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Mark James LLM, DPA, DCA
Prif Weithredwr,
Chief Executive,
Neuadd y Sir, Caerfyrddin. SA31 1JP
County Hall, Carmarthen. SA31 1JP

WEDNESDAY, 9 SEPTEMBER 2015

I HEREBY SUMMON YOU TO ATTEND A MEETING OF THE EXECUTIVE BOARD MEMBER DECISIONS MEETING FOR REGENERATION & LEISURE WHICH WILL BE HELD IN THE DEMOCRATIC SERVICES COMMITTEE ROOM, COUNTY HALL, CARMARTHEN AT 10.00 AM, ON WEDNESDAY, 16TH SEPTEMBER, 2015 FOR THE TRANSACTION OF THE BUSINESS OUTLINED ON THE ATTACHED AGENDA

Mark James

CHIEF EXECUTIVE



PLEASE RECYCLE

Democratic Officer:	Martin S. Davies
Telephone (direct line):	01267 224059
Fax:	(01267) 224911
E-Mail:	MSDavies@carmarthenshire.gov.uk
Ref:	AD016-001

AGENDA

1. DECLARATIONS OF PERSONAL INTEREST
2. TO SIGN AS A CORRECT RECORD THE DECISION RECORD OF THE MEETING HELD ON THE 3RD AUGUST 2015 1 - 2
3. APPLICATION TO DIVERT BYWAY OPEN TO ALL TRAFFIC (BOAT) 57/42 AT BRYNDIAS FARM, PINGED, MADE UNDER SECTION 117 OF THE HIGHWAYS ACT (1980) FOR REASONS OF SECURITY AND FOR PUBLIC SAFETY. 3 - 18
4. FOLLOWING CONSIDERATION OF ALL THE CIRCUMSTANCES OF THE CASE AND FOLLOWING THE APPLICATION OF THE PUBLIC INTEREST TEST THE EXECUTIVE BOARD MEMBER MAY CONSIDER THAT THE FOLLOWING ITEM IS NOT FOR PUBLICATION AS IT CONTAINS EXEMPT INFORMATION AS DEFINED IN PARAGRAPH 17 OF PART 4 OF SCHEDULE 12A TO THE LOCAL GOVERNMENT ACT, 1972 AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) (VARIATION) (WALES) ORDER 2007.
5. PROHIBITION ORDERS IN RELATION TO FOUR LONG DORMANT MINERAL WORKING SITES 19 - 48

DECISION RECORD OF THE EXECUTIVE BOARD MEMBER DECISIONS MEETING FOR REGENERATION AND LEISURE

3RD AUGUST 2015

Executive Board Member Office, Town Hall, Llanelli.

9.30 a.m. – 10.00 a.m.

EXECUTIVE BOARD MEMBER	PORTFOLIO
Councillor M. Gravell	Regeneration & Leisure

The following officers were in attendance:-

Mr. S. Jenkins	Physical Regeneration Strategic Programme Manager
Ms. T. Peregrine	Physical Regeneration Project Officer
Mr. K. Thomas	Democratic Services Officer.

DECLARATIONS OF PERSONAL INTERESTS

There were none.

The Executive Board Member, having considered the reports on the under-mentioned items and taken into account the views of Local Members and interested parties where applicable, made the following decisions:

Item No	Subject / Decision
1.	<p><u>DECISION NOTICE</u></p> <p>RESOLVED that the Decision Notice for the meeting held on the 15th July 2015 be signed as a correct record.</p>
2.	<p><u>MACHYNYS QUAYSIDE LANDSCAPING</u></p> <p>The Executive Board Member considered a report on proposals for the Authority to undertake landscaping works at Machynys Quayside in accordance with a legal agreement entered into with Charles Church on the 31st March 2008.</p> <p>The Physical Regeneration Strategic Programme Manager referred to the report and outlined the history of the Agreement and the financing arrangements via the Llanelli Waterside Joint Venture. He advised that whilst Planning consent for the landscaping works had been granted in 2009 (planning application S/19221) a number of significant changes had occurred subsequent thereto, as detailed in the report, requiring the Authority to seek a revision to condition 5 of that consent to enable it to complete the landscaping works and avoid being in breach of its legal Agreement.</p> <p>Accordingly, it was being proposed that, at the appropriate time, the Authority submits a revised planning application, engage professional consultants, via the Environment Directorate, to support the planning application, design and tender for the works and to also appoint a preferred contractor to undertake the works.</p> <p>If approved, the revised scheme would be funded via existing Joint Venture capital resources and would focus on delivering a project that was fit for</p>

