

APPENDIX 4



City and County of Swansea
Legal, Democratic Services and Procurement
Civic Centre
Oystermouth Rd
Swansea
SA13SN

Plum Tree Cottage
Perriswood
Penmaen
Swansea
SA32HN

29/2/2016

Dear Mr. Arran,

Thank you for your letter and report relating to footpath 35.

My wife and I have no objection to a footpath diversion order being made but we do wish to make representations regarding its location as set out below.

In the early discussions and negotiations with Mr. Methuen- Campbell of Penrice Estate, he was in agreement to the footpath entering the field in the north east corner, this being in a similar location as the Council's preferred route as shown on your Plan 1 Footpath Penrice 35 dated 2010.(copy enclosed) . Mr. Methuen –Campbell later changed his mind and decided that he wanted the footpath to follow the historic route of 1915.

When I spoke to him on this matter and asked him why he had changed his mind, he said " we should all share the pain" Quite what pain it would have been for him to have an extra 25m of footpath along the edge of a field is a mystery to me. We would already be" sharing the pain" if the path was to enter the field in the north east corner of the field as it would still cross 50% of our frontage from our gate to the corner of the field.

In the early 1930'S The Penrice Estate declared that this was private and not a public right of way. Had the Estate complied with the Rights of Way Act of 1932 and declared, every six years, that the path was a private, Footpath 35 would not exist and we would not have the problem that we have now.

It seems to us, most unfair that, as a result of the Penrice Estate's non action on this matter, we now have a footpath in our garden and to add salt to the wound Mr. Methuen – Campbell is allowed to choose the route of the footpath on our land.

The National Parks and Access to the Countryside Act of 1949 required Councils to produce maps of footpaths that were considered to have public path status in the early 1950's which is also the basis of the Council's report. It is not their status in 1915 as Mr. Methuen Campbell wants.

In 1951 the Parish Council surveyed the path and the Parish Map was drawn which showed the path in the field to the south of our property and the accompanying Parish Card described the path in the same location. This is the only record in existence of anyone actually walking the path and should be considered as being the most importance evidence there is in relation to the route of the path at that time. This map was also to a larger scale than any of the subsequent maps and the survey would have been carried out by someone who would have had local knowledge of the area.

The Draft Definitive Map of 1955 and accompanying card were virtually the same as the Parish Map and Card .

Subsequent cartographers must have accepted that the route described on the Parish Card was correct as it was never altered throughout the mapping process.

In subsequent attempts to record the line of the path, minor discrepancies would have been inevitable as a result of the small scale of the maps. If they had been mapping different routes then they would surely have changed the descriptions on the cards.

in your report of 10/10/2012 appendix 2 item 8.8 you question why the Parish Map shows the path exiting Hayes Wood to the south of the fence line and not north of the fence as the historic map of 1915 shows. I would point out that all the subsequent draft maps, definitive maps, provisional maps, special revue map and even the Current Definitive map, 7 number in total, all show the path exiting Hayes Wood at the same point as the Parish Map therefor, on the balance of probabilities, one can assume that the point of exit of the path from Hayes Wood after 1951 was as shown on the Parish Map.

In section 3.6 you mention that the owners of the Piggery received a letter from the County Surveyors dated 29/7/1977 . This letter mentions clearing a path through the Piggery but what they actually cleared was the route shown on the Historic Map of 1915. Surely this is not relevant as it was not the footpaths route as shown on the maps of the early 1950'S as required by the 1949 Act. Mr. Griffiths states that no footpath was shown on his deeds when he purchased the land and that there was no path crossing his land.

We have been told by residents who lived and still live in Perriswood at the time, that when Mr. Griffiths purchased the Piggery, the lady who owned Woodside stopped him having any vehicular access. They also say that Mr. Griffiths had a major disagreement, on the same matter, with Mr. and Mrs. Skillbeck who owned the Bungalow (Plum Tree Cottage). They say that as a result of this, Mr. Griffiths was seldom seen in Perriswood or on his land. We have lived in Perriswood for 21 years and have only seen him or his family on three or four occasions.

