New and diverted Public Rights of Way at Whitchurch, Cardiff

Accompanying Statement



July 2022



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1. Introduction

This statement sets out the background and details to accompany the application for proposed new public rights of way (PROWs) and the permanent diversion of PROWs, across the proposed development site of the new Velindre Cancer Centre, Whitchurch, Cardiff.

The land that is subject to this application is the proposed development site of the new Velindre Cancer Centre. This is located to the north-west of Whitchurch Hospital playing fields and referred to as the Northern Meadows. It is roughly triangular in shape comprising pastoral fields and of approximate total length 780m. The site has outline planning permission for the cancer centre development.

2. Background context

Cardiff Council refused an application that was made for three PROWs across the development site in April 2021. An appeal was made to Planning and Environment Decisions Wales (PEDW) against that refusal, and the appeal was allowed (reference ROW/3274956).

The Council was then directed to make an Order to record the claimed routes on the Definitive Map and Statement. The required process was subsequently undertaken and the order was then confirmed on 01/06/22. The title of the order is: The County Council Of The City & County Of Cardiff Definitive Map (Whitchurch Meadows Footpaths, Cardiff) Modification Order 2022. The notice of the confirmation of the order runs from 08/06/22 for 42 days.

A copy of the confirmed order and plan are enclosed at Appendix A.

The routes are described on the notice thus:

- i) Whitchurch No.106 Footpath (A-B) which commences at the field boundary from Park Road Footpath (Point A) and heads across the field in a south westerly direction for 203m. The footpath terminates at junction with Whitchurch No.108 Footpath (Point B). A total distance of 203 metres and as shown on the Order Map.
- ii) Whitchurch No.107 Footpath (D C) which commences at the junction of Whitchurch No.11 Footpath and Park Road Footpath (Point D) and enters the field heading in a northerly direction. The Footpath crosses Whitchurch 108 and continues until terminating at the junction with Whitchurch 106 (Point C). A total distance of 187 metres and as shown on the Order Map.



iii) Whitchurch No.108 Footpath (E - F) which commences from Park Road Footpath (Point E) and crosses the middle of the field in a westerly direction. The Footpath exits the main field through a gap in the farm gate to enter into Forest Farm Nature Reserve. The footpath continues along an access track until terminating at junction with Whitchurch 16 Footpath (Point F) A total distance of 840 metres and as shown on the Order Map.

Planning permission on the land

Planning permission for the new Velindre Cancer Centre on the land was granted in March 2018 (LPA ref. 17/01735/MJR). The permission is a 'hybrid' permission which grants outline planning permission for the main building plus Maggie's, the energy centre and car park, with full planning permission for the permanent access from the north (Longwood Drive), and the emergency access via the Hollybush Estate. Both the main vehicular access, plus the emergency access, require the construction of bridges across the former railway cutting. The northern access includes a footway and cycleway into the VCC site.

The formal description of the approved permission is: "Proposed Velindre Cancer Centre including specialist cancer treatment centre, centre for learning, research and development, primary means of the access (from Coryton Interchange), emergency access (via Hollybush Estate), temporary construction access, parking, energy centre, landscape works, pedestrian paths, and Maggie's Centre" at land to the north-west of Whitchurch Hospital Playing Fields.

A copy of the site location plan and development maximum parameters plan is included as Appendix B

The proposed development will provide new paths through the area, but will require the diversion of the aforementioned PROWs. Both the new paths and the diversions are the basis of the application that this statement accompanies.

3. Legislation and policy context

The application is made under s.257 of the Town and Country Planning Act 1990. This legislation gives an authority the power to divert or extinguish footpaths if it is satisfied that it is necessary to do so in order to enable development to be carried out in accordance with the granted planning permission, and that not diverting the path would prevent the planning permission being implemented.



Guidance is also published by the Welsh Government for Local Authorities entitled Guidance for Local Authorities on Public Rights of Way (August 2016). This refers to the above test as the necessity test.

It advises that if a development has planning permission and cannot be implemented without changes to the Definitive Map (i.e. meets the necessity test) then an authority must have good reasons if it then decides that the Order should *not* be made. The guidance advises that, in such a situation, an authority should then apply the discretionary test, taking into account: the interests of the general public; the potential effects of the Order on some members of the public, such as occupiers of property adjoining the highway; [and] any potential financial loss to members of the public. (par. 6.60).

Where the necessity test is met, it is then also established practice for the authority to consider whether the proposed diverted route will not be substantially less convenient to the public than the route to be diverted (par. 6.83), within the parameters of the proposed development and the land available and under the applicant's control for diversion routes. Considerations of convenience include comparisons of distance and the ease / difficulty of walking them (gradients, surface) between the same start and end points.

4. Existing and Proposed new paths and diversions

This section summarises the existing arrangement of PROWs, the proposed new PROWs, and the proposed parts to be diverted. This information is also provided in tabular form in Appendix D, and corresponds with the proposed order plan (70066877-WSP-XX-XX-DR-P0-S257 Rev F).

