

MID GLAMORGAN COUNTY COUNCIL

Highways and Transportation Committee

RIGHTS OF WAY SUB COMMITTEE

No.7 (1)

At a meeting of the Rights of Way Sub Committee of the Highways and Transportation Committee held in the vicinity of Goitre Lane, Gurnos, Merthyr Tydfil on 1 August 1995.

Present: County Councillors B. Fitzgerald (Chairman in the Chair), A. Baynham (by invitation of the Chairman), J. Cleary, L.J. Jenkins, D.J. John, K.A. Privett and L. Waters

1. JOINT REPORT OF THE COUNTY ENGINEER AND SURVEYOR AND THE COUNTY SECRETARY AND SOLICITOR IN RESPECT OF AN APPLICATION TO ADD A BYWAY OPEN TO ALL TRAFFIC FROM GURNOS TO MORLAIS CASTLE QUARRY

1.1 The joint report of the County Engineer and Surveyor and County Secretary and Solicitor was received in respect of an application submitted by Merthyr Tydfil Borough Council, to make an Order which will modify the Definitive Map and Statement for the area, by adding a Byway Open to All Traffic leading from Gurnos to Morlais Castle Quarry, Merthyr Tydfil.

1.2 Members having inspected the claimed right of way:-

RESOLVED that a Modification Order be prepared under the Wildlife and Countryside Act 1981 to amend the Definitive Map and Statement for the area to the effect that:-

- i) the section of the route indicated on the associated plan, marked A-E be registered as a Byway Open to All Traffic and
- ii) the section of the route indicated on the associated plan, marked B-C-D-E be downgraded to a Bridleway by the appropriate statutory means, either by stopping up vehicular rights under the Highways Act 1980 or imposing a Traffic Regulation Order.

MID GLAMORGAN COUNTY COUNCIL

JOINT REPORT OF THE COUNTY ENGINEER AND SURVEYOR AND
THE COUNTY SECRETARY AND SOLICITOR

APPLICATION FOR A MODIFICATION ORDER TO AMEND THE MID
GLAMORGAN COUNTY COUNCIL DEFINITIVE MAP AND STATEMENT OF
PUBLIC RIGHTS OF WAY

Background

- i) As Members are aware this Sub-Committee has full delegated powers to determine applications for Definitive Map Modification Orders under Section 53 of the Wildlife and Countryside Act 1981.

- ii) The term "public rights of way" mean paths, tracks and unmetalled roads over which the public have the right to walk and in some cases ride horses and possibly drive motor vehicles. These may be classified as follows:-

A footpath: over which the right of way is on foot only.

A bridleway: over which there is a right of way on foot and on horseback or leading a horse, and also for the use of a pedal cycle.

A byway open to all traffic: is a highway over which the public have a right of way for vehicular and all other kinds of traffic, but which is used by the public mainly for the purpose for which footpaths and bridleways are so used.

- iii) The Wildlife and Countryside Act 1981 places a duty on the County Council to keep the existing definitive map under continuous review, make Modification Orders as necessary to take account of the occurrence of events requiring the map to be modified and to prepare definitive maps for any of the area not previously surveyed.

Section 53 (c) (i) states that such an event is "... the discovery by the Authority of evidence which (when considered with all other relevant evidence available to them) shows -

(i) that a right of that which is not shown on the map and statement subsists or is reasonably alleged to subsist...."

- iv) The definitive map and statement will be modified by means of Orders made by the surveying authority i.e. the County Council. The Wildlife and Countryside Act enables any person to apply to the surveying authority for an order to amend the definitive map.

- v) The procedure for making such an application is detailed in Schedule 14 of the Wildlife and Countryside Act. The application before you has been compiled with these requirements. The said procedures are referred to later in the report.

- vi) When determining the application before you, Members will be acting in a quasi-judicial capacity. Before making an order, Members must be satisfied that the evidence shows, on the balance of probabilities, that a right of way of a particular description exists. Each application must be dealt with

on its own merits, noting the interests of both the applicants and the landowners.

- vii) The application before you is concerned with rights that are alleged to already exist and not as to whether it would be prudent or beneficial to create them. The suitability of a way for users who have a right to use it, for example the nuisance that they are alleged to cause, are not factors that should be considered by the Sub-Committee.
- viii) When considering the evidence that follows, members must be aware of the provisions of Section 31 of the Highways Act 1980 thus enabling Members to determine whether there is sufficient weight of evidence to make an order.

Section 31 of the Highways Act states:-

"where a way over any land than a way of such a character that use of it by the public could not be given rise at common law to any presumption of dedication, has been actually enjoyed by the public as a right and without interruption for a full period of 20 years the way it is deemed to have been dedicated a highway unless there is sufficient evidence that there was no intention during that period to dedicate it."

If in the case before you Members are satisfied that the right of way has been used for a period in excess of 20 years then there arises a presumption that the owner intended to dedicate the path as a right of way. It should be noted by members that the said 20 year period must be calculated from the date when the way was first called into question by the Landowner (or his agent) doing some act that challenges the public throughout to use the way. Such an act would be, for example, the locking of a gate; the putting up of a notice up denying the existing of a right of way or opposing an application for a definite map modification order or lodging an objection to such an order.

- ix) Members are also required to walk the route of the claimed right of way in question.
- x) If following the site visit the Sub-Committee decides to make an Order, then once this decision has been reached the County Council has to give notice of its general effect. Following Members' decision there is a right of appeal to the Secretary of State for Wales. A period of at least 42 days from the date of first publication of the notice must be allowed for objections.

If there are any valid objections the County Council has to refer the Order, together with the objections to the Welsh Office who will then arrange for the Order and the objections to be considered by an independent Inspector. If no valid objections are made within the said objection period then the County Council may confirm the order itself as an unopposed Order.

SCHEDULE 1

In respect of:

An Application for an Order to add a

Byway Open to All Traffic from Gurnos to Morlais Castle Quarry

1. An application has been received from Merthyr Tydfil Borough Council to add a Footpath to the Definitive Map and Statement of the Former County Borough of Merthyr Tydfil as shown by a dashed black line on the plan marked Document 2 in the attached bundle.
2. The Claimed Right of Way commences at its junction with the maintainable highway known as Pont Sarn Road at Point A on the plan at Grid Reference SO 04900916 and proceeds in a south-south-westerly direction for 157 metres to Point B on the map at Grid Reference SO 04870900 and thence in a west-south-westerly direction for 155 metres to Point C on the plan at Grid Reference SO 04740893 where it turns and runs in a south-south-westerly direction for 177 metres to Point D on the plan at Grid Reference SO 04700876 and finally in a curved south-south-easterly direction for 208 metres to its termination on the maintainable highway known as Goitre Lane at Point E on the plan at Grid Reference SO 04720857 a total distance of 697 metres or thereabouts.
3. The application for a footpath was made by the Borough Council as landowners because they believed that the path should be registered and shown on the Definitive Map of Public Rights of Way.
4. However, initial investigations revealed that the Claimed Right of Way was shown on the Tithe Map, dated 1850, as a track in its own right. It is not included with the surrounding parcels of land nor is it given a number of its own. Thus, this is an area of uncultivated land for which tithes were not paid. This would tend to suggest that at the time this was considered a public road, which would have been used by vehicular traffic such as carriages. This view is further enhanced by the fact that the track is shown coloured on that map identical to other tracks which were coloured and which are maintainable highways today. A copy of the Tithe Map referred to is shown as Document 3 in the attached bundle.
5. In accordance with the provisions of Schedule 14 of the Wildlife and Countryside Act 1981 consultation (Document 4 in the attached bundle) on the application for a footpath took place with the Merthyr Tydfil Borough Council as another local authority in the area. As part of the consultation document it was noted that initial investigations showed that the track may indeed be an ancient highway and that its status may be that of a bridleway or Byway Open to All Traffic. No community council exists for this area.

Further consultations Documents 5, 6 and 7, including the same note as in paragraph 4 above regarding the status of the claimed right of way, were remitted to County Councillors Cleary and Baynham and the County Planning Officer requesting that they forward their

comments on the proposal within 28 days so that these may be taken into consideration when the application was being determined. Document 8 is the reply received from County Councillor Baynham in which he indicates that the route should be a bridleway whilst Document 9 is the reply received from the County Planning Officer which offers no objection to the proposal. No correspondence has been received from County Councillor Cleary.

6. Having considered the initial consultation document the Merthyr Tydfil Borough Council in its letter dated 6 August 1993 (Document 10) decided to amend its application from a footpath to a byway open to all traffic.

Further consultations Documents 11, 12 and 13 detailing this amendment were then forwarded to County Councillors Cleary and Baynham and the County Planning Officer. Document 14 is the reply received from Councillor Baynham in which he states that he 'will keep an open mind as long as it is left as a public footpath' whilst the County Planning Officer confirmed by telephone that he had no further comments to make. No correspondence has been received from County Councillor Cleary.

7. An extract from the 1:2500 Scale Ordnance Survey Map dated 1884 is contained in the bundle and marked as Document 15. From this it can be seen that the claimed right of way was at this time a tramway.

On the basis of the above and the evidence compiled in the bundles submitted to members, members are asked to decide whether an Order should be made to add a Byway Open to All Traffic as described in paragraph 2 above to the Definitive Map and Statement of Public rights of Way for the Former County Borough of Merthyr Tydfil.

+172 DSP

MID GLAMORGAN COUNTY COUNCIL

Mid Glamorgan County Hall
Cardiff
Tel No. Cardiff 820820

SUB-COMMITTEE SUMMONS

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

1. This meeting will be open to the public except when the meeting resolves, for reasons which will be stated in the resolution, to conduct specified items of business in private.
2. Members of the public wishing to inspect agenda and reports may do so at the Glamorgan Archives Service, Public Search Room, Mid Glamorgan County Hall, Cathays Park, Cardiff, CF1 3NE.

A reconvened meeting of the Rights of Way Sub-Committee of the Highways and Transportation Committee will be held in Goitre Lane (in the vicinity of Pen y Dre High School), Gurnos, Merthyr Tydfil at 2.30p.m. on Tuesday 1 August, 1995

AGENDA

1. To inspect the site and consider the joint report of the County Engineer and Surveyor and the County Secretary and Solicitor, regarding an application for a Modification Order to amend the Mid Glamorgan County Council Definitive Map and Statement of Public Rights of Way in respect of a by way open to all traffic from Gurnos to Morlais Castle, Merthyr Tydfil.

Office of the County Secretary and Solicitor,
Mid Glamorgan County Hall
Cathays Park,
Cardiff.
CF1 3NE.

26 July 1995

Circulation to:-

All Members of the Rights of Way Sub Committee



~~ALL~~
A - I, I play off to all
of these.

ENV\PT\AGE70(DR)

I - E, I will pay. All
To attend please 1/8/95

MID GLAMORGAN COUNTY COUNCIL

JOINT REPORT OF THE COUNTY ENGINEER AND SURVEYOR AND
THE COUNTY SECRETARY AND SOLICITOR

APPLICATION FOR A MODIFICATION ORDER TO AMEND THE MID
GLAMORGAN COUNTY COUNCIL DEFINITIVE MAP AND STATEMENT OF
PUBLIC RIGHTS OF WAY

Background

i) As Members are aware this Sub-Committee has full delegated powers to determine applications for Definitive Map Modification Orders under Section 53 of the Wildlife and Countryside Act 1981.

ii) The term "public rights of way" mean paths, tracks and unmetalled roads over which the public have the right to walk and in some cases ride horses and possibly drive motor vehicles. These may be classified as follows:-

A footpath: over which the right of way is on foot only.

A bridleway: over which there is a right of way on foot and on horseback or leading a horse, and also for the use of a pedal cycle.

A byway open to all traffic: is a highway over which the public have a right of way for vehicular and all other kinds of traffic, but which is used by the public mainly for the purpose for which footpaths and bridleways are so used.

iii) The Wildlife and Countryside Act 1981 places a duty on the County Council to keep the existing definitive map under continuous review, make Modification Orders as necessary to take account of the occurrence of events requiring the map to be modified and to prepare definitive maps for any of the area not previously surveyed.