We find it somewhat unbelievable that the owners of the Piggery have seen people walking, what would have been, the Historic route when residents of Perriswood, some who have live here for over 50 years, have never seen anyone walking the path. However, this should not be relevant for the reasons stated in the previous paragraph.

With regard to item 5.3, my wife and I did not realise that you were waiting for a response from us. We were waiting to hear from yourselves. Apologies for that.

My wife and I feel that, for the reasons stated in this letter, the route of the public path diversion order should follow the Councils preferred route as shown on Plan 1 footpath Penrice dated 2010 (copy enclosed). This is similar to the route shown on the Parish Map of 1951 and the First Draft Definitive Map relating to 1954, and are a representation of a route that was actually walked in response to the requirements of the National Parks and Access to the Countryside Act of 1949.

This route would be agreed by Woodside and the new owners of Rose Cottage.

If this request is not to be permitted then we would ask that the route shown on your Proposed Diversion Map be amended slightly as I have shown marked in red on your map which I have marked as Plan 2 (copy enclosed).

The amended route as shown would have less impact on the use of our land and enjoyment on it. It would also give us an opportunity to screen off the route from the remainder of the garden. Privacy is vitally important and if members of the public are to walk through our garden we will take steps to reduce the impact that this has on our enjoyment of our property. A slight amendment to the route as proposed would be less intrusive. In addition, whilst the route going through our garden will undoubtedly have a significant impact on the value of our property, a slight amendment to reduce the amount of land taken up by the route is likely to reduce the financial impact on us.

The route I have proposed would be no less convenient for the public to use. The impact on the adjoining property, the Piggery, would also be reduced as the route of the right of way would enter in the corner of their land as opposed to part way up it.

Therefore we believe that our request is not an unreasonable one and should not adversely affect anyone including those living locally and members of the public should they wish to exercise the public right of way over our land.

Finally, I understand that there is new evidence that Community Councilor Mr. Roy Church walked the path from Perriswood to the main road near Home Farm in the 1970'S. He said that the route that he took, which was present at the time, was as follows. He walked between two properties and entered the field in the corner near Rose Cottage and then through that field along the fence line and entered Hayes Wood through the gap in the wall and on through to the main road. This is virtually the same route as shown on the Parrish Card. This is further proof that this is the correct route of Footpath 35.

We hope that you will consider this new evidence when making your decision.

