

**AWAITING FURTHER INFORMATION**

**TREBORTH HALL**

**EVIDENCE AND OBJECTIONS**

**with regard to the Application by Pentir Community Council for a Definitive Map Modification Order (DMMO) claiming a route directly past the front of Treborth Hall**

**Landowners**

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## **TREBORTH HALL EVIDENCE AND OBJECTIONS**

**Please find below our evidence and objections with regard to the Application for a Definitive Map Modification Order (DMMO) claiming a route directly past the front of Treborth Hall.**

**We oppose the DMMO application based on the following:**

### **1. General**

- Between 1950 and 2012 the former residential special needs school and the Caernarvonshire Education Authority (later Gwynedd County Council (GCC) from 1974) had a legal responsibility to ensure the safety and wellbeing of both pupils and staff, and the security of the school grounds. Any purported public dedication by any Headmaster would have been contrary to the purposes of the Education and Planning Authorities and relevant legislation.
- Between 1950 and 2012 the former residential special needs school and the Caernarvonshire Education Authority (later GCC from 1974) put in place measures to prevent public access past the front of Treborth Hall as documented.
- Between 2012 and 2014 (school vacant) GCC put further measures in place to prevent a public right of way past the front of Treborth Hall as documented.
- In 2014 ourselves the present owners informed the public that the property was now privately owned by placing signs around the property and main gate and along the access lanes to prevent a public right of way beyond the existing public footpath and in front of Treborth Hall. In addition, a locked side gate was erected with two “Private Property Keep Out” signs and a “Christy Security” sign.
- There was local knowledge that Treborth Hall was a Residential School for Pupils with special needs. Any member of the public entering school grounds without permission was trespassing.
- A right should not be granted from a series of trespassing. A right should only arise from lawful activity.
- The Education Act 1976 states that there is no automatic right of entry to school premises. This confirms that members of the public with no legitimate reason to enter school grounds were trespassing.

- A significant number of alleged users have had a private right/permission to use the proposed route for reasons connected with the school. This use has been permissive and not “As of right”. A private right/permission does not grant a right to claim a public right of way.

A private right/permission would have been granted to visit the former school grounds to use the facilities on legitimate school business (e.g. use of the swimming pool, sports pitches, RDA and visit staff houses). The use of the playing fields by Menai Bridge RFC was with the permission of the former chairman Wil Parry Williams who was also the Headmaster. This right was not granted to the public at large.

- There has never been any public rights over the segment of route in front of Treborth Hall. There has never been a public thoroughfare.
- There is no relevant 20 year period without interruption of the claimed route since 1950.
- Ordnance survey maps show gates along the two access lanes leading to the proposed route, including the Treborth Botanic Garden (TBG) gate.
- A written statement from Andrzej Griffith, who was a resident in the staff houses between 1981 and 1989 and a teacher at the Treborth swimming pool between 1995 and 2005 states:

“the general public did not freely walk around the grounds, nor did they approach the school, anyone coming to Treborth would do so explicitly for a reason, such as visiting a teacher, a resident, or going to the Horse Riding for the Disabled Centre. Anyone on the school grounds would have been approached by a member of staff or resident, in order to ascertain their reason for being there.” (see document 43. Andrzej Griffith Statement)

His evidence contradicts the evidence contained in the user evidence forms during these dates.

- Lowri Owen (now Roberts) of GCC Estates has stated:

“As far as the Council is aware, when the property was a residential school, we received no complaints that members of the public were walking past the school. Given the use of the hall at the time and the use by the Riding for the Disabled, the football club and the presence of several nearby houses it is perfectly possible that members of the public were present from time to time as they were there for legitimate reasons.” (see document 36. Emails from Lowri Roberts Estates Manager Gwynedd Council)

- The essential characteristics of a highway have not been satisfied (particularly a specific one defined route serving a public purpose). There is not one specific defined linear

route claimed per the original user forms (different destinations/different circular routes). There is not one specific route going through the Hall grounds.

- The specific proposed route in front of the Hall as denoted by the white border stones never existed prior to 2015.

The proposed route goes exactly through the white border stones which we positioned in their current location in 2015. Previously it was part of the car park with white lines painted on it identifying individual car/school minibus parking spaces.

Some alleged users state that the white border stones denote our property boundary. This is factually incorrect. The stones denote our neighbours' right of way over our property as stated on their respective land titles.

- The whole area in front of the Hall is an open space. It is the front garden to the Hall. We have witnessed members of the public walking all over the front garden/woodland taking no specific route.
- An online social media campaign has invited members of the public to use this application process as a petition, citing fictitious/fabricated stories. This campaign has increased trespass.
- There is no consistent date when the alleged users were first challenged.

The majority of alleged users state we challenged them in 2021. This coincides with the Facebook campaign and Kevin Beaumont's Change.org petition in 2021 that highlighted the alleged footpath to the public. This is contradicted by:

1) We started verbally challenging everybody from 2014 as evidenced by our neighbour Tom Gribben who purchased 3 Ty Ysgol Menai in December 2014. Mark Sadler also stated on Facebook that "He has done it for years" (see document: 49.Mark Sadler comment on Facebook)

2) We erected additional signs in 2014 to prevent people trespassing. This is evidenced on Facebook by Gwyn Williams in 2015 (see document 42. "no trespassing" signs" in 2015 Gwyn Williams) This contradicts Tom Gribben (neighbour 3 Ty Ysgol Coed Menai) and others who state that we only put up signs in 2019.

3) Dewi Owen (GCC Right of Way Unit Officer) said in 2022 the Heras fencing which had been erected across the lane in 2012 stopped him running past the front of the school after it was closed in 2012. Dewi Owen also witnessed us challenging trespassers by our courtyard gate in 2020 when he visited us to erect the Covid signs on the public footpath.

4) The locked side gate with two “private property” signs and “Christy security” sign being displayed in 2014.

The above brings into question the validity of all the user evidence forms that state they were first challenged in 2021. If the users are not factually correct with regard to the date they were first challenged, this brings into question the validity of the remainder of their evidence and whether they have actually walked the route at all.

- The University of Bangor has stated it has no intention of claiming a right of way past the front of Treborth Hall.
- There is no status of P.R.O.W column on the typed summary of 197 users. This gives a false impression that all users have claimed a footpath which is not the case.
- There are no original route maps included on the typed summary of 197 users. This gives the false impression that all users have walked the same route which is not the case.
- The property was sold by GCC in 2014 with no public rights past the front of the Hall.
- Prior to the sale of the school both GCC and Pentir Community Council (PCC) had the opportunity to modify the existing right of way when the school was closed between 2012 to 2014.
- A Community impact assessment relating to the imminent school closure was carried out in 2011. A form was distributed to the local community as part of the school closure consultation process. This assessment did not mention a public right of access through the school grounds. Indeed, it concluded there was little community interaction with the school (see document 54. Extracts from the community assessment).
- The public have had more than a decade since the closure of the school in 2012 to claim a public right of way past the front of Treborth Hall. During this time key witnesses such as the former Headmaster Wil Parry Williams (headmaster 1973 - 1994) has died in 2017 and others are now elderly with fading memory, rendering this an unfair process. The laches doctrine is applicable, as there has been such a delay in an alleged claim being made.
- The survey/work carried out on the 1972 Diversion Order on the Pentir 12 Footpath did not identify any other requirement to modify this public footpath to allow public access in front of the Hall/former school. In 1972 there was no intention by the Caernarvonshire County Council (CCC) to dedicate the land in front of the school to the public at large.

- It may be claimed that the public at large had implied permission because the school and surrounding fields were publicly owned. However, if this was the case this implied permission would have ceased on the sale of the school in 2014.
- Google maps “street view” has never shown the front of Treborth Hall from either access lane. This is further evidence that Treborth Hall is private property and there is no public access.

## 2. Interruptions

We object to the application for a modification order on the basis that the relevant statutory test set out in Section 31(1) Highways Act 1980 has not been met.

It specifically states that the use has been carried out for a full period of 20 years “without interruption”. A single act of interruption by the landowner will be given more weight than many acts of enjoyment by the public

Our objection is based on the following:

- There is no relevant 20 year period without interruption from 1950 to 2021 (see document 48.Time line - key events/dates and evidence).
- There have been effective interruptions of the route since 1950 to 2021 (see document 48.Time line - key events/dates and evidence).
- School closure (2012-2014). Christy Security was employed by GCC to secure the building and school grounds. Steel cladding and Heras fencing was strategically placed all around for security. Christy Security also placed their own signs around the site to deter trespassers. This is in addition to all existing signs previously in place. The Hall and grounds were totally secured from members of the public.

The Hall was sold as private property. The access gates to the site were locked. When we purchased the property, both the Treborth Road main gate and yellow barrier were locked and there were no trespassers. The security measures in place during the school closure were an interruption of the proposed route.

Dewi Owen (GCC Right of Way Unit Officer) said on the site visit in 2022 that he was stopped in 2012 from running through the grounds by the Heras fencing across the lane.

- The permanent locking of our sidegate between July 2014 and June 2015, when it was stolen. This gate had three signs. One sign was a “Christy Security“ sign. The other two signs were placed back to back on the gate and said “Private Property Keep Out”

- The closing/locking of the yellow barrier with “no entry” sign in situ since approx 1965 per user evidence. This can be found on William Glyn Jones (51) written statement.
- The proposed route goes through the former school car park and side entrance to the former school/sports field. On a Monday morning and Friday afternoon the car park would have been extremely busy, not just with staff cars but with separate taxis/vehicles transporting individual pupils to/from three counties. The school had a duty of care to the pupils. The public would have been kept away from the car park area. This area at these times would have been inaccessible to the public at large. The same would apply to the side of the school as below.

There would have been continual interruption of the route Monday mornings and Friday afternoons, as well as other times.

- Side entrance to the School Building. Further interruption would have occurred at this entrance. There are two access gates at the side of Treborth Hall - 1) Courtyard gate which provided access for school operations e.g. for laundry, deliveries, storage etc. 2) Backyard gate which provided access to the gas tanks and rear of the building.

Both gates would have been in constant use and always locked (see orange table number 8 and photograph 8 in document 2).

There would have been continual interruption of the route during the school week.

- Side entrance to the School Sports field. Further interruption would have occurred at the entrance to the sports field and building at the side of Treborth Hall (now the home to Penrhosgarnedd FC), which was used for school sports, storage of sports equipment and other activities such as car mechanics. Menai Bridge RFC also used this facility (see document 34. Wil Parry Williams Menai Bridge RFC tribute) which highlights the amount of rugby activity permitted by the former Headmaster (Mr Wil Parry Williams).

There would have been continual interruption of the route.

- The proposed route did not exist through Treborth Botanic Garden (TBG) prior to the year 2000. Before this date, the Garden had not been "opened up" to the public. It was used solely as an educational facility belonging to the University. The newsletters of the Friends of the TBG confirm this (see document 12. Treborth Botanic Garden newsletter extracts). There could not have been a route through to the Menai Bridge prior to this, as there were entrance gates on the TBG. Mr Andrzej Griffith has informed us that there were no members of the public walking through TBG when he was a resident (1981-1989). He only witnessed University staff and people working on the TBG.
- The locking of the TBG gate at night from 2010 to 2018 prevented public access.