Section 53 (c) (i) states that such an event is "... the discovery by the Authority of evidence which (when considered with all other relevant evidence available to them) shows -

(i) that a right of that which is not shown on the map and statement subsists or is reasonably alleged to subsist...."

iv) The definitive map and statement will be modified by means of Orders made by the surveying authority i.e. the County Council. The Wildlife and Countryside Act enables any person to apply to the surveying authority for an order to amend the definitive map.

v) The procedure for making such an application is detailed in Schedule 14 of the Wildlife and Countryside Act. The application before you has been compiled with these requirements. The said procedures are referred to later in the report.

vi) When determining the application before you, Members will be acting in a quasi-judicial capacity. Before making an order, Members must be satisfied that the evidence shows, on the balance of probabilities, that a right of way of a particular description exists. Each application must be dealt with

on its own merits, noting the interests of both the applicants and the landowners.

- vii) The application before you is concerned with rights that are alleged to already exist and not as to whether it would be prudent or beneficial to create them. The suitability of a way for users who have a right to use it, for example the nuisance that they are alleged to cause, are not factors that should be considered by the Sub-Committee.
- viii) When considering the evidence that follows, members must be aware of the provisions of Section 31 of the Highways Act 1980 thus enabling Members to determine whether there is sufficient weight of evidence to make an order.

Section 31 of the Highways Act states:-

"where a way over any land than a way of such a character that use of it by the public could not be given rise at common law to any presumption of dedication, has been actually enjoyed by the public as a right and without interruption for a full period of 20 years the way it is deemed to have been dedicated a highway unless there is sufficient evidence that there was no intention during that period to dedicate it."

If in the case before you Members are satisfied that the right of way has been used for a period in excess of 20 years then there arises a presumption that the owner intended to dedicate the path as a right of way. It should be noted by members that the said 20 year period must be calculated from the date when the way was first called into question by the Landowner (or his agent) doing some act that challenges the public throughout to use the way. Such an act would be, for example, the locking of a gate; the putting up of a notice up denying the existing of a right of way or opposing an application for a definite map modification order or lodging an objection to such an order.

- ix) Members are also required to walk the route of the claimed right of way in question.
- x) If following the site visit the Sub-Committee decides to make an Order, then once this decision has been reached the County Council has to give notice of its general effect. Following Members' decision there is a right of appeal to the Secretary of State for Wales. A period of at least 42 days from the date of first publication of the notice must be allowed for objections.

If there are any valid objections the County Council has to refer the Order, together with the objections to the Welsh Office who will then arrange for the Order and the objections to be considered by an independent Inspector. If no valid objections are made within the said objection period then the County Council may confirm the order itself as an unopposed Order.

SCHEDULE 1

In respect of:

An Application for an Order to add a

Byway Open to All Traffic from Gurnos to Morlais Castle Quarry

1. An application has been received from Merthyr Tydfil Borough Council to add a Footpath to the Definitive Map and Statement of the Former County Borough of Merthyr Tydfil as shown by a dashed black line on the plan marked Document 2 in the attached bundle.
2. The Claimed Right of Way commences at its junction with the maintainable highway known as Pont Sarn Road at Point A on the plan at Grid Reference SO 04900916 and proceeds in a south-south-westerly direction for 157 metres to Point B on the map at Grid Reference SO 04870900 and thence in a west-south-westerly direction for 155 metres to Point C on the plan at Grid Reference SO 04740893 where it turns and runs in a south-south-westerly direction for 177 metres to Point D on the plan at Grid Reference SO 04700876 and finally in a curved south-south-easterly direction for 208 metres to its termination on the maintainable highway known as Goitre Lane at Point E on the plan at Grid Reference SO 04720857 a total distance of 697 metres or thereabouts.
3. The application for a footpath was made by the Borough Council as landowners because they believed that the path should be registered and shown on the Definitive Map of Public Rights of Way.
4. However, initial investigations revealed that the Claimed Right of Way was shown on the Tithe Map, dated 1850, as a track in its own right. It is not included with the surrounding parcels of land nor is it given a number of its own. Thus, this is an area of uncultivated land for which tithes were not paid. This would tend to suggest that at the time this was considered a public road, which would have been used by vehicular traffic such as carriages. This view is further enhanced by the fact that the track is shown coloured on that map identical to other tracks which were coloured and which are maintainable highways today. A copy of the Tithe Map referred to is shown as Document 3 in the attached bundle.
5. In accordance with the provisions of Schedule 14 of the Wildlife and Countryside Act 1981 consultation (Document 4 in the attached bundle) on the application for a footpath took place with the Merthyr Tydfil Borough Council as another local authority in the area. As part of the consultation document it was noted that initial investigations showed that the track may indeed be an ancient highway and that its status may be that of a bridleway or Byway Open to All Traffic. No community council exists for this area.

Further consultations Documents 5, 6 and 7, including the same note as in paragraph 4 above regarding the status of the claimed right of way, were remitted to County Councillors Cleary and Baynham and the County Planning Officer requesting that they forward their

comments on the proposal within 28 days so that these may be taken into consideration when the application was being determined. Document 8 is the reply received from County Councillor Baynham in which he indicates that the route should be a bridleway whilst Document 9 is the reply received from the County Planning Officer which offers no objection to the proposal. No correspondence has been received from County Councillor Cleary.

6. Having considered the initial consultation document the Merthyr Tydfil Borough Council in its letter dated 6 August 1993 (Document 10) decided to amend its application from a footpath to a byway open to all traffic.

Further consultations Documents 11, 12 and 13 detailing this amendment were then forwarded to County Councillors Cleary and Baynham and the County Planning Officer. Document 14 is the reply received from Councillor Baynham in which he states that he 'will keep an open mind as long as it is left as a public footpath' whilst the County Planning Officer confirmed by telephone that he had no further comments to make. No correspondence has been received from County Councillor Cleary.

7. An extract from the 1:2500 Scale Ordnance Survey Map dated 1884 is contained in the bundle and marked as Document 15. From this it can be seen that the claimed right of way was at this time a tramway.

