

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Taxi and Regulatory Committee held at Council Chamber, County Hall, The Rhadyr USK on Wednesday, 23rd July, 2025 at 10.00 am

PRESENT: County Councillor Tudor Thomas (Chair)
County Councillor Jayne McKenna (Vice Chair)

County Councillors: Tony Easson, Christopher Edwards,
Jane Lucas, Alistair Neill, M. Newell, Sue Riley, Dale Rooke,
Jackie Strong

OFFICERS IN ATTENDANCE:

Wendy Barnard	Democratic Services Officer
Colette Bosley	Green Infrastructure Manager
Geraint Edwards	Head of Litigation and Deputy Monitoring Officer
Gavin Pugh	Assistant Rights of Way Officer
Richard Ray	Paralegal
Ruth Rourke	Countryside Access Manager

APOLOGIES:

Councillor Simon Howarth

1. Declarations of Interest

County Councillor Tony Easson declared a personal interest and did not participate in the meeting as he had been a member of the Planning Committee when the application was approved and the footpath was a matter of contention.

County Councillor Jane Lucas was present for part of the meeting so was unable to vote.

2. TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 257 PUBLIC PATH ORDER, FOOTPATH 61 (part) CALDICOT also known as FOOTPATH 7(part) CAERWENT.

Richard Ray outlined the legal position and tests to be considered by the committee. This was followed by a PowerPoint presentation from the Countryside Access Manager and the Assistant Rights of Way Officer presented the report for the Committee to consider the request to make and confirm a public path diversion order under section 257 of the Town and Country Planning Act 1990, Footpath 61 (part) , Caldicot also known as Footpath 7(part) Caerwent to enable development in accordance with approved planning permission.

The Committee was reminded it is subject to a degree of judicial control. The decision and process to reach a decision must be procedurally fair and without bias.

The reasons for the decision can only be regarding the statutory scope for these orders found within Section 257 and 259 of the Town and Country Planning Act 1990. The

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product of the consultation carried out should be considered and is presented in the report, and the decision should be evidence based.

Under section 257, the authority can make an order to stop up or divert a right of way if it is necessary to do so to enable development to be carried out. An order will be necessary if there is some conflict between a right of way and a planning permission that does not need to be a physical obstruction or potential obstruction as a change of use is enough for the necessity criteria to be fulfilled. The order can be made if the development is not substantially complete. This means a development has reached a point where the intention of the development has been fulfilled, considering the totality of operations that were intended.

Power to make a path order under the Town and Country Planning Act is discretionary, even if the necessity test is met. An authority can still decline to make an order if it would result in significant disadvantages or losses, taking into account the interest of the general public, the potential effect on neighbouring properties, for example, where access is affected and any potential financial loss to the public.

Once an order is made, the decision is subject to a four-week public consultation and is advertised in a local newspaper and this creates a point where, if objections to the order are made and not withdrawn, the Authority is unable to confirm the order.

At that point, the authority must refer the decision to the Welsh Government's Planning Inspectorate, or PEDW, for confirmation. The planning inspector can only confirm the order if the above tests are satisfied in the same way that the Committee considers them.

If a test for making and confirmation of the order is satisfied, the committee can authorise officers to make and confirm the order.

Points raised during the debate:

- A Member asked why 3 metres is considered acceptable when the guidance suggests 4 metres. It was responded that 4 metres is the Council's recommendation but there's no legislation that makes that necessary. The site has 3 metres width available which is proportional and is stipulated in the schedules which were circulated for pre-order consultation.
- A Member asked about the existing path which comes out opposite A on the map and asked if there the walk along the narrow lane is a safety issue. It was responded that the proposed route would extend the walk along the road but because of the splay the vision either way from where the proposed path would emerge, it would offer a safer route along the road than where the current path emerges immediately onto the roadside. The proposed footpath would have a kissing gate that emerges onto a grass verge as opposed to stepping out onto the road.
- A Member confirmed that the signs and the CCTV were observed on the site visit. The objections about loose dogs were also noted. The Officer confirmed that these matters did not form part of today's decision and Members were

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reassured that these matters are covered by other legislation, rules and regulations that can be used appropriately where necessary if people are affected whilst on a footpath or any other right of way.

