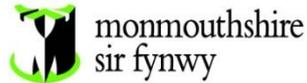


# Public Document Pack



County Hall  
Rhadyr  
Usk  
NP15 1GA

Friday 13<sup>th</sup> February 2026

## Notice of meeting

### Taxi and Regulatory Committee

Monday, 23<sup>rd</sup> February, 2026 at 2.00 pm,  
Council Chamber, County Hall, The Rhadyr USK

**The Committee will need to visit the site at the start of the meeting, so the tests can be applied. 13:00 Meet at Usk Athletic Club Car Park, Mill Street, Usk. NP15 1AW  
what3words lighten.vessel.setting**

**Please let Gavin Pugh ([gavinpugh@monmouthshire.gov.uk](mailto:gavinpugh@monmouthshire.gov.uk)) know if you cannot make the site visit in person. The site is not far from County Hall. Committee Members will only need good footwear and appropriate clothing for the weather. You will not be walking very far. The Committee shall return to County Hall for the formal meeting and decision making afterwards.**

## AGENDA

Item No	Item	Pages
1.	Apologies for Absence	
2.	Declarations of Interest	
3.	HIGHWAYS ACT 1980 - SECTION 119 PUBLIC PATH DIVERSION ORDER, FOOTPATH 1 USK (Usk Athletic Club)	1 - 72

**Paul Matthews**

**Chief Executive**

MONMOUTHSHIRE COUNTY COUNCIL  
CYNGOR SIR FYNWY

THE CONSTITUTION OF THE COMMITTEE IS AS FOLLOWS:

County Councillor Tony Eason	Dewstow;	Welsh Labour/Llafur Cymru
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 Jayne McKenna	Mitchel Troy and Trellech United;	Welsh Conservative Party
County Councillor Alistair Neill	Gobion Fawr;	Welsh Conservative Party
County Councillor Martin Newell	Town;	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 Tudor Thomas	Park;	Welsh Labour/Llafur Cymru
County Councillor Armand Watts	Bulwark and Thornwell;	Welsh Labour/Llafur Cymru

## Public Information

Please note that Monmouthshire County Council will film this meeting and it will be made available to view in live and archive form online. It is possible that the public seating areas could be filmed and by entering the Chamber you are consenting to being filmed and to the possible use of those images and sound recordings for webcasting purposes. If you make a representation to the meeting you will be deemed to have consented to being filmed.

Recordings of the meeting will be stored in accordance with the Council's data retention policy. Archived webcasts or parts of webcasts shall only be removed from the Council's website if the Monitoring Officer considers that it is necessary because all or part of the content of the webcast is or is likely to be in breach of any statutory provision or common law doctrine, for example Data Protection and Human Rights legislation or provisions relating to confidential or exempt information.

### Access to paper copies of agendas and reports

A copy of this agenda and relevant reports can be made available to members of the public attending a meeting by requesting a copy from Democratic Services on 01633 644219. Please note that we must receive 24 hours notice prior to the meeting in order to provide you with a hard copy of this agenda.

### Watch this meeting online

This meeting can be viewed online either live or following the meeting by visiting [www.monmouthshire.gov.uk](http://www.monmouthshire.gov.uk) or by visiting our Youtube page by searching MonmouthshireCC.

### Welsh Language

The Council welcomes contributions from members of the public through the medium of Welsh or English. We respectfully ask that you provide us with adequate notice to accommodate your needs.

# Aims and Values of Monmouthshire County Council

## Our purpose

To become a zero-carbon county, supporting well-being, health and dignity for everyone at every stage of life.

### Objectives we are working towards

- Fair place to live where the effects of inequality and poverty have been reduced.
- Green place to live and work with reduced carbon emissions and making a positive contribution to addressing the climate and nature emergency.
- Thriving and ambitious place, where there are vibrant town centres and where businesses can grow and develop.
- Safe place to live where people have a home where they feel secure in.
- Connected place where people feel part of a community and are valued.
- Learning place where everybody has the opportunity to reach their potential.

## 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.





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

## 1. PURPOSE:

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

## 2. RECOMMENDATIONS:

- 2.1 Having regard to the relevant legislation, tests, guidance and policy that the Licensing and Regulatory Rights of Way Advisory Committee authorise the making of a diversion order for Footpath 1 Usk under Section 119 Highways Act 1980 and to confirm the order if no objections are received.

## 3. KEY ISSUES:

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

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

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

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

#### **5.0 OPTIONS APPRAISAL**

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

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

**6.0 EVALUATION CRITERIA**

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

**7.0 REASONS:**

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

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

## **8.0 RESOURCE IMPLICATIONS:**

8.1 If the order is made then order costs including Rights of Way Officer's, and Legal Officer's time, and newspaper adverts will be recharged to the applicant. If the order is made and objections are received, then at the Planning Inspector's request it is possible that a Public Inquiry or Hearing could be called at the Authority's expense. Written representations are another option available to the Planning Inspectors. It is unknown as to whether the person objecting would object again at public consultation stage, if the Committee decided to make the order.

## **9.0 CONSULTEES**

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

## **10.0 BACKGROUND PAPERS:**

Appendix 1: Full Report.

Appendix 2: Consultation Responses.

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

Appendix 4: Evaluation Criteria.

## **11.0 AUTHOR:**

Gavin Pugh

Assistant Public Rights of Way Officer

## **12.0 CONTACT DETAILS:**

Tel: 07976 088876

Email: [gavinpugh@monmouthshire.gov.uk](mailto:gavinpugh@monmouthshire.gov.uk)



monmouthshire  
sir fynwy

## **Highways Act 1980, Section 119 Public Path Order Footpath 1 Usk**

**Report for Taxi and Regulatory Rights of Way Advisory  
Committee 23 February 2026.**



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

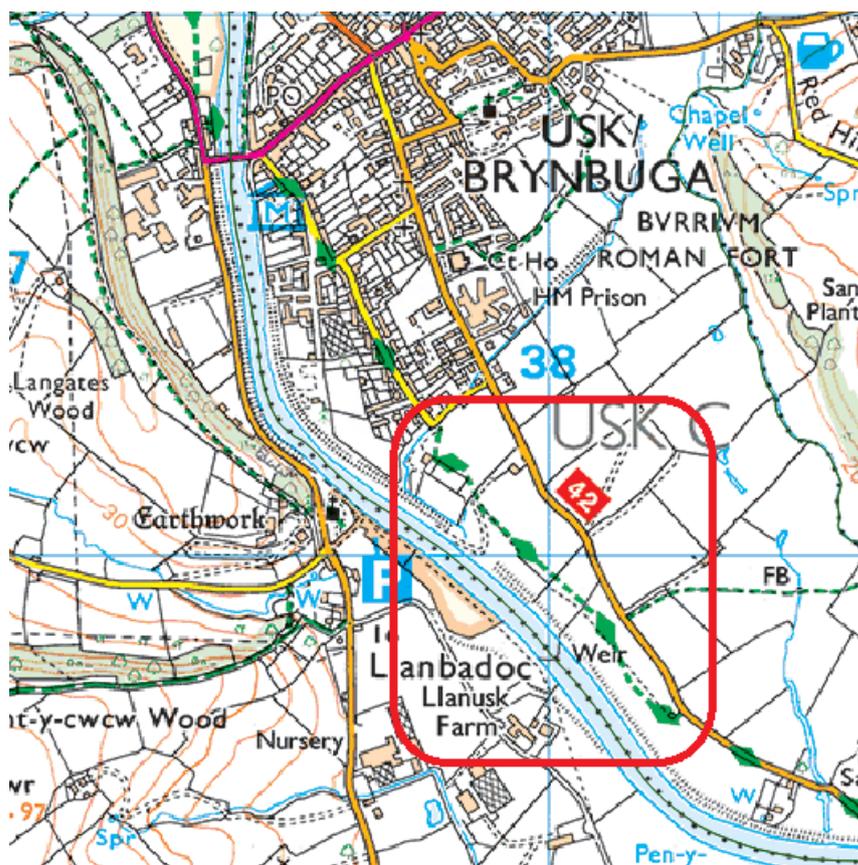
# 1. Purpose

1.1. This report has been compiled to act within the approach to be fair, impartial and operating the principles of natural justice. It sets out the full background, legislation, policy, objection and other evidence in respect of a request for an order to be made under Section 119 of the Highways Act 1980 for Public Footpath 1 Usk. Its purpose is to assist Members of the Taxi and Regulatory Rights of Way Advisory Committee to make a decision as to whether or not an order should be made to divert part of Footpath 1 Usk and to inform all other interested parties.

1.2. In deciding whether to make an order the Authority is exercising a power, not a duty. If decisions are objected to, they may be tested at an inquiry, hearing or by written representations by an Inspector appointed by Welsh Government. Decisions must be readily justified under the criteria of the relevant Acts.

# 2. Background

## Location Plan



2.1. On 24<sup>th</sup> March 2023, a public path order application was received by Monmouthshire County Council (MCC) Countryside Access Service. It was made by the Committee of the Usk Athletic Club (Usk AC), to divert the public footpath that runs across the main cricket pitch and past the entrance to a machine shed, on to an alignment behind the tennis courts. It also seeks to

move the path from across the cricket pitch in the Roger Edwards field and then realigns it in the next agricultural field.

- 2.2. The reason for the application was in the interests of the landowner and the public, to improve safety. There have been a number of near misses where members of the public walking the current legal alignment who have nearly been struck with cricket balls travelling at speed during matches. The path also runs in front of a machine shed that houses a large tractor with a gang mower trailer that crosses the current path whenever the machinery is used. Also, the use of the path by dog walkers has led to high levels of dog fouling on the sports field. The players now must clear the field before every match and collect all the dog faeces in order for games to go ahead safely. This grass path also becomes muddy and slippery after rain.
- 2.3. The Authority has powers to divert footpaths if it is in the interests of the landowner or the public.
- 2.4. Appendix 1.1 is the proposed Order Plan and Appendix 1.2 is the Schedule that sets out the route of the path that the application seeks to divert. These were created in 2023 and Appendix 1.3 is the updated version of the Schedule for 2026.