**DECISION RECORD OF THE EXECUTIVE BOARD MEMBER DECISIONS
MEETING FOR REGENERATION AND LEISURE**

3RD AUGUST 2015

	purpose, whilst also being low maintenance to minimise
Item No	Subject / Decision
	future revenue costs. RESOLVED that the Authority:- 2.1 form and submit a revised landscaping proposal to vary condition 5 of planning application S/19221 via Section 73 of the Town and Country Planning Act. 2.2 appoint professional consultants, via the Authority's Environment Directorate, to compile the necessary detail to support the planning application, design, tender and the construction of works. 2.3 appoint a preferred contractor and implement the works accordingly

EXECUTIVE BOARD MEMBER FOR REGENERATION & LEISURE

DATE

EXECUTIVE BOARD MEMBER DECISION 16TH SEPTEMBER 2015

Executive Board Member:	Portfolio:
Cllr. M Gravell	Regeneration & Leisure

Application to Divert Byway Open to All Traffic (BOAT) 57/42 at Bryndias Farm, Pinged, made under section 117 of the Highways Act (1980) for reasons of security and for public safety.

Recommendations / key decisions required:

That the application be approved and the Authority prepare the necessary Notice of Application to be heard at the relevant Magistrates Court.

Reasons:

The application satisfies the test laid out in section 116 of the Highways Act 1980 (under which the Diversion Order would be made), namely that it is more commodious to the public as it would remove the BOAT from the residential curtilage of Bryndias Farm and reduce the overall number of gates on the route from 5 to 3.

Directorate Environment	Designation Head of Street Scene	Tel No. 01267 224502 E Mail Address: MCresci@carmarthenshire.gov.uk
Name of Head of Service: M Cresci		
Report Author: C Ferguson		

Declaration of Personal Interest (if any):

None

Dispensation Granted to Make Decision (if any): **N/A**

DECISION MADE:

Signed: _____

DATE: _____

EXECUTIVE BOARD MEMBER

The following section will be completed by the Democratic Services Officer in attendance at the meeting

Recommendation of Officer adopted	YES / NO
Recommendation of the Officer was adopted subject to the amendment(s) and reason(s) specified:	
Reason(s) why the Officer's recommendation was not adopted:	

EXECUTIVE SUMMARY

EXECUTIVE BOARD MEMBER DECISION

16TH SEPTEMBER 2015

**Proposed Diversion of Byway Open to All Traffic (BOAT) 57/42 at Bryndias Farm,
Pinged under section 116 of the Highways Act (1980)**

An application has been received by the Authority to divert part of BOAT 57/42 at Bryndias Farm, Pinged. The application was made 1st February 2015 under section 117 of the Highways Act (1980); if approved an Order will be made under section 116 of the aforementioned Act.

The application has been made for reasons of security and public safety.

During a pre-Order consultation two objections were received to the proposal from user groups. Both considered the width of proposed new route to be inadequate for a BOAT. These objections were later withdrawn following some explanation and some amendments to the proposed width.

No other objections were received.

Councillor Hugh Shephardson submitted an email in support of the application.

The local BHS representative confirmed that they had no objections to the proposal.

No other representations in relation to the consultation were received.

Having given due consideration to the application it is recommended that the application be approved as it is considered that the relevant test under section 116 of the Highways Act (1980) has been met and therefore the application should be put before the Magistrates Court as required by the Act.

DETAILED REPORT ATTACHED ?