On the basis of the above and the evidence compiled in the bundles submitted to members, members are asked to decide whether an Order should be made to add a Byway Open to All Traffic as described in paragraph 2 above to the Definitive Map and Statement of Public rights of Way for the Former County Borough of Merthyr Tydfil.

Former County Borough of Merthyr Tydfil
Wildlife and Countryside Act 1981
Definitive Map and Statement

DOCUMENT N° 1



Mid Glamorgan County Council

FORM W.C.A. 5A

Form of Application for a Modification Order

I/We (name of applicant) MERTHYR TYDFIL BOROUGH COUNCIL
Of (address of applicant) CIVIC CENTRE, CASTLE ST,
MERTHYR TYDFIL,

hereby apply for an order under Section 53 (2) of the Wildlife and Countryside Act 1981 modifying the Definitive Map and Statement by adding the footpath ~~*/bridleway*/by way open to all traffic*~~

from DISUSED MORLAIS CASTLE QUARRIES
to GOITRE LANE, GURNOS

I/We attach a map and copies of the following documentary evidence (including statements of witnesses)* in support of this application -

List of Documents provided

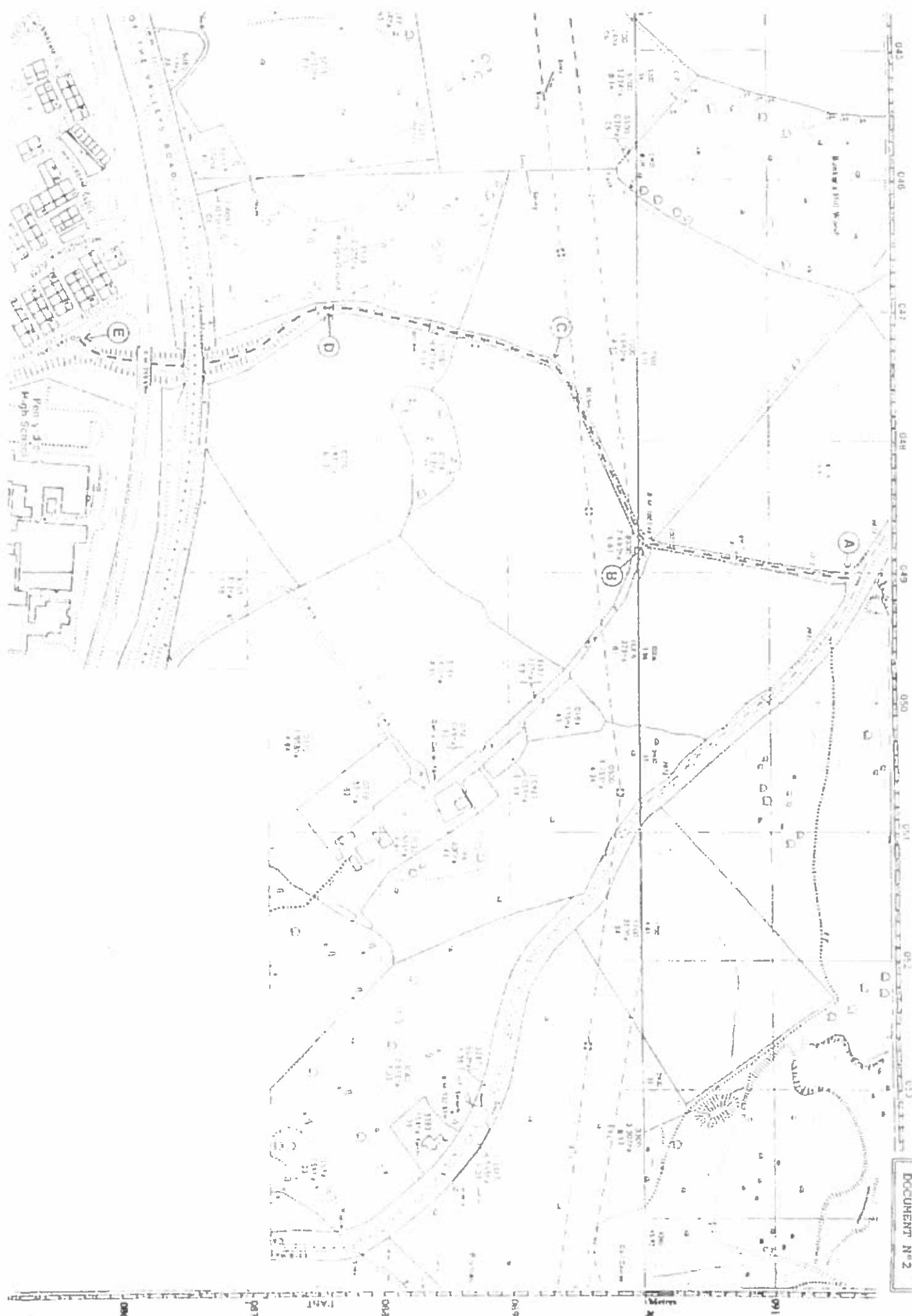
Dated 20/8/91 1990 Signed M. A. ...

