



Wildlife and Countryside Act 1981

An application to register a footpath on the Definitive Map
and Statement, Treborth, Community of Pentir.

DATE	19/05/2025
TITLE	Wildlife and Countryside Act 1981 An application to register a public footpath on the Definitive Map and Statement in the Community of Pentir, Gwynedd
PURPOSE	To consider whether the Authority should make a Definitive Map Modification Order
RECOMMENDATION	That Gwynedd Council (the Council) should make a Modification Order under Section 53(3)(c)(i), Wildlife and Countryside Act 1981 in order to add on the Definitive Map and Statement, as a public footpath, the route shown in red on the plan provided in Appendix 1.

1. Introduction

- 1.1 This report refers to an application made to this Council under section 53 of the Wildlife and Countryside Act 1981 (“WCA 1981”) to register on the Definitive Map and Statement a public footpath in the Community of Pentir.
- 1.2 The application is made on the basis that the public have walked this path unhindered, continuously and as of right (that is, without the landowner’s permission, not in secret and not through force) over a period of twenty years or more.

2. Background

- 2.1 In August 2021, an application with supporting evidence was received from Pentir Community Council, under WCA 1981 to register on the Definitive Map and Statement, a public footpath in Treborth, Bangor.
- 2.2 The claimed footpath, as indicated on the application plan, is shown between points A and E in red on the plan provided in Appendix 1.
- 2.3 The application route starts from point A at its junction with Public Footpath No.12 in the Community of Pentir and follows a tarmac road in a northerly direction to point B adjacent to Penrhosgarnedd Football Club. From point B, the route continues along the tarmac road in a northerly direction passing Treborth Hall and other houses on the right towards the railway bridge at point C. From point C, the route follows the tarmac road passing the access to the Athletics Track on the left to point D near Rivendell. From point D, the route continues in an easterly direction along the tarmac road through Treborth Botanic Gardens to point E, at its junction with Public Footpath No.22 in the Community of Pentir.
- 2.4 If having considered all the relevant available evidence and on a balance of probabilities (and this means, that it is more probable than not) public footpath rights are reasonably alleged to exist, the Authority will be obliged to make a Definitive Map Modification Order (DMMO) to register the route on the Definitive Map and Statement (DMS).

3. Legislative Framework

- 3.1 Section 53(2) of the WCA 1981 reads as follows,

“As regards every definitive map and statement, the surveying authority shall-

(a)...

(b) as from that date [that is the commencement date], keep the map and statement under continuous review and as soon as reasonably practicable after the occurrence on or after that date, of any of those events, by order make such modifications to the map and statement as appear to them to be requisite in consequence of the occurrence of that event.

(3) The events referred to in subsection (2) are as follows—

(a)...

(b)...

(c) the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows—

(i) that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path...”

Section 31(1) of the Highways Act 1980 states:-

“Where a way.... has been actually enjoyed by the public as of right and without interruption for a full period of 20 years, the way is to be deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it.”

Section 31(2) states:-

“The period of 20 years.....is to be calculated retrospectively from the date when the right of the public to use the way is brought into question.....”

4. Common Law

- 4.1 At Common Law, a right of way may be created through implied dedication and acceptance. The onus of proof is on the claimant to show that the landowner, who must have the capacity to dedicate, intended to dedicate a public right of way; or that public use has gone on for so long that it could be inferred; or that the landowner was aware of and acquiesced in public use. Use of the claimed route by the public must be as of right, however, there is no fixed period of use, and depending on the facts of the case, may range from a few years to several decades. There is no particular date from which use must be calculated retrospectively.
- 4.2 Section 31 of the Highways Act 1980 simplifies the Common Law rule by stating that certain assumptions prevail unless the contrary is proved.

5. Legally Irrelevant Matters

- 5.1 Factors such as public safety, security, desirability, suitability or need - whilst genuine concerns - cannot be taken into account by the Authority when making a decision. For example, there may be some genuine concerns about the possible conflict between public access and land management, however, such concerns cannot be taken into account when determining an application to modify the DMS. This is because the DMMO process is concerned with determining whether or not public rights actually exist.

6. Cyngor Gwynedd Policy

- 6.1 Equality Act 2010 - The Council is subject to public sector duties under the Equality Act 2010 (including Welsh public sector duties). In accordance with these legal duties when making decisions, Councils must pay due regard to the need (1) to eliminate unlawful discrimination (2) advance equality of opportunity and (3) encourage good relations based on the protected characteristics. And pay due regard to the social economic duty under Section 1 of the Act. The committee is asked to pay attention to its findings when making a decision.
- 6.2 The Well-being of Future Generations (Wales) Act 2015 - The Well-being of Future Generations (Wales) Act 2015 involves improving the social, economic, environmental, and cultural well-being of Wales. The act places a well-being duty on public bodies aimed at delivering the seven well-being goals which is a Wales that is prosperous, resilient, healthier, more equal with cohesive communities and vibrant culture and thriving Welsh language which is globally responsible. The recommendation has been prepared by paying attention to the Act's requirements and addressing the five ways of working.

- 6.3 Welsh Language Standards (Section 44 Welsh Language (Wales) Measure 2011. The Council is required to consider the effect that a change in any policy or procedure (or the creation of a new policy or procedure), will have on opportunities for people to use the Welsh language and to ensure that the Welsh language is not treated less favourably than English.
- 6.4 Socio-Economic Duty - Wales has now implemented this duty which is part of the Equality Act 2010 giving a duty to address socio-economic disadvantage in strategic decisions.
- 6.5 Armed Forces Act 2021 - Councils must pay due attention to the impact of this proposal on those who serve or have served in the Armed Forces, together with their families.
- 6.6 An assessment was undertaken to consider the above Acts and as a result, it has not identified any specific impact resulting from the decision.

