

PROPOSED PUBLIC PATH ORDER AT FOOTPATHS 3 AND 51 AT BRYNYGROES FARM, YSTRADGYNLAIS, POWYS

Consultee	Support?	Comments
Cadent Gas	No objection	Thank you for your enquiry which was received on 20.10.2022 Based on the information you provided, we have carried out an investigation and identified that there is no record of gas apparatus in the immediate vicinity of your enquiry. Therefore, we have no objection to the proposed application.
Cllr Huw Williams	No objection	Thank you for the notification. There are individual voices who have expressed concern but generally I believe this to be a reasonable proposal. However, my worry is the timescale for the re-opening of the footpath network.
Powys Planning	No objection	The Local Planning Authority has no comments to make.
Wales and West Utilities	No objection	Please find enclosed a letter relating to your request. Based on the information given and the address provided, Wales & West Utilities have no apparatus in the area of your enquiry. Our records show those pipes owned by Wales & West Utilities (WWU) in its role as a Licensed Gas Transporter (GT). Service pipes, valves, syphons, stub connections, etc. may not be shown but their presence should be anticipated. No warranties are therefore given in respect of it. They also provide indications of gas pipes owned by other GTs, or otherwise privately owned, which may be present in this area. This information is not information of WWU and WWU is unable to verify this information or to confirm whether it is accurate or complete. Please let me know if you require any further assistance.
Clwyd Powys Archaeological Trust	No objection	I have checked the Historic Environment Record and other available resources, and can confirm that we have no concerns about this application.
Cadw	No objection	Thank you for your consultation. Having considered the information provided, our records show there are no scheduled monuments or registered parks and gardens that would be affected by the proposal. We therefore have no comments to make.
Active Travel David Allday	No objection	We (active travel dept) have no comments or objections to make on this proposed Public Path Order.

Cllr Sarah Williams	No objection	I have no comments to add to the path changes.
Ystradgynlais Town Council	Initial Concerns	We do not feel that the proposed route would be wheelchair or pushchair friendly. Whilst we appreciate the offer of the developer to put the path in, we strongly feel that the path should follow the existing well used, flat and level route from the gate on the Haul Road.
	No objection	<p>The new path proposals were considered by the Town Council last night and it was resolved to submit no objection and note the proposals. The Council was pleased with the outcome of the site meeting that took place a short time ago in that location.</p> <p>Thank you for your patience in waiting for this response following last night's meeting.</p>
Ramblers Association Graham Taylor	Objection	<p>Further to the email string below here are the comments of Powys Ramblers which is based on the knowledge of two of our Members who know the area well:</p> <p>As it stands the Powys Ramblers would object to the proposal.</p> <p>1) The proposed route from B to A on your supplied map climbs a very steep bank which passes through dense vegetation on the tree covered slope. Whilst it could be graded and have steps installed it seems to introduce an unnecessary obstacle when there are better routes available.</p> <p>2) The proposed route crosses the entrance road to the new estate just south of point B very near to where it joins the A4067. This is likely to be quite a busy junction when all phases of the development are complete. We believe that a marked out crossing is needed.</p> <p>3) It would appear that it is the intention for the B to A footpath to actually be installed further to the south-east than is shown on the supplied map. Whilst this is not as steep it crosses a transverse slope immediately above the substantial water course where it exits from the large culvert. We consider this to be potentially dangerous, where a slip could be fatal.</p> <p>4) We are happy for the route F-E-D-C-B to be routed alongside the new estate road on a pavement.</p>

