

Cabinet
22nd November 21

REINSTATEMENT OF PUBLIC ACCESS AT GILFACH IAGO

Purpose: To progress the completion of public access reinstatement at the Gilfach Iago former opencast site by securing funding and undertaking required legal processes.

Recommendations / key decisions required:

1. To approve the proposal to apply to the Magistrate's court for reclassification of three unclassified roads to bridleway status, and
2. To accept the financial settlement offered by Celtic Energy to take responsibility for and to undertake all public access reinstatement works across the former opencast site.

Reasons: Having explored all options for reinstating public access across the former opencast site, the recommendation is considered the best possible option available in terms of deliverability and finance.

Relevant scrutiny committee to be consulted NO

Cabinet Decision Required YES

Council Decision Required YES

CABINET MEMBER PORTFOLIO HOLDER:- Cllr Hazel Evans, Environment

Directorate: Environment

Name of Head of Service: Ruth Mullen

Report Author: Hugh Towns & Caroline Ferguson

Designations:

Director of Environment

Regional Minerals & Waste Planning Manager/Countryside Access Manager

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EXECUTIVE SUMMARY
Cabinet meeting
22nd November 21

Reinstatement of Public Access at Gilfach Iago

The report requests approval for the Authority to apply to Magistrate’s Court for the reclassification of three unclassified roads across the former Gilfach Iago opencast site (not presently navigable) to bridleway status. Bridleways may then be diverted as necessary ‘in-house’ by the Countryside Access team to better ‘fit’ with the restored layout of the land and connect with existing public footpaths.

The report also requests approval to accept the financial settlement offered by Celtic Energy to fund the reinstatement of public access across the former site.

Reclassification of the roads to bridleways status will secure valuable, traffic free, recreational access opportunities for walkers, horse riders and cyclists. It will also remove any legal obligation to reinstate the three unclassified roads which are now considered superfluous given highway and travel developments that have occurred since the three routes were temporarily stopped up in 1988.

Once reclassified to bridleway status and added to the Definitive Map and Statement, the Countryside Access team have powers to divert the routes to fit with the relief of the restored land and other public paths in the vicinity.

The financial settlement offered will cover a significant proportion of the projected costs to reinstate public access at the former site. It will allow the Authority to deliver a long-awaited reinstatement project at a location where, for reasons outlined in the full report, delivery has not been possible previously.

If approval is not given, Celtic Energy will remain liable for the current planning conditions in relation to reinstatement of roads and public rights of way across the site, roads that are not needed.

Based on previous events detailed in the full report, there is a high risk that Celtic Energy will not deliver satisfactory reinstatement at this juncture, it is therefore recommended that the proposal be approved, and the Authority take responsibility to ensure appropriate public access is restored in a timely manner.

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: **Director of Environment**

Policy, Crime & Disorder and Equalities	Legal	Finance	ICT	Risk Management Issues	Staffing Implications	Physical Assets
NONE	YES	YES	NONE	YES	NONE	NONE

2. Legal

In order to deliver the project as per the proposal an application to stop up the three roads with reservation for walking, horse riding and cycling will have to made to Magistrate's Court under section 116 Highways Act (1980). The application would be on the grounds that the roads are no longer needed. This process includes public consultation and any objections to the application would be heard by the Magistrate's.

If successful, a Legal Event Modification Order can be made under the Wildlife and Countryside Act (1981) to transfer the stopped-up roads to the Definitive Map and Statement as Bridleways.

Any subsequent diversion of the bridleways can be processed under section 119 Highways Act (1980). This process includes public consultation and any objections, if not resolved by the Local Authority case officer, would result in the matter being referred to the Planning Inspectorate to be determined by an independent inspector appointed by the Welsh Ministers.

3. Finance

The financial settlement of £320,000 offered on a without prejudice basis by Celtic Energy that forms part of this proposal does not entirely cover the full cost of reinstatement works costed, but enables significant works to commence and complete.

To deliver the project in full additional funds will need to be sought to the value of £130,000, including through grant bids.

4. Risk Management Issues

There is a risk that the community will be left without the roads or countryside access if a solution is not found to this issue which has gone unresolved for over 20 years. Celtic Energy Ltd is in the business of extracting coal and Welsh Government Coal Policy is effectively to cease the extraction of coal.

If Celtic Energy Ltd did not complete any agreed works then legal options are unlikely to lead to a satisfactory resolution. If legal action was successful, which is unlikely, the company would be likely to receive a fine, to a maximum value of £20,000 and the outstanding works would still not be done.

The landowners could be liable under planning legislation but pursuing private individuals to reinstate roads the Authority deems unnecessary or bridleways, is considered to be unreasonable and private individuals would not have the means to deliver the required outcomes.

Ultimately, the Council may well be faced with footing the entire bill to provide countryside access - £450,000 or would be faced with the decision to do nothing which would lead to an unsatisfactory outcome.

CONSULTATIONS

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

Signed: Ruth Mullen

Director of Environment

1. Scrutiny Committee - None

2. Local Member(s)

Local Members have been kept apprised of the ongoing negotiations

3. Community / Town Council

Llandybie Community Council – have been advised of the ongoing negotiations

**CABINET MEMBER PORTFOLIO
HOLDER(S) AWARE/CONSULTED**

YES – to follow

Include any observations here

To be advised 22 October 2021 – verbal update to CMT

**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
Planning Permission Reference: C6/190	C6/190	https://www.carmarthenshire.gov.wales/home/council-services/planning