



SUBJECT:	HIGHWAYS ACT 1980 – SECTION 119 PUBLIC PATH DIVERSION ORDER, FOOTPATH 138 (part) GOETRE FAWR
MEETING:	LICENCING & REGULATORY COMMITTEE – RIGHTS OF WAY ADVISORY PANEL
DATE:	1 JULY 2025
DIVISION/WARDS AFFECTED:	GOETRE FAWR

1. PURPOSE:

- 1.1 To consider an application submitted by the landowner of Mount Pleasant to divert the above footpath.
- 1.2 To consider the objection to the proposed order in relation to the relevant legal tests that applies 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 138 Goetre Fawr under Section 119 Highways Act 1980 and to confirm the order if no objections are received.

3. KEY ISSUES:

- 3.1 On 20th July 2023 a path order application was received by Monmouthshire County Council (MCC) Countryside Service, which sought to divert a public footpath in the Goetre Fawr Community.
- 3.2 The applicant sought the path diversion in their interests to address safety, security and privacy issues affecting their property.

- 3.3 The application proposes to divert Footpath 138 (part) in the Goetre Fawr Community, from its current alignment to one in the adjacent field.
- 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 thirteen positive or neutral responses and one objection. The nature of the objection is detailed in the report (Appendix 1).

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

- 4.1 The proposal would allow the legal alignment of the existing footpath to be moved on to a new alignment in the adjacent field. The new alignment is sought by the landowners affected by the existing footpath, and they have cited safety, security and privacy reasons for the application. Both the households affected by the existing path are the home to young children and the application seeks to remove the path from beside one dwelling's garden and from beside the house and out of the other dwelling's garden. The diverted footpath will have a width of 2 metres as outlined in the Schedule (Main Report Appendix 3) and will be accessed via a pedestrian gate making that path no less accessible to path users with sight or mobility issues. An EQAFG evaluation has been included in Appendix 3.

5.0 OPTIONS APPRAISAL

Option	Positive	Negative	Comment
To make the order	Allow the diversion and address the safety, security and privacy concerns of the applicant and their neighboring landowner.	Slightly less convenient. The order could still fail at inquiry if found to be deficient.	The person making the objection suggested an alternative route for the new path that would divert it into the adjacent field very near to Mount Pleasant. This has been discounted because the

			landowner for the adjacent field would not consent, and MCC Biodiversity would object, to the removal of the existing boundary hedge.
Not to make the order	The current legal alignment of the footpath would still be available to the public.	Failure to address the safety, security and privacy 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 138 is likely to affect the enjoyment of the route. It is the Officer's opinion that it does not affect the enjoyment.
- 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 decide 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.

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 noteworthy that the person objecting has given a written assurance that if the decision is to make the order, he will not object at the public consultation stage, thereby reducing the likelihood of the case needing to be referred to PEDW.

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: Report.

Appendix 2: Consultation Responses.

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

Appendix 4: Evaluation Criteria.

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