

ENCLOSURE 10

1.2 Application for a Public Path Diversion Order, Public Footpath No. 35 in the Community of Llangattock (Annex 3)

Eifion Jones

File reference: PAR804/512/D/35

Applicant: Christopher Swire, 9 Church View, Llangattock, Crickhowell NP8 1PQ

Location: Church View, Llangattock, Crickhowell

Grid Ref: SO20951779

Map No: SO21NW

Community: Llangattock

Summary of Definitive Route: From a point to the south of Church View and proceeding in a north westerly direction parallel, and 1 metre away from the rear boundary of nos. 1, 3, 5, 7 and 9 Church View and onto the public road opposite The Old Rectory. Total length approximately 115 metres.

Summary of Proposed Route: From a point to the south of Church View and proceeding in a north westerly direction parallel, and some 5 metres away from the rear boundary of nos. 1, 3, 5, 7 and 9 Church View and onto the public road opposite The Old Rectory. Total length approximately 120 metres.

Consultation Responses

Powys County Council (Recreation, Culture and Countryside Services)
- no reply

Powys County Council (Transportation and Environmental Services) -
no reply

Llangattock Community Council - "Members note that there was an apparent difficulty some years ago in installing the gate to provide access for disabled users at the original site of the stile at point B leading off the county highway, which necessitated it being installed at point C instead. However, they do not consider that that small change should be used to justify the diversion as shown. Members also note that "the application is also being made in order to provide more privacy for the rear of the adjacent residential properties". The existing footpath from A to B was there long before the Church View houses were built, and the boundary hedge is of such a height and thickness that little can be seen through or over it. The existing path can be walked freely for the first section leading from point C, but the line of the path nearer to point A is obstructed by dumped soil etc and various plantings. The proposed change would move the path perhaps 2-3 metres to the south at most, and it is difficult to see the justification for this procedure unless it is proposed to erect another fence/hedge/planting scheme to physically prevent members of the public getting nearer to the rear of the properties. It is understood that the field/paddocks retain their original agricultural status in planning terms and are not part of the domestic curtilage. Notwithstanding the above, and in the event of the application being granted, it is considered

ENCLOSURE 10

essential that any new/diverted path be clearly waymarked and defined, so that members of the public are not deterred in any way from using it.”

County Councillor - no reply

Countryside Council for Wales - no reply

Ramblers Association - ‘no objections to the proposal’

Open Spaces Society - no reply

Byways and Bridleways Trust - no reply

British Horse Society - no reply

Auto Cycle Union - no reply

The Brecon Beacons Park Society - ‘proposal seems reasonable and the slight route alteration should not have any noticeable effect for users of the right of way...I suggest that if the application is approved it should be accompanied by a condition requiring the residents to maintain clear access along the route”

Statutory Undertakers - no objections

Details of application: the application has been submitted under section 119 of the Highways Act 1980 in the interests of the landowner. It is proposed to divert footpath no. 35 for the following reasons:-

- i) the diversion will bring the termination point of the footpath into line with a gate installed to provide access for the disabled users at point C (the gate could not be installed at point B due to the presence of underground apparatus);
- ii) in order to provide more privacy for the rear of the adjacent residential properties.

Section 119 of the Highways Act 1980 states that an authority may make an order where it appears to be expedient to divert a path in the interests of the owner, lessee or occupier of land crossed by the path or of the public.

A public path diversion order shall not alter a point of termination of the path if that point is not on a highway, or, where it is on a highway otherwise than to another point which is on the same highway, or a highway connected with it, and which is substantially as convenient to the public.

Before an authority confirms an order they must be satisfied that the diversion to be effected by it is expedient as stated above and further that the path will not be substantially less convenient to the public in consequence of the diversion and that it is expedient to confirm the order having regard to the effect which the diversion would have on public enjoyment of the path as a whole.

Conclusion: the effect of the proposal would be to move the footpath a short distance to the south west of its present line. The need for this originates from the fact that the Authority installed a gate at point C some years ago in order to facilitate use of the path by disabled users.

ENCLOSURE 10

The gate replaced a stile which was positioned at point B. However, due to the presence of underground apparatus, the gate could not be installed at the same point. This necessitated a 'kink' in the line of the footpath in order for public access to be maintained. The applicant seeks to progress from this and divert the whole length of the footpath that lies adjacent to Church View. The proposal involves diverting the existing footpath onto a much wider swathe of land that lies between the gardens of the properties and their paddocks further to their rear.

Clearly, the applicant and the neighbouring residents will gain some additional privacy from this proposal and the proposal is therefore to their benefit. However, given the additional width of the alternative route (approximately three times wider than the original) and the fact that its surface is more even it is considered that there is gain to the public also, especially those that are less mobile. Whilst the diversion involves a minor change to the footpath it is considered that the new route is more convenient to the public and will have a positive effect on the public's enjoyment of the path as a whole.

With regard to the comments made by the Beacons Park Society regarding the imposition of a condition upon the residents to maintain clear access along the route, this is not considered necessary. Once the footpath is formalised the landowners will be legally responsible for managing the encroachment of vegetation in any case.

Recommendations:

- (i) that the application to divert footpath no. 35 in the Community of Llangattock be approved and that the Chief Executive be instructed to make an order under section 119 of the Highways Act 1980;**
- (ii) that an order be made subject to the applicant reimbursing all the Authority's costs in accordance with paragraph (a) and (b) of the policy concerning the recovery of costs for public path and rail crossing orders;**
- (iii) that an order be made subject to the applicant entering into an agreement with the National Park Authority to meet all costs involved in bringing the diversion route of the public footpath into a fit condition for use by the public and that all works are completed to the satisfaction of the Chief Executive;**
- (iv) if no representations or objections are duly made to the order during the statutory objection period, or if any so made are withdrawn, that the Chief Executive be authorised to confirm the order as an unopposed order.**