### **3. Legislation/Policy Issues**

- 3.1. The Council, under Section 119 of the Highways Act 1980 (S119 HA 1980), has discretionary powers by order, to divert footpaths if it is satisfied that it is necessary and meets certain legal tests.
- 3.2. The council should therefore consider if the proposal meets the requirements of the legislation. It should also consider all of the other relevant legislation, supplementary guidance and policy.
- 3.3. Section 119 Highways Act 1980

*Where it appears to a council as respects a footpath, bridleway or restricted byway in their area (other than one that is a trunk road or a special road) that, in the interests of the owner, lessee or occupier of land crossed by the path or way or of the public, it is expedient that the line of the path or way, or part of that line, should be diverted (whether on to land of the same or] of another owner, lessee or occupier), the council may, subject to subsection (2) below, by order made by them and submitted to and confirmed by the Secretary of State, or confirmed as an unopposed order,—*

- (a) *create, as from such date as may be specified in the order, any such new footpath, bridleway or restricted byway as appears to the council requisite for effecting the diversion, and*
- (b) *extinguish, as from such date as may be specified in the order or determined in accordance with the provisions of subsection (3) below, the public right of way over so much of the path or way as appears to the council requisite as aforesaid.*

*An order under this section is referred to in this Act as a “public path diversion order”*

- (2) A public path diversion order shall not alter a point of termination of the path or way—*
  - (a) if that point is not on a highway, or*
  - (b) (where it is on a highway) otherwise than to another point which is on the same highway, or a highway connected with it, and which is substantially as convenient to the public.*

*Where it appears to the council that work requires to be done to bring the new site of the footpath, bridleway or restricted byway into a fit condition for use by the public, the council shall —*

- (a) specify a date under subsection (1)(a) above, and*
  - (b) provide that so much of the order as extinguishes (in accordance with subsection (1)(b) above) a public right of way is not to come into force until the local highway authority for the new path or way certify that the work has been carried out.*
- (4) A right of way created by a public path diversion order may be either unconditional or (whether or not the right of way extinguished by the order was subject to limitations or conditions of any description) subject to such limitations or conditions as may be specified in the order.*

*Before determining to make a public path diversion order on the representations of an owner, lessee or occupier of land crossed by the path or way, the council may require him] to enter into an agreement with them to defray, or to make such contribution as may be specified in the agreement towards,—*

- (a) any compensation which may become payable under section 28 above as applied by section 121(2) below, or*
  - (b) where the council are the highway authority for the path or way in question, any expenses which they may incur in bringing the new site of the path or way into fit condition for use for the public, or*
  - (c) where the council are not the highway authority, any expenses which may become recoverable from them by the highway authority under the provisions of section 27(2) above as applied by subsection (9) below.*
- (6) The Secretary of State shall not confirm a public path diversion order, and a council shall not confirm such an order as an unopposed order, unless he or, as the case may be, they are satisfied that the diversion to be effected by it is expedient as mentioned in subsection (1) above, and further that the path or way will not be substantially less convenient to the*

*public in consequence of the diversion and that it is expedient to confirm the order having regard to the effect which—*

- (a) the diversion would have on public enjoyment of the path or way as a whole,*
- (b) the coming into operation of the order would have as respects other land served by the existing public right of way, and*
- (c) any new public right of way created by the order would have as respects the land over which the right is so created and any land held with it, so, however, that for the purposes of paragraphs (b) and (c) above the Secretary of State or, as the case may be, the council shall take into account the provisions as to compensation referred to in subsection (5)(a) above.*

*(6A)The considerations to which—*

- (a) the Secretary of State is to have regard in determining whether or not to confirm a public path diversion order, and*
- (b) a council are to have regard in determining whether or not to confirm such an order as an unopposed order, include any material provision of a rights of way improvement plan prepared by any local highway authority whose area includes land over which the order would create or extinguish a public right of way.*

### **3.4. Other relevant Legislation, Guidance and Policy.**

In addition to the HA 1980 legislation the council should consider the following Legislation, Guidance and Policy. (These are detailed in paragraph 6 of this report).

- Welsh Government Guidance for Local Authorities on Public Rights of Way October 2016.
- Monmouthshire County Council Policy as set out in its Application & Guidance Pack for Public Path Diversion and Extinguishment Orders under the Highways Act 1980.
- Environment (Wales) Act 2016.
- Equality Act 2010.
- Active Travel (Wales) Act 2013.
- The Well-being of Future Generations Act 2015.
- Monmouthshire's Countryside Access, Protocol and Operational Management Guide and Monmouthshire's Countryside Access Improvement Plan.

## 4. Consultees

4.1. MCC Rights of Way ran pre-order consultation twice for this path order in September 2023 and again in March 2025. Consultees included the Local Member, Usk Town Council, the statutory undertakers and path user groups. The first pre-order consultation met with an objection and so a revised proposal was sent out that sought to address the original objection. This met with further objection from the same person.

4.2. The following is a complete list of those consulted on the revised proposal in March 2025, with a summary of the responses. Details of the objection can be found in paragraph 7 below.

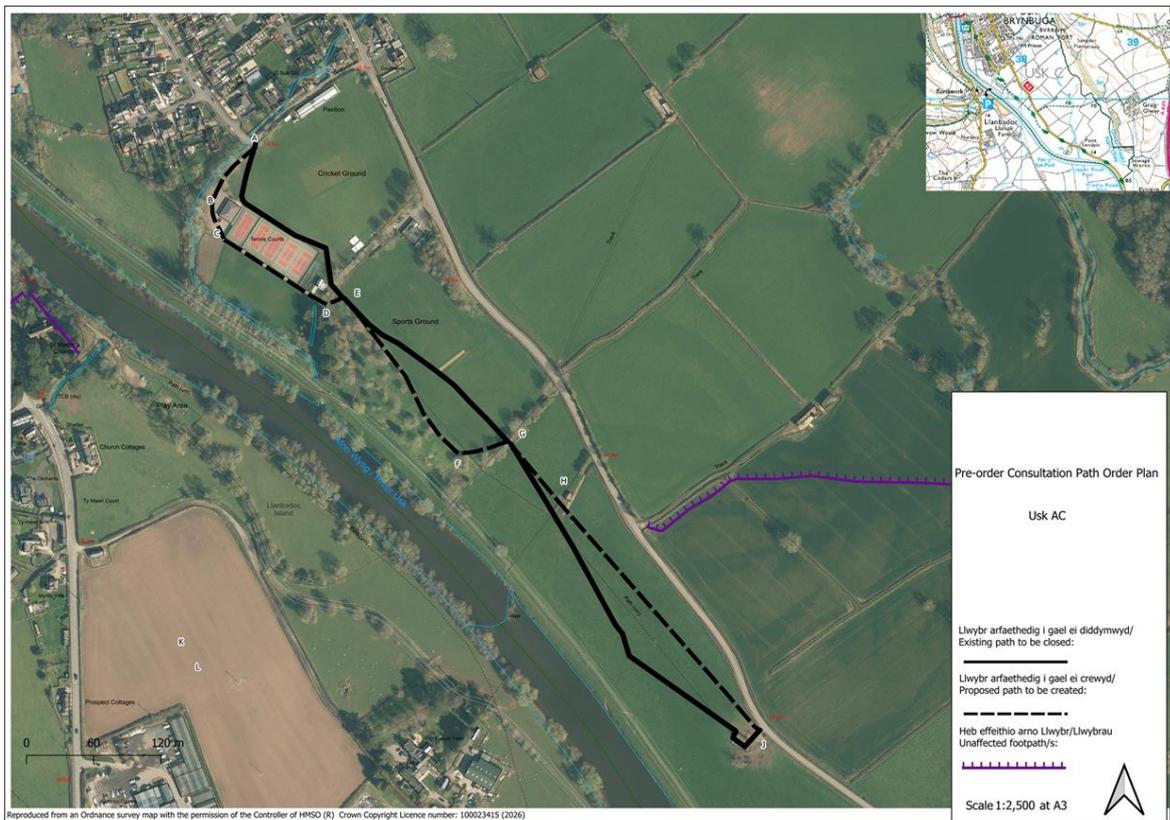
	<b>Name</b>	<b>Organisation</b>	<b>Summary of Representations</b>
1	Sali Palmer	MCC Biodiversity Officer	No objection.
2	Head Office	The Open Spaces Society	No response.
3	Mr Steve Garland	Lower Wye Valley Ramblers Association	No objection.
4	Ruth Rourke	MCC Countryside Access Manager	No objection.
5	Collette Bosley	MCC Countryside, Destination, Environment Manager	No objection.
6	Richard Ray	MCC Legal Department	No objection. Comment, 'the proposal seems to satisfy statutory tests'.
7	Bradley Griffiths	Western Power Distribution	No objection.
8	Openreach, Network Alterations	BT Openreach	No objection. Comment, 'Openreach does not appear to have apparatus that may be affected in the area of your proposals'.
9	External Relations Team	Natural Resources Wales	No objection.
10	Plant Protection	Cadent Gas/National Grid	No objection.
11	Sharon Grey	Dwr Cymru / Welsh Water	No objection. Comment, 'Please be advised that there are no Dwr Cymru apparatus affected by the proposed works'.
12	The Clerk	Usk Town Council	No objection. Comment, 'The council voted in favour of the proposal'.
13	County Councillor Meirion Howells	MCC	No objection. Comment, 'Yes, I believe this is what was previously discussed and allows better provision for wheelchair users'.

14	County Councillor Sara Birch	MCC	No objection. Comment, 'That seems sensible'.
15	County Councillor Tony Kear	MCC	No objection. Comment, 'Based on your explanation, I have no issues with what is being proposed'.
16	Councillor Alison Ivin	Usk Town Council	Objection. (Details in paragraph 7 below).

## 5. Photographs

5.1. The following images demonstrate the character of the existing route and the proposed route.

### Proposed Order Plan overlain with Aerial Photography.



View from Point A Looking along the existing path.



View of Existing path past tennis courts.



View from Point A looking down proposed path.



View from Point B looking down proposed path.



View from Point C along proposed path.



View from further down the proposed path towards Point D.



View from further down the proposed path towards Point D.



View from Point D back along proposed path.



## 6. Application of Tests, Guidance & Policy

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

### 6.2. Highways Act 1980

*Where it appears to a council as respects a footpath, bridleway or restricted byway in their area that, **in the interests of the owner, lessee or occupier of land crossed by the path or way or of the public, it is expedient that the line of the path or way, or part of that line, should be diverted***

The path affected is a public footpath shown on the Definitive Map and Statement and has been subject of a diversion order previously. The order would be in the interests of the landowner and the public to address safety issues.

