

Comments on document Report for Consultation 30<sup>th</sup> August 2018

The Application

**Paragraph 1.** Our property is known as Barlings Barn, not Barling's Barn

**Paragraph 8.** It is not just currently that the List of Streets for Powys does not show any highway maintainable at public expense linking with this bridleway. The List of Streets for Powys has never shown any highway maintainable at public expense linking with this bridleway. Indeed the Valuation Notes related to the 1910 Finance Act clearly show that the owners of the tracks in question were responsible for their repairs. In December 2006, Powys County Council wrote to my wife and me, claiming there had been an "error" and that our track should have been recorded in the List of Streets. Historical records and the action of the Council when adopting the track (adjacent to OS map parcels 1008, 1014, 1015, 1016, 1017, 1018, 1019) that is now U2313, show this claim to be nothing more than an attempt to justify creating a public highway where none existed.

**Paragraph 24.** There is no mention in your comments regarding points 2 and 6 in my Reasons for Application:

- a) I question whether Due Process took place as there is no evidence Parish Council discussing bridleway 6 between the years 1958 and 1970 and Mr. Owen has no recollection of any such discussion. Had this legal process taken place I believe the route would never have been designated as a bridleway.
- b) The user evidence in Point 10 of the 1960 Survey merely states "as shewn on 1932 Map" at which time such evidence as there is points to a footpath, not bridleway.

**Paragraph 26.** The reasons stated for bridleway 6 to terminate in a cul-de-sac do not pass scrutiny:

- a) There is no evidence it was ever a "place of public resort"
- b) There is no evidence of any issue with the recording of the route shown as footpath 7
- c) There is no evidence of any unrecorded highway on a different alignment, linking to the south-western end of bridleway 6
- d) It is possible that both the footpath (7) and bridleway (6) are recorded in error. This is however unlikely as they are shown on historical maps as well as maps relating to the 1932 Rights of Way Act.

**Paragraph 30.** There is no doubting the accuracy of Mr. Ashton's sketch: he is of sound mind and has known the land all his life, has lived there and farmed it. There was no need for him to draw a hand held sketch prior to 2013. There is no justification in your Report for the comment that the accuracy may have been affected by the time that has elapsed since 1960. It is a fact that the Caeagleision farmyard remained unchanged up until the point where we purchased the property in 1982 and my wife and I are both prepared to swear affidavits as to the general

accuracy of Mr. Ashton's sketch. Furthermore, I have in my possession some photographic evidence which confirms the general layout of Mr. Ashton's sketch. As they do not show much of the bridleway I have not included them in evidence but they would certainly help to verify the accuracy of Mr. Ashton's sketch. The fact there is no scale is irrelevant as it presents no difficulties whatsoever in interpretation of the alignment of bridleway 6.

**Paragraph 32.** There is no evidence whatsoever of there ever having been public rights over the access track from U2313 and I consider your suppositions to the contrary to be deliberately biased and prejudicial to my application.

**Paragraphs 39 and 40.** The reason for the worn, used route is – as previously stated – that the tenants of Caeaugleision farm at that time were working the field to and from Caeaugleision Barn; indeed the photo was clearly taken just after harvest. As you state in paragraph 41, Cwm-y-ffynnon farmyard (and farm) was significantly smaller in 1948. The field to the east of Cwm-y-ffynnon was historically known as Fridd Caeaugleision and the thin line you refer to as corresponding with the line of the bridleway is probably further evidence that it was used as a working farmer's route to either Caeaugleision or Cwm-y-ffynnon farm.

**Paragraph 42.** The 1969 photograph merely corroborates the evidence in paragraphs 39 and 40.

**Paragraph 43.** I am prepared to be mistaken but believe the alignment of the well worn route from Caeaugleision farmyard towards Cwm-y-ffynnon is in a north-easterly direction. Again, this is further proof that the route was used for farming purposes, not as a bridleway.

**Paragraphs 44 to 49.** The photographs confirm the validity of Mr. Aston's sketch and combined with the sketch show that the feasible route between the house and the barn could not have taken the route shown on the Definitive Map.

**Paragraph 55.** There is no doubting the physical location of Caeaugleision.

**Paragraph 63.** I have been informed by my neighbours that Caeaugleision was one of the last farms in the area to use horses for their farming work. This is supported by Mr. Ashton's sketch. The lean-to on the edge of the cottage was known as the Wanws (wain-house) when we purchased the property and we still use that name for one of our self-catering units, built on the footprint. The stable shown on the sketch still existed when we moved here and I have photographic evidence of this.

