

## Report of the Head of Legal, Democratic Services & Procurement

### Rights of Way & Commons Sub Committee – 10 October 2012

#### PUBLIC RIGHTS OF WAY – DEFINITIVE MAP ANOMALY IN RELATION TO FOOTPATH 35

#### COMMUNITIES OF PENRICE & ILSTON

|                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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| <b>Purpose:</b>             | <p>(a) To determine whether evidence submitted is sufficient to show that there is no public right of way in existence. If such evidence is available whether a modification order should be made to remove footpath 35 from the definitive map.</p> <p>(b) Should (a) above fail, to consider evidence to determine whether there has been an error in the footpath's alignment and if there is sufficient evidence to make a modification order to correct that error.</p>                                                                                    |
| <b>Policy Framework:</b>    | Countryside Access Policy No. 4                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>Reason for Decision:</b> | <p>(a) The evidence submitted is not sufficient to outweigh the initial presumption that a path shown on the definitive map exists.</p> <p>(b) Despite it being likely that the route shown on the current definitive map is incorrect, the evidence is not considered sufficient to show a right of way subsists along any other particular route and so it is not considered that a modification order can be made to realign the path at the present time.</p>                                                                                               |
| <b>Consultations:</b>       | Councillor Richard Lewis; Penrice Community Council; Ilston Community Council; The Byways & Bridleways Trust; The Ramblers; The British Horse Society; The Open Spaces Society; The Countryside Council for Wales; The Green Openspaces & Heritage Alliance; Mr G Bligh (the former County Access & Bridleways Officer and interested party); Mrs L Lock (the local representative of the Ramblers); Ms J Nellist (the present County Access & Bridleways Officer of the British Horse Society); The Penrice Estate; Local landowners; Residents of Perriswood. |

|                         |                                                                                                                               |
|-------------------------|-------------------------------------------------------------------------------------------------------------------------------|
| <b>Recommendation:</b>  | It is recommended that: -                                                                                                     |
|                         | (a) the claim that footpath 35 was incorrectly registered and that no public right of way exists across the land be rejected. |
|                         | (b) no modification order can be made to realign the path                                                                     |
| <b>Report Author:</b>   | Kieran O'Carroll                                                                                                              |
| <b>Finance Officer:</b> | Paul Roach                                                                                                                    |
| <b>Legal Officer:</b>   | Sandie Richards                                                                                                               |

## **1 Introduction**

- 1.1 The Council has discovered evidence which suggests that an error exists on the Council's current definitive map of public rights of way in relation to the alignment of footpath 35 in the Community of Penrice.
- 1.2 The current definitive line of footpath 35 is shown A-B-C-D-E on Plan 1 attached to this report.
- 1.3 However, after discovering this evidence, some local residents of Perriswood have claimed that no public right of way exists across any of the land affected by the line of footpath 35 and that the footpath should never have been recorded as a public right of way.
- 1.4 Therefore, it is firstly necessary to investigate whether the footpath was incorrectly registered and whether the evidence submitted by the residents is sufficient to warrant making a modification order to remove the path from the definitive map and statement.
- 1.5 Should it be concluded on the evidence that a public right of way does subsist across the land, it will be necessary to determine whether the path's current alignment on the definitive map is correct or whether the evidence suggests that a modification order should be made to realign the path along its correct route.
- 1.6 This report was originally considered at the Committee meeting of the 20<sup>th</sup> June 2012. A letter requesting deferral was presented to Committee on the basis that this individual held new evidence which he would submit shortly for consideration. It was decided that the report be deferred pending the receipt of this new evidence.
- 1.7 The fresh evidence referred to was not received and the report was re-considered at the Committee meeting of the 15<sup>th</sup> August 2012. Two late submissions were presented to the Committee. It was decided that the report should be deferred pending a site visit.

- 1.8 A site visit was conducted by Committee members on the 28<sup>th</sup> September 2012. The report is now re-submitted to Committee for a decision to be made.

### **History of the depiction of footpath 35**

- 2.1 The current definitive map is the product of four reviews since 1951.
- 2.2 A full account of the history of the compilation of the Council's definitive map can be found in Appendix 1.
- 2.3 The history of the depiction of footpath 35 over this time is set out in Appendix 2.
- 2.4 Whilst not agreeing on one particular route of the path between Hayes Wood and Perriswood, these maps provide good evidence of the existence of a public footpath between the A4118, Hayes Wood and Perriswood.
- 2.5 It should be noted that throughout the reviews and following the publication of each draft map and edition, the existence of the footpath was never questioned, nor was its alignment ever challenged.

### **3 First issue - whether public footpath 35 subsists**

- 3.1 During the Council's investigation into the alignment of footpath 35, in June 2011, six local residents of Perriswood jointly submitted a letter to the Council asserting that the path's depiction as a public right of way is an error and that the public right of way does not exist along any alignment.
- 3.2 Under the provisions of the Wildlife and Countryside Act 1981 (Appendix 3), the Council would be obliged to make a modification order to remove a path from the definitive map where there is sufficient evidence to show that no public right of way subsists.
- 3.3 In order to show that the footpath was mistakenly registered and thus should be removed from the definitive map and statement, the claimants would need to show that there was no public right of way over the land in 1954, being the relevant date of the first definitive map.
- 3.4 It should be noted that the definitive map and statement is conclusive evidence as to the existence of a public right of way, unless and until it is modified under the provisions of the Act.
- 3.5 The evidence needed to remove a public right of way from such an authoritative record must be new in the sense that an order cannot be made simply on the re-examination of evidence known at the time it was compiled. The evidence must be cogent and must be of sufficient

substance to displace the presumption that the definitive map is correct.

- 3.6 In the case of *Trevelyan v Secretary of State for the Environment, Transport and the Regions* [2001] (*Trevelyan*) it was held that it must be presumed that the definitive map and statement is correct and that if there were no evidence which made it reasonably arguable that the right existed, it should have not been marked on the map. In the absence of evidence to the contrary, it should be assumed that the proper procedures were followed and thus such evidence existed. The standard of proof required to justify that no right of way exists is no more than the balance of probabilities but evidence of some substance must be put into the balance, if it is to outweigh the initial presumption that the right of way exists.
- 3.7 It is for those who contend that a right of way should be removed to prove that the Definitive Map and Statement requires amendment due to the discovery of evidence, which when considered with all other relevant evidence shows that no right of way subsists.
- 3.8 The arguments put forward for the deletion of the path by the residents are set out in Appendix 4.

#### **4 Informal consultations**

- 4.1 The Council carried out consultations with respect to the claim in August 2008 in accordance with the advice given in Welsh Office Circular 5/93.
- 4.2 The evidence received in support of the residents' claim is set out in Appendix 5.
- 4.3 Evidence was also submitted in opposition to the residents' claim. This evidence is set out in Appendix 6.
- 4.4 The Ilston Community Council submitted further information following the Committee meeting of the 20<sup>th</sup> June 2012. This can be found in Appendix 8.

#### **5 Possible Non-Intention to Dedicate by landowner**

- 5.1 The Penrice Estate has produced a report which was prepared in the early 1930s in the wake of the Rights of Way Act 1932 by their agent at the time.
- 5.2 The report described a path as follows: -

"There is a private path from the main road below the Home Farm, not far from B.M.222.9 across a portion of the "Twelve Acres" field, across the end of Hayes Wood (14 OS) and field (13 OS) to Perriswood. This

is not a public right of way but is used by the employees attending at the Estate Yard”

The field references quoted relate to entries which appear on the ordnance survey map edition of 1915. Plans 2, 3 and 4 attached to this report use this base map and the field numbers are shown.