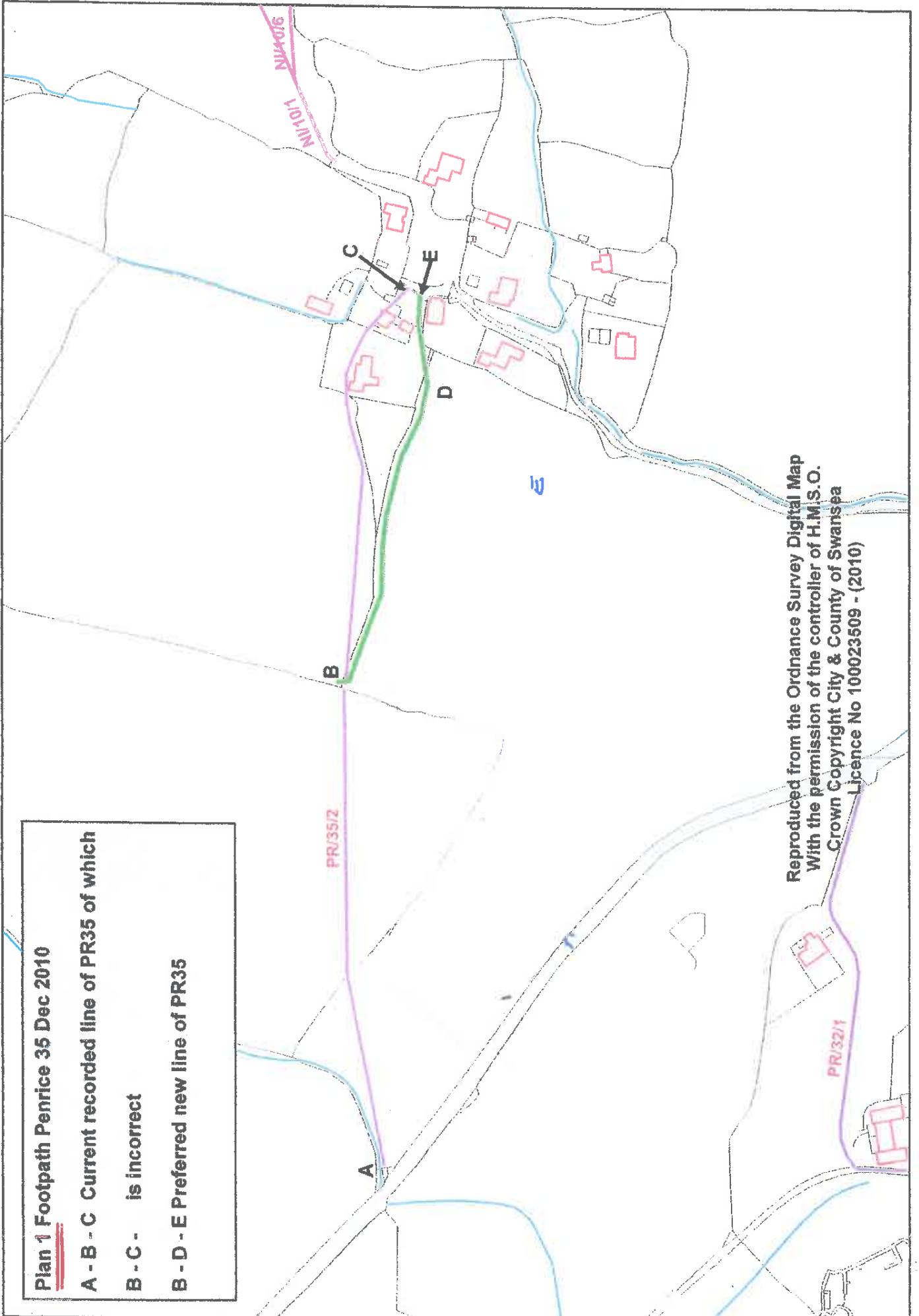
Yours Sincerely

David and Pam Owen

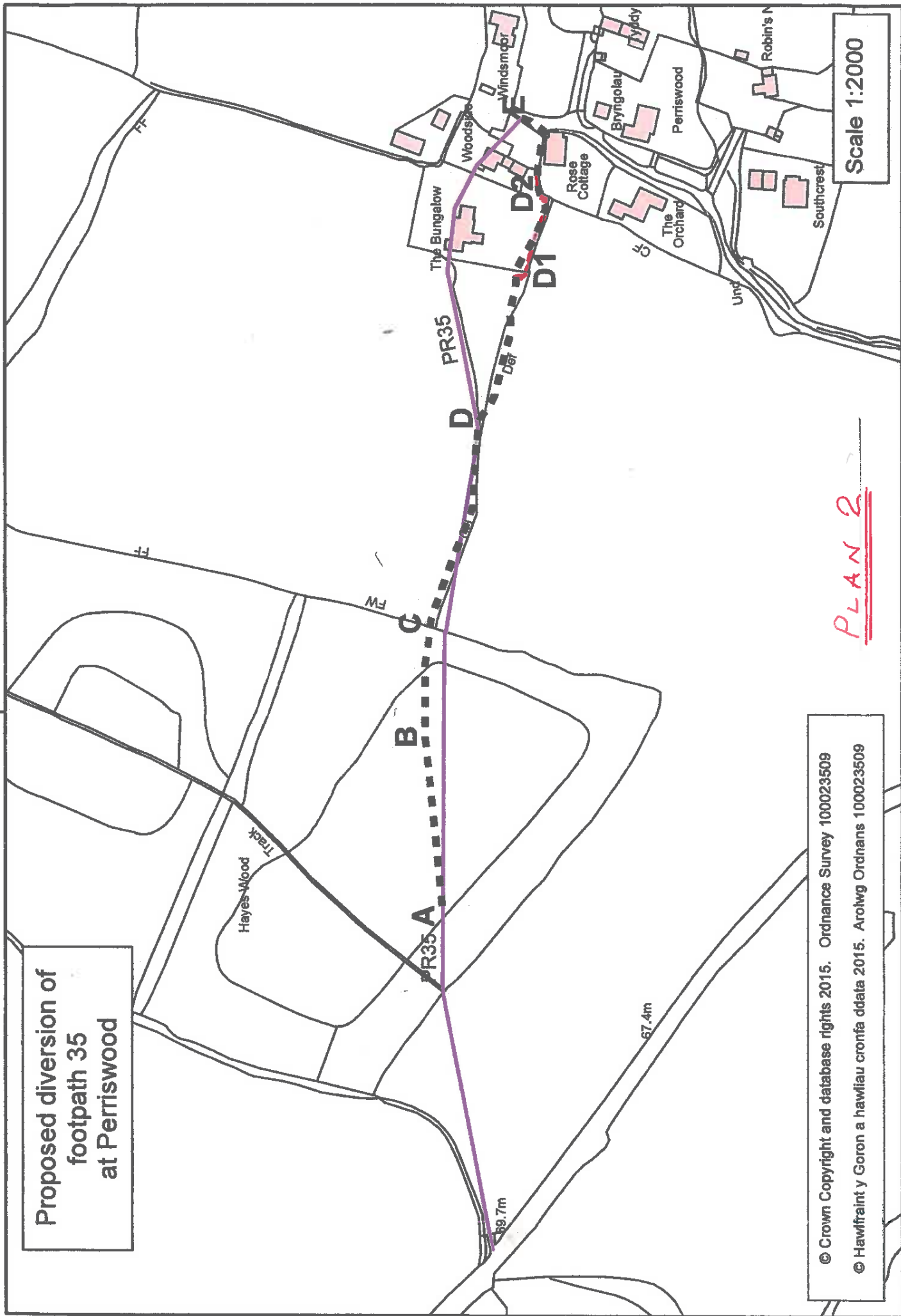
Plan 1 Footpath Penrice 35 Dec 2010

- A - B - C** Current recorded line of PR35 of which
- B - C** is incorrect
- B - D - E** Preferred new line of PR35



Reproduced from the Ordnance Survey Digital Map
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Proposed diversion of
footpath 35
at Perriswood



PLAN 2

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For the attention of Patrick Arran

Legal and Democratic Services
City and County of Swansea
DX: 743540
SWANSEA 22

Legal Services
18 MAR 2016
Our Ref: jc24/dict4/1018961/257
Your Ref:
Date: 14 March 2016

When calling please ask for: **James Clark**
e-mail: **jc24@footanstey.com**
Direct Line: **+44 (0)1872 243344**
Direct Fax: **+44 (0)1872 242458**

By DX and Email

Dear Sirs

Public Footpath No. 35: Public Path Diversion Order

We are instructed by the receivers of Green Star Developments Limited, the freehold owner of Woodside, Perriswood, Penmaen, Swansea, SA3 2HN.

Further to your letter dated 4 February 2016 enclosing the report of the head of Legal and Democratic Services, our clients have instructed us to write to you, supporting the officer's recommendation to make a public path diversion order in relation to the above footpath.

