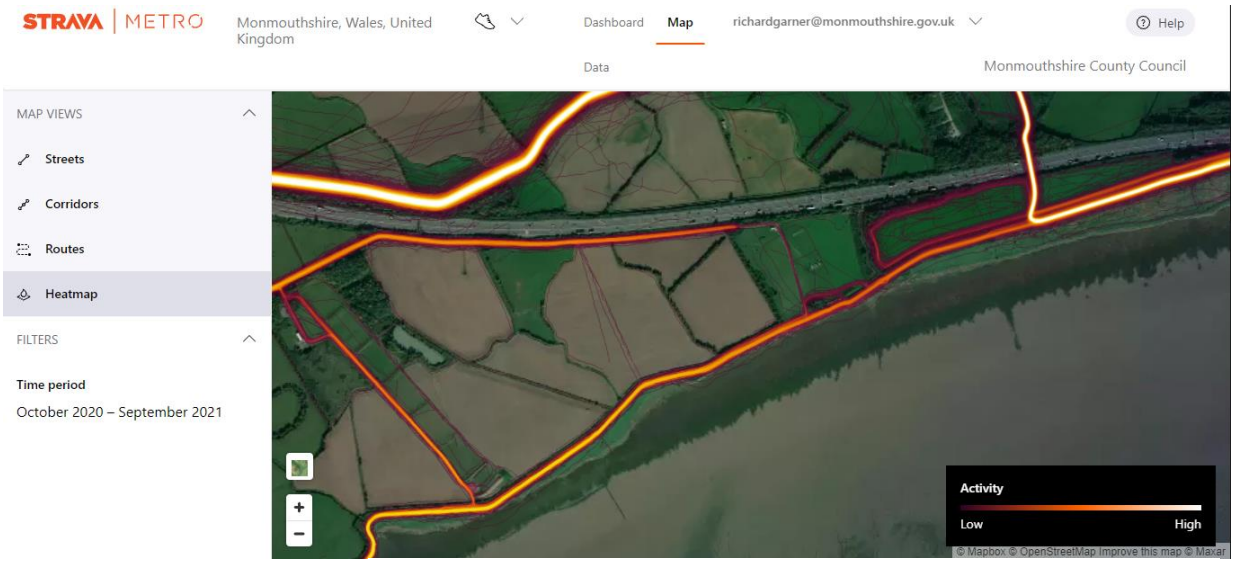


Fig. 11.9: Strava Metro data: 2020 to 2021 This report includes aggregated and de-identified data from Strava Metro.

12. SUMMARY

12.1. The registered public footpaths formally known as 6 Caldicot and 13 Rogiet (6 Caldicot 354/6) run along the southern boundary of Severnside Rifle Range. They do not form part of the All-Wales Coast Path. Their alignment is in part unavailable due to historic works altering the sea defences in the area.

12.2. Severnside Rifle Range is reported to be actively used by several clubs for rifle shooting, and the conditions placed on this type of hire are unknown.

12.3. The obstructions installed at points F and G have brought the Route, A to G, into question. This has provoked a Definitive Map Modification Order and the evidence collated shows that, on balance, there is another route alignment that utilises the crest of the seawall. This route is very close and, for much of its length, parallel to the alignments of the registered public footpaths.

12.4. Research into all the historical mapping and documents has clarified that the seawall was realigned and that the public have continued to use the crest of the seawall. The provision of sentry boxes and footpath furniture installed on the new alignment has informed and invited the public, when safe, to use and enjoy the Route along the crest of the seawall.

12.5. The axiom of *'once a highway always a highway'* makes it impossible to extinguish the registered footpaths (FPs 6 Caldicot & 13 Rogiet). As a result of the obstructions public interest has been considerable which in turn adds evidence for the retention of the right of way. Nevertheless, sections of the registered alignments have been lost, firstly by the realignment of the seawall and subsequently by erosion.

12.6. The Wildlife and Countryside Act (WCA 1981) is the legislation used to make any changes to the Definitive Map and Statement. Section 53(3)(c)(i) of the WCA 1981 provides the legal tests that allows for an unrecorded route that *'subsists or is reasonably alleged to subsist'* to be registered on the Definitive Map and Statement (DM&S).

12.7. It is not a requirement of the legislation to be able to show that the alleged right exists beyond all reasonable doubt. The tests under the Wildlife and Countryside Act 1981 to be applied are *'Test A'* and *'Test B'*. Only the lower threshold needs to be met to make the Order.

i) Test A is whether the right of way *"subsists"* on the *"balance of probabilities".* There must be clear evidence of public rights, with no compelling evidence to the contrary.

ii) Test B is whether it is *"reasonable to allege that a right of way subsists"*. If there is a conflict of evidence, but no undeniable evidence that a right of way cannot be reasonably alleged to exist, then *'Test B'* is satisfied.

12.8. Furthermore, the legislation for a Definitive Map Modification order does not give consideration to other factors such as need, nuisance or suitability. In other words, the effect of amenity, antisocial behaviour or other such circumstances relating to the way is unable to be taken into account. The process is not to decide whether a way is desirable at a given location but whether a way has been established through dedication and acceptance by the public.

12.9. The Highways Act 1980 (HA 1980) section 31(1) provides the statutory foundation for a presumption of the dedication of a public footpath and has also, to a certain extent, codified common law by setting out the circumstances whereby a presumption of dedication arises.

12.10. For there to be a presumption of dedication at common law use must be *"as of right"* and *"without interruption".* Case Law interprets *"as of right"* to mean *"without force", "without secrecy"* or *"without permission".*

12.11. Principles of common law accept local custom as being capable of giving rise to a valid legally enforceable right, provided that the custom is ancient in origin, has been exercised continuously, is certain, and is reasonable. However, long usage cannot, if the usage is criminal, give rise to the acquisition of rights. In other words, if the usage is enabled by causing criminal damage this is deemed illegal and does not result in acquiring the rights. In this case, the historical evidence shows that there is no criminal usage made by walkers of the Route along the crest of the seawall.

12.12. The investigation shows that the Route has been available along the crest of the seawall for a long time. The provision of flag staffs, sentry boxes, signage and kissing gates demonstrate that the landowners acknowledge the existence of a public right of way. In addition, the footpath furniture shows that usage has occurred continuously, is certain, and is reasonable.

12.13. Furthermore, the totality of historical evidence suggests no further support for any other routes or any other greater public rights (i.e., horse drawn carts, equestrians, or cyclists) along the crest of the seawall. This is particularly relevant as all the historical documentation taken together with the reports made by Mr Williams, the manager of Severnside Rifle Range, of criminal damage suggests that, on balance, there are no greater public rights along the crest of the seawall.

12.14. The landowners and the leaseholder are aware of the Definitive Map Modification Order process. The reply from Mr Williams, dated 26th January 2022, makes reference to matters mainly surrounding, security, nuisance and need. These principles do not have any influence and are irrelevant under this legislation. Equally, the ownership of land does not prevent a public right of way being recorded on the Definitive Map and Statement (DM&S).

12.15. The submitted petition making reference to the All-Wales Coast Path (AWCP) already being *"an alternative route"* is not a valid reason to assert that the Route in question is not an existing public right of way.

12.16. The Highways Act 1980 section 32 stipulates that historical documentation should be studied to clarify the alignments, widths, and status of a public right of way.

12.17. Although the 1823 and 1830s maps are limited in scale, there has always been a route adjacent to the sea's edge. The 1830s Cassini, David & Charles and OS maps all show the alignment of either a road or a drain.

12.18. The 1843 Caldicot Tithe Map, the 1858 Caldicot Parish Map and the 1851 Enclosure Award Map do not mark the roads but instead mark the location of the drains. This does not mean that there are no public rights of way in the area. The evidence that roads are

not depicted on these maps demonstrate that there are no greater public rights such as bridleways or restricted byways. However, there are other historical maps that show the location of a *"Foot Bridge"* confirming the location of a footpath.

12.19. The 1887 OS Map is the first historical map that distinguishes between the alignment of the minor road and drain. The detail of the 1887 OS Map also clarifies the designation of footpath by locating a *"Foot Bridge*" along the alignment of the way.

12.20. The 1901 OS Map shows the same alignments for both the footpath and the drain. Moreover, the location of the *"Foot Bridge"* also suggests that walkers used the area prior to the building of the Rifle Range.

12.21. The historical evidence shows that initially the Rifle Range was built, between 1901 and 1922, probably as a requirement for training during the 1st World War. The footpath is acknowledged at the development of the Rifle Range as evidenced by the 1922 OS Map which is the first map to introduce the locations of the *"Flagstaff" (F.S.)* and the *"Targets".* The positioning of the *"Flagstaff",* not far from the *"Foot Bridge",* implies the knowledge the operators had of the presence of walkers in the area. A flying flag would have been used as a simple early warning system.

12.22. The 1947 aerial photograph confirms the location of the *"Foot Bridge"* along the crest of the old alignment of the seawall. The use of the Route along the crest of the seawall is demonstrated as continuous even though the alignment of the sea defences changed. The positioning of the sentry boxes, shown in the 1984 aerial photographs, confirms the used alignment of the Route along the crest of the seawall which has never been obstructed until it was in July 2020.

12.23. The 1954 OS Map is the base map for the Definitive Map that shows the alignment of the footpath to be like that marked on the 1887 and 1922 OS Maps. The depicted path alignment passes between the *"Targets"* and the greater earth mound that is in linked with the man-made pond/lagoon. At the time that the OS Map was surveyed the greater earth mound at this location appears to be connected to the pond/lagoon and may only be an additional flood defence.

12.24. The 1965 and the 1973 OS Maps are the first maps that record the alignment change for the seawall and drains which at the same time caused the routing of the footpath to change. The aerial photographs, 1951 to 1966, assist with dating the period in which the seawall, drains and footpaths were realigned. The investigation and comparison of the historical maps, the aerial and site photographs demonstrate that the high tide has not affected the sea defences. The development and changes to the seawall and the drains in the area have affected the registered footpaths.

12.25. The 1984 aerial photograph shows the location of two sentry boxes at either end of the footpath at points F and G. This demonstrates a concern for the walking public as the sentry boxes are provided and positioned at no other location but on the crest of the seawall. Furthermore, the sentry boxes have windows and signs on their sides pointing outward along the crest of the seawall specifically for walkers. That is the windows lookout in a general westerly direction for point G and a general easterly direction for point F. This demonstrates that the sentry boxes were not installed for the sole purpose as lookouts for shipping.

12.26. This provision of a warning system shows that there has always been a public right of way in the area that from time to time has been periodically closed while firing has occurred. Although, these closures have occasionally occurred the public has been encouraged to walk along the crest of the seawall when the red flag is not flying. Therefore, the warning signs, red flags and sentry boxes do not constitute any permanent obstruction, under **common law**, to the modern alignment of the footpath on the crest of the seawall.

12.27. The 2008 coastal office file records the following note:

"…the route of the All WCP to divert inland using existing public rights of way via Rogiet Moor and Caldicot Moor. This will have the added benefits of avoiding the rifle ranges and linking the path into Severn Tunnel Junction railway station. Mitigation measures are therefore not required as route avoids impacts of using seawall. However, the existing PROW along the seawall will not be extinguished. Signage will be used to direct people along the route of the All WCP."[7]

12.28. A precise comparison between the Definitive Map and modern topographical lines is difficult as many of the physical features have moved (Fig. 12.1). Nonetheless, a comparison is made, and it is noted that the drains and seawalls have swapped location (Figs. 6.19 & 6.20). The greater earth mound behind the *"Targets"* has also moved.

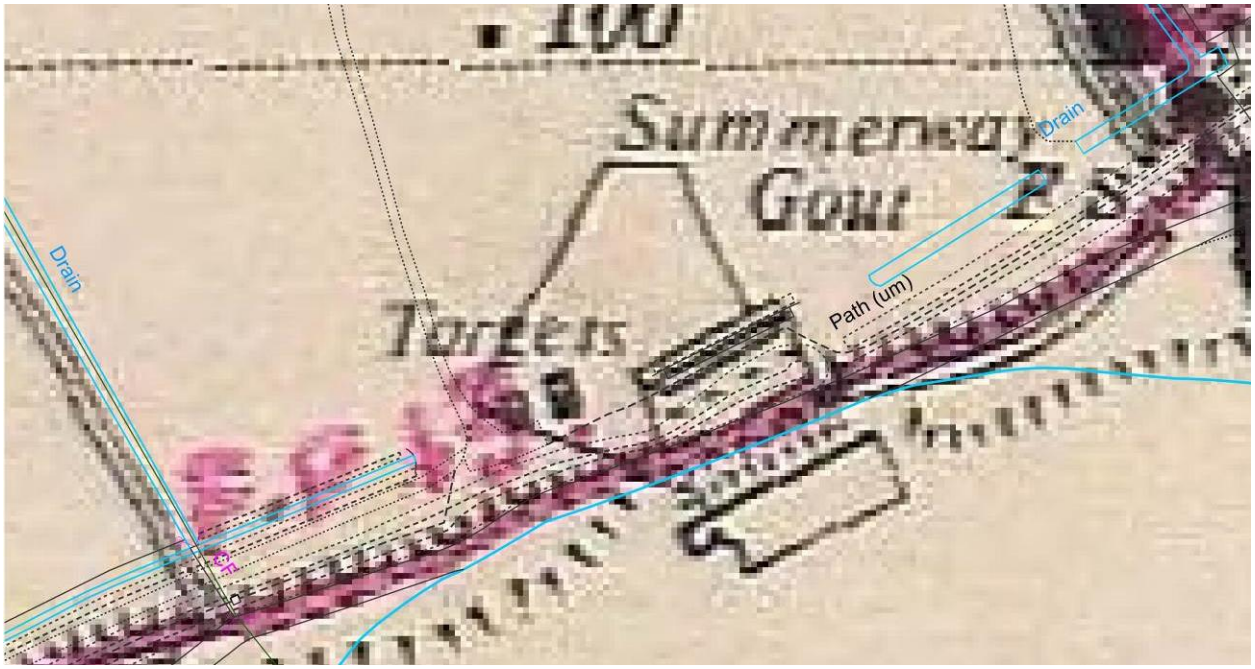


Fig. 12.1: Modern topographic lines overlaid with the Definitive Map MCC- CAMS

12.29. On the Definitive Map (Fig. 12.1) the footpath alignment is marked on raised ground between the *"Targets"* and the man-made pond/lagoon. On the modern topographical data set (Fig. 12.1) the large mound, depicted by small broken dash lines, is directly behind the *"Targets"*. The existing alignment of the right of way is on the other side. In other words, the original seawall with registered footpaths is on the seaward side of all the physical features marked on the modern topographical data set.

[7] [File path name: Coastal Access/appropriate Assessment/2010/SR maps & comments/16Dec10AA table]

12.30. A timeline for the development of the Definitive Map and Statement is as follows:

i) 1950 – the parish surveys took place, and this is recorded in the Statement for the subsequent Definitive Map.

ii) 1952 – the Draft Definitive Map & Statement published (16th December 1952) and FP13 Rogiet is added because a statutory consultee, the representative of the Ramblers Association, submitted the alignment for registration. The public footpath, FP13 Rogiet, to be registered, is the continuation of FP6 Caldicot from the east that joins with FP52 Magor with Undy in the west.

iii) 1965 – the Provisional Map & Statement published (17th September 1965). The same year as the 1965 OS map is published showing the alignment changes of the seawall. This means that the up-to-date OS base maps were not utilised to compile the Provisional map.

iv) 1967 – the Definitive Map & Statement published (3rd November 1967) was in this instance the Provisional map changing by title only and becoming the Definitive Map. This meant that the 1954 OS map remained as the basis of the Definitive Map for which the relevant date is the 1st July 1952. In other words, the alignment change of the seawall and footpath was not taken into consideration prior to the publication of the Definitive Map & Statement for Rogiet and Magor with Undy.

v) 1973 – the Definitive Map & Statement published (19th January 1973) for the parish of Caldicot.

12.31. The realignment of the seawall, depicted by aerial photographs and historical OS maps during the period between 1951 to 1966, happened at the same time the Provisional Definitive Map & Statement was published. There was a planned legislative five-year Special Review of the Definitive Map & Statement that had it been processed would have been used to divert the registered public footpaths from the top of the old sea defences onto the crest of the new seawall. However, the Special Review was not validated resulting in the registered public footpaths, 6 Caldicot and 13 Rogiet, remaining with the alignment as shown on the Definitive Map and Statement.

12.32. The field wardens recall cutting the top of the seawall once a year.

12.33. The OS Explorer map, at a scale of 1:25000, shows that the already registered public footpath partly utilises the crest of the seawall which means that anyone referring to these maps might try to use the path alignment shown at this undetailed scale. Therefore, it was decided that for public safety a temporary traffic regulation (TRO) order for six months was required. This has since been extended.

12.34. A right of way across any land does not cause criminal damage instead people who behave badly cause criminal damage. People using a route in secrecy with force usually leads to illegal damage. Mr Williams reports criminal loss all over the site at some distance from the Route being investigated. The photographic evidence (Appendices 5.11 and 5.12) shows vast amounts of motor vehicle damage to the ground a good distance away from the crest of the seawall.

12.35. The aerial photographs (Figs. 9.8 and 9.10 to 9.14), show the Route between points F and G to be on the crest of the sea wall and the greater earth mound that have seemingly merged.

12.36. The site photograph, (Fig. 9.9), shows in the foreground objects that look constructed of wood lying on a lower earth mound. Metal spikes protrude from the concrete trench behind which the ground is initially flat before it builds up into the greater earth mound (*"butts" or "bullet catcher"*).

12.37. The aerial photographs show many routes around the *"Targets"* of the Severnside Rifle Range. It is reported by Mr Williams that many of these routes were used by employees and members of the range. If club members were the only users of the Route between points F and G then there would be no need to damage its surface to inhibit use, as illustrated in site photographs 7, 8 and 10 (Appendices 10.1 and 10.2).

12.38. However, the totality of evidence studied in this report shows that there are two routes:

i) the way that follows the old alignment of the sea defences. This alignment is registered public footpaths (FPs 6 Caldicot & 13 Rogiet) and,

ii) the current used alignment that is along the crest of the seawall. Although this alignment remains unrecorded, evidence investigated suggests that it already exists. The DMMO, if made and confirmed, seeks to formally register the alleged Route, A to G, on the Definitive Map and Statement.

12.39. The site photographs which show the positions of the sentry boxes, signage, and kissing gates, demonstrate that, on the balance of probabilities, the alignment of the Route, A to G, utilises the crest of the seawall.

12.40. The distance of the Linetop counter situated at the MOD Range, 1 mile from Severnside Rifle Range, is not located too far away as this evidence along with the totality of proof supports the usage of the Route that is on the crest of the seawall.

12.41. Mr Williams reports having used the range for nearly 50 years and has "*never had any issue with walkers".* Also, a walker reports waiting for *"the firing to cease before passing"*. It is therefore demonstrated that the public are not being put in danger.

12.42. Additionally, Mr Williams reports, with photographic evidence, regular criminal damage to flagpoles, kissing gates, field gates, locks, and boundary fences. Much of his reported damage described refers to users that are possibly on mechanically propelled vehicles. The manager of Severnside Rifle Range in fact states *"I have no issue with walkers"* which suggests different users that are reportedly causing criminal damage and therefore this behaviour does not give rise to the recording of those higher public rights.

12.43. Mr Williams has reported that for more than 50 years there have been no issues with walkers using the crest of the seawall. Walkers have also reported using the crest of the seawall for many years with no reports of danger/fatal accidents having ever occurred in the last 50 years.

12.44. If any fatal accidents had occurred this would have been reported by many people. The reports would be recorded in the media and retained on the office public footpath files. However, there are no fatal accidents recorded anywhere. Therefore, as there has been so many years without any accident involving walkers, it then would continue to be manageable to utilise the crest of the seawall. The public are not being put in danger. Public safety is not a matter considered under this legislation. It is something that would be considered if an Order is confirmed.

12.45. The introduction of the All-Wales Coast Path (AWCP) circumnavigating the area has in a way limited usage of the area by reducing the human impact. The provision of the flagpoles, sentry boxes, kissing gates combined with the routing of the AWCP has resulted in curbing human use of the Route, A to G, but it has not stopped or removed walkers completely.

12.46. The legislation for the designation of areas such as Site of Special Scientific Interest (SSSI) and other designations do not remove existing public footpath rights.

12.47. Although the All-Wales Coast Path (AWCP) circumnavigates both Rifle Ranges, the Linetop counter data combined with the Strava Heat map and all the evidence investigated shows that the whole length of the crest of the seawall has existing public footpath rights.

13. CONCLUSION

13.1. During the 2020 covid-19 pandemic the level of usage for the footpath was high as indicated by the Linetop counter and Strava Heat map data sets (Fig. 11.7, 11.8 & 11.9).

13.2. The increase in people walking in the local area resulted in the manager of Severnside Rifle Range placing obstructions at points F and G. This action brought the Route, A to G, into question.

13.3. The tests under the Wildlife and Countryside Act 1981 to be applied is whether the right of way *"subsists"* or is *"reasonably alleged to subsist".* If there is a conflict of evidence, but no undeniable evidence that a right of way cannot be reasonably alleged to exist, then the test is satisfied. At this stage only the lower threshold, that the Route is *"reasonably alleged to subsist",* must be met.

13.4. Also, the legislation for a Definitive Map Modification order does not give consideration to other factors such as need, nuisance or suitability. All such factors should not be considered when coming to a decision on this matter.

13.5. The required investigation into the historical maps has shown that there has always been a public right of way along the crest of the seawall.

13.6. The alignment change of the seawall has affected the routing of the public footpaths 6 Caldicot and formerly 13 Rogiet.

13.7. The firing ranges have always made provision for the public with the use of flag staffs and later sentry boxes were also installed to manage the public's use of the Route at the times of rifle shooting. The M.O.D. site has managed the public successfully in this way for several years.

13.8. The notice on the sentry box, point F, (Fig. 10.1, chapter 10) states *"When red flags are flying live firing in progress. Wait for Clearance from sentry before crossing".* This notice does <u>not</u> inform the public that the Route is <u>not</u> a public right of way. Instead, the initial implication of this notice is that when the red flags are <u>not</u> flying then the public are able to use the Route along the crest of the seawall.

13.9. The aerial photographs and site photographs show many tracks around the *"Targets"* and the sentry boxes. The 1887 to 1901 historical Ordnance Survey maps investigated show that a footpath existed prior to the construction of Severnside Rifle Range [circa. 1922].

13.10. Site photographs show that the greater earth mound is stable and the ground compact. Additionally, the surrounding vegetation has added to and strengthened the mound enough to be equivalent to and better than a vast number of other existing footpaths.

13.11. The need, nuisance and/or security maybe a consideration at a later stage but is not when determining whether a public right already exists. Furthermore, the security of people walking has been accounted for by installing flag staffs and sentry boxes.

13.12. The main features that distinguish the alignment of the footpath are the sentry boxes, signage, kissing gates and flag staffs placed on the crest of the seawall and not at the toe of the seawall.

13.13. There are reports of cyclists and/or motor vehicle users accessing the site with force which has been demonstrated by the cutting of locks on kissing gates nearby. This use of force does not allow for the registration of any higher rights such as bridleways or restricted byways.

14. RECOMMENDATION

14.1. Having considered all the evidence within this Report it is recommended that a Definitive Map Modification Order should be made, under section 53(3)(c)(i) of the Wildlife and Countryside Act 1981, to add the alignment of the footpaths FP83 & 84 Caldicot, that follow the modern alignment of the crest of the seawall between points A and G, to the Definitive Map and Statement.

Author:	Mandy Mussell, Definitive Map Officer
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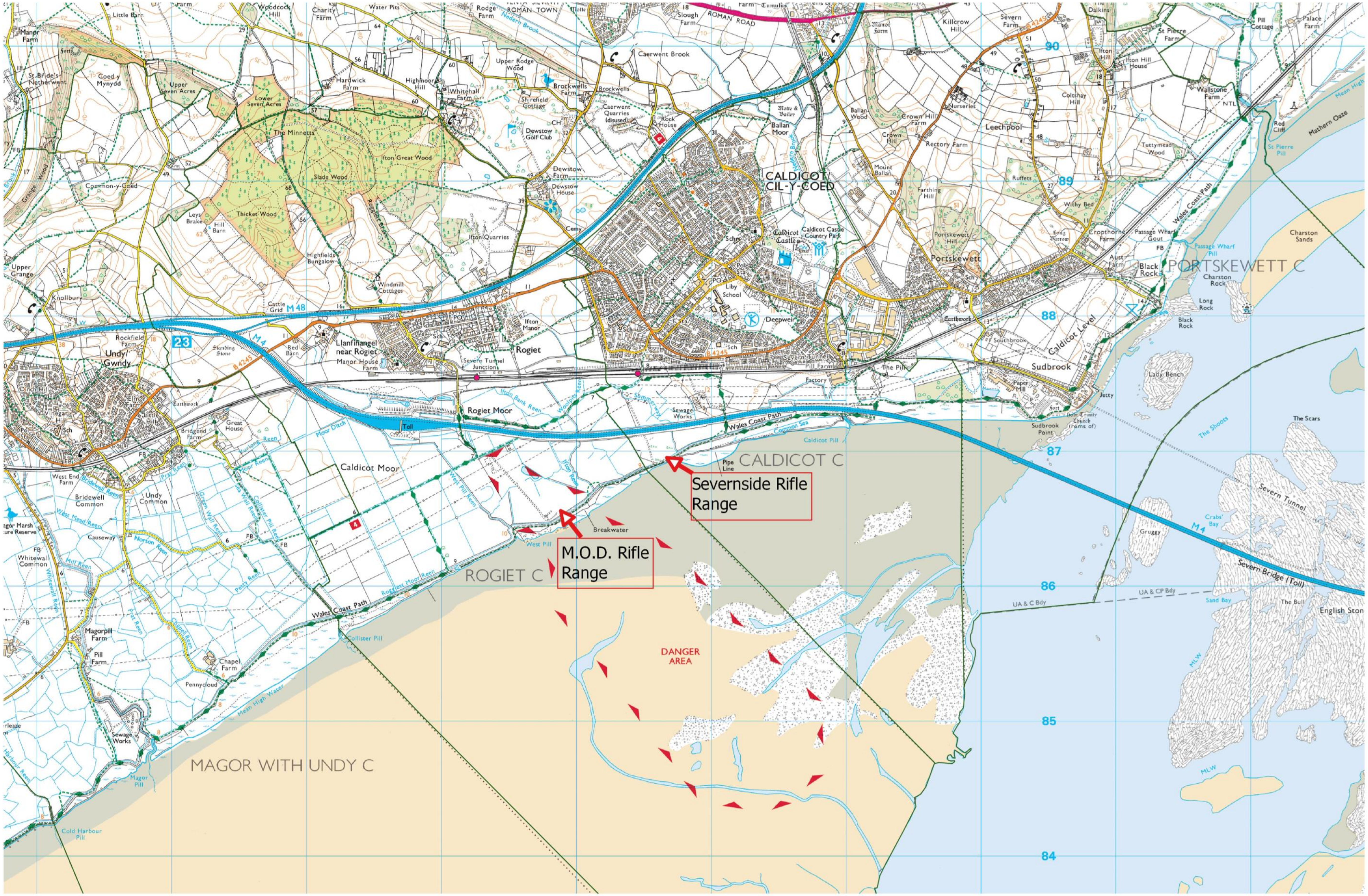
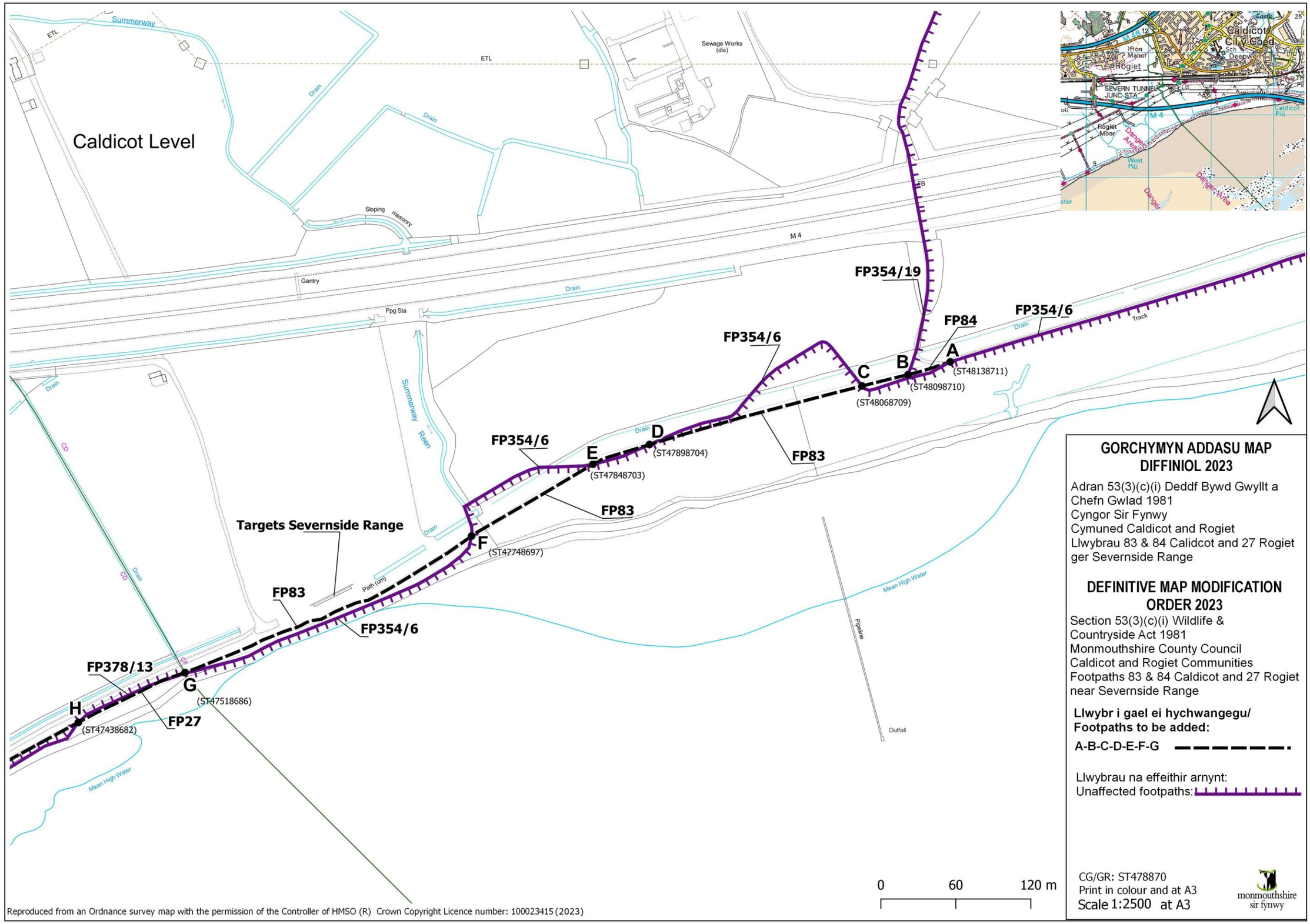


Reproduced from an Ordnance survey map with the permission of the Controller of HMSO (R) Crown Copyright Licence number: 100023415 (2018) Scale: 1:25000

