

**MONMOUTHSHIRE COUNTY COUNCIL  
REPORT**

<b>SUBJECT:</b>	<b>DEFINITIVE MAP MODIFICATION ORDER, CLEDDON SHOOT, LLANDOGO, TRELLECH</b>
<b>DIRECTORATE:</b>	<b>ENTERPRISE</b>
<b>MEETING:</b>	<b>Individual Cabinet Member Decision – Councillor P. Hobson</b>
<b>DATE:</b>	<b>17<sup>th</sup> August 2016</b>
<b>DIVISIONS/WARDS AFFECTED:</b>	<b>TRELLECH</b>

**1. PURPOSE:**

1.1. To consider, under Section 53(3)(c)(ii) of the Wildlife & Countryside Act 1981, if the route shown on the Order plans (Appendix 1 & 2), in the community of Trellech, Llandogo, recorded on the Definitive Map & Statement as one type of way should in fact be recorded as a different type of way. The Authority is required to determine whether or not Definitive Map Modification Orders should be made, or not.

**2. RECOMMENDATION:**

2.1 Having considered the documentary and other evidence and the recommendations of the Rights of Way Advisory Panel that discussed the matter on 8<sup>th</sup> July 2016 and for the reasons set out here it is recommended that a Definitive Map Modification Order (DMMO) is made under the Wildlife and Countryside Act 1981 to classify the cart road bridledways 20, 21, 22 and 23 and restricted byway 24 as footpaths and to confirm or seek confirmation of the Order.

**3 KEY ISSUES:**

3.1 Ms S. Harris and Mr A. Dance submitted an application to change the status of public cart road bridledways 20 to 23 Trellech, on 13<sup>th</sup> April 2004. It should be noted that restricted byway 24 has also been investigated for reasons detailed in the Licencing & Regulatory Agenda item 1, 8<sup>th</sup> July 2016 Reports Appendix 3.

3.2 The applicant seeks to upgrade existing routes to byways open to all traffic (BOAT).

3.3 Since the application was received two public consultations have been carried out and evidence investigated.

3.4 Out of the 37 consultations there is, under relevant historical reasons, 1 objector to the route in question being registered as a byway open to all traffic (BOAT). Two objections if the route in question is to be registered as a public footpath. The basis of objections from the Open Spaces and the British Horse Societies is historical documentation and reporting of the general area which cannot be attributed to a single route.

3.5 Five objections are based on a desire for future maintenance to a vehicular standard of the route in question and are irrelevant in regards to proving the status of the route.

3.6 Current maintenance of the route, suitability or privacy are not matters which can be considered under WCA legislation. These are things which can be considered once the status of the route is resolved.

3.7 The Rights of Way Advisory Panel have recommended that the order is made. If the objections made are sustained it is likely that the claim will go to the Planning Inspector for determination.

3.8 Section 53(2) of the Wildlife and Countryside Act 1981 (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 Definitive Map & Statement.

3.9 Case law states that an Authority must look at all available evidence before making a decision. Officers therefore consulted, reviewed evidence and produced a report that was considered by the Rights of Way Advisory Panel on 8<sup>th</sup> July 2016. This report considers the panel's recommendation.

#### **4 REASONS:**

4.1 There are a number of historical documents along with user evidence that when taken together argues that, on the balance of probabilities, there are no public vehicular, horse drawn cart or equestrian rights over the route in question.

4.2 There is also very little evidence to support equestrian use and based on the totality of the evidence, Officers believe the routes to be only footpaths and not byways open to all traffic (BOAT) as submitted by the applicants.

#### **5 RESOURCE IMPLICATIONS:**

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

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

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

#### **6 WELLBEING OF FUTURE GENERATIONS IMPLICATIONS (INCORPORATING EQUALITIES, SUSTAINABILITY, SAFEGUARDING AND CORPORATE PARENTING):**

6.1 The Order if made will neither positively nor negatively impact on the well-being goals or the sustainable development principals. Licencing & Regulatory Agenda item 1, 8<sup>th</sup> July 2016 (Appendix 4).

#### **7 CONSULTEES:**

Corporate Management Team, Rights of Way Advisory Panel Members (Licensing and Regulatory Committee), Select Committee Chairmen, Cabinet Members, Local Member, Head of Finance and Head of Legal Services

**8 RESULTS OF CONSULTATION:**

No objections received.

**9 BACKGROUND PAPERS**

Report to Rights of Way Advisory Panel (Licencing & Regulatory) Agenda item 1, 8<sup>th</sup> July 2016. Appendix 3, DMMO reports and appendixes.

