

SUBJECT: DEFINITIVE MAP MODIFICATION ORDER, PRICES BRIDGE, WHITELYE, TRELLECH
**MEETING: Individual Cabinet Member Decision –
Councillor Bryan Jones Cabinet Member for Operations Management**
DATE: 27th March 2019
DIVISION/WARDS AFFECTED: TRELLECH/TINTERN

1. PURPOSE:

- 1.1 To authorise the making of the Definitive Map Modification Orders under Section 53(3)(c)(i) of the Wildlife & Countryside Act 1981 (WCA 1981) as they are not recorded on the Definitive Map & Statement (DM&S) and should in fact be registered.

2. RECOMMENDATIONS:

- 2.1 Having received an evidential report, witnessed all the evidence presented to the Rights of Way Advisory Panel on the 29th January 2019 and receiving from them their decision to make the Definitive Map Modification Orders (DMMO), under the Wildlife and Countryside Act 1981, to register all the Routes as bridledways, it is recommended that authorisation be given that the DMMOs are made and to confirm or seek confirmation of the Orders.

3. KEY ISSUES:

- 3.1 Mrs Greatorex-Davies of Tintern Community Council submitted a claim to register the Routes, A-B-C-C1 as restricted byways.
- 3.2 Mr J. Griffin progressed the claim with the Secretary of State. The Planning Inspector directed the Authority to determine the Order by the 13th November 2018.
- 3.3 A pre-order consultation was carried out on the 18th April 2018 to the 25th May 2018 and evidence investigated. There are 36 user evidence forms, a number of historical documents and legislation, that when taken together argues that, the routes are reasonably alleged to exist. There is very little evidence to support restricted byway use and based on the totality of the evidence, Officers believe the routes to be bridledways and not restricted byways as submitted by the applicant.
- 3.4 There is one known objector, Mr & Mrs Talbot of Moor Farm, to the registration of the Routes on the DM&S on the grounds that the land is in private ownership and that the Routes are for private use.
- 3.5 Privacy, suitability or current maintenance of the route, are not matters which can be considered under WCA 1981.

3.6 Mr Talbot also says that he put obstructions on the land from 1990 with trees and boulders. It is not considered that these were of a nature that would prevent use or indicate to the public that the land was private and they should not be there. Users state that they encountered no obstructions until 2013.

4. OPTIONS APPRAISAL

Option	Positives	Negatives	Recommendation
<i>To make the Definitive Map Modification Orders</i>	<ul style="list-style-type: none"> <i>The Authority is carrying out their duty to continuously review the Definitive Map and Statement as stipulated by legislation.</i> <i>Any objections made to the order if not withdrawn will be sent to the Planning Inspectorate for confirmation</i> 	<ul style="list-style-type: none"> <i>Probable objections to the Orders made by the landowner.</i> 	<i>To make and to seek confirmation of the Definitive Map Modification Orders as recommended and set out in the report presented to Committee on the 29th January 2019</i>
<i>Not to make the Definitive Map Modification Orders</i>	<ul style="list-style-type: none"> <i>None</i> 	<ul style="list-style-type: none"> <i>The Authority is failing to carry out its duty as stipulated by legislation.</i> <i>If the orders are not made the applicant will appeal to the Planning Inspectorate to direct the Authority to make the Definitive Map Modification Orders</i> 	<i>To make and to seek confirmation of the Definitive Map Modification Orders as recommended and set out in the report presented to Committee on the 29th January 2019</i>

5. EVALUATION CRITERIA

5.1 An evaluation assessment has been included at Appendix A for future evaluation of whether the decision has been successfully implemented. The decision will NOT come back to this committee in 12 months for review.

6. REASONS:

6.1 Section 53(2) of the WCA 1981, requires the Council to consider and determine cases such as this with a view to making an order under section 53 of the WCA 1981 to change the DM&S. Officers therefore consulted, reviewed evidence and produced a report that was considered by the Rights of Way Advisory Panel on 29th January 2019. With a recommendation from them that orders be made.

7. RESOURCE IMPLICATIONS:

7.1 The County Council is under a duty to investigate applications. The consideration of the application by officers falls within existing budgets.

7.2 The decision is one that must be taken on strict legal tests:

7.2.1 If the application is not determined in accordance with the tests this could lead to a successful legal challenge by way of Judicial Review.

