

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

MEETING: TAXI & REGULATORY COMMITTEE

DATE: 23 JULY 2025

**DIVISION/WARDS
AFFECTED: CAERWENT**

10. PURPOSE:

- 1.1 To consider the request to make and confirm, a public path diversion order under section 257 of the Town and Country Planning Act 1990, to enable development in accordance with approved planning permission.

2.0 RECOMMENDATIONS:

- 2.1 Having regard to the relevant legislation, tests, guidance and policy that the Taxi and Regulatory Committee authorise the making of a diversion order for Footpath 61 Caldicot under Section 257 of the Town & Country Planning Act 1990 and confirm the order if no objections are received.

3.0 KEY ISSUES:

- 3.1 On 10th October 2024 Planning and Environment Decisions Wales (PEDW) granted planning permission under reference DM/2023/01042 for the construction of a stable block for 5 horses, an ancillary storage building and a manège necessitating the diversion of Footpath 61.
- 3.2 The effect of development on public rights of way is a material consideration in the determination of applications for planning permission. PEDW granted consent despite objections to the scheme based on the alleged detrimental impact that the diversion of the path would have.
- 3.3 Welsh Government guidance states that having concluded that planning permission should be granted, there must be good reasons for deciding that an order, which would permit implementation of that permission, should not be made.
- 3.4 The developer has applied for a path order to divert Public Footpath 61, Caldicot under s 257 of the 1990 Town and Country Planning Act (TCPA90) to accommodate the proposed development.

- 3.5 The Council, under Section 257 of TCPA90 may by order stop up or divert a footpath, bridleway or restricted byway if it is satisfied that it is necessary to do so in order to enable development to be carried out in accordance with planning permission.
- 3.6 Any orders changing the public path network should comply with Legislative tests and take into consideration guidance and policy.
- 3.7 The Council ran a pre-order consultation. It received numerous objections and representations.
- 3.8 Full details of the proposed order, legislation, guidance, policy and representations are available in the report, Appendix 1.
- 3.9 The report is asking if MCC should make the order and confirm it if there are no objections. If objections are received the decision to confirm it would be referred to PEDW.

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

- 4.1 The proposed replacement path alignment contains gates rather than a stile. Many people find stiles difficult or impossible. The proposed new path would therefore be available to more people. The proposed new path alignment also runs to a layby gate rather than to a stile directly at the roadside making it safer than the existing route. The proposed development will also provide opportunities for leisure which together with the development works themselves could help boost the local economy. An Equality and Future Generations Evaluation (EQAFG) has been included in Appendix 2.

5.0 OPTIONS APPRAISAL

Option	Positive	Negative	Comment
To make the order	Allow development in accordance with planning application. and provide a more accessible route	Loss of direct footpath. Views possibly compromised. The order could still fail at inquiry if found to be deficient.	If the order were not made it would prevent approved development taking place, but the path may still run through an active livery rather than the segregated alignment that has be set out to accommodate it away from potential conflict's of interest.
Not to make the order	Retention of valued rural path.	Prevent the development in accordance with planning application. No	

		accessibility improvements.	
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6.0 EVALUATION CRITERIA

- 6.1 An evaluation assessment has been included in Appendix 3 for the future evaluation of whether the decision has been successfully implemented.

7.0 REASONS:

- 7.1 A path order needs to be made to enable development in accordance with approved planning permission. Appendix 1, the report outlines why the scheme is compliant with the relevant legislation, guidance and policy.
- 7.2 The objections received principally refer to the detrimental impact the proposed change would have on the heritage, views and biodiversity in the area. MCC's Ecologist and Heritage Officers have, however, offered no such objections. In response to the approved planning application CADW offered no objections and MCC's Landscape Officer stated that the realignment of the footpath would be acceptable within the context of the site and setting. It is therefore held that these concerns are not of strong enough public detriment to prevent the order being made. Many of the objections also reference other alleged issues which are not relevant to the path order process and can be dealt with by different mechanisms.

8.0 RESOURCE IMPLICATIONS:

- 8.1 Order costs including stationery, officer time and newspaper adverts will be charged to the applicant. If the order is made and objections received, then at PEDW's (Planning and Environment Decision Wales) 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 PEDW.

9.0 CONSULTEES

- 9.1 Consultees included the Local Member, The Town Council, Statutory Undertakers, user groups and local residents. Appendix 1, The report lists all of the consultees and summaries of their responses. Full responses are also available as appendices to this report.

10.0 BACKGROUND PAPERS:

- Appendix 1: Report
- Appendix 2 Equality and Future Generations Evaluation (includes Social Justice, Safe Guarding and Corporate Parenting)
- Appendix 3 Evaluation Criteria

11.0 AUTHOR:

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