7. Landownership & Interested Parties

- 7.1 A search has been made of the HM Land Registry database and it has been ascertained that the claimed route affects the following titles:-

Title No.	Persons affected
CYM425925	Bangor University, Estates Department, Ffriddoedd Building, Victoria Drive, Bangor, LL57 2EN
	Prifysgol University Cymru Bangor, School of Plant Biology, Ffordd Treborth, Treborth, Bangor
CYM572442	Cyngor Gwynedd, Swyddfa'r Cyngor, Stryd Y Jel, Caernarfon, LL55 1SH
CYM624987	James Irvin Margetson, 5 Ty Ysgol Coed Menai, Treborth Road, Bangor, LL57 2RX
CYM638716	Mark Irvin Margetson + Susan Elizabeth Margetson of 11Telmah Close, Stretton, Burton-On-Trent, DE13 0EF
Treborth Hall	
Treborth Hall	Mark Irvin Margetson + Susan Elizabeth Margetson, Treborth Hall, Treborth, Bangor, Gwynedd, LL57 2RX
CYM639351	Gary Francis Gribben + Yvonne Gribben of 3 Treborth Mews, Treborth Road, Bangor, LL57 2RX
	Thomas Gribben, 3 Ty Ysgol Coed Menai, Treborth, Bangor, Gwynedd, LL57 2RX
CYM643441	Rowena Lyn Thomas, 2 Ty Ysgol Coed Menai, Treborth Road, Bangor, LL57 2RX
	2A Tŷ Ysgol, Coed Menai, Ffordd Treborth, Treborth, Bangor, LL57 2RX

CYM645175	Camille Addele Owen Hutchinson + James Wallis Hutchinson of 4 Ty Ysgol Coed Menai, Treborth Road, Bangor, LL57 2RX
CYM650832	Emily Rebecca Bowles, 1 Ty Ysgol Coed Menai, Treborth Road, Bangor LL57 2RX
Previous headmaster between 1996 - 2003	John Grisdale, Y Glog, Ffordd Bethel, Caernarfon, Gwynedd, LL55 1DY
Interested Parties	
Officer in Charge, National Rail, Bangor, Railway Station, Station Rd, Bangor	
Secretary Clwb Pel Droed Penrhosgarnedd, 16 Ffordd Gwyndy, Penrhos, Bangor	
Gardd Botanegol, Treborth, Botanic House, Ffordd Treborth, Treborth, Bangor	
Gardd Botanegol Treborth, Rivendell, Ffordd Treborth, Treborth, Bangor	
Adran Addysg, Caeau Hen Ysgol Coed Menai, Cyngor Gwynedd, Stryd y Jel, Caernarfon, Gwynedd, LL55 1SE	
Adran Tai ac Eiddo, Caeau Hen Ysgol Coed Menai, Cyngor Gwynedd, Stryd y Jel, Caernarfon, Gwynedd, LL55 1SE	
Network Rail, Waterloo General Office, London, SE1 8SW	
Leonard Jones, Treborth Lodge, Treborth, Gwynedd.	

8. Affected Landowners Through Treborth Business Park

Title No.	Persons affected
CYM872384	J.R. WEBSTER AND COMPANY LIMITED (Co. Regn. No. 01349584) of Prince William Avenue, Sandycroft, Deeside CH5 2QZ
CYM271041	GARETH WYN JONES and HEFIN WYN JONES, 19 Gordon Terrace, Bethesda, Bangor, Gwynedd LL57 3NR
CYM484521	THOMAS RICHARD BURLEY and JUSTINE DIANNE BURLEY, Bay View, Promenade, Llanfairfechan, LL33 0BU
WA589160	LADY JANE BELLINGHAM of 20 Davenport Park Road, Stockport, Cheshire, SK2 6JS.
CYM374236	GARETH WYN JONES and HEFIN WYN JONES, 21 Brig Y Nant, Llangefni, Ynys Mon, LL77 7QD

CYM484551	BARRY JAMES DAVIES and MICHAEL BARRY DAVIES, 1 Tan Y Maes, Hendrewen Road, Bangor, LL57 4DN
CYM865502	KATIE BRENDA BEECHAM, Higher Farm, Roman Road, Prenton CH43 3DB
CYM844723	VALERIE SUSAN BLOOR, 140 Fog Lane, Manchester, M20 6SW
WA478412	FAIRWAYS CARE LIMITED (Co.Regn.No 3538836), 238 Station Road, Addlestone, KT15 2PS
CYM864855	DAVID GEORGE BEECHAM Higher Farm, Roman Road, Prenton, CH43 3DB
CYM213032	LEONARD DAVID MORRIS - JONES and SARAH PATIENCE MORRIS – JONES, Treborth Lodge, Treborth, Bangor, LL57 2RQ
	GARETH WYN JONES and HEFIN WYN JONES, The Bungalow, Hill Street, Menai Bridge, Ynys Mon, LL59 5AG
Interested Parties	
Previous headmaster	Andreas Huws
Previous headmaster	Sion Owain Jones

9. Development of Treborth School (formerly known as Ysgol Coed Menai School 1950-2012)

- Treborth Hall was built in 1870 and was owned by Richard Davies.
- As part of the construction of the Hall, Richard Davies also built the railway bridge which currently crosses into the Treborth Botanical Gardens.
- Treborth Hall was in the ownership of the Davies family until the property was sold to the Caernarfonshire Education Authority in 1950.
- In 1950, the site was identified by the Caernarfonshire Education Authority (the successor being the Council) as an appropriate location to develop a special needs residential school, due to its quiet and secluded surroundings.
- In 1951, Treborth Hall was opened as a special needs residential school.
- The residential school closed in 2012 and the building remained empty until it was sold by the Council to its current owners Mr and Mrs Margetson in 2014.

10. User Evidence

- 10.1 The application is supported by 197 Statements of Evidence showing public use ranging from 1940 to 2021, the date the application was made.
- 10.2 The table provided in Appendix 2 summarises the claimed use as indicated on the Statements. Each user is given a user reference number, which is used to identify them in the body of the report.
- 10.3 Interviews were carried out with twenty-nine of the 197 witnesses in support of the application. During the interviews, the claimants were asked to clarify and expand upon their

evidence. Each of the twenty-nine claimants then provided further witness statements and these documents can be seen in Appendix 3.