- The TBG is only “open during daylight hours”, therefore it is closed at dusk. This has been widely publicised for decades on the internet to the public at large.
- The closing/ locking of the historic main road entrance (A487) gate from when the school was opened in 1950 on land owned by the Council.
- The proposed route connects two existing footpaths on the Definitive Map. One existing footpath is from the main road entrance (A487). The other existing public footpath is the Wales Coastal path. Some users state their reason for using the proposed route is to connect to the Wales Coastal path.

The Wales Coastal path came into existence in 2011. Work done on the path would have been an interruption and nobody would have been allowed through as part of health and safety. Before the work was carried out on the Coastal path, the area concerned was overgrown. Therefore people were not walking through TBG to connect to the Wales Coastal path before 2011.

- An aerial photograph taken in 1984 shows a significant interruption of the route (see document 47.1984 aerial photograph of interruption). We have been led to believe from a former staff member that works undertaken on the sewer pipe prevented access.

### **3. “As of Right”**

We object to the application for a modification order on the basis that the relevant statutory test set out in Section 31(1) Highways Act 1980 has not been met.

It specifically states that the use must have been “as of right” which broadly means without the landowner’s permission, secrecy or force.

Our objection is based on the following:

- A significant number of alleged users have had a private right/permission to use the proposed route for reasons connected with the school.
- To claim a right under the Wildlife and Countryside Act the alleged users must have used the route ‘as of right’. There is no period where the alleged public use of the route can be claimed to be “as of right”.

In our case, those alleged users with no legitimate reason to visit the school, have walked onto the former school/Treborrh Hall grounds stating that they have not seen any signs, the signs were for vehicles only or they did so in defiance of the signs along the route. These alleged users have been trespassing.

- Trespassing does not grant a right.
- There is evidence that the public were charged to enter the school grounds for the annual fetes and other events held to raise money for the school (see document 46. Garden Fetes, Car Boot, Treasure Hunt and Fun Day). Clearly the public at large would not have been able to freely enter the school grounds on these days. To use the land “as of right” it must be available to use at all times without restriction.
- Secrecy has been used around the back of the grass island.

Secrecy has been used by the public at large. A route around the outside of the grass island, further away from the building behind trees has been used by the public as evidenced on their original user evidence forms. The use must be open and without secrecy.

Alleged users know they are not visible when they cross the railway bridge from Botanic Garden entrance and walk around the outside of the grass island away from the Hall building. Alleged users also know they are distant and not clearly visible from the Hall when they wander off the existing public footpath from the Treborth Road entrance and use the track to the rear of the grass island.

A large section of the track to the rear of the grass island is hidden by trees and shrubs and is more distant from the building, preventing the landowner from having the opportunity to challenge (see trees and shrubs in document 23, photograph 1 in car park evidence).

This different route to the rear of the grass island was included in a significant number of the original user evidence route maps. In total 43.3% have used this route at some point. In addition 13.9% did not disclose their route at all (see Count of Proposed Route in document 35. Original User Evidence Statistics). **Potentially 57.2% of alleged users claim to have used the different route in secrecy at some point.**

- There has been use of force since our ownership in 2014.

Since 2014 both the Treborth Road and side gates have been unhinged, damaged, rammed and stolen. Force has included the breaking of gate locks. Numerous signs have been stolen, damaged and spray painted. Prior to the gates being stolen, the side gate was taken off its hinges on several occasions to gain illegal entry to the front of the Hall by Penrhosgarnedd FC/visiting teams. Since our ownership, the yellow barrier has also been damaged so that it can no longer be locked with a padlock.

- Treborth Botanic Garden (TBG) has never been open at all times. It is open during daylight hours only. TBG is closed for events and bad weather. Historically, TBG was closed outside University term time.

#### 4. Non Intention to Dedicate

Presumed dedication arises where the public have been enjoying a route for a sufficient period of time without challenge and with the owners knowledge.

This presumption is rebuttable by proof that the landowner has erected and maintained notices visible to path users inconsistent with dedication (Highways Act 1980 Section 31(3))

The following cases also apply:

- Taylor v Betterment Properties [2016] stated “If the landowner erects suitably worded signs and they are seen by would-be peaceable users of the land, then it follows that their use will be contentious and not as of right”. That would be enough to defeat a claim for a right of way by prescription.
- Winterburn v Bennett [2016]: “I do not see why those who chose to ignore signs should thereby be entitled to obtain legal rights over the land”. It recognised that not every landowner seeks confrontation and would be concerned or frightened of it. It also stated that “There is a social cost to confrontation and, unless absolutely necessary, the law of property should not require confrontation in order for people to retain and defend what is theirs.”

If there is no intention to dedicate the land to the public at large then a public footpath can not be created. GCC dedicated the land in front of the school building to be used solely as a residential special school.

As the property was owned and used previously as a residential special school by GCC, our evidence demonstrates that the previous owner had no intention to dedicate a public right of way through the grounds of the former residential school.

The intention not to dedicate has to be made known directly to the public at large. This has been made known by signage, gates, a barrier, legal agreements and social media.

Collectively the actions taken by the Council and ourselves to inform the public at large are evidence of a **non intention** to dedicate. There is sufficient evidence of **non intention** on the part of the landowner(s) to dedicate the route as a public highway.

This is evidenced by the following:

- The signage, gates, a barrier, legal agreements, and social media have always shown an intention by the landowner to prevent a public right of way.
- Historic signs and gates.

- User Evidence Forms submitted confirm the existence of signs, gates and a barrier.
- Verbal challenges have been made since our ownership in 2014 per the user evidence forms.
- Verbal challenges have been made by the school staff and residents per Andrzej Griffith statement (see document 43. Andrzej Griffith Statement).
- Existing and former legal agreements by GCC are evidence of non intention to dedicate any land in front of the Hall/former school to the public at large.

The following evidence demonstrates that there was no public right of way to pass directly in front of the school:

1) No right was granted to the University of Wales (University of Bangor) in 1960 when the Botanic Garden land was purchased. CCC never granted its neighbour the University of Wales (University of Bangor) any right of way over the railway bridge or past the school from any direction. If there was a need to connect the Treborth Botanic Garden to Treborth Road, CCC would have granted a right to the University to enable public access.

The university has confirmed that “the University does not wish to claim any legal right of way over your property, nor does the university encourage or endorse passage by staff or others associated with the Treborth botanic garden” (see document 16. Response from University - "claim no right of way").

The sign from the Treborth Road entrance states “no entry to athletics track” (orange sign 2 in document 2). The sign from the Botanic Garden entrance states “no exit from the sports ground via this route” (blue sign 7 in document 2).

2) No right was granted by CCC to Treborth Farm. The Council’s sale of Treborth Farm in 1956 did not grant a right of way across the land in front of the school. Please see an extract from the 1956 conveyance (see document 28. Treborth Hall Farm right of way granted 19-12-1956 and extinguished 14-08-1963). The access right in blue on the attached map was granted over the railway bridge through the first farm gate on the left and around the grazing field to Treborth Farm. This right was granted in return for a 50% contribution to the upkeep of the railway bridge. The right of way to Treborth Farm was extinguished in 1963 by CCC. Please note the faint writing next to the access right granted in blue “Right of way extinguished by deed dated 14 August 1963”.

3) No right was granted by GCC to the Riding for the Disabled (RDA) (see document 38: RDA lease agreement map). On the sale of the school, GCC drew up a lease with the RDA granting no right of access across the land directly in front of the Hall. Their right of access was shown in orange.

4) No right of access in front of the Hall was granted by GCC to Penrhosgarnedd Football Club (see document 22. Penrhosgarnedd FC lease Page 1 and 2 and Map). GCC entered into a lease in 2013 with Penrhos FC granting access to and from Treborth Road only. The lease does not grant a right to the football club to walk/drive past the front of the Hall. This is further evidence that there was no intention to dedicate the front of the Hall to the public.

5) The rights granted for access on the land title in front of the Hall are to the freehold title owner and the owners of the neighbouring properties/fields (see document 39. Treborth Hall TP1 and 40. Treborth Hall TP1 Map of rights granted\_reserved). No right of access is granted to the public at large other than the public footpath which ends half way down the lane (see document 2).

Please note the owners 1-5 Ty Ysgol Coed Menai (former staff houses) only have a legal right of way across Treborth Hall land to access their properties. This is along the proposed route. They already have a private right to access their properties.

6) Leasehold agreement with Rowena Thomas dated 8 November 2011.

The leasehold agreement between Rowena Thomas (staff member) and GCC for the leasehold of flat 2a Ty Ysgol Coed Menai grants in section (7):

“A right of way on foot with or without vehicles to and from the demised premises or any part thereof over and along the unadopted access road from the demised premises to its junction with the A487 road.” (see document 41 Rowena Thomas Right of Way Lease 2011)

Therefore, prior to purchasing the freehold in 2015, Rowena Thomas had the legal right to access her property only one way from the A487 road. She had no legal right to access her property via the Botanic Garden. This is evidence that GCC had no intention to create a public thoroughfare for both pedestrians and vehicles past the front of the former school/Hall from the A487 to the TBG.

- In some circumstances the physical characteristics of a route can prevent a highway from coming into existence through presumed dedication. The way was of such a character that public use of it could **not** give rise at common law to a presumption of dedication.

The proposed route goes past the front door of the former school, past the headmasters office and through the former school car park. The school car park was land dedicated for vehicular school use and was not for pedestrian use. The fact that the proposed route goes past the front door/Headmasters office and through the car park is strong enough to raise a presumption against an intention to dedicate (see document 23. Car Park

Evidence). The proposed route also goes through the side entrances to the former school/sports field

Car park - On a Monday morning and Friday afternoon the school car park would have been extremely busy not just with staff cars but with separate taxis/vehicles transporting individual pupils to/from three counties. The school had a duty of care to the pupils, the public were kept away from the car park area. This area at these times would have been inaccessible to the public at large. The same would apply to the side of the school when pupils were taken by staff to lessons in the sports fields/adjacent building.

There is also a pavement specifically for pedestrian use that runs across the full length of the front of the school building. This existing pavement does not form part of the proposed route and was clearly for school use.

**The fact that the proposed route goes through the car park (close to the main door and Headmasters office) is strong enough to raise a presumption against an intention to dedicate.**

- The proposed route past the front of the Hall is on land dedicated for a school car park and not as a public footpath to members of the public.
- The landowner must be able to dedicate the land forever. The Headmaster is not the landowner so did not have the power to dedicate the land to the public. Any purported public dedication by Headmasters would have been contrary to the purposes of the Education and Planning Authorities.
- The former landowner, GCC, had no knowledge of the public trespass. Therefore it could not dedicate the route to the public under presumed dedication. To dedicate this route GCC must have had knowledge of the public at large entering school grounds. GCC have stated they had no knowledge of the public at large being on school property with no legitimate reason for being there.

GCC had no knowledge of the public at large entering the school grounds based on the following statements made:

1) GCC's solicitor on the sale of the school in July 2014 states in the adverse rights section of the pre contract enquiries "There are none of which we are aware but the property is sold subject to any which may exist. See public footpath shown purple on attached plan" (see document 37. Adverse rights - Pre Contract enquiries).