- 5.3 The Penrice Estate believe this to be strong proof that no public right of way ever existed and ask that a modification order be made to remove the path from the definitive map and statement.
- 5.4 The Rights of Way Act 1932 allowed landowners to make a statement under section 4 of the Act indicating the rights of way they admit to have been dedicated to the public. It was a requirement of the Act that the landowner deposited a plan showing those admitted dedications on a scale of not less than 6” to 1 mile.
- 5.5 When such a statement had been deposited with the Council, the landowner was able to make statutory declarations at 6 yearly intervals specifying that no further rights of way had been dedicated.
- 5.6 There was no plan attached to the Penrice Estate report. Therefore, it is questionable whether it complied with the requirements under the Rights of Way Act 1932.
- 5.7 However, a plan was discovered in the West Glamorgan Archives filed separately to the report. It is possible that this was the plan which the Penrice Estate had submitted. Despite not being kept together, a handwritten note on the plan states

“Rights of Way Act 1932 – Duplicate of plan deposited with the Gower Rural District Council – 20<sup>th</sup> December 1933”

The report itself is undated and did not refer to the paths coloured blue on the plan. However, it is likely that this was the plan submitted with the report.

- 5.8 In any event, no evidence has been submitted or discovered to show that the Penrice Estate submitted any declarations at subsequent 6 yearly intervals. Even if the report was considered to have provided a valid statement of non-intention to dedicate, this statement would have lapsed by 1938 as there is no evidence that any statutory declarations were provided as set out in 5.5 above.
- 5.9 Whilst this provides some evidence that the Penrice Estate did not consider the path referred to in their report to be a public right of way in the early 1930s the alignment described does not match that of the Parish Map or that on the Parish Card (which would put the path in a completely different field). It is therefore questionable whether they are even describing the same path.

- 5.10 If the intention of the Penrice Estate was to describe the only path in use there is no evidence that any non-intention to dedicate was ever communicated to the public. It is also curious why the Estate failed to take issue when the path was shown on the various reviews toward the compilation of the definitive map. They raised no objections or representations at any time when the path appeared on the subsequent editions of the map and statement.

## **6 Conclusion as to whether footpath 35 subsists**

- 6.1 The Parish Council included the path on their survey carried out in 1951 showing that they believed that a right of way existed at the time.
- 6.2 The inclusion in the definitive map is conclusive evidence that a public path existed and case law shows that it must be presumed that the definitive map is correct in showing a right of way and that the proper procedures were carried out in its compilation unless there is sufficient evidence to outweigh this initial presumption.
- 6.3 The majority of those who have submitted evidence for the deletion of the footpath have indicated that they have never seen anyone walking the path and believe it was only used by tenants of the Penrice Estate. However, a lack of public use after 1954 is not relevant. The matter to be considered is whether or not it was correctly included on the Definitive Map of 1954.
- 6.4 Some advise that they remember the area in the early 1950s and say that they never saw any member of the public using the path, that the path was created for the workers of the Estate and upon cessation of their use by the early 1950s the path had fallen into disuse.
- 6.5 Even if the path was created initially for the employees of the Estate, this does not prevent the path being dedicated to the public. Those who remember the area in the 1940s and early 1950s say they do not remember any public use of the path but this does not mean that the path had not acquired public status. Similarly, if it fell into disuse in the early 1950s, this does not mean that the path was not already a public one.
- 6.7 These accounts from those who remember the area in these earlier periods are not considered sufficient to outweigh the presumption that a path does exist. Evidence of greater substance would be required.
- 6.8 Some residents have contended that the Council does not have much evidence of the path's existence. However, the Council is not required to prove the existence of a public path as the onus falls upon those who contend that no right of way exists.
- 6.9 No objections to the path's depiction on subsequent reviews were made which provides evidence that it was accepted that a public right

of way existed between Perriswood and Home Farm. There is no reference in the Minutes of the Parish Council Meetings during the 1950s to the path which suggests nobody raised any issue with its status.

- 6.10 On consideration of the evidence submitted, it is not considered sufficient to outweigh the presumption that the definitive map and statement is correct in asserting that a right of way subsists.
- 6.11 It follows that it is not considered that a modification order can be made to delete the path from the definitive map and statement.

## **7 Second issue - whether there is evidence to realign the position of footpath 35**

- 7.1 On the basis that the claimants have not been able to show on the balance of probabilities that no right of way subsists; the Council must consider the evidence in relation to the alleged anomaly in the alignment of the footpath on the current definitive map.
- 7.2 Where the Council discovers evidence of an error in its definitive map and statement, it has a duty to correct that error by making a modification order. However, before an order can be made it is necessary to determine whether that evidence is sufficient to satisfy the requisite legal tests.
- 7.3 The legal tests involved in this process are set out in Appendix 7.
- 7.4 Footpath 35 is currently shown passing through two properties. All the earlier versions of the definitive map, the draft maps and the ordnance survey maps, whilst in conflict with each other tend to show a route further south passing near Rose Cottage.

## **8 Documentary Evidence of alignment**

- 8.1 The location of the apparent anomaly on this path can be found between Hayes Wood and Perriswood.

### **(a) Ordnance Survey Maps**

- 8.2 The first, second and third edition 25" to 1 mile ordnance survey maps dated 1878, 1898 and 1915 show a path via F-G-H-I-J on Plan 2. The same line of the path is depicted on the first, third and fourth edition 6" to 1 mile County Series Maps dated 1884, 1921 and 1948 respectively.

However, it must be noted that whilst the publication dates of the editions vary significantly spanning over 50 years, the 1878 and 1898 editions at 25" to one mile and the 1884 editions at 6" to one mile are all based on the same survey carried out in 1877 and all show a path as it appeared at that time. The 1915 edition at 25" to one mile and the

1921 and 1948 editions at 6" to one mile are all based on the survey carried out in 1913 and all show a path as it would have existed at that time.

- 8.3 A National Grid Ordnance Survey Map published in 1964 showed the path in the same position. However, this map was based on a pre-1930 survey. Upon inspection it would appear that the survey is also based on that of 1913. Another National Grid Ordnance Survey Map of 1975 was based on a survey carried out in 1970-72 and no path is shown at all.
- 8.4 As a result, the Ordnance Survey Maps only show that there was a path along the alignment shown F-G-H-I-J on Plan 2 up to 1913.
- 8.5 The path was surveyed in 1877 and 1913 exiting Hayes Wood at point G on plan 2. This seems reasonable as there is a gap in the ancient woodland boundary at this location. The path is then shown to enter the field labelled with OS parcel no. 13 on plan 2; that is to the north of the field boundary between fields 12 and 13. The path clearly passed close to the field boundary running between Hayes Wood and the Perriswood Hamlet but was shown to cross the field boundary at certain points as shown on the plan. It appears that the path passed to the north of Rose Cottage in 1913.
- 8.6 Though the historic Ordnance Survey maps do not provide evidence of the position of public rights of way, they do provide evidence of where a path was located up to 1913. However, it is noted that the Parish Council did not carry out their survey until 1951.