### 6.3. Highways Act 1980

- (2) *A public path diversion order shall not alter a point of termination of the path or way —*
- (a) *if that point is not on a highway, or*
  - (b) *(where it is on a highway) otherwise than to another point which is on the same highway, or a highway connected with it, and which is substantially as convenient to the public.*

The proposed diversion meets part (a) of this legal test because it terminates on the same highway. It also meets part (b) of this legal test because the route of the proposed alternative path is substantially as convenient as the existing route. The evidence to support this is that the alternative path is almost the same length as the existing path (please see the path schedule in Appendix 1.2). The existing path would be taken off an active sports field on to a purpose-built path and a grass path and be more accessible.

### 6.4. Highways Act 1980

- (6) *The Secretary of State shall not confirm a public path diversion order, and a council shall not confirm such an order as an unopposed order, unless they are **satisfied that the diversion to be effected by it, is expedient** as mentioned in subsection (1) above, and further that **the path or way will not be substantially less convenient to the public in consequence of the diversion** and that it is expedient to confirm the order **having regard to the effect which —***
- (a) *the diversion would have on public enjoyment of the path or way as a whole,*
  - (b) *the coming into operation of the order would have as respects other land served by the existing public right of way, and*
  - (c) *any new public right of way created by the order would have as respects the land over which the right is so created and any land held with it, so, however, that for the purposes of paragraphs (b) and (c) above the Secretary of State or, as the case may be, the council shall take into account the provisions as to compensation referred to in subsection (5)(a) above.*

Although the decision for the Committee is whether to 'make' the order in this case, it is appropriate to consider the legal tests that apply at the 'confirmation' stage during this process. The relevant parts to be considered are whether the new path will 'not be substantially less convenient', and in this case it is not for the reasons detailed in paragraph 6.5 above. The second consideration is section (6) (a) and relates to the 'enjoyment of the path or way as a whole'. This is subjective, but it appears that the alternative route could be deemed more enjoyable than the existing route. The evidence to support this is that the safety issues that affect the existing path do not affect the proposed alternative path. The proposed alternative path runs along a far safer alignment than the existing path and is more accessible.

**6.5. Welsh Government Guidance for Local Authorities on Public Rights of Way October 2016** [www.gov.wales/sites/default/files/publications/2019-04/public-rights-of-way-guidance-for-local-authorities.pdf](http://www.gov.wales/sites/default/files/publications/2019-04/public-rights-of-way-guidance-for-local-authorities.pdf)

6.20. *Before making a Diversion Order it must appear to the authority that it is expedient to divert the path in the interests of the public or of the owner, lessee or occupier of the land crossed by the path or way. A Diversion Order may be made as long as it is expedient to divert all or part of a way in the interests of at least one of these parties and authorities must be able to explain why this is so.*

6.21. *Again, 'expedient' in s. 119 of the HA 1980 has a wide meaning and the authority may take a broad range of factors (such as the historical integrity of the route) into account when deciding whether to make an order or, confirm an unopposed order.*

It is expedient in the interests of the landowner and the public to divert the path for the reasons detailed in paragraph 6.3 above.

**6.6. Welsh Government Guidance for Local Authorities on Public Rights of Way October 2016**

6.28. *Whereas 'convenience' may be interpreted as meaning ease of use, 'enjoyment' can take into account other factors such as the views to be enjoyed from the path or way. It is possible that a proposed diversion may be as convenient as the existing path but less enjoyable. If so, when coming to a conclusion on expediency, the decision-maker would have to balance the applicant's interests in having the Order confirmed against any amenity loss to the public.*

The objection made in respect of this proposed diversion relates to the preference of using the current path against the use of the proposed path. This is a relevant consideration in this case. Although the person objecting may prefer the current path, this needs to be balanced against the applicant's desire for improved safety and the reduced risk to path users.

**6.7. Welsh Government Guidance for Local Authorities on Public Rights of Way October 2016**

6.116. *When deciding whether to make Creation, Diversion or Extinguishment Orders under the HA 1980, authorities are required under s. 29 and s. 121(3) of the Act to have due regard to the needs of agriculture and forestry and the desirability of conserving flora, fauna and geological and physiographical features. Section 6 of the Environment (Wales) Act 2016 places a duty on public authorities (including Local Authorities) to 'seek to maintain and enhance biodiversity' so far as it is consistent with the proper exercise of those functions.*

The proposal does not conflict with the duty under this Act.

**6.8. Monmouthshire County Council Procedure as set out in its Application & Guidance Pack for Public Path Diversion and Extinguishment Orders under the Highways Act (Appendix 1.3)**

**6.9. Landownership**

*"The first thing to consider before applying for a public path order is that you, as the applicant, own all the land over which the diverted route is to cross. If you do not, you must obtain the landowner's written consent before you can continue. (Forms for this area available upon request). The Authority will not be able to process your application without this."*

The applicant does not own all the land over which the whole of the proposed path would run. They have obtained the written permission of the relevant landowners to divert the path in their fields.

**6.10. Environment (Wales) Act 2016**

***Biodiversity and resilience of ecosystems duty***

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

MCC Biodiversity Team has been consulted and had no objection to the proposed diversion.

**6.11. Equality Act 2010**

***2010 CHAPTER 15***

*An Act to make provision to require Ministers of the Crown and others when making strategic decisions about the exercise of their functions to have regard to the desirability of reducing socio-economic inequalities; to reform and harmonise equality law and restate the greater part of the enactments relating to discrimination and harassment related to certain personal characteristics; to enable certain employers to be required to publish information about the differences in pay between male and female employees; to prohibit victimisation in certain circumstances; to require the exercise of certain functions to be with regard to the need to eliminate*

*discrimination and other prohibited conduct; to enable duties to be imposed in relation to the exercise of public procurement functions; to increase equality of opportunity; to amend the law relating to rights and responsibilities in family relationships; and for connected purposes.*

Monmouthshire County Council is committed to the Equality Act as stated in Monmouthshire's Countryside Access Policy, Protocol and Operational Management Guide (page 20 section 7.3). In this context this legislation relates mostly to accessibility. Accessibility along the proposed path would be improved by the proposal, and the use of gaps in place of gates, and the installation of wheelchair accessible kissing gates would increase the accessibility of the proposed path.

#### **6.12. Active Travel (Wales) Act 2013**

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

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

The existing path and the proposed path are similar in length, but the proposed path would improve accessibility. The proposed path is surfaced in part, making it more accessible and suitable to some path users. A grass alternative is offered to benefit wheelchair users, as raised by way of the initial objection.

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

6.14. Please see Appendix 3 to the Report to Committee which is an Equality and Future Generations Evaluation Form.

#### **6.15. Monmouthshire's Countryside Access Policy, Protocol and Operational Management Guide (Chapter 14 Page 37)**

<https://www.monlife.co.uk/wp-content/uploads/2020/08/Final-English-CA-Policy-and-Protocol-Operational-Management.pdf>

The Prioritisation of Rights of Way Legal Orders is covered by this document, equality and the Council's policy on least restrictive access requiring opportunities to be taken to make paths more accessible to all. The proposed path is more accessible than the current path.

#### **6.16. Monmouthshire's Countryside Access Improvement Plan.**

<https://www.monlife.co.uk/wp-content/uploads/2024/07/ROWIP-English-v5-final-07012020.pdf>

6.17. This plan sets out the approach to providing and managing access to Monmouthshire's countryside for the benefit of all Monmouthshire's residents and visitors.

As per other legislation and documents already described it includes improving access for all and active travel as a key element of the Plan. In this path order two pedestrian gaps are replacing pedestrian gates and two stiles are being replaced by wheelchair accessible kissing gates.

## **7. Objection.**

- 7.1. The following details outline the nature of the objection that was received from a member of Usk Town Council, Councillor Alison Ivin. (N.B. Usk Town Council, who were a pre-order consultee, voted and had no objection to the order).
- 7.2. In September 2023 part of the proposed path order sought to move the current legal alignment from one side of the tennis courts to the other for safety reasons. Welsh Water had concluded some work and had provided Usk AC with a made path to the rear of the tennis courts to reduce the use of the sports field. This has been used extensively by the public, on a permissive basis, particularly during the winter months.
- 7.3. Ms. Ivin initially raised an objection to moving the path from a grass field to a stone dust path. The reason for her objection was that the gravel present on a stone dust path can negatively affect wheelchair use, because the smaller stones can prevent the wheels from moving.
- 7.4. The objection was received by MCC Public Rights of Way and because it was a valid objection Usk AC was made aware of the objection and asked to propose an alternative plan that would address the objection.
- 7.5. In March 2025 a revised proposal was sent out for pre-order consultation that included the widening of the path to the rear of the tennis courts by 1 metre to include a grass path that would be wheelchair accessible. It also included a design for the inclusion of access ramps at each end of the relevant section of the proposed path at an incline of 1 in 20, making it wheelchair accessible.
- 7.6. One of the main reasons for the delay in progressing this path order has been the lack of communication from Ms Ivin throughout the process. I first emailed her when I was made aware of her initial objection in October 2023. I received no response, so I emailed again in February 2024, March 2024 and twice in April 2024. None of these requests to try to address Ms Ivin's objection were replied to. I contacted the Clerk to Usk Town Council to ask for assistance in obtaining a response from Ms Ivin, because I was unable to progress the path order without first addressing the objection. In August 2024 I telephoned Ms Ivin and spoke to her about her objection and Usk AC's proposal to address her objection. She stated she was unwilling to withdraw her objection, and that she would email me with the details of her objection. I received no communication, so emailed Ms Ivin twice in September 2024, in October 2024 and again in November 2024, and received no response. This meant there was an unresolved objection that I could not address because of the failure to engage with me.

- 7.7. On 16<sup>th</sup> April 2025, following the second pre-order consultation, Ms Ivin contacted me asking if the path order could include two wheelchair accessible kissing gates in the field beyond the cricket ground. I responded on 17<sup>th</sup> April and confirmed that this could be done. I received no response to that email and so I followed it up with a further email on 30<sup>th</sup> April and got no reply.
- 7.8. In June 2025 Usk Town Council voted and had no objection to the proposed path order at the Usk AC. On 23<sup>rd</sup> June I emailed Ms Ivin to provide me with details of any objection she may have to the proposed path changes. I received no response, so I emailed her again on 30<sup>th</sup> June, 7<sup>th</sup> July, 28<sup>th</sup> July and 5<sup>th</sup> August.
- 7.9. I also telephoned Ms Ivin on 5<sup>th</sup> August, and she stated that she still objected to the proposed path changes. She stated she would email me details of her objection. I received no communication, so I emailed Ms Ivin on 1<sup>st</sup> September and again on 15<sup>th</sup> September when I stipulated that if she failed to respond by 29<sup>th</sup> of September it would result in the path order progressing as her objection would not have been 'duly made'. On 28<sup>th</sup> September I received an email from Ms Ivin which appears below.