The Council clearly says there are no adverse rights of which they are aware. They state they have no knowledge of any further adverse rights, apart from the existing Pentir 12 footpath. The Council can not have dedicated something that they had no knowledge of.

2) The Estates Department of GCC states in their email 21 December 2020 “As far as the Council is aware, when the property was a residential school, we received no complaints that members of the public were walking past the school. Given the use of the hall at the time and the use by the Riding for the Disabled, the football club and the presence of several nearby [former school staff] houses it is perfectly possible that members of the public were present from time to time as they were there for legitimate reasons.” (see document 36. Emails from Lowri Roberts Estates Manager GCC). Permission or implied permission does not grant a right.

The public would have also had a private right/permission to enter school grounds for various reasons including swimming lessons, Menai Bridge RFC, Gateway Club and other organised school events such as the annual school fetes.

If the Headmaster wished to dedicate a right of way on school grounds, he had no power to do so. He would require approval from the School Board of Governors. The Board of School Governors would then in turn need to gain the authority from the Council's Education and the Planning Departments.

There is no evidence that the school sought consent to dedicate any right of way over its land. Consent would not have been granted by the Education Authority in such circumstances. If the public applied for a DMMO in front of the headmaster's office and main school entrance while it was open as a residential school, GCC would not have granted it. This is evidenced by the rejection of the proposed National Cycle Track past the front of the school (see document 5. Objections to Sustrans).

In addition, the Government under the Highway Act 1980 Section 118B granted powers for schools to extinguish certain Highways which cross land occupied for the purposes of a school on the grounds (iv) where there is risk to their health and safety. Clearly the Government policy was to discourage public rights of way on school grounds.

- The decision was taken by GCC in 1995 not to have a cycle/pedestrian track via the front of the Hall (see document 5. Objections to Sustrans).
- The decision was taken by GCC in 1998 not to have a cycle/pedestrian track through school grounds adjacent to the disused railway track (see document 5. Objections to Sustrans).
- The National Cycle/pedestrian route along Treborth Road is clearly signposted for both cyclists and pedestrians. The route to Menai Bridge (the Botanic Garden entrance and the Wales Coastal path) and Caernarfon in the other direction, is along Treborth Road only. This route bypasses the Hall.

- Sale of Ysgol Coed Menai. The school was marketed at auction in Manchester as Treborth Hall, a private estate with land and outbuildings with the relevant leases in place and one recorded public right of way (Pentir 12).

Prior to the sale of the school both GCC and PCC had the opportunity to modify the existing right of way when the school was closed between 2012 to 2014. This is further evidence that there was no intention to dedicate a right of way in front of the Hall to the public at large. Also, Section 53 of the Wildlife and Countryside Act 1981 places a statutory duty on local authorities to maintain a Definitive Map and Statement recording all public rights of way in their areas, and **to keep these under continuous review.**

**GCC did not have any intention to dedicate a specific route to the public directly in front of the former school/Treborth Hall.**

## 5. Defined Route

We object to the application for a modification order on the basis that the relevant statutory set out in Section 31(1) Highways Act 1980 has not been met. Both under s.31 and at common law, any long use resulting in dedication can only occur over a defined route on the ground

It specifically states that the right must have been exercised over a defined route and not based on the public wandering at large. It is a fundamental characteristic of any highway that it must follow a known and defined line.

Our objection is based on the following:

- The right has not been exercised over a defined route. The original user evidence forms show that the public at large have not followed a specific route. We have witnessed members of the public walk across the front of the Hall in the car park, across the grass island, along the track at the rear of the grass island and through the wood. There is no linear route, and more than one route has been used.
- The proposed route is on land dedicated for vehicular use and not as a public footpath to members of the public. The road through the school was used primarily for vehicle access. All pupils and most staff would arrive and depart by motor vehicle. There is no specific path for pedestrians, apart from the pavement directly in front of the school.
- The user evidence statements in support of the current application state that people claim to have walked, cycled and driven all over.
- The user evidence statements in support of the current application do not consistently support the use of the defined route currently being claimed. The responses to question

2 of the user forms vary considerably. It is evident that different routes are claimed to have been used by the users at different times.

- One alternative route is a track to the rear of the grass island. This route takes longer to walk and does not go through the car park. It does not go past the former headmasters office or the main front door to the school where there would have been continual interruption of the route with deliveries, staff, pupils on foot and in the school minibus, workmen etc.
- The original user evidence forms show that the public have not used the route to connect two highways together as required by common law. The alleged users state in their original user evidence that they have been using part of the proposed route as a shortcut to access Treborth Sports Track, Penrhos FC pitches, University Botanic Garden for work/events.
- Use of an area for recreational activities cannot give rise in itself to a presumption of dedication of a public right over a specific route. It is important that the way claimed follows a specific route and it is not based on the public wandering at large, as we have witnessed.

Previously the school had a fete once a year and people had picnics on the grass island in front of the building. This is evidence that the area has been used for recreational activities and has not been confined to the defined route claimed in the application. These recreational activities were with school permission.

- We have witnessed alleged users walking all over the grass island with their dogs. Many have allowed their dogs to urinate/ defecate all over the front grounds and even on the front steps of the Hall.
- Members of the public have also been challenged by ourselves when jogging, walking and picnicking in the **back** garden of Treborth Hall. They have at some points in time wandered everywhere as invited by social media campaigns (see below).
- Malcolm Rogers states in his original user evidence “that when Treborth Hall was still Ysgol Treborth school there were polite notices requesting the public to use the loop of driveway which avoided the frontage. We were encouraged to use the sensible loop mentioned above”. He also claims to have used more than one route including cycling. It should be noted that not one other alleged user has mentioned these signs. This demonstrates that conflicting evidence has been given.
- There is no defined route on TBG as evidenced by the original user forms. The alleged users have not used one route. This is evidence that the area of TBG has been used for recreational activities and has not been confined to the defined route claimed per the application. An open space is not a highway, even if the public customarily pass over it.

- The proposed route is connected to the Wales Coastal path which has only been in existence officially since 2012. The proposed route does not connect to a public place/highway before 2012.
- The user evidence shows a number of circular routes have been used. Not one specific circular route has been used.
- The user evidence shows a number of reasons/end destinations for the alleged routes used. Therefore there was not one single route used. Eg. visiting a friend in the staff houses, going to Penrhosgarnedd FC, sports track etc.
- There is a large grass island in front of the building. The proposed route goes directly in front of the former school and through the former car park. A significant percentage of user evidence forms state they have used the route at the back of the island which is partially hidden by trees. Only 41.8% of users claim to have specifically used the proposed route. 9.3% of users claim to have only used an alternative route around the back of the grass island and did not use the proposed route at all. There is clearly not one single defined linear route which needs to exist for the creation of a public footpath (see Count of Proposed Route document 35. Original User Evidence Statistics)
- There are no route maps included on the typed summary of 197 users. This gives the false impression that all users have walked the same route which is not the case per the original user evidence forms.

## **6. The Public at Large**

We object to the application for a modification order on the basis that the relevant statutory test set out in Section 31(1) Highways Act 1980 has not been met.

In the legislation the term “public” means use by the public at large. Any use by the landowner’s employees, customers, friends, relatives, the milkman or postman does not represent use by the public. Likewise if usage is by a specific group of people for a particular reason this would not represent the public at large.

It specifically states that the right has to be used by the public at large.

Our objection is based on the following:

1. An examination of the original user evidence forms suggests that many have had a connection to the school in some way. For example, former staff, school doctor, school clubs, friends of the resident staff houses etc. For user evidence to qualify for

consideration it must be evidence of use by the general public and not a closed section of the community.

2. A private right/permission would have been granted to visit the school grounds and use the facilities on legitimate school business only (e.g. use of the swimming pool and sports pitches etc.). This was not granted to the public at large. A private right/permission does not grant a right to claim a public right of way.
3. Some people used the route to access school facilities/university sports track and not to walk the coastal path. If usage is by a specific group of people for a particular reason this would not represent the public at large.
4. We have asked our local Evri delivery driver who has lived in Bangor all her life and she has no knowledge of the proposed route being used as a footpath for the general public. She was surprised to hear of a footpath through the former school.

## 7. Letters of Support/ Photographic evidence

The evidence should be based on fact not desirability.

- The letter of support given by John Grisdale (former headmaster) is contradictory to the letter provided by him in 1998 to reject the cycle/pedestrian track through school grounds. The 1998 letter undermines the validity of a vast number of the user evidence forms as the school secured its boundaries to the general public (see document 5. Objections to Sustrans).
- The letter of support given by Dr Elin Walker Jones is written with **no** clear evidence she has walked the proposed route herself.
- The letter of support and the user form given by Thomas Gribben contains many false and libelous statements.
- There is no letter of support from James Hutchinson in the consultation pack nor any explanation why this has been excluded. This letter of support was mentioned on the application form submitted by PCC.
- The letter of support from Enid Parry is not signed. She has never claimed to have used the path herself. The evidence appears to be based on hearsay/what she has been told.
- Mr John Purcell (126) shows a picnic on the grass island in front of the staff house, which would have been at the school fete held once a year (see document 46. Garden Fetes, Car Boot, Treasure Hunt and Fun Day).

- Manon Griffiths (195) shows photographs of cycling and not walking. The photographs are taken at the entrance of Penrhosgarnedd FC where a private right/permission to this facility could have been granted.
- We do not recognise the background of the first four photographs provided by Esyllt Meleri Bryn Jones (196).

## **8. User Evidence Forms**

### **Validity of Original User Evidence Forms**

We contest the validity of the user evidence forms:

- We do not recognise any regular trespassers walking the route.
- We acknowledge having had conversations with two of the users. However, our version of what was discussed differs from theirs. They both stated they were visiting our neighbour Rowena Thomas (2 Ty Ysgol Coed Menai).
- The evidence user forms are contradictory, not specific and contain false information. In our opinion many are invalid.
- There is evidence that some of the alleged users are related.
- Some user evidence forms are signed by people living in the same households.
- There appears to be collusion by select groups of people from Penrhosgarnedd, many of whom are associated with Penrhosgarnedd FC.
- No evidence has been submitted from key members of school staff, former pupils, or the former of the TBG curator (Nigel Brown) apart from one headmaster (see below).
- Only one former headmaster has provided a letter of support (John Grisdale 1998-2003). The evidence he has provided is contradictory to the formal policy adopted by the school regarding the interaction with members of the public. His letter of support can be proved to be unreliable (see document 5. Objections to Sustrans)
- We know that University staff have not used this route routinely/legitimately. This is confirmed by Wayne Jones' email in response to our complaint about the content of their user evidence forms (see document 16. Response from University - "claim no right of way").

We have personally met and recognise Natalie Chivers (Curator) from TBG and know she has given false information as well as her colleagues. Their user evidence forms are untruthful. The evidence given by the University staff/volunteers is false and the University has since apologised.

The Right of Way Unit has received 197 evidence forms based on historic usage.

- It appears alleged users are completing the evidence form as a petition as opposed to citing evidence and have not completed the form properly by giving any proper history of usage.

Via a social media campaign on Change.org the public have been encouraged to complete user evidence statements as though they were signing a petition. The validity of the user evidence forms is questionable as to whether all of the 197 alleged users have walked the route. The user evidence forms have also been completed by people who admit they have never met us. It is possible that they have never walked the proposed route.