Appendix 1.1
Location Map



Reproduced from an Ordnance survey map with the permission of the Controller of HMSO (R) Crown Copyright Licence number: 100023415 (2023)

GORCHYMYN ADDASU MAP DIFFINIOL 2023

Adran 53(3)(c)(i) Deddf Bywd Gwyllt a Chefn Gwlad 1981
Cyngor Sir Fynwy
Cymuned Caldicot and Rogiet
Llwybrau 83 & 84 Calidcot and 27 Rogiet ger Severnside Range

DEFINITIVE MAP MODIFICATION ORDER 2023

Section 53(3)(c)(i) Wildlife & Countryside Act 1981
Monmouthshire County Council
Caldicot and Rogiet Communities
Footpaths 83 & 84 Caldicot and 27 Rogiet near Severnside Range

Llwybr i gael ei hychwangegu/ Footpaths to be added:

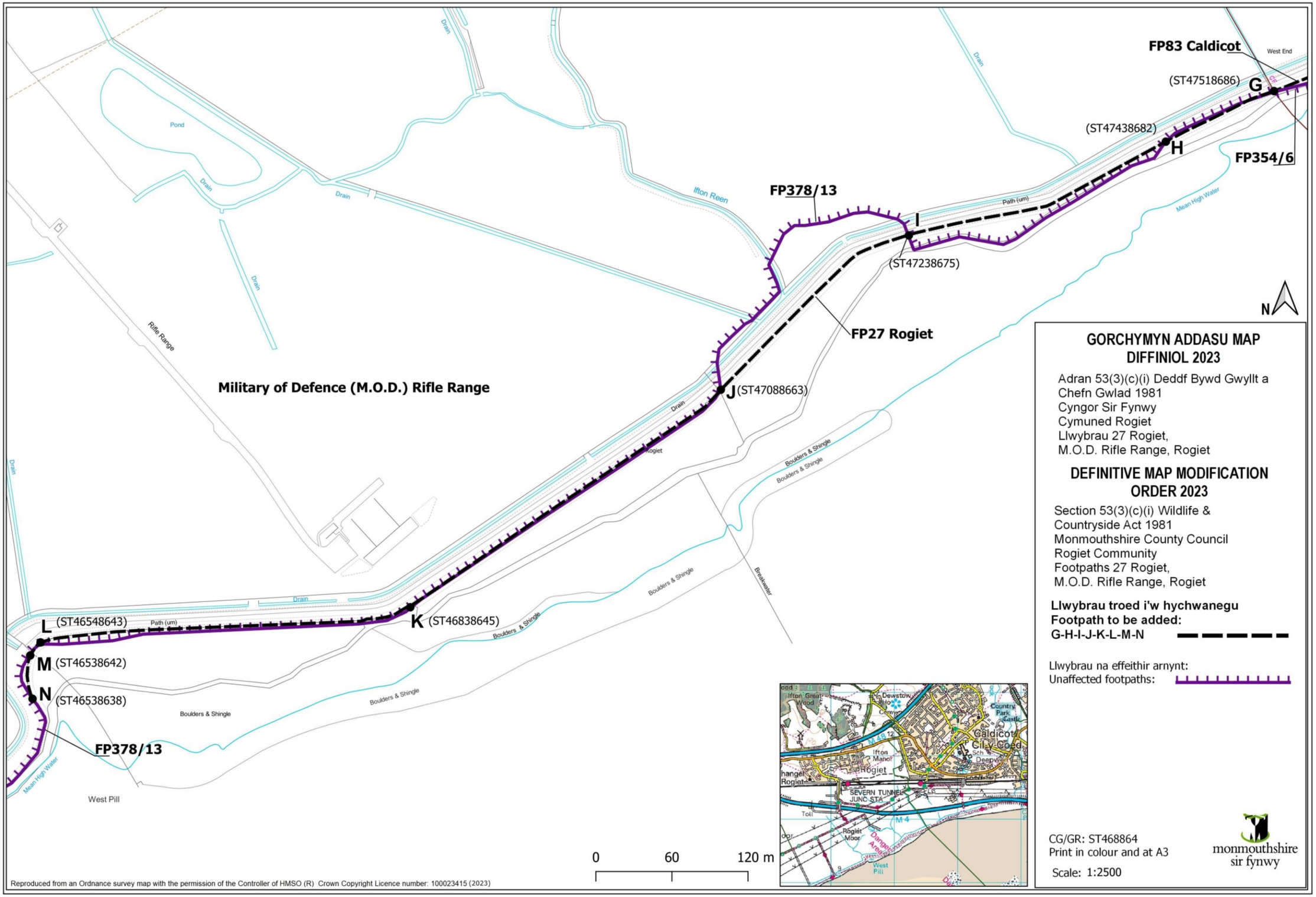
A-B-C-D-E-F-G

Llwybrau na effeithir arnynt:
Unaffected footpaths:

CG/GR: ST478870
Print in colour and at A3
Scale 1:2500 at A3

monmouthshire sir fynwy

Appendix 1.2
Order map showing Route, A to G: Not to scale (also Fig. 1.1)



Appendix 1.3
Order map showing Route, G to N: Not to scale

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HM Land Registry Cofrestrfa Tir EM

The electronic official copy of the register follows this message.

Please note that this is the only official copy we will issue. We will not issue a paper official copy.

Mae'r copi swyddogol electronig o'r gofrestr yn dilyn y neges hon.

Sylwch mai hwn yw'r unig gopi swyddogol a ddarparwn. Ni fyddwn yn darparu copi swyddogol papur.

Official copy of register of title
Copi swyddogol o gofrestr teitl

Title number / Rhif teitl CYM70715

Edition date / Dyddiad yr argraffiad 01.09.2020

- This official copy shows the entries on the register of title on 28 MAY 2021 at 10:32:06.
- This date must be quoted as the "search from date" in any official search application based on this copy.
- The date at the beginning of an entry is the date on which the entry was made in the register.
- Issued on 28 May 2021.
- Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
- This title is dealt with by HM Land Registry, Wales Office.
- Mae'r copi swyddogol hwn yn dangos y cofnodion yn y gofrestr teitl ar 28 MAI 2021 am 10:32:06.
- Rhaid dyfynnu'r dyddiad hwn fel y "dyddiad y chwilir ohono" mewn unrhyw gais am chwiliad swyddogol sy'n seiliedig ar y copi hwn.
- Y dyddiad ar ddechrau cofnod yw'r dyddiad y gwnaethpwyd y cofnod yn y gofrestr.
- Cyhoeddwyd ar 28 Mai 2021.
- Dan adran 67 Deddf Cofrestru Tir 2002, mae'r copi hwn yn dderbyniol fel tystiolaeth i'r un graddau â'r gwreiddiol.
- Gweinyddir y teitl hwn gan Gofrestrfa Tir EM Swyddfa Cymru.

A: Property Register / Cofrestr Eiddo

This register describes the land and estate comprised in the title.

Mae'r gofrestr hon yn disgrifio'r tir a'r ystad a gynhwysir yn y teitl.

MONMOUTHSHIRE/SIR FYNWY

1 (21.04.1958) The Freehold land shown edged with red on the plan of the above Title filed at the Registry and being Severn Tunnel Rifle Range, Caldicot.

B: Proprietorship Register / Cofrestr Perchnogaeth

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

Mae'r gofrestr hon yn nodi'r math o deitl ac yn enwi'r perchennog. Mae'n cynnwys unrhyw gofnodion sy'n effeithio ar yr hawl i waredu.

Title absolute/Teitl llwyr

1 (01.09.2020) PROPRIETOR: SOPHIE REBECCA PARK of 17 Arthur Street, Caerleon, Newport NP18 1BJ and ALICIA DIANE SARAH PARK of 10 Ratcliffe Court, Sweetman Place, Bristol BS2 0FB and ADAM BRANDON TURNER PARK and

B: Proprietorship Register continued / Parhad o'r gofrestr perchnogaeth

VERITY LYDIA PARK of 2 Broadwalk, Caerleon, Newport NP18 1NQ.

2 (02.05.2002) RESTRICTION: No disposition by a sole proprietor of the land (not being a trust corporation) under which capital money arises is to be registered except under an order of the registrar or of the Court.

3 (01.09.2020) The value stated as at 1 September 2020 was £60,000.

4 (01.09.2020) The Transfer to the proprietor contains a covenant to observe and perform the covenants referred to in the Charges Register and of indemnity in respect thereof.

C: Charges Register / Cofrestr Arwystlon

This register contains any charges and other matters that affect the land.

Mae'r gofrestr hon yn cynnwys unrhyw arwystlon a materion eraill sy'n effeithio ar y tir.

1 Such part of the land in this title as is affected thereby is subject to the rights in respect of a drain or sewer demised by a Lease dated 29 July 1922 made between (1) James Edward Garnons Lawrence and others and (2) The Rural District Council for Chepstow for 99 years from 1 July 1921.

NOTE: Copy Lease dated 29 July 1922 is filed under Title Number P199310.

2 Such part of the land in this title as is affected thereby is subject to the rights of way granted in a Deed of Appropriation dated 9 November 1956 made between (1) Melville Thomas Phillips and another and (2) Ernest William Anstey as varied by a Conveyance dated 25 February 1958 made between (1) the said Melville Thomas Phillips and another (2) the said Ernest William Anstey and (3) The Monmouthshire Territorial and Auxiliary Forces Association.

NOTE: Copy Conveyance dated 25 February 1958 filed under Title Number P199310.

3 Such parts of the land in this title as is affected thereby is subject to a consent dated 28 March 1958 to the Central Electricity Generating Board in respect of an electric line and works.

4 (22.10.2001) The land is subject to the rights granted by a Deed dated 17 October 2001 made between (1) The Secretary of State for Defence and (2) Dwr Cymru Cyfyngedig.

The said Deed also contains restrictive covenants by the grantor.

NOTE: Copy Deed dated 17 October 2001 is filed under Title Number P199310.

5 (24.03.2009) The land is subject to the lease set out in the schedule of leases hereto.

Schedule of notices of leases
Atodlen prydlesi a nodwyd

	Registration date and plan ref. Dyddiad cofrestru	Property description Disgrifiad eiddo	Date of lease and term Dyddiad a hyd	Lessee's title Teitl y prydlesai
1	24.03.2009 Edged blue	Severn Tunnel Rifle Range, Caldicot	27.11.2003 10 years from 27 November	CYM440764

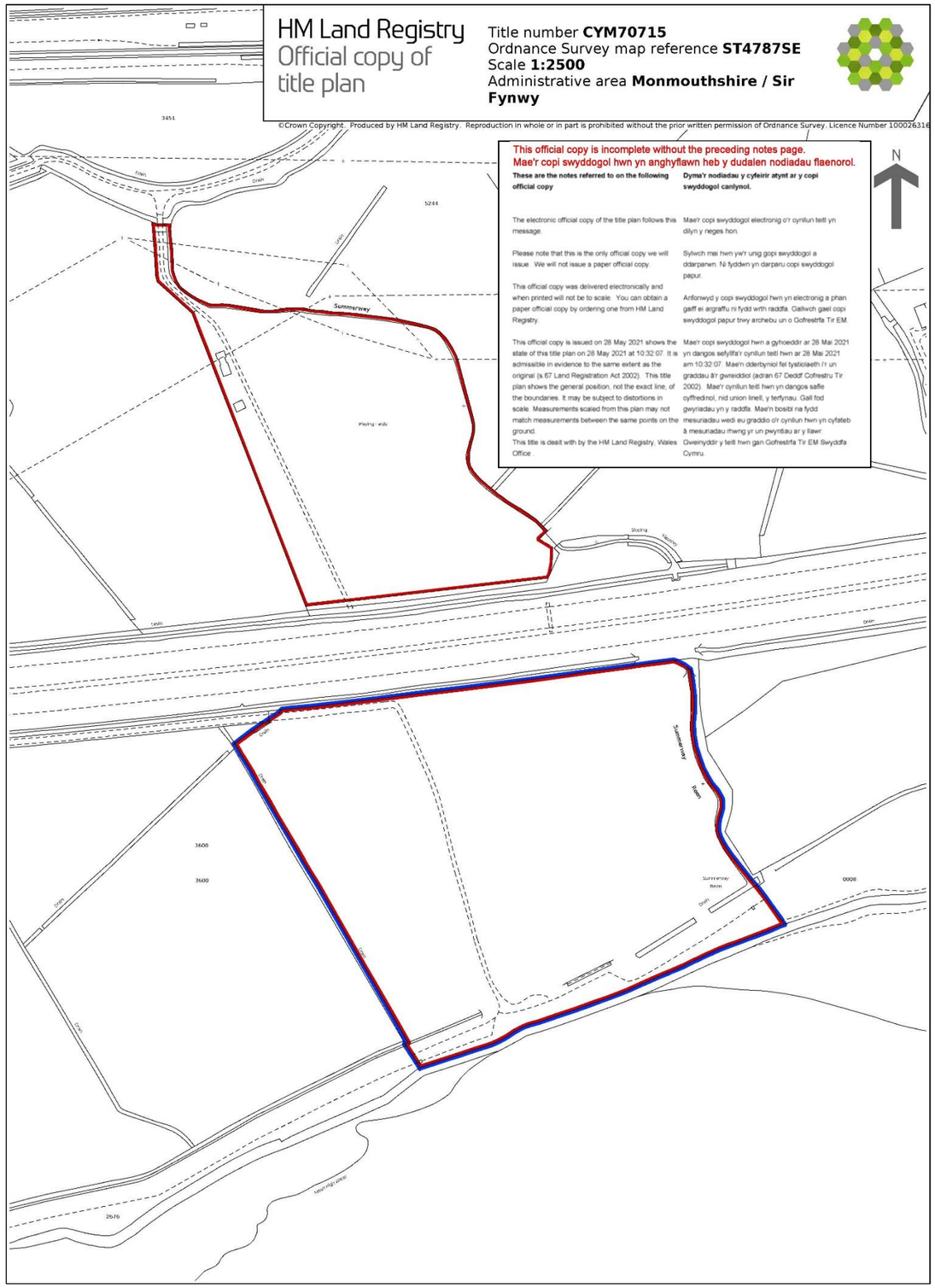
Appendix 3.1.1
Land registry title deed (pages 1 of 3 & 2 of 3) CYM70715

Title number / Rhif teitl CYM70715

Schedule of notices of leases continued
Parhad o'r Atodlen prydlesi a nodwyd

Registration date and plan ref. Dyddiad cofrestru	Property description Disgrifiad eiddo	Date of lease and term Dyddiad a hyd	Lessee's title Teitl y prydlesai
		2003	

End of register / Diwedd y gofrestr



Appendix 3.1.2
Land registry title deed (pages 3 of 3 & map) CYM70715
(Insert – Preceding notes official copy issued 28/05/2021 at 10:32:07)

From: Nick Park <nick@greenandco.com>
Sent: 15 September 2021 15:54
To: Pritchard, Shaun <ShaunPritchard@monmouthshire.gov.uk>
Subject: RE: Sea wall and barriers at the firing range. 08389

Dear Shaun

Thank you for keeping me up to date.

I can see how the erosion of the original footpath has caused this problem and it is obviously fortunate that there is a good alternative route along the Wales Coastal Path. From my limited experience of footpaths, I can imagine how difficult it is for you to sort this out.

I am concerned about the safety of people being made to walk over the butts both because they are an unstable, soft sand structure for capturing stray bullets and because they are on an extant firing range. From our perspective as landowners this is clearly not an attractive place for a footpath. I understand that you are talking to HSE and other parties about this. Please inform me about the outcome.

I am obviously keen to work with MCC to find a sensible solution to this issue.

Regards

Nick Park

From: Pritchard, Shaun <ShaunPritchard@monmouthshire.gov.uk>
Sent: 09 September 2021 15:24
To: Nick Park <nick@greenandco.com>
Subject: RE: Sea wall and barriers at the firing range. 08389

Dear Mr Park

Thank you for taking my call earlier.

Further to my letter and our chat; in brief:

The bringing into question of the path at the rifle range by its obstruction requires MCC under Section 53 of the Wildlife and Countryside Act 1981 to investigate if it carries public rights; and to add it to the Definitive Map by making a Definitive Map Modification Order (DMMO) if so. This would be in addition to the path already recorded running through the site.

This is an unwieldy process and is likely to take a significant period of time. If a path is added to the Definitive Map using this mechanism, its alignment will be determined by the evidence only. There is no provision to take into account the suitability of the route or how the land is managed. It is also not dependent on the landowner's permission.

MCC already has ample evidence to start this process, in the form of user testimony, aerial photography, counter information and historical documents.

With your cooperation however, using Section 119 of the Highway Act 1980, it may be possible instead, to divert the existing unavailable legally recorded path onto a more practical alignment through the site and to specify limitations to its use.

Although this would not prejudice the existence of unrecorded rights, it could to my mind result in a more speedy resolution and ultimately work to everybody's advantage. Not only could we end up with just one path on a sensible alignment, it would remove the need for MCC under section 130 of the Highways Act 1980 to assert the rights of the public to use the existing legally recorded path by requiring its reinstatement. For lots of obvious reasons this is something that MCC would prefer to avoid but it might be unavoidable especially in the absence of an alternative.

At the moment, the legally recorded path has been closed until 23 December 2021 and any extension would require authorisation from the Welsh Government following consultation with the local community. It is therefore possible that permission might be refused particularly given the strength of feeling amongst some locals about the unavailability of the path.

So ultimately, the question for you is whether you would like to engage with MCC in the process of trying to divert the existing path using the Highways Act; or would you prefer MCC explores the existence of unrecorded paths through the DMMO process?

For your information, please see that I have re-attached copies of previous correspondence and plans.

If you have any queries, please get in touch.

I look forward to your response.

Regards

Shaun P Pritchard
Rights of Way Enforcement Officer /Swyddog Gorfodi Hawliau Tramwy
Monlife
Monmouthshire County Council / Cyngor Sir Fynwy

From: Nick Park <nick@greenandco.com>
Sent: 03 September 2021 09:20
To: Pritchard, Shaun <ShaunPritchard@monmouthshire.gov.uk>
Subject: RE: Sea wall and barriers at the firing range.

Dear Shaun

Sorry for the delay in getting back to you. I am planning to go to the site this weekend so that I can understand what has happened.

Regards

Nick Park

Appendix 3.2.1
Email from Landowner dated 15th September 2021 (Email trail 20/08/2021 to 15/09/2021)

From: Pritchard, Shaun <ShaunPritchard@monmouthshire.gov.uk>
Sent: 20 August 2021 11:45
To: Nick Park <nick@greenandco.com>
Subject: Sea wall and barriers at the firing range.

Dear Mr Park

Thank you for taking my call earlier.

Further to our discussion please find attached a copy of the letter that I sent to the title holders of the land.

This letter and the following images I am hoping will go a long way to explaining what is happening at the site and what might unfold.

Barrier at the easternmost sentry box

Barrier that westernmost sentry box

I understand that there have been altercations at the site between its management and the public wanting to use the path in which the police have become involved.

At the moment the legally recorded path is closed because of its dangerous condition and the unavailability the alternative that has until recently been available. This closure is however temporary and can only be renewed by the Welsh Government following consultation with the local community. There is therefore a chance that once expired it may not be possible to renew it.

This is therefore an issue that needs resolving.

I look forward to your response.

Regards

Shaun

Shaun P Pritchard
Rights of Way Enforcement Officer /Swyddog Gorfodi Hawliau Tramwy
Countryside Access / Mynediad I Gefn Gwlad
Monlife
Monmouthshire County Council / Cyngor Sir Fynwy

Appendix 3.2.2
Email to Landowner: (Email trail 20/08/2021 to 15/09/2021)

HM Land Registry Cofrestrfa Tir EM

The electronic official copy of the register follows this message.

Please note that this is the only official copy we will issue. We will not issue a paper official copy.

Mae'r copi swyddogol electronig o'r gofrestr yn dilyn y neges hon.

Sylwch mai hwn yw'r unig gopi swyddogol a ddarparwn. Ni fyddwn yn darparu copi swyddogol papur.

Official copy of register of title
Copi swyddogol o gofrestr teitl

Title number / Rhif teitl
CYM440764

Edition date / Dyddiad yr argraffiad
21.04.2009

- This official copy shows the entries on the register of title on 09 AUG 2021 at 16:23:54.
- This date must be quoted as the "search from date" in any official search application based on this copy.
- The date at the beginning of an entry is the date on which the entry was made in the register.
- Issued on 09 Aug 2021.
- Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
- This title is dealt with by HM Land Registry, Wales Office.
- Mae'r copi swyddogol hwn yn dangos y cofnodion yn y gofrestr teitl ar 09 AWST 2021 am 16:23:54.
- Rhaid dyfynnu'r dyddiad hwn fel y "dyddiad y chwilir ohono" mewn unrhyw gais am chwiliad swyddogol sy'n seiliedig ar y copi hwn.
- Y dyddiad ar ddechrau cofnod yw'r dyddiad y gwnaethpwyd y cofnod yn y gofrestr.
- Cyhoeddwyd ar 09 Awst 2021.
- Dan adran 67 Deddf Cofrestru Tir 2002, mae'r copi hwn yn dderbyniol fel tystiolaeth i'r un graddau â'r gwreiddiol.
- Gweinyddir y teitl hwn gan Gofrestrfa Tir EM Swyddfa Cymru.

A: Property Register / Cofrestr eiddo

This register describes the land and estate comprised in the title. Except as mentioned below, the title includes any legal easements granted by the registered lease but is subject to any rights that it reserves, so far as those easements and rights exist and benefit or affect the registered land.

Mae'r gofrestr hon yn disgrifio'r tir a'r ystad a gynhwysir yn y teitl. Ac eithrio yr hyn a nodir isod, mae'r teitl yn cynnwys unrhyw hawddfreintiau cyfreithiol a roddir gan y brydles gofrestredig ond mae'r ddarostyngedig i unrhyw hawliau a gedwir ganddi, i'r graddau y mae'r hawddfreintiau a'r hawliau hynny'n bodoli ac o fudd i'r tir cofrestredig neu'n effeithio arno.

MONMOUTHSHIRE/SIR FYNWY

1 (24.03.2009) The Leasehold land shown edged with red on the plan of the above title filed at the Registry and being Land at Severn Tunnel Rifle Range, Caldicot.

2 (24.03.2009) Short particulars of the lease(s) (or under-lease(s)) under which the land is held:
Date : 27 November 2003
Term : 10 years from 27 November 2003
Parties : (1) Nicholas Simon Park and Diane Helen Park (Lessors)
(2) Richard Williams and Janet Williams (Lessees)

A: Property Register continued / Parhad o'r gofrestr eiddo

3 (24.03.2009) The Lease prohibits or restricts alienation.

4 (24.03.2009) Unless otherwise mentioned the title includes any legal easements granted by the registered lease(s) but is subject to any rights that it reserves, so far as those easements and rights exist and benefit or affect the registered land.

5 (24.03.2009) The landlord's title is registered.

B: Proprietorship Register / Cofrestr Perchnogaeth

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

Mae'r gofrestr hon yn nodi'r math o deitl ac yn enwi'r perchennog. Mae'n cynnwys unrhyw gofnodion sy'n effeithio ar yr hawl i waredu.

Title absolute/Teitl llwyr

1 (24.03.2009) PROPRIETOR: RICHARD WILLIAMS and JANET WILLIAMS of 1 Uphill Close, Sully, Penarth, The Vale Of Glamorgan CF64 5UT.

C: Charges Register / Cofrestr Arwystlon

This register contains any charges and other matters that affect the land.

Mae'r gofrestr hon yn cynnwys unrhyw arwystlon a materion eraill sy'n effeithio ar y tir.

1 (24.03.2009) Such part of the land in this title as is affected thereby is subject to the rights in respect of a drain or sewer demised by a Lease dated 29 July 1922 made between (1) James Edward Garnons Lawrence and others and (2) The Rural District Council for Chepstow for 99 years from 1 July 1921.

NOTE: Copy filed under P199310.

2 (24.03.2009) Such part of the land in this title as is affected thereby is subject to the rights of way granted in a Deed of Appropriation dated 9 November 1956 made between (1) Melville Thomas Phillips and another and (2) Ernest William Anstey as varied by a Conveyance dated 25 February 1958 made between (1) the said Melville Thomas Phillips and another (2) the said Ernest William Anstey and (3) The Monmouthshire Territorial and Auxiliary Forces Association.

NOTE: Copy Conveyance dated 25 February 1958 filed under P199310.

3 (24.03.2009) Such parts of the land in this title as is affected thereby is subject to a consent dated 28 March 1958 to the Central Electricity Generating Board in respect of an electric line and works.

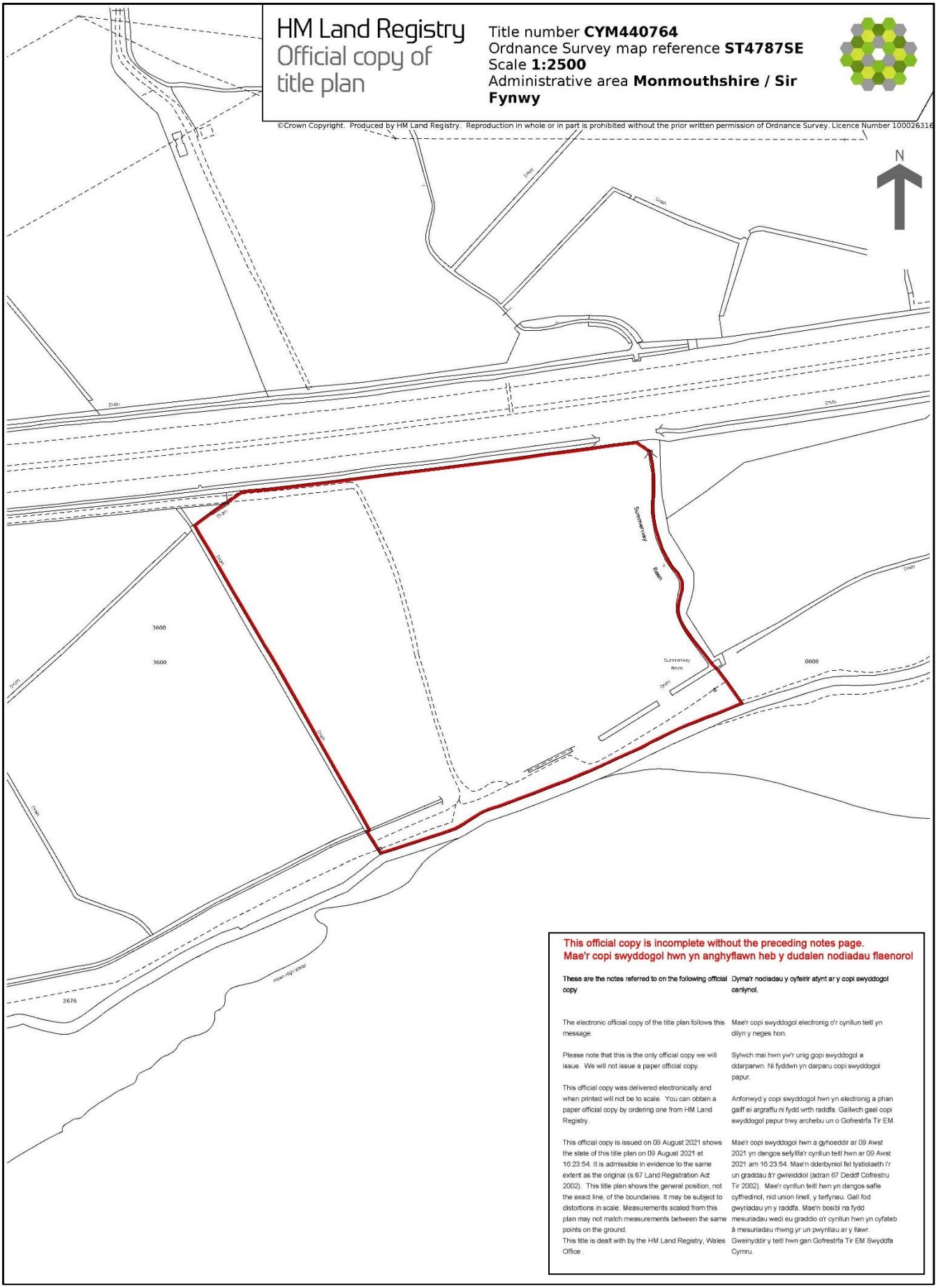
4 (24.03.2009) The land is subject to the rights granted by a Deed dated 17 October 2001 made between (1) The Secretary of State for Defence and (2) Dwr Cymru Cyfyngedig.

The said Deed also contains restrictive covenants by the grantor.

NOTE: Copy filed under P199310.

End of register / Diwedd y gofrestr

Appendix 3.3.1
Land registry title deed Leasehold (pages 1 of 2 & 22 of 2) CYM440764



Appendix 3.3.2

Land registry title deed Leasehold (map) CYM440764

(Insert – Preceding notes official copy issued 09/08/2021 at 16:23:54)

Land Registry

28 May 2021

Your ref
cb/n140/shaunp

Our ref
CYM543522/OC/039

HM Land Registry
Durham Office
PO Box 75
Gloucester
GL14 9BD

DX 321601 Gloucester 33
Tel 0300 006 0010
Fax NA
Email durham.office@
landregistry.gov.uk
www.gov.uk/land-registry

Official copy/copies

HM Land Registry payment ref 28/05 Z0WA7MZD
Fee debited £6.00

The official copy/copies of the document(s) you applied for is/are enclosed.

Please contact the HM Land Registry Office named if you have any questions about the enclosed official copy/copies.

cb/n140/shaunp

MONMOUTHSHIRE COUNTY COUNCIL
LEGAL SERVICES
COUNTY HALL
USK
MONMOUTHSHIRE
NP15 1GA

2628006003

Land Registry Cofrestrfa Tir

Official copy of register of title Copi swyddogol o gofrestr teitl

Title number / Rhif teitl	Edition date / Dyddiad yr argraffiad
CYM543522	13.08.2018

- This official copy shows the entries in the register of title on 28 May 2021 at 10:34:04.
- This date must be quoted as the "search from date" in any official search application based on this copy.
- The date at the beginning of an entry is the date on which the entry was made in the register.
- Issued on 28 May 2021.
- Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
- For information about the register of title, see www.gov.uk/land-registry.
- This title is dealt with by HM Land Registry Durham Office.

- Mae'r copi swyddogol hwn yn dangos y cofnodion yn y gofrestr teitl ar 28 Mai 2021 am 10:34:04.
- Rhaid dyfynnu'r dyddiad hwn fel y "dyddiad y chwilir ohono" mewn unrhyw gais am chwiliad swyddogol sy'n seiliedig ar y copi hwn.
- Y dyddiad ar ddechrau cofnod yw'r dyddiad y gwnaethpwyd y cofnod yn y gofrestr.
- Cyhoeddwyd ar 28 Mai 2021.
- Dan adran 67 Deddf Cofrestru Tir 2002, mae'r copi hwn yn dderbyniol fel tystiolaeth i'r un graddau â'r gwreiddiol.
- I gael gwybodaeth am y gofrestr teitl, gweler www.gov.uk/land-registry.
- Gweinyddir y teitl hwn gan Gofrestrfa Tir EM Swyddfa Durham

A: Property register / Cofrestr eiddo

This register describes the land and estate comprised in the title.
Mae'r gofrestr hon yn disgrifio'r tir a'r ystad a gynhwysir yn y teitl.

