

CYNGOR SIR POWYS COUNTY COUNCIL

PLANNING, TAXI LICENSING AND RIGHTS OF WAY COMMITTEE

3 February 2022

**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 divert part of public footpath N1 on land at Ysgol Cedewain, Plantation Lane, Newtown SY16 1LH (Community of Newtown & Llanllwchaiarn.)

Background:

This report is being presented to the committee in accordance with the Council's constitution as the diversion proposal affects Council land. The need for a diversion of footpath N1 has arisen because the development subject of planning application 21/1660/FUL would lie on the line of part of the footpath.

To expedite matters, this report is being presented at the same committee meeting as the report to determine planning permission. If planning permission is not granted, then this report will be withdrawn.

The planning permission sought, is for the demolition of all buildings currently associated with the existing Ysgol Cedewain School site, the erection of a new 2 Storey Additional Learning Need School, formation of a Multi-Use Games Area, external services yard compound, sports pitch, new 45 space car parking area including 4 electric charging bays, new vehicular access off Plantation Lane, landscaping works and all associated works. The applicant's plans, as submitted during the planning permission process showing the footpath diversion and the development are at Appendix A and B. The proposed line of the footpath diversion is illustrated on the plan at Appendix C.

The applicant for the proposed diversion of the footpath is Powys County Council Schools Service.

Current Definitive route:

From a point on the access road to Ysgol Cedewain at OS Grid Reference SO 1006, 9045 (being point A shown on the plan at Appendix C), leading in a generally south-westerly direction through the grounds of Maesyrrhandir County Primary School to connect with Footpaths N2A and N3A on the south side of Ysgol Cedewain at OSGR SO 0998,9031 (point B). The total length to

be diverted is approximately 172 metres. The width is undefined in the definitive statement.

Proposed alternative route:

The proposed diversion route of footpath N1 commences at a point on the school car park access road off Plantation Lane at OSGR SO 1006, 9045 (being point A shown on the plan at Appendix C). It then follows in a generally south-south-easterly direction for approximately 50 metres alongside the access road to OSGR SO 1007, 9040 (point C). It continues in a generally south-south easterly direction for approximately 28 metres to OSGR SO 1009,9038 (point D). It then turns to follow a path adjacent to the site boundary for approximately 123 metres to end at a junction with footpath N3 (A) at OSGR SO 1002, 9029 (point F)

The total length of the proposed new path is approximately 201 metres; the width is 2 metres.

Works required:

The works to make the new route ready for use will be undertaken by the applicant. The footpath between points C-E-F to comprise two metres width with an asphalt finish and bounded on the school side by a 2.1m high safeguarding fence.

Consultation:

The Schools Service carried out pre-Order consultation, in October 2020, and consultees were given 28 days to respond. Responses to the proposals have been received from:

- Newtown & Llanllwchaiarn Town Council, who support the proposal;
- Ramblers Association, who have no objection to the proposal and felt that it will result in an improvement of the rights of way;
- Open Spaces Society who requested a paper copy of the definitive map and statement but provided no further comment;
- SP Energy, BT Openreach, Severn Trent, Wales & West Utilities, Powys Archaeological Trust, Planning Services and Local Member (Cllr Les Skilton), none of whom objected to the proposals.

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.

On the proviso that planning permission 21/1660/FUL has been approved for the new school that will lie on the line of footpath N1, and 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 Welsh Government, 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 N1.
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 and Environment Decisions Wales division in the Welsh Government for determination.

Provided that planning permission is granted, the proposal meets the legal criteria for the making of a diversion Order, and it is proposed that a diversion Order be made. If it is opposed, then unless significant new information comes to light, it is suggested that the Order should be submitted to the Welsh Government 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 an Order be made to divert part of footpath N1, on the land at Ysgol Cedewain, Plantation Lane, Newtown as shown on the plan at appendix C;

Appendices:

- Appendix A 21/1660/FUL Applicant's PROW Diversion Plan
- Appendix B Applicant's Development Site Plan
- Appendix C Plan of proposed diversion