The GCC website states: "The whole exercise should be concerned with resolving uncertainty over what rights actually exist, not what rights are desirable from any particular viewpoint".

- **Only 49.5% of alleged users have specifically claimed for a footpath** (see Count of claiming status P.R.O.W. document 35. Original User Evidence Statistics).
- **36.2% of alleged users have not claimed any status of P.R.O.W.** On some of these forms there is no concrete evidence to say that they have even walked the route. These should be discarded (see Count of claiming status P.R.O.W. document 35. Original User Evidence Statistics).
- Staff and volunteers at the University Botanic Garden have signed the evidence forms for a byway for vehicular use. **6.1% of alleged users have claimed a byway** (see Count of claiming status P.R.O.W. document 35. Original User Evidence Statistics).
- **Only 41.8% of alleged users claim to have specifically used the proposed route in front of the former school/Hall** (see Count of Proposed Route document 35. Original User Evidence Statistics).
- **57.2% of alleged users have either not used one single defined route, have used an alternative route to the rear of the grass island or did not fill in a claimed route** (see Count of Proposed Route document 35. Original User Evidence Statistics).

- Some state there were existing signs, gates and a barrier etc. when it was a school. **40.6% of alleged users claim to have seen signs** (see Count of signs on proposed route document 35. Original User Evidence Statistics)
- **52.3% of alleged users chose not to complete the section of the form for signs** (see Count of Signs on Proposed Route document 35. Original User Evidence Statistics)
- **6.1% of alleged users claim to have seen no signs on the proposed route** (see Count of Signs on Proposed Route document 35. Original User Evidence Statistics)
- **92.9% of alleged users have either seen signs or did not complete this section** (see Count of Signs on Proposed Route document 35. Original User Evidence Statistics)
- **1% of alleged users claimed to have seen a locked gate** (see Count of Signs on Proposed Route document 35. Original User Evidence Statistics)
- **9.2% of alleged users claim to have seen a gate on the proposed route** (see Count of Gate on Proposed Route document 35. Original User Evidence Statistics)
- **25.4% of alleged users gave a reason for using the path which does not fit the criteria for a DMMO application** (see Count of Reason document 35. Original User Evidence Statistics)  
They state that they had a private right/permission to walk through school grounds to access the adjacent football pitch/fields (Penrhosgarnedd FC/Menai Bridge RFC), the Riding for the Disabled, the swimming pool and the school for events/activities/clubs. 3% of alleged users state they were cycling.
- It has been identified that at least 87 original user evidence forms have been completed by members of the same household/are related to each other.
- Some alleged users claim to have walked the proposed route whilst being pushed in a pram?

The Right of Way Unit has since interviewed 28 alleged users and produced written statements in addition to their original user evidence forms. There is one new alleged user that never filled the original form out (Andrew Joyce).

There are fundamental differences from the original user evidence forms and the written statements (see document 55. Table of differences between original user evidence forms and written statements).

Out of 28 written statements:

- 21 have since omitted that they used alternative routes e.g. the rear of the grass island. 27 written statements now show the proposed route as the only route used. There is

now only one written statement that shows an alternative route going round the back of the island (see Malcolm Rogers (183).

- 18 have since changed the years they have used the route.
- 2 of the written statements are directly related and live in the same household
- 16 have mentioned having a connection with the school in some way. It is possible that more would have had a connection but have omitted this detail.
- 2 originally mentioned school connections and then did not include this in their written statement.
- 13 did not mention a connection to the school and then mentioned this in their written statements
- 1 mentioned in both original form and written statement that they used school facilities.
- 8 mentioned cycling/driving (unauthorised) which is against the law.
- There is 1 new written statement from Andrew Joyce who has no original user evidence form.
- Relevant information such as challenges has been omitted from the original user evidence form.

### **Examples of the validity of the user evidence:**

#### **Staff members/affiliated personnel at Bangor University Treborth Botanic Garden**

Per our letter of complaint we have informed Bangor University that Ms Natalie Chivers (Curator) and others affiliated with the TBG have submitted evidence forms containing false and libelous information. They state they have been driving through our property on a daily basis. We know this was not the case. We recognise Ms Chivers and know what vehicle she drives. The response from the university (see document 16. Response from University - "claim no right of way") confirms that these employees/volunteers have no right of access through Treborth Hall property. The University's enquiries "did not determine that individual staff routinely use the route in question".

#### **Menna Williams (24)**

We can confirm that since over ownership the track to the rear of the grass island has never been "overgrown wild and cannot be used". Perhaps she is getting confused with the Pentir 12

footpath which has not been properly maintained by the Right of Way unit (see document 45. Overgrown Public Footpath 12). This brings into question the validity of Menna Wiliam's written statement.

### **Malcolm Rogers (183)**

Malcolm Rogers states in his original user evidence "that when Treborth Hall was still Ysgol Treborth school there were polite notices requesting the public to use the loop of driveway which avoided the frontage. We were encouraged to use the sensible loop mentioned above". He claims to have used more than one route including cycling. It should be noted that not one other alleged user has mentioned these signs. This demonstrates conflicting evidence has been given.

**The quality of the original user evidence forms is poor and contains false information. The written statements contain fundamental differences from the original user evidence forms. The validity of the entire user evidence is brought into question.**

## **9. Other Considerations**

The following should be taken into consideration:

- Human Rights Act 1998 Article 6(1) that everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.
- Human Rights Act 1998 Article 8(1) which confers the right to respect for private and family life, home and correspondence.
- Under the new Defra 2023 guidelines, the security of the Hall and ourselves as owners should be taken into consideration (see document 53. Government guidance on diversion or extinguishment of public rights of way that pass through private dwellings, their curtilages and gardens, farmyards and industrial or commercial premises). The proposed route would lead to an increase in criminal/anti-social activity. There is a duty on the authorities to prevent crime and anti-social behaviour under section 17 of the Crime and Disorder Act 1998.

The Hall has been subject to considerable crime. The Hall has been subject to break-ins and internal criminal damage in addition to the theft of gates, signs, locks and other external criminal damage. Our family has also been subjected to verbal abuse including racism. This has resulted in criminal convictions. In 2022, District Inspector Arwel Hughes personally walked the Hall grounds. He arranged a meeting with himself, the NWP Problem Solving Officer and GCC Estates to discuss the problems we have and continue to experience as a result of members of the public.

- The proposed route lies on “excepted land” under the Countryside Right of Way Act (2001) (CRoW Act). The Hall is our home and it lies within 20 metres of the proposed route. It would breach our right to privacy. Our family has been subjected to a social media hate campaign and racist/threatening abuse from members of the public when trespassing on private property.
- PCC has made the Application for the DMMO. This is the same Council who published a Footpath Leaflet in 2017, stating Treborth Hall is “strictly private” and there is no footpath shown past the front of the Hall (see document 7. Pentir Walk Leaflet - “strictly private” - extract from Pentir Parish Footpaths Leaflet).
- Treborth Hall was sold with C2 planning consent. A public footpath past the front of the building would restrict future commercial use with regard to the safety and security of young children and vulnerable adults.

## **10. Historic Caernarvonshire Education Authority Sign**

Treborth Hall was purchased by Caernarvonshire Education Authority in 1948 with the intention to convert the building into a residential school for pupils with special needs.

As a residential special school, Caernarvonshire Education Authority (later Gwynedd Education Authority from 1974) had a legal responsibility to ensure the safety and wellbeing of both pupils and staff. It had a duty of care under legislation such as the Education Acts and Children Act.

On the opening of the school Ysgol Treborth in 1950 the Education Authority erected a sign on the gates at the main road entrance (A487). The public at large were fully informed that they had no legal right to enter the school grounds.

This sign stated:

**“NO UNAUTHORISED PERSON ALLOWED BY ORDER OF THE CAERNARVONSHIRE EDUCATION AUTHORITY”**

This sign is evidence Caernarvonshire Education Authority had NO intention to dedicate the school grounds for use by the public at large. From other evidence available this has always been the case and there has been no change in the school and Education policy regarding unauthorised persons on school property.

The Definitive Map survey carried out in 1951 identified the existence of a footpath from Brynceris to the Menai Strait. It also identified the clear signage referred to above. This survey is referred to in the 1956 Definitive Statement (see document 1. Definitive Statement 1956). This

footpath is known as Pentir number 12 (Treborth Tube Path). This public footpath crosses Treborth Road (A487), goes along the access lane and then across the fields to Treborth Uchaf.

This is shown by the black line detailing the existing public footpath via the Treborth Road Access (see document 2. Map, Table and Photographs of Signs, Gates and Barrier at Treborth Hall)

The public purpose of this footpath (Pentir number 12) was to facilitate access to the shore of the Menai Strait. The Treborth Railway Station and Britannia Bridge could also be accessed along this public footpath.

There is not one specific public purpose for the proposed route in respect of the DMMO application. All end destinations can be accessed via their own separate direct routes. There is no public need to detour through Treborth Hall/former school grounds.

The 1951 survey also identified the existence of **GATES** and a **PRIVATE** sign on the main road entrance.

The Updated Definitive statement FP12 was in respect of a redirection order made in 1972. **It did not state that the Gates and signs had been removed by that date.** (see document 3. Updated Definitive Statement FP12).

There have been other signs informing the public of the existence of the school which have been removed since our ownership (see document 4. School sign Treborth Road 2009).

**There were no other footpaths identified in the 1951 survey or any surveys done thereafter connecting Treborth Road (A487) to the Menai Bridge or Britannia Bridge via the front of Treborth Hall. These gates were still in existence in 1972 per the Updated Definitive Statement FP12. There is no public need for the public to detour through the Hall/former school grounds. There are other nearby access routes to all destinations mentioned.**

## **11. National Cycle Network (NCN)**

During 1995 -1999 discussions took place between Sustrans, GCC and the School regarding the options for a National Cycle route through Treborth school or adjacent.

In 1995 the decision was taken not to have a cycle track via the front of the Hall but to have it on school grounds adjacent to the disused railway track. The proposed cycle track was nowhere near the front of the school building.

The final decision was taken in 1998 not to create an official track for pedestrians and cyclists on or near the former school grounds.

In a letter dated 3 December 1998 Dafydd Whittall, Director of Education and Culture, stated “The school, in cooperation with the Authority, has undertaken a programme aimed at securing the property’s boundaries and of restricting access on to the site by the public. The clear worry now felt regarding the route of Lon Las Cymru (National Cycle Route) on to the school grounds is that the aims of the policy recently adopted for the school will be undermined.”(see document 5. Objections to Sustrans)

The Welsh Government has subsequently created a cycle/pedestrian path along Treborth Road (A487). It completely bypasses the former school/Hall. There are two signs either side of the Treborth Road entrance. One sign states the route for cyclists/pedestrians to Menai Bridge and Bangor is along the A487 pavement one way. The second sign in the opposite direction states that the route towards Caernarfon is along the same pavement, on Treborth Road (A487) the other way (see document 6. Cycle track/Pedestrian signs) There has never been an official sign stating that there is access from Treborth Road (A487) via Treborth Hall/former school to the Menai Bridge, Bangor or Caernarfon. Both signs inform the public that there is no official route for both pedestrians and cyclists to reach the Menai Bridge via Treborth Hall.

