

**CYNGOR SIR POWYS COUNTY COUNCIL**

**PLANNING, TAXI LICENSING AND RIGHTS OF WAY COMMITTEE**  
**12 January 2022**

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

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

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**REPORT FOR: DECISION**

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**Proposal to divert public footpaths RB1387 (part), RB1391 & RB1392 (part), land at Gore Quarry, Walton, Presteigne, LD8 2PL (Community of Old Radnor)**

**Background:**

The need for a diversion of footpaths RB1387, RB1391 & RB1392 has arisen partly because of the future operational area of Gore Quarry, and partly to regularise a currently truncated length of footpath. The Gore Quarry development scheme was permitted in 1993 and was subject of review of planning conditions under planning application number P/2008/1383. An updated schedule of planning conditions was issued in March 2009. The plan found at appendix A shows the red boundary line of Gore Quarry and footpaths RB1391 and RB1392 crossing the southern area of the defined site; and the plan found at appendix B, shows the final quarry layout, and which confirms the necessity to divert RB1391 and RB1392 from their current alignment in order to allow the approved development to be implemented. A plan of the proposed rights of way diversion (version 6) can be found at appendix C.

The applicant for the proposed diversion of the footpaths is Tarmac Trading Ltd. The diversion proposal affects land owned by Tarmac Trading Ltd and a private landowner who has consented to the proposal.

**Current Definitive Line:**

The footpaths to be extinguished are described below:

RB 1387 Part of the footpath commencing from Ordnance Survey grid reference SO 2577, 5943 (Letter point A as shown on the diversion plan at appendix C) at Gore Farm to SO 2549, 5947 (point B) on the Old Radnor/Walton Road. A total distance of 299 metres in length. The width is undefined in the statement.

RB 1391 Footpath commencing from RB 1392, at SO 2544, 5876 (point H) near Lower Sunnybank, to the road near Yatt Farm and RB1392 at SO 2493,5872

(point I). A total distance of 531 metres in length. The width is undefined in the statement.

RB 1392 Part of the footpath commencing from SO 2493, 5872 (point I) near Yatt Farm and junction with RB 1391 to SO 2512,5856 (point L) near Green Lane Cottages. A total distance of approximately 299 metres in length. The width is undefined in the statement.

### **Proposed Line:**

The proposed alternative route would provide a circular route around the quarry perimeter with the benefit of additional links to the public highway C1335 at Old Radnor via points G & K.

Footpath C-D-E-F-G commencing at OS grid reference SO 2581,5935 near Lower Gore (point C) and ending on the Walton to Old Radnor public highway C1335 at SO 2541,5945 (point G). A total distance of 521 metres in length, 2metres width.

Footpath F-J-I-K commencing at OS grid reference SO 2544, 5940 (point F) and ending on the public highway C1335 near Yatt Farm at SO 2488, 5873 (point K). A total distance of 920 metres in length, 2 metres width.

Footpath I-M-L commencing at OS grid reference SO 2493, 5872 (point I) and ending at SO 2515, 5856 (point L). A total distance of 356 metres in length, 2 metres width.

### **Works required:**

The works to make the new routes ready for use have been undertaken by the applicant.

### **Consultation:**

SLR Consulting Limited carried out a pre-Order consultation on behalf of the applicant in December 2019, responses have been received from:

- Open Spaces Society who requested that all public rights of way under the control of the quarry at this site were clear and walkable before responding to the consultation.
- PCC Planning Services, Ramblers Association, Clwyd-Powys Archaeological Trust, Dwr Cymru, none of whom objected to the proposals.
- Old Radnor Community Council who responded by reference to version 3 of the proposal plan that had been provided as part of an earlier informal consultation. Version 3 of the plan can be found at appendix E. The community Council considered the length B-G to be difficult to walk in winter and advised that this length be stoned and for the whole route to be carefully considered and an appropriate surface provided. Members also suggested that regular maintenance should be carried out and reviewed to ensure it is

adequate. It was also highlighted that some people are not in favour of the length F-E being removed and the area H-D was very steep. It should be noted that the route H-D has been revised on plan V6 to G-F which more closely follows an existing boundary, as suggested by the Community Council.

The Local Member at the time – Cllr M Jones did not make comment due to a declared interest.

### **Objection:**

Mr Peter Newman of the Open Spaces Society was contacted for further comment in October 2021. His letter and subsequent emails can be found at appendix D. In his response Mr Newman stated that he was unable to accept the Extinguishment of RB1387 E-F-H as the alternative proposed path H-D-E and onto the A44 involves a steep climb at both ends of the route and walking back on oneself at the eastern end. (Please note that this route is referred to as E-F-H on proposal plan v.3 but is shown as **A-B-G** on v.6 and H-D-E is shown as **C-D-E-F-G** but with a slight amendment on v.6 of the plan.)

Mr Newman requested the retention of the length RB1387 E-F-H (now labelled A-B-G on v6) which essentially requires a new link from point B to connect to G on the public highway at Old Radnor. An additional link X-Y between the two strands of RB1387 was also suggested. His plan showing the link X-Y is included in the documents found at Appendix D.

The applicant has formally written to the adjacent landowner to establish whether the provision of a new link between points B-G is possible, but this has not been granted as the landowner feels the current proposal put forward is an improvement to the footpath network.

### **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.

The periodic review of Mineral Planning Consent R4561A has been granted under planning reference P/2008/1383 that will lie on the line of footpaths RB1391 and RB1392. As such, and as the quarry 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 PEDW (Planning and Environment Decisions Wales previously known as Planning Inspectorate Wales), 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 footpaths RB1391 and RB1392.
2. Approve the making of a diversion Order. Given the outstanding objection, there is a significant 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 PEDW for determination.

If a diversion Order is made, opposed, and submitted to PEDW, the Council can decide to support, remain neutral with respect to, or oppose the confirmation of the Order.

If the Council decides to support the Order, then it must make a case as to why the Order should be confirmed. If the Council chooses to remain neutral or oppose the confirmation of the Order, that responsibility lies with the applicant.

This diversion is considered to be primarily in the interest of the applicant, as the diversion is needed to allow them to implement the planning permission that has been granted.

Given that and 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 PEDW for determination, but that the Council should remain neutral with respect to its confirmation.

#### **RECOMMENDATIONS:**

1. That an Order be made to divert part of public footpaths RB1387, RB1391 & RB1392 on land at Gore Quarry, Walton, Presteigne, as shown on the plan at appendix C.
2. That if the Order is made and opposed, unless significant new information comes to light, it is submitted to PEDW for determination.
3. That the Council takes a neutral stance with respect to confirmation of the Order, if it is submitted to PEDW for determination.

#### **Appendices:**

Appendix:	Description:
A	Existing Gore Quarry Site
B	Final Quarry Excavation
C	Plan of proposed rights of way diversion v.6
D	Correspondence from Mr P Newman, Open Spaces Society
E	Rights of way diversion proposal v.3 (now superseded)