	<p>5) We believe that people living on the new estate will want an easy and safe route through to Coronation Park that can be undertaken with children and possibly push chairs and mobility scooters for the disabled. The most obvious solution is to use the route already in use. From point B this route would cross the road then head for a short distance west up the haul road to locked gates at approximate grid reference SN 7865 1060 where it passes through a usable gate onto a pleasant path to the park.</p> <p>As previously indicated we would be happy to meet you on site to discuss our concerns.</p>
<p><u>Asbri Response</u> <u>[Following a site meeting with two members of the Ramblers association]</u></p>	<p><i>With regards to the proposed public path order at footpaths 3 and 51 at Brynygroes Farm, Ystradgynlais, Powys we have met with the Town Council and Martin Davies from Powys County Council to discuss the diversion route and we have agreed an alignment for footpath 51, that follows – as close as is practicable – the original defined route. Please see attached the updated proposal ref no: 090-3&51 Rev A.</i></p> <p><i>In addition to this, the applicant has confirmed that to provide a community benefit to the existing area and new development, they would re-introduce a stoned footpath from the Brynygroes site entrance to Coronation Park as close as practical to the previous defined route. The applicant will improve the footpath (drainage where required and new sub-base) to the entrance gate at Coronation Park and will work with their supply chain to provide 3-4 Picnic Benches (similar scale to existing) to create a picnic area within Coronation Park. This will enhance the public right of way provision in Ystradgynlais, provide a more sustainable route, in accordance with Government guidance, and will enable a more user-friendly route to the wider network of footpaths.</i></p> <p><i>The link up the haul road as far as Common Land will remain so anybody could still go that way, but the official Footpath 51 will follow the path we will construct, close to the line of the defined route. On this basis, the Town Council are happy and have declared they will review and will remove their objection.</i></p> <p><i>You mention in your email below it is rare for the Ramblers to object to diversions and this is done when it is clear to those with local knowledge that there is a better way of doing it. On the basis that the Town Council have agreed a way forwards and they are happy that the alternative route we discussed out on-site could still be used, if needed, could you please confirm that you are happy with the public path order and the route shown in the attached plan (as agreed with Ystradgynlais Town Council and PCC Public Rights of Way Officer)? Thanks.</i></p>

Follow-up response	<p>If there are any further discussions or site meetings needed, X and X would be happy to get involved. Powys Ramblers' formal position is that we will object to the proposal which was the subject of consultation as we are firmly of the belief that the revised diversion discussed at the site meeting in November is a much better option. We are conscious that the Council hold a different view.</p> <p>It is rare for us to object to diversions; we only do so when it is clear to those with local knowledge that there is a better way of doing it.</p>
<u>Asbri response</u>	<p><i>Thank you for your response. Your initial response advised it is rare for the Ramblers to object to diversions and this is done when it is clear to those with local knowledge that there is a better way of doing it. On the basis that the Town Council have confirmed they have no objection and they are happy that the alternative route up the haul road could still be used, if needed, could you please advise why you are maintaining your objection?</i></p> <p><i>We have also received no objection from councillors so locally, there is an agreement that the diversion will be acceptable and a positive asset.</i></p>
Objection maintained	<p>Thanks for the update.</p> <p>Our position remains the same. Powys Ramblers will object to the proposal which was the subject of consultation as we are firmly of the belief that the revised diversion discussed at the site meeting in November is a much better option and would provide a long-term solution not liable to change following any new ownership. This is based on local knowledge, and we recognise that the Town Council has a different view. That does not mean we have to pull back on our view which needs to be considered during the formal consultation on the application.</p>
Open Spaces Society Mr Peter Newman	<p>Objection</p> <p>Your Application under Section 257 of the TCPA 1990 can only be made if it is necessary to divert these paths in order to enable development to be carried out in accordance with planning permission. [see Calder v Sec of State for Environment 1995].</p> <p>From the plans you have provided it seems the paths do not cross the site to be developed, so cannot be the subject of an application to Divert.</p> <p>We would also point out the government advice states that paths should not be diverted so as to follow estate roads or footways.</p>