**There are no official cycle and pedestrian routes connecting Treborth Road to the Menai Bridge or Britannia Bridge via the front of Treborth Hall. There has never been an intention to dedicate any land in front of the Hall/former school.**

## **12. Pentir Public Footpaths Area Map - 2017**

A footpaths Leaflet publication by PCC reinforces that Treborth Hall is “Strictly Private” and gives no indication that the land to the front of the Hall has ever been dedicated to the public at large (see document 7. Pentir Walk Leaflet - “strictly private” - extract from Pentir Parish Footpaths Leaflet). It is PCC that has made the Application.

This Footpaths Leaflet was added to the Notice Boards in Penrhosgarnedd and Treborth for the public to view. To date it remains on the PCC website. We note most of the alleged users live in the Penrhosgarnedd and Treborth area and it is highly likely that they will be aware of this Footpaths Leaflet detailing that the former school/Hall is “strictly private”.

## **13. Treborth Botanic Garden (TBG)**

“A public right of way is a right by which the public can pass along linear routes over land at all times”. To use the land “as of right” it must be available to use at all times.

The TBG is not open at all times:

- Access to the Botanic Garden by the public at large has not been granted 24 hours a day by the University. The Garden is only open during daylight hours. It is closed from dusk to dawn.
- The Botanic garden is closed to the general public for events and bad weather. The events include Botanical Beats, Draig Beats and National Gardens Week. Entry to these events is restricted to the fee paying public (see document 8. Photos of " no entry" signs erected by the University)

The TBG is also only open during daylight hours as stipulated on the University website (See document 9. Hours and Admission \_ Treborth Botanic Garden \_ Bangor University).

This is widely advertised on the internet:

- **Visit Wales.com** states on their website that the Botanic Garden only **opens during daylight hours** (see document 10. Treborth Botanic Garden \_ VisitWales).
- **Gardenvisit.com** states on their website that the Botanic Garden only **opens dawn to dusk** (see document 11. Gardenvisit.com \_ Treborth Botanic Garden).

The TBG is an open space and there is no official public highway through it. An open space is not a highway even if the public customarily passes over it. The road through the TBG is a private unrestricted byway and is used primarily for vehicular access to the glasshouses, teaching facility, sports track, and neighbouring properties. Historically, this was the main drive to the front of Treborth Hall.

The whole of the TBG area has been used for educational and recreational activities. The recreational use has not been confined to the route claimed per the Application. The alleged users would not have kept to the tarmac road. Open recreation areas can not be used to claim a public right of way.

The proposed route did not exist through TBG prior to the year 1997 when the Friends of TBG was founded. Before this date, the gardens had not been "opened up" to the public. It was used solely as an educational facility belonging to the University. The newsletters of the Friends of the Treborth Botanic Garden confirm this (see document 12. Treborth Botanic Garden newsletter extracts). There could not have been a "through route" to the Menai Bridge prior to this, as there were entrance gates on the TBG.

These gates were on the 1972 ordnance survey map (see document 13. OS map 1972 gate). There is evidence of a gate(s) at the lodge in 2000 as document 12 confirms. There is also a gate in existence which was reinstated in 2010 or earlier. It was locked every night and during non term times.

The University has never published an alternative means of access via Treborth Hall to TBG or the sports track. All publications state the sole means of access is only from the Menai Bridge. So the public at large should know that the access to the TBG is solely from the Menai Bridge. Per the University's website "It can be accessed by car and public transport from the Menai Bridge end (see document 14. Treborth Botanic Garden directions).

The University has also published directions to the sports track stating "The entrance to the track is via a road immediately next to the Menai Suspension Bridge" (see document 15. Treborth Athletics Track directions).

In addition Google maps does not show the front of Treborth Hall. This is further evidence that Treborth Hall is private property and there is no public access through the TBG.

**The public have been unable to use the TBG at all times**

#### **14. University Access**

The University has also stated the following in respect of access (see document 16. Response from Bangor University) :

- "The University does not wish to claim any legal right of way over your property, nor does the University encourage or endorse passage by staff or others associated with the Treborth Botanic Garden".
- "We apologise for any inconvenience or distress caused if staff or volunteers have passed through your grounds without your consent at any time now or previously"
- "Passage through your property is not endorsed by the University and we will contact all staff and volunteers that they use the Treborth Botanic Garden with instructions that they should use the public entry and exit to the site only"
- "There is signage in place that deters usage of the route"

The University has acknowledged that they have no right of access and that they are not claiming a right. The University states the signage is adequate. They also acknowledge that there is a sole public entry and exit to the site from the Menai Bridge which members of the public should adhere to.

**The University acknowledges that it is unlawful for their University staff/members of the public to access the TBG from Treborth Road via the front of Treborth Hall.**

## **15. Wales Coastal Path 2012**

The claimed route connects to a section of the Wales Coastal path (known as Pentir no 22). This path was made following a Creation Order in 2012. This has been created under statute not common law.

An essential characteristic of a highway under common law is that it must serve a public purpose. The proposed route needs to connect one public place with another public place. The Wales Coastal path (public place) only came into existence in 2012. Before that date the proposed route would have led to a specific point in the TBG. It would not have served any public purpose as it did not connect up to a public highway before 2012.

**The proposed route does not connect to a public place before 2012**

## **16. Existing Signs Gates and Barrier**

### **Access roads to the Hall/ former school**

There are two single access lanes leading to Treborth Hall/former school. One is from Treborth Road (A487). The other is from the Menai Bridge through the TBG. These access lanes are shown as **“Treborth Road access”** and **“Botanic Garden access”** (see document 2. Map, Table and Photographs of Signs, Gates and Barrier at Treborth Hall).

Document 2. shows the signs, gates and a barrier that are present on the two access roads leading to Treborth Hall/former school. Orange Numbered Symbols refer to Treborth Road access. Blue Numbered Symbols refer to Botanic Gardens access.

### **Treborth Road entrance (See map and table in orange in doc.2)**

#### **Old Council Signposts leading from main road entrance to our boundary Treborth gate 1**

The proposed route in red does not include the section of access lane from the main road entrance (A487) to our boundary Treborth gate 1 (see orange gate 4(1) and photograph 4(1) from the Treborth Road entrance (orange) in document 2). This Gate indicates the current boundary of Treborth Hall.

This section of the access lane is Council owned. It forms part of the existing Pentir number 12 public footpath. The Council has also granted a legal right of way over this land for access by both vehicle and on foot to the Hall/former school, former school staff houses and leaseholders of neighbouring council owned fields only. There is no public right of access to the Hall/former staff houses/neighbouring Council owned fields.

Our private lane is an unrestricted byway with permitted access only by those stated on the land title. **Therefore the signs installed by GCC along the lane from Treborth Road to our lane serve as a warning to all road users which include cyclists and pedestrians.** In addition, unauthorised motor vehicles, motor cycles, horses and cyclists are not allowed under current law on public footpaths.

**The signage along the lane from main road (A487) to our Treborth Gate should be included as evidence as it refers to access restrictions along the proposed route which is now a private lane.**

This signage was erected on the access lane by the Council when Treborth Hall school was in operation and therefore has been in existence for a period of 20 years and more.

**There are 3 signposts along the access lane from the main road entrance (A487) to our boundary Treborth gate 1.** These are the orange signs numbered 1 to 3 from the Treborth Road entrance:

### **1. Signpost 1 situated just off the main road entrance**

This signpost is orange sign 1 in document 2

This signpost has two signs fixed to it. Both signs relate to both pedestrians and vehicles. The first sign at the top of the post is a **“No Through Road”** sign. The second sign on the post says **“Access to school and Treborth farm only”**. These signs were erected with the clear intention to inform the public that the lane was not a public thoroughfare.

Please also note the age of the original sign post which would have been an original post erected in the 1950s when the school was first opened. We believe that the present “no through road” and “access to school only” signs were replaced in the 1970s.

### **2. Signpost 2 situated further off the main road entrance**

This signpost is orange sign 2 in document 2

This sign post has three relevant signs fixed to it. The three signs relate to both pedestrians and vehicles:

- The first sign at the top of the post is a **“No Through Road”** sign. This sign was erected with the clear intention to inform the public that the lane was not a public thoroughfare.

- The second sign on the post informs the public at large in both Welsh and English “**Access to school and Treborth farm and Leisure Ltd only**”. This sign was erected with the clear intention to inform the public that the lane was not a public thoroughfare.
- The third sign on the post informs the public at large in both Welsh and English that there is “**No entry to the Athletics Track**”. Those walking/driving to the University sports pitch from Treborth Road are informed by a specific sign stating “**No entry to the Athletics Track**” (see orange sign 2 in document 2).

If you have no right of way to the Athletics track, which is University property, by deduction and local knowledge you can not access TBG (also University property) via this route. There is no Bangor University sign inviting the public to enter the Botanic Gardens from the Treborth Road entrance. There is no legal right to enter our property to access University property.

The University Athletics Track was opened in 1996. This sign would have been erected in 1996 and has remained in situ since this date. This signage has been in existence for a period of longer than 20 years.

### **3. Signpost 3 is situated opposite Treborth Mews (orange sign 3 in doc.2)**

This signpost is orange sign 3 in document 2.

This signpost has four signs fixed to it. One sign on the post is another “**No Through Road**” sign and is applicable to both vehicles and pedestrians. This sign were erected with the clear intention to inform the public that the lane was not a public thoroughfare.

**It is impossible not to see these three sign posts on foot. Read individually or collectively these signs are more than sufficient to deter public access to the Hall/former school.**

When we purchased the Hall in 2014 we were not from the area and had no knowledge of any trespassing. The existing signage was sufficient to deter public access to the Hall/former school.

However, as part of the access lane is an existing public footpath, we erected additional signs beyond the public footpath post. We also reinstated the side gate using the original posts. This was on the advice of Tom Christy (Christy Security) with Lowri Owen (GCC Estates) in attendance.

**All existing signs along the route are for all traffic including pedestrians.** We assumed that the public would adhere to the existing public footpath. We also assumed that the public would have complied with the Education Act 1976 (see below) when the property was a school. As a residential special school the school grounds would have been secured from the public. Please see documentation on the cycle track and evidence of security grants obtained to further secure the schools borders between 1996 - 1998 (see 5. Objections to Sustrans)

## **Historic Sign and Gate at main road entrance**

We also have evidence of a gate and original signage on the main road entrance (A487) when the school was first opened in 1950. This is detailed in the original 1956 definitive statement per the survey carried out in 1951. (see document 1. Definitive Statement 1956 and document 3. Updated Definitive Statement FP12). This states that there were two signs and a gate at the main road entrance (A487). One of these signs was "**PRIVATE**" and the other was "**NO UNAUTHORISED PERSON ALLOWED BY ORDER OF THE CAERNARVONSHIRE EDUCATION AUTHORITY**".

## **Historic former School/Hall gate further along access lane from Treborth Farm entrance**

In addition to the former school/Hall entrance gate on the main road as identified in the 1951 survey, there is OS map evidence of another access gate located further down the lane. Both gates can clearly be seen on the 1948 and 1963 Ordnance Survey maps (see documents 51. OS map 1948 gates and 52. OS map 1963 gates).