**10 AUTHOR**

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**11 CONTACT DETAILS**

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**DEFINITIVE MAP MODIFICATION ORDER 2016**  
 Section 53(3)(c)(ii) Wildlife & Countryside Act 1981

Monmouthshire County Council  
 Trellech Community, Llandogo

Cartroad bridlways 20, 21, 22 & 23  
 Trellech, Llandogo, near Glen Cote

Proposed footpaths **A,B,C,D,E**


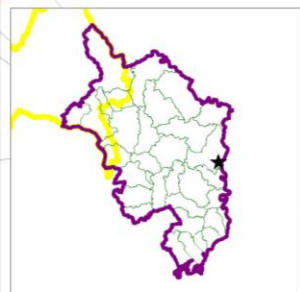
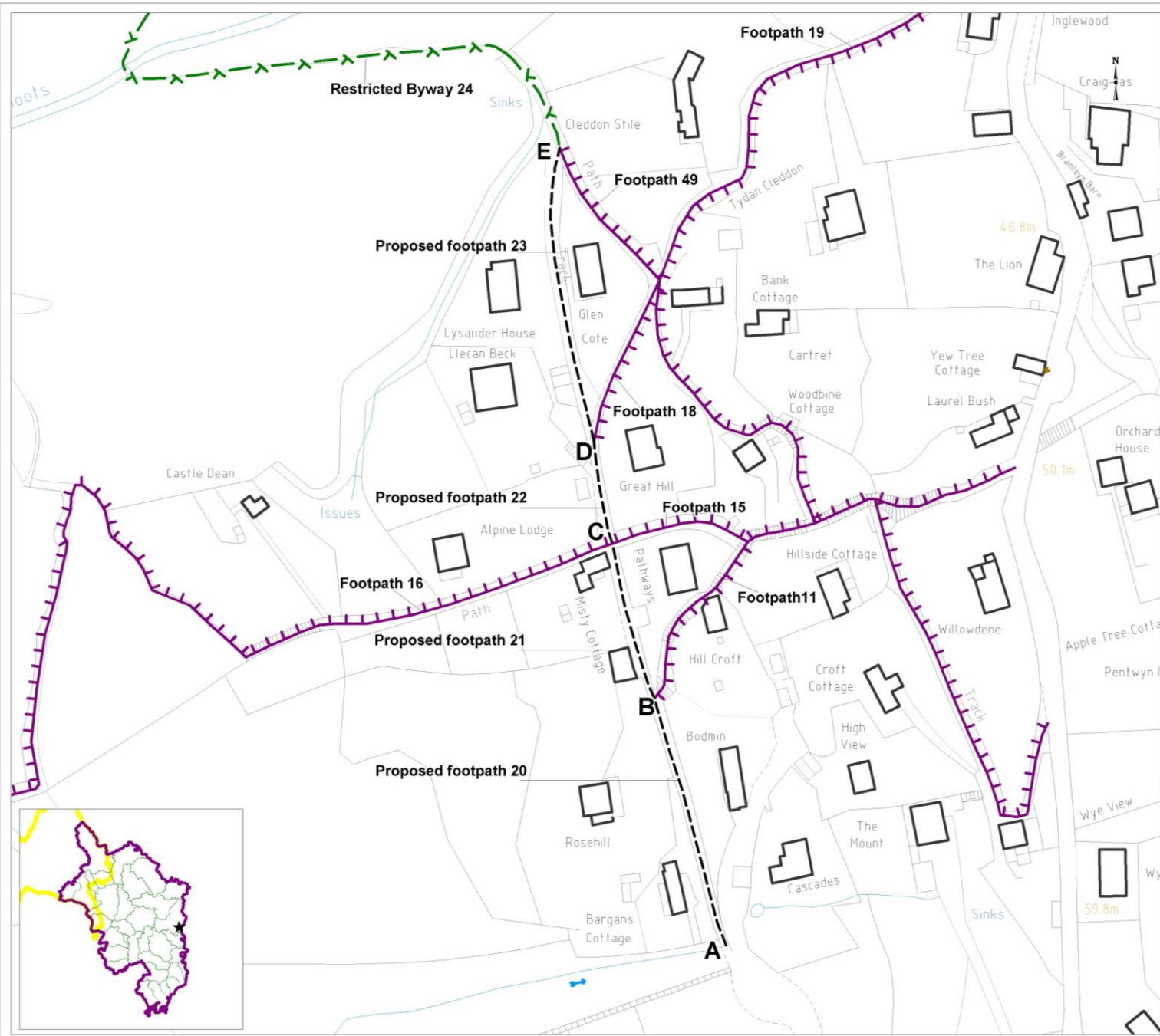
Unaffected footpaths:  

