
RIGHTS OF WAY COMMITTEE

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Service Area	Legal & Economic Development
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To: Chair, Ladies and Gentlemen

Highways Act 1980 – Section 26

Proposed creation of a public bridleway from the Taff Trail, Upper Abercanaid to the entrance to the Abernant Tunnel

1.0 SUMMARY OF REPORT

1.1 The land to the west of the Taff Trail at Upper Abercanaid and to east of the Abernant Tunnel forms an unique opportunity to create a strategic Active Travel link between two of the key settlements in the northern Heads of the Valleys, namely Aberdare and Merthyr Tydfil. In order to realise this link it is necessary to install a public bridleway over this land. This will need to be recorded on the Council's Definitive Map and Statement. An order will therefore be required to be made under section 26 Highways Act 1980.

2.0 RECOMMENDATION(S)

- 2.1 An order(s) be made under Section 26 of the Highways Act 1980 to create a bridleway from the Taff Trail, Upper Abercanaid to the entrance to the Abernant Tunnel, shown by a bold broken line and dashed A – B and C – D on the attached plan.
- 2.2 That in the event of no objections being received, the Order(s) be confirmed and in the event of objections being received the Order be sent to the Planning Inspectorate for determination.

3.0 INTRODUCTION AND BACKGROUND

3.1 The land to the west of the Taff Trail at Upper Abercanaid and to the east of the Abernant Tunnel forms an unique opportunity to create a strategic Active Travel link

between two of the key settlements in the northern Heads of the Valleys, namely Merthyr Tydfil and Aberdare. It is proposed to install a public bridleway over this land by way of a Creation Order under s26 Highways Act 1980. This bridleway will form part of a much longer route which links up with other routes within the neighbouring Rhondda Cynon Taf County Borough Council.

- 3.2 In developing the scheme outlined above, it is necessary to create bridleway rights over land which carry public footpaths or which do not carry any recorded public rights at all. Wherever possible, agreements are entered into with the owners of the land crossed by the route, to dedicate the route as a public bridleway. However, in this instance, discussions to have the route dedicated have not proved fruitful. In any event the route over which the creation would happen is already subject to objection from the landowner under an order pursuant to s53 Wildlife and Countryside Act 1980. Discussions with the landowner have however demonstrated that they have no in principle objection to an order being made under s26 Highways Act 1980.
- 3.3 The route to be created leaves the Taff Trail at grid reference SO05150451 and runs in a general westerly direction to the mouth of the Abernant Tunnel at grid reference SO04370418. The route is shown on the plan attached to this report. And runs between points A – B – C – D. Points B – C are already recorded on the Council's Definitive Map and Statement. It will therefore only be necessary to create the route under s26 Highways 1980 for the sections between Point A and B and between Point C and D. The current gates and adjacent stiles that exist along the route will be retained.
- 3.4 The width of the proposed bridleway will be between 2 and 2.5 metres, this is the width of the extant paths that are already in existence in this area. The paths will however be upgraded so that the surface is either hardcore or concrete.
- 3.5 As mentioned above there will be number of restrictions along the route, these are gates (two with adjacent stiles) and they are to be found at grid references SO05070451, SO04990450 and SO04910441.
- 3.6 The proposal is considered acceptable from a highway perspective for the creation of a bridleway under section 26 Highways Act 1980. i.e. that, where it appears to a local authority that there is a need for a footpath or bridleway over land in their area and they are satisfied that, having regard to: (a) the extent to which the path or way would add to the convenience or enjoyment of a substantial section of the public, or to the convenience of persons resident in the area; and (b) the effect which the creation of the path or way would have on the rights of persons interested in the land, account being taken of the provisions as to compensation contained within s28 Highways Act 1980.
- 3.7 It is expedient that the path or way should be created because this will provide a safe and convenient route. Current Active Travel opportunities are unattractive and unsafe, and follow the B4276 and A465. This Council and RCTCBC are therefore unable to promote Active Travel journeys between Aberdare and Merthyr Tydfil. Both Councils are jointly developing an Active Travel route that would link the Cynon Trail at Aberdare to the Taff Trail at Upper Abercanaid. This would utilise an existing Active Travel from Abernant and the disused Victorian railway tunnel (known locally

as the Abernant Tunnel). This would link to the proposed bridleway and create a 7km off-road Active Travel route linking Aberdare and Merthyr Tydfil.

- 3.8 With regard to the effect which the creation of the path will have on the landowner the creation has been discussed with them and they are broadly in agreement that it is expedient to create a route along the alignment shown and also they have stated that they will not be bringing a claim for compensation.
- 3.9 In line with statutory requirements consultations will be undertaken with statutory undertakers to ascertain whether they have any apparatus under, in, upon, over, along or across the land crossed by the route.
- 3.10 It is considered that the creation of a bridleway over the route would add to the enjoyment of the public. Similarly, it is not considered that the creation of a bridleway over this route will have any adverse effect upon the needs of agriculture, forestry and desirability of conserving flora, fauna, and geological and physiographical features. It is also suggested that the proposal will not have an adverse effect on the biodiversity or natural beauty of the area.
- 3.11 It is also advised that the needs of the disabled have been actively considered as part of this proposal and that the effect of the Order is compatible with the provisions of the Council's Right of Way Improvement Plan.
- 3.12 It is considered that, having regard to the above, it would be expedient to make the Order. If an Order were not to be made then the Council would not be able to deliver the link between the Taff Trail at Upper Abercanaid and the Abernant Tunnel entrance, which in turn would mean that the strategic Active Travel route between Aberdare and Merthyr Tydfil, via the Abernant Tunnel, would not be able to be achieved. This would therefore not allow MTCBC and RCTCBC to promote Active Travel journeys between the two keys settlements, and the current unsafe and unattractive Active Travel opportunities would remain in situ.

4.0 FINANCIAL IMPLICATIONS

- 4.1 The full costs of the development of the route are grant aided by Welsh Government so there are no financial implications for the County Borough Council in the creation of this section of bridleway. The grant funding will also meet the costs of statutory advertisements that are necessary.
- 4.2 The bridleway will be constructed to a high standard so future maintenance costs are expected to be low.

ELLIS COOPER
INTERIM CHIEF EXECUTIVE

COUNCILLOR GERAINT THOMAS
REGENERATION AND PUBLIC
PROTECTION

BACKGROUND PAPERS

Title of Document(s)	Document(s) Date	Document Location
S26 bridleway creation Abernant Tunnel	12 th August 2020	Legal
Does the report contain any issue that may impact the Council's Constitution?		no