#### **(b) Parish Map and Card**

- 8.7 The Parish Council depicted the path passing via F-C-H-K-L as shown on plan 2. For their survey they marked the routes of the path they believed to have public status on an Ordnance Survey Map based on the survey carried out in 1913. Therefore, the fact that the Ordnance Survey line of the path is also shown does not mean this path existed along that alignment by 1951.
- 8.8 The Parish Map line differs slightly to that shown on the historic Ordnance Survey maps and raises several issues. Firstly, it is questionable why the route of the Parish map exits Hayes Wood at a point to the South of that shown on the historic Ordnance Survey maps, that is field no. 12 (point C on plan 2), where there is no physical evidence today of any opening in the woodland boundary wall.
- 8.9 It seems clear that the public footpath was intended to pass close to the field boundary but the parish map appears to show footpath 35 crossing the field boundary at different points to the Ordnance Survey maps. It is therefore uncertain whether the parish council had intended to depict the route shown by the historic editions of the Ordnance



Survey as existing at least until 1913. Alternatively perhaps the Council were recording a different path.

- 8.10 The description on the Parish Card suggests that the path passes south of the field boundary into field no. 12 (plan 2). The full description can be found in paragraph 2.6 of Appendix 2. The path is then described as terminating at the Parish Boundary (point K on plan 2). However, the path on the Parish Map is shown to cross the boundary before meeting the western wall of Rose Cottage. The Parish Map of Nicholaston shows no continuation of footpath 35. Presumably the path would not have terminated at a Parish Boundary. However, such features are common where one Parish Council would show a path to their boundary but the neighbouring Parish Council would not show a path continuing into their own area. It is also highly unlikely that the path would have terminated at the wall of Rose cottage.
- 8.11 The route described by the Parish Card would appear to conflict with that shown on the Parish Map. The Card describes the path as passing through the same field before entering and upon leaving Hayes Wood before reaching Perriswood. However, the Map suggests it crosses the boundary at several points. The Card also only mentions 2 field gates and 1 stile along the entire length of footpath 35 which would also seem to suggest that the path did not follow the line shown on the Map between Hayes Wood and Perriswood. The Parish Map suggests that along this part of the route alone at least five gates or stiles would be needed.
- 8.12 The route described on the Parish Card also does not correspond to that route depicted on the historic Ordnance Survey maps. Therefore if the Parish Map intended to show that route where the Ordnance Survey had marked a path in 1913, the question arises as to why the Card contained different information. However, given the fact the Ordnance Survey maps only provide evidence of the existence of a path along the alignment shown up to 1913, it is also questionable whether that path still existed by 1951 and therefore whether the Parish Council were recording an alternative path.

### **(c) Draft Map and Statement**

- 8.13 The draft definitive map showed the path passing along largely the same route as the Parish Map (as shown on Plan 2). There is one slight difference to the route shown on the parish map in that it is shown to terminate at a point to the south west of Rose Cottage. It is likely that the intention was to transfer the Parish Map route onto the draft definitive map. However, it is questionable whether the Parish Map route is correct.
- 8.14 The statement which accompanied the draft definitive map as set out in paragraph 2.7 of Appendix 1 does not clarify whether the Parish Card

was correct in describing the path passing along the southern side of the field boundary. However, it suggests that the path passes Rose Cottage to reach the County Road at Perriswood. It seems that Glamorgan County Council recognised the fact that the path did not terminate at the Parish Boundary and extended the path to the public highway. However, the draft map itself was not amended to include this extension and this was likely to be an oversight when the map was being drawn. As a result it is not clear at what point the path met with the County Highway. The extent of the highway is shown by point X on the plans attached to this report. However, it is entirely possible that the intention was to record the path to the un-adopted lane north of point X which was mistakenly believed to be a part of the highway.

- 8.15 The evidence provided by the draft map does not indicate whether the path should pass north or south of Rose Cottage to the County Highway. If the path was intended to show the Ordnance Survey map route surveyed in 1913 then it is arguable that the path should have passed to the north. However, it is questionable whether they are one and the same route.

#### **(d) Provisional Map and Statement**

- 8.16 The provisional map was published in 1964 and the path was depicted once again passing along a similar but not identical route to that shown on the parish map and the draft definitive map. This is shown approximately by C-M-Q-R on Plan 3. The path is shown to exit Hayes Wood in the southern field (number 12) before crossing the boundary between the fields only once. There is no evidence that the line of the Draft Map had been subject to a hearing and there is no other explanation for why this route differs to that of the Parish Map and Draft Map. Furthermore, the Provisional line drawn was shown passing straight through Rose Cottage before terminating at a point marginally short of the County Highway.
- 8.17 The accompanying statement was unchanged from that which accompanied the Draft Map. It was described as meeting the County Highway at Perriswood. It is possible that the person drafting the map had believed the county highway to extend to the point which he had marked the termination of the path. However, this does not explain why the path passed through Rose Cottage itself.

#### **(e) First Definitive Map and Statement**

- 8.18 The first edition of the definitive map published in 1970 depicted the line of the path along a similar line to the Provisional Map as shown C-M-N-P on Plan 3. However, the path was now shown to pass north of Rose Cottage to meet the County Highway at Perriswood.

- 8.19 The accompanying statement was unchanged. It is possible that the person drafting the map had extended the line of the path on the map to correspond with its description.

**(f) The Draft Special Review**

- 8.20 The draft special review map published in 1974 depicted a similar route to that shown on the first definitive map as shown C-M-N-S on Plan 4 but the line was now shown to terminate on the western side of Rose Cottage. However, the statement was unchanged. Therefore, this was likely to be a further error.

**(g) The Current Definitive Map**

- 8.21 The current definitive map of 1988 (Plan 1 – note this is plotted against the modern day Ordnance Survey map) shows the definitive line of footpath 35 to be at considerable variance to all the previous maps and editions which tend to be at least somewhat more consistent. There is no evidence from any reviews or otherwise that the path was deliberately realigned along this route especially considering the fact it enters two separate properties before reaching the centre of Perriswood. It seems very likely this was a substantial drafting error. It is noted that the definitive statement was once again unchanged

**9 Conclusion on alignment**

- 9.1 The fact that the path appears on the definitive map and statement is conclusive evidence of its existence but its present alignment conflicts with its previous descriptions in the previous reviews. The question is whether the evidence can be said to support any one particular route over the other so that it can be concluded that a right of way subsists over that route.
- 9.2 However, in a case concerning Leicestershire County Council v Secretary of State for the Environment and Rural Affairs [2003], it was concluded that where an alternative is being sought it is first necessary to find the existing to be incorrect. To delete a path, the test must be based on the balance of probabilities. If that is so, then it is also necessary to apply the same test to the existence of the alternative. The judgment did not however rule out the possibility that the lower test could be applied to the existence of the correct alternative.
- 9.3 The other relevant case concerns R v Secretary of State for the Environment ex parte Kent County Council [1994] which concluded that a Council can not delete the whole of the path where part of it is in dispute.
- 9.4 There is no evidence to support the fact that the depiction of footpath 35 between Hayes Wood and Perriswood on the current definitive map as shown on plan 1 is correct. The previous draft maps and editions,

whilst slightly conflicting in themselves, are more consistent. Therefore, one should conclude that on the balance of probabilities no public right of way exists along part of the route of the definitive line. Furthermore, the property named Woodside was already built when the Parish Council conducted their survey. They did not record a path running through this property.