We believe the other gate further along the lane became the main school entrance gate in the 1970s when the gate on the main road was removed. This other gate was still on the Ordnance survey map in 1972 (see document 13. OS map 1972 gates). The main road entrance gate had been removed by this date but was not detailed in the updated statement carried out in 1972 (see document 3. Updated definitive Statement FP12).

## **4. Treborth Road Gates**

There are two gates to our property from the main road entrance:

### **4.1 Treborth Road access gate 1 to the front of Treborth Hall (left-hand gate).**

This gate is orange table number 4.1) and photograph 4.(1) in document 2.

It has the following signs attached to it:

- A) Private Grounds No-Through Access
- B) Please Shut the Gate
- C) CCTV in operation
- D) Dogs Loose

The private grounds no through access sign specifically states to all road users that they are entering private grounds and there is no through access. Pedestrians on the existing public footpath are being informed that there is no through access beyond the public footpath sign post further along the lane.

#### **4.2 Treborth Road access gate 2 to the rear of Treborth Hall (right-hand gate).**

This gate is orange table number 4.2) and photograph 4.(2) in document 2.

It has the following signs attached to it:

- A) Private No Public Right of Way
- B) CCTV in operation
- C) Dogs Loose

**The signs on the gates clearly denote our property is private and that the existing public footpath is on private grounds.**

Please note we purchased Treborth Road Gate 1 in July 2014 as part of the Treborth Hall estate. We were given a key to this gate by GCC Estates. The email from Lowri Roberts (formerly Owen) confirms that the Treborth Road access gate 1 was in situ when we purchased the Hall (see document 17.Treborth Road gate in situ). This gate remained closed and locked until it was stolen (see document 18.Treborth Gate 1 stolen 28 January 2015) It was reinstated in 2019 with the assistance of Bangor University (see document 19. Richard Bennett -Reinstatement of Gate 1/Bangor 1876 incident). It was closed and locked with a combination lock.

Also see the email from Ruth Edwards (Gwynedd Council solicitor) dated 25th September 2019 regarding operation and locking of this Gate with regard to the Penrhosgarnedd FC (see document 20. Ruth Edwards GCC Solicitor).

North Wales Police (Crime Prevention Officer Norman Hughes) has also said that this gate should be closed/ locked/with appropriate signage to assist in crime prevention.

#### **5. Red Kissing Gate and Public footpath sign post**

##### **Red kissing Gate**

There is an historic red kissing gate next to the public footpath sign post. Its presence highlights to walkers the route on the Definitive Map (see table 5 and photograph 5 in document 2).

##### **The public footpath signpost**

There is an existing public footpath (Pentir number 12) from the main road, along part of our lane that leads to the red kissing gate, next to the Public Footpath signpost. The public footpath signpost has two arrow signs. One arrow directs the public at large away from the Hall/former school across adjoining fields to Treborth Uchaf. The other arrow directs the public at large to the main road entrance (A487) on Treborth Road (see sign 5 and photograph 5 in document 2). These arrows direct members of the public away from the front of Treborth Hall.

The Right of Way Unit has no information on when the Public Footpath signpost was erected. Considering the age of the post and signs we would assume that this signpost would have been erected in 1956 or shortly afterwards when the Pentir number 12 Definitive statement was added. The arrow signs in situ at the moment appear to be of a newer age, probably 1970's. This would coincide with the GCC's initiative to waymark the public footpaths.

### **Relevance of public footpath and sign arrows**

Members of the public at large are challenged by the public footpath arrow signs on this post and should keep to the public right of way per the Definitive Map. **The arrows show the legal and recorded rights of way for walkers. There is no public footpath arrow directed towards the Hall/former school.**

There is no registered public right of way on the Definitive Map in front of Treborth Hall/former school. The proposed route in red did not appear on the Draft Map in 1954. There is no record of any historic path in front of the Hall/former school. If the public at large do not keep to the designated routes per the Definitive Map then there is no point of its existence.

### **Public rights of way: Information for landowners on GCC website.**

Landowners can expect that visitors on their land will treat it with respect and care and follow the Countryside Code. Extracts from the countryside code:

“Use maps and local signs to help you find your way. Stay on marked paths”.

“Get to know the signs and symbols used in the countryside. They help you identify routes for different users through the countryside”.

We have mentioned the existing public footpath to the GCC Rights of Way Unit. One officer from this unit has stated he has ignored the existing public footpath sign and used the proposed route himself prior to our ownership. This is with the knowledge he should have adhered to the public footpath on the definitive map. This officer has knowingly trespassed. This is contrary to the Countryside Code which GCC promotes on their website.

The existing public footpath sign directs the public at large away from the former school building.

It is unlawful under civil law to trespass and against the Countryside Code to deviate from the Definitive map. **Case law has decided that a public footpath can not be created from a series of trespasses. It has to be lawful.**

### **6. Sign on tree on left hand side of lane**

Immediately after the public footpath sign post is another sign on a tree on the left hand side of

the lane.

This sign says “**Private no public access or right of way**”. This sign is orange table number 6 and photograph 6 in document 2.

This sign was erected in 2014.

## **7. Sign on tree right hand side of the lane**

Immediately after the public footpath signpost are another two signs on a tree on the right hand side of the lane.

One sign says “**No Thoroughfare**”. This sign specifically states that there is no thoroughfare for pedestrians. Below this sign is another sign that states “**Private Grounds No Through Access**”. This sign is orange table number 7 and photograph 7 in document 2.

These signs were erected in 2014.

## **8. Courtyard and Backyard gate**

There is a backyard gate with access to the rear of Treborth Hall. This gate is orange table number 8 and photograph 8 in document 2 (**right-hand gate**).

There are two signs attached to the backyard gate . One says “**Danger Dogs Loose**” and the other says “**Private Property keep out**”. These signs were erected in 2014.

There is a courtyard gate on the side of Treborth Hall (left-hand gate). This gate is orange table number 8 and photograph 8 in document 2 (**left-hand gate**)

There are two signs attached to the courtyard gate .With the following signs: “**CCTV in operation**” and “**Polite notice, No Parking, Please Keep Clear**”. These signs were erected in 2014.

This is evidence along the proposed route that there are signs to prevent or deter the public from walking on private property.

## **9. Side Gate next to Penrhosgarnedd FC facility.**

There is a gate at the side of the Hall/former school next to the entrance to the Penrhosgarnedd FC facility. We reinstalled the side gate on purchase in 2014 as recommended by Christy Security to prevent public access onto our land and no objections were received. The side gate was permanently locked from July 2014 with a combination lock and three signs. One sign was a “Christy Security” sign and two signs back to back that said “ Private Property Keep Out”. There was also Heras fencing to the sides of the gate to prevent pedestrian access. This gate was stolen in June 2015 (see document 21. Sidegate (Gate 2) stolen 7 June 2015) This has shown that force was used. The gate has since been reinstated.

There is an agreement with Penrhosgarnedd FC to close this gate when they are using their facility. They regularly use their facility for training and football matches and also place their cones in front of the closed gate. This is to assist them to adhere to the terms of their lease with GCC, which states that they have no right of access from the Botanic Gardens (see document 22. Penrhosgarnedd FC lease Page 1 and 2 and Map). The lease prevents people from walking/driving in front of the Hall to maintain privacy and security of the building. It also shows the Council's intention not to dedicate the area in front of the Hall to members of the public at large. Also see Ruth Edwards (GCC solicitor) email document concerning access arrangements for Penrhosgarnedd FC (see document 20. Ruth Edwards Gwynedd Council Solicitor). This gate is orange Table number 9.1) and photograph 9 in document 2.

There is a sign on the gate stating **“Private No Public Right of Way”**

There is a sign on the ground next to the gate stating **“Private Grounds No Through Access”**

There is a sign on the telegraph pole next to the gate stating **“No Thoroughfare”** specifically referring to pedestrians

### **Historic Sidegate**

Historically there was a gate at the side of the school opposite the entrance to the Penrhosgarnedd FC facility. The original posts were in situ on purchase.

This has been closed/locked in the past when the building was used as a school. The side gate was in situ in the 1970's per the aerial photograph (see document 23, photograph 1 in car park evidence). This would have been an interruption of the route in 1970's when it was closed and locked.

Another aerial photograph shows this gate was in situ in 1984 (see document 56. 1984 Aerial photograph of side gate).

## **Botanic Garden entrance (see map and table in blue in doc 2)**

### **1. The entrance gate to the University Botanic Garden**

The proposed route does not include the entrance gate to the Treborth Botanic Garden (TBG) owned by the University of Bangor.. This gate is at the end of the section of Road from the Menai Bridge leading to the University Botanic Garden entrance (see blue gate 1 and photograph 1 in document 2 from the Treborth Botanic Garden entrance). This gate is now on the Wales Coast path which was officially opened in 2012 (see document 24. Opening of Coastal Path at TBG October 2012).

The gate to the entrance of the TBG should be included as evidence, as it was an interruption of the way leading to the proposed route from the Menai Bridge. This gate was locked from dusk till dawn until approximately 2018 (see document 25. Wayne Jones - Locking of Botanic Garden Gate and barrier)

On purchase we were given a key to this gate as it was locked from dawn until dusk (see document 26. Emails from Nigel Brown - Former Curator of the Botanic Garden and document 27. Email from Alwyn Jones - University Estates, Gate Key, Treborth - Collection). It is an interruption of the route from the Menai Bridge.

This gate remained locked every night until approximately 2018 (see document 25. Wayne Jones - Locking of Botanic Garden Gate). Also see this document about the collection of the keys from Bangor University in 2014.

There was an agreement between us and the University to keep the Botanic Garden Gate closed at night for the security of TBG and Treborth Hall.

To claim a historic footpath the alleged footpath has to be open 24 hours a day, 7 days a week, 365 days a year. The locking of the gate at night and the closure of the Garden at dusk is an interruption of the alleged route. This also shows a lack of intention to dedicate the proposed route as a public footpath.

Nerys Ohri (56) confirms the existence of “two gates that may or may not be open” from 1987 to 2021. It is unclear which specific gates she is referring to but it is likely that one of these is the Botanic Garden gate or yellow barrier.

## **2. Wales Coastal Path Sign**

The Wales Coastal Path is not along the tarmac road but through woodland near the tarmac road. This sign directs the public to cross at one point the tarmac road to the next signpost TBG signpost 1.(see blue sign 2 and photograph 2 in document 2 from the Botanic Garden entrance).

## **3. TBG signpost 1**

There are six arrows on this signpost (see blue sign 3 and photograph 3 in document 2 from the Botanic Garden entrance):

There are three arrows facing towards the Menai Strait. These direct members of the public to:  
1.To the Menai Bridge, 2.Paxton’s Cascade, 3.Wales Coastal Path

There are three arrows facing towards TBG Buildings. These direct members of the public to:  
4.Glasshouses, 5.Rivendell Offices, 6.Toilets

These arrows direct the public to different locations on the TBG and therefore not along one specific route.

There are no signs that direct members of the public towards Treborth Hall.