YES

IMPLICATIONS

I confirm that other than those implications which have been agreed with the appropriate Directors / Heads of Service and are referred to in detail below, there are no other implications associated with this report :

Signed: **M Cresci**

Head of Street Scene

Policy and Crime & Disorder	Legal	Finance	ICT	Risk Management Issues	Organisational Development	Physical Assets
NONE	YES	NONE	NONE	NONE	NONE	NONE

2. Legal

See attached report



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CONSULTATIONS

I confirm that the appropriate consultations have taken in place and the outcomes are as detailed below

Signed: M Cresci

Head of Street Scene

1) Local Member

Councillor Meryl Gravell – no comments received
Councillor Shirley Matthews - no comments received
Councillor Hugh Shephardson – in support of the application

2) Town/Community Council

Pembrey and Burry Port Town Council – no comments received

3) Staff Side Representatives and Other Organisations

The Ramblers Association (RA) – no comments received
RA Area Representative - no comments received
Carmarthenshire Local Access Forum (LAF) – objection received – later withdrawn
Open Spaces Society (OSS) - no comments received
British Horse Society (BHS) - no comments received
BHS Area Representative – no objections to the proposal
Carmarthenshire Riders Association - no comments received
Welsh Trail Riders Association (WTRA) - no comments received
Auto Cycle Union (ACU) - no comments received
Byways and Bridleways Trust (BBT) - no comments received
British Driving Society (BDS) - no comments received
Cyclists Touring Club (CTC) - no comments received
Land Access & Recreation Association (LARA) - objection received – later withdrawn
British Motorcycle Federation (BMF) - no comments received
Sustainable Transport Cymru (SUSTRANS) - no comments received
Carmarthenshire Tourist Association (CTA) - no comments received
Natural Resources Wales - no comments received

4) Utilities

Western Power Distribution - no comments received
National Grid - no comments received
BT Openreach – no objection to proposal
Dwr Cymru - no comments received

Section 100D Local Government Act, 1972 – Access to Information

List of Background Papers used in the preparation of this report:

THESE ARE DETAILED BELOW

Title of Document	File Ref No.	Locations that the papers are available for public inspection
Case File RW2/57/sub-file	BOAT 57/42 Diversion, Bryndias Farm	Mynydd Mawr Woodland Park, Tumble, Llanelli SA14 6HU and is available for public inspection between 10 a.m. and 3 p.m. or by prior appointment.



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Report of Director of Environment to Executive Board Member Decisions Meeting

PROPOSAL TO DIVERT PART OF BYWAY OPEN TO ALL TRAFFIC 57/42 – BRYNDIAS FARM, PINGED

Introduction

Carmarthenshire County Council has received an application to divert the above mentioned Byway Open to All Traffic (BOAT) under section 117 of the Highways Act 1980 (HA80). The application has been made by the owners of Bryndias farm over which the BOAT passes. They have made the application for reasons security and public safety.

The proposed diversion will the middle section of BOAT 57/42 from its present alignment through the middle of the residential curtilage of Bryndias Farm, onto an adjacent, purpose built track which by-passes the yard and buildings (see attached plan – appendix 1).

Before submitting the application under s117 HA80 to the Magistrates Court, the Council as the relevant Highway Authority should give consideration test laid out in s116 HA80; that is that it appears a highway (other than a Trunk Road or Special road) can be diverted so as to make it nearer or more commodious to the public. This is the test that the justices composing the court will consider before determining whether to make an Order to divert any BOAT.

In respect of this test, the proposed diversion, if made, would divert members of the public entitled to use the BOAT (walkers, cyclists, horse riders, horse drawn vehicles & motorised vehicles) from the gated curtilage of the house and outbuildings at Bryndias Farm onto an adjacent track constructed for the purpose of providing an alternative, more commodious route. The proposed route has no gates and no potential for conflict with activities being undertaken by the occupiers of the property.