- 9.5 It is possible that the Parish Council had intended to include the route shown on the historic Ordnance Survey maps in their survey and that following this survey various errors have been made in its depiction over time. However, doubt is cast upon this as the Parish Card describes the path following a route further south than both the Ordnance Survey maps and the Parish Map and there is evidence of only one entry into and out of the field no. 13 due to the gap in the boundary wall.
- 9.6 The description on the Card alone is not considered sufficient evidence to warrant making a modification order to align the path along that route described. In a recent case involving this Council, the Planning Inspectorate refused to confirm a modification order concerning footpath no. 26 in Rhossili where the Parish Survey Map and Card described the route consistently with that shown on all editions of the Ordnance Survey Plans. The Inspector was not prepared to place sufficient weight on the Parish Survey to confirm the order.
- 9.7 The Penrice Estate stated that a route existed in the early 1930s between Perriswood and Home Farm which placed the path in the field to the north of the boundary (field no.13). If this was intended to describe the same path then this casts further doubt on the true alignment.
- 9.8 The draft definitive map of 1955 depicted a route largely similar to that shown on the Parish Map and so it is questionable whether that was the intention or whether this was a repeated error. All the later editions are questionable and are likely to have been affected by drafting errors.
- 9.9 When the draft definitive statement was produced describing the path to extend to the county highway at Perriswood, it is likely that the intention was to show the path passing to the north of Rose Cottage. The statement remained unchanged throughout all the later drafts and editions. Of note is that the First Definitive Map of 1970 shows the path passing to the north of Rose Cottage to reach the County Highway. Whilst this may have been an attempt to rectify the omission, the path's exact alignment was still questionable.
- 9.10 Of note is a letter which was sent from the West Glamorgan County Council to the owner of the piggery in 1977 (OS parcel 6 on plan 2 and 3) which was intended to show to that owner where the public right of way was located in relation to his property. The Council Officer had traced on a plan the line shown on the 1915 edition (surveyed in 1913)

Ordnance Survey Map. It is curious at that time why he did not mark the path shown on the First Definitive Map of 1970 or even the Draft Special Review published in 1974. This seems to suggest that the officer did not even believe himself that the Definitive Map showed the path on its correct alignment.

- 9.11 It is arguable that the route surveyed by the Parish Council would be the most accurate depiction of the public's right of way being drawn by local people on a reasonable scale of 1:10000 and being drawn as a direct result of a ground survey. However, the Parish Map route does not match that described on the Parish Card.
- 9.12 It is not considered that there is sufficient evidence to identify which alignment reflects the right of way on the balance of probabilities. It seems clear that a public right of way does extend from Hayes Wood to Perriswood and that it likely passes to the north of Rose Cottage. However, it is not considered that a modification order can be made to place the path along any specific alignment nor can it be said to be reasonable to allege that any one route subsists, given the conflict between not only the reviews but between the Ordnance Survey, the Parish Map, Parish Card and even the Penrice Estate.
- 9.13 The case concerning Kent County Council has established that because part of the alignment of the public right of way is disputed, this does not permit the entire length of the path to be deleted.
- 9.14 The alternative solution of resolving the issue by making public path orders was explored early in the investigations although the residents and landowners could not agree on a mutually acceptable solution. It is noted that should the report recommendations be followed, no solution to the anomaly will be achieved. The Council will then need to further investigate the available options and will report back to Committee at a later date.

## **10 Financial Implications**

- 10 There are no financial implications attached to this report.

### **Background Papers: ROW-224/KAO**

**Appendices:** Appendix 1 – History of the compilation of the Definitive Map and Statement

Appendix 2 – History of the depiction of footpath 35

Appendix 3 – Section 53 Wildlife and Countryside Act 1981

Appendix 4 – Arguments put forward for the deletion of footpath 35

Appendix 5 – Evidence in support of the Residents' claim

Appendix 6 – Evidence opposing the Residents' claim

Appendix 7 – Legal tests for making a modification order

Appendix 8 – Comments from Ilston Community Council following the meeting of the 20<sup>th</sup> June 2012.

## **APPENDIX 1**

### **HISTORY OF THE COMPILATION OF THE DEFINITIVE MAP AND STATEMENT**

- 1.1 The National Parks and Access to the Countryside Act of 1949 placed an obligation on all Councils to produce a Definitive Map and Statement. Parish Councils were given the task of surveying all routes they considered may have legal status and this was undertaken in the early 1950s by the production of what has come to be known as the Parish Map (at the scale of 6" to one mile) and the all too often rather brief description of the path contained on small cards also known as the Parish Card. Some of the descriptions on these cards were more comprehensive than others but in combination with the paths' depiction in the "Parish Map" provide a useful record of what routes were considered to have public path status by 1954.
- 1.2 The information was passed to the former Glamorgan County Council who collated the information and produced the first Draft Definitive Map which in their opinion reflected routes considered to be public rights of way on 14<sup>th</sup> September 1954. This became the relevant date of the first Definitive Map which was published in 1970.
- 1.3 The legislation required that the information gathered should be the subject of a series of reviews which would allow the public and landowners to make representations or objections to the inclusion or absence of routes in the various editions of these earlier Draft and Definitive Maps and Statements as and when they were published. The result was the production of the initial Draft Map and Statement published in 1955, a Provisional Map and Statement published in 1964, the first Definitive Map and Statement published in 1970, the Draft Special Review of 1971 and the current Definitive Map and Statement published in 1988.

## **APPENDIX 2**

### **HISTORY OF THE DEPICTION OF FOOTPATH 35**

- 2.1 In 1951, the Parish Council surveyed the area and produced a plan which depicted all those paths they considered were public rights of way at that time.
- 2.2 Using the information contained within the Parish Map, the draft definitive map was published in 1955, the provisional definitive map followed in 1964 and the first definitive map was published in 1970 which showed all paths considered to have been public by 1954, which is the relevant date for that map. A special review of the first definitive map was commenced in 1971 which led to the publication of the draft special review map in 1974 before the current definitive map was eventually published in 1988, having a relevant date of 1971.
- 2.3 The National Parks and Access to the Countryside Act 1949 required that the information gathered should be the subject of a series of reviews which would allow the public and landowners to make representations or objections to the inclusion or absence of routes in the various editions of these earlier draft and definitive maps and statements as and when they were published. The first of these reviews took place in the late 1950s following publication of the draft definitive map.
- 2.4 The Council's current definitive map depicts footpath 35 passing via A-B-C-D-E as shown on plan 1 attached to this report. However, this line is at considerable variance to that shown on the previous draft maps and editions and to the path shown on historic ordnance survey maps.
- 2.5 The first, second and third edition 25" to 1 mile ordnance survey maps dated 1878, 1898 and 1915 respectively, despite not providing legal evidence of the existence of a public right of way, show that a path was a surveyable feature in the position F-G-H-I-J as shown on plan 2. The same line of the path is depicted on the first, 3<sup>rd</sup> and 4<sup>th</sup> edition 6" to 1 mile County Series Maps dated 1884, 1921 and 1948 respectively. However, whilst the dates of these editions vary considerably over a period of over 50 years, all were based on one of only two surveys which were carried out. Therefore, they show the line of a path which existed in 1877 and 1913. It is not clear whether a path along the same alignment existed when the Parish Council surveyed the path in question some 40 years later.
- 2.6 In 1951, the Parish Council depicted the path passing via F-C-H-K-L as shown on plan 2. They marked the paths they believed to be public on the 1921 edition Ordnance Survey Map which actually showed the area as surveyed in 1913. The accompanying Parish Card provided a written description of the path which accompanied the map. This

described the route in a slightly difference position to that on the Parish Map, the entry for footpath 35 being;

“Leaves Main Road 250 yards east of Home Farm enters arable field crosses the corner of Hayes Wood then through the same field to Perriswood at the Parish Boundary”

- 2.7 The draft definitive map of 1955 showed the path passing along an almost identical route to the parish map but terminated slightly further south. The accompanying statement provided a written description of the path as follows;

“Commences on the main Swansea Road, 250 yards South East of Home Farm and proceeds eastwards across field through southern corner of Hayes Wood thence alongside hedge of field to the County Road at Perriswood”

- 2.8 The provisional map was published in 1964 and the path was depicted along a slightly different route to that of the parish map and draft definitive map as shown C-M-Q-R on Plan 3 (this being an approximation due to the difficulty in interpreting the 1:25,000 scale of the Provisional Map). The path was shown passing through Rose Cottage itself. The statement did not change.

