CYNGOR SIR *POWYS* COUNTY COUNCIL

PLANNING, TAXI LICENSING AND RIGHTS OF WAY COMMITTEE
8 April 2021

REPORT BY: **HEAD OF HIGHWAYS, TRANSPORT AND RECYCLING**

SUBJECT: **Town and Country Planning Act 1990, section 257 Public path Order proposal**

REPORT FOR: **DECISION**

Proposal to stop up part of public footpath B59 on land to the rear of Ysgol Gymraeg y Trallwng (former Ysgol Maesydre Site), Howell Road, Welshpool (Community of Welshpool.)

Background:
This report is being presented to the committee in accordance with the Council's constitution as the proposal affects Council land. The need for an extinguishment of footpath B59 has arisen because the development subject of planning permission 20/1251/FUL would lie on the line of part of the footpath.

The planning permission, which was approved during the meeting of the PTLRoW committee held on 3rd December 2020, is for the refurbishment of the existing school building, demolition of existing outbuildings and associated structures and construction of a new school extension in order to provide 150 place Welsh Medium School with associated MUGA, playing field, landscaping, car park and infrastructure works at Ysgol Gymraeg y Trallwng (former Ysgol Maesydre Site) Howell Road Welshpool Powys SY21 7SU. The applicant's plans, as submitted during the planning permission process showing the development are at appendix A and B. The proposed length of the footpath to be stopped up is illustrated on the plan at appendix C.

The applicant for the proposed stopping up of part of the footpath is Powys County Council Schools Service.

Current Definitive route:
Footpath B59 commences at a junction with Severn Road and continues along Howell Road to pass the current school entrance to the east at OS Grid Reference SJ 2275,0708 (point A as shown on the plan at Appendix C.) It follows a generally southerly direction along an existing track for approximately 50 metres and enters a field enclosure through a gateway to get to OS Grid Reference SJ 2274,0703 (point B.) The path turns to follow a generally south easterly direction across a natural surface alongside a mature hedgerow. The path meets the A483 Trunk Road at OS Grid Reference SJ 2280,0696 (point C) at the existing field boundary which comprises a concrete

post and wire fence. The total length between points A and C is approximately 154 metres; the width is undefined in the statement.

Proposal:
The proposal seeks to stop up the length of public footpath No. B59 between OS Grid Reference SJ 2275,0708 (point A) and OS Grid Reference SJ 2280, 0696 (point C) as shown on the Proposal Plan found at appendix C, with the remaining route of the path unaffected. The total length to be stopped up is approximately 154 metres; the width is undefined in the statement.

Consultation:
Asbri Planning Ltd on behalf of the applicant carried out pre-Order consultation, in December 2020, and consultees were given 28 days to respond. Responses to the proposals have been received from:

- PCC Planning Services who acknowledged receipt of the proposal but provided no further comment.
- North & Mid Wales Trunk Road Agency, who support the proposal.
- Ramblers Association, who have no objection.
- Clwyd-Powys Archaeological Trust, CADW, Cadent National Grid, Severn Trent, Hafren Dyfrdwy and Manweb, none of whom objected to the proposals.
- A representative of the British Horse Society made no objection but did query the extent of the security and site fencing on the route. This was addressed by Asbri Planning.

In addition, the minutes of Welshpool Town Council Planning Committee held on 27th January in which the Local Member (Cllr P Pritchard) is listed as an attendee, stated their support of the proposal.

Options:
This application has been made under section 257 of the Town and Country Planning Act 1990. The legal criteria for the making of a Stopping Up Order under this legislation is that it is necessary to do so, in order to enable development to be carried out in accordance with planning permission that has been granted. In making the Order, the Council must also have regard to the need for an alternative footpath to be provided.

Prior to seeking the formal stopping up of the section of footpath B59, alternative options were considered by the applicant. One option which was explored in detail was to divert the footpath around the perimeter of the school site to meet the A483 Trunk Road at the south eastern corner of the existing field boundary. Beyond the boundary is an embankment leading on to the carriageway where the road speed is 60mph, with no pedestrian footway, crossing or lighting in the vicinity. The construction of the Welshpool Bypass (A483) twenty-seven years ago resulted in footpath B59 being legally severed, with no access to the footpath on the eastern side of the A483. This diversion proposal would not resolve the problem. In addition, the proposed development includes the extension of the school boundary to the south. The incorporation of any right of way through or along the perimeter of the site

would result in additional measures being needed to ensure safeguarding for young pupils. Other options to divert the path over adjoining land were explored, but these were not feasible due to the need to gain consent from third party landowners.

Planning permission 20/1251/FUL has been granted for the school development that will lie on the line of footpath B59. As such, and as the development is not 'substantially complete', it is considered that the legal criteria for the making of a Stopping Up Order are met.

If a Stopping Up Order is made, opposed and submitted to the Planning Inspectorate, the Inspector could consider wider issues, including the disadvantage or loss to members of the public, in deciding whether the Order should be confirmed or not. However, they will not re-open the matter of the planning merits of the development itself.

The Committee could:

1. Decide not to make a Stopping Up Order in respect of this application; in that event, the applicant would not be able to implement the development subject of the planning permission that has been granted, as to do so would obstruct the line of footpath B59.

2. Approve the making of a Stopping Up Order. Given that there are no outstanding objections, there is a low risk that the Order may then be formally opposed.

If a Stopping Up Order is made and opposed, it could be formally abandoned. Alternatively, the Order could be submitted to the Planning Inspectorate for determination.

As the proposal meets the legal criteria for the making of a Stopping Up Order, it is proposed that the Stopping Up Order be made. If it is opposed, then unless significant new information comes to light, it is proposed that the Order should be submitted to the Planning Inspectorate for determination. It would then be for the Schools Service to make any representations in support of the confirmation of the Order.

RECOMMENDATION:

1. That an Order be made to stop up part of public footpath B59, on the land to the rear of Ysgol Gymraeg y Trallwng (former Maesydre Site), Howell Road, Welshpool as shown on the plan at appendix C.

Appendices:

Appendix A	20/1251/FUL Applicant's Site Plan Sheet 1 showing location of the school development.
Appendix B	Applicant's Site Plan Sheet 2.
Appendix C	Plan of the proposed stopping up of footpath B59.