10.4 From examining the user evidence, it appears that the route has been used for a considerable length of time. User 26 first started using the route in 1940 and the period of use extends to 2021. In the table below, each user has been grouped according to the year they started using the route: -

10.5 Users

<i>Start year</i>	<i>User Reference Number</i>	<i>Total</i>
1940's	26	1
1950's	100, 115, 118	3
1960's	126, 133, 160, 182, 192	5
1970's	7, 12, 17, 18, 19, 21, 39, 41, 43, 58, 61, 96, 97, 111, 134, 144, 149, 195	18
1980's	13, 14, 20, 23, 28, 33, 37, 38, 45, 46, 48, 49, 51, 52, 53, 56, 57, 59, 74, 79, 80, 83, 98, 99, 103, 104, 122, 123, 124, 125, 151, 159, 167, 168, 169, 170, 172, 177, 178, 183, 187, 188, 191	43
1990's	1, 2, 9, 10, 11, 24, 25, 29, 31, 35, 40, 42, 44, 47, 54, 55, 60, 62, 71, 78, 81, 82, 101, 102, 105, 106, 107, 108, 109, 110, 113, 114, 135, 139, 140, 141, 145, 146, 147, 148, 153, 156, 157, 158, 176, 180, 181, 185, 186, 189, 196	51
2000's	3, 22, 27, 32, 36, 66, 67, 68, 69, 70, 73, 84, 85, 88, 91, 112, 127, 128, 129, 130, 136, 137, 142, 143, 150, 152, 161, 162, 163, 164, 165, 166, 173, 179, 190, 193	36
2010's	4, 5, 15, 16, 30, 65, 86, 87, 89, 90, 92, 93, 94, 95, 116, 117, 131, 132, 154, 155, 184, 194, 197	23
2020's	6, 8, 174, 175	4
<i>Not specified</i>	34, 50, 63, 64, 72, 75, 76, 77, 119, 120, 121, 138, 171	13

10.6 Frequency of Use

10.6.1 According to the summary of user evidence, 9 users have reported using the path daily, another 6 daily/weekly, 106 users on a weekly basis, 8 weekly/monthly basis, further 32 users on a monthly basis, 6 on a monthly/yearly basis and 5 users noted annually. 9 users

did not specify their frequency of use and a further 5 users' specification of use did not fit into a neither or relevant category.

10.7 Type of Usage

- 10.7.1 Most of the users claim to have used the route on foot. There is some evidence to show that the route was used by bicycles. However, it is considered that such use is minimal and of insufficient quantity and frequency to give rise to a presumption of dedication.

10.8 Purpose of Use

- 10.8.1 The majority of users claim to have used the claimed route for recreational purposes. Numerous users state that they have used the claimed route as a part of a longer route. For instance, some use it as a circular route, some using the main road while others walk from Pont y Borth (Menai Suspension Bridge) to Pont Britannia (Britannia Bridge) and back. The user evidence also suggests that the route has also been used as a means of access to Pont y Borth, Antelope Inn, the Treborth Botanical Gardens, the Wales Coastal Path, Penrhosgarnedd FC and the Athletics Track, etc (e.g users 24, 33, 37, 46, 50, 95, 101, 107, 127, 128, 135, 137, 150, 169, 177, 179, 183, 195).
- 10.8.2 There are no recorded public rights of access from Pont y Borth through Treborth Business Park into the Botanical Gardens. There is also no record of this road appearing on the Highway Register. However, several users (12, 16, 18, 19, 20, 21, 23, 26, 42, 51, 57, 80, 85, 98, 99, 109, 110, 113, 124, 130, 133, 136, 140, 151, 152, 153, 169, 174, 175, 183, 184, 186, 193, 194, 195) have noted that they have used the application route between pints A – E, as well as the continuation between E – F, through Treborth Business Park to Pont y Borth (See Appendix 4).
- 10.8.3 The Council is aware that certain users were authorised and cannot form part of the long user claim of the claimed route. Such users would be those who would come and go from the Penrhosgarnedd Football Club, and those who used the swimming pool at Treborth School (The agreement between the Council and the Local Football Club is held on file).

10.9 Verbal Challenges

- 10.9.1 Several users indicate that they have been challenged by the present owners (e.g users 2, 3, 6, 8, 11, 12, 24, 29, 40, 41, 43, 47, 52, 53, 55, 71, 80, 84, 85, 86, 87, 88, 91, 92, 96, 97, 102, 107, 109, 113, 114, 117, 118, 122, 123, 125, 127, 128, 129, 130, 132, 133, 134, 135, 136, 142, 149, 150, 151, 152, 153, 154, 155, 158, 161, 163, 164, 165, 166, 167, 168, 174, 175, 176, 179, 182, 187, 188, 196). The earliest claim to a verbal challenge is approximately 2015 - 2016 and this is noted in the witness statement of user 80.

10.10 Notices

- 10.10.1 Many users refer to signs and notices (e.g users 1, 3, 4, 6, 13, 14, 15, 16, 17, 18, 19, 20, 21, 30, 35, 36, 37, 41, 43, 44, 45, 46, 47, 52, 53, 54, 55, 83, 89, 98, 99, 103, 104, 105, 106, 107, 111, 112, 121, 124, 125, 133, 138, 142, 144, 149, 158, 159, 160, 162, 163, 167, 168, 179, 180, 170, 171, 172, 173, 181, 184, 187, 188, 189, 192, 193, 196). The earliest mention of signs can be seen in the evidence form of user 187 which states that “private notices” appeared in approximately 2016. Signs referred to in user statements can be seen

in Appendix 11. User 1 has provided photographs of signs which can be seen in Appendix 6. These signs are as follows (i) just before the railway bridge, a 'dead end sign' with "Access to school and Treborth Farm only" (ii) "No Exit from sports ground via this route" (iii) since summer of 2020, two signs in front of the old school – "Private, no public access or right of way" and "No access exit gate locked". It is contended that signs 1 and 2 relate to vehicular traffic only. As regards sign 3, user 1 claims that this sign had been placed during the summer of 2020.

10.11 Reference to Dated Challenges and Notices by Users

Year	Amount of Challenges	User Reference	Additional Information
2015		80	<p>User 80 (Witness Statement) – states that they were challenged approximately 2015 – 2016.</p> <p>The Senior Rights of Way Officer received an email dated the 22nd of March 2015 by Dilwyn Pritchard, Temporary Clerk of Pentir Community Council. This e-mail states that members of the public had been challenged for walking the route and were seeking guidance.</p>
2016	1	80, 187	User 187 – reference to private notices that appeared around 2016 when new owner of Treborth school bought the property.
2017	1	149	User 149 – verbally challenged around 2017 / 2018.
2018	1	149, 152	User 152 – states that signs appeared around 2018-2019. Cannot remember the exact wording, something to do about trespassing near the school. Signs believed to have been put up by the new owner of Treborth Hall.
2019	3	152, 20, 133, 167	<p>User 20 – reference to signs on gate near Mews – (i) please shut gate (ii) CCTV in operation (iii) dogs loose.</p> <p>User 133 – verbally challenged whilst passing the old school.</p> <p>User 167 – verbally challenged by the owner of Treborth Hall whilst walking past the Hall.</p>

2020	4	52, 107, 142, 151	User 52 – challenged by the new owner of the property when walking to the Botanical Gardens. User 107 – challenged by the owner and his son in front of the Hall. User 151 – challenged by the current owner of the old school. User 142 – reference to harassment.
2021	11	1, 2, 3, 10, 11, 24, 29, 55, 168, 176, 187, 196,	User 1 - reference to signs (see 8.10 above) All other users refer to verbal challenges. A Change.org Petition was launched in July 2021 – 249 signatures. Application received by the Council in August 2021.

11. Additional evidence in support of the application

11.1 Letters of Support

11.1.1 The applicant submitted four letters of support with the application (see appendix 5). The letters are written by: -

- John Grisdale, former headmaster of Ysgol Coed Menai between 1998 and 2003 – confirms public use of the claimed route and refers to the school's welcoming attitude towards members of the public.
- Councillor Enid Parry, Bangor City Council – supports “*the long-standing usage of the path*” but does not provide evidence of their personal use of the path.
- Councillor Elin Walker Jones, Glyder Ward – supports a right of way and states that many of her constituents mentioned being prevented from using the way even though they had used the way for years before this without any problems at all.
- Thomas Gribben, 3 Tŷ Ysgol, Coed Menai – confirms that people use the lane to walk their dogs and to visit the botanic gardens.

11.2 Photographs

11.2.1 The users mentioned below have provided photographs with their statements of evidence and these photographs can be seen in appendix 6: -

- John T Purcell (user number 125) – a photograph of a community tea party in front of Treborth School.
- Manon Griffiths (user number 195) – photographs of her family using the claimed route.
- Esyllt M B Jones (user number 196) - photographs of her family using the claimed route.

12. Landowner Evidence

12.1 Consultation

- 12.2 Consultation was undertaken on the 10th of November 2023, inviting the identified landowners and other interested parties to submit evidence regarding the application route (A-E).
- 12.3 The application route crosses land currently in the ownership of three main landowners, Treborth Hall, Council owned railway bridge and the Treborth Botanical Gardens. Adjacent landowners and identified third parties were also included in the consultation.
- 12.4 A summary of the responses received can be seen in Appendix 7. Two landowners produced reports in response to the consultation and these can be viewed in Appendices 8, 9 and 9a.
- 12.5 However, during investigation of the application, it was found that many of the users claim to have walked the route between A and E, as well as the continuation between E and F, which leads through the Treborth Business Park to the A5 near Pont y Borth. Following the solicitor's advice, the Council must question whether we should make an Order to register the application route (points A - E) as well as the continuation from point E to F.
- 12.6 There are no registered owners as regards the lane through the Business Park (E-F).
- 12.7 Thus, a further consultation was undertaken on the 7th March 2025 as regards the route A-F. A summary of the responses received can be seen in Appendix 7. Two landowners produced a report and letter in response to this consultation, and these can be viewed in Appendices 10, 10a and 11.

13. Comments on the Landowner Evidence

- 13.1 A right will not have been dedicated if a landowner can demonstrate with proof that they have taken action to stop public rights from accumulating over a way. These actions must be overt, relevant to the manner in which the land is being claimed, and able to inform the public of the landowner's intentions. Such actions may include installing and locking gates, positioning notices and signage on the property informing people that the path is not public or that it is used with permission.
- 13.2 Verbal Challenges
- 13.3 As mentioned in section 8.9, considerable effort has been made by Mr and Mrs Margetson the owners of Treborth Hall and by Mr J Margetson of 5 Tŷ Ysgol to verbally challenge users on the claimed route.
- 13.4 Mr and Mrs Margetson's state that they moved into Treborth Hall in July 2014. During the early months of ownership, Mr and Mrs Margetson recall stopping a jogger one Sunday morning.
- 13.5 This is also supported in Mr James Margetson's response. Mr Tom Gribben also states that the new owners of Treborth Hall started challenging users as soon as they moved into the property.

- 13.6 The earliest mention of verbal challenges within the user evidence can be seen in the witness statement of user 80, in which the witness distinctly recalls being challenged whilst walking the claimed route with a friend. User 80 states that this challenge occurred approximately between 2015 – 2016.
- 13.7 There is also further evidence that challenges were made in 2015 by the owners of Treborth Hall. In an e-mail dated 22nd of March 2015, Dilwyn Pritchard, the temporary Clerk of Pentir Community Council contacted Cyngor Gwynedd's Senior Rights of Way Officer expressing concern that people were apparently being challenged for using the claimed route and was looking for advice (See Appendix 12).