- 2.9 The first edition definitive map was published in 1970. The definitive statement was not changed. However, the line of the path was now depicted via C-M-N-P as shown on plan 3 (this also being an approximation due to the scale of the original map).

- 2.10 The draft special review map published in 1974 depicted a similar route to the first edition definitive map shown approximately by C-M-N-S on plan 4. However, it was shown to terminate at Rose Cottage. The statement was once again unchanged.



## APPENDIX 3

### SECTION 53, WILDLIFE AND COUNTRYSIDE ACT 1981

3.1 Section 53(2): As regards every definitive map and statement, the surveying authority shall

(a) as soon as reasonably practicable after the commencement date of the Act, by order make such modifications to the map and statement as appear to them to be requisite in consequence of the occurrence, before that date, of any of the events specified in sub-section (3); and

(b) as from that date, keep the map and statement under continuous review and as soon as reasonably practicable after the occurrence on or after that date, of any of those events [specified in sub-section (3) below] by order make such modifications to the map and statement as appear to them to be requisite in consequence of the occurrence of that event.

3.2 Section 53(3): The events referred to in sub section (2) are as follows:-

(b) the expiration, in relation to any way in the area to which the map relates of any period such that the enjoyment by the public of the way during that period raises a presumption that the way has been dedicated as a public path or restricted byway;

(c) the discovery by the Authority of evidence which (when considered with all other relevant evidence available to them) shows:

(i) that a right of way which is not shown on the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path, a restricted byway or, subject to section 54A a byway open to all traffic;

(ii) that a highway shown in the map and statement as a highway of a particular description ought to be there shown as a highway of a different description.

(iii) that there is no public right of way over land shown in the map and statement as a highway of any description, or any other particulars contained in the map and statement require modification.

## APPENDIX 4

### ARGUMENTS PUT FORWARD FOR DELETION OF FOOTPATH 35

- 4.1 The residents believe that the footpath was used by the workers of the Penrice Estate and their families going to and from Penrice Home Farm as it was the most direct route from Perriswood. They state that the houses of Perriswood in the 1950s when the Parish Survey was carried out were all Penrice Estate houses occupied by workers and tenants of the estate. They state that upon the sale of the estate houses in 1950 and 1951 the path fell into disuse as use of the path ceased. They mention that the Parish Card describes the path as being in poor condition in 1951.
- 4.2 They do not doubt that a path did run between Perriswood and Home Farm as it is shown on successive editions of the Ordnance Survey map for many years. However, they state that the criteria for putting a path forward for inclusion appear to have been loosely applied in some cases and if a path existed on the ground it may well have been put forward regardless of status. They also mention that during the registration process it was not unknown for minor paths to get through the process by default due to the disproportionate amount of attention given to major routes.
- 4.3 They state that the path has not been used within the memory of those who have lived in the locality. They also state that the path does not feature in footpath guides and has never been way marked.
- 4.4 They mention that there are other, more aesthetically pleasing routes.
- 4.5 They state that the only evidence that a public footpath existed by 1954 is that of the unnamed child who remembers walking a path in the late 1940s with her mother.
- 4.6 Finally they state that as there were no significant responses from members of the public when the consultations were carried out, there is no demand for the footpath.
- 4.7 Case law has established that even if the path originated as a private means of access; this does not eliminate the possibility of a public right being acquired through long user.
- 4.8 It is probable that those workers and tenants would have made use of the path. However, it is also possible that the public were also making use of the path prior to 1954. Evidence has been received by some who claim to remember the path in the early 1950s and they do not recall public use. However, only very few people have submitted such evidence and even if they did not remember people using the path in the early 1950s this does not mean that the path had not established its public status at an earlier date.

- 4.9 Even though the path was overgrown by 1951 and described as such in the Parish Card, the Parish Council still believed enough in its existence to record the path in their survey. It must therefore be assumed that they possessed some evidence that suggested it was a public path. This presumption must also apply irrespective of the suggestions that the path fell into disrepair following the sale of the estate houses in Perriswood. Whether the path was overgrown by 1954 does not mean that it was not already a public right of way.
- 4.10 The residents have provided their views in relation to the possible loose application of the criteria for the inclusion of public paths at the time of the Parish Survey. However, they have supplied no evidence to support their assertion and there is no evidence that anyone objected to its inclusion at any stage of the review. The Council must assume that there was a valid reason why the Parish Council considered the path was a public one and also that the correct procedures were followed when the maps were being compiled.
- 4.11 It should be noted that a lack of use post 1954 provides no evidence that a public path did not exist by 1954. Should the residents feel that since that time, the path has become unnecessary for public use, they may apply for an extinguishment order under section 118 of the Highways Act 1980 but the tests to be applied would differ and they will be required to fund such an application.
- 4.12 The fact that there may be alternatives available, the path was never way marked nor included in footpath guides is not relevant evidence. The amenity value of the path, its convenience or its inconvenience cannot be taken into consideration when assessing the evidence as to whether a modification order must be made.
- 4.13 Even though they make the assertion that the Council only has the evidence from the child who remembers walking the path with her mother to show that a right of way exists, this is not the case. The fact the path is marked on the Definitive Map is conclusive evidence of its existence. There is no requirement for the Council to prove the right exists. The onus is on those who contend that no right exists to provide evidence to prove their claim.
- 4.14 Finally, whether or not there is a desire by the public to use the path, this is irrelevant. The issue as to whether or not the path exists is purely evidential

## APPENDIX 5

### EVIDENCE IN SUPPORT OF RESIDENTS' CLAIM

- 5.1 A letter of support was submitted from the resident of Tyddyn Isa, Perriswood who states that in the 42 years she has resided at Perriswood, she has never seen or heard of any person walking or attempting to walk footpath 35 nor has she ever attempted or been directed to this path herself.
- 5.2 One walker responded to the notices displayed on site during the informal consultation period by stating that she has lived on the Gower for 37 years and was never aware of this footpath. She has always walked down the lane from Perriswood to the A4118 and considers the existence of the footpath unnecessary.
- 5.3 The residents of Plum Tree Cottage, formerly the Bungalow have lived at the property for 16 years. During that time they have not known anyone to have walked the path. They state that they have discussed the existence of the footpath with neighbours who have lived in Perriswood for 40 years who have indicated that the only people who have walked the paths in this area were the workers of the Penrice Estate.
- 5.4 One person has submitted that he lived in Bryngolau, Perriswood between 1977 and 2004 and was not aware of anyone using a footpath in the vicinity of footpath 35. He indicates that opening a public right of way directing walkers through properties would be an inconvenience.
- 5.5 The resident of Windsmoor, Perriswood has stated that in the 28 years he has lived at the property the footpath has not been in existence.
- 5.6 One person has submitted that she lived in Woodside between 1982 and 2011. Before that her grandparents had lived in the property since 1920. She used to stay with her grandmother and has had an intimate knowledge of the area since the 1950s. She states that until her grandfather died in 1939 he had been a blacksmith working opposite Home Farm who walked to work everyday along the path with others who worked for the Penrice Estate. She states that when the Penrice Estate sold off the properties in the 1950s, the path fell into disrepair. She lived in Woodside for 29 years and has not seen anyone use the path.
- 5.7 The owner of Haymarket submitted that she has lived in Perriswood since 1965 and her father who died in 1973 worked for the Penrice Estate and lived in Perriswood yet she has never been told about any such path. However, she was shown other paths in the area. She also states that she has spoken to two ninety year olds who were best friends with the family who lived in Rose Cottage in the 1950s but they

too have never heard of the path. She states that as the workers of the Estate retired or died the path would have fallen into disuse.

