

CYNGOR SIR POWYS COUNTY COUNCIL

PLANNING, TAXI LICENSING AND RIGHTS OF WAY COMMITTEE

1 July 2021

REPORT BY: HEAD OF HIGHWAYS, TRANSPORT AND RECYCLING

SUBJECT: Opposed Stopping Up Order 2021: Abandonment and making of a diversion Order under Town and Country Planning Act 1990, section 257

REPORT FOR: DECISION

Public footpath B59, land at Ysgol Gymraeg y Trallwng (Howell Road, Welshpool SY21 7SU (Community of Welshpool.) Proposed abandonment of Stopping Up Order 2021 and making of a new Diversion Order.

Background:

The need for a public path Order for footpath B59 has arisen because the development for the Welsh Medium Primary School, subject of planning permission 20/1251/FUL would lie on the line of part of the footpath. The line of footpath B59 (outlined in purple) in relation to the proposed development is shown on the plan found at appendix A.

The applicant for the proposed public path Order for footpath B59 is Powys County Council Schools Service.

Pre-order consultation for an extinguishment of part of B59 was carried out in December 2020. The Planning, Taxi Licensing and Rights of Way Committee approved the making of Stopping Up Order at its meeting held on 8th April 2021. The Stopping Up Order was made in April 2021. A copy of the Order and Order plan can be found at appendix B.

Objection:

One objection to the Order was received from Mr Peter Newman of the Open Spaces Society. His email can be found at appendix C. Mr Newman felt that there was no need to close part of the footpath in order for the development to take place and that a possible diversion could be offered. He also stated that the section to be closed is the central section of the path which would leave a cul-de-sac at point A and beyond point C. In addition, it is noted that Mr Newman had indicated he would object to the Order at the time of pre-consultation in December. Unfortunately, his email was overlooked by the agents acting on behalf of the Schools Service.

As an objection has been received and not been withdrawn, the Stopping Up Order cannot be confirmed by the Council. Given that, one option available is to submit the order for determination by the Planning Inspectorate Wales; but there is a risk that the Order may not be confirmed, and the timescales involved would cause a significant delay to the development.

The Council's Schools Service corresponded with Mr Newman to try to find a way forward. After some discussion, a solution was found that involves diverting the path to circumnavigate the southern boundary of the site. The correspondence between the Schools Service and Mr Newman is shown at appendix D and a plan of the proposed diversion is found at appendix E.

Works required:

The works to make the new route ready for use will be undertaken by the applicant. The footpath between points A-C-D-B to comprise two metres width constructed in self binding gravel and bounded on the school side by a 2.2m high safeguarding fence.

Consultation:

The Schools Service carried out a pre-Order consultation on the diversion proposal in May 2021, Responses have been received from:

- Local Member (Cllr P Pritchard) who supports the proposal.
- Ramblers Association, who have no objection but requested an explanation as to why it would be necessary to divert the footpath in order to enable development to be carried out. A response was provided by the Schools Service.
- PCC Planning Services, PCC Highways Operations, Clwyd-Powys Archaeological Trust, CADW, NRW, Wales & West Utilities, SP Energy Networks and National Grid-Cadent Gas, none of whom objected to the proposals.

Welshpool Town Council were also consulted, and no objections were received.

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 diversion 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.

Planning permission 20/1251/FUL has been granted for the refurbishment of the existing school building, extension and associated landscaping 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 diversion Order are met.

If a diversion Order is made, opposed and submitted to the Planning Inspectorate, the Inspector could consider wider issues, including the suitability of the proposed new route, 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 diversion 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 diversion Order. Given that there are no outstanding objections, there is a low risk that the Order may then be formally opposed.

If a diversion 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 diversion Order, it is proposed that a diversion 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.

RECOMMENDATIONS:

1. That the Stopping Up Order made in April 2021 for part of footpath B59 under section 257 of the Town and Country Planning Act 1990, as at appendix B, be formally abandoned; and
2. That a diversion Order be made under section 257 of the Town and Country Planning Act 1990 in replacement to divert part of footpath B59 in the community of Welshpool as shown on the plan at appendix E.

Appendices:

Appendix:	Description:
A	Development plan identifying existing route of footpath B59
B	Stopping Up Order 2021, footpath B59 Welshpool
C	Objection email from Mr Newman, Open Space Society 16 th April 2021
D	Emails from PCC Schools Service to Mr Newman, May 2021
E	Plan of diversion route for proposed new Order