The PROWs that are affected by the proposed diversions are shown on the confirmed order map (Appendix A) as Whitchurch Nos. 106, 107, and 108:

The registered paths are as follows:

Whitchurch No.106 - from point A to B. This starts at the north-eastern corner of the field boundary (point A) at the adopted footway from Park Road, then follows a south-westerly route (average S70°W) for 203m to its junction with the new path Whitchurch No.108 (point B). It is an unmade surface, with an average gradient of 0.5%.



Whitchurch No.107 - from point D to C. This starts at the junction of Whitchurch No.11 Footpath and Park Road adopted footway (Point D), then follows a northerly direction (average N10°E), crossing new footpath Whitchurch 108, and continues until terminating at the junction with Whitchurch 106 (Point C). A total distance of 187 metres. The path is mostly level on unmade ground.

Whitchurch No.108 from point E to F. This commences at a point midway along the existing adopted footway from Park Road Footpath (Point E) approximately 162m from point A. It then follows a course in a north-westerly direction, leaving the VCC site, then along an existing access track to end at its junction with Whitchurch 16 Footpath (Point F) (average N51°W across its entire length). A total distance of 840 metres. The section of path within the VCC site is around 500m in length, rising at an average gradient of 2% from east to west (N60°W). It is unmade ground.

Three new paths are proposed, as shown on the plan at Appendix C. They are as follows:

New path, from point A to J, via G and H

This will be a new path running along the northern part of the site, for its entire length, from A to its connection with the new northern access bridge at point H (499m), and also at that point turning to south west to then connect with path No.108 at the northern boundary of the site, some 45m distance further. This is a new path which will provide an alternative and an additional walking route to the registered PROWs that already exist around the outside of the site. On registration this path will be initially over unmade ground, but in due course it will be surfaced as part of the VCC development, thereby improving equality of access and use. This is a total length of 544m.

This path provides an alternative route to the registered PROWs from A to B (No. 106) and from B to J at the north western end of the field (No. 108). This is 569m distance in total.

New and diverted path, from point A to L

It is proposed to follow a route from entering the VCC site at point A, then follow a route south-west almost parallel to the existing adopted footway, some 20m within the site, to meet No.108 at point L (193m length in total). On registration this path will be over unmade ground, but in due course it will be surfaced as part of the VCC development. This will improve



equality of access through this area. This will be an alternative route within the field to replace No. 106.

New and diverted path from K to J

The new path will follow a route from point K, on No.107, from the southern corner, point D, to follow an informal route from K to J, then to I, which is mostly parallel to the south western boundary within the site by some 40m-55m and following an average direction N50°W to point I, on No.108, and then continue to follow the registered path to the north-west out of the site.

This is a new path which will provide an alternative and an additional walking route to the registered PROWs that already exist around the outside of the site. On registration this path will be initially over unmade ground, but in due course it will be surfaced as part of the VCC development, thereby improving equality of access and use. This is a total length of new path of 412m, connecting from the retained section of No.107 of 71m (point K), to the retained section of No.108 from point I to J of 38m.

This will be a second alternative route to the registered PROWS: part of No. 107 (70m), and part of No.108 (380m) would be replaced by the above.

It is proposed that, following completion of the development, a further PROW will be provided to connect from point L to point K (87m) to connect these previously set out two PROW sections, but at this stage this section is proposed as a path to be dedicated in the future.

It is also proposed that a further path will be dedicated in future from point G to X. This new path will start from a point midway between points A and H, (218m from point A), and follow a route almost south (S20°W), for 120m to point X which is midway along the new diverted route that follows the south-west boundary of the site (see above route A to I). This will provide a further alternative walking route to cross the site and connect to the proposed PROWs and the wider established network.

Distance and time comparisons of existing and proposed paths are set out in detail on plan 70066877-WSP-XX-XX-DR-P0-PROW 2 Rev. K, which is submitted with this application (and included in Appendix C).



The paths that will be stopped up and diverted then are:

Path No.106 from point A to B of length 203m

Path No.107 from point C to K of length 118m

Path No.108 from point L to I of length 463m

The existing paths and proposed paths, locations and lengths are included in the table at Appendix D.

5. Analysis and impact

This section assesses the impact of proposed closures, diversions, and new paths having regard to the requirements of applications made under s.257 TCPA 1990.

Planning permission has been granted for the development of the new cancer centre on the site. That permission included proposed new footpaths through and around the site as part of the future development, to be covered in detail under the reserved matters application. The potential new routes through the land were shown on the approved illustrative layout plan (see Appendix B).

Three new PROWs have now been designated across the development site, despite the extant planning permission. These routes would prevent the implementation of that permission as they cross centrally through the required location of the new building.

The site therefore has planning permