

CYNGOR CYMUNED LLANSTEFFAN & LLANYBRI COMMUNITY COUNCIL

PHEASANTRY FOOTPATH

Update reported in full and discussed by Councillors and Members of the Public present in the Community Council meeting of April 17th 2023.

In 2013 this Community Council agreed to submit an application for a Modification Order to register the Wharley Point Footpath on the Definitive Map.

A Definitive Map is a legal document which must be produced and kept up to date by every County Council in Wales. It shows every right of way in the authority's area and the nature of the rights over the paths, i.e. whether there's a right of way on foot, on horseback or in a vehicle.

The Definitive Map is accompanied by the Definitive Statement, which records additional details, for example, the legal width (if known) of a right of way, and any limitations on the public's use of it, such as stiles or gates.

Definitive Maps are public documents and must be available for the public to view.

Carmarthenshire County Council's maps are on their website under Public Rights of Way - see <https://prow-carms.esdm.co.uk/standardmap.aspx>

You will see that the short section directly adjacent to the Pheasantry Hut is omitted from the section to Wharley Point.



Recording a path on the Definitive Map is conclusive evidence that public rights exist over it.

It is the duty of every surveying authority to make sure their Definitive Map reflects reality by amending it to remove discrepancies between rights of way that exist, but which aren't recorded, and those that are recorded. This application is to record the Wharley Point path on the Carmarthenshire Definitive Map.

In order to record a path on the Definitive Map the local authority has to follow a legal procedure, making and confirming a Definitive Map Modification Order (DMMO).

A path recorded on the Definitive Map shows rights of way information on Ordnance Survey and Explorer maps so they're essential to the public's use of the paths network in any area. The legal status of a Definitive Map provides protection for a right of way on it.

If there's a problem on a right of way, Enforcement Action can be taken if the path is registered. Local authorities may be reluctant to act if the path isn't recorded. This is why the registration is important.

Important Points:

- the Wharley Point Footpath - section adjacent to the Pheasantry Hut - registration application is made **by the [Community Council](#)**;
- the application is being made **to [Carmarthenshire County Council](#)**;
- the application made is **irrelevant to land ownership**. The Council is entitled to seek to register the path **[without being perceived as entering into a neighbourly dispute](#)**.

The DMMO - the registration of this section of footpath - is strictly a legal process. It does not take into account land ownership, or public opinion, or neighbour disputes - it simply registers the path as a Public Right of Way, and the registration has to be evidenced by historical use.

Modification Order to add a way to the definitive map : Section 53(3)(b) Before making an order the surveying authority **must have evidence which shows that the right of way has come into being through presumed dedication following use over a period of time which has ended before the making of the order**. An example would be evidence of **use by the public over a period of 20 years** not offset by any evidence that the landowner during that time had no intention to dedicate the way. **Before confirming the order, the authority must be satisfied that the right of way has been shown to exist.**

Historical Use in this case had to pre-date 1998. Witnesses provided evidence of use of the path as a public thoroughfare for an unbroken period of 20 years **preceding 1998** - so use of the path **before 1978** constituted evidence. Witness statements going back 10, 20 or 30 or more years before 1978 were most useful. **Evidence more recent than 1978 was not required or relevant.**

Witness statements from contributors who used the path before 1978 were gathered, collated and submitted by the Community Council, with the gratefully acknowledged support of Eiluned Rees. Most of the witness statements evidenced use of the path during an unbroken period of 30, 40, 50 years pre-1978.

On receipt of an application for a DMMO the Local Authority is legally obliged to serve notice on relevant landowners of the change to the definitive Map. This was observed.

Over the following years there existed several challenges regarding land ownership, boundaries and other matters. While these challenges may not all have been material to the registration of the footpath, they delayed the processing of the application. However, any private land ownership challenges, or any other matters between neighbours **are not the business of this Council.**

In 2023, the Community Council is fully engaged with progressing the DMMO. The Council is seeking to register the path without being perceived as entering into a neighbourly dispute.

March 2023:

Mr. Michael Taylor, Rights of Way Practitioner is working with Carmarthenshire County Council to progress and complete the DMMO. Mr. Taylor has researched the history of the path and its use over many years. Mr. Taylor has also visited a selection of the witnesses who submitted evidence in 2013. He is satisfied with the number and quality of statements to date, and is currently reviewing the evidence.

The next steps will involve:

- reviewing the original witness statements of use of the path for at least 20 years prior to 1998 (of which there are 60 or so - well above the legal requirement of 6);
- **if required by the Local Authority**, gathering further witness statements of use of the path for at least 20 years prior to 1998, which the Community Council will initiate and complete if and when it becomes necessary;
- if further witness statements are not required then the Order will be put proposed to CCC with a recommendation;
- If Cabinet approves the Order, it can be published for open consultation - newspaper notices etc. - when objections may be submitted;
- If no objections are received, the Order may be made.
- if there are objections which can't be negotiated or mitigated, then the application will be referred to the Planning and Environment Decisions **Wales** (PEDW) for determination. The determination is likely to be on the "statement of grounds" - i.e. evidence of historical use.

**If you would like any further information on the progress of this Definitive Map Modification Order please follow the minutes of Community Council meetings on:
<http://llansteffanandllanybri.org/your-council/agenda-minutes/>
or contact the Clerk on: llansteffanandllanybri@gmail.com
or speak to a Community Councillor.**

Diolch yn fawr iawn.