*Thank you for addressing some of my objections by confirming that you will upgrade the kissing gates to wheelchair accessible ones at points G and J (to be stipulated in the amended schedule) and to amend the specified width of the new length of footpath along and behind the tennis courts from 2m to 3m wide to accord with the description set out in your covering letter of 10 March (to be stipulated in the schedule). That approach is appreciated.*

*Regrettably, I do still have concerns with the revised footpath as outlined in our discussions.*

*The current footpath on the cricket field is highly used and is a level and open environment benefitting from natural surveillance and overlooking. It feels open and safe. The ground is flat and allows for those who have less mobility to survey the ground and pick their steps. The footpath is highly used as it offers a unique experience in Usk where we have no parks to offer an alternative. Given the number of users there are a high number of users at the older age group who value the level and safe environment which is not replicated elsewhere in Usk. Moving the footpath to the back of the tennis court takes away these attributes.*

*Both current and proposed diverted footpaths lead onto the rougher ground of the Roger Edwards field. A number of users stay on the cricket field to avoid the rougher ground for confidence of walking and because of high use and overlooking, the route does not feel isolated. It feels safer. Even with the ramping at either end of the diversion where it runs behind the tennis courts, the diverted route does not have the same attributes and the rougher ground at the top of the ramping making the transition of ground/gradient harder for some existing users.*

*For both of these reasons my view is that the footpath should remain on its current route at the edges of the cricket field where is it an accessible and much used and valued recreational route.*

*As a secondary point, it is also in my mind that the planned pump track on the Roger Edwards field will take its key access for cyclists along the same route as the diverted route of the footpath behind the tennis courts. Whilst I appreciate that the pump track does not have planning permission yet, the Town Council have been informed that the planning application for the pump track is imminent. In my opinion it is prudent to consider both applications together as the planning application is so proximate and I am advised that it is key to the pump track to take its main access over the route of the diverted footpath. Rather than sequential applications which could result in priority to the first in time, and knowing of the pump track planning application, I believe that it would be sensible for the footpath diversion to not be considered in isolation but alongside the pump track application.*

*Your letter of the 10<sup>th</sup> the planning application actually refers to the planning application to build a cycle pump track at the Usk AC site and meaning that the specification of the path proposed at the rear of the tennis court be altered from the original proposal to either a) a 3m wide footpath made up of 1.5m stone dust path and 1.5m of grass path (with a 1:20 gradient at both ends) or b) a 3m wide footpath made up of 1.5m stone dust path and 1.5m of tarmac path (with a 1:20 gradient at both ends). Given that your covering letter refers to the pump track planning application and that the specification has been drawn up with that use in mind, then there would seem to me to be enough clear indication of intended shared use of the diverted footpath in the future. This intention of shared use should not be removed from consideration of the footpath diversion because the footpath diversion is considered ahead of the pump track application when that pump track application is clearly in prospect and in mind.*

*Taking that point forward, I am concerned at any future shared use (pedestrian and cyclist) of a highly used footpath contained within fixed vertical boundaries formed by the tennis court fence and football field fences. Government advice is moving away from shared surfaces, and I am concerned that at the negative impact on the pump track proposals if the footpath is diverted resulting in an insoluble problem later on if it is essential to the pump track to use the same surface. Obviously if the footpath becomes used by cyclists, then use by pedestrians, particularly those less able, will be negatively affected.*

*If the footpath is diverted, I foresee future conflict between competing users within a limited width space. This reinforces my view expressed above, that the footpath should not be diverted.*

7.10. Below are the Officer's observations in relation to the objections.

*The current footpath on the cricket field is highly used and is a level and open environment benefitting from natural surveillance and overlooking. It feels open and safe. The ground is flat and allows for those who have less mobility to survey the ground and pick their steps. The footpath is highly used as it offers a unique experience in Usk where we have no parks to offer an alternative. Given the number of users there are a high number of users at the older age group who value the level and safe environment which is not replicated elsewhere in Usk. Moving the footpath to the back of the tennis court takes away these attributes.*

The proposed path has been designed to be more accessible than the current path with the inclusion of the wheelchair accessible inclines, surface and gaps instead of gates. There are other parks in Usk, including the Usk Island and the park and field behind the Usk Memorial Hall. It is unknown why the objection states there are no other parks in Usk.

*Both current and proposed diverted footpaths lead onto the rougher ground of the Roger Edwards field. A number of users stay on the cricket field to avoid the rougher ground for confidence of walking and because of high use and overlooking, the route does not feel isolated. It feels safer. Even with the ramping at either end of the diversion where it runs behind the tennis courts, the diverted route does not have the same attributes and the rougher ground at the top of the ramping making the transition of ground/gradient harder for some existing users.*

The Roger Edwards field is a grass field, the same as the cricket ground. In my view there is no apparent difference and so I am unsure as to what the 'rougher ground' refers to in this case.

*For both of these reasons my view is that the footpath should remain on its current route at the edges of the cricket field where it is an accessible and much used and valued recreational route.*

The current path is accessible and much used, but presents a risk to those using it for the reasons previously detailed. Cricket balls nearly hitting path users. Path running past machine sheds. The 'much used' element also contributes to the dog fouling which Usk AC wishes to manage by way of the proposed path order.

The remainder of the email refers to Ms Ivin's concerns about the use of the proposed path by cyclists if a cycle pump track is built near the route of the path. The concerns raised are not applicable to this path order proposal because this order is only seeking to transfer rights to 'pass and repass on foot' onto the proposed path. A public footpath does not carry any cycling rights, and this would remain the case with

the proposed path. Any intention to upgrade the footpath to a Cycleway or Bridleway would need to be by way of a separate legal order that would be subject to the same pre-order and public consultations that any path order must go through.

If there is ever an intention to create a multi-user path along the proposed alignment, then that is when these concerns would be relevant.

If the pump track were to be built then there is alternative access available from the nearby road via the small car park on the Roger Edwards field. This means there may never be a desire to seek cycle use on the proposed alignment.

## **8. Edited email from Usk AC in response to the objections**

8.1. The following is a response to the objection from a representative of the Usk AC Committee:

I've addressed each of the points in your email below but thought it would be helpful to set out the 4 key health and safety concerns that are behind our proposal to re-direct the path. These are as follows:

- (1) safety of path users - many people that use the existing path have very little understanding or knowledge of cricket. They often do not pay attention to what is going on around them or watch for the ball as they walk along the side of the ground. Our first XI are now playing cricket at the highest level of club cricket in the country and the ball gets hit very hard. We are concerned that walkers could be injured as they walk along beside the tennis courts, particularly if they are not paying attention to the game. We have already put high netting in place to protect the tennis players, because cricket balls have been hit into the courts.*
- (2) Slip hazards at each end of the path - over the course of the winter, the gateways at each end of the path become extremely muddy and slippery. As these areas are part of the playing surface, they must remain grassed and so pedestrian generated mud is unavoidable. The proposed diversion has or will have a hard core surface at each end of the path and along the full length of the tennis courts. As a walking surface this will be far safer under foot.*
- (3) Walkers crossing the entry/exit point for ground keeping machinery - the existing path crosses the entrance to the two groundskeepers garages at the far corner of the ground. During the summer there is a constant flow of ride-on mowers and automated heavy rollers. While every care is taken at present, it is obviously not ideal to have pedestrians in close proximity to such machinery. There is also the issue of people wandering around the field when mowing is in progress, which is also not ideal.*

(4) *Dog foul - We have seen an increasing number of dog walkers using the area and despite signage around the ground, many people let their dogs off the lead, don't pay attention to what the dog is doing and don't clean up when required. You will be well aware of the potential health issues linked to human contact with dog foul on a sports field. This has become a significant problem.*

*These are the primary reasons we support the diversion of the path behind the tennis courts. It will address all of the above concerns and from a health and safety perspective we don't see any other workable alternatives to mitigate these risks.*

*In terms of the points raised in the objection you received, I have set out our thoughts on each below.*

Current path is overlooked providing 'natural surveillance'.

*There are only two or three houses that overlook the ground and these are 150 to 200 yards away from that side of the ground. A pretty minimal level of surveillance.*

The ground is flat and allows for people with less mobility to use it.

*The path behind the tennis court is flat and hard core so does not get muddy in the winter. The two ends of the path will have ground works done to achieve a slope of less than 5%. Some people already opt to use the path behind the tennis courts over the winter because it is easier to walk on and less of a slip hazard.*

There are no other parks in Usk that offer an alternative.

*There are several other parks in Usk, a well used river path, the Island and the adjoining Roger Edwards field, which the proposed diversion will still lead walkers to.*

Moving the path removes these attributes.

*We believe the points above suggest otherwise. The loss of a minimal level of surveillance is more than offset by the health and safety issues that are addressed by the proposed diversion.*

There is rough ground at the far end of the proposed path.

*The rough ground at the far end of the proposed path will be levelled (to a 5% incline) and the existing dirt replaced by hard core that will be safer underfoot in wet conditions. This work will be done in the next week or two.*

The current route is not isolated and so feels safer than the proposed route.

*The existing route is potentially hazardous - particularly when cricket matches or practice is in progress. The proposed route addresses all of the potential hazards. After sunset each route is equally lit by the tennis court flood lights, when the courts are in use. If the tennis lights aren't on, each route is equally dark. If a walker feels unsafe on either route, why would*

*they be walking to the field at the far end of the path where there are no lights, no houses and even more isolation?*

The comments contained within this email are valid. The existing path, or a similar alignment, has been in place for many years, but this does not preclude it from being moved by way of legal order. An increased use of the field for sport, and the increased use of the path by the public has increased the safety risk that has prompted this application to divert the path. These are therefore relevant considerations for the Committee.

8.2. Below are some photographs that illustrate some of the concerns raised by the applicant.

View of current path alignment past machine shed 1.



View of current path alignment past second machine shed 2.



Current path alignment near machine sheds.



Current path alignment across field.



Damage to tennis fencing caused by cricket balls on current alignment.