- 5.8 A representation was submitted from a person who claims to remember Perriswood in the 1950s and up to 1995 as she was a regular visitor. She states that she married in 1953 and visited her partner's relative fortnightly in Woodside. She states that in the early 1950s this included the plot of Plum Tree Cottage. She asserts that she never saw anyone walking through the garden and that the only person she saw walking the path throughout the 1950s was the person who had bought the piggery site. She states that there may have been a path between Perriswood and Home Farm when the houses were occupied by the tenants of the Estate but she remembers that these were sold off in the 1950s and any such use had ceased by then.
- 5.9 Another person has submitted that she lived at Rose Cottage between 1943 and 1946. She states that her mother enjoyed walking but she has no recollection of her mother taking this path to Home Farm and it was never mentioned in subsequent years when they used to talk of their time in Perriswood. She indicates that her mother was involved in the Pony Club and attended meetings during the footpath reviews though her interest was in relation to bridleways in Margam and Port Talbot. She asserts that though all members of the public were invited, very few attended and those with knowledge of the area may not have been present to ensure the paths were given the appropriate status.
- 5.10 Ilston Community Council has provided views on the claim. Firstly, they too suggest that the route was probably a private right of way for residents to work at Home Farm. They also state that the route does not appear in the Walks of Gower guides, is not way marked and they do not believe there is a need for the route as there are alternatives available.
- 5.11 A letter was received from a person stating that he had farmed near Perriswood in the 1940s and 50s. He worked as a tenant farmer until purchasing Perriswood Farm in 1951. He states that the access to Perriswood Farm was via the hamlet passing Windsmoor and Haymarket and along Cefn Bryn. He therefore claims to have passed through Perriswood several times a day and knew the residents well. He states that when the houses of Perriswood were owned by the Estate, some of the tenants also worked on the Estate and walked the route between Woodside and Rose Cottage through Hayes Wood as it was a more direct route. He asserts that this path was very little used and was in a poor state by the end of the 1940s. He does not remember it being used by the public.
- 5.12 A letter was submitted by a person who remembers the area between the early 1960s and the 1980s when he used to live in Penmaen. He never remembers walking the path in question.

- 5.13 Whether there has been use of the path post 1954 is not relevant and has no bearing on whether a right of way subsisted by that time.
- 5.14 Any opinion that the footpath is not necessary or that there are suitable alternatives are not relevant considerations. The claim must be determined based on whether the evidence shows that a right subsisted by 1954. The amenity value, the convenience or even inconvenience of the footpath cannot be taken into account.
- 5.15 It is acknowledged that the path was used by workers of the Penrice Estate who used the path as a route to work. However, this does not mean that members of the public did not also make use of the path. Furthermore, just because some assert they do not remember the public walking the path in the 1950s doesn't mean that a public path has not been established at an earlier date. Case law has established that where a path is created as a private track this does not prevent dedication as a public footpath through long term user.
- 5.16 The fact that some assert that they had never been told of the path can only be given little evidential weight. Similarly, any evidence of any person stating that they did not remember any public use during their fortnightly visit to the area cannot be given significant weight.
- 5.17 Although taken into account, little evidential weight can be given to the comments in relation to the two 90 year olds. It is acknowledged that they were not aware of the path in the 1950s, however, that does not mean that one did not exist and it does not mean that a public footpath had not been established at an earlier date.
- 5.18 It is important to note that whilst the path may have fallen into disuse following the cease of use by estate workers does not mean that public rights had not been established earlier. The Parish Council believed in the existence of a public footpath so as to record it in their survey.
- 5.19 It must be remembered that the Definitive Map is conclusive evidence of the existence of any path shown within it. Case law has established that it must be presumed that the path does exist unless sufficient evidence is submitted to outweigh that presumption. Furthermore, it must also be presumed that the correct procedures which resulted in its inclusion. Therefore, we must assume that the Parish Council were aware of evidence which suggested that the path was a public one.
- 5.20 Furthermore, it should be noted that there is no requirement for the Council to prove the path's existence. The onus falls upon those who contend that no path exists to provide proof of their claims. The question that must be asked is whether or not the evidence received is sufficient to warrant making a modification order. This evidence must be sufficient to outweigh the presumption under common law that the path does exist. It is considered that the evidence submitted is not sufficient.

## APPENDIX 6

### EVIDENCE OPPOSING THE RESIDENTS' CLAIM

- 6.1 The residents of one property of Perriswood have indicated that they do not want the path to be deleted and state that when they first moved to the area in 1994, they were informed by a resident that a footpath existed. The desire of some for the path to be retained on the definitive map is not a relevant consideration.
- 6.2 One individual accepts that the occupants of Perriswood probably were tenants of the estate and may have worked on the estate but he points out that the path does not link directly to any of the offices of the estate (the house nor any other farm). He indicates that it would be unlikely that the path would have been included in the Parish Survey if it were only being used by the employees of the estate. He states these workers may have used the path on their private business also. He accepts that he finds it difficult to see a reason for footpath 35 to exist but he asserts that the assumption it was only used for estate purposes is incorrect.
- 6.3 Whether the workers used the path on private business is not evidence that the way was a public one as they would presumably have been permitted to use the path as tenants and workers of the estate. Therefore, they would not have been using the path as of right but with permission.
- 6.4 One member of the Gower Society has stated how he has attempted to use the path but has found it to be obstructed. He states that many walkers who come off Cefn Bryn Common wish to continue along footpath 35 but are unable to do so. He agrees that the path may once have been a path for servants of the estate to get to and from work. However, he asserts that most footpaths are established initially in this way.
- 6.5 The representative of the Swansea Ramblers and the Gower Society states she has contacted several members of the Gower Society and some remember walking the path in the 1980s. She states that most recall attempting to use the path more recently but found it obstructed. She also states that the fact it was originally used by the tenants of the estate is not proof that there is no public right of way since a high percentage of footpaths started as paths used to access work, the church etc. She states the path provides a good link between Cefn Bryn, Perriswood and Penny Hitch and reduces the distance walked along the main road.
- 6.6 The fact that some remember walking the path in the 1980s is some evidence that a path did exist on the ground. However, it does not provide evidence of the status of the path by 1954. The amenity value of the path and the fact it provides good links between areas is not a

relevant consideration when determining whether the evidence shows a path to exist even though this may provide reasons as to why it was in use. She states that one member remembers walking the path in the 1940s. This would be some evidence of the status of the path by 1954.