	<p>In this case I assume that this new road and footway will be adopted by the Highway Authority so will become publicly maintainable.</p> <p>It is not possible to divert one public highway to run along another public highway.</p> <p>Should the Order be made as proposed the Society will officially object</p>
<p><u>Asbri response</u></p>	<p><i>Hope all's well. Thanks for your comments to the proposed public path order at footpaths 3 and 51 at Brynygroes farm, Ystradgynlais, Powys. Please see below a response in red to the comments made:</i></p> <ol style="list-style-type: none"> <i>1. Your Application under Section 257 of the TCPA 1990 can only be made if it is necessary to divert these paths in order to enable development to be carried out in accordance with planning permission. [see Calder v Sec of State for Environment 1995]. The new, diverted route was approved at the time that planning permission 20/1314/FUL was granted. Please see attached the Public Right of Way Diversion Plan (Ref: R491-P-29E) that accompanied the planning application.</i> <p><i>Planning Permission 20/1314/FUL has accounted for the diversion of the existing public rights of way to allow walkers to walk along the new estate road. The proposed route will be a betterment in that it will be finished in tarmacadam and will be designed to a suitable gradient. It will also be safer than the current route as walkers will be separated from vehicles (as walkers currently walk up the road which is used by lorries). This diversion application is therefore submitted to ensure the construction of planning permission 20/1314/FUL can proceed, in line with the approved plans and to provide a safer route for walkers.</i></p> <p><i>It is necessary to divert the current route as the surface water drainage infrastructure for the proposed residential development is designed on the alignment of the path, therefore, it is incompatible with the route of the current footpath(s).</i></p> <p><i>In light of the above, this application meets the legislative tests under s257 of the Town and Country Planning Act 1990 as it will enable development to be carried out in accordance with the planning permission, as granted.</i></p> <ol style="list-style-type: none"> <i>2. From the plans you have provided it seems the paths do not cross the site to be developed, so cannot be the subject of an application to Divert. Both public rights of way 3 and 51 crosses the application</i>

boundary. Please see attached the Site Location Plan (Ref: R491 S-01E) which accompanied the planning application. The alignment of the current public rights of way need to be diverted to allow 20/1314/FUL to proceed, in accordance with the approved plans.

- 3. We would also point out the government advice states that paths should not be diverted so as to follow estate roads or footways. Government advice states that when an existing right of way needs to be revised to accommodate the planned development, any alternative alignment should avoid the use of estate roads, drives, gardens or other private areas **wherever possible** and **preference should be given** to the use of made-up estate paths through landscaped or open space areas away from vehicular traffic. The potential of alternative routes to encourage sustainable transport and active travel should also be considered. In this case, it is not possible to provide made-up estate paths as the surface water drainage infrastructure has been designed to the west of the estate road, as such, it is necessary to re-align the path to the eastern side of the estate road along the footpath.*

Furthermore, the applicant has confirmed that to provide a community benefit to the existing area and to encourage sustainable travel, they would re-introduce a stoned footpath from the Brynygroes site entrance to Coronation Park as close as practical to the previous defined route. The applicant will improve the footpath (drainage where required and new sub-base) to the entrance gate at Coronation Park and will work with their supply chain to provide 3-4 Picnic Benches (similar scale to existing) to create a picnic area within Coronation Park. This will enhance the public right of way provision in Ystradgynlais, provide a more sustainable route, in accordance with Government guidance, and will enable a more user-friendly route to the wider network of footpaths.

- 4. In this case I assume that this new road and footway will be adopted by the Highway Authority so will become publicly maintainable. It is the intention that the roads will eventually be adopted, however adoption is not guaranteed and may take some years to happen, hence it is important that there is no break in public access.*
- 5. It is not possible to divert one public highway to run along another public highway. Planning Permission 20/1314/FUL has accounted for the diversion of the existing public rights of way to allow walkers to walk along the new access road. This application meets the legislative tests under s257 of the Town and Country Planning Act 1990 as it will enable development to be carried out in accordance with the planning permission, as granted.*

