

REPORT OF THE DIRECTOR OF ENVIRONMENT MEETING OF EBM CULTURE, SPORT AND TOURISM

19TH SEPTEMBER 2018

PUBLIC RIGHT OF WAY AT CARDI BACH, LLANBOIDY WARD

Purpose: Application to Register a Public Right of Way, under section 53 and schedule 14 of the Wildlife & Countryside Act (1981).

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1. BRIEF SUMMARY OF PURPOSE OF REPORT

The report is seeking the approval to make an Order to register a previously unrecorded Public Right of Way by adding it to the Definitive Map & Statement of Public Rights of Way for the County of Carmarthenshire.

The County Council has a statutory duty to ensure that the Definitive Map & Statement for the County is correct, as required by the Wildlife & Countryside Act 1981, section 53(2).

1. KEY DECISIONS REQUIRED, IF ANY

Approval from the Executive Board Member for Regeneration and Leisure to make the necessary Definitive Map Modification Order.

2. RECOMMENDATION

That the application be approved and the Authority make the necessary Definitive Map Modification Order.

3. REASON

The application satisfies the tests laid out in section 53(3)(C)(i), namely that there is sufficient evidence to show that a public right of way exists, and should be added to the Definitive Map & Statement for the County.

4. BACKGROUND AND EXPLANATION OF ISSUES

In 2001 Carmarthenshire County Council received an application to record a Public Right of Way which follows a disused railway line between the villages of Login and Llanglydwen, in Llanboidy Ward. The route passes through two Communities, Llanboidy and Cilmaenllwyd. A second application was made one year later which included the same route. Initial investigations were carried out, but both applications remained unresolved. In 2017 the Council received a request for an update from one of the applicants. In response it was decided that the applications should be prioritised, and for both cases to be concluded.

Applicants can apply to Welsh Government if dissatisfied with the Local Authority's progress / decisions, and in this case the first application was referred to WG one year after the application was made. The County Council responded by stating that the application was on a prioritisation list, and would be processed in due course.

The application was made in response to a section of the application route being closed to the public via locked gates and notices, following the acquisition of the property by a new landowner. Over the intervening time period the remainder of the land has been acquired by the same landowner.

The Council has now concluded their investigations and provided a report with a recommendation that a Public Right of Way (footpath) be added to the Definitive Map & Statement for the County.

The landowner has contested the application, and provided their own evidence, as part of the consultation carried out.

The local elected member for the Ward of Llanboidy has been consulted. The County Councillor supports the application. Both Llanboidy and Cilmaenllwyd Community Councils have been consulted.

It is now our intention to carry out a Definitive Map Modification Order to record a Public Right of Way. Once the Order is made there will be a statutory consultation carried out with our statutory consultees, plus interested parties and the general public. This will be in the form of notices in the press and on site, plus direct mailing to consultees. If there are no objections, then the County Council can confirm the Order, and it will come into force. If there are valid objections to the Order, then the Order will need to be referred to Welsh Government for an independent decision. If new information is discovered as a result of the consultation, then it may be necessary to re-examine the case.

CONCLUSIONS

We are satisfied that the above Diversion Order meets the tests laid out in section 53(3)(c)(i) of the Wildlife and Countryside Act, 1981, namely:

The discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows –

- (i) That a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path, a restricted byway or, subject to section 54A, a byway open to all traffic.

If the Order is made the County Council will carry out a further 42 day public consultation, as required by the 1981 Act.

5. OTHER OPTIONS AVAILABLE, AND THEIR PROS AND CONS

Section 53 of the Wildlife & Countryside Act 1981 places a DUTY on the Local Authority to keep the Definitive Map & Statement under continuous review, therefore we must process the application and make the Order.

The landowner may agree to carry out a Public Path Dedication / Creation Order. This is sometimes done as the most expedient way to record a Public Right of Way. It may also allow for the adjustment of the route, where desired / agreed.

6. COMMUNITY STRATEGY INTEGRATION TOOL

7. IMPLICATIONS:

1. POLICY AND CRIME & DISORDER - N/A

2. LEGAL

The Order will be made in accordance with Legal Powers set out in section 53 of the Wildlife & Countryside Act 1981.

3. FINANCE

The cost of making, publishing and confirming the Order will be approximately £1000, depending on fluctuation in advertising costs. As a statutory duty, the County Council is liable for these costs. There may be additional costs if objections are received, and the Order is referred to Welsh Government.

4. ICT – N/A

5. RISK ASSESSMENT – N/A

6. STAFFING – N/A

7. PHYSICAL ASSETS – N/A

8. FEEDBACK FROM CONSULTATIONS UNDERTAKEN

8.1 SCRUTINY COMMITTEE & DATE – N/A

8.2 LOCAL MEMBER (S) TO BE NAMED AND COMMENTS INCLUDED, IF ANY

Cllr. Dorian Phillips – ‘As the County Councillor for the Llanglydwen and Login area, I fully support the proposal of opening the old Cardi Bach railway line, which I believe will be a tremendous attraction for visitors to the area. I can also confirm that I regularly used to walk the line back in the late sixties.’

8.3 COMMUNITY TOWN COUNCIL (S)

Llanboidy CC – ‘The Council strongly support the claim that it should be a right of way.’

Cilmaenllwyd CC – no comments received

8.4 RELEVANT PARTNERS

Applicant 1 – Mrs. B. Vessey (deceased)

Applicant 2 – Mrs. P. Kiernan

Mr. G. Dickman (landowner)

5. STAFF SIDE REPRESENTATIVES

Auto Cycle Union – no comments received

British Horse Society – no comments received

Byways & Bridleways Trust – no comments received

Cyclists Touring Club – no comments received

Carmarthenshire Riders – no comments received

The Ramblers Association – no comments received

Area Ramblers Representative – no comments received

Carmarthenshire Local Access Forum – no comments received

Open Spaces Society – no comments received

Welsh Trail Riders Association – no comments received

Carmarthenshire Tourist Association – no comments received

6. OTHER

Login Community Association – supports application

9. LIST OF BACKGROUND PAPERS USED IN THE PREPARATION OF THE REPORT

Title of Document	File Ref No.	Where available for public inspection
Cardi Bach DMMO application 1.	RW2/18/JL/ sub-file	Public Rights of Way, Mynydd Mawr Woodland Park, Heol Hirwaun Olau, Tumble, Carmarthenshire, SA14 6HU
Cardi Bach DMMO application 2	As above	As above
Consultant Report	As above	As above