Our clients are pleased to see that the Council is making progress with this matter, the Committee having acknowledged on 10 October 2012 that the current alignment of Footpath 35 is erroneous. As members may be aware, the current alignment of the footpath as shown on the Definitive Map shows it running through the dwelling itself on our clients' property. This has adversely affected our clients who cannot sell the property, as the current alignment of the footpath has a significant adverse effect on the property's value and means prospective purchasers cannot obtain a mortgage. The situation also adversely affects members of the public, who cannot walk along the route shown on the Definitive Map.

We note that the current alignment of the footpath shows it also running through the dwelling known as Plum Tree Cottage (but referred to on the plan as 'The Bungalow'). We assume that the owners of that property would experience similar issues to those facing our clients in the event they decided to sell or charge it in the future.

For the reasons set out above, my clients consider that, for the purposes of section 119 of the Highways Act 1980, it is expedient to divert the footpath. Such a diversion would clearly be interests of our clients and as the report identifies, it would also be in the interests of the public as it would be a more direct and convenient route.

I would be grateful if you could confirm that this letter (or a summary of it) will be put before the committee when it meets next month.

Please kindly acknowledge safe receipt.

Yours faithfully,

Foot Anstey LLP

Foot Anstey LLP, High Water House, Malpas Road, Truro, Cornwall, TR1 1QH.
Tel: +44 (0)1872 243300 Fax: +44 (0)1872 242458 DX: 81200 TRURO

Patrick Arman,
Head of Legal &
Democratic Services.

25.2.16.



Haymarket
Perriswood,
Penmaen,
SWANSEA
SA3 2HN

Dear Sir,

Public Footpath No. 35

I am in receipt of your report dated 5th Feb 2016. I do not want to make a comment on whether the above path should be diverted from the back of two properties, to the front gardens of same. As you already know, I disagree with it going in either place.

For all the council's attempts to prove that this path was a public one, when we all know that it was only a private one; no one has listened to what we the residents and ex-residents have had to say.

Everything the council puts forward in pages & pages of mostly unreadable jargon, is taken as gospel truth, whereas for those of us against this footpath, whatever we have given as evidence is seen as "heresy".

Who are the three 'landowners affected' that approve of this footpath? No one I know of. If it has to go somewhere why can't it go in the first left hand corner of the

Cont.

Gateway of Plum Tree Cottage and into the field, where it ends up anyway at the end of their garden, causing much less distress.

The family that were brought up in Rose Cottage from the early 50's to late 70's and then moved into The Orchard until 1994, contacted you to say that there was never any indication that a footpath passed their house or that they knew of one. Even though the people who bought The Orchard in 1994 have said that they were told by their family there was!

Mrs Wall, who was at the time in the early 50's the resident of Woodside, had previously owned all the land where the Piggery, The Bungalow, Windsmoot & Woodside now stand. When the Piggery was again sold in 1977 to the Griffiths, all access was stopped.

The area has been neglected, overgrown & impassable for years, so how they can say that they remember people walking this path when they have hardly ever been on the land in over 35 years, is unbelievable.

cont.

I hope that the Planning Committee will read every piece of evidence that the residents have submitted & not just the Council's papers.

I cannot see that anything will be gained by opening up a public footpath across two properties, where walkers will have to negotiate more traffic when emerging onto the highway, than if they went down the lane, over the road and into the 'laundry gate', onto a public path through Pennie Estate to Penny Hitch & beyond.

Yours faithfully,

V. M. Kinnison

Your Ref. ROW-224/KAO

41 Rhydypandy

Momrston

Swansea

SA6 6PB

March 15th 2016

Mr Patrick Arvan

Head of legal + Democratic Service

City & County of Swansea

Oystermouth Road

Swansea SA1 3SN

Dear Mr Arvan,

Public Footpath No 35 - Communities of Penrice
& Ilston.

Thank you for your letter regarding
the above footpath. I am replying on
behalf of my brother Mr Rhydder Griffiths
who is the owner of the parcel of
land known as 'The Pigeony'.

I have had numerous conversations with
Mr Chris Dale of the Countryside Access
Team about this footpath and have
provided several documents and
photographs.