7.2.2 In the event that an order is made and there are objections the Planning Inspectorate for Wales would consider the matter by way of written representations, hearing or public inquiry. The decision taken by the investigating officer and the Rights of Way Advisory Panel is a decision based on legal tests and the above costs cannot be a consideration in the determination of the application.

8. WELLBEING OF FUTURE GENERATIONS IMPLICATIONS (INCORPORATING EQUALITIES, SUSTAINABILITY, SAFEGUARDING AND CORPORATE PARENTING):

8.1 The Order if made will neither positively nor negatively impact on the well-being goals or the sustainable development principals. Licencing & Regulatory Agenda item 3, 29th January 2019 (Appendix 4).

9. CONSULTEES:

9.1 Corporate Management Team: Paul Matthews, Frances Williams, Julie Boothroyd, Will McLean and Peter Davies;
Head of Operations: Roger Hoggins; Group Engineer: Paul Keeble;
Rights of Way Advisory Panel Members (Licensing and Regulatory Committee):
Councillors B. Strong, J. Higginson, A. Eason, J. Pratt, D Evans and A. Webb also councillor S. B. Jones - Cabinet Member for Operations Management.
Leader of the Council: Councillor P. Fox;
Head of Law & Monitoring Officer: Matt Phillips;
Local members Councillors D. Blakebrough and Councillor A. Webb (who is already included above).
Select Committee Chairmen, Cabinet Members – Democratic Services to circulate.

No comments received.

10. BACKGROUND PAPERS:

- 10.1 Appendix A
- 10.2 Appendix 1 & 2 are draft copies of the Definitive Map Modification Orders
- 10.3 Report to Rights of Way Advisory Panel (Licencing & Regulatory) Agenda item 3, 29th January 2019. Appendix 3, DMMO reports and appendixes. Viewed at this web link: <https://democracy.monmouthshire.gov.uk/ieListDocuments.aspx?CId=138&MId=4102>
- 10.4 Appendix 4: Future Generations Evaluation.

11. AUTHOR:

Ruth Rourke Principal Countryside Access Officer

12. CONTACT DETAILS:

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

Appendix A

Evaluation Criteria – Cabinet, Individual Cabinet Member Decisions & Council

Title of Report:	DEFINITIVE MAP MODIFICATION ORDER, PRICES BRIDGE, WHITELYE, TRELLECH
Date decision was made:	29th January 2019
Report Author:	Ruth Rourke Principal Countryside Access Officer

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

The Definitive Map Modification Orders to register bridleways on the Definitive Map and Statement will be made, advertised and posted on site for a six week period. During this period if anyone submits objections and these are not withdrawn then the Orders will be sent to the Planning Inspectorate who will decide to confirm the order, or not, at a public inquiry, public hearing or by written representation. If no objections are received the order can be confirmed and the route opened up on the ground for use.

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?

Two Definitive Map Orders will be made in accordance with the authority's duty to review and maintain the Definitive Map and Statement of Public Rights of Way and will either be confirmed by this Authority or by the Planning Inspectorate. Clarity on the status of the paths will therefore be established for the Authority, communities and landowners.

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?