14. Challenges: Notices and Signage

- 14.1 Displaying notices on a way is regarded as an effective method of rebutting deemed dedication. Section 31(3) Highways Act 1980 provides that the erection and maintenance of a notice will, in the absence of proof of contrary intention, be sufficient evidence to negative the intention to dedicate the way as a highway.

15. Recent Notices

- 15.1 In this case, there are actions taken by Mr and Mrs Margetson since they moved into Treborth Hall in July 2014. For instance, erecting several signs noting '**Private Property**', '**No Public Right of Way**', and '**No Thoroughfare**'. An extract from Mr and Mrs Margetson's response showing the locations of these signs can be seen in Appendix 13. Mr and Mrs Margetson claim that these signs were erected in July 2014 following their purchase of Treborth Hall.
- 15.2 Mr James Margetson of 5 Tŷ Ysgol has also taken action and this consists of signage and stopping people when using the route. Mr James Margetson's response can be viewed in Appendix 10.

16. Historic Notice

- 16.1 Parish Councils were requested to conduct a survey of all public rights of way in the early 1950s in compliance with the National Parks & Access to the Countryside Act 1949 (the 1949 Act), along with a descriptive statement outlining the pertinent features and the points at which each way terminates.
- 16.2 On the 1st of May 1951, H.P. Jones and W.R. Davies, on behalf of Pentir Parish Council, surveyed a footpath which became known as Footpath No.12. The route of Footpath No.12 (to which the application route connects) can be seen on the plan provided in Appendix 1.
- 16.3 Having surveyed the path, a Definitive Statement was produced for Footpath No.12 (see Appendix 14). The Statement describes the existence of notices on Footpath No.12 in 1951 and the document reads as follows : "**On the gates at the main road entrance to Treborth Farm there are two Notices. One marked 'Private' and the other 'No Unauthorised Person Allowed by Order of the Caernarvonshire Education Authority'.**" It also states "**but according to Public Testimony, there has always been a right of way**".
- 16.4 When Caernarvonshire Education Authority opened Treborth School (formerly known as Ysgol Coed Menai) in 1950, the Authority also owned the farm (now known as Treborth

Leisure). The school and farm share the same access lane from the A487 and then two branching lanes can be taken to access the farm. The notice states '**On the gates at the main road entrance to Treborth Farm**', this suggests that the notices may have been located adjacent to the current A487. Mr and Mrs Margetson believe the gates' location can be seen on the Ordnance Survey Maps dated 1948, 1963, and 1972 (See Appendix 15).

- 16.5 There is some doubt about the intention of this notice because the Statement says '**on the gates at the main road entrance to Treborth Farm**' and does not mention the school. The Statement also states '**but according to Public Testimony, there has always been a right of way**' and should the sign have been present at the access from the A487, users did have the legal right to continue on Footpath No.12 along the access lane. The route of Footpath No.12 turns further up the access lane in comparison to the speculated location of the gates which the notices may have been present.
- 16.6 Furthermore, there is no record of similar notices to deter users travelling in an easterly direction along Footpath No.12 onto the claimed route, nor any record of similar notices to deter users travelling along the claimed route in a southerly direction from Treborth Botanical Gardens.
- 16.7 The Definitive Statement of Footpath No.12 is the only known record of the existence of the notices and there is no evidence to suggest that these notices were maintained. There is no user evidence to support or testify the existence of the notices mentioned in the Statement.
- 16.8 The user evidence spans from 1940, and four users claim to have used the claimed route during the 1950s when the school opened. However, none of the four users recall having seen the notices in their evidence.
- 16.9 Whilst interviewing the witnesses, none of the 29 users, when asked about signs and notices, mentioned the particular notices referred to in the Definitive Statement. However, users could recall signs being present in recent years, from when the current owners purchased Treborth Hall. The earliest evidence of these signs is approximately 2016 (user 187).

17. [Wandering at large](#)

- 17.1 In front of Treborth Hall- Mr and Mrs Margetson claim that users were wandering at large and did not stick to the claimed route.
- 17.2 Directly in front of Treborth Hall, there is a large tarmac area with some parking spaces. Adjacent to the tarmaced area is a grassed area which is referred to in the evidence as a 'grass island'. On the approach to the tarmaced area, there is a rough track that follows a fence line on the left into a wooded area adjacent to the 'grass island'.
- 17.3 In Mr and Mrs Margetson and James Margetson's statements, they state that people wander and picnic along the grassed area, using the track and wander around the Hall doors. The Margetsons also emphasise that there would be cars parked on the tarmaced area blocking the claimed route.
- 17.4 The evidence suggests that use is made of the rough track, and that it is used occasionally as an alternative route to the tarmac road leading to the railway bridge. This rough track is mentioned in the users' statements e.g. "this track has long been overgrown...I mainly go

in front of the school. The other track is not very nice in winter...” (user 51), “...a track that I have used to walk sometimes too, especially when there are many cars parked in front of the school.” (user 80), “On occasions, I have used the off-road track that goes behind the trees, just missing the front of the school before re-joining the tarmac lane.”, “...a track that runs through the woods, but if it's wet and muddy, we'll walk on the tarmac.” (user 130).

- 17.5 However, the majority of the users appear to walk the tarmac road that passes in front of the Hall. Indeed, the evidence shows this to be the predominant route. It is questionable as to whether use of the rough track is sufficient for the purpose of deemed dedication.

18. Wales Coastal Path

- 18.1 Mr and Mrs Margetson state that the proposed route connects to the Wales Coastal Path (Footpath No.22) created in 2012. They argue that the proposed route did not connect to a public place/highway before 2012. Mr and Mrs Margetson also contend that the user evidence shows a number of reasons/end destinations for the alleged routes used.
- 18.2 Rhys Gwyn Roberts, the Wales Coastal Path Project Officer states that prior to the creation of Footpath No.22 by means of legal agreement, there was evidence on the ground to suggest that the path may have been used by the public prior to the date of the agreement (See Appendix 16).
- 18.3 Although Footpath No.22 did not legally exist prior to 2012, it is important to note that many users describe continuing from Footpath No.22 at point E through Treborth Business Park towards Pont y Borth at point F (e.g. Users 12, 16, 18, 19, 20, 21, 23, 26, 42, 51, 57, 80, 85, 98, 99, 109, 110, 113, 124, 130, 133, 136, 140, 151, 152, 153, 169, 174, 175, 183, 184, 186, 193, 194, 195 - extracts of such evidence can be seen in Appendix 4). Users state that the continuation (E-F) is used as means of getting to the Antelope Inn, Pont y Borth etc. The users also mention that the continuation, together with the application route A – E, is used as a circular route, many of whom start from home. A circular route appears to be a particularly popular route for residents living in Penrhosgarnedd, Upper Bangor and further afield, for example, Ynys Mon (Anglesey).

19. Treborth School

19.1 Mr John Grisdale (former Headmaster of Treborth School 1998-2003)

- 19.2 During the 1990s, Gwynedd Council and Sustrans discussed the possibility of creating a national cycle route through Treborth. One option was for the cycle route to pass through Treborth school grounds and at this time, John Grisdale was headmaster.
- 19.3 On the 11th of June 1999, Mr Grisdale wrote a letter to Mr Iwan Roberts, Assistant Education Co-ordinator, to express his concern regarding a proposed national cycle route through school grounds following a meeting with school councillors (See Appendix 17).
- 19.4 Mr Grisdale acknowledged that the public did walk on school grounds and that work had been undertaken over the past year to purposely hinder public access on the boundaries of the school grounds by erecting fences and hurdles. This was funded by safety grants from the Welsh Office. Mr Grisdale expresses his concern about giving the public the right to walk the periphery of a special needs school and how this could cause difficulty and invite suspicious strangers to the site. Mr Grisdale also states that public access to the school and

railway track would encourage school children to enter unsafe grounds and would be an alternative way for school children to escape.

- 19.5 As part of the application, a letter of support was submitted by Mr Grisdale, and this appears to contradict his intentions in 1999 (See Appendix 5). In this letter (dated 18th of April 2021), Mr Grisdale states that he was headmaster from 1998 until 2003. Mr Grisdale explains that, whilst working at the school, there was never any difficulty with people walking the path and that it was normal to see people walking through. He states that there was a welcoming atmosphere to the public and it was natural for people to walk through the grounds to access other paths. The letter states that this was the case since the school opened in 1950.
- 19.6 Further inquiries were made with Mr Grisdale to clarify his intentions in 1999. In his response dated 3rd of November 2023, Mr Grisdale explains that his intention was to keep the children safe within school grounds and also to ensure that the public didn't walk to places where they shouldn't be, such as the gate to the entrance to the back of the swimming pool and riding for the disabled area. Mr Grisdale explains that he didn't want trespassers and thieves to access the external buildings in the gardens. Although the 1999 letter states that grants were used to secure school grounds, Mr Grisdale in his recent response explains that this grant funding was never received. Mr Grisdale also confirms that he never attempted to stop any individual from walking the path.
- 19.7 There is no information in the user evidence to support any suggestion that members of the public were prevented from walking the application route around 1999.
- 19.8 [Mr Trystan Williams \(son of Mr William Parry Williams, former Headmaster of Treborth School 1973 – 1995\)](#)
- 19.9 Mr Trystan Williams states that he was raised on school grounds between 1973 and 1995, when his father was headmaster. He describes the access arrangements and the interactions between the school and the community during this time. Mr Williams recalls that the public have used the road up to Treborth Hall with no obstructions. In addition, Mr Williams confirms that there were no permanent gates present between Treborth Road and Treborth Botanical Gardens. Temporary gates were only used on occasion, for instance, during specific school activities on the front lawn.
- 19.10 When Mr Williams' father was headmaster, he states that his father actively encouraged community integration with the school, despite the pupils having special educational needs. Mr W.P. Williams believed that the children should have a positive relationship with the local community. This is referred to as the ethos and cornerstone of Mr Williams' statement.
- 19.11 Mr Trystan Williams states that he would see local residents walking to and from Treborth, local walkers, dog walkers, families accessing the Botanical Gardens, parents with prams and pushchairs. In addition, those using facilities such as the Penrhosgarnedd Football Club, Riding for the Disabled, Gateway Club Members, Menai Bridge Rugby Club. This activity is described as a constant flow of community members and this created a positive atmosphere of mutual respect.
- 19.12 According to Mr Williams, his father had placed purposeful signage to accommodate and facilitate public access. These are described as green signs with white lettering, which would

show visitors to the main school entrance or onto the thoroughfare, which ran in a different direction and away from the school and the resident houses.

19.13 Mr Williams' full statement can be viewed in Appendix 17a.

20. Yellow Barrier

20.1 There are many references in the evidence to a yellow barrier on the claimed route. The barrier in question is located near the railway bridge at point C. A photograph of this barrier can be seen in Appendix 18.

20.2 Mr and Mrs Margetson believe that the barrier was erected c.1950 and was operated by Caernarfonshire County Council for school security purposes. Mr James Margetson contends that the yellow barrier was erected by the education authority and mentions that the earliest reference to this barrier is the 1970s.

20.3 A photograph provided by Mr and Mrs Margetson (allegedly dated 1997) shows the barrier in the background of the photograph, apparently, in the closed position. It is impossible to say whether the barrier seen in the photograph is locked. Mr and Mrs Margetson do claim, however, that the yellow barrier was closed/locked whilst the school was in operation. There is further reference to the yellow barrier being locked following the closure of the school and following the sale of the school. When questioned about the purpose of the barrier, many users believe that it was installed to deter vehicles only.

20.4 Mr John Grisdale, a previous headmaster of Treborth school states that the barrier was installed to restrict cars from driving through school grounds. Users also mention that the route of the claimed footpath was used as a 'shortcut' by cars to avoid congestion on the main A487 road and purpose of the barrier was to restrict vehicles (see user 51, 118, 194) updated statements .

20.5 However, users claim to have walked around the barrier and that it did not hinder use of the claimed route. User 194 believes that this barrier was used to stop cars but explains that there was room for people to walk around.

21. Gates and Heras Fencing

21.1 There is reference in Mr James Margetson's objection to gates being situated on the claimed route at various locations over the years. It is alleged that gates were present during the period 1951 – 1970s in the vicinity of Ysgol Treborth. Further to this, it is alleged that Treborth Botanic Garden was gated off in the 1970s. Reference is also made to gates and fences being installed in 1996/7 by Ysgol Treborth. However, there is no clear evidence to support the assertion that these gates – if they did exist – were actually locked and stopped pedestrian use of the claimed path.

21.2 Mr James Margetson alleges that Treborth Hall Gate was installed and frequently locked by Cyngor Gwynedd to prevent access from Treborth Road.

21.3 However, Mr Brian Molyneux, a resident of Tŷ Ysgol for over 25 years, mentions this gate in his evidence and states that it was installed by a security company. This gate was apparently closed at about 11pm and opened again at about 6am. It is mentioned that the security company gave the residents a key for this gate. It is important to mention that this gate is located on an existing public right of way (Footpath No.12) to the north east of point

A. Furthermore, it appears that there was sufficient space for pedestrians to pass to the side of the gate. This would have meant that the locking of this particular gate would have had no effect on those using Footpath No.12 and/or the claimed route.

- 21.4 Mr and Mrs Margetson state that they installed a gate (described in their objection statement as “*Side Gate next to the Penrhosgarnedd FC facility*” on purchase of the property in 2014. Mr and Mrs Margetson claim that ‘Christy Security’ advised them to reinstall the gate to prevent public access. They state that there were gate posts and hinges already in situ suggesting that there had been a gate here previously.
- 21.5 They state that this side gate was permanently locked with a combination lock from July 2014 and that three signs were placed on the gate. One of the signs was a “*Christy Security*” sign and the other two signs – placed back-to-back – displayed the words “*Private Property Keep Out*”. Mr and Mrs Margetson state that Heras fencing was installed to the side of the gate to ensure that pedestrians did not get through. They also indicate that this gate was stolen in June 2015.
- 21.6 Ms Rowena Thomas recalls that Mr and Mrs Margetson “attempted to install a gate near Treborth Hall itself” but states that that gate was removed. It does seem likely that this is the gate referred to as “Side Gate next to Penrhosgarnedd FC facility” in Mr and Mrs Margetson’s objection. Mr Thomas Gribben also recalls this gate and explains that it was in situ several months after he moved there and was placed in around February 2015. However, Mr Gribben explains it was there for a short period and was quickly removed and then later reinstalled in around May/June 2022. Mr Mollyneux also mentions this gate and states that the gate was closed and but had never been locked.
- 21.7 Shortly after the school closed in 2012, a company called ‘Christy Security’ was appointed by the Council to secure the property with Heras fencing. Mr and Mrs Margetson claim that this protected the school and grounds and also obstructed public use of the claimed route.
- 21.8 The Heras fencing is also referred to in the witness statement of user 118. However, user 118 describes the Heras fencing around the school building itself with a private sign attached to it. User 118 does not mention Heras fencing across the claimed route.
- 21.9 Christy Security has since changed its name to Keywise Security. During investigation of the application, the company was contacted by the Council as regards the Heras fencing at Treborth Hall. Mr Brenden Christy of the company states that the company was only responsible for security checks and the alarms on behalf of the Council. Mr Christy confirms that the company did not install or supply fencing. Mr Christy distinctly recalls Heras fencing erected by the Council at the front of the property as they had to open the fence to gain access. Mr Christy cannot recall where else the fencing was situated. Mr Christy explains that, once the building was sold, the new owners took the fencing down. Further to this, Mr Christy confirms that the company had no involvement with the new owners.

22. Permissive Use

- 22.1 Mr and Mrs Margetson claim that users of the claimed route had permission from the former school as they had legitimate reasons for being on school grounds, for example, taking their children to swimming lessons at the school. To support this claim, Mr and Mrs Margetson have produced a statement by Mr Andrzej Griffiths (see appendix 19), who was a former

teacher at the former school between 1981-1989 and again in 1995 – 2005. Mr Griffiths states that those on school grounds would have had a legitimate reason for being there and that no members of the public would have been wandering around. If a member of the public would have been on school grounds without a reason, they would have been approached by school staff.

- 22.2 Despite Mr Griffiths' statement, the user evidence does not corroborate his claims.
- 22.3 Numerous users claim they have walked the route to take their children for these types of activities, as well as claiming to have used the route for recreational purposes. Witnesses have noted that their use does not only consist of taking children to swimming lessons and football practice, as multiple witnesses have in addition noted that their use is also for recreational purposes (in example users 3, 34, 37, 47, 50,176).
- 22.4 Only user number 124 mentions permission as they state that they expressed permission from the school to walk the claimed route for recreational purposes. A number of users state that prior to the current owners, the school's atmosphere was welcoming, however, the remainder do not mention that they were given permission. When asked Gwern Ap Rhisiarts (former headmaster between 2012 -2013), about people walking past, his response stated that people were walking past from time to time and no specific problem was raised by this. Mr Rhisiarts also states that he was under the impression that people had the right to do so.