6. *Should the Order be made as proposed the Society will officially object. We would welcome your further comments before objecting and would like to make you aware of some recent developments following a site meeting between the applicant, Morgan Construction Wales, Mark Evans (landowner) Martin Davies (Powys County Council Rights of Way Officer) and Ystradgynlais Town Council. Following constructive discussions on-site, the applicant has agreed an alignment for footpath 51, that follows – as close as is practicable – the original defined route. Please see attached plan ref **090-3&51 Rev A**. You'll note from the above the applicant has agreed to carry out additional works to upgrade this facility all the way through to Coronation Park, therefore, this represents a better route than was initially proposed and is now shown under A-D. The Diversion order will, therefore, be made on the basis of this new route, as shown in plan ref: **090-3&51 Rev A**.*

With regards to the location between Points D-H, I would reiterate the route used by walkers is currently an agricultural track serving Brynygroes Farm and is not safe given the road is used frequently by lorries associated with the haulage business operating from Brynygroes Farm. The proposed route will be a betterment in that it will be finished in tarmacadam as part of the construction of the residential development and it will clearly separate walkers from vehicles with safe areas to cross. On this basis, we are of the view that the proposed diversion (A-H) will offer a much better route and will allow the development of much needed houses to be built on a site that has been allocated within the UDP and the LDP without compromising on the availability for walkers to connect to the network of footpaths in the area.

It would be appreciated if you could please review the position and confirm that you are happy for the order to be made. If you could please provide a response within 14 days of this email that would be appreciated. Thanks in advance.

Follow-up Response

Thank you for your emails.

1. You refer to surface water drainage infrastructure which would follow the current line of FP 51 - is this an open ditch or a covered pipe?

2. You advise that a stoned path will be provided from the Brynygroes site entrance to Coronation Park. Could you kindly send a plan showing its exact line.

Asbri response:

In response to the below queries, the drainage infrastructure which follows the current alignment will be a detention basin providing attenuation and roadside conveyance channel/open ditch to collect highway run-off. Please see below a screenshot of the Drainage Plan that has been approved (the areas in green are on the alignment of the current route):



With regards to the path over the common, the attached plan shows the proposed route from the Brynygroes entrance to Coronation Park and the below images shows the current status of this area:



I've copied Matthew Morgan, the applicant into this email should he wish to provide any further information on this. We want to work with all parties on this application in order to ensure all matters have been resolved constructively.

<p>Follow-up response</p>	<p>Is there any reason why footpath 3/51 could not be realigned adjacent to the new water course?</p> <p>This would maintain the present countryside aspect</p>
<p><u>Asbri response</u></p>	<p><i>Due to topography, size and the engineering of the site to ensure level access, the layout has been designed with a footpath running along the north-eastern part of the carriageway only. This footpath will provide access to the properties and will allow residents to walk down towards the A4067 and the wider public right of way network available in Ystradgynlais. In order to ensure Sustainable Drainage Systems (SuDS) have been designed to an acceptable standard and approved by Powys County Council's drainage officers, we have to provide a detention basin providing attenuation and roadside conveyance channel/open ditch to collect highway run-off as this will allow surface water to be captured above ground which will help with any localised flooding. Unfortunately, due to the engineering of these drainage features, it is not possible to use these areas as a public right of way and there is no available space to provide a footpath on either side of the carriageway (nor would we want to if the space was available as it would be seen as an over-engineered design). The space available is dictated by the need to ensure adequate internal and external space for residents, the carriageway, the surface water drainage infrastructure and the retaining wall features to work with the difficult topography of the site.</i></p>

		<p><i>The area of land to the west of the carriageway will be landscaped and will maintain the present countryside aspect in this part of the site and walkers would still be able to enjoy this from the route provided.</i></p> <p><i>I trust this provides a response to your query and explains the strategy for the slight deviation of the right of way through the site from its current alignment. If you could respond with your views and your position on the diversion application that would be appreciated. We would be more than happy to meet to discuss further if needed.</i></p>
	Objection maintained	The situation is that we are not willing to accept this rural footpath being redirected along the proposed built-up areas. If you could find a route which would maintain the rural aspect, I would be happy to look at this.
Highways Area Manager	No comments	You want to get one of your team to look at this.