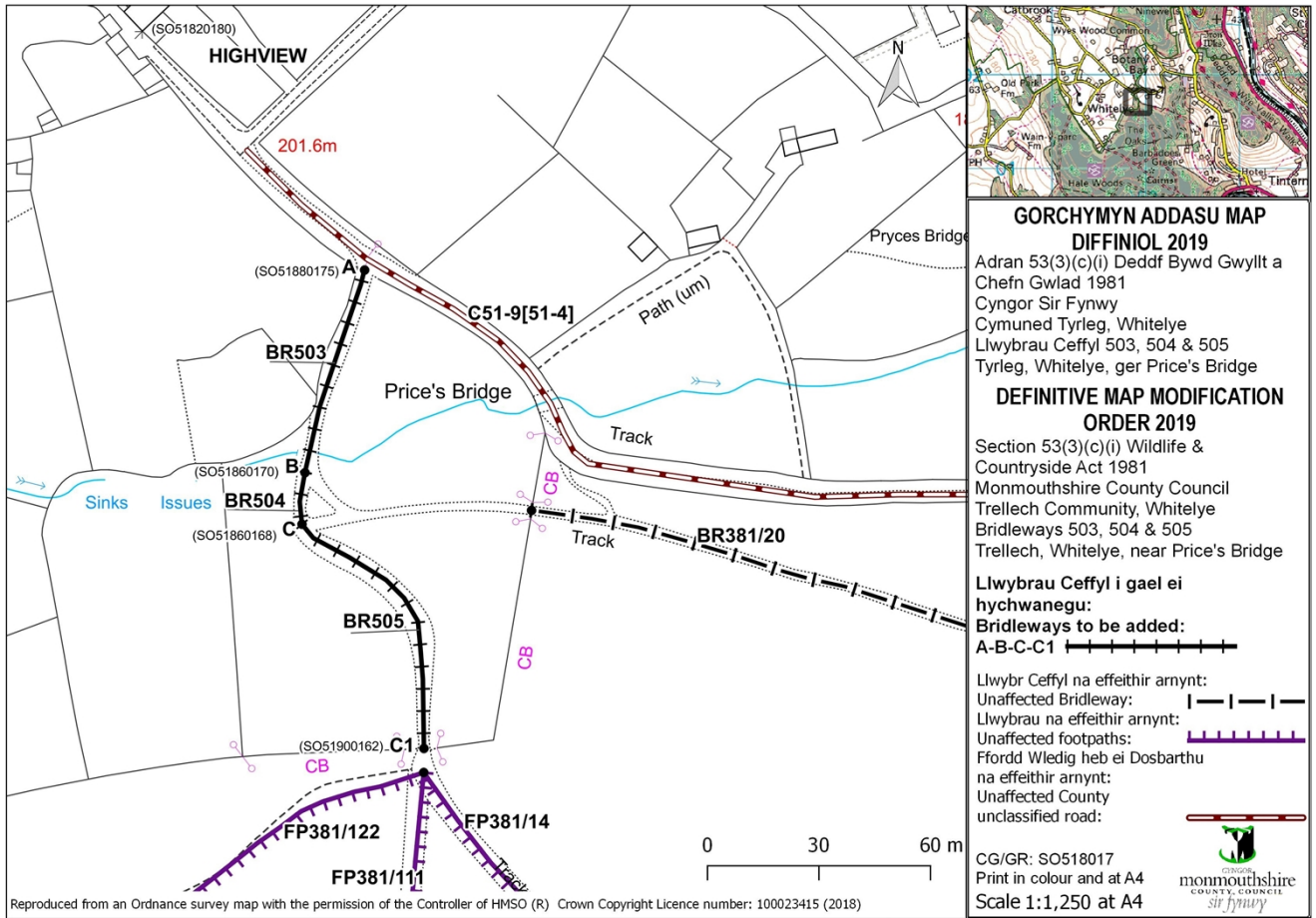
Not applicable

12 month appraisal

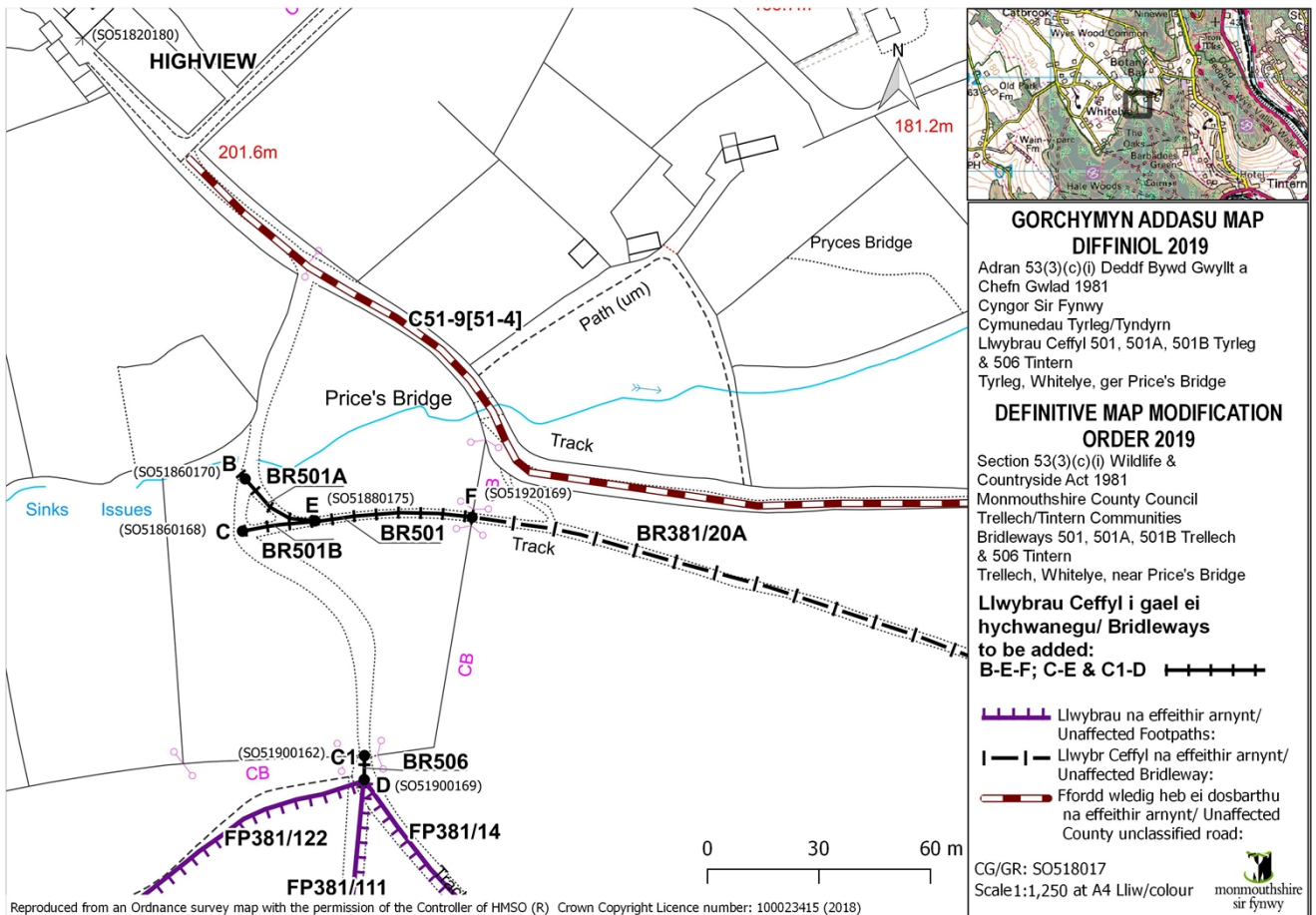
Give an overview of whether the decision was implemented within the budget set out in the report or whether the desired amount of savings was realised. If not, give a brief overview of the reasons why and what the actual costs/savings were.

Any other comments

Appendix 1



Appendix 2





<p>Name of the Officer Mandy Mussell – Definitive Map Officer Countryside Access Phone no: 01633-644183 E-mail: mandymussell@monmouthshire.gov.uk</p>	<p>Please give a brief description of the aims of the proposal To determine whether or not to register the Routes as a public rights of way on the Definitive Map and Statement in the community of Trellech, near Whitelye.</p>
<p>Name of Service Countryside Access</p>	<p>Date Future Generations Evaluation 29th January 2019</p>




NB. Key strategies and documents that may help you identify your contribution to the wellbeing goals and sustainable development principles include: Single Integrated Plan, Continuance Agreement, Improvement Plan, Local Development Plan, People Strategy, Asset Management Plan, Green Infrastructure SPG, Welsh Language Standards, etc



1. **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.

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?
<p>A prosperous Wales Efficient use of resources, skilled, educated people, generates wealth, provides jobs</p>	<p>The Order if made will mean that the Routes will have to be re-instated and made available to be a resource for locals and tourists for the use and enjoyment of the area.</p>	<p>N/A</p>

Well Being Goal	Does the proposal contribute to this goal? Describe the positive and negative impacts.	What actions have been/will be taken to mitigate any negative impacts or better contribute to positive impacts?
A resilient Wales Maintain and enhance biodiversity and ecosystems that support resilience and can adapt to change (e.g. climate change)	The Order if made will not change the environment in which this route extends.	N/A
A healthier Wales People's physical and mental wellbeing is maximized and health impacts are understood	The Order if made will not reduce people's ability to walk in the area but will improve upon this to provide a wide and more easily accessible walk than elsewhere in the community	N/A
A Wales of cohesive communities Communities are attractive, viable, safe and well connected	The Order if made does not impact on the community.	N/A
A globally responsible Wales Taking account of impact on global well-being when considering local social, economic and environmental wellbeing	N/A	N/A
A Wales of vibrant culture and thriving Welsh language Culture, heritage and Welsh language are promoted and protected. People are encouraged to do sport, art and recreation	The Order if made will allow the Routes to be used and continue to be a resource for locals and tourists to enjoy of the area.	N/A
A more equal Wales People can fulfil their potential no matter what their background or circumstances	N/A	N/A

2. 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 Balancing short term need with long term and planning for the future</p>	<p>The long term result if this Order is made will be that the Routes will recorded correctly on the Definitive Map and Statement and link with other existing highway networks. The Routes will be available for access in the future.</p>	<p>N/A</p>
 <p>Collaboration Working together with other partners to deliver objectives</p>	<p>N/A</p>	<p>N/A</p>
 <p>Involvement Involving those with an interest and seeking their views</p>	<p>The associated landowners have been consulted and all their concerns have been included within the body of the reports.</p>	<p>N/A</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>Prevention Putting resources into preventing problems occurring or getting worse</p>	<p>The Order if made will clarify the status of the Routes and prevent confusion of responsibilities in the future.</p>	<p>N/A</p>
 <p>Integration Considering impact on all wellbeing goals together and on other bodies</p>	<p>N/A</p>	<p>N/A</p>

3. 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. For more detailed information on the protected characteristics, the Equality Act 2010 and the Welsh Language Standards that apply to Monmouthshire Council please follow this link: <http://hub/corporatedocs/Equalities/Forms/AllItems.aspx> or contact Alan Burkitt on 01633 644010 or alanburkitt@monmouthshire.gov.uk

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	N/A	N/A	N/A
Disability	Routes would be accessible to wider range of public than other local walks	N/A	N/A
Gender reassignment	N/A	N/A	N/A
Marriage or civil partnership	N/A	N/A	N/A
Pregnancy or maternity	N/A	N/A	N/A
Race	N/A	N/A	N/A
Religion or Belief	N/A	N/A	N/A
Sex	N/A	N/A	N/A
Sexual Orientation	N/A	N/A	N/A
Welsh Language	N/A	N/A	N/A

4. Council has agreed the need to consider the impact its decisions has on important responsibilities of Corporate Parenting and safeguarding. Are your proposals going to affect either of these responsibilities? For more information please see the guidance <http://hub/corporatedocs/Democratic%20Services/Safeguarding%20Guidance.docx> and for more on Monmouthshire's Corporate Parenting Strategy see <http://hub/corporatedocs/SitePages/Corporate%20Parenting%20Strategy.aspx>

	Describe any positive impacts your proposal has on safeguarding and corporate parenting	Describe any negative impacts your proposal has on safeguarding and corporate parenting	What will you do/ have you done to mitigate any negative impacts or better contribute to positive impacts?
Safeguarding	N/A	N/A	
Corporate Parenting	N/A		

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

The Definitive Map Modification Order, Prices Bridge, Whiteye, Trellech (01_13Mod) Report along with all relevant appendixes consists of all the evidence and data that has informed the development of this proposal.

The evidence consists of the applicant's submissions of 36 user evidence forms and historical documents. The Authority has investigated these and along with this evidence has included within the reports all the available historical maps; a pre-order consultation with landowners, various public rights of way user Associations and Societies and Utility providers. Along with all this evidence other case law and legislation such as the 1981 Wildlife and Countryside Act and the 2006 Natural Environment and Rural Communities Act has been applied and discussed in these reports.

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 Order if made will neither positively nor negatively impact on the well-being goals or the sustainable development principals.

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	Progress
N/A			
N/A			
N/A			

8. MONITORING: The impacts of this proposal will need to be monitored and reviewed. Please specify the date at which you will evaluate the impact, and where you will report the results of the review.

The impacts of this proposal will be evaluated on:	Three years after the Order has been confirmed.
--	---

9. VERSION CONTROL: The Future Generations Evaluation should be used at the earliest stages of decision making, and then honed and refined throughout the decision making process. It is important to keep a record of this process so that we can demonstrate how we have considered and built in sustainable development wherever possible.

Version No.	Decision making stage	Date considered	Brief description of any amendments made following consideration
1	The Rights of Way Advisory Panel (RWAP) in assessing the evidence and assisting the Community Services Cabinet Portfolio Member to determine whether or not to make a Definitive Map Modification Order.	29 th January 2019	N/A