## 9. Conclusion

- 9.1. This case has arisen following a path order application received from Usk AC to divert the existing public footpath, including a section of the path to be moved from one side of the tennis courts to the other.
- 9.2. The application was assessed, and a decision was made by MCC Rights of Way that it was expedient to process the application. Site visits were conducted, and a plan and schedule were created to reflect what was deemed the most suitable and safe diversion for the footpath.
- 9.3. The landowners for the fields adjacent to the Usk AC field, where the proposed path is to run, have provided written permission to allow this.
- 9.4. The proposed path diversion order meets the legal tests of *'not altering a point of termination of the path if that point is not on a highway'*, because the path runs between two roads via some unaffected sections of the public footpath.
- 9.5. It also meets the test of being *'not substantially less convenient'* because, as the schedule shows, the distance from A to E is only slightly shorter than the distance from A to B to C to D to E. It is also more accessible and safer.
- 9.6. As for the confirmation test of *'having regard to the effect which the diversion would have on public enjoyment of the path or way as a whole'*, the proposed path could be considered as equally, or even more enjoyable than the existing path. Although the proposed route behind the tennis courts may be less open, it is still commodious and offers far greater safety to the public.
- 9.7. After the proposal was sent out for pre-order consultation the initial objection was about the surface of the path. This was addressed by Usk AC and then a further objection was received from the same person and is the reason the case is before the Committee for a decision to be made in respect of the order.
- 9.8. There is Department of Environment, Food and Rural Affairs (DEFRA) guidance that is mandatory in England, and recommended to be followed in Wales that states, *'where there are concerns over privacy, security, and safety', 'an authority should consider in particular the impact of the existing path on the property owner and/or occupier against the benefit that having the right of way through the land brings to the public.'*
- 9.9. Safety. In this case there is a high risk to the safety of path users and participants in sport at the ground, that the proposal seeks to eliminate. The existing path poses a risk to the public during cricket matches, and when the machinery is in use. The slippery ground after rain is also a hazard. The users of the cricket ground are at risk from the excessive dog fouling.

## **10. Recommendation**

10.1. That the Licensing and Regulatory Rights of Way Advisory Committee authorise the making of the diversion order for Footpath 1 Usk under Section 119 Highways Act 1980 as set out in this report, and to confirm the order if no objections are received.

## **11. List of Appendices:**

Appendix 1.1: Order Plan HA Diversion FP 1 Usk.

Appendix 1.2: Schedule HA Diversion FP 1 Usk.

Appendix 1.3: Amended Schedule HA Diversion FP 1 Usk.

Appendix 1.4: Diversion Extinguishment HA 1980 Application Pack.

### **AUTHOR:**

Gavin Pugh

Assistant Public Rights of Way Officer

Telephone: 07971 088876

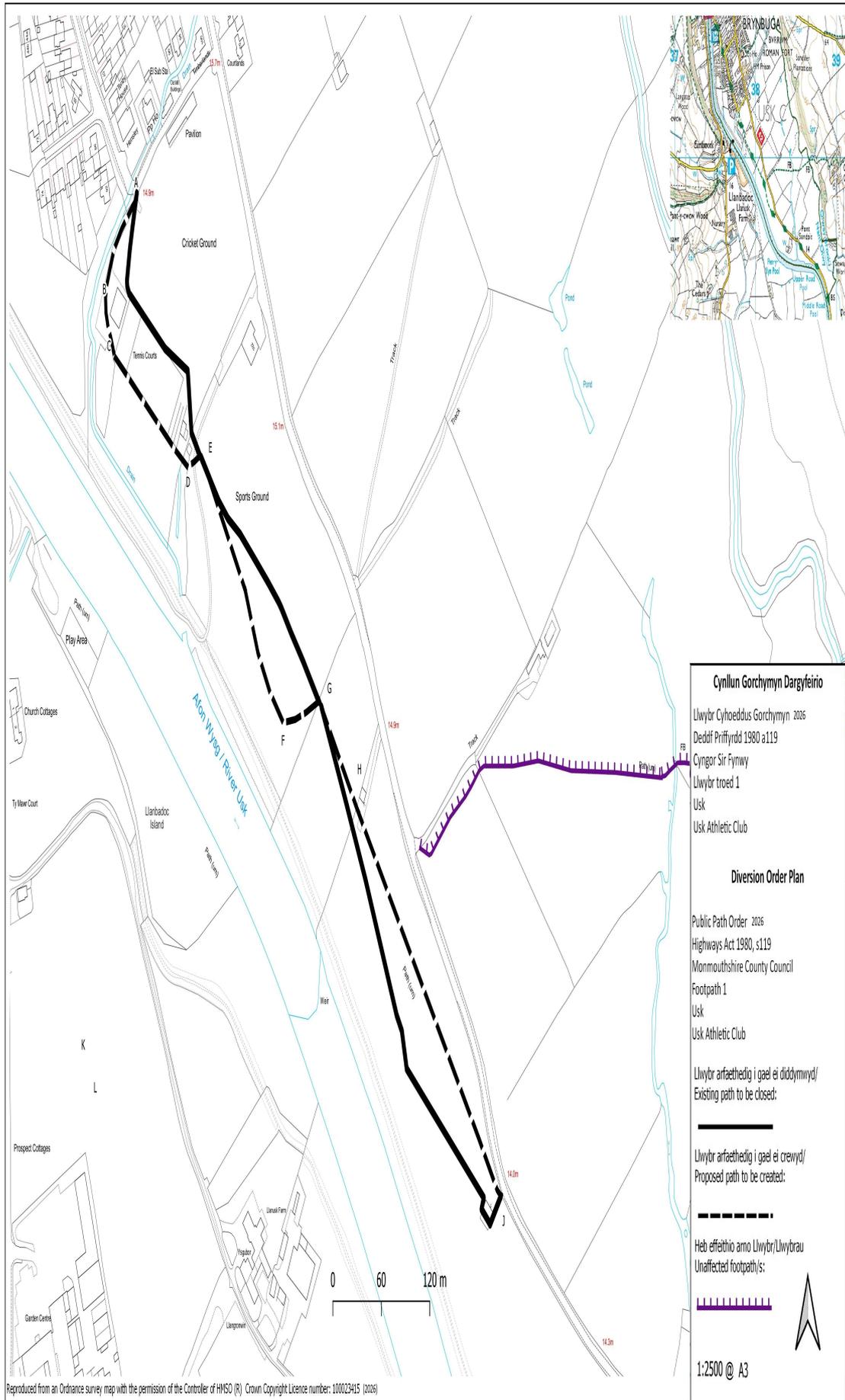
Email: [gavinpugh@monmouthshire.gov.uk](mailto:gavinpugh@monmouthshire.gov.uk)

### **Countryside Access Manager:**

Ruth Rourke

Telephone 01633 644860

Email: [ruthrourke@monmouthshire.gov.uk](mailto:ruthrourke@monmouthshire.gov.uk)



**Cynllun Gorchymyn Dargyfeirio**

Llwybr Cyhoeddus Gorchymyn 2026  
 Deudf Priffyrdd 1980 a119  
 Cyngor Sir Fynwy  
 Llwybr troed 1  
 Usk  
 Usk Athletic Club

**Diversion Order Plan**

Public Path Order 2026  
 Highways Act 1980, s119  
 Monmouthshire County Council  
 Footpath 1  
 Usk  
 Usk Athletic Club

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

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

Heb effeithio arno Llwybr/Llwybrau  
 Unaffected footpaths:

1:2500 @ A3

Reproduced from an Ordnance survey map with the permission of the Controller of HMSO (R). Crown Copyright Licence number: 100023415 (2026)

This page is intentionally left blank

**Public Path Diversion Order 2023**  
**Highways Act 1980, Section 119**  
**Monmouthshire County Council**  
**Public Footpath No. 1 Usk**

**SCHEDULE**

**PART 1**

**Section as indicated on map**      **Description of site of existing path or way**

A-E-G-J      Footpath commences at the county road at point A (SO37790023) and continues in a generally South Easterly direction 188m to point E (SO37870010). From point E the footpath continues in generally South Easterly direction 195m to point G (ST38019997). From point G the footpath continues in a generally South Easterly direction 380m where it terminates at the county road at point J (ST38249971).

**PART 2**

**Section as indicated on map**      **Description of site of new Public Right of Way**

A-B-C-D-E-F-G-H-J      Footpath commences at the county road at point A (SO37790023) and continues at a width of 2m in a South South Westerly direction 68m along the access track to point B (SO37750018). From point B the footpath continues at a width of 2m in a South South Easterly 30m across the car park to a gap at point C(SO37760015). From point C the footpath continues at a width of 2m in a South Easterly direction 110m on a made path behind the tennis courts to point D (SO37850009). From point D the footpath continues at a width of 2m in an East North Easterly direction 17m to point E (SO37870010). From point E the footpath continues at a width of 2m in a South Easterly direction for 174m to point F (ST37979996). From point F the footpath continues at a width of 2m in an Easterly direction 45m to a kissing gate at point G (ST38019997). From point G the footpath continues at a width of 2m in a South Easterly direction for 72m to a gap at point H (ST38069991). From point H the footpath continues at a width of 2m in a South Easterly direction 272m to a kissing gate at point J (ST38249971) at the county road.

### **PART 3**

#### **Limitations and Conditions**

Point G  
(ST38019997).

Kissing Gate Model No. 014/MKG as specified in Monmouthshire County Council's Countryside Access Design Guide or the equivalent in the latest BS 5709 standards.

Point J  
(ST38249971)

Kissing Gate Model No. 014/MKG as specified in Monmouthshire County Council's Countryside Access Design Guide or the equivalent in the latest BS 5709 standards.

**Public Path Diversion Order 2026**  
**Highways Act 1980, Section 119**  
**Monmouthshire County Council**  
**Public Footpath No. 1 Usk**

**SCHEDULE**

**PART 1**

**Section as indicated on map**      **Description of site of existing path or way**

A-E-G-J      Footpath commences at the county road at point A (SO37790023) and continues in a generally South Easterly direction 188m to point E (SO37870010). From point E the footpath continues in generally South Easterly direction 195m to point G (ST38019997). From point G the footpath continues in a generally South Easterly direction 380m where it terminates at the county road at point J (ST38249971).

