

ITEM 5

MEETING	Planning Committee
DATE	22 September 2014
TITLE	Proposal to create a Public Footpath in the Community of Pentir under Section 26 of the Highways Act 1980, over a plot of land that is part of the property of Glan y Môr Lodge, Felinheli, to facilitate the Wales Coastal Path Project.
PURPOSE	To obtain the Committee's approval to submit the Section 26 Creation Order to the Planning Inspectorate for a decision.
AUTHOR	Gareth Jones Senior Manager - Planning and Environment Service
RECOMMENDATION	That the Committee approves the proposal to submit the Section 26 Creation Order to the Planning Inspectorate for a decision.

1.0 Background

- 1.1 Local authorities have discretion under Section 26 of the Highways Act 1980 to draw up a Creation Order if they consider that there is a need for a footpath or bridleway in their area.
- 1.2 Once a need is established, the authority must consider:
- the extent to which the footpath or bridleway would add to the convenience or enjoyment of a vast proportion of the public, or to the convenience of residents in the area;
 - the effect the creation would have on the rights of interested persons.
- 1.3 The process of drawing up a Creation Order involves a period of statutory consultation where parties have an opportunity to provide observations, including expressions of support or objections. Also, the process includes a provision for compensation to be paid to the landowner.
- 1.4 In relation to the matter addressed by this report, a Section 26 Order has been made for the creation of a new public footpath in Felinheli. A single objection has been received and has not been withdrawn. For the matter to be resolved it must be passed to the Welsh Government's Planning Inspectorate for a decision. Under the Council's scheme of Delegation (Part 12, Rights of Way), this Committee's approval is required in order to proceed with this step.

2.0 The proposal

- 2.1 It is proposed to create a **15m** Public Footpath over land that is part of the property of Glan y Môr Lodge in the Community of Pentir near the village of Felinheli. Creating this path would extend the path network, thus enabling the local community to have legal rights to access the Glan Faenol Estate from the direction of Felinheli. Glan Faenol is in the ownership of the National Trust. The new path would also greatly improve the Arfon section of the Coastal Path. The location of this 15m section can be seen on the order plan – Appendix 1.
- 2.2 There has been an aspiration amongst the local community to see public rights of way in the Marina area since the 1970s and the County Council has made many attempts over the

years to register public rights of way. Following an unsuccessful attempt to register a path through a creation order in the 1990s, the Central Planning Committee resolved on 23 April 2004 not to continue with the order and to authorise discussions with the landowners in order to create a path by agreement.

Unfortunately, the initial attempts made to negotiate an agreement proved unsuccessful. However, as the work of establishing the Wales Coastal Path proceeded, the need for a safe, convenient and attractive coastal path for this area became increasingly important.

3.0 Developing the Coastal Path in Gwynedd

3.1 Gwynedd Council has played a key role in the development of the Wales Coastal Path since the Welsh Government suggested the initiative in 2007.

3.2 Gwynedd's leg of the Coastal Path extends for approximately 180 miles long or 23% of the national total. At the beginning of the project, the project officers were facing a substantial challenge to secure the best possible path, in particular in terms of getting the path closer to the coast. During the lifespan of the Coastal Path project, almost 30km of new rights were created in Gwynedd by discussing and negotiating with landowners to secure agreements that were fair to landowners and users. To date, Section 26 powers to create by an order were only used on one occasion, and that due to the fact that the land in question had no registered owner.

3.3 It is estimated that the Coastal Path, in national terms, has attracted 2.8 million visitors to Wales and has contributed £32 million to the economy. Locally, it can be seen that the tourism sector acknowledges the value of the resource as a number of businesses and community enterprises refer to the Path on their marketing material.

3.4 In the Arfon area, one of the main obstacles to obtain a continuous path along the Menai Straits between Caernarfon and Bangor was the lack of public access to either side of the National Trust owned Glan Faenol estate.

3.5 In 2009, Council officers commenced agreement negotiations with landowners in the Felinheli Marina area and in the Treborth area. In 2012, efforts to secure agreements to create an access from the direction of Treborth onto the National Trust's land proved successful.

3.6 In the Marina area, discussions were held with relevant owners and stakeholders, including with the then owner of Glan y Môr Lodge. By 2012, an agreement in principle had been secured with the owner and by 2013 all other parties had reached an agreement in principle with the Council. However, by the spring of 2013, Glan y Môr Lodge had been sold and the new owner was not willing to continue with the agreement that had been drawn up with the former owner.

