

Monmouthshire Select Committee Minutes

Meeting of Taxi and Regulatory Committee held at Council Chamber, County Hall, The Rhadyr USK on Monday, 23rd February, 2026 at 2.00 pm

Councillors Present

County Councillor Tudor Thomas (Chairman)
County Councillor Jayne McKenna, (Vice Chairman)

County Councillors: Jane Lucas, Jayne McKenna, Alistair Neill and Martin Newell

Officers in Attendance

Julian Sanders, Solicitor
Gavin Pugh, Assistant Rights of Way Officer
Richard Ray, Paralegal
Ruth Rourke, Countryside Access Manager
Wendy Barnard, Democratic Services Officer

APOLOGIES: County Councillors Tony Easson, Christopher Edwards, Sue Riley, Dale Rooke and Jackie Strong

1. Declarations of Interest

Julian Sanders, Solicitor, declared an interest as a player/member of Usk Cricket Club and took no part in the meeting.

County Councillor Jane Lucas was unable to attend the site visit, attended part of the meeting but was unable to vote.

County Councillor Tony Easson attended part of the site visit then took no part in the meeting as he would be unable to vote.

2. HIGHWAYS ACT 1980 - SECTION 119 PUBLIC PATH DIVERSION ORDER, FOOTPATH 1 USK (Usk Athletic Club)

The legal position was explained, then the report and a PowerPoint slides were presented by the Countryside Access Manager and Assistant Rights of Way Officer to set out the details of the case.

It was explained that the report had been compiled to act within the approach to be fair, impartial and operating the principles of natural justice. It set 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 decide as to whether an order should be made to divert part of Footpath 1 Usk and to inform all other interested parties.

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.

The Committee needed to consider the legal tests and decide whether or not the authority should make an order to divert Footpath 1 Usk; making of the order enables the public consultation to commence.

The Council can only confirm the order if it is unopposed. In making the decision, the committee is acting in a quasi-judicial capacity. Decisions should only take into account the statutory tests and objectives, and the product of the consultation carried out. The decision should be based on evidence and the Committee was reminded that it should be satisfied that the application meets its statutory test.

Order making is a two-stage process for a diversion order under the Highways Act. There are separate legal tests to satisfy for the making of an order and then for its confirmation. Once an order is made, it's subject to public consultation and is advertised, and the public may make objections and representations, if any objections or representations to an order are made and not withdrawn, the Council may not itself confirm the order. If it still wishes to see it confirmed, it can refer it to the Planning Inspectorate or Planning and Environment Decisions Wales (PEDW) for confirmation. The inspector may only confirm the order if it's satisfied that the test for confirmation is met.

Under the Highways Act a two-part test should be met to allow the authority to make an order. The new path must join highway to highway and must be substantially as convenient to the public. A diversion order has the effect of extinguishing an old path and at the same time creating a new path. The Highways Authority can then create an extinguished path under section 119 if it is in the interests of either the landowner or in the interests of the public.

Under the Act, various tests have to be met to allow the confirmation of an order. These are primarily that the new path must not be substantially less convenient. It is subtly different to the making test, and about the effect which the diversion would have on the enjoyment of the path to the public. The effect on any land served by the existing rights of way and the proposed footpath should also be considered. Finally, the committee should consider the material provisions of any rights of way improvement plan that's been published by the authority.

(County Councillor Jane Lucas left the meeting at 14.17)

Following the presentation, Members were invited to ask questions.

A Member, noting that the safety of visitors, walkers and those not familiar with the game of cricket was paramount, asked whether spectators would still be able to watch cricket matches as normal if the footpath were diverted. He was assured that was the case.

In response to a question, the Member was advised that the Committee would not be considering an application for a pump bike track at the current time.

A Member asked if the applicant could be required or advised to clearly mark the pedestrian route across the car park, so that vehicles do not block it and pedestrians and wheelchair users can move safely. It was advised that if the path order is successful, the path should be marked to give clear indication to people who would perhaps not be aware that there is a new path there and to try and ensure that it doesn't get blocked. It is also an offence to obstruct the highway, so if anyone were to intentionally block the public right of way, if it were to transfer onto the proposed alignment, there are powers that can be used to prevent that, even if it is a temporary, not a permanent obstruction.

Councillor Alistair Neill asked why the process had taken nearly three years to reach this stage and whether the Council could look at ways to deal with similar matters more quickly in future.

In response, it was noted that the progression of the application had been delayed due to difficulties in obtaining timely and complete responses from the initial objector following the first consultation in September 2023. Significant time was required to seek clarification of the objection, relay this to the applicant, and await the Athletic Club's formal consideration through its committee processes. A further pre-order consultation in early 2025 also required responses from statutory bodies and user groups, several of which were received only after extended chasing. Officers advised that, under rights of way legislation, any unresolved objection prevents a case from progressing, and limited engagement from the objector consequently prolonged the process. It was confirmed that, while regrettable, such delays are inherent in the statutory framework and not within the Council's discretion to shorten.

In summing up, the Chair made the following observations:

- Members had visited the site and fully understood the proposal.
- All consultees, except for one objector, had raised no objections, and that the legal requirements appeared to have been satisfactorily addressed by the applicant.
- The remaining objection had been considered and issues relating to safety and public well-being—such as the risk of injury from cricket balls, muddy and slippery ground conditions, and the movement of grounds maintenance machinery—had been convincingly mitigated through the proposed diversion.
- Usk Athletic Club's amendments provided both a grass path and a compacted stone surface to improve accessibility, including for wheelchair users.
- The evidence presented was balanced and comprehensive, and that no further issues had arisen to prevent the Committee from proceeding to a decision.

Upon putting the motion to the vote, the Committee unanimously resolved:

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 the report, and to confirm the order if no objections are received.

The meeting ended at **3.06 pm**

This page is intentionally left blank