- A Committee Member queried the point between C&D where the proposed footpath is located and fenced off to a width of three metres and asked if fence is going to remain to offer walkers protection from dogs. The Member also sought confirmation that the landowner is going to maintain the hedge that's been planted. The Officer confirmed that the new hedge would remain in place if the order was approved. The Highways authority has responsibility for the surface of the right of way, but the landowner has responsibility for beside and above a right of way and maintenance thereof.
- A Member queried who is responsible for the kissing gate at point D on the map. The Officer explained that under the Highways Act, landowners are responsible for limitations on their land. There is an obligation for the Highway authority to contribute 25% towards that, but the maintenance, supplying, installing and maintenance of furniture on public rights of way is the responsibility of the landowner.
- A Member referring to point D where the proposed kissing gates is to be located, asked for clarification about the time of year the hedge can be taken down on the kissing gate bearing in mind birdnesting season. The Officer explained that there is guidance that suggests avoiding March to August. It is possible to have the hedge examined to see if it would disturb any nesting birds inside the bird nesting season.

Member of the public, Roger Nasey requested to address the Committee. The following points were made:

- He represented 20 residences along the lane; frequent users of the path, many of whom have ceased to use the path due to the aggressive dogs.
- He questioned whether the meeting should be taking place as he was informed that the owner of the adjacent field claims the applicant does not own all the land involved in the planned changes. This matter has been raised with Officers and the applicant with no response.
- The guidance supplied makes the point that when diversions of rights of way are considered, the best solution often comes down to a balance between convenience and enjoyment. In this case the proposed change will mean that the unfolding panoramic vista will be lost. The decision made should balance the applicant's interests in having the order confirmed against any amenity loss to the public.
- The Council's obligation to facilitate the applicant's execution of planning consent is understood and some diversion is required. It was proposed that a simple diversion around the southern corner of the menage would suffice. The buildings are already reconstructed, being positioned either side of the public right of way, and the small corner of the menage obstructing the path can be avoided by a very minor diversion which would retain historic integrity of the direct path to the Westgate of the ancient town.

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- Livery activity will be reduced from that of a commercial operation, presenting no compromise on the safety complained of in the applicant's proposal. The report suggests the livery will offer employment opportunities.

Mr Nasey asked two questions and in response the Officer confirmed:

- 1) that all the investigation that was conducted and all the evidence seen shows that all the land which is the subject of the proposed diversion, and the current legal alignment run are in the control of the applicant's daughter who consented to the application. It was confirmed that the proposed path emerges onto the verge. Highways records show that is accessible by the public and there's no evidence from the Land Registry documents to suggest that anybody owns that privately.
- 2) Regarding if the livery is active and able to provide employment opportunities, it was confirmed there will be stabling for several horses. Whether a commercial venture or for friends and family is not relevant to the path order. The suggestion to move the path to the bottom of the menage would take the path between the stables and the menage. The purpose of the new hedge and boundary is to erect a physical barrier between the area where horses will be used, walked and ridden, and where the public would have access.
- 3) Convenience and enjoyment are tests under the Highways Act and not under the Town and Country Planning Act

The Chair in summing up noted:

- There is approval by the officers from the Countryside Service and other professionals.
- The Committee visited the site this morning to contextualise the proposal.
- One objector attended the meeting to put forward his case.
- The Committee, having received and read the agenda pack noted numerous other objections.

Upon being put to the vote, the following motion was carried:

Having regard to the relevant legislation, tests, guidance and policy. This committee authorises the making of a diversion order Path 61 (part), Caldicot (also known as Footpath 7, Caerwent) under Section 257 of the Town and Country Planning Act 1990, and to confirm the order if no objections are received.

The meeting ended at 12.54 pm