- 6.7 The sister of the owner of the triangular section of land adjacent to the Bungalow which she refers to as the 'piggery' site shown as OS parcel 6 on plans 2 and 3 attached to this report has indicated that her brother remembers people walking a path. She stated that he said they used to walk along the access track onto the piggery site then across a stile into the adjacent field. This is no evidence of the existence of a public footpath prior to 1954.



## APPENDIX 7

### LEGAL TESTS FOR MAKING A MODIFICATION ORDER

- 7.1 The Council has a duty under the provisions of section 53 of the Wildlife and Countryside Act 1981 to keep the Definitive Map and Statement under continuous review (Appendix 3)
- 7.2 Section 53(3)(c)(i) specifies that a modification order should be made following the discovery of evidence which, when considered with all other relevant evidence available shows “that a right of way subsists or is reasonably alleged to subsist” over the land in the area to which the map relates.
- 7.3 As made clear in the High Court case of R v Secretary of State for the Environment ex parte Mrs Norton and Mr R Bagshaw, this involves two possible tests;

**Test A:** Does a right of way subsist on a balance of probabilities?

This would require clear evidence in favour of the right subsisting and no credible evidence to the contrary

**Test B:** Is it reasonable to allege on the balance of probabilities that a right of way subsists?

Here, if there is a conflict of credible evidence and no incontrovertible evidence that a way cannot be reasonably alleged to subsist then the answer must be that one does subsist.

If either test is satisfied, the Council will be obliged to make a modification order.

- 7.4 Under s53(3)(c)(iii) an order should also be made following the discovery of evidence which, when considered with all other relevant evidence available shows “that there is no public right of way over land shown in the map and statement as a highway of any description, or any other particulars contained in the map and statement require modification.
- 7.5 The case of Leicestershire County Council v Secretary of State for the Environment and Rural Affairs [2003] established that where there is a question as to where the correct line of the path should be positioned, section 55(3)(c)(iii) will likely be the starting point, and it is only if there is sufficient evidence to show that the line is wrong, which would normally no doubt be satisfied by a finding that on the balance of probabilities the alternative was right, that a change took place. The presumption is against change, rather than the other way round.

- 7.6 In the case of *R v Secretary of State for the Environment ex parte Kent County Council* [1994], the Inspector had refused to confirm an order made under section 53(3)(c)(iii) on the basis that the confirmed order would have deleted the whole of the footpath whose position but not existence was in dispute. The Judge stated “it seems inherently improbable that what was contemplated by section 53 was the deletion in its entirety of a footpath or other public right of way of a kind mentioned in section 56 of the 1981 Act, the existence, but not the route of which was never in doubt”.

## **APPENDIX 8**

### **FURTHER COMMENTS FROM ILSTON COMMUNITY COUNCIL FOLLOWING THE COMMITTEE MEETING OF THE 20<sup>TH</sup> JUNE 2012**

- 8.1 The Community Council state that they have not found any evidence in the West Glamorgan Archives Service to show that the Parish Councils held proper meetings to consider and approve the reports from the Parish Survey in 1951. Without evidence of these meetings and approval of the plans, they do not see how this Council can make the assumption that the footpath was properly included on the Definitive Map.
- 8.2 The Community Council further state that under the provisions of the National Parks and Access to the Countryside Act 1949 there was a requirement that the paths surveyed by the Parish Councils had to be approved and exhibited in each Parish for public inspection. They state that there are no records that this was done. They feel that any lack of evidence or lack of records should be brought to the attention of Committee Members as they do not believe that this Council can make the assumption that the inclusion of the path on the Definitive Map is correct and that the Parish Councils followed the correct procedures.

### **OFFICER COMMENTS ADDRESSING ISSUES RAISED BY ILSTON COMMUNITY COUNCIL**

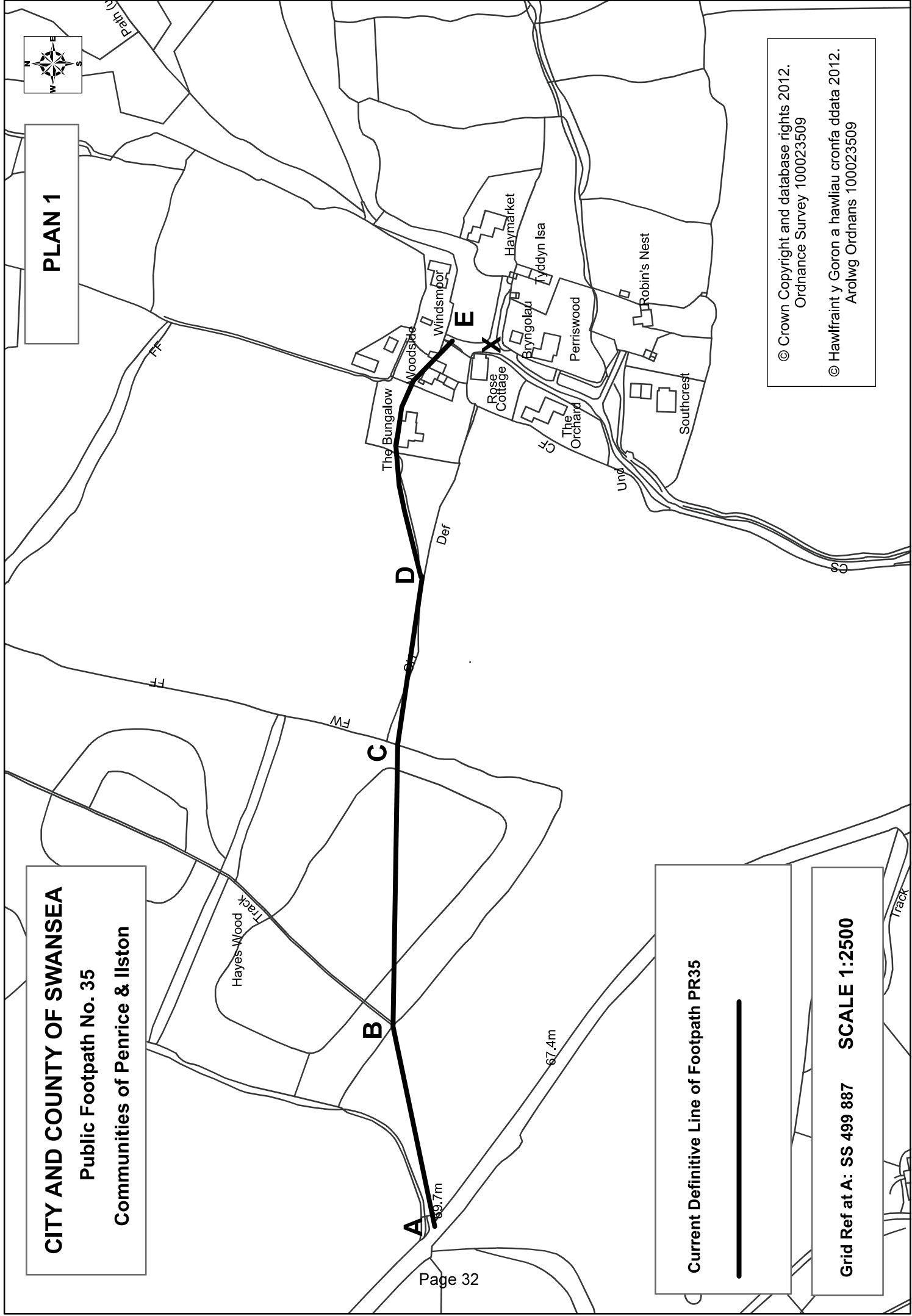
- 8.3 Whilst the Community Council has not found evidence of proper meetings to consider and approve the Parish Survey results, the inclusion of any path on the Definitive Map is conclusive evidence of the existence of a public right of way under section 56(1) of the Wildlife and Countryside Act 1981.
- 8.4 The case of Trevelyan referred to in paragraph 3.6 in the main body of the report held that when considering such matters the surveying authority must start with the presumption that the Definitive Map is correct and that if there was no evidence of the right having existed then it would never have been marked on the map and that the authority must assume that the proper procedures were followed.
- 8.5 This is the ruling in law that the Council must follow when considering the claim that no right of way exists. There is no requirement for the Council to prove the Definitive Map is correct or to show that the proper procedures were in fact followed. As a result, this Council has to assume that the Parish Councils did follow the correct procedures with the records having been lost over the years.
- 8.6 Successive reviews of the Map and Statement were advertised in 1955, 1964 and 1970 but no member of the public, resident of Perriswood, landowner or any Parish Council availed themselves of the opportunity to object or even question the depiction of the path.