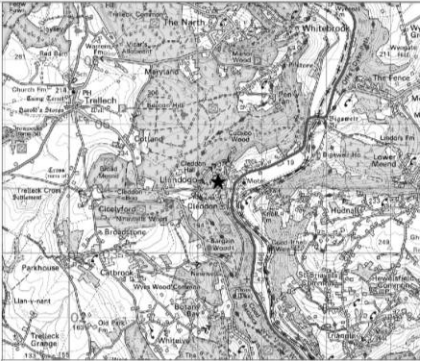
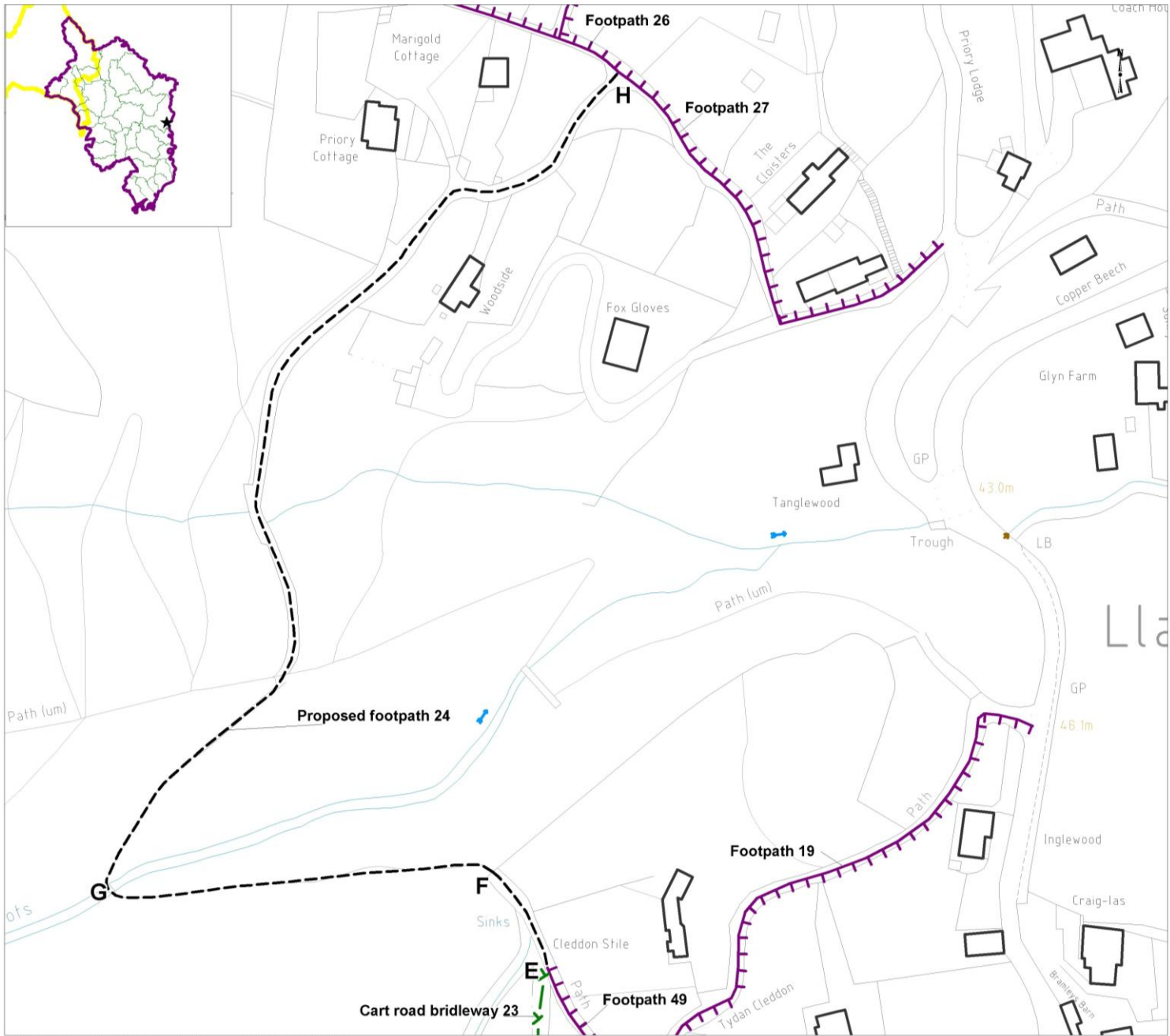

Restricted byway not affected by this order:  


**Please Note:**  
 This DMMO is associated with another DMMO that proposes to change Restricted byway 24 to a footpath

Scale 1:1500 at A4  
 GR:SO523038

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**DEFINITIVE MAP MODIFICATION ORDER 2016**

Section 53(3)(c)(ii) Wildlife & Countryside Act 1981

Monmouthshire County Council  
Trellech Community, Llandogo

Restricted byway 24 Trellech  
Llandogo generally west of Cleddon Stile

Proposed footpath: **E,F,G,H**

Unaffected Footpaths:

Cart road brideway not affected by this order:

**Please Note:**  
This DMMO is associated with another DMMO that proposes to change Cart road brideways 23 etc

Scale 1:1500 at A4  
GR: SO523041

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