**PART 2**

**Section as indicated on map**      **Description of site of new Public Right of Way**

A-B-C-D-E-F-G-H-J      Footpath commences at the county road at point A (SO37790023) and continues at a width of 2m in a South South Westerly direction 68m along the access track to point B (SO37750018). From point B the footpath continues at a width of 2m in a South South Easterly 30m across the car park to a gap at point C(SO37760015). From point C the footpath continues at a width of 3m in a South Easterly direction 110m on a made path, with a grass path adjacent, behind the tennis courts to point D (SO37850009). From point D the footpath continues at a width of 2m in an East North Easterly direction 17m to point E (SO37870010). From point E the footpath continues at a width of 2m in a South Easterly direction for 174m to point F (ST37979996). From point F the footpath continues at a width of 2m in an Easterly direction 45m to a kissing gate at point G (ST38019997). From point G the footpath continues at a width of 2m in a South Easterly direction for 72m to a gap at point H (ST38069991). From point H the footpath continues at a width of 2m in a South Easterly direction 272m to a kissing gate at point J (ST38249971) at the county road.

### **PART 3**

#### **Limitations and Conditions**

Point G  
(ST38019997).

Full Mobility Kissing Gate Model No. 013/MKG as specified in Monmouthshire County Council's Countryside Access Design Guide or the equivalent in the latest BS 5709 standards.

Point J  
(ST38249971)

Full Mobility Kissing Gate Model No. 013/MKG as specified in Monmouthshire County Council's Countryside Access Design Guide or the equivalent in the latest BS 5709 standards.

# Monmouthshire County Council



monmouthshire  
sir fynwy

## **Countryside Access Application & Guidance Pack for Public Path Orders Under the Highways Act 1980**



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

# Guide to the Procedure for Public Path Orders

---

These guidelines are to explain the procedure for path Diversions and Extinguishments (Closures). Public Path Orders (PPOs) can be applied for by any owner, lessees or person using land crossed by the Rights of Way (RoW).

Monmouthshire County Council (MCC) – ‘the Authority’, has a duty to assert and protect the RoW network. The Authority can exercise discretion over which path order applications are pursued and which are not.

When a PPO application is made to the Authority it will be assessed against the below listed prioritisation criteria. Public path change orders are prioritised in date of application, or referral from an officer, but may be dealt with earlier if one or more of the following applies:

- Where an application has been made to the Authority in its capacity as Planning Authority.
- Where the processing of an Order could save significant costs incurred in other Rights of Way functions.
- Where a Public Path Change Order is made concurrently with Orders made under Section 53 of the Wildlife and Countryside Act.
- Where a problem exists which cannot be solved through maintenance or enforcement.
- Where a safer route is provided
- Where a route forms all or part of a missing link in the network.
- Where a route forms part of a promoted or long distance or circular route.
- Where a route is not shown in the Definitive Map and Statement but has an anticipated high level of use, if it were to be added either by Agreement or Order
- A route is shown in the Definitive Map with lower rights and the anticipated level of use would be greater if higher rights were to be added either by Agreement or Order.

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

## **Landownership**

The first thing to consider before applying for a public path order is that you, as the applicant, own all the land over which the diverted route is to cross. If you do not, you must obtain the landowner’s written consent before you can continue. (Forms for this area available upon request). The Authority will not be able to process your application without this.

## The Legal Tests

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

### a) The Legal Tests for Diversion orders (Section 119)

Diversion Orders are used primarily to divert a route or part of a route, onto another line. These Orders can be made in the interests of the applicant (as stated above) and in the interests of the public.

Before making an order, the Authority must be satisfied that it is necessary to divert the path in the interests of either the public or the applicant.

The Authority must also be satisfied that:

- (i) The diverted route will be substantially as convenient to the public, when compared to the current Public Right of Way. Ignoring any temporary circumstances preventing or diminishing the use of the path by the public.
- (ii) The diversion will not alter the point of termination of the path, if that point is not on a highway, if it is on a highway then the point of termination must be to another point on the same highway, or a connected highway (i.e., it does not create a 'dead-end').

The Authority should also make sure that the route shown in the order as the alternative route is not an existing Public Right of Way.

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

When making a Diversion Order one must also consider:

- (i) How it will affect the public use of the path and other nearby paths as a whole.
- (ii) How it will affect land served by the existing path.
- (iii) How it will affect land it is diverted through.
- (iv) Whether the diverted path is less convenient to the public.
- (v) If the order is in the best interests of the person or persons named in it.
- (vi) The effect the proposals will have on conservation needs and biodiversity (If this is unknown prior to consultation, then this will usually be dealt with through inclusion of the Authority's Biodiversity Officer and/or NRW in the pre-order consultation.)

### b) The Legal Tests for Extinguishment Orders (Section 118)

Extinguishment Orders are used to extinguish all, or part, of a Public Right of Way.

It must appear to the authority, before making an Order, that it is necessary to stop up the path or way on the grounds that it is not needed for public use. They must ignore any temporary circumstances preventing or diminishing the use of the path by the public.

Before confirming an order, the Authority, or the Welsh Government (WG) must be satisfied that it is necessary to confirm the order having regard to the likely use that would be made of the path and to the effect which closure of the route would have on land served by it. The Authority or the WG must ignore any temporary circumstances preventing the use of the path by the public.

## **Creation of a Public Right of Way**

There are several ways in which creating a new public path can come about. Under the Highways Act these are under section 25a or 26. Usually creations come about as a result of a requirement for a diversion or extinguishment. A Public Rights of Way Officer will be able to give advice about the correct act to use, procedure, tests and supply any necessary forms.

## **Development**

Where you are applying for a public path order to allow development to take place over the line of the footpath this must be dealt with under the Town and Country Planning Act 1990. However, if the development has already been substantially, or wholly completed and has been illegally constructed over a path you will need to apply for a diversion under the Highways Act 1980 section 119.

## **Work Required on the new route or old route.**

If you think that you want to erect a stile or gate, known as barriers, or other furniture, please indicate this on the plan attached to your application form, because to erect them without them being recorded in the Order could be classed as an obstruction.

The Authority has a [Least Restrictive Access Policy](#) and will not authorise unnecessary barriers on a new route at any time. For example, if the land will not contain animals such as sheep, horses, pigs, or cows then a gap should be made available. Types of barriers that are suitable appear in the [Authority's Furniture Design Guide](#).

## **Plan of the Diversion**

When applying for a diversion the applicant will need to supply a plan illustrating the proposal when the application form is submitted. This plan should be at a scale of either 1:1250 or 1:2500 and it must be accurate. It is the applicant's responsibility to produce a plan which accurately illustrates the proposal, as any alteration to the plan may result in extra costs for the applicant and delays in the process.

## **Widths for new paths**

The Authority requires a reasonable width to be made available that would be sufficient for two users to pass and be convenient for cutting machinery. In the case of a new footpath, this will be a minimum of 2 metres. In the case of a bridleway a minimum of 3 metres is required.

Only in exceptional circumstances will an alternative width be agreed. This policy is also designed to comply with the Authority's [Least Restrictive Access Policy](#).

## **Diversion of cross-field paths**

The Highways Act prohibits the ploughing or other disturbance of a footpath or bridleway that follows the side or boundary of a field or enclosure. Restricted Byways and Byways should never be ploughed.

You may be required to enter into an agreement to maintain the surface of any path diverted onto a field boundary as well as complying with your legal obligations to cut back hedges and remove the trimmings to ensure that the path remains at its full width.

## **Fees**

The Authority charges a fee for the administrative work involved with a PPO application in accordance with the *Local Authorities (Recovery of Costs for Public Path Orders) Regulations 1993 (as amended)*. This means you will have to pay the actual costs involved including press advertising costs.

The Authority retains the discretion to waive, or partially waive, costs where it considers it appropriate and in the public interest.

You will be invoiced at the conclusion of the PPO process at whatever stage this concludes on a case-by-case basis.

The fee charged in each case is dependent on the complexity of the case and is directly related to the time spent on processing the application. The approximate scale of charges for PPO are as indicated on the Procedure and Cost Schedule attached.

## **Time span**

The average length of time taken to process an application to confirmation is around twelve months. However, if the matter is submitted to the WG, and they call a public inquiry or hearing, it may take much longer.

**Please note that until a Public Path Order is confirmed the existing route must remain available for use.**

## **If There Are Objections to An Order**

PPOs are subject to public consultation.

A formal objection must be made in writing to the Authority within the set period for objections, usually 28 days from the making of the order. If objections are received, then an officer will enter into dialogue with the objector. If the objections are maintained, the Authority must send the order to the WG for determination.

## **Procedures Involved with a Public Path Order under the Highways Act**

The procedure for dealing with the diversion or extinguishment of footpaths and bridleways is complex and can be time consuming. The basic stages are detailed in the attached Process and Cost Schedule.

## Data Privacy Summary

Processing of applicant's personal data by Monmouthshire County Council is necessary to process public rights of way legal orders. Without this information, we will not be able to fulfil this task.

Your details will be legitimately shared within a partnership area in a safe and secure manner. This includes the Planning and Environment Decisions Wales, Contractors, Legal Services, Highways, MonLife Countryside Access, Green Infrastructure & Planning. Your personal details will not be shared further, unless in relation to safeguarding or other legal obligations.

Your records will be safely stored and retained in line with our retention policy unless we need to retain them under another lawful basis. You have a number of rights in relation to the information including the right of access to information we hold about you and the right to complain if you are unhappy with the way your information is being processed.

Should you need to make a complaint about the way your data has been processed, please contact [dataprotection@monmouthshire.go.uk](mailto:dataprotection@monmouthshire.go.uk) or if you are not fully satisfied you may contact the Information Commissioner's Office online at [www.ico.org.uk/concerns](http://www.ico.org.uk/concerns) or via their helpline: 0303 123 1113.