However, other persons within the Parish did make representations on other routes during these reviews, which establishes that the consideration of the status of such paths was brought to the attention of the public at these times.

- 8.7 The evidential test is on the balance of probabilities and the case law further states that in order to outweigh the initial presumption that the Definitive Map is correct, the evidence must be cogent and of sufficient substance. It is not considered that the evidence supplied is sufficiently substantial to warrant making a modification order to delete the path.
- 8.8 The comments submitted by the Ilston Community Council since the last Committee meeting do not warrant a change in the report recommendations.

**CITY AND COUNTY OF SWANSEA**  
**Public Footpath No. 35**  
**Communities of Penrice & Ilston**

**PLAN 1**



**Current Definitive Line of Footpath PR35**

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**Grid Ref at A: SS 499 887**    **SCALE 1:2500**

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**PLAN 2**

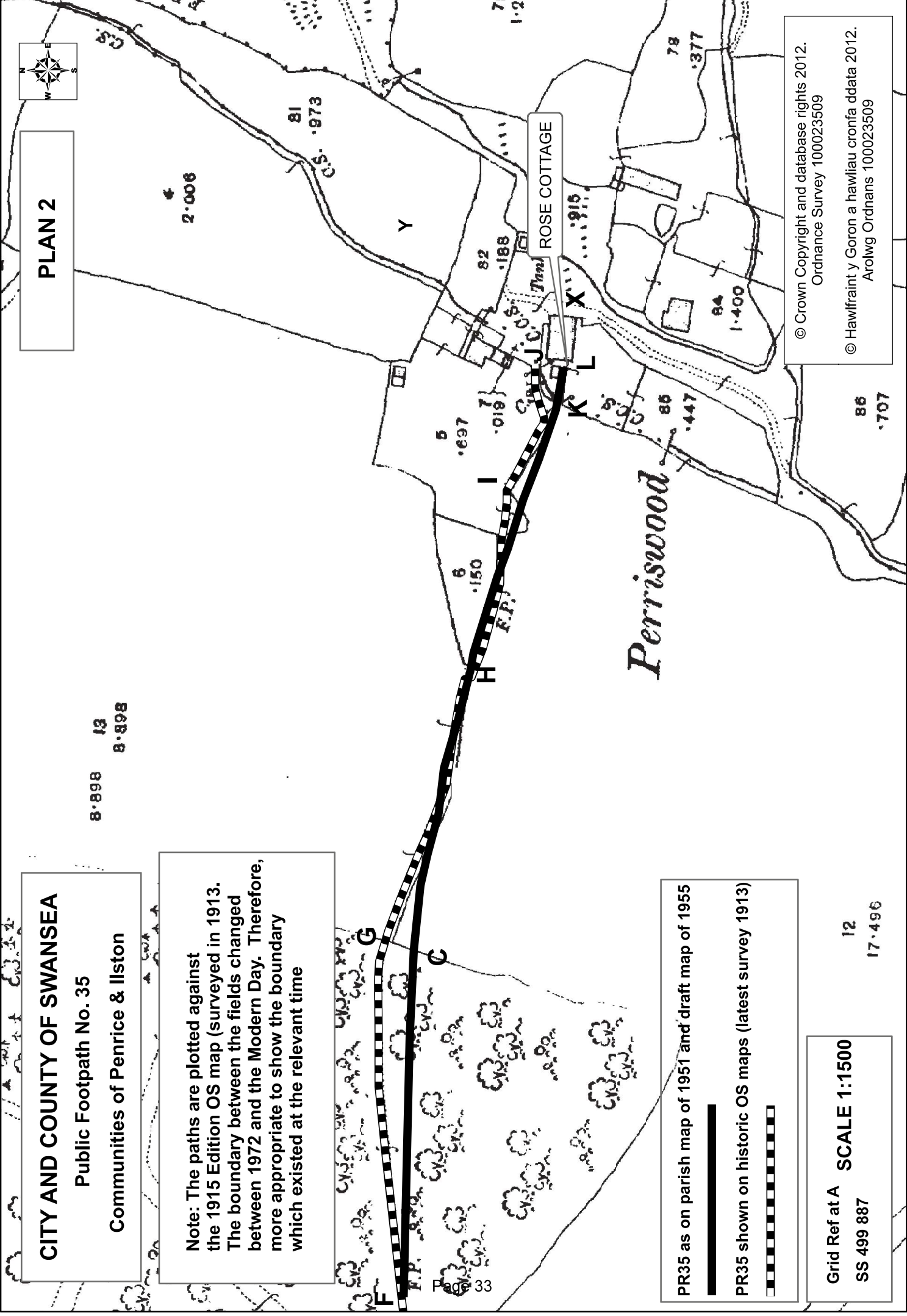
**CITY AND COUNTY OF SWANSEA**  
Public Footpath No. 35  
Communities of Penrice & Ilston

Note: The paths are plotted against the 1915 Edition OS map (surveyed in 1913). The boundary between the fields changed between 1972 and the Modern Day. Therefore, more appropriate to show the boundary which existed at the relevant time

PR35 as on parish map of 1951 and draft map of 1955  
PR35 shown on historic OS maps (latest survey 1913)

Grid Ref at A **SCALE 1:1500**  
SS 499 887 12  
17 496

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# CITY AND COUNTY OF SWANSEA

Public Footpath No. 35

Communities of Penrice & Ilston

Note: The paths are plotted against the 1913 OS Survey - the boundary between the fields has changed between 1972 and the Modern Day. Therefore, more appropriate to show the boundary which existed at the relevant time

PR35 as shown on Provisional Map published 1964

PR35 as shown on First Definitive Map published 1970 (relevant date 1954)

Grid Ref at A **SCALE 1:1500**  
SS 499 887 12 17 496

# PLAN 3

2.006

81  
073

79  
1.221

ROSE COTTAGE

78  
377

84  
1.400

*Perriswood*

86  
707

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**CITY AND COUNTY OF SWANSEA**

Public Footpath No. 35

Communities of Penrice & Ilston

Plotted against 1915 edition OS map (surveyed in 1913)  
so can be compared easily to the depiction of the  
path on the other reviews

PR35 as shown on Draft Special Review in 1971



Grid Ref at A  
SS 499 887

SCALE 1:1500

12  
17 496

**PLAN 4**

2 006

81  
073

ROSE COTTAGE

78  
377

84  
1 400

86  
707

*Perriswood*

M

N

S

X

Page 3

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