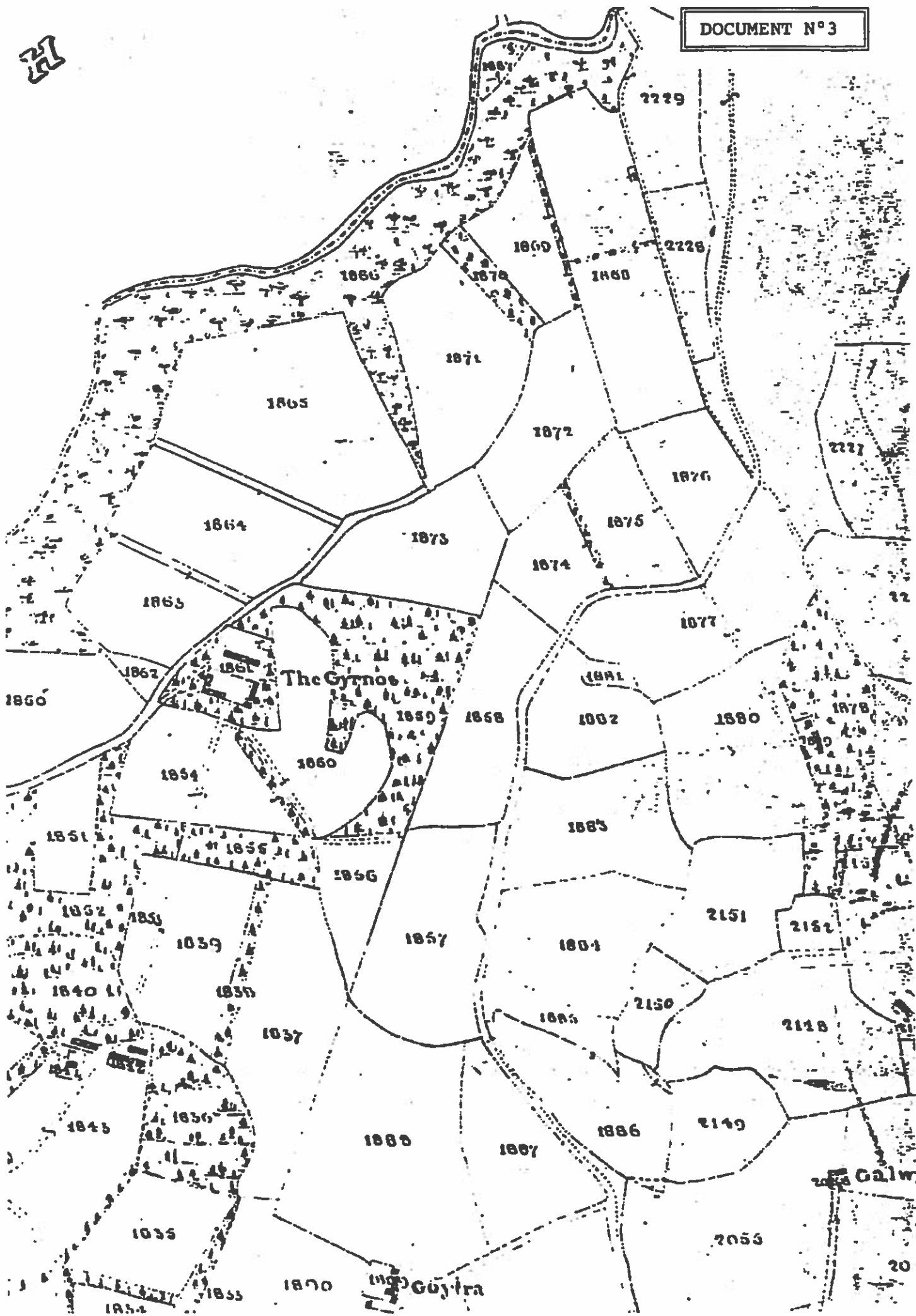
*Please delete as appropriate

For Office use only:

Application No: 62 Path No:
Date of Receipt: 22/8/91 Ref: A763/A/92
Date Acknowledged: 28/8/91 Ref:

Heritage Trail





The Planning Manager,
Chief Executives Department,
Merthyr Tydfil Borough Council,
Civic Centre,
Merthyr Tydfil,
Mid Glamorgan,
CF47 8AN

820062

A. Mason

A763/4/92/AM

CE/GM

19th August 1993

Dear Sir,

Wildlife and Countryside Act 1981 - Section 53
Application for an order to modify the Definitive Map of Public Rights of Way for the former County Borough of Merthyr Tydfil near Dan-y-Castell Farm.

I refer to my letter and enclosure of 21st July 1993 and wonder if you are now in a position to provide me with your observations on the proposal.

This proposal is shortly to be put before the Rights of Way Sub-Committee where a decision will be taken as to whether a Modification Order should be made. If I have not heard from you within 7 days from the date of this letter then I will assume that you have no information which you feel should be included in the Committee report.

Yours faithfully



for the County Engineer and Surveyor

The Planning Manager,
Cheif Executives Department,
Merthyr Tydfil Borough Council,
Civic Centre,
Merthyr Tydfil,
Mid Glamorgan,
CF47 8AN

820062

A Mason

A763/4/92/AM

CE/GM

21st July 1993

Dear Sir,

Wildlife and Countryside Act 1981 - Section 53
Application for an order to modify the Definitive Map of Public Rights of Way for the former County Borough of Merthyr Tydfil near Dan-y-Castell Farm.

I refer to your application which was made under Section 53 of the Wildlife and Countryside Act 1981 for an order to modify the Definitive Map and Statement of Public Rights of Way by adding a Footpath . I also enclose a plan which illustrates this proposal.

The application is to be considered by the Rights of Way Sub-Committee in the near future, where a decision will be taken as to whether a Modification Order should be made. As you are aware no Evidence Forms were included with your application as your authority are the owners of all the land over which this path runs. However, initial investigations of historical records indicate that this route may indeed be an ancient highway and that its status may in fact be that of Bridleway or Byway Open to All Traffic.

As is my duty under the Wildlife and Countryside Act 1981 I am now consulting with you in your capacity as applicant, landowner and local authority. I should be grateful therefore to receive within a period of 28 days from the date of this letter, your views on this application, including any details of any evidence which you believe to be relevant to the application.

Yours faithfully



for the County Engineer and Surveyor

Copies to:

Chairman - H. & T. Committee
Vice Chairman - H. & T. Comr
A763/4/92/AM *

DOCUMENT N°5

County Councillor J. Cleary,
12 Odessa Street,
Dowlais,
Merthyr Tydfil,
Mid Glamorgan.
CF48 3AU

A1460

19th August 1993

Dear Councillor Cleary,

Wildlife and Countryside Act 1981 - Section 53
Application for an order to modify the Definitive Map of Public Rights of Way for the former County Borough of Merthyr Tydfil near Dan-y-Castell Farm.

I refer to my letter and enclosure of 21st July 1993 and wonder if you are now in a position to provide me with your observations on the proposal.

This proposal is shortly to be put before the Rights of Way Sub-Committee where a decision will be taken as to whether a Modification Order should be made. If I have not heard from you within 7 days from the date of this letter then I will assume that you have no information which you feel should be included in the Committee report.