#### **4.TBG signpost 2**

There are five arrows on this signpost (see blue sign 4 and photograph 4 in document 2 from the Botanic Garden entrance):

There are two arrows facing towards the Menai Strait. These direct members of the public to:  
1.Wildlife and Dipping ponds, 2.Butterfly border

There are two arrows facing towards TBG buildings. These direct members of the public to:  
3.Rivendell Offices, 4.Toilets

There is one arrow facing towards the Glasshouses. These direct members of the public to:  
5.Glasshouses

These arrows direct the public to different locations on the TBG and therefore not along one specific route.

There are no signs that direct members of the public towards Treborth Hall.

#### **5.TBG signpost 3**

There are four arrows on this signpost (see blue sign 5 and photograph 5 in document 2 from the Botanic Garden entrance):

There are two arrows facing towards TBG buildings. These direct members of the public to:  
1.Glasshouses, 2.Toilets

There are two arrows facing towards the Menai Strait. These direct members of the public to:  
3.Bog garden, 4.Bamboo collection

These arrows direct the public to different locations on the TBG and therefore not along one specific route.

There are no signs that direct members of the public towards Treborth Hall.

#### **6. Old Council Signpost with two signs**

Before the yellow barrier is an old council signpost with two signs. This signpost is shown as blue number 6 and in photograph 6 in document 2 “from the Botanic Garden entrance”

The first sign at the top of the post is a **No through Road** sign. This sign relates to both pedestrians and vehicles. This sign was erected with the clear intention to inform the public that the lane was not a public thoroughfare.

This sign has recently been spray painted blue in an act of vandalism

The other is a sign which states “**Access to School and Treborth Farm only**”. This sign was erected with the clear intention to inform the public that the lane was not a public thoroughfare and that public access was restricted.

This signage must have been in existence since the 1950's.

This sign to Treborth Farm is old and should have been taken down many years ago. We did ask GCC to remove all old signs relating to the former school and this sign should have been one of them. This sign does not relate to the public at large and should have deterred the public from crossing the railway bridge. Access via this route to Treborth Farm was for those with a legal right only. (See the historic right granted then extinguished below.)

There is no current legal right of way from the Botanic Garden across Treborth Hall land to Treborth Farm

A historic right of way was granted by CCC to Treborth Farm in the 1956 conveyance when the farm was sold by CCCI. Please see an extract map from the 1956 conveyance where the historic right granted was detailed in blue (see document 28. Treborth Hall Farm right of way granted 19-12-1956 and extinguished 14-08-1963).

When the Council sold Treborth Hall Farm in 1956, they granted a legal right of way in return for a 50% contribution towards the maintenance of the railway bridge. The right of way granted to the farm was via the adjoining grazing fields, accessed through the gate on the left immediately past the railway bridge. **Please note that no right of way was never granted to Treborth Hall Farm directly in front of the Hall. Their right of access was not on the proposed route** This legal right, in return for the 50% maintenance of the railway bridge, was extinguished in 1963 (see document 28. Treborth Hall Farm right of way granted 19-12-1956 and extinguished 14-08-1963). Please see on this document, the faint writing next to the access right granted in blue “Right of way extinguished by deed dated 14 August 1963”.

This old sign referring to Treborth Farm has recently been removed at our request by the University with the agreement of GCC. We have previously requested all old signs relating to the school to be removed but this request has not been carried out by GCC.

## **7. University Blue sign “No Exit from Sports Ground via this Route”.**

Just in front of the yellow barrier is another sign erected by Bangor University stating “**No Exit from Sports Ground via this Route**” (see blue sign number 7 and photograph 7 in document 2 from the Botanic Garden entrance).

Historically there are two old posts that remain in situ on the lane opposite the university blue

sign. These posts would have had a sign on them. It is likely this sign would have been a similar sign that was on the main road entrance "**NO UNAUTHORISED PERSON ALLOWED BY ORDER OF THE CAERNARVONSHIRE EDUCATION AUTHORITY**" (see document 29. Photo of Old Sign Posts before Railway Bridge) relating to the School.

#### **8. Yellow barrier with "No Entry" sign before the railway bridge**

The old "No Entry" sign has clearly been placed on the barrier to deter public access (pedestrians and vehicles) to the Hall/former school. This barrier was closed/locked whilst the school was in operation. This No Entry sign was a warning to all members of the public that they had no right to access the school grounds unless they had a legitimate reason. Members of the public at large who allege they walked past this sign did so in defiance. Even when the barrier is open the No Entry sign exists to warn the public at large there is "No Entry" to the school grounds.

The university also gave us a key for the yellow barrier (closed/locked) next to the railway bridge on University property (see document 26. Emails from Nigel Brown - Former Curator of the Botanic Garden and document 27. Email from Alwyn Jones - University Estates, Gate Key, Treborth - Collection). This barrier is shown numbered 8 (blue) and in photograph 8 in document 2 "from the Botanic Garden entrance".

We can confirm that the barrier was closed and locked at the date of purchase in July 2014.

There is photographic evidence that the yellow barrier was closed in approximately 2007 (see document 30. Old yellow barrier closed at Treborth Rivendell (C. 2007). The yellow barrier was regularly locked after our purchase of the Hall.

This barrier was erected c1950 and operated by CCC for school security and access. The locked barrier interrupted the route from the former school to the Botanic Garden. This was an interruption on the proposed route which is evidence of non intention to dedicate by both the University of Bangor and GCC.

WM Evans (115) confirms in his original user evidence (route map) that a locked gate/yellow barrier was in existence on the TBG near the railway bridge from 1951 to 2010. He also confirms he was challenged during this period when it was a school which is consistent with Andrzej Griffith's statement. His route map shows he only used the lane to the rear of the grass island which would have been in secrecy.

William Glyn Jones (51) written statement confirms that the barrier was in existence in 1965 as he attended the school as a telecom engineer. The barrier would have been opened up for him as he would have had appointments to attend the properties. The barrier would not have been left open permanently and would have been locked.

John T Purcell (126) confirms in his original user evidence that there are “barriers on each side of old school” from 1969 to 2014.

We have obtained evidence from Richard Jones (pupil from 1972 to 1978) that the barrier was in operation (see document 31. Richard Jones 1972-1978/yellow barrier). Despite several attempts to contact him this former pupil has ceased communication.

We have also obtained evidence from John Bowles who has confirmed that the yellow barrier was closed in the mid 1980’s when he used to transport young adults to the Gateway Club (see document 52. John Bowles - Barrier below rail bridge).

Nerys Ohri (56) confirms the existence of “two gates that may or may not be open” from 1987 to 2021. It is unclear which specific gates she is referring to but it is likely that one of these is the Botanic Garden gate or yellow barrier.

Branwen Thomas (194) in his written statement confirms the existence/closing of the yellow barrier from 2003 to 2020.

There is further evidence on social media that the yellow barrier has been an interruption on the proposed route (see document 32. yellow barrier interruption/social media 2020).

Since our ownership the yellow barrier has also been damaged so that it can no longer be locked with a padlock which shows force has been used.

### **9. Sign on tree on right hand side of the lane**

Once over the railway bridge there is a sign stating “**No Thoroughfare**”. This is a specific sign stating there is no access for pedestrians (see blue sign number 9 and photograph 9 in document 2 “from the Botanic Garden entrance). This sign was erected in 2014 and has been subject to theft.

### **10. Another Sign on tree on right hand side of the lane**

Further along the lane there is another sign stating “**Private No Public Access or Right of Way**” This is another sign stating there is no through public access for pedestrians (see blue sign number 10 and photograph 10 in document 2 “from the Botanic Garden entrance). This sign was erected in 2014 and has been subject to theft.

### **11. Signs on the fence of 5 Ty Ysgol coed Menai**

There are 2 signs on the green fence. One sign to the left says “**Private Grounds No Through Access**” . This specifically states that there is no through access for pedestrians. To the right of this sign that states “**No Thoroughfare**” This specifically states that there is no thoroughfare for

pedestrians (see blue signs number 11 and photograph 11 in document 2)

This signage was erected in 2021.

## **12. Signs and Cone on island in front of Hall**

There is a cone alerting all traffic (both pedestrians and vehicles) to the two signs placed on the island:

One sign says **“Private No Public Access or Right of Way”**

This sign specifically states that there is no public right of way for pedestrians.

The second sign propped up on this cone states **“No Access, Exit gate locked”** (see blue signs number 12 and photograph 12 in document 2). The cone has since been stolen and replaced 4 times. The smaller sign stating “No Access, Exit gate locked” has been subject to criminal damage and has been stolen.

This signage was erected in 2014.

## **17. Signage is sufficient**

Section 31(3) of the Highways Act 1980 states:

“Where the owner of the land over which any such way as aforesaid passes:-

(a) Has erected in such manner as to be visible to persons using the way a notice inconsistent with the dedication of the way as a highway; and

(b) Has maintained the notice after the 1st January 1934, or any later date on which it was erected,

the notice, in the absence of proof of a contrary intention, is sufficient evidence to negative the intention to dedicate the way as a highway”.

All existing signs along the route are for all traffic including pedestrians

In accordance with the above, the signage in place along the proposed route is sufficient evidence to negate the intention to dedicate the way as a highway.

There have always been visible signs along the route and when seeing these signs any reasonable user of the way would understand the landowner's intention. The signs clearly show the user it is the landowners intention that there is no dedicated public route past the front of the former school/Treborth Hall.

There are four “No Through Road” signs. These were erected with the clear intention to inform the public that the lane was not a public thoroughfare. A public thoroughfare applies to both vehicles and pedestrians. There are three of these signs from the Treborth Road entrance and one from the Botanic Garden entrance.

There are also three signs referring to “Access to School Only”. These signs were erected with the clear intention to inform the public that the access was to the school only and for no other reason. These signs reinforced the landowners intention that the access lanes were not to be used as a public thoroughfare. The lanes were for access to the school only. These signs also relate to both vehicles and pedestrians. There are two of these signs from the Treborth Road entrance and one from the Botanic Garden entrance.

All of these signs are in addition to the many other signs erected along the route as detailed (see document 2. Map, Table and Photographs of Signs, Gates and Barrier at Treborth Hall)

The House of Lords held in the Godmanchester 2007 case “that 'intention' meant what the relevant audience, namely the users of the way, would reasonably have understood the landlord's intention to be”.

It is clear that in terms of assessing the actions and intentions of the landowners, the “signs indicated contrary intent” as confirmed in the Mawddach Crescent case by the Inspector who refused to confirm the order made by Gwynedd Council (see document 58. Email regarding signage and the Mawddach Crescent case).

**All existing signs along the route are for all traffic including pedestrians and are inconsistent with the dedication of the way as a highway. They are statutory sufficient. In any event the actions and intentions of the landowners are sufficient to indicate contrary intent.**

Other evidence stating signage is sufficient:

- Please see email dated 12 April 2021 from Lars Wiegand (Director of Estates & Campus Services) of Bangor University stating that the existing signage is adequate (see document 33. University confirmation that signage is adequate)
- Please see evidence from Wayne Jones (Head of Estates Management) that there is signage in place that deters usage of the route (see document 16. Response from Bangor University)
- On several occasions North Wales Police crime prevention/problem solving officers have walked our property and they have said the signage was adequate to deter trespassers.
- The proposed route connects to the Wales Coastal Path (opened in 2012). When the Coast Path opened, the official user number for the section of this path along the TGB was 38,393 people over 16 months (1st July 2011 to Thursday 1st November 2012). Based on this statistic, one would expect the quantity of user evidence forms to be much higher. Clearly the signage we have in place is sufficient to deter the use of a route past the front of the Hall to connect to the Coastal Path.
- There are signs in both directions.