MONMOUTHSHIRE/SIR FYNWY

1 (18.11.2011) The Freehold land shown edged with red on the plan of the above title filed at the Registry and being Land at Caldicot Level, Caldicot.

2 (18.11.2011) The land has the benefit of the rights granted by a Conveyance of the land in this title and other land dated 30 September 1960 made between (1) Arthur John Lloyd, David Edward Lloyd, Albert James Lloyd and Mary Ann Lloyd and (2) William Sidney Pugh and William Sidney Jenner Pugh.

NOTE: Copy filed.

Page 1 / Tudalen 1

2628006003

Appendix 3.4.1
Land registry title deed (Letter and page 1) CYM543522
(Insert – Preceding notes official copy issued 28/05/2021 at 10:34:04)

A: Property register continued / Parhad o'r gofrestr eiddo

3 (29.08.2012) A new title plan based on the latest revision of the Ordnance Survey Map has been prepared.

B: Proprietorship register / Cofrestr perchnogaeth

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.
Mae'r gofrestr hon yn nodi'r math o deitl ac yn enwi'r perchennog. Mae'n cynnwys unrhyw gofnodion sy'n effeithio ar yr hawl i waredu.

Title absolute / Teitl llwyr

1 (18.11.2011) PROPRIETOR: WILLIAM SIDNEY JENNER PUGH and WILLIAM JENNER PUGH of Top Farm, Bearstone, Market Drayton, Shropshire TF9 4HG.

2 (18.11.2011) The value as at 18 November 2011 was stated to be between £100,001 and £200,000.

3 (18.11.2011) RESTRICTION: No disposition by a sole proprietor of the registered estate (except a trust corporation) under which capital money arises is to be registered unless authorised by an order of the court.

C: Charges register / Cofrestr arwystlon

This register contains any charges and other matters that affect the land.
Mae'r gofrestr hon yn cynnwys unrhyw arwystlon a materion eraill sy'n effeithio ar y tir.

1 (18.11.2011) The land is subject to the rights granted by a Transfer of other land dated 24 August 2000 made between (1) William Sidney Jenner Pugh and William Jenner Pugh and (2) The National Assembly For Wales.

NOTE: Copy filed.

2 (10.08.2018) The land is subject to any rights that are granted by a Deed dated 23 July 2018 made between (1) William Sidney Jenner Pugh and William Jenner Pugh and (2) Surf Telecoms Limited and affect the registered land. The said Deed also contains restrictive covenants by the grantor.

NOTE: Copy filed.

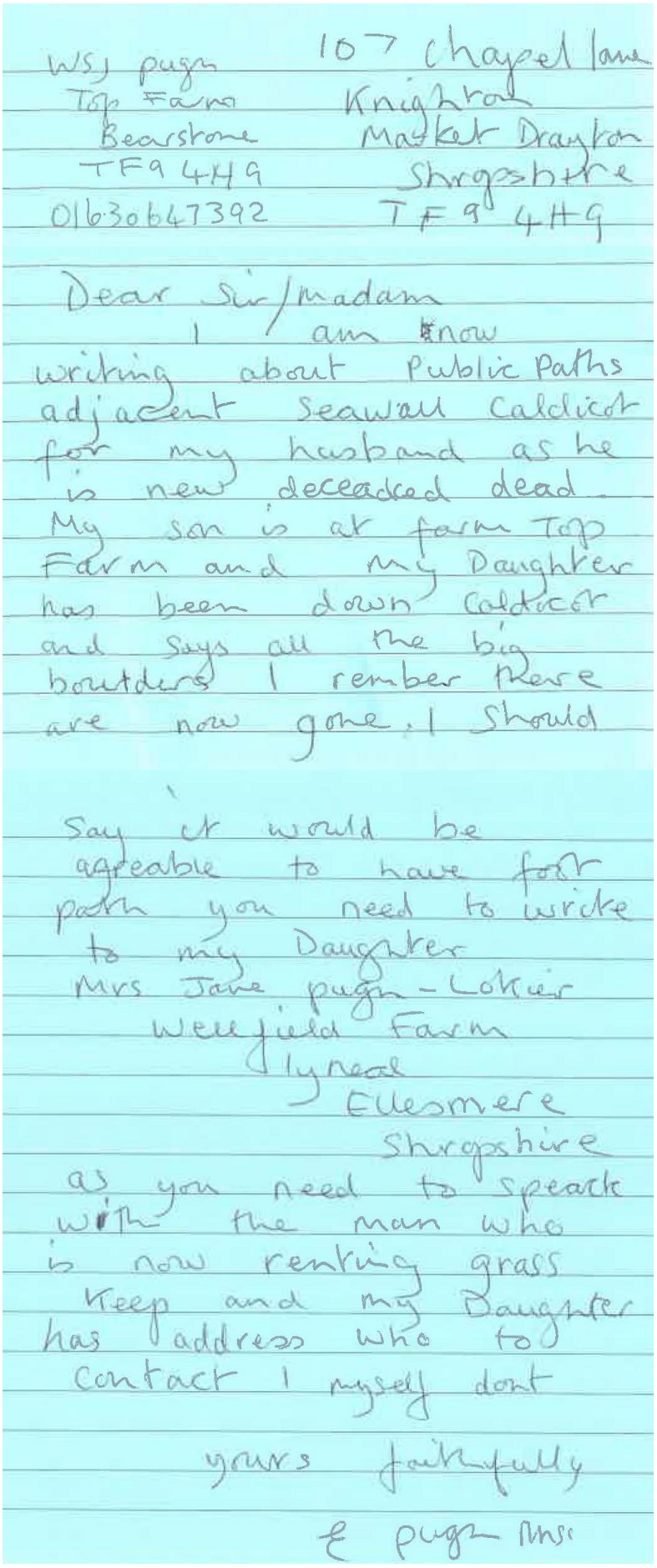
3 (10.08.2018) The land is subject to any rights that are granted by a Deed dated 6 August 2018 made between (1) Williams Sidney Jenner Pugh and William Jenner Pugh (2) Averil Patricia Parsons and (3) Network Rial Infrastructure Limited and affect the registered land.

NOTE: Copy filed.

End of register / Diwedd y gofrestr

Appendix 3.4.2
Land registry title deed (page 2) CYM543522
(Insert – Preceding notes official copy issued 28/05/2021 at 10:34:04)

Appendix 3.4.3
Land registry title deed (map) CYM543522
(Insert – Preceding notes official copy issued 28/05/2021 at 10:34:04)



W.S.J. Pugh
Top Farm
Bearstone
TF9 4HG
01630 647392

107 Chapel Lane
Knighton
Market Drayton
Shropshire
TF9 4HG

Dear Sir/Madam

I am know writing about Public Paths adjacent Seawall Caldicot for my husband as he is new deceadred dead. My son is at farm Top Farm and my Daughter has been down Caldicot and says all the big boulders I rember there are now gone. I should

Say it would be agreable to have foot path you need to wricte to my Daughter Mrs Jane Pugh-Lokier

Wellfield Farm
Lyneal
Ellesmere
Shropshire

as you need to speack with the man who is now renting grass keep and my Daughter has address who to contact I myself dont

yours faithfully

E Pugh Mrs

Appendix 3.5.1
Letter from Mrs W.S.J. Pugh (received by MCC 7th October 2021)

SEVERNSIDE RANGE

P.O.BOX 68, PENARTH, CF64 5XH

TELEPHONE 029 20531830
FAX 029 20531830

26 January 2022

Dear Ms Mussell.

Re: your pre-order consultation evidential report of which we find parts to be incorrect and misleading.

Page 1 1.2

The earth mound behind the targets is our butts, which is designed to stop bullets and is maintained at an angle of 34 degrees, and up to the time when the Ministry of Defence (M.O.D) stopped using it in the early 90's had wooden fences across the top for various safety reasons as shown in photographs.

As to your counter evidence, we understand that the counter was situated near the M.O.D Range which is approximately 1 mile west of our Range and therefore does not lend evidence of usage on ours.

Page 1 1.3

The barriers referred to were installed because our gates were cut up by vandals and on several occasions had cattle come through and if not stopped could gain access to the motorway and/or train lines which could result in a serious accident.

Page 4 2.8

There has been much criminal activity along this section of the sea wall, being gates constantly destroyed, fly tipping, arson, theft, and damage to our signs, target frames destroyed, scramble bikes on our target area, locks on our units being glued, flag poles stolen on 2 occasions, and constant drug use. We have Police reference and crime numbers to support this.

Page 4 2.12

The Sentry boxes were erected by the M.O.D when the sea defence wall was raised and the main reason is to watch for shipping into our danger area.

Page 29 8.1

The target butts which I presume you call the crest of the sea wall , was never cut above sea wall height, and the sea wall was only cut once a year and we're told this was done to inspect the sea wall when needed.

Appendix 5.1
Severnside Rifle Range – Reply to Pre-order consultation
Letter dated 26th January 2022 - page 1

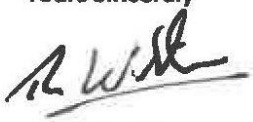
Why does the report want to place a footpath over our butts when Mr Blomley now retired as Footpath Enforcement Officer, and his colleague Mr S. Pritchard put a notice on this route in 2020 because of the dangers faced because of the steep sides on this route, and both agreed for this route to be closed permanently.

They both commented that they could not understand why anyone would want to walk in front of 2 live firing ranges, at a meeting held on Wednesday 29 July 2020 at 11:00 on site.

I have been using this Range for nearly 50 years and have never had any issue with walkers, but I must raise the question, why do you want to modify the definitive map when an alternative route is already in place and being used?

Also enclosed is a signed petition objecting to these proposals.

Yours Sincerely



Richard Williams

Appendix 5.2
Severnside Rifle Range – Reply to Pre-order consultation
Letter dated 26th January 2022 - page 2

USER'S EVIDENCE

Refer to page 46:-

11.1.
There has been no obstruction across the foot path as the foot path does not exist in that position.

11.2
Refer to the testimonials submitted to the order making authority.

i) Mr Shute complained that the gates had been welded shut. Reason:- chains & locks continuously cut off allowing cattle & sheep possible access to railway & motorway. In order to prevent this they were welded shut, but later cut down with disc cutters.

ii) Mr Mayo stated he had been collecting with his friends spent bullets from the top of the sea wall factually incorrect. Spent bullets are only in the bullet catcher. He was trespassing and stealing.

iii) Mr J C Purnell is factually incorrect as well there has never been a path at the back of the bullet catcher and has never been backed filled. This bullet catcher was built by the MOD and always had a steep and dangerous drop to the river. **I would like to point out that he states that we are builders again factually incorrect, I have never been a builder or am a builder.** The fly tipping is access to the fore shore via gates to the west side of Severnside Range (photograph evidence provided). Gates was cut off.

iv) Mr Richard C Morgan, I note telephoned which would be regard as hear say he said people of Caldicot have walked there for generations, testimonial supplied by the from the people of Caldicot will state this, but he acknowledge that the definitive foot path is indeed in the river not the bank.

v) Mr David Morgan (could be related to the above) states health and well being is particularly important , does not have concerns crossing 2 firing ranges.

vi) Mr Phil Williams is correct in pointing out there is no clear signage to date, the fact Mr Shaun Pritchard has refused to install them after many requests

vii) Mr Wheeler again factually incorrect the sea wall has always been used by local farmers with their live stock. They have grazing rights fencing are in place to prevent possible access to motorway and railway.

viii) Mr Monkey is again factually incorrect stating that the MOD range implements the same precautions as the Severnside Range. The MOD has far greater powers to stop people than a private range.

ix) Mr Humble comments irrelevant.

x) Mr Matthews has never in the history of the range has never or asked for access for search and rescue operations and would be impossible to launch any rescue from that sea wall apart from the fact he would require permission to across private ground, obviously if it was requested it would be granted.

xi) Mr Smith completely wrong and misinformed the people have not been walking there for generations and the definitive map he refers to asks to ensure it remains, which is indeed in the river so walker rights have not been affected.

xii) Mr Evans is correct no substantial and clear signage has not been provided by Mr Shaun Pritchard even though after a number of requests, but he has stated public safety is no concern.

Appendix 5.3

Severnside Rifle Range – Reply to Pre-order consultation

Comments on user evidence - 26th January 2022 - page 3

Factually Answers to Summary 12

12.1
Factually incorrect. Ref to summary 12.1 the target holders have never been put up on soft earth sand as stated they are installed in steel target frames. 12.1 suggests regular movement of the mould I can only assume the earth mould that is refer to is the bullet catcher not a mould which does not have regular movement. It must remain at 34% angle.

12.2
Again factually incorrect. there are more than 2 clubs that use Severnside Range e.g.. Bristol Zoo, The Police.

12.3
Again Factually incorrect and totally wrong. Usage on the sea wall and bullet catcher is made by members and look outs and the line top counter is totally irrelevant as it is on the MOD Range 1 mile to the west.

12.4
Again factually incorrect. Registered foot path is in the river.

12.5
Actually correct. Public safely is a issue.

12.6
Under common law usage for criminal activity gives the rise to acquisition of rights. (Photographs supplied) with continuous damage all logged with Gwent Police.

12.7
Again factually incorrect.

12.8
Again factually incorrect. Used by employees and members of the range.

12.9
Again factually incorrect, as it is important of any realignment as it will be used to perpetrate any criminal damage.

12.10
Again factually incorrect. Sentry boxes were installed for the use of shipping look outs not for the public.

Appendix 5.4
Severnside Rifle Range – Reply to Pre-order consultation
Comments on summary - 26th January 2022 - page 4

12.11
WCP path has been provided at the tax payers. Why would you put the public in danger

12.12
Factually correct

12.13
Correct this have never happened as there was no need too WDC provided.

12.14
Public foot fall does have impact on SSI sites, particularly Caldicot, Rogiet moors as walkers continuously set fires to the banks.

12.15
Not relevant

12.16
Registered foot path long gone in river bed.

12.17
It would be far from sensible to record one single alignment. It would put the public at risk common sense should prevail, especially when alternative route is provided.