## **Beware There Are No Guarantees**

**The Authority cannot guarantee that any application will proceed to the making of an order, nor can the Authority give any assurance that all applications will be successful. Applicants must be aware that they may incur costs without the order being successful. The Authority will endeavour to resolve objections if possible and applicants will be able to withdraw their applications prior to objected orders being sent to WG for determination. In these circumstances the Authority will only recover costs up to the point that this event occurs.**

**EVERY EFFORT HAS BEEN MADE TO ENSURE THE ACCURACY OF THE INFORMATION GIVEN, HOWEVER, THIS GUIDE IS NOT INTENDED TO BE A DEFINITIVE STATEMENT OF LAW, NOR CAN ANY RESPONSIBILITY BE ACCEPTED FOR AMENDMENTS, ERRORS, OR OMISSIONS.**

## PPO – Process and Cost Schedule

Stage	Details	Approximate Cost
1. Initial investigative work	Feasibility of proposal, guidance provided, check application form, prepare cost schedule, phone calls and map work. Set up file and enter details into CAMS computer system.	£100
2. Research into history and status of rights of way	Check for any claims. Check routes on the Definitive Map, check for any previous orders, check path file history and any other applications.	£100
3. Site visit	Look at feasibility of route on the ground. Discuss and check final proposal with applicant. Draw up detailed site plan, schedule of works, including path widths. Take photographs.	£50-£100 + Mileage Dependent upon distance and time spent at site
4. Pre-Order consultation process	Consultation emails and plans sent to statutory undertakers and prescribed bodies	£50
5. Officer time considering and responding to pre-order consultation responses	Recording and analysing replies and responding as necessary. Negotiations/ mediation with any objectors	£50-£100 Dependent upon any objections being received
6. Assessment of legal implications	Seek legal advice with MCC lawyer	£25
7. Preparation of delegated powers report	Detailing background to application, proposal, and legal tests. Detailed plan to be included showing proposal	£150
<b>**Objections received?</b>	<b><i>If there are objections to the order at this stage, then the below Objections Schedule applies.</i></b>	<b><i>Additional Costs, see below</i></b>

<b>Stage</b>	<b>Details</b>	<b>Approximate Cost</b>
8. Creation of Legal Order (making)	Drafting and sealing of legal order and notice. Send copy of the legal order/notice/plan to all affected people/bodies and statutory consultees.	Included in <b>Legal Costs*</b> unless otherwise stated.
9. Order Notices to the press	Notices appear in the local newspaper for public consultation	£500-£600 Dependent upon size of notice
10. Site visit	Copy of notices and plans posted at site for public consultation	£50 + Mileage Dependent upon distance and time spent at site
<b>***Objections received?</b>	<b><i>If there are objections to the order at this stage, then the below Objections Schedule applies.</i></b>	<b><i>Additional Costs, see below</i></b>
11. Site visit	Attend site to assess suitability and availability of new route.	£50 + Mileage Dependent upon distance and time spent at site
12. Creation of Legal Order (confirmation)	Drafting and sealing of legal order and notice. Send copy of the legal order/notice/plan to all affected people/bodies and statutory consultees.	Included in Legal Costs* unless otherwise stated
13. Order Notices to the press	Notices appear in the local newspaper	£400-£600 Dependent upon size of notice
14. Site visit	Copy of notices posted on site.	£50 + Mileage Dependent upon distance and time spent at site

## \*Legal Costs

Legal Costs are set at £225 per PPO.

**NB If a PPO is the subject of unresolved objections, or if unforeseen legal costs arise, then the set fee is no longer applicable.**

The average cost of an unopposed PPO is in the region of £2,000.

The average cost of an opposed order is in the region of £3,000.

The Applicant or the Authority can withdraw the application at any stage prior to the order's confirmation prior to stage 11. Charges to the relevant stage will be incurred.

The fees stated above are only a guide and every effort will be made to ensure costs are kept to a minimum.

Mileage is charged at 50p per mile.

## Objections Schedule

Item	Details	Approximate Cost
<b>** If Objections received at stage 7</b>		
Prepare report for Rights of Way Advisory Panel	Detailing background to application, proposal, and legal tests. Detailed plan to be included showing proposal.	£150
Site visit by Rights of Way Advisory Panel	If required by the panel to determine the making of the order.	£300

Item	Details	Approximate Cost
<p><b>***If objections at stage 10</b></p> <p>Report prepared for WG</p>	<p>Full file of evidence compiled for submission to WG by Rights of Way Officer and Legal Department</p>	<p>£500 NB - This can increase significantly dependent upon the nature and extent of the objections.</p>

## Potential Additional Costs Schedule

Item	Details	Approximate Cost
<p>Other communications</p>	<p>Additional emails and phone calls in relation to the order which are not covered by the above</p>	<p>£25-£100</p>
<p>Site visits</p>	<p>Any additional visits to those detailed above, as required</p>	<p>£50 + Mileage Dependent upon distance and time spent at site</p>



**Countryside Access**  
**Monmouthshire County Council**  
**County Hall**  
**Usk**  
**NP15 1GA**

**HIGHWAYS ACT PUBLIC PATH ORDER(S)**  
**Undertaking to Pay Costs Form**

I undertake to pay the costs incurred in processing the Public Path Order for:

Public Right(s) of Way No(s).

Community of


I understand that the cost will be the actual costs incurred by the Authority to process the application as specified in the Process and Cost Schedule. I understand that I will be required to pay these costs in full at the conclusion of the process.

I understand and agree to pay the costs for carrying out the necessary work to provide the new route to the satisfaction of the Authority. Where it has been agreed that the Authority, or its agents, should carry out any works and supply any furniture (including bridges) on behalf of this application, I understand that I will be invoiced for the total costs of the furniture and installation (unless agreed otherwise in writing with Monmouthshire County Council).

I also understand that I must pay any compensation that may arise as a consequence of the diversion/creation/extinguishment of a path onto or affecting land not in the control of the applicant.

Name  
(Please print): \_\_\_\_\_

Signed: \_\_\_\_\_

Address  
(For invoicing): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_



## HIGHWAYS ACT 1980, SECTION 119

# APPLICATION FOR AN ORDER TO PERMANENTLY DIVERT PART OR ALL OF A PUBLIC RIGHT OF WAY

The following questions should be answered as fully as possible, and the form returned to Countryside Access, Monmouthshire County Council, County Hall, Usk, NP15 1GA.

You must also send:

1. A plan not less than 1:2500, showing the Public Right of Way concerned and with the line of the diversion clearly marked, along with landownership details.
2. Any relevant landowners/owner/occupiers' agreements to the proposal.
3. A signed "Undertaking to Pay Costs Form".

### SECTION A: GENERAL

Name & address of applicant

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Email: \_\_\_\_\_ Telephone: \_\_\_\_\_

Name & address of agent (only complete if applicable)

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Email: \_\_\_\_\_ Telephone: \_\_\_\_\_

If you do not own all the land on which any part of the path to be diverted runs, has the consent of the landowner(s) been obtained in writing? YES / NO

(If YES please attach).

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Email: \_\_\_\_\_ Telephone: \_\_\_\_\_

Have you obtained the written consent of any Lessee or Tenant or Occupier YES/NO  
(If YES please attach consent)

Name of Lessee, Occupier or Tenant:

Address: \_\_\_\_\_

Email: \_\_\_\_\_ Telephone: \_\_\_\_\_

**SECTION B: PUBLIC RIGHT (S) OF WAY TO BE DIVERTED**

Name of Community or Communities in which the affected path(s) are located:

Number(s) of the Public Right(s) of Way as indicated on the Definitive Map (if known).

Path Number(s) .....

General description of path(s)

Status: The path(s) affected are \*footpath/bridleway (\*delete the term that does not apply)

**SECTION C: REASON FOR DIVERSION**

Section 119 of the Highways Act 1980, as amended by Schedule 16 para.5 of the Wildlife and Countryside Act 1981, permits diversions of public footpaths and bridleways on the grounds that it is expedient in the interests of:

- (i) the owner, lessee, or occupier and/or
- (ii) the public.

Please indicate whether this application serves the interests of the owner, etc., and/or the public and give specific reasons why.

(i) \_\_\_\_\_

(ii) \_\_\_\_\_

What effect will the diversion have on the convenience and enjoyment of the path by the public?

**SECTION D: DECLARATION**

**(Please read carefully, amend as necessary and then sign).**

1. I have read and understood the guidance notes attached to this application. I agree to comply with the following conditions in respect of this application:
  - (i) The proposed alternative route must be at least equal in construction to the length of the route it is replacing and have an equal or improved surface.
  - (ii) The proposed alternative route must be constructed to the satisfaction of Monmouthshire County Council as the Highway Authority.
  - (iii) The siting and type of any new bridges, stiles, gates, or fencing must be agreed with the Authority prior to erection and maintained at the applicant's own expense in the future (unless specifically agreed otherwise in writing with the Authority).
  - (iv) Any necessary drainage works are to be carried out at the applicant's expense and constructed to the specification and satisfaction of the Authority.
  - (v) The diverted route(s) to be signposted and waymarked to the satisfaction of the Authority.
2. If the Authority agrees to make the order for the diversion of the path(s) I will carry out such work on the diverted route of the path as may be specified by the Authority, at my own expense, to bring the route into a fit condition for public use at such time as the diversion order can be confirmed and certified.
3. I understand that no authority for the diversion of a Right of Way is conferred unless and until an Order has been made and confirmed and notice of its making and confirmation has been published.
4. I declare the Rights of Way(s) to be diverted is/are in no way obstructed and that it/they are fully available to the public and I undertake that it/they shall in no way be obstructed before the Order comes into operation.
5. I declare that to the best of my knowledge and belief all, the particulars given are true and accurate and I hereby apply for the diversion of the route(s) I have detailed above.

**Signed:** ..... **Dated:**.....



## HIGHWAYS ACT 1980, SECTION 118

# APPLICATION FOR AN ORDER TO PERMANENTLY EXTINGUISH PART OR ALL OF A PUBLIC RIGHT OF WAY

The following questions should be answered as fully as possible, and the form returned to Countryside Access, Monmouthshire County Council, County Hall, Usk, NP15 1GA.

You must also send:

1. A plan not less than 1:2500, showing the Public Right of Way concerned and with the line of the extinguishment clearly marked, along with landownership details.
2. Any relevant landowners/owner/occupiers' agreements to the proposal.
3. A signed "Undertaking to Pay Costs Form".

### SECTION A: GENERAL

Name & address of applicant

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Email: \_\_\_\_\_ Telephone: \_\_\_\_\_

Name & address of agent (only complete if applicable)

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Email: \_\_\_\_\_ Telephone: \_\_\_\_\_

If you do not own all the land on which any part of the path to be extinguished runs, has the consent of the landowner(s) been obtained in writing? YES / NO

(If YES please attach).

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Email: \_\_\_\_\_ Telephone: \_\_\_\_\_

Have you obtained the written consent of any Lessee or Tenant or Occupier YES/NO

(If YES please attach consent)

Name of Lessee, Occupier or Tenant: \_\_\_\_\_

Address: \_\_\_\_\_

Email: \_\_\_\_\_ Telephone: \_\_\_\_\_

**SECTION B: PUBLIC RIGHT (S) OF WAY TO BE EXTINGUISHED**

Name of Community or Communities in which the affected path(s) are located:

Number(s) of the Public Right(s) of Way as indicated on the Definitive Map (if known).