Yours Sincerely,

County  Engineer and Surveyor

County Councillor J. Cleary,
12 Odessa Street,
Dowlais,
Merthyr Tydfil,
Mid Glamorgan.
CF48 3AU

A1460/AM

21st July 1993

Dear Councillor Cleary,

Wildlife and Countryside Act 1981 - Section 53
Application for an order to modify the Definitive Map of Public Rights of Way for the former County Borough of Merthyr Tydfil near Dan-y-Castell Farm.

I enclose a copy of an application which has been made under Section 53 of the Wildlife and Countryside Act 1981 for an order to modify the Definitive Map and Statement of Public Rights of Way by adding a Footpath . I also enclose a plan which illustrates the proposal.

The application is to be considered by the Rights of Way Sub-Committee in the near future, where a decision will be taken as to whether a Modification Order should be made. No Evidence Forms were included with the application as it was the landowner who made the request for the footpath to be added to the definitive map. Initial indications are however, that this may indeed be an ancient highway and that its status may in fact be that of Bridleway or Byway Open to All Traffic.

I should be grateful to receive within a period of 28 days from the date of this letter, your views on this application, including any details of any evidence which you believe to be relevant to the application.

Yours sincerely,


County Engineer and Surveyor

Copies to:

Chairman - H. & T. Committee.
Vice Chairman - H. & T. Commit
A763/4/92/AM

DOCUMENT 1906

County Councillor A. Baynham,
16 Bryntaff,
Cefn Coed,
Merthyr Tydfil,
Mid Glamorgan.
CF48 2PU

A1460/AM

21st July 1993

Dear Councillor Baynham,

Wildlife and Countryside Act 1981 - Section 53
Application for an order to modify the Definitive Map of Public Rights of Way for the former County Borough of Merthyr Tydfil near Dan-y-Castell Farm.

I enclose a copy of an application which has been made under Section 53 of the Wildlife and Countryside Act 1981 for an order to modify the Definitive Map and Statement of Public Rights of Way by adding a Footpath . I also enclose a plan which illustrates the proposal.

The application is to be considered by the Rights of Way Sub-Committee in the near future, where a decision will be taken as to whether a Modification Order should be made. No Evidence Forms were included with the application as it was the landowner who made the request for the footpath to be added to the definitive map. Initial indications are however, that this may indeed be an ancient highway and that its status may in fact be that of Bridleway or Byway Open to All Traffic.

I should be grateful to receive within a period of 28 days from the date of this letter, your views on this application, including any details of any evidence which you believe to be relevant to the application.

Yours sincerely,

County Engineer and Surveyor

County Planning Officer

A763/4/92/AM

3062

County Engineer and Surveyor

21st July 1993

Wildlife and Countryside Act 1981 – Section 53

Application for an order to modify the Definitive Map of Public Rights of Way for the former County Borough of Merthyr Tydfil near Dan-y-Castell Farm.

I enclose a copy of an application which has been made under Section 53 of the Wildlife and Countryside Act 1981 for an order to modify the Definitive Map and Statement of Public Rights of Way by adding a Footpath . I also enclose a plan which illustrates the proposal.

The application is to be considered by the Rights of Way Sub-Committee in the near future, where a decision will be taken as to whether a Modification Order should be made. No Evidence Forms were included with the application as it was the landowner who made the request for the footpath to be added to the definitive map. Initial indications are however, that this may indeed be an ancient highway and that its status may in fact be that of Bridleway or Byway Open to All Traffic.

I should be grateful to receive within a period of 28 days from the date of this letter, your views on this application, including any details of any evidence which you believe to be relevant to the application.



for the County Engineer and Surveyor



MID GLAMORGAN
 COUNTY COUNCIL • CYNGOR SIR
MORGANNWG GANOL

~~(9309)81 @lm.~~

Mr D G Evans
 County Engineer & Surveyor

Members' T
 Mid Glamo
 Cardiff CF
 Telephone

227
 DOCUMENT N°8

Private Address and Tel. No -

18 Bryntaff
 Cefn Coed
 Merthyr Tydfil
 Mid Glamorgan
 CF48 2PU

Tel: 0656 383998

11 August 1993

Dear Mr Evans

WILDLIFE AND COUNTRYSIDE ACT 1981 - SECTION 53
APPLICATION FOR AN ORDER TO MODIFY THE DEFINITIVE MAP OF PUBLIC RIGHTS OF WAY
FOR THE FORMER COUNTY BOROUGH OF HERTHYR TYDFIL NEAR DAN-Y-CASTELL FARM.

Further to your letter dated 21st July 1993, I would just like to inform you that this path is actually a Bridleway.

Yours sincerely

AJP

for RW
 County Councillor A Baynham



MID GLAMORGAN
COUNTY COUNCIL • CYNGOR SIR
MORGANNWG GANOL

MEMO

DOCUMENT N°9

To County Engineer and Surveyor

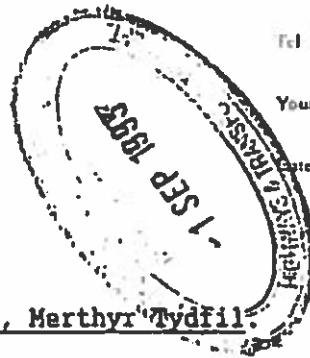
My Ref 50F6/ED/HH

Tel No 3726

Your Ref A763/4/92/AM

From County Planning Officer

Date 25 August 1993



Rights of Way : Danycastell Farm, Merthyr Tydfil

The route forms part of the Morlais Heritage Trail and follows the line of the former Penydarren Tramroad. A copy of the Trail leaflet is enclosed. (Further copies are available if required for Members). As you can see from the leaflet the route is known locally as Goitre Lane. Stone sleepers from the Tramroad are in evidence at points along the route. Beyond this I have no evidence of past use of the route. The initial section from Penydre School to the A465 underpass is a tarmac'd road with a single footway. To the north of the A465 this becomes a narrower gravel surfaced path, enclosed with hedges and fences on both sides. At 048090 this joins the tarmac road to Danycastell Farm. This section is used by vehicles but the road is gated at approximately 049090 (beyond and not affecting the claimed route) although the gate appears to be open most of the time.