Consultations

A 28 day consultation has been carried out in respect of this proposal, commencing on 13th May 2015 (see attached – appendix 2). This consultation incorporated all those statutory consultees required to be given notice when an application is made for an s116 Order listed in Schedule 12 HA80. Additionally, all relevant user groups, local interested parties and utility companies were consulted. The consultation outlined the proposal and invited comment.



One email of support was received by Councillor Hugh Shephardson, one of the three County Councillors whose wards are affected by the proposal.

An email from the area British Horse Society representative confirmed that they had no objections to the proposal and BT Openreach similarly confirmed that they had no objections.

Two objections were received via email, both citing similar reasons for objection, namely the view that the specified width of the proposed new route of the BOAT is inadequate. The first was received from the Southern Respondent for LARA, received on the 18th May 2015; the second was from the Chair of the Carmarthenshire LAF, received 5th June 2015 (see attached – appendix 3)

Having sought some clarification of the LARA objection and re-visited the site to take additional measurements the Authority responded to the two objections via email on the 13th and 8th July 2015 respectively.

The response outlined a number of points outlined below:

1. There is no statutory width for a BOAT.
2. There is no recorded width for BOAT 57/42.
3. To ascertain an appropriate width for the proposal, an average of the width of the existing route of 57/42 subject to the diversion was taken.
4. In response to the objections, the width of the rest of route has been established to ensure the width of the proposal is sufficient for this BOAT as a whole.
5. The average surfaced width of the proposed section of BOAT and the width of the remainder of the route are comparable.
6. The verges surrounding the surfaced area of the existing BOAT increase the total width of the route beyond that which was specified in the diversion proposal letter.
7. The surfaced width of the proposed route is adequate in the context of BOAT 57/42.
8. In addition, the proposed route is more accessible to the public as it is not gated.
9. The overall width of the proposed route will be increased by including verge areas alongside to bring the total width into line with the remainder of the route.

(for full responses, see attached – appendix 4)

The objectors were given an opportunity to reconsider their objections having reviewed my response; both parties withdrew their objections.

No further correspondence in respect of the proposal has been received to date.



Conclusions

The basis for the application and its effect on the BOAT has been fully considered.

Both objections submitted have been withdrawn following a short exchange of correspondence.

It appears to the Authority that the application satisfies the test laid down under section 116 HA80, in that it makes the route more commodious to the public through increased accessibility (no gates) and reduced potential conflict with private land use (away from curtilage of property).