23. Consultation

- 23.1 Consultations with user groups and statutory undertakers were carried out in accordance with the Rights of Way Review Committee Practice Guidance notes. Information collected from this process is considered below:-

CONSULTEE	RESPONSE
RAMBLERS ASSOCIATION	No response
OPEN SPACES SOCIETY	No response
THE BRITISH HORSE SOCIETY	No response
MAGGI BARRY, RAMBLERS COUNTY FOOTPATH SECRETARY (ARFON/DWYFOR)	No response
THE BRITISH HORSE SOCIETY	No response
WELSH TRAIL RIDERS FELLOWSHIP	No response
AUTO CYCLE UNION	No response
BRITISH DRIVING SOCIETY	No response
CYCLING UK	No response
POWER SYSTEMS	No response
DWR CYMRU	No Objection
BT NOTICE HANDLING CENTRE	No response
WALES AND WEST UTILITIES	No Objection
CYFOETH NATURIOL CYMRU	No response

THE BYWAYS AND BRIDLEWAYS TRUST	No response
COUNCILLOR MENNA BAINES (A COPY WAS SENT TO THE APPLICANT).	No response
ELWYN JONES, CLERC CYNGOR CYMUNED PENTIR (A COPY WAS SENT TO THE APPLICANT)	No response

24. Date of Bringing into Question

- 24.1 In order to make out a case under Section 31 of the Highways Act 1980 it is necessary to establish a date when the right of the public to use the route was brought into question.
- 24.2 A 'bringing into question' arises when at least some of the users are made aware that their right to use a way as a highway has been challenged.
- 24.3 Officers have considered whether the notices mentioned in the 1951 Definitive Statement could have amounted to a bringing into question. However, it is unclear as to whether these related to the application route. Therefore, there is doubt as to whether these notices could be relied on as a calling into question.
- 24.5 There are assertions of various challenges by the school staff; however, there is insufficient evidence to support any such action(s) which could be described as bringing the right to use the path into question. Officers have also considered the various signage erected on Ysgol Treborth property prior to the property being sold in July 2014. However, it is considered that none of these had the effect of bringing the public's right to use the claimed route into question.
- 24.6 Similarly, the officers have also considered the various signage and barriers on University property and again, do not consider that these amount to a calling into question.
- 24.7 Turning now to the period when Mr and Mrs Margetson purchased the Hall, Mr and Margetson contend that they began challenging members of the public from as early as 2014. This is reiterated in Mr James Margetson's objection. It is argued that a locked gate was installed across the claimed route in July 2014. It is asserted that Heras fencing was placed to the side of the gate to prevent pedestrian access. However, none of the users can recall a locked gate at that particular time. There are also claims that a jogger was stopped one Sunday morning in the early months of Mr and Mrs Margetson's ownership of the Hall.
- 24.8 It seems likely that the challenges had reached a certain level by early 2015 and this meant that some residents began contacting the Community Council to raise their concerns. The e-mail received from Mr Dilwyn Pritchard, Temporary Clerk to Pentir Community Council (dated 22/03/2015) refers to residents of the Treborth area being prevented from walking a path that they had used for years. Further clarity was given by Mr Pritchard as to the e-mail during a conversation with the Council in February 2025. In an interview, Mr Pritchard explained that local residents were contacting the Community Council with regard to issues walking past Treborth Hall. Mr Pritchard also states that this was due to the new owners of the Hall stopping residents as they walked by. An unsigned statement from Mr Pritchard based on this interview can be seen in Appendix 12.

- 24.9 It is considered that the actions taken by the new owners of the Hall to verbally challenge users just before March 2015 is sufficient to show a “bringing into question”.
- 24.10 Therefore, it seems most likely that the date at which the public’s right to use the path was brought into question is March 2015. As such, it is proposed that the relevant 20-year period to be considered is March 1995 to March 2015.
- 24.11 User evidence for that particular period is examined in Appendix 20.

25. Conclusion

- 25.1 The evidence shows that, on the balance of probability, the public used the route continuously and as of right during the relevant 20-year period (March 1995 – March 2015).
- 25.2 There is insufficient evidence that any landowner has taken action(s) that would amount to a lack of intention to dedicate the route during the period March 1995 – March 2015.
- 25.3 Given the above, the Council is obliged to make a Definitive Map Modification Order.

26. Recommendation

- 26.1 It is recommended that the Council should make an Order under Section 53(3)(c)(i), WCA 1981, to register on the Definitive Map and Statement, as a public footpath, the route A – B – C – D – E – F as seen in Appendix 1.
- 26.2 Section 31 requires the Council to balance 20 years use ‘as of right’ against the action(s) of the landowner(s). One must bear in mind that, in this particular case, the Council itself was a landowner for the vast majority of the relevant 20-year period. The officers believe that this creates a conflict. As such, if an Order was made, the officers consider that it would not be appropriate for the Council to support and promote such an Order in the event of the Order being opposed. If the Order is made and objections are received, the matter will be referred to the Welsh Government for determination. Under the circumstances, the Order will be determined by written representation, a hearing or a Public Inquiry. Should this be the case, it is considered that the Council should take a **neutral stance**. Further to this, it is considered that the responsibility for presenting the case for and against any order in such an event should rest with the applicant and the objector.

Appendix List

1. Application Plan
2. User Summary of Evidence
3. Updated user statements
4. Users from Points E to F
5. Letters of support
6. Supporting Photographs
7. Landowner Response Summary
8. Mr James Margetson - 12.01.24 – Statement of Objections
9. Mr & Mrs Margetson - Report Evidence and Statement of Objections
- 9a. Mr & Mrs Margetson Report Attachements
10. Mr James Margetson - Report 31st March 2025
- 10a. Mr James Margetson Report Attachements
11. Mr & Mrs Margetson - Response Letter
12. E-mail by Dilwyn Pritchard – Temporary Clerk for Pentir Community Council
13. Extract from Mr and Mrs Margetsons Response Report - Record of Signs
14. Definitive Statement of Footpath number 12 in the Community of Pentir
15. OS Maps - Gate Locations
16. Rhys Gwyn Roberts – Coastal Path Projects Officer – Statement
17. John Grisdale – Headmaster – Letter 1999
- 17a. Trystan Williams Statement
18. Yellow Barrier at Railway Bridge
19. Statement A Griffiths
20. Treborth Use Timeline