The gravel section of the path shows evidence of use by walkers, horse riders, pedal cyclists and motor cyclists. At least three sites of burnt out cars are visible (the cars have been removed) but there is no evidence of 'legitimate' vehicle use (other than by motor cycles). A large tree root deposited immediately to the north of the A465 underpass may have been intended to deter vehicular use, although most vehicles could pass it.

I hope the above information is of assistance to you.

Elizabeth Dean

for County Planning Officer.

Enc.

ED\CESURV

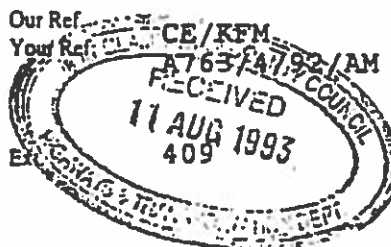
ROGER V. MORRIS, L.I.B. Solicitor
Chief Executive



Civic Centre, Merthyr Tydfil, Mid Glamorgan CF47 8AN
Telephone Merthyr Tydfil (0685) 723201
Fax No. (0685) 722146

County Engineer & Surveyor,
Highways & Transportation Dept.,
Mid Glamorgan County Council,
Greyfriars Road,
Cardiff.
CF1 3LJ.

Date 6 August 1993



Please ask for Mr. C. Edwards

Dear Sir,

APPLICATION FOR AN ORDER TO MODIFY THE DEFINITIVE MAP OF PUBLIC RIGHTS OF WAY FOR THE FORMER COUNTY BOROUGH OF MERTHYR TYDFIL NEAR DAN-Y-CASTELL FARM, GURNOS.

I refer to your communication of 21 July 1993 in respect of the above application made by this authority under section 53 of the Wildlife and Countryside Act 1981.

In order that the application can be considered by the Mid Glamorgan Rights of Way Sub Committee, I am enclosing by way of evidence, a copy of the Ordnance Survey plan for the area circa 1832 which clearly shows the route of the right of way to the south of Castell Morlais.

Although I have been unable to find any written reference to the right of way, I have been informed verbally that the route was originally part of a tramway linking Morlais Castle Quarries with Penydarren Ironworks. Indeed, a recent site inspection revealed that some of the original stone sleepers are still embedded in the ground.

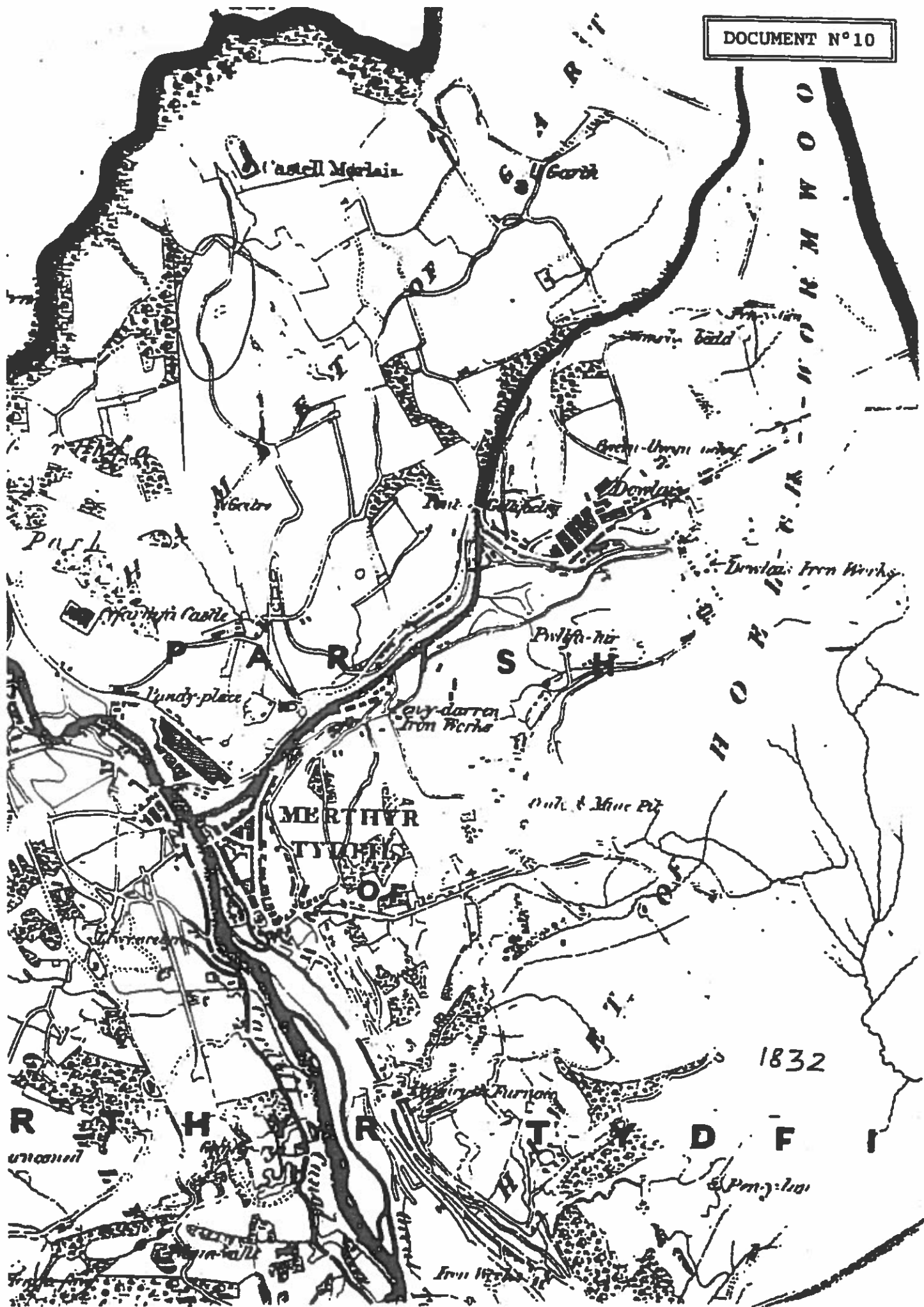
In the light of the above, I now consider it appropriate that the status of the proposed right of way as indicated on proposal form WCA.5A be amended from footpath to by-way open to all traffic.