Path Number(s) .....

General description of path(s)

Status: The path(s) affected are \*footpath/bridleway (\*delete the term that does not apply)

**SECTION C: NEW PUBLIC RIGHTS OF WAY TO BE CREATED**

Is there to be a new route created to replace the extinguished route/s YES / NO

If the applicant does not own or control the land over which the new right of way is to be created, has the consent of the landowner(s) been obtained? YES / NO

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Email: \_\_\_\_\_ Telephone: \_\_\_\_\_

**SECTION D: REASON**

Section 118 of the Highways Act 1980 permits footpaths and bridleways to be extinguished where it can be shown that the path is not needed for public use.

Please indicate the reason for requesting this Extinguishment:

What effect will the closure of the path have on the land served by it?

## SECTION E: DECLARATION

**(Please read carefully, amend as necessary and then sign).**

1. I have read and understood the guidance notes attached to this application and agree to comply with the following conditions in respect of this application:
  - (i) Any routes proposed to be created must be at least equal in construction to the length of the route it is replacing.
  - (ii) The alternative route must be constructed to the satisfaction of the Authority.
  - (iii) The siting and type of any necessary gates, fencing or other furniture on the route to be dedicated must be agreed with the Authority prior to erection.
  - (iv) Any necessary drainage works are to be carried out at the applicant's expense and constructed to the specification and satisfaction of the Authority.
  - (v) The alternative route to be signposted and way marked to the satisfaction of the Authority.
2. I understand that no authority for the extinguishment of a Public Right of Way is conferred unless and until an Order has been made and confirmed and notice of its making and confirmation has been published.
3. I declare the Public Rights of Way(s) to be extinguished are in no way obstructed and that it/they are fully available to the public and I undertake that it/they shall in no way be obstructed before the Order comes into operation.
4. I am aware that if an order is made and confirmed the Authority will make arrangements, where necessary, to remove any foot or bridleway bridges on the route that has been closed.
5. I declare that to the best of my/our knowledge and belief all the particulars given are true and accurate.

**Signed:** ..... **Dated:**.....

This page is intentionally left blank

## **APPENDIX 2 – CONSULTEES**

	<b>Name</b>	<b>Organisation</b>	<b>Summary of Representations</b>
1	Sali Palmer	MCC Biodiversity Officer	No objection.
2	Head Office	The Open Spaces Society	No response.
3	Mr S Garland	Lower Wye Valley Ramblers Association	No objection.
4	Ruth Rourke	MCC Countryside Access Manager	No objection.
5	Collette Bosley	MCC Countryside, Destination, Environment Manager	No objection.
6	Richard Ray	MCC Legal Department	No objection. Comment, 'the proposal seems to satisfy statutory tests'.
7	Bradley Griffiths	Western Power Distribution	No objection.
8	Openreach, Network Alterations	Openreach	No objection. Comment, 'Openreach does not appear to have apparatus that may be affected in the area of your proposals'.
9	External Relations Team	Natural Resources Wales	No objection.
10	Plant Protection	Cadent Gas/National Grid	No objection.
11	Sharon Grey	Dwr Cymru / Welsh Water	No objection. Comment, 'Pleased be advised that no Dwr Cymru apparatus affected by the proposed works'.

12	The Clerk	Usk Town Council	No objection. Comment, 'The council voted in favour of the proposal'.
13	County Councillor Meirion Howells	MCC	No objection. Comment, 'Yes, I believe this is what was previously discussed and allows better provision for wheelchair users'.
14	County Councillor Tony Kear	MCC	No objection. Comment, 'Based on your explanation, I have no issues with what is being proposed'.
15	County Councillor Sara Birch	MCC	No objection. Comment, 'That seems sensible'.
16	Concillor Alison Ivin	Usk Town Council	Objection. (Details in Appendix 1).



<p><b>Name of the Officer</b> completing the evaluation Gavin Pugh</p> <p><b>Phone no:</b> 07976 088876 <b>E-mail:</b> gavinpugh@monmouthshire.gov.uk</p>	<p><b>Please give a brief description of the aims of the proposal</b></p> <p>Whether to authorise the diversion of footpath 1 Usk under Section 119 Highways Acty 1980.</p>
<p><b>Name of Service area</b></p> <p>Public Rights of Way, Monlife</p>	<p><b>Date</b></p> <p>23/02/2025</p>

Page 63

**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	The proposed path would be safer for the public because it takes the path from the cricket field and past machine sheds.	None.	
Disability	The existing path follows a path over a field. The proposed path would be over a more level made path as well as a grass path.	None.	
Gender reassignment	.Not applicable.		

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

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

Well Being Goal	Does the proposal contribute to this goal? Describe the positive and negative impacts.	What actions have been/will be taken to mitigate any negative impacts or better contribute to positive impacts?
<b>A prosperous Wales</b> Efficient use of resources, skilled, educated people, generates wealth, provides jobs	Not applicable.	
<b>A resilient Wales</b> Maintain and enhance biodiversity and ecosystems that support resilience and can adapt to change (e.g. climate change)	Not applicable.	
<b>A healthier Wales</b> People's physical and mental wellbeing is maximized and health impacts are understood	Any action to improve the rights of way network can encourage physical exercise with its health and wellbeing benefits.	
<b>A Wales of cohesive communities</b> Communities are attractive, viable, safe and well connected	The application seeks to improve the public rights of way network which can encourage more people to spend time outdoors and help to link communities.	
<b>A globally responsible Wales</b> Taking account of impact on global well-being when considering local social, economic and environmental wellbeing	Enhancing the rights of way network can help promote active travel and reduce reliance on cars and public transport and therefore reduce emissions.	
<b>A Wales of vibrant culture and thriving Welsh language</b> Culture, heritage and Welsh language are promoted and protected. People are encouraged to do sport, art and recreation	Any action to improve the rights of way network can encourage physical exercise with its health and wellbeing benefits and enables people to enjoy local heritage. Signage under MCC's control would be bilingual	

Well Being Goal	Does the proposal contribute to this goal? Describe the positive and negative impacts.	What actions have been/will be taken to mitigate any negative impacts or better contribute to positive impacts?
<b>A more equal Wales</b> People can fulfil their potential no matter what their background or circumstances	The use of the rights of way network is non-discriminatory, although some disabilities may prevent the safe use of some paths.	This proposal improves the nature of the surface of the path, takes the path on to a safer route, and removes some limitations that exist in the current path.

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

Sustainable Development Principle	Does your proposal demonstrate you have met this principle? If yes, describe how. If not explain why.	Are there any additional actions to be taken to mitigate any negative impacts or better contribute to positive impacts?
 <p>Long Term</p> <p>Balancing short term need with long term and planning for the future</p>	<p>The proposal, by its nature, is long term.</p>	
 <p>Collaboration</p> <p>Working together with other partners to deliver objectives</p>	<p>Not applicable.</p>	

Sustainable Development Principle	Does your proposal demonstrate you have met this principle? If yes, describe how. If not explain why.	Are there any additional actions to be taken to mitigate any negative impacts or better contribute to positive impacts?
 <p><b>Involvement</b></p> <p>Involving those with an interest and seeking their views</p>	<p>The usual interested user groups, MCC Departments (Ecology/Biodiversity), community groups and statutory undertakers were consulted as part of the path order process.</p>	
 <p><b>Prevention</b></p> <p>Putting resources into preventing problems occurring or getting worse</p>	<p>The current path runs over a grass field and MCC has responsibility to maintain the surface for path users. The new path would run over a made path which would be hard wearing and be more usable year round.</p>	
 <p><b>Integration</b></p> <p>Considering impact on all wellbeing goals together and on other bodies</p>	<p>The use of the rights of way network can have a positive impact upon the users health and wellbeing.</p>	

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

	Describe any positive impacts your proposal has	Describe any negative impacts your proposal has	What will you do/ have you done to mitigate any negative impacts or better contribute to positive impacts?

Social Justice	Not applicable.		
Safeguarding	Not applicable.		
Corporate Parenting	Not applicable.		

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

The proposal was instigated by the path order application and takes into account the following:

- Highways Act 1980 S119.
- Welsh Government Guidance for Local Authorities on Public Rights of Way October 2016.
- Monmouthshire County Council Application & Guidance Pack for Public Path Diversion and Extinguishment Orders under the Highways Act 1980 Section 119.
- Environment (Wales) Act 2016.
- Equality Act 2010.
- Active Travel (Wales) Act 2013.
- Consultation Responses.
- The Well-being of Future Generations Act 2015.
- Monmouthshire's Countryside Access Improvement Plan.
- Monmouthshire's Countryside Access Policy, Protocol and Operational Management Guide
- Other interested parties' communications.

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

The proposal could allow, what has generally been accepted as a positive and necessary change to the rights of way network. There has been one objection which has prevented this path order being made under delegated powers. The proposal is, I believe, an improvement to the path and this in turn should encourage greater use of the route if authorised.

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

What are you going to do	When are you going to do it?	Who is responsible
L & R Committee report	23 <sup>rd</sup> February 2026	Ruth Rourke. Countryside Access Manager
Make Order (depending on result of above) and consider objections to it if any are made	To be confirmed.	

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

Version No.	Decision making stage	Date considered	Brief description of any amendments made following consideration
1	Council	23 <sup>rd</sup> February 2026	

This page is intentionally left blank

## Appendix 12

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

<b>Title of Report:</b>	<b>HIGHWAYS ACT 1980 – SECTION 119 PUBLIC PATH DIVERSION ORDER – NO. 1 USK.</b>
<b>Date decision was made:</b>	<b>23<sup>rd</sup> February 2026.</b>
<b>Report Author:</b>	<b>Gavin Pugh, Assistant Public Rights of Way Officer.</b>

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

The Head of Law/ Monitoring Officer will be instructed to make a Public Path Order in accordance with the procedures contained in the 1980 Act.

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

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

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

12 month appraisal

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

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

The Making of the Order would indicate successful implementation. Confirmation would follow and the Certification of the order can be done once the new path alignment is available as detailed in the order. The path would legally move at the point of certification.

12 month appraisal

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

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

Typically paths orders cost in the region of £2,000, but these would be recharged to the applicant. If, however, the order is made and it goes to the Planning Inspector for determination the cost of any public inquiry would be borne by MCC.

12 month appraisal

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

Any other comments