Appendix 5.5
Severnside Rifle Range – Reply to Pre-order consultation
Comments on summary - 26th January 2022 - page 5

FENCES SHOWN TO PREVENT ACCESS OVER BUTTS

← SIDE ELEVATION OF FENCES ON BOTH FLANKS OF BUTTS

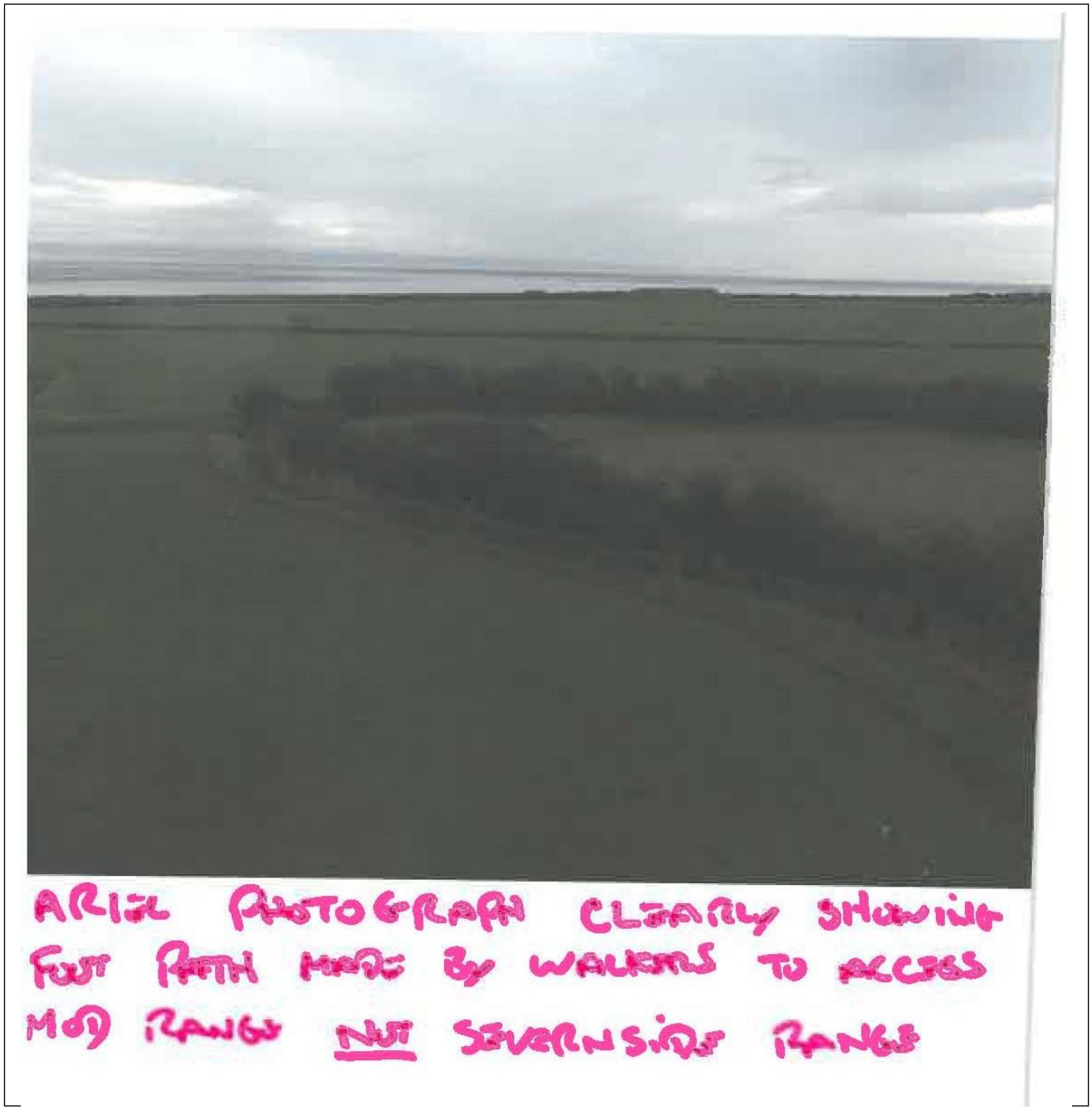
THESE PHOTOGRAPHS WERE TAKEN IN 1990 DURING DAY BOOKINGS USING THE MOD. RANGE

Appendix 5.6
Severnside Rifle Range – Reply to Pre-order consultation
Site photographs showing fencing - 26th January 2022

PHOTO OF THE MILITARY RANGE TO THE WEST SIDE OF SEVERNSIDE RANGE ACCESS BY SUPPLIED PHOTOS DEMONSTRATES THAT THE WALKERS ARE USING THE MILITARY RANGE NOT SEVERNSIDE RANGE. THE LINE TOP COUNTER MM04 IS ON THE MILITARY RANGE, SO PAGES 49 - 11.5 AND 11.6 ARE FACTUALLY INCORRECT (IT IS THE MILITARY RANGE NOT SEVERNSIDE RANGE)

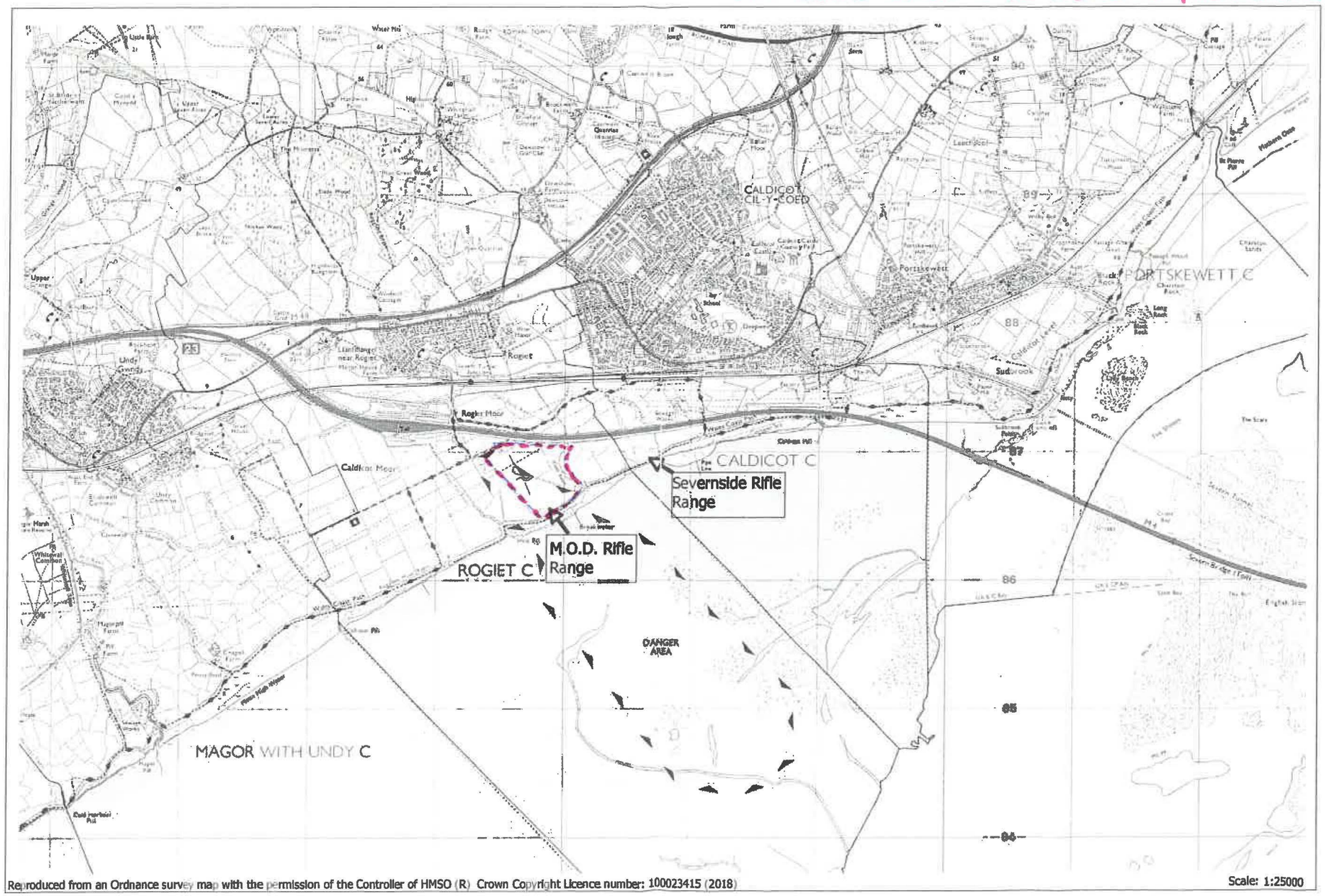
Appendix 5.7
Military Rifle Range – Reply to Pre-order consultation
Photograph: The Military Range - 26th January 2022

Appendix 5.8
Military Rifle Range – Reply to Pre-order consultation
Photograph: Signage at main gates - 26th January 2022



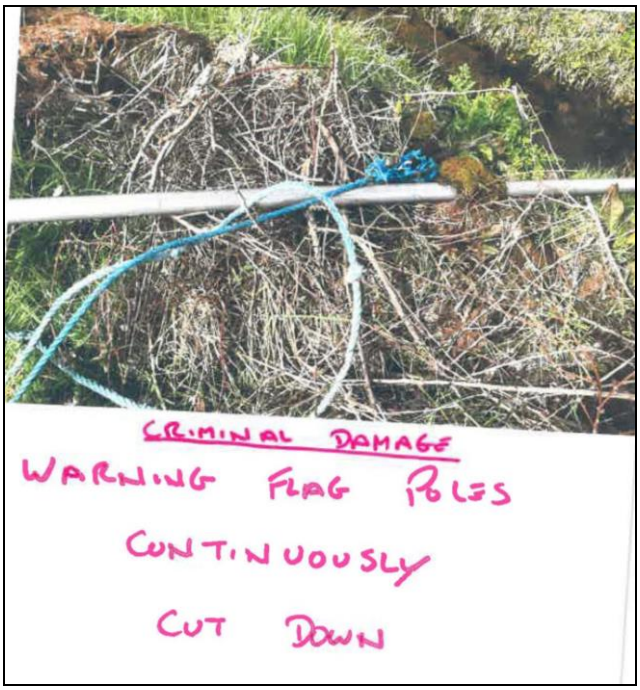
Appendix 5.9
Military Rifle Range – Reply to Pre-order consultation
Photograph: Footpath at the Military Range - 26th January 2022

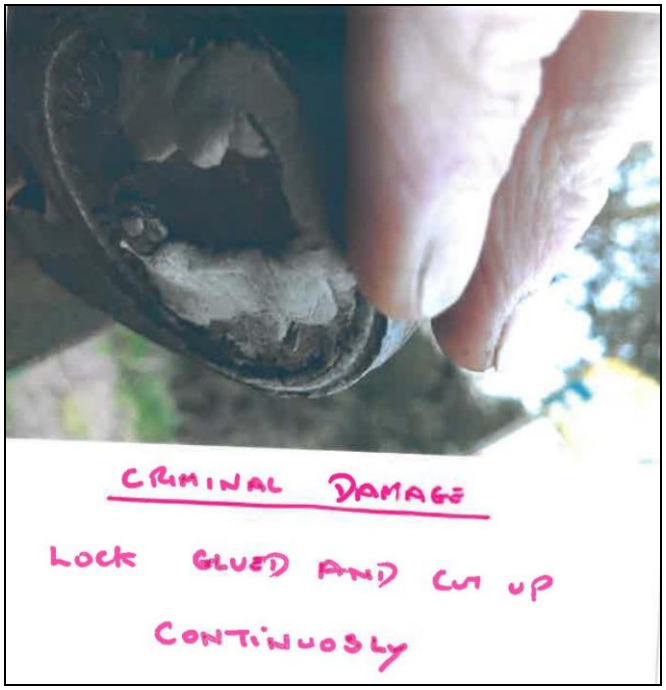
THE RED DOTTED LINE INDICATES THE FOOT PATH USED BY WALKERS IS TO THE WEST OF SEVERN SIDE RANGE WHICH IS THE MOD RANGE PHOTO EVIDENCE TO PROVE THIS

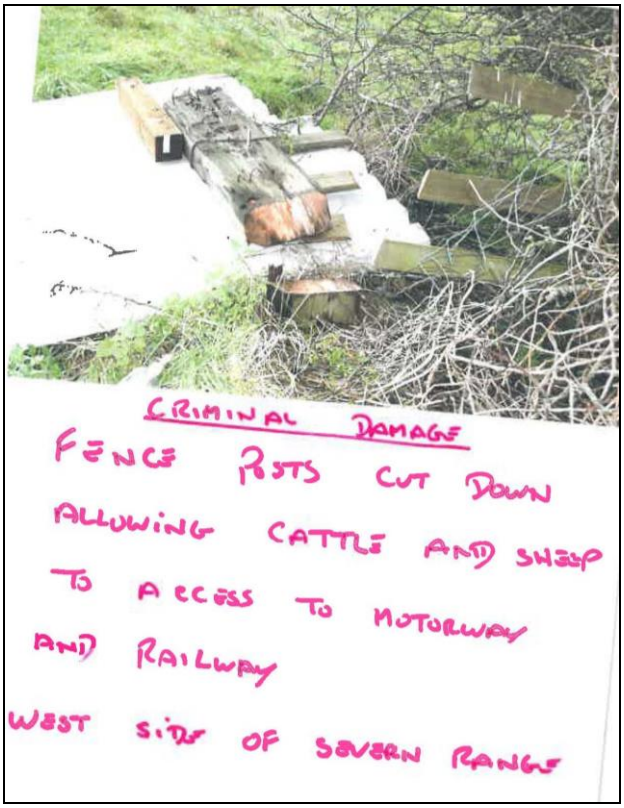


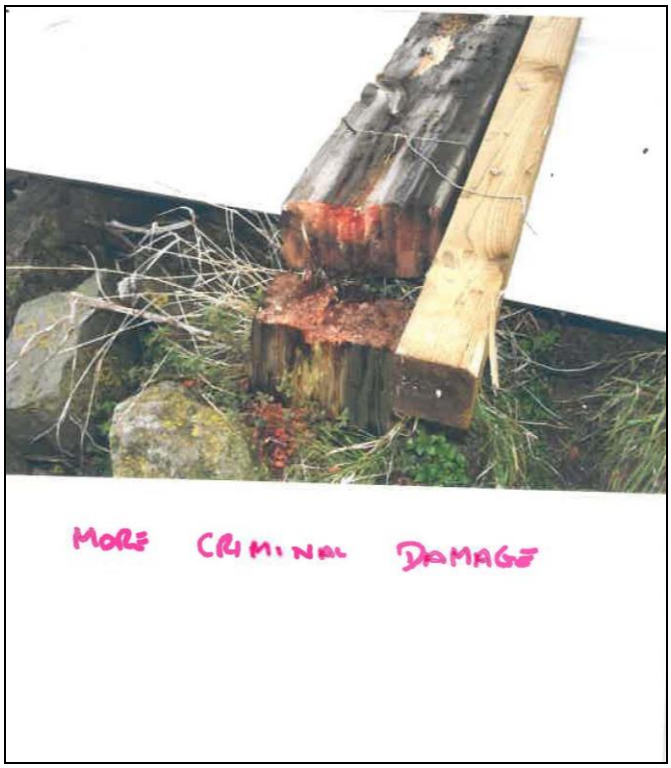
Appendix 1.1
Location Map

Appendix 5.10
Military Rifle Range – Reply to Pre-order consultation
Red dots marking location of footpath not on Severnside Range - 26th January 2022









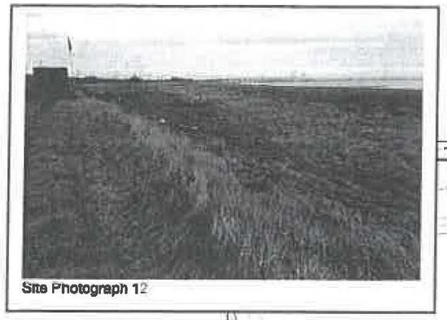
Appendix 5.11
Severnside Rifle Range – Reply to Pre-order consultation
Reporting criminal damage - 26th January 2022

Appendix 5.12
Severnside Rifle Range – Reply to Pre-order consultation
Photograph: Reported criminal damage - 26th January 2022

PHOTO OF COASTAL FOOT PATH TO THE NORTH-EAST SIDE OF SEVERNSIDE RANGE WHICH DEMONSTRATES IS WELL USED BY WALKERS AND NO EVIDENCE OF WALKERS TURNING TO THE WEST TO CROSS SEVERNSIDE RANGE

Appendix 5.13
Severnside Rifle Range – Reply to Pre-order consultation
Photograph: The northeast section of coastal path - 26th January 2022

SITE PHOTOGRAPHS 11, 12, 13 AND 15
NOT SURE WHAT RELEVANCE THEY ARE


Site Photograph 12


Site Photograph 13


Site Photograph11


Site Photograph 10


Site Photograph 16


Site Photograph 15


Site Photograph 9


Site Photograph 14

SITE PHOTOGRAPHS 9 - 10
ARE MADE BY RANGE MEMBERS
POSITIONING TARGET FRAMES

SITE PHOTOGRAPH 16 SHOWING TRACKS ARE MADE BY NRW MACHINERY NOT WALKERS

SITE PHOTOGRAPH 14
SHOWING TRACKS MADE
BY RANGERS OWN LOOK OUTS

Appendix 10.2
Site Photographs 9 to 16 – December 2020

Appendices: Pre-order consultation Report for FPs 6 Caldicot & 13 Rogiet – November 2021

Appendix 5.14
Severnside Rifle Range – Reply to Pre-order consultation
Site photographs 9 to 16 with additional comments - 26th January 2022

To whom it may corcern.

