

# CABINET MEMBER DECISIONS MEETING FOR TRANSPORT, WASTE AND INFRASTRUCTURE SERVICES

19/03/2024

<b>Cabinet Member:</b> Cllr. Edward Thomas	<b>Portfolio:</b> Transport, Waste and Infrastructure Services	
<b>STOPPING UP APPLICATION AT GILFACH IAGO</b>		
<b>Purpose:</b>  To approve the Stopping Up of the unclassified roads at the former opencast coal site known as Gilfach Iago between the communities of Penygroes, Blaenau and Saron with the reservation of rights for walking, cycling and horse riding i.e. Bridleway Rights.		
<b>Recommendations / key decisions required:</b>  Recommend to the Head of Administration and Law whether it would be appropriate to proceed with the Stopping Up of a length of public highway with rights reserved for walking, cycling and horse riding i.e. Bridleway Rights under Section 116 Highways Act 1980 (4).		
<b>Reasons:</b>  Recommend to the Head of Administration and Law whether it would be appropriate to proceed with the Stopping Up of a length of public highway with rights reserved for walking, cycling and horse riding i.e. Bridleway Rights under Section 116 Highways Act 1980 (4).		
Directorate Name of Head of Service: Daniel W John	Designation Head of Environmental Infrastructure	Tel No. <a href="mailto:DWJohn@carmarthenshire.gov.uk">DWJohn@carmarthenshire.gov.uk</a>
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**Declaration of Personal Interest (if any):**

None

**Dispensation Granted to Make Decision (if any):**

N/A

(If the answer is yes exact details are to be provided below:)

**DECISION MADE:**

**Signed:**

DATE: \_\_\_\_\_

\_\_\_\_\_  
CABINET MEMBER

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

## EXECUTIVE SUMMARY

### Request to execute a Stopping Up order at the former Opencast Site known as Gilfach Iago between the communities of Penygroes, Blaenau and Saron.

Following the approval at CMT on 28<sup>th</sup> September 2021 to progress the completion of public access reinstatement works at Gilfach Iago, the former opencast site; and approving the proposal to apply to the Magistrates Court as part of the legal processes involved, an application to stop up the highway is being progressed. A sum of money has recently been received from Celtic Energy Ltd (£320k), with the understanding that this will fund the reinstatement of public access across the former site. Additionally, it is being considered whether the route can be made Active Travel compliant in part or full. This will be investigated via a feasibility study 23/24.

The area of public highway would be stopped up by way of Order at Magistrates Court under Section 116 of the Highways Act 1980 subject to the reservation of bridleway rights (Section 116(4)), use of which is for pedestrians, horse riders and pedal cyclists.

An application under Section 116 of the Highways Act 1980 can only be made on one of two grounds, the length of the highway is 'unnecessary' or that there is a more commodious route for the public.

It is for the Highways Authority to determine whether to proceed with the legal process of a stopping up. However, if the highways authority agrees to proceed with the application, the decision as to whether a stopping up is successful or not will be determined at a hearing by the Magistrates Court. The Court will take into consideration several factors including the legal appropriateness that the applicant is applying under and the outcome from the statutory public consultation that will be undertaken. As a Highway's Authority, we would be presenting the case on the basis that we are satisfied that it passes the relevant tests i.e. unnecessary or more commodious route and is therefore no longer required as part of the public highway. The reason given for this proposal would be on the grounds that the public highway rights for **motor vehicles** along the highway lengths identified are deemed unnecessary and are no longer needed.

As part of the initial consultation process, letters were sent to landowners in June 2023 to allow them to engage with us and come forward with any comments (2 weeks were given to respond).

No objections have been received to date from the landowners. One landowner response was received querying how keeping the bridleway rights reserved may affect their land. Cllr Peter Cooper has also followed up on behalf of the landowner setting out points for clarification in relation to consultation and funding both of which have been responded to. Additionally, there have been no objections from internal departments or statutory consultees including local members, emergency services and utility companies with potential for having apparatus within the area.

To complete the Gilfach Iago programme/scheme, the stopping up process will satisfy the first step. Following the approval at magistrates (should this be successful), the second part will involve the length of roads that have been stopped up (with the bridleway rights reserved) being added to the Public Rights of Way definitive map and statement to complete the reclassification of this length; CCC Countryside Access team will subsequently have the powers to divert the routes to fit with the relief of the restored land and other public paths in the vicinity. Furthermore, there is a separate feasibility study which will be undertaken by our internal design consultancy via funding from Active Travel Core 23/24 to identify if the scheme outlined can be made Active Travel compliant in line with current Active Travel Guidance and Active Travel Act (2013).

In summary, the highway rights will be extinguished for motor vehicles only, with rights remaining for pedestrians, cyclists and horse riders. The reinstatement of public access would be beneficial for the communities of Blaenau, Saron and Penygroes to enjoy once more, given that the area was an operational mining area for many years under Celtic Energy. Opening this part of the network for the public will connect to the existing footpath network that already exists in the area, strengthening connections between the communities and supporting the wider network including Active Travel aspirations between Ammanford and Cross Hands.

It is requested that a decision is made as a Local Highway Authority as to whether to proceed with the Order given the outline case above.

<b>DETAILED REPORT ATTACHED?</b>	<b>NO</b> (Plan attached referencing location/area of public highway to be stopped up)
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# 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: D W John

Head of Environmental Infrastructure

Policy, Crime & Disorder and Equalities	Legal	Finance	ICT	Risk Management Issues	Staffing Implications	Physical Assets	Bio-diversity & Climate Change
<b>NONE</b>	<b>YES</b>	<b>YES</b>	<b>NONE</b>	<b>NONE</b>	<b>NONE</b>	<b>YES</b>	<b>NONE</b>

## 1. Legal

An application to stop up a highway has to follow a defined process and under the Highways Act 1980 can only be made on two grounds, namely the length of highway is unnecessary or that there is a more commodious route. There is an initial consultation process to be undertaken by the Environment Department which includes (inter alia) corresponding with the Community Council seeking its views on the proposal. Should the Cabinet Member consent be forthcoming, there is then a requirement to make an application to the Magistrates Court to seek an Order pursuant to section 116 of the Highways Act 1980 to stop-up the highway (as highlighted above, with rights reserved for walkers, cyclists and horse riders, Section 116 (4)). It will be necessary for an officer from the Authority to present evidence at the hearing advising why the application is appropriate and that the granting of the Order is necessary.

## 2. Finance

The stopping up will carry a financial implication met by CCC to administer the order with a payment of £2500 being required and drawn down from budget set aside for the Gilfach Iago programme.

## 3. Physical Assets

If the stopping up is granted by the magistrates' court, the land will still be public highway but will no longer contain rights for motor vehicles. The maintenance and liability of the public highway however will still be for CCC to fulfil.

# CONSULTATIONS

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

Signed: D W John

Head of Environmental Infrastructure

## 1. Scrutiny Committee – N/A

## 2. Local Member(s)

Cllr. Dai Thomas – no objection

Cllr. Peter Cooper – no objection – follow up query responded to as confirmed above.

Cllr. Karen Davies – no objection

## 3. Community / Town Council

Dai Nicholas, Llandybie Community Council – no objection

## 4. Relevant Partners

CCC Area Manager – no objection

CCC Countryside Access Manager – no objection

CCC Road Safety & Traffic Management Manager – no objection

CCC Highways Services Manager – no objection

CCC Public Lighting Manager – no objection

CCC Modernisation in Transport Coordinator – no objection

## 5. Staff Side Representatives and other Organisations N/A

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

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

**THERE ARE NONE**