**Paragraph 115.** My understanding is that the tenants of Cwm-y-ffynnon and Caeaugleision were offered the opportunity to buy from the Wynnstay Estate a little later than you are suggesting, probably the late 1970s early 1980s.

**Paragraph 125.** This seems to indicate that the application route was used by the farm tenants in pursuit of their livelihood.

**Paragraph 145.** I would take issue with the statement that the Parish Council regarded the path as linking with an unclassified route. The survey card was the work of one man (deceased) and I have found no evidence that due process was carried out and the survey discussed in any way by the Council, as was the legal requirement.

**Paragraph 153.** The fact that the alignment of the path goes over a wall and through the corner of a stone barn that had been there for over a century suggest to me more than “poor drawing”. As stated previously, the route actually went to the north of Caeaugleision and the farmyard Barn and then back on itself south through a gate into a farmyard. This is also how I recall the layout in 1982 on purchase. The reason for this route was that it was used in connection with farm work, not as a bridlepath.

**Paragraph 156.** I refer to the comments I have made regarding Paragraph 153.

**Paragraph 160.** The extension of the line to Caeaugleision does indeed appear to be an error. From conversations with my neighbours over the years, it is my understanding that the relevant County authority made a conscious decision not to extend adoption of public highway beyond the junction of the tracks to Caeaugleision and Cwm-y-fynnon. Apparently Mr. Aston’s grandfather asked the Council if they would tarmac the road up to Cwm-y-fynnon at the time they improved the rest of U2313 but they declined to take responsibility. When I moved to Caeaugleision in 1982 I contacted the Council Highways department by phone and enquired as to the status of the track leading to my home. The response I got was that they did not want to know about it and had no interest in maintaining it. This should have been recorded as a Council record of my enquiry.

**Paragraph 171.** This seems to confirm the points I have made in my comments regarding Paragraph 160.

**Paragraphs 176 to 179.** These seem to confirm the existence of the footpath which has not been contested by me. The mention of a lack of stile and the request for Mr. Owen to do something about this, suggest to me the existence at some prior point of a footpath to be far more likely, rather than your conclusion that the route had “fallen out of use by equestrians”. I have yet to see or hear any evidence that it was ever used by equestrians other than those working for the farm. Reading these paragraphs has reminded me of something I had forgotten.....When we moved here in 1982, there was a stile on the route of the bridleway, between the north east boundary of the field sold to us and the field approaching Cwm-y-fynnon. This was removed by my neighbours in January 1984. I recall this as the removal occurred just before we opened for business on 29 January 1984 and presumably my neighbours were concerned about our visitors straying onto their land.

**Paragraphs 186 to 189.** The layout of the land at the time of purchase and Mr. Ashton’s sketch both showed a track going to the north of Caeaugleision, abutting the forest land (now in our ownership). I am not aware of the status of this track but have heard from locals that it led to

the now defunct Esgair Gelynen. What is however clear is this track had no relevance to  
bridleway 6.

**Paragraph 202.** I believe sufficient evidence has been provided that both Caeauglesion and  
Cwm-y-ffynnon farms used horses in connection with their farming activity.

**Paragraph 220.** I would suggest that the Landowner evidence indicates horses were used on  
the application route for farming purposes “at the very most” not as you surmise “at the very  
least”.

**Paragraph 226.** I would ask the question, once again, why the Surveyors notes were not  
discussed or at least minuted at any meeting of the Parish Council as I believe should have been  
the case, if due process was observed. One possible explanation of this, with regard to  
bridleway 6 is that the [REDACTED] family suffered a tragedy around the time of the  
Definitive Map process; sadly [REDACTED] I would  
imagine that this was of far greater import than consideration of an alleged bridleway that was  
never used.

#### **Summary of Draft Report for Consultation**

I fully accept that the burden of proof for downgrading of the bridleway lies with the applicant  
and believe the solid evidence of myself and witnesses satisfies that burden.

I believe that the Council has researched all available evidence very thoroughly but – in my  
opinion – all the evidence they put forward as to the actual status of bridleway 6 (as opposed to  
the legal status), is full of supposition and “might have been” which is not backed up with hard  
fact.