The signage has been subject to continual criminal damage by neighbours and other members of the public. Please note that the neighbours do not have a shared ownership of the lane. They have a right of way over it.

**The signage has always been adequate to deter the public at large from walking the proposed route past the Hall/former school. The alleged users are walking in defiance of the signs.**

## 18. Observations

- Observations and discussions at purchase -

When Christy Security handed us the keys we were told that the building was very secure with the alarm, steel cladding and Heras fencing. They said nothing about the general public at large entering the grounds and that the only false alarms were caused by rabbits. They also suggested reinstalling the side gate to stop the Penrhos FC vehicles from parking on our land in front of the Hall and to install a kissing gate on the public footpath next to the Treborth Road gate. The remains of a previous post to a kissing gate are still in situ.

- When we purchased the property in July 2014 and there were no trespassers walking through.
- In the early months of ownership we stopped a jogger one Sunday morning and he said “you're the one that owns Fort Knox” and we never saw him again.
- We are shocked by the number of people claiming a right of way.
- We do not recognise any regular walkers.
- The problem with trespassers started on match days with Penrhosgarnedd FC members parking their cars on our front. We had previously erected and locked the side gate on the original recommendation of Tom Christy (Christy Security) on purchase in 2014. GCC sent warning letters to Penrhosgarnedd FC and after the involvement of the Welsh FA and North Wales Police this matter has since been resolved. Penrhosgarnedd FC now closes our side gate and puts cones across the lane when using their facility.
- Bangor 1876 FC began to use the new 3G pitch in 2019 next to the University sports track. This led to people trespassing on foot/vehicles past the Hall on some match/training days. Bangor University was informed. They erected another sign before the Railway Bridge and reinstated another Treborth Road gate in 2019. The University ensured that stewards at matches were present to prevent unauthorised access by both pedestrians/vehicles through Hall grounds and this matter was resolved.

- Covid lockdown in 2020 led to members of the public walking at various times through the Hall grounds along various routes. It is well documented other landowners also had a similar problem during the lockdown periods. The local community at Penrhosgarnedd appeared to be under the false belief that they had been granted a right to roam anywhere they wished during the lockdown.
- There was a Facebook campaign on Facebook in 2021 co-ordinated by Menna Baines (Pentir Community Councillor) and James Hutchinson (neighbour). James Hutchinson stated “There is a campaign by some local residents and councillors to reinstate the right of way, I was told that the Council forgot to register it when the sale of the school went through.”

With regard to challenges to trespassers made by us, he also stated “the best thing to do if accosted is to ignore them and if they are rude or threatening report to the police on 101 as they are aware of it. I am surprised no one has set up a specific FB page to help the campaign.” (see document 44. James Hutchinson FB Campaign Comment).

The evidence shown below shows that this application has been supported on the basis of what has been said on social media.

1. Laura Redfern (178) states “Personally, I have not been challenged – however I have heard **through social media** that this had happened to several other users on the PROW. Recently with a man with dogs who apparently is the new owner of Treborth school and has behaved in a threatening manner and told them they are trespassing. As far as I am concerned, the school boundary has always been marked with white stone to the road”

In addition, Laura Redfern’s reference to the white stones placed by us in 2015 proves she has not walked this route since 1988.

2. Christopher Parry (177) “None to date but I am aware of current issues **via Facebook**”
- James Hutchinson misinformed the public via the Facebook campaign that the Council had made a mistake on the sale of the school. This is factually incorrect as the Council has not made a mistake and has knowingly sold Treborth Hall as private. Please note James Hutchinson has never documented who from the Council “forgot to register it”.

All Facebook posts in 2021 have subsequently been deleted but we have a screenshot as evidence (see document 44. James Hutchinson FB Campaign Comment).

- The Facebook campaign in 2021 fuelled public resentment against our family based on an ongoing neighbourhood dispute concerning our private rights, land, gates and jealousy.
- Alleged users who have had an association with the school in the past (private right/permission) have been led to believe this right continued after the school closed. They wish to claim a public right for a private right/permission that they no longer have.
- A Change.org petition “Walk through Treborth Hall freely” was also started by Kevin Beaumont (friend of James Hutchinson). The petition was based on a false accusation of us threatening two old ladies and designed to attract public sympathy to our detriment. Change.org removed all of our private information rendering the petition useless.
- Certain alleged users have made their claim based on desirability.
- We have observed the Council have not regularly maintained the existing footpath over the fields to Treborth Uchaf Farm (Pentir 12). Alleged users have stated they have regularly used this route. This simply has not been possible as the route has been inaccessible. This brings into question again the validity of the user evidence forms. To our knowledge since our ownership in 2014, the footpath has only been cleared by the Council twice over a nine year period and both times since 2021 (see document 45. Overgrown Public Footpath 12).
- We have observed and can confirm that since over ownership the track to the rear of the grass island has never been “overgrown wild and cannot be used”. This brings into question the validity of Menna Williams (24) written statement.

## **19. Conclusion**

Between 1950 and 2021 all relevant landowners have put measures in place to prevent a public right of way being claimed. The presence of signs, gates and a barrier are evidence that there was no intention to create a public thoroughfare for pedestrians or vehicles in front of the former school/Hall. No landowner has had the intention to dedicate the land in front of the Hall to the public at large.

During our ownership since 2014, we have spoken to several former pupils. Unfortunately to date they are unwilling to supply a written statement. However, their verbal testaments are in line with the statements made by Andrzej Griffiths (see document 43) and Lowri Roberts (nee Owen) Gwynedd Council Estates (see document 36).

They have all told us that the public at large were not allowed on the school grounds. Anyone on school grounds would have been there for a legitimate reason.

We also state that since 2014 any alleged user claiming to have walked around the back of the grass island away from the front of the Hall has done so in secrecy and without our knowledge as we have not seen them. During our ownership, they have also been walking past signs and through a locked side gate and a locked yellow barrier. The user evidence confirms that since our ownership we have challenged everyone walking on our private land when we have had the opportunity. We have politely directed them back to the public footpath (Pentir 12) or the TBG.

An analysis of the user evidence shows that the majority claim to have walked the route since the mid 1990's (see document: 57. Time period of alleged use) This coincides with Penrhosgarnedd FC leasing the football pitches on former school grounds (1995), the opening of the University Athletics Track (1996) and the Friends of Treborth Botanic Garden (1997) beginning to "open the gates" of the TBG to the public.

This time period also coincides with the evidence that by 1998 the school (in addition to existing measures put in place) "had undertaken a programme aimed at securing the property's boundaries and of restricting access on to the site by the public" and "to block access by erecting fences and gates in order to block public access to the school grounds." (see document 5. Objections to Sustrans). This is clear evidence of non intention to dedicate by GCC.

The programme of preventing public access also negates the validity of the user evidence of those who state they have freely walked the route "as of right". These users must have been walking through in secrecy (rear of grass island) and at certain times without the knowledge of the school.

The user evidence proves some of the alleged users have had legitimate connections with the former school and therefore have had in the past a private right/permission to enter school grounds. On this basis they have no current legal right to claim a public footpath over Treborth Hall land.

It is most likely much of the alleged use arose by way of legitimate connection to the former school but this has not been disclosed by all of the alleged users. This is proven when Catrin Davies interviewed 28 alleged users. 13 out of 28 alleged users did not mention a connection to the school in their original user statements but then mentioned a connection in their written statements. It is possible that this figure is higher but the alleged users have chosen not to disclose this information.

In addition not one alleged user has mentioned the locked side gate erected in 2014 by ourselves, which interrupted the proposed route. This is even after 28 alleged users have been interviewed by Catrin Davies of the Rights of Way Unit. This also negates the validity of all alleged users that state they have regularly used the route daily/weekly/monthly or occasionally during this time period. In addition the users do not mention the closing/locking of the yellow barrier to which we were given a key in 2014. The yellow barrier was regularly locked.

In any event, alleged users with no legitimate reason for being on school grounds would have been challenged by school staff or residents of the staff houses as stated previously by Andrzej Griffiths (see document 43)

It also appears that this application has been made as a result of a coordinated social media campaign in 2021 based on misinformation that the alleged users have a right to make this claim. Alleged users who have had an association with the school in the past (private right/permission) have been led to believe this right continued after the school closed. They have been misadvised that they can claim a public right for a private right/permission they no longer have.

The alleged users have also not been truthful as there are clear discrepancies between the original user evidence forms and the written statements. As some have even claimed being in a pram, it is clear that the usage period has also been exaggerated by the alleged users. Our evidence also suggests that alleged users may not have walked the route at all during our ownership.

The proposed route continues through the TBG which per our evidence has never been open to the public at all times. Therefore, a public right of way can not be granted on historic grounds as there has not been uninterrupted access at all times of the day through the TBG during any twenty year period.

To summarise, the documentary evidence does not demonstrate public rights over the proposed route and there is documentary evidence pointing to contrary intent of the landowners. In relation to the user evidence, this demonstrates alleged public use. However, as a former school some of that use was by private right and permission. There have also been interruptions of the route. These are both factors which weight against the use which has taken place.

There is user evidence of signs, gates, the barrier and challenges. In our case, we believe those alleged users with no legitimate reason to visit the school, have walked onto the former school/Treborth Hall grounds stating that they have not seen any signs, the signs were for vehicles only or they did so in defiance of the signs along the route. It is impossible not to see signs and understand the intention of the landowner.

In any event, there is landowner evidence of the presence of signs and gates dating back to the 1950s. There is user evidence of the school barrier since 1965 and this is still in situ. There is further evidence of verbal challenges being made whilst Treborth Hall was a school and during our ownership. The signs, gates, the barrier and verbal challenges made from 1950 to 2021 demonstrate that landowners did not intend public rights being established. Current and historic legal agreements, social media and the Sustrans discussions also show further evidence of the non intention to dedicate by the landowner(s).

The essential characteristics of a highway have not been satisfied. There is not one specific defined route serving a public purpose. The route claimed per the original user forms are for

different destinations and different circular routes. There is not one specific route going through the front of Treborth Hall connecting to one circular route. We believe that many people desire to use the proposed route as a shortcut. Dewi Owen has also confirmed this when he said “it served as an useful occasional shortcut to my usual route”.

The fact that the proposed route goes through the car park (close to the main door and Headmasters office) is strong enough to raise a presumption against an intention to dedicate.

The fact that the proposed route goes through a special needs residential school is strong enough to raise a presumption against an intention to dedicate.

The alleged use is not by the public at large. Many alleged users are related to each other, connected to the former school or have an association with it. There is possible collusion.

The landowner evidence covers the period when the supporters claim use and the evidence defeats that use. The tests under Section 31 of the 1980 Act have not been met and the evidence does not show that on the balance of probabilities that a public footpath subsists over the proposed route.

**On the basis of the above it is our firm opinion that the application for the DMMO should be refused.**

**Mr Mark I Margetson BSc (Econ) Hons**

**Mrs Susan E Margetson BA (Hons), Dip. RSA**

**01/02/2024**