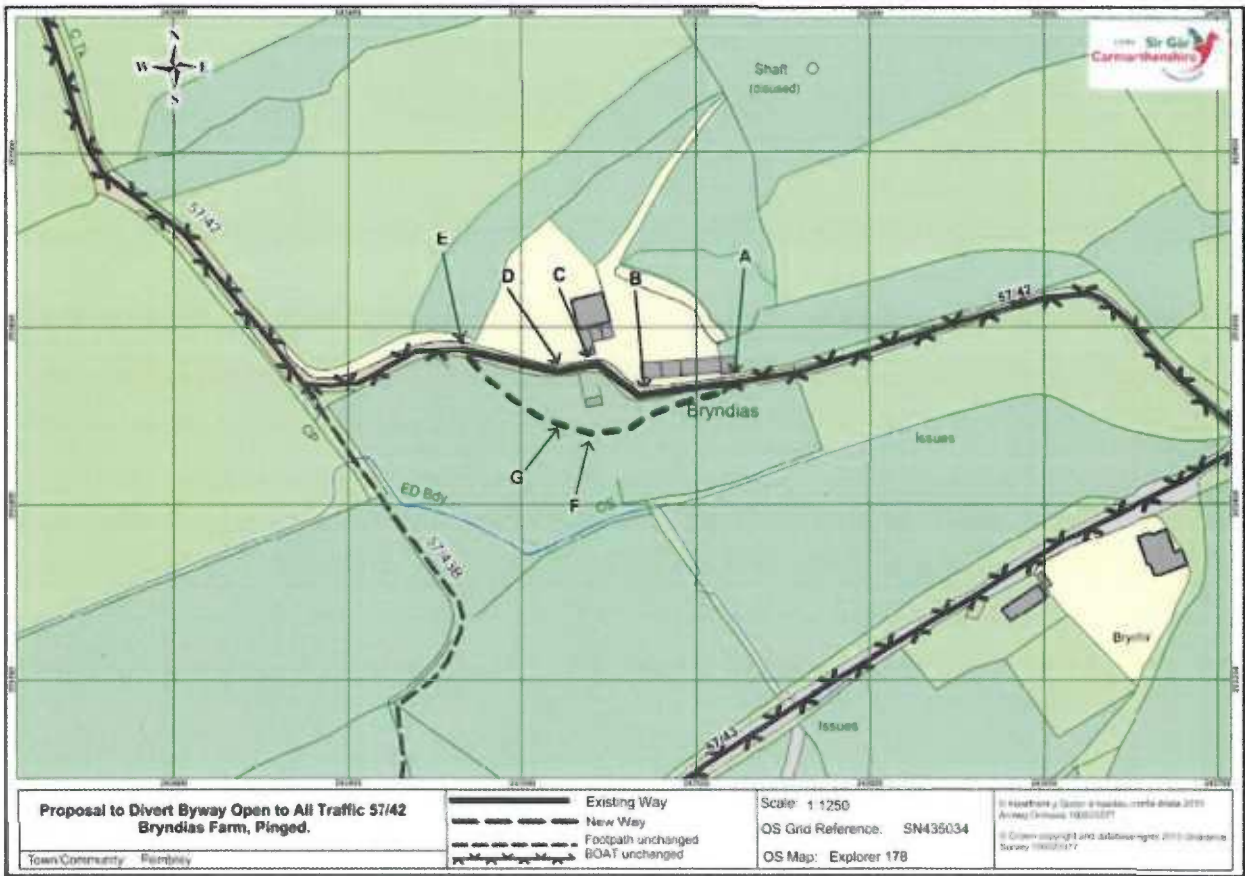
Taking this into account it is recommended that the diversion application be approved for submission to the Magistrates Court so that it can be considered by the justices under s116; if the court considers that the test has been met then an Order can be made.

Appendices 1 to 4 attached.



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Appendix 1



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Appendix 2



Cyngor Sir Gâr
Carmarthenshire
County Council

Pennaeth Hamdden a Chwaraeon
Canolfan Amoddau Busnes Parc Amanwy,
Heol Newydd, Rhydaman, Sir Gaerfyrddin, SA18 3EP
Head of Leisure and Sport
Business Resource Centre, Parc Amanwy, New Road,
Amanford, Carmarthenshire, SA18 3EP

Cofreidiwr / Personell / To:	Caroline Ferguson	Eidd / Cyfeirnod:	
Teleffôn / Ffôn / Direct Line:	01554 747518	Ffôn Ffôn / Mwy:	RW2/57/CJF
E-bost / E-mail / Direct Email:	cferguson@carmarthenshire.gov.uk	Ffôn / Ffôn:	01269 841655
Diwrnod / Dydd:	13 th May 2015	CP:	3818

Byway Open to All Traffic Diversion Consultation
Sent via Email

Dear Cllr/Sir/Madam

- Proposal to Divert Byway Open to all Traffic (BOAT) 57/42 – Bryndias Farm.

Carmarthenshire County Council has received an application to divert the above mentioned BOAT. The proposed diversion would move a central section of the byway from its present alignment through the yard, past the outbuildings and directly in front of the house at Bryndias to an alternative route to the south along a surfaced track that by-passes the yard, outbuildings and dwelling.


The existing route of BOAT 57/42 proposed to be diverted (A-B-C-D-E) commences alongside a stone outbuilding approximately 14 metres south east of the main dwelling at Bryndias (A). It proceeds in a south westerly direction along a surfaced track approximately 3 metres wide which passes in front of the stone building. It then travels through a field gate (B) before turning north west through a wider yard area in front of the house, returning to a defined 3 metre wide track to pass immediately in front of the house (C) then through a second field gate (D) to continue north west along a track, approximately 2.5 metres wide, leading to a point approximately 35 metres west of the house (E).