I was brought up until my late teen's at Rogiet and then moved to Caldicot, I played down the moor's on the foreshore, We knew that there was a military shooting range on the forehore at Caldicot, When the red flags were flying ore when we could here firing we would keep well away, I was never awake of a foot path through it.

Yours faithfully.

P.G.Payne.

PETER GRAHAME PAYNE.

6 COBB CRESCENT

CALDICOT

NP26 5BY.

Appendix 5.15
Severnside Rifle Range – Reply to Pre-order consultation
Letter from Mr P. G. Payne - 26th January 2022

L Kealaher
14 Shakespeare Close
Caldicot
NP26 4LN
18/01/22

To whom it may concern,

Whilst walking my dog last year near Oak's Bridge, Caldicot on the coastal foot path I was approached by a male who introduced his self as Shaun Pritchard, Public Rights of Way Enforcement Officer
E-mail: shaunpritchard@monmouthshire.gov.uk.
He asked if I was going to walk across the sea wall throughout Severnside Range I said that I did not think I was allowed as it was private ground and a shooting range.

He proceeded to tell me that he was going to make it a foot path and he encouraged me to write to his office stating that I used it regularly and the more people that wrote in he would make sure that the path is forced through even though it is private ground.

This I declined to do.

I feel I need to bring this man's actions to someone's attention.

L Kealaher

Appendix 5.16
Severnside Rifle Range – Reply to Pre-order consultation – 26th January 2022
Letter from Mr L Kealaher - 18th January 2022

We the undersigned strongly oppose the definitive map modification order to record routes 83 Caldicot and 27 Rogiet as public footpaths in the communities of Caldicot and Rogiet near the Severnside Rifle Range as an alternative Route is already in place.

Name	Signature
J D MCCRANN	
A. BENJAFIELD	
R. EVANS	
D TUCKER	
P SCOTT	
P LEIGH	
A CORCORAN	
J. REES	
N. COLES	
J. HOWARD	
A D WELLS	
C J BAYLISS	
C. HACKER	
PAUL MILL	
NEIL WILLIAMS	
L. Rees	LINDON PEARTON
R J Rollason	R J Rollason
R. WILLIAMS	
D GLOVER	
S. SULLIVAN	
J. Raikes	J Raikes

Appendix 5.17
Severnside Rifle Range – Reply to Pre-order consultation – 26th January 2022
Petition page 1

We the undersigned strongly oppose the definitive map modification order to record routes 83 Caldicot and 27 Rogiet as public footpaths in the communities of Caldicot and Rogiet near the Severnside Rifle Range as an alternative Route is already in place.

Name	Signature
ANGELA LEIGH	
Rachel Morris	
Rob Morris	
L. Spencer	
L.Lloyd Forrest	
Ashley Forrest	
Sian Bowen	
Alan Bowen	
Lewis Bowen	
Jack Dodd	
SIMON JAMES	
BILL JONES.	
INGRID. SPENCER	
JOHN JONES.	
Mrs A. West	
Mr B West	
Elizabeth Thomas	
Brian Thomas	
HELVETIA RIBBEN	

Appendix 5.18
Severnside Rifle Range – Reply to Pre-order consultation – 26th January 2022
Petition page 2

We the undersigned strongly oppose the definitive map modification order to record routes 83 Caldicot and 27 Rogiet as public footpaths in the communities of Caldicot and Rogiet near the Severnside Rifle Range as an alternative Route is already in place.

Name	Signature
PHILIP VITTLE 41, THE CLOSE PORTSKEWETT.	P J. Vittle
TERRY LOVE 4A ST STEVENS CAERWENT	T A Love
P. MITCHELL 2 THE CROSS, CALDICOT.	[illegible]
N. MASON 5 CHAUCER CLOSE	[illegible]
DAVID DOBBS 32, Oakley Way, Caldicot	David Dobbs
Karen Smith 39 COE MAWR Rd CALDICOT	K Smith
Nichola Hill 8 Dewstow Rd Caldicot	N Hill
Georgi Sutton 4 Manor NP26 3QF	G Sutton
GRAHAM COFFIN	G.R. Coffin
Kerry Cusack	K Cusack
ROGER WILLS 1 GREEN AVENUE CALDICOT	R-Wills
DAWN SKYDANCER	D Skydancer
Julia Hasley	J Hasley
RON WAITE 17 CHEPSTOW RD CALDICOT	[illegible]
Angel Owen.	[illegible]
Ceri Evans	[illegible]
Jackson Sim	[illegible]
C KITCHER	C Kitcher
Margaret Hill 1, Dewstow Rd CALDICOT	M Hill
ASHLEIGH HARRIS	[illegible]
JAMES Hini	[illegible]

Appendix 5.19

Severnside Rifle Range – Reply to Pre-order consultation – 26th January 2022

Petition page 3

We the undersigned strongly oppose the definitive map modification order to record routes 83 Caldicot and 27 Rogiet as public footpaths in the communities of Caldicot and Rogiet near the Severnside Rifle Range as an alternative Route is already in place.

Name	Signature
G Collyer	
J. Collyer	
P. Whitmore	
Terry Foreman	
David Lord	
Keith Brooks	
Sharon Brooks	
Mike Collins	
Tracey Pole	
William Hicks	
Kevorne Cloke	
David Harper	
Dave Graham	
Ben Goddard	
Alan Gaze	
Mark Williams	
Callum Williams	
R. Cosgrie	
Harry Wilks	
Richard Taylor	
Trevor Morris	
Anthony Leamon	

Appendix 5.20
Severnside Rifle Range – Reply to Pre-order consultation – 26th January 2022
Petition page 4

We the undersigned strongly oppose the definitive map modification order to record routes 83 Caldicot and 27 Rogiet as public footpaths in the communities of Caldicot and Rogiet near the Severnside Rifle Range as an alternative Route is already in place.

Name	Signature
M ROGERS	M Rogers
MICHAEL FROST	Michael Frost
JEREMY BACON	Jeremy Bacon
Lauren Johnson	
Bear Coolbrough	
Evie Bayliss	
R.P. HULLIER	
M. GUNN	
CHRIS TREMAIN	
JOHN Tremain	JA Tremain
Thomas Bassett	
DAVID JONES	
TIM Willis	
JOHN TILLEY	
KENNETH JOHN BOADEN	K. J. Boaden
SAMANTHA WILLIAMS	S Williams
Kevin Todd	Todd
Colette Dampier	

Appendix 5.21

Severnside Rifle Range – Reply to Pre-order consultation – 26th January 2022

Petition page 5

We the undersigned strongly oppose the definitive map modification order to record routes 83 Caldicot and 27 Rogiet as public footpaths in the communities of Caldicot and Rogiet near the Severnside Rifle Range as an alternative Route is already in place.

Name	Signature
Jessica Greenly	
JAC WILLIAMS	
Mikhail Blake	
DES HILL.	
DARREN HOBBS	
Russell MURRAY	
Alex Pike	
John MATTHEWS	
ichael Hall	
NICHARD DAVIS	
VIVIAN JOHN	
PRZEMYSLAW KLEKOTKO	
GORDON HEAD	
MIKE JOHNSON	
GERALD HAINES	

Appendix 5.22

Severnside Rifle Range – Reply to Pre-order consultation – 26th January 2022

Petition page 6

We the undersigned strongly oppose the definitive map modification order to record routes 83 Caldicot and 27 Rogiet as public footpaths in the communities of Caldicot and Rogiet near the Severnside Rifle Range as an alternative Route is already in place.

Name	Signature
MRS · P. A. REID	P A Reid
MR K A. REID.	K A Reid
C.J CARTER	
S Cook	

Appendix 5.23
Severnside Rifle Range – Reply to Pre-order consultation – 26th January 2022
Petition page 7

We the undersigned strongly oppose the definitive map modification order to record routes 83 Caldicot and 27 Rogiet as public footpaths in the communities of Caldicot and Rogiet near the Severnside Rifle Range as an alternative Route is already in place.

Name	Signature
Jodie Hill	[illegible]
Tony Rossi	Rossi
Brenda Bostrom	B Bostrom
Susan O'Brien	S OBrien
Kay Davies	KAY DAVIES
Peter Andrews	P Andrews
Dai Andrews.	D andrews.
[illegible]	[illegible]
Laura James.	L James
Philip Morgan	P Morgan
Shay DuMayne	S DuMayne
David Samuel	[illegible]
Ken Nurden	[illegible]
Barry Powell	B Powell
Adam Brown	[illegible]
[illegible]	[illegible]
I Brown	[illegible] Brown

Appendix 5.24

Severnside Rifle Range – Reply to Pre-order consultation – 26th January 2022

Petition page 8

We the undersigned strongly oppose the definitive map modification order to record routes 83 Caldicot and 27 Rogiet as public footpaths in the communities of Caldicot and Rogiet near the Severnside Rifle Range as an alternative Route is already in place.

Name	Signature
Hywel Cleaves	
Andy Grist	
JASON WEED	
Adam Weed	
JADEN QUINN	
Courtney Shaw	
Kevin Hoskins	
W.J. SMITH	
ZJ SMITH	
Shaun Kealaher	
Jake Hodge	
Debra Weed	
Nathan Kealaher	
ROBERT DARK	
Martin Wiltshire	
MAUREEN Holmes	
Liam Monks	
Tara Lunn	
Rachel Lunn	
[illegible]	K Mezsvuić
A Ward	A WARD

Appendix 5.25

Severnside Rifle Range – Reply to Pre-order consultation – 26th January 2022

Petition page 9

We the undersigned strongly oppose the definitive map modification order to record routes 83 Caldicot and 27 Rogiet as public footpaths in the communities of Caldicot and Rogiet near the Severnside Rifle Range as an alternative Route is already in place.

Name	Signature
JANET CARTER	J. Carter
[illegible]	[illegible]
[illegible]	[illegible]
M K Campbell	M K Campbell
FLETCHER BUCK	F Buck
Shane CARTER	[illegible]
LISA CARTER	[illegible]
STUART JONES	S Jones
Angela Jones	A Jones
Chris Lee	[illegible]
LEE KEALAHEE	[illegible]
Rhys Bacon	[illegible]
[illegible]	[illegible]
A affiliate	[illegible]
Joanna Goodwin	[illegible]
James Goodwin	[illegible]
Diane Goodwin	[illegible]
HOLLY GRIFFITHS	[illegible]
Bradley Bates	[illegible]
PETER PAYNE	[illegible]
Kyla Jones	[illegible]
KEITH HIGHAM	[illegible]

Appendix 5.26
Severnside Rifle Range – Reply to Pre-order consultation – 26th January 2022
Petition page 10

We the undersigned strongly oppose the definitive map modification order to record routes 83 Caldicot and 27 Rogiet as public footpaths in the communities of Caldicot and Rogiet near the Severnside Rifle Range as an alternative Route is already in place.

Name	Signature
J FLOWERS	
C PEARCE	C D
D Jones	D.
R Tyler	R Tyler
W PHILLIPS	W Phillips
DEE PHILLIPS	
Tegan Phillips	T. Phillips
R Phillips	R Phillips
R-Cole	Ryan Cole
R-EDWARDS	ROSS EDWARDS
DAN LANE	D.S.
R Cole	
S Cole	S Cole
M Thorburn	
Heather Griffiths	H Griffiths
Ashley Jones	A. Jones
Emily Griffiths	
Mark Griffiths	M Griffiths
H Morgan	H morgan
Jack Hains	

Appendix 5.27

Severnside Rifle Range – Reply to Pre-order consultation – 26th January 2022

Petition page 11

We the undersigned strongly oppose the definitive map modification order to record routes 83 Caldicot and 27 Rogiet as public footpaths in the communities of Caldicot and Rogiet near the Severnside Rifle Range as an alternative Route is already in place.

Name	Signature
Jonathan Edwards	
Jodie Edwards	
J EVERET	

From: Purnell, Gary
Sent: 05 January 2022 09:52
To: Mussell, Mandy <MandyMussell@monmouthshire.gov.uk>
Subject: RE: 01_'20Mod - Seawall Caldicot Rogiet Definitive Map Modification Order (DMMO) 036

Good Morning Ms Mussell

Please find attached *(below)* response to the above consultation which relates to our flood risk management interests and the coastal flood defences at this location.

Kind Regards

Gary
Gary Purnell
Senior Advisor (Development & Flood Risk)
Uwch Ymgynghorydd (Datblygu a Pherygl Lifogydd)
Natural Resources Wales / Cyfoeth Naturiol Cymru
Office Location:
Plas Gwendraeth, Heol Parc Mawr, Cross Hands Business Park,
Cross Hands, Llanelli, Carmarthenshire SA14 6RE

WILDLIFE AND COUNTRYSIDE ACT 1981 SECTION 53:
DEFINITIVE MAP MODIFICATION ORDER TO RECORD ROUTES 83 CALDICOT AND 27 ROGIET AS PUBLIC FOOTPATHS IN THE COMMUNITIES OF CALDICOT AND ROGIET NEAR THE SEVERNSIDE RIFLE RANGE.

Development & Flood Risk (South) – Gary Purnell (gary.purnell@naturalresourceswales.gov.uk)

The proposed route of the path along the crest of the existing coastal flood defences between points F and G (extract below) has created an issue for NRW in respect of unpermitted works to our coastal flood defences. These works comprise of an oil drum/skip barrier that has been constructed by the Severnside Rifle Range to prevent illegal access and subsequent vandalism within their site. The barrier does have a negative impact on the integrity of NRW's coastal flood defences, primarily within the area of point F and the eastern sentry box. Your authority i.e. Shaun Pritchard (previously Ian Blomeley) has been aware of this issue and the concerns of NRW in relation to those unpermitted works to the coastal flood defences.

The owner of the Severnside Rifle Range (Mr Richard Williams) proposes to implement security type fencing with the prior approval of NRW via the Flood Risk Activity Permitting (FRAP) process. This will also enable those unpermitted works to be removed from the defences. However, considering the proposed route of FP83 (between F and G) this would not enable the site owner to properly secure the site, as any such fencing would in theory need to extend beyond the crest of the defences and down into the estuary along the seaward toe of the scheme.

Whilst we have no objections to the proposed route, it is essential that the Severnside Rifle Range owner is contacted (may have already been included in the consultation) with regards the ongoing issues of trespass and vandalism within their site and, whether measures can be put in place to prevent this happening as a result of the proposed definitive route along the crest of the coastal defences.

The route of the unaffected footpath (FP354/6) along the seaward toe of the coastal defences would have no material impact with the implementation of such security fencing proposed by the rifle range.

The increase in numbers of users that may result from a formalised footpath route along the coastal flood defences may cause damage. Your authority may be liable for such damage and be responsible to instigate any remedial repairs to ensure that the level and the integrity of these defences are not compromised.

Integrated Engineering – Philip Poole (Philip.Poole@cyfoethnaturiolcymru.gov.uk)

From a maintenance perspective we have no significant concerns with this, on the basis that the path/track installed does not prevent NRW from using our usual plant/kit i.e. Aebi mower, tractor flail etc.

We will need assurance from your authority with respect to us not needing to apply for formal notices for footpath closures when we do carry out maintenance on the bank. This can have an adverse impact with the delivery of our annual maintenance programme.

For any proposed fencing, kissing style gates or stiles that may be installed, it is essential that we have suitable access (including keys to gates if applicable) through these structures for our plant and machinery. These structures are also likely to require a Flood Risk Activity Permit (FRAP) from NRW.