3.7 The path is needed for the following reasons:

- It is the only missing section in an otherwise continuous path, which extends for 4.5km between Felinheli and Treborth.
- The path will be a resource for communities within a broad area, including Felinheli, Penrhosgarnedd and Bangor.
- Creating a continuous path along the Menai Straits between Felinheli and Treborth will be a substantial contribution to the quality of the Coastal Path in Gwynedd and will be a vast improvement on the current route that runs adjacent to the busy A4087 and B4547 roads. This can be seen on Appendix 2.

- It would also contribute towards meeting the national objective of creating a Wales Coastal Path.

4.0 Landowner Negotiations and Consultations

- 4.1 It has already been explained that extensive negotiations have taken place between Council officers and the landowner concerning the proposal to create a Public Footpath by agreement.
- 4.2 By late 2013 it was apparent that reaching an agreement with the landowner in relation to the land of the Glan y Môr Lodge property was unlikely, and a Public Footpath Creation Order under Section 26 of the Highways Act 1980 was issued on 24 January 2014. However, throughout this period, negotiations continued and the Council, in conjunction with Natural Resources Wales (NRW), made numerous practical proposals to address the landowner's concerns. Despite these efforts, it has not been possible to reach an agreement.
- 4.3 The process of issuing the creation order includes a period of consultation with relevant Community Councils and other bodies; the process also allows the landowner or other parties to object to the order. As a result of the consultation exercise that ended on 28 February 2014, one objection was received (from the landowner). The objection is attached to this report. Appendix 3
- 4.4 In response to the points made in the objection, the following comments have been noted for the Committee's consideration.

Objections 1 and 2 relate to privacy and security –

- The property known as Glan y Môr Lodge, is surrounded by National Trust owned land, and is being enjoyed by the public at the moment. In relation to the garage: when the owner was notified of the order, no garage was on the land, and a planning application for a garage was submitted on 3 March 2014 (Application No C14/0159/25/LL).
- The Council has offered the owner various options that would reduce any perceived intrusion by potential users of the path including the erection of fencing to segregate walkers from the rest of the property.
- At point B on the Order plan, the path will pass through the gateway that is approximately 3m wide and it is accepted it is impractical to provide a segregated path at this point. However, as a way of mitigating the concern, the Council has offered to supply a new gate designed to allow pedestrian access and ensure a high level of privacy for Glan y Môr Lodge.

Objection 3 refers to alternative route options.

- The Council and NRW have considered alternative routes but we do not believe that any option provide the same quality route as that proposed through the Marina into the Faenol Estate, a distance of approximately 500m. The main disadvantages of the other options considered are that they do not offer a direct route, and on the whole, they are further away from the coast. Also, there are long-term maintenance implications associated with them.
The advantage of the path in question through the Marina is that it follows existing roads and hard surfaced paths and although there are no public rights in existence, local residents have followed this route into the Faenol for many years without obstruction.

Objection 4

- Whilst there are no existing public rights of way affecting Glan y Môr Lodge, the general area is used by local homeowners and residents. The property itself is surrounded by National Trust land and as such public access currently exists near Glan y Môr Lodge.

The compensation being offered is in line with the offers made and accepted by owners of other properties along the path's route.

4.5 Letters of support have been received from Pentir and Felinheli Community Councils and from the Arfon and Dwyfor Local Access Forum and Sustrans.

4.6 The local members for Felinheli and Pentir have stated:

'I am extremely supportive of the intention to press ahead and take action in an attempt to ensure that this small piece of land forms part of the Wales Coastal Path. I understand that this is the only piece of land that is delaying the project in this part of Gwynedd. Completing the project would benefit both locals and visitors and would give businesses in the village a further boost. I hope that we can move forwards as soon as possible without any further delay.' Cllr Sian Gwenllian

Like everyone else, I am very supportive of the Coastal Path. Officers have appointed an Independent Consultant to consider the various options before making a recommendation. Given the few local concerns regarding the proposed path, I'm satisfied with the recommendation as it means that a body that is independent of the Council will consider the evidence before reaching a decision.

Cllr John Wyn Williams

4.7 The Council has proposed a programme of works that has been discussed with the landowner. It is believed that these works would go a long way to mitigate concerns about loss of privacy. If the path would be established by agreement then the works would be implemented in full. However, should the Order be confirmed, the Council would not be obliged to carry out any works. Nevertheless, it would be a wise move to segregate walkers from the rest of the property, for the benefit of walkers and the owners.

5.0 Consideration of the observations and the alternative options

5.1 For the following reasons, the Planning and Environment Service is of the opinion that the best option for the path is the one identified at the beginning of discussions with the landowners in the Marina area in 2009, for the following reasons (see Appendix 4: Plan A):

- This is the most direct route
- It follows a route that has been used for many years by local residents, although it is acknowledged that there is no firm legal grounds to register the path based on historical use
- It follows existing roads which reduces the long-term maintenance implications
- It avoids work on the Faenol Estate wall, which is a Grade 2 Listed Structure
- It is acknowledged that the path will run past a number of residential properties including Glan y Môr Lodge, however, it is noted that the area in front of the house is in the ownership of the National Trust which means that the public can gain access to the area without obstruction anyway.

- 5.2 Nevertheless, other options were considered which are shown in Appendix 4: Plans B and C.

Reasons for not choosing option B:

- In sections, there is a lack of a sense that the path is “coastal”, due to the lack of visibility of the Menai Straits. The criteria of the Wales Coastal Path for the creation of new paths (MP4), demands a path that is located as close as possible to the coast.
- Poor location due to the proximity to the Faenol wall. The wall is in a vulnerable condition, which means that major expenditure would have to be incurred to get the wall in a safe condition so that people could walk in such close proximity to it.
- It would involve making a new opening in a listed wall/structure.

Reasons for not choosing option C:

- Once again, it would involve making a new opening in a listed wall/structure.
- The path would affect five properties instead of one.

- 5.3 The options shown on plan Ch in appendix 4 were disregarded at a very early stage in the process, and it was soon realised that these were not practical options for further development. The reasons being:

- These are dead-end roads within a private estate.
- Follow a slate sea wall unsuitable in health and safety terms.
- A large number of houses would be affected.
- Follow a strip of land which is completely uneven and unsuitable for a path.

- 5.4 It must be acknowledged that the owner has strong feelings about the proposal and has raised questions about how the Council has dealt with the issue. Considering this view, an external company i.e. Birchill Access Consultancy, who are experts in the access field. The company was requested to look in greater detail at the following:

- Overview of the steps taken by the Council thus far, in dealing with the public path creation order.
- The options under consideration, giving their independent opinions on all three options.
- Reach a conclusion and decide on the most suitable option for creating a path.

The report of Birchill Access Consultancy Ltd is attached. Appendix 5

In brief, the report concludes:

- That the Council has followed the proper legal steps in this case
- That the option favoured by the Council, namely the path over the land of Glan y Môr Lodge, is the most suitable option.

- 5.5 Natural Resources Wales who work in conjunction with Council staff in delivering the Coastal Path project, are also supportive of the Council’s decision to act on option A. This is reflected in a letter to us, which is included as Appendix 6.

6.0 Conclusions

- 6.1 Over recent years there has been a notable increase in the demand for access opportunities in the countryside with the National Coastal Path playing a key role in the way that public bodies have attempted to meet the demand. According to research undertaken by Cardiff Business School, it has been estimated that the Wales Coastal Path contributed £33.2m towards the Welsh economy by the end of 2012.

- 6.2 It is therefore considered that creating the footpath in question would bring significant benefits in terms of providing an attractive, safe and convenient link for the local community and users of the national Coastal Path. Not only would the path be available for walkers, but it would also be open to other users such as parents with prams and disabled people.
- 6.3 The Council has not disregarded the owner's concerns and has offered to undertake work to mitigate any impact that the creation of a public footpath could cause. Nevertheless, the impact and benefit to the local community of having ease of access to the National Trust land from the direction of Felinheli must also be weighed up. It must be accepted that there will be an element of impact on landowners whatever route the path will follow. Nevertheless, it is believed that the path will ultimately add to the convenience or enjoyment of a vast proportion of the public and will contribute to the convenience of residents in the area, whilst facilitating a coastal plan of national importance at the same time.
- 6.4 The Council has followed the statutory procedure when issuing a Creation Order under Section 26 of the Highways Act 1980 and it can be confirmed that the requirements of the act have been satisfied.

7.0 Recommendation

- 7.1 That the Committee approves the proposal to submit the Section 26 Creation Order to the Planning Inspectorate for a decision.

Background Papers:

- Appendix 1: A plan of the path subject to section 26
- Appendix 2: A plan showing the existing route (Wales Coastal Path)
- Appendix 3: The objection submitted by the landowner
- Appendix 4: Alternative Options – plans A, B, C,Ch
- Appendix 5: The Independent Report of Birchill Consultants
- Appendix 6: Supporting Letter from Natural Resources Wales