The proposed new route (A-F-G-E) will go from a point alongside a stone outbuilding approximately 14 metres south east of the main dwelling at Bryndias (A) and travel south westerly along a surfaced track 2.6 metres in width that follows the perimeter of the yard at Bryndias. As the track passes a ruined stone building south of Bryndias house (F) it gradually turns north westerly and widens to 4.6 metres for a distance of approximately 3 metres. The track then straightens (G) and continues north west at a width of 2.7 metres to re-join the original route approximately 35 metres west of the house (E). The proposed route will meet the existing BOAT at point (E) via a T-junction with a gradually increasing width (7 metres at its maximum) to provide a satisfactory visibility splay.


Any necessary works will be completed to ensure the new route is fully open and accessible before the Order is confirmed.

If you have any queries regarding this proposal please contact me on my direct line. I would be grateful for any comments you may wish to make on this application. A reply within 28 days would be appreciated.

Yours Sincerely
Caroline Ferguson
(Countryside Access Officer)



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Appendix 3

From: Dave Tilbury [<mailto:dave.tilbury@me.com>]
Sent: 18 May 2015 10:57
To: Caroline Ferguson
Subject: Re: BOAT Diversion Consultation - Carmarthenshire

Dear Caroline,

Whilst we have no problem with the diversion we cannot accept a width of 2.5m. This would be inadequate for two horses to pass in contra-direction. 2.5m is in fact too little to allow much to pass other than pedestrians, rendering the route impractical to motorists and equestrians.

Unless this width issue is addressed then LARA objects to the proposal.

Dave Tilbury
Southern respondent and web team.

dave.tilbury@laraqb.org

www.laraqb.org

All generic communication to be directed at:
admin@laraqb.org



LARA, campaigning against prejudice and restrictive practices on behalf of motor sport & recreation.

From: Mark Hadley [<mailto:markhadley12@hotmail.com>]
Sent: 05 June 2015 17:06
To: Caroline Ferguson
Subject: RE: BOAT Diversion Consultation - Carmarthenshire

Caroline,

I have had a look at your proposals.

A width of 2.6 metres for the proposed route sounds quite narrow - do you know what the statutory minimum width for a Byway is?

As long as the route is suitable for all vehicles I can't see any problems.

Sorry for the late response.

Mark.



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Appendix 4

From: Dave Tilbury [dave.tilbury@me.com] Sent: Mon 13/07/2015 2
To: Caroline Ferguson
Cc:
Subject: Re: BOAT Diversion Consultation - Carmarthenshire


Thanks Caroline,

Following your response I have taken a look at the route on Whereisthepath (a useful tool in case you were not aware – <http://wtp2.appspot.com/wheresthepath.htm>) and spoken to colleagues. I think that from a practical point of view your proposals are sound. It would seem that the 'new' route is already well used.

In this instance we will not press the width issue, but as a general rule, where a new route replaces an existing one then a width that reflects that as set out in any Inclosure Award should be the minimum. In the absence of that guidance then there needs to be at least sufficient width to allow users to pass one another in contra direction.

Dave Tilbury
Southern respondent and web team.
dave.tilbury@laraqb.org
www.laraqb.org

All generic communication to be directed at:
admin@laraqb.org

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LARA, campaigning against prejudice and restrictive practices on behalf of motor sport & recreation.
To donate please visit <http://www.laraqb.org/pages/donations.html>

From: Mark Hadley [markhadley12@hotmail.com]
To: Caroline Ferguson
Cc:
Subject: Re: BOAT Diversion Consultation - Carmarthenshire

Caroline

This sounds fine.

Thank you for your detailed response and further investigations.

Mark

Sent from my iPhone

On 8 Jul 2015, at 17:13, Caroline Ferguson <CFerguson@carmarthenshire.gov.uk> wrote:



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Agenda Item 5

By virtue of paragraph(s) 17 of Part 1 of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007.

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By virtue of paragraph(s) 17 of Part 1 of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007.

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