Please be aware that using the crest of the existing coastal defences does raise public safety concerns with the potential for slips, trips and falls from height on either side of the raised defences. This is also independent of the location next to a firing range which has its own specific risks.

Appendix 5.29
Natural Resources Wales (NRW) – Reply to Pre-order consultation
5th January 2022

MonLife
Ar gyfer meddwl, corff ac enaid ein cymuned
For the mind, body and soul of our community

Cyngor Sir Fynwy
Neuadd y Sir, Y Rhadyr, Brynbuga, NP15 1GA
Ffon/Ffacs: 01633 644644
E-bost: contact@monmouthshire.gov.uk

Monmouthshire County Council
County Hall, The Rhadyr, Usk, NP15 1GA
Phone/Fax: 01633 644644
E-mail: contact@monmouthshire.gov.uk
or
Ebost/E-Mail: mandymussell@monmouthshire.gov.uk
Ffôn/Tel: 01633 644813
Ein Cyf/Our Ref.: 01_'20Mod_Cal.Rog2020
Eich Cyf/Your Ref.:
Dyddiad/Date: 9th February 2022

Mr G. Purnell
Natural Resources Wales
Senior Advisor (Development & Flood Risk)
Gary.Purnell@cyfoethnaturiolcymru.gov.uk

Dear Mr Purnell,

RE: WILDLIFE AND COUNTRYSIDE ACT 1981 SECTION 53 - DEFINITIVE MAP MODIFICATION ORDER TO RECORD ROUTES 83 CALDICOT AND 27 ROGIET AS PUBLIC FOOTPATHS IN THE COMMUNITIES OF CALDICOT AND ROGIET NEAR THE SEVERNSIDE RIFLE RANGE.

Thank you for your reply to the consultation, dated 5th January 2022 (included below for reference).

I am aware of the ongoing issues regarding the unpermitted works to NRW costal flood defences as these also obstruct the public footpaths 354/6 and 378/13.

It is these unpermitted works that have brought the route alignment into question. Having investigated all the available historic documentation, it has revealed two route alignments. One route is the registered footpaths 354/6 and 378/13 that occasionally follows the crest and the seaward toe of the seawall. In some locations the alignment of the registered footpath travels further in land. The other route follows the crest of the seawall and the removal of kissing gates and the placement of *"oil drum/skip barrier"* has brought this alignment into question.

Landowners are permitted to install boundary fences if they wish to. However, they would have to ensure that the public right of way is open and available for use. A gap in a boundary fence is the initial requirement in accordance with the Equality Act 2010. If a barrier is required for stock control or is needed to protect the safety of the public, then a kissing gate, or pedestrian gate may be permitted after the landowner makes an application for a footpath furniture license under sections 147 or 66 of the Highways Act 1980. The installation and continuous maintenance of footpath furniture is the responsibility of the landowner.

The landowner and site manager have been included in this pre-order consultation. The ongoing issues of trespass and vandalism are concerning but are not considered under section 53 of the Wildlife and Countryside Act 1981. The perceived experience of an alleged public right of way combined with any associated and anticipated need, nuisance and/or security, surrounding the arguments for and against the registration of a claimed route, are not considered under this legislation and will not inform whether it should or should not be registered. The legislation for a Definitive Map Modification Order (DMMO) allows for anyone to register a route on the Definitive Map and Statement (DM&S) that is shown to *"subsist or is reasonably alleged to subsist"* and if either of these tests are satisfied then the Order Making Authority is duty bound to make the Order and on the *"balance of probabilities"* to confirm that Order.

The recorded unaffected footpaths, FPs 354/6 and 378/13, were originally on the crest of the previous alignment of the seawall. At the time of the redevelopment of the coastal defences no consideration was given to reposition the public footpaths correctly and formally. The security fencing proposed by the landowner would obstruct any right of way in the area. Furthermore, due to the redevelopment of the seawall sections of the recorded footpaths have been left unavailable for use.

There are other sections of the recorded footpaths that utilise the crest of the seawall that show no significant damage or change in the surface even with the increased usage due to the pandemic in 2020. You have previously described the use of the crest of the seawall as follows: *"I haven't had any reports of concerns we have with walking along the defences as this tends to happen with a lot of our flood alleviation schemes."*

Appendix 5.29.1
Monmouthshire County Council (MCC) reply to Natural Resources Wales (NRW)
Page 1 of 2 - 9th February 2022

The Authority will not be liable for any damage and responsible for any repairs to the integrity of the seawall as it is evident that footfall usage over many years has not caused any significant damage.

Moreover, the legislation specifies that a way not previously recorded in the DM&S but added by means of a modification order depended on the evidence and was likely to be maintainable at public expense only if the way existed in 1835, or there was subsequent agreement to maintain it then it is maintainable at public expense. Additionally, section 23 of the Highways Act 1835 applied to *'roads'*, and according to the meaning then attached to the word *'road'* it was held not to apply to footpaths. This means that as footpaths were outside of the Highways Act 1835, they continued to be maintainable by the inhabitants at large, and did so irrespective of whether they came into existence because of express dedication or presumed dedication at that time, under common law. The responsibility of surface maintenance is not down to the local authority. However, some routes in the area are maintained to the level for ordinary traffic, that is to footpath status, which is currently undertaken by Monmouthshire County Council's field wardens who regularly cut the up growth.

In this instance due to the obstructions made by the landowner in 2020 a DMMO has been instigated to record the claimed alignment. If this leads to a confirmed order, then the Authority will have to enforce the removal of any obstructions.

I hope this clarifies the position with regards to the legislation in connection with the Definitive Map Modification Order (DMMO) process.

Yours sincerely,

Mandy Mussell

Definitive Map Officer

Appendix 5.29.2
Monmouthshire County Council (MCC) reply to Natural Resources Wales (NRW)
Page 2 of 2 - 9th February 2022

MonLife
Ar gyfer meddwl, corff ac enaid ein cymuned
For the mind, body and soul of our community

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Ein Cyf/Our Ref.: 01_'20Mod_Cal.Rog2020
Eich Cyf/Your Ref.:
Dyddiad/Date: 9th February 2022

Mr P. Poole
Natural Resources Wales
Philip.Poole@cyfoethnaturiolcymru.gov.uk

Dear Mr Poole,

RE: WILDLIFE AND COUNTRYSIDE ACT 1981 SECTION 53 - DEFINITIVE MAP MODIFICATION ORDER TO RECORD ROUTES 83 CALDICOT AND 27 ROGIET AS PUBLIC FOOTPATHS IN THE COMMUNITIES OF CALDICOT AND ROGIET NEAR THE SEVERNSIDE RIFLE RANGE.

Thank you for your reply to the consultation, dated 5th January 2022 (included below for reference).

The perceived experience of the existence of a public right of way and any associated and anticipated maintenance, need, nuisance and/or security surrounding the arguments for and against the registration of the claimed route are not considered under this legislation and will not inform whether it should or should not be registered.

The Wildlife and Countryside Act 1981 allows for a Definitive Map Modification Order to be submitted by anyone to register a route on the Definitive Map and Statement. If the claimed route is shown to *"subsist or is reasonably alleged to subsist"* and if either of these tests are satisfied, then the Order Making Authority is duty bound to make the Order and on the *"balance of probabilities"* to confirm that Order.

No, the authority is not able to give assurance with respect to NRW not needing to apply for formal notices for footpath closures when you carry out significant maintenance on the bank. Monmouthshire County Council (MCC) is not exempt from paying for and posting notices on site with regards to the current closure in place for the recorded and unrecorded footpaths. However, formal notices have not been required to date and a banks man or similar approach would probably be acceptable and negate the need for formal notices.

The proposed fencing, kissing gates, pedestrian gates and/or gates that may be installed will be the responsibility of the landowner. However, it has been reported that the route over the top of the seawall was maintained by MCC's field wardens, to the level for ordinary traffic, that is to footpath level. MCC's Field Officer reports having in the past contacted the landowner to unlock gates so that the up growth (grass) could be regularly cut with machinery, you would have to take a similar approach.

I hope this clarifies the position with regards to the matters you have raised and the legislation in connection with the Definitive Map Modification Order (DMMO) process.

Yours sincerely,
Mandy Mussell
Definitive Map Officer

Appendix 5.29.3
Monmouthshire County Council (MCC) reply to Natural Resources Wales (NRW)
9th February 2022

From: Williams, Kristian J <KristianWilliams@monmouthshire.gov.uk>
Sent: 07 December 2021 10:18
To: Mussell, Mandy <MandyMussell@monmouthshire.gov.uk>
Cc:
Subject: RE: 01_'20Mod - Seawall Caldicot Rogiet Definitive Map Modification Order (DMMO) 08

I'm aware of the MOD site.
The H&S issues on the private range are more concerning given its proximity to the path and the allegations made by the operators that walkers have disregarded safety measures. The rear backstop has said path located on top of it of course. I've visited Severnside range and met the operators on several occasions now, including a recent site visit with Police, NRW, RoW and MCC Councillors to discuss safety, access, and vandalism.
As Environmental Health Officers enforcing H&S at Work (we're synonymous with HSE Inspectors of H&S) we're aware of the operators responsibilities which remain whether there is a DMMO or not. I've also witnessed the control measures they have in place when the range is live and these are similar to those used on the MOD range. So there are no enforcement expectations from my Department at this stage, other than to point out the obvious risks associated with the location of the path, but take your point regarding the designation process and it's terms of reference under the Act which doesn't consider suitability or indeed safety.
I don't enforce H&S on the MOD site, being a Crown premises, the HSE takes primacy.
Kind regards,
Kris
Mr Kristian Williams
Specialist Environmental Health Officer
Environmental Health - Commercial Team

Good evening Mandy
Many thanks for the consultation letter and links.
I'm an EHO with Monmouthshire CC and my Department has an enforcement role in terms of Severnside firing range's duties under health & safety legislation. I note Mr Williams objections contained in the pre-order consultation report. Any comments I would make are in relation to safety and I note that concerning the *status of routes* under section 53 of the Wildlife and Countryside Act 1981, *need, nuisance, security or suitability cannot be taken into account.*
I take it then, that any comments at this point are not officially required from me in terms of the designation process?
Purely from a safety perspective, I can only reiterate observations I have made to date regarding this matter. It is self-evident that locating a public right of way behind an active firing range poses some obvious challenges to safety management and presents a risk of injury or death, should a pedestrian stray onto the range when it is live.
Severnside firing range mitigates this risk through the use of red flags and sentries when the range is live. The range is managed by Mr Williams (Range Conducting Officer) who is in radio communication with posted sentries. It is alleged by Mr Williams that some walkers have flagrantly disregarded these safety measures, thereby placing themselves at risk. Mr Williams has raised other safety concerns in his objections. My understanding is that there is an alternative route available to walkers to circumvent Severnside firing range – namely the Wales Coastal Path. Irrespective of the designation process, the same reasonably foreseeable risks present themselves given the open nature of the coastline in this area, specifically between A and G, and in any case it would be necessary for Severnside firing range to implement reasonably practicable control measures, including those described above.
Whilst my comments above might not be required at this stage, I thought them relevant given Environmental Health's remit in enforcing the provisions of the Health and Safety at Work etc Act 1974.
Kind regards,
Kris
Mr Kristian Williams
Specialist Environmental Health Officer
Monmouthshire County Council
Environmental Health - Commercial Team

Appendix 5.30
Monmouthshire County Council (MCC) Environmental Health Officer reply to Pre-order consultation – 7th December 2021

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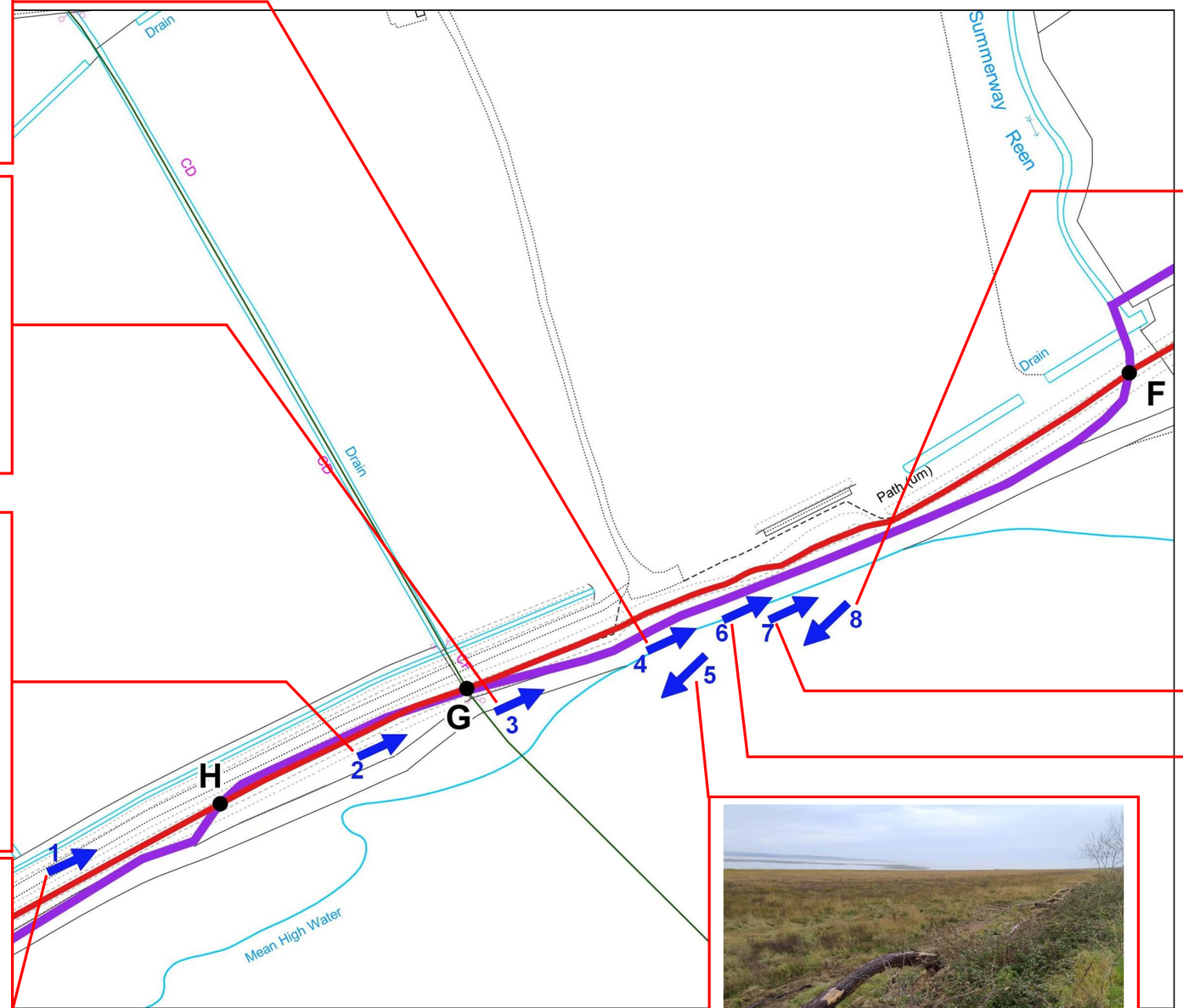
Site Photograph 4

Site Photograph 3

Site Photograph 2

Site Photograph 1



Site Photograph 8

Site Photograph 7

Site Photograph 5

Site Photograph 6

Appendix 10.1
Site Photographs 1 to 8 – December 2020

Site Photograph 12

Site Photograph11

Site Photograph 10

Site Photograph 9

Site Photograph 13

Site Photograph 16

Site Photograph 15

Site Photograph 14

Appendix 10.2
Site Photographs 9 to 16 – December 2020