



Report of the Head of Planning and City Regeneration

Planning Committee – 5 November 2019

Diversions and Creations of Footpaths and Bridleways Community of Pennard

Purpose:	To adjust the legal routes of the paths across Pennard Burrows golf course to bring them in line with the routes that have been used by the public for at least the last 25 years.
Policy Framework:	The Authority's Countryside Access Plan (Rights of Way Improvement Plan).
Consultation:	Pennard Community Council, local Member, Natural Resources Wales, Gower Riders, Ramblers Association, British Horse Society, Open Spaces Society, local horse riders, local path users (via site notices).
Recommendation(s):	It is recommended that: 1) Public path creation and extinguishment orders be made to move the legal routes of paths on to the used routes, and if objections are received, for the orders and objections to be submitted to the Planning Inspectorate.
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1.0 Introduction

- 1.1 Pennard Burrows at Southgate is a busy area for walkers and horse riders, and on certain days of the year hundreds of visitors and residents will make use of the area for walking and riding.

- 1.2 However, the network of bridleways and footpaths in the area does not reflect the way in which the area is used by walkers and riders, with many well used routes not recorded as public paths and others crossing the played areas of the golf course.
- 1.3 An attempt was made to rectify this in 2013 by diverting some of the paths. Unfortunately, despite extensive informal consultations prior to making the diversion orders, a small number of objections to the orders were received, which prevented the Authority from confirming the orders.
- 1.4 On 7 March 2017 this committee resolved to withdraw the 2013 diversion orders and to make the necessary changes by publishing amended orders containing fewer changes to the path network, as these would have less chance of being challenged.
- 1.5 Pennard Golf Club (company name Pennard Burrows Ltd), as landowner, have applied for two of the proposed changes across the golf course, and the other changes are being done as part of the Wales Coast Path improvements.

2.0 Consultations

- 2.1 Following the Committee resolution mentioned above informal consultations with users on changes to 3 paths were carried out last summer and resulted in 5 objections. The proposals were therefore altered as a result of the objections, with 2km of additional bridleway added, and further informal consultations took place this summer (see map in appendix 1) . However, one objection was still received and therefore it is for this Committee to decide whether or not to proceed to making formal orders under the Highways Act 1980.

3.0 Objection to proposals

- 3.1 The objection is from a horse rider and refers to the proposed changes not addressing the issues at this location and that they are unacceptable. The objector also questions why another route, which is currently a well-used permissive bridleway route alongside the road, has not been included in the proposals.
- 3.2 As stated above, the proposed changes reflect how the area has been used by walkers and riders for at least the last 30 years and the great majority of these users have followed the proposed diversions set out in the appendices to this report. Examination of aerial photos from 1971 and 1992 indicates that the proposed routes were in use and well worn at these times. The golf course has been in existence since 1896, pre-dating the first public rights of way legislation by 53 years. It may be that the paths across the golf course were only informally diverted because there was no legislation to divert them at the time. The diversions therefore appear to have been accepted by most of the public. Comments from two other horse riders were supportive of the proposed changes.

- 3.3 The proposals include two new lengths of path, 400 metres of footpath and 1.4 km of bridleway. The permissive route alongside the road mentioned by the objector could also have been included in these proposals, as could other routes. However, as stated above, the Authority has previously attempted to make a large number of changes in one order and, as this approach has failed, it is now considered that any proposals are more likely to succeed if a small number of changes are proposed at the same time. The Golf Club are also under no obligation to offer any extra public paths as part of this proposal. The Golf Club are keen to maintain the permissive bridleway, as it encourages riders to use an alternative route to the bridleway that crosses the golf course.
- 3.4 There have now been three rounds of consultations regarding changes to the path network across the golf course. After each consultation the proposals have been altered to accommodate, as far as possible, the comments from the users, and therefore the likelihood of objections at the formal stage to orders made under the Highways Act has been mitigated.
- 3.5 Although the proposals have received one objection, the affected paths are used by thousands of people every year and it is therefore unlikely that there would be absolutely no objections to any proposal put forward for these paths. Therefore, it is not possible to guarantee that objections will not be raised at the formal stage.
- 3.6 If objections are received at the formal stage the Authority would need to be confident that the case for the proposed changes is in keeping with the relevant legislation, because, in this case, the orders would be submitted to the Planning Inspectorate.

4.0 Proposed creation and extinguishment orders

- 4.1 As there are new routes, plus upgrades from footpath to bridleway being proposed, as well as diversions, the changes need to be made using a combination of two orders made concurrently, a creation order (under section 26 of the Highways Act 1980) and an extinguishment order (under section 118 of the Highways Act 1980).
- 4.2 Appendices 2, 3 and 4 describe the legislative background and tests to be applied for concurrent public path orders, extinguishment orders and creation orders.
- 4.3 The proposals would increase the present length of bridleway 6 by 60 metres, from 1450 metres to 1510 metres. There would also be a slight loss of view due to the proposed route following lower ground. However, this would be mitigated to an extent by the creation of the new bridleway between points y and 6e. The section of footpath 5 that crosses the golf course would increase in length by 50 metres from 570 metres to 620 metres. In terms of a straightforward diversion, therefore, there is little difference between the routes proposed to be lost and those to be gained.

4.4 However, overall in these proposals walkers will gain the right to use an additional 700 metres of public path and riders 1.4 kilometres. The additional routes form part of a long term plan for access for riders on land owned by the Golf Club, with further bridleways planned along Pennard Valley and Pobbles Valley, totalling 2.7 km of extra bridleway.

5.0 Conclusion

5.1 It is therefore considered that, taken as a whole, these proposals will be of benefit to the public and that, if necessary, the Authority could defend creation and extinguishment orders if submitted to the Planning Inspectorate.

6.0 Equality and Engagement Implications

6.1 The Council is subject to the Public Sector Equality Duty (Wales) and must, in the exercise of their functions, have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

Our Equality Impact Assessment process ensures that we have paid due regard to the above.

6.2 An EIA Screening Form has been completed with the agreed outcome that a full EIA report was not required as all of our paths are free to use and available to people of all ages, any sexual orientation, marital status, religious belief, financial status or race. Our route change proposals can have an effect on use by less mobile people, but in this case the existing routes of the paths cross the same terrain as the new routes and therefore there will be no loss of access to less mobile people. The new routes will require new signs, and all of our signage has been bilingual for the last 30 years and conform to Welsh Language policy, therefore Welsh language speakers will not be disadvantaged.

7.0 Financial Implications

7.1 The Golf Course have applied for the diversions and will pay for half of the costs, which are mostly advertising. The other half of the costs will be paid for out of the Coast Path fund, as the new paths will form part of the Coast Path. The Authority has been maintaining the proposed routes of the new paths for many years and therefore there will be no additional maintenance costs as a result of these proposals.

Background Papers: None

Appendices:

Appendix 1	Plan of proposed changes
Appendix 2	Concurrent Highways Act orders
Appendix 3	Section 118 of the Highways Act 1980
Appendix 4	Section 26 of the Highways Act 1980