



RIGHTS OF WAY CABINET COMMITTEE

MINUTES OF THE MULTI-LOCATIONAL MEETING HELD AT PENALLTA HOUSE AND VIA MICROSOFT TEAMS ON TUESDAY 15TH OCTOBER 2024 AT 2PM

PRESENT:

Councillor C. Morgan (Chair)

Cabinet Members:

P. Leonard, E. Stenner and N. George

Together with:

R. Tranter (Head of Legal Services and Monitoring Officer), S. Denbury (Countryside and Rights of Way Officer), K. Eadon- Davies (Green Space Strategy and Cemeteries Manager) and J. Thomas (Committee Services Officer).

Also Present:

Councillors J. Jones and J. Reed as Local Ward Members and Ms Thomas and Mr Liversuch. L. Evans (representative of Prositif Care (The Landowner))

RECORDING AND VOTING ARRANGEMENTS

The Chair reminded those present that the meeting was being live streamed, and a recording would be made available to view via the Council's website, except for discussions involving confidential or exempt items. [Click Here To View](#).

1. APOLOGIES FOR ABSENCE

An apology for absence was received from Councillor J. Pritchard

2. DECLARATIONS OF INTEREST

There were no declarations of interest made at the beginning or during the course of the meeting.

3. RIGHTS OF WAY CABINET MINUTES – 25TH JULY 2024

RESOLVED that the minutes of Rights of Way Cabinet Committee held on 25th July 2024 be approved as a correct record.

4. DETERMINATION OF CLAIMED RIGHT OF WAY 245 (YNYS/FP308).

The Countryside and Rights of Way Officer, Stefan Denbury presented the report which sought the Rights of Way Cabinet Members consider an application to make an Order to add a public footpath to the Definitive Map and Statement over the land at Ynys-Hywel. The Members can either grant or refuse to make the Order.

The Officer referred to the site visit that took place prior to the meeting where the site was examined, and Members witnessed the route in question as well as surrounding public paths.

Members noted that the Definitive Map and Statement is the legal record of public rights of way and is conclusive proof in law of the existence of a public right of way. The converse is not however true – the fact that a route is not shown on the Definitive Map and Statement does not conclusively prove it not to be a public path.

The Officer advised the Members that legislation in the form of section 31 of the Highways Act 1980, and section 53 and Schedule 14 of the Wildlife and Countryside Act 1981 provide the basis for, and mechanism of recording previously unrecorded routes on the Definitive Map and Statement.

The Members noted that there had been an error within the report, at paragraph 5.10 that should note the purchase of the land by Islwyn Borough Council was on 2nd August 1984 rather than 1989 as stated. This error was duplicated on Appendix 11 – the timeline, and this should also be amended.

The Chair thanked the Officer for the report and discussion ensued.

The Chair invited Ms Evans to address the Rights of Way Cabinet Members and give reasons why the order should not be granted. Ms Evans referred to additional information which had been submitted and circulated to Members on behalf of Positif Care by their solicitors and stressed that the premises is now a residential home for very vulnerable children and felt that with strangers being able to walk past and potentially look into the children's bedrooms could prove to be very distressing for them. The Chair thanked the representative and all parties were invited to ask questions.

A Member queried whether on purchasing the premises, the owner of the premises had been made aware of the any public footpath that went through the curtilage of the property that may have been seen as problematic. Ms Evans, responded and advised that to her knowledge there was only one footpath that they were aware of which is still accessible and follows almost the same route, which goes through the forestry rather than going through the property.

A Member made reference to the site visit and noticed signage for a footpath and requested who installed this and how long it had been there. Ms Evans advised that this had been there since they took over the premises and that refers to the route that it is on the official documents. Which to her knowledge had been in place for decades. Mr Liversuch advised all parties that the signage had been put in place by the previous owners around 2020.

The Chair invited Ms Thomas to address the Rights of Way Cabinet Members and provide a five-minute presentation on the reasons why she felt that the Order should be made. Ms Thomas gave a background of the extensive use of the footpath and highlighted that access had not been challenged. The Member's attention was drawn to the Highways Act 1980 where

it states that there must be material evidence that a section of land has been used undisputed for a period of 20 years or more for it to be claimed as a public footpath.

Ms Thomas was of the opinion that the evidence that had been presented to the Members proved that this test had been met.

The Chair thanked Ms Thomas for her presentation. Following Ms Thomas's presentation all other parties were invited to address the CROW Members and were given the opportunity to provide a five-minute presentation. Both Local Ward Members and the member of the public provided their representations and shared their experiences of using the footpath dating back over 20 years. Each party echoed Ms Thomas' reasoning for the Order to be granted.

The Chair thanked all parties for their supporting statements.

Based on information in the Officer's report, visiting the site in person, and the evidence presented by the witnesses, Members considered that the route had been used in excess of 20 years prior to the date it was brought into question. Under statute (section 31 of the Highways Act 1980) there is a presumption that a landowner intended to dedicate a public right of way unless there is evidence of rebuttal. There is no evidence to suggest any landowner took action to state a lack of intention to dedicate, and therefore Members agree, a public right of way subsists along the road to the South of the building (Ynys Hywel) and this should now be added to the Definitive Map and Statement.

Following consideration and discussion it was moved and seconded that following the application, an Order be made. By way of verbal vote it was unanimously agreed.

RESOLVED that for the reasons contained in the Officer's Report and the information given to the meeting by witnesses, a public path exists or has been acquired at YNYS/FP308 and should therefore be added to the Definitive Map and Statement.

The meeting closed at 2:55pm

Approved as a correct record, subject to any amendments agreed and recorded in the minutes of the meeting.

CHAIR