We would have no objection to

a diversion of the footpath along
AFGH IJKE as set out in the report.
We believe this to be the route of the
original footpath which passes partly
over the land over which there is
a right of way for all purposes
for the benefit of 'The Piggery'

We see no objection to the proposed
public path diversion provided the
existing vehicular right of way is
not adversely affected.

If there are any further developments
I would be grateful if you would
keep me informed

Yours faithfully
Delyth Hopkins

O'Carroll, Kieran

From: Thomas Methuen Campbell <trmmethuen@yahoo.co.uk>
Sent: 04 December 2014 10:36
To: O'Carroll, Kieran
Cc: Painton, Matt; Edward Harris
Subject: Re: Footpath 35 at Perriswood

Dear Mr O'Carroll

Thank you for your email and the attached letter.

I confirm that the Estate would be happy with the route that is now being proposed.

I look forward to hearing from you in due course.

Regards

Thomas Methuen-Campbell

Sent from my iPhone

On 27 Nov 2014, at 16:25, "O'Carroll, Kieran" <Kieran.O'Carroll@swansea.gov.uk> wrote:

Dear Mr Methuen-Campbell

I would be very grateful if you would kindly consider the attached letter

I shall look forward to hearing your views on the matter in due course

Kind regards

KIERAN O'CARROLL

LEGAL, DEMOCRATIC SERVICES & PROCUREMENT | GWASANAETHAU CYFREITHIOL, DEMOCRATAIDD A CHAFFAEL
CITY & COUNTY OF SWANSEA | DINAS A SIR ABERTAWE
ROOM 3.2.8 | CIVIC CENTRE | CANOLFAN DDINESIG
SWANSEA | ABERTAWE | SA1 3SN

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CITY AND COUNTY OF SWANSEA
DINAS A SIR ABERTAWE

Mr Thomas Methuen-Campbell
The Penrice Estate

Please ask for: Kieran O'Carroll
Gofynnwch am:
Direct Line: 01792 637233
Linell Uniongyrchol:

E-Mail: Kieran.O'Carroll@swansea.gov.uk
E-Bost:

By Email Only

Our Ref: ROW-0000244/KAO
Ein Cyf:

Your Ref:
Eich Cyf:

Date: 27th November 2014
Dyddiad:

Dear Mr. Methuen-Campbell

Re: Footpath 35 at Perriswood, Penrice

I write as the legal officer acting on behalf of the Council's Countryside Access Team in this long outstanding matter. I understand that you have been in negotiation with the Solicitors acting for Mr & Mrs Owen to reach an agreement as to a suitable route for the footpath given that the evidence in the Council's possession was deemed insufficient to realign the path by modification order.

I am advised by my client department that an agreement between all parties was not achieved. However, they do recall you stating previously that you would agree to the route shown on the 1916 edition of the ordnance survey map. My client department have kindly provided me with a plan showing the route which was surveyed and recorded by the ordnance survey in 1916 and I enclose a copy of this for your information.

The boundaries of the properties have obviously changed over time and my client department have kindly plotted the route of the footpath surveyed in 1916 as accurately as possible onto a modern ordnance survey map showing the boundaries as they exist today. I also enclose this for your attention.

I would therefore be grateful if you would kindly confirm whether this is a route that you would be agreeable to or whether you would consider any alternative. Once we are clear on your position on the matter, we will then discuss with the other parties involved.

I thank you for your assistance in this matter and very much look forward to

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CANOLFAN DDINESIG, HEOL YSTUMLLWYNARTH, ABERTAWE, SA1 3SN DX: 743540 SWANSEA 22

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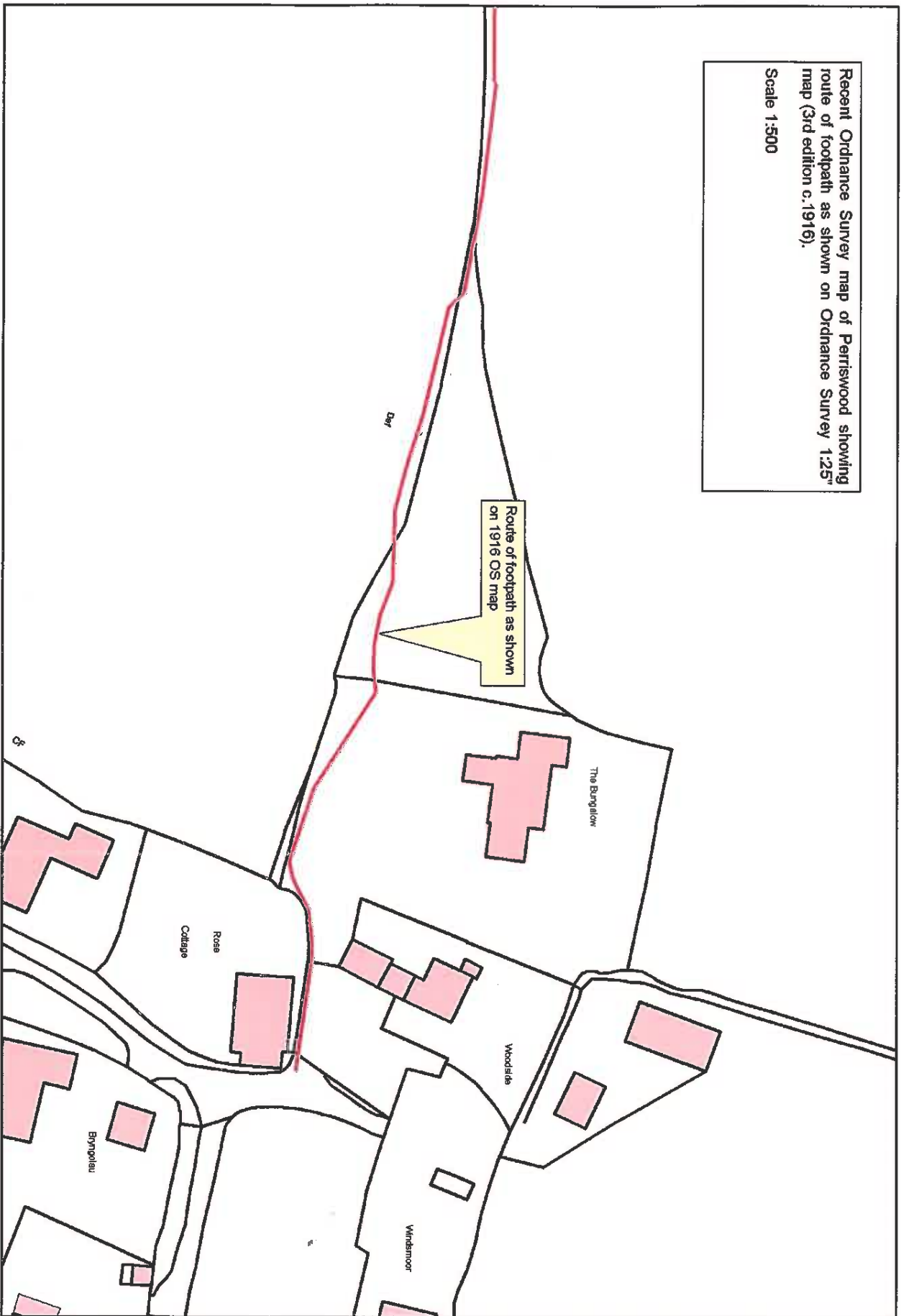
your response.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'P. Arran', written in a cursive style.

Patrick Arran
Head of Legal, Democratic Services & Procurement

Recent Ordnance Survey map of Perriswood showing route of footpath as shown on Ordnance Survey 1:25" map (3rd edition c.1916).
Scale 1:500



Ordnance Survey 1:25" map (3rd edition c.1916), blown up to a scale of 1:500, and showing the footpath marked 'F.P.'