I should be grateful if the application could be amended to this effect before submission to Committee and I trust that if you have any further enquiries you will not hesitate to contact Mr. Edwards of my department.

Yours faithfully,

Planning Manager

ALL



MERTHYR
TYDFIL

1832

R H A T D F I

Copies to:

Chairman - H. & T. Committee
Vice-Chairman - H. & T. Cor
A763/4/92/AM

DOCUMENT N° 11

County Councillor J. Cleary,
12 Odessa Street,
Dowlais,
Merthyr Tydfil,
Mid Glamorgan,
CF48 3AU

820062

A. Mason

A1460

29th June 1994

Dear Councillor Cleary,

Wildlife and Countryside Act 1981 - Section 53
Application for an order to modify the Definitive Map of Public Rights of Way for the former County Borough of Merthyr Tydfil near Dan-y-Castell Farm.

I refer to my letter and enclosure of 14th January 1994 and wonder if you are now in a position to provide me with your observations on the proposal.

This proposal is shortly to be put before the Rights of Way Sub-Committee where a decision will be taken as to whether a Modification Order should be made. If I have not heard from you within 7 days from the date of this letter then I will assume that you have no information which you feel should be included in the Committee report.

Yours Sincerely,



County Engineer and Surveyor

County Councillor J. Cleary,
12 Odessa Street,
Dowlais,
Merthyr Tydfil,
Mid Glamorgan.
CF48 3AU

820062

A. Mason

A1460/AM

14th January 1994

Dear Councillor Cleary,

Wildlife and Countryside Act 1981 - Section 53
Application for an order to modify the Definitive Map of Public Rights of Way for the former County Borough of Merthyr Tydfil near Dan-y-Castell Farm.

I refer to previous correspondence regarding an application made under Section 53 of the Wildlife and Countryside Act 1981 for an order to modify the Definitive Map and Statement of Public Rights of Way by adding a Footpath.

The applicant, who is also the landowner, has now decided that the application should be amended by changing the status of the claimed right of way from Footpath to Byway Open to All Traffic. This is in the light of information which has been found during investigations both by the applicant himself and my rights of way section. A copy of the applicant's letter is enclosed for your information.

I should be grateful to receive within a period of 28 days from the date of this letter, your views on the amendment put forward by the applicant, including any details of any evidence which you believe to be relevant to the application as it now stands.

Yours Sincerely



County Engineer and Surveyor

Copies to:

Chairman - H. & T. Committee.
Vice Chairman - H. & T. Committee
A763/4/92/AM

DOCUMENT N° 12

County Councillor A. Baynham,
18 Bryntaff,
Cefn Coed,
Merthyr Tydfil,
Mid Glamorgan.
CF48 2PU

820062

A. Mason

A1460/AM

14th January 1994

Dear Councillor Baynham,

Wildlife and Countryside Act 1981 - Section 53
Application for an order to modify the Definitive Map of Public Rights of Way for the
former County Borough of Merthyr Tydfil near Dan-y-Castell Farm.

I refer to previous correspondence regarding an application made under Section 53 of the Wildlife and Countryside Act 1981 for an order to modify the Definitive Map and Statement of Public Rights of Way by adding a Footpath.

The applicant, who is also the landowner, has now decided that the application should be amended by changing the status of the claimed right of way from Footpath to Byway Open to All Traffic. This is in the light of information which has been found during investigations both by the applicant himself and my rights of way section. A copy of the applicant's letter is enclosed for your information.

I should be grateful to receive within a period of 28 days from the date of this letter, your views on the amendment put forward by the applicant, including any details of any evidence which you believe to be relevant to the application as it now stands.

Yours Sincerely



County Engineer and Surveyor

County Planning Officer

A763/4/92/AM

3062

50F6/ED/HH

County Engineer and Surveyor

14 January 1994

Claimed Right of Way: Dan-y-Castell Farm, Merthyr Tydfil

I refer to your memorandum of 25 August 1993 and would like to thank you for the useful information contained therein.

Unfortunately the applicant, Merthyr Tydfil Borough Council, has now decided to amend the application by changing the status of the claimed right of way from Footpath to Byway Open to All Traffic. Therefore, in order to comply with Schedule 15 of the Wildlife and Countryside Act 1981 I must consult with you again.

I should be grateful therefore to receive within a period of 28 days from the date of this memorandum, your views on the amendment put forward by the applicant, including any details of any evidence which you believe to be relevant to the application as it now stands.



for the County Engineer and Surveyor

P. Washer from
planning confirmed
verbally that they
had no further comments
to make.

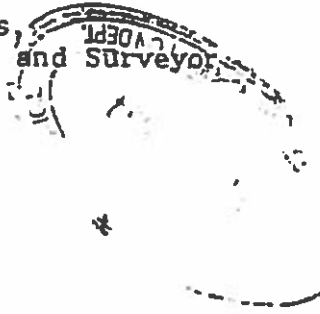
A. Mason
26/1/94



MID GLAMORGAN
 COUNTY COUNCIL • CYNGOR STR
MORGANNWG GANOL

LC9400506 CAI.

Mr. D. G. Evans,
 County Engineer and Surveyor



Members' R
 Mid Glam
 Cardiff CF
 Telephone

DOCUMENT N^o 14

Private Address and Tel. No -

18, Bryntaff,
 Cefn Coed,
 Merthyr Tydfil,
 Mid Glamorgan.
 CF48 2PU

Tel. 0685 383998

10th February, 1994

Your Ref: A1460/AM

ASS

Dear Mr. Evans,

WILDLIFE AND COUNTRYSIDE ACT 1981 - SECTION 53
PUBLIC RIGHTS OF WAY

Thank you for your letter dated 14th January, 1994.

I wish to inform you that I will keep an open mind as long as it is left as a public footpath.

Yours sincerely,

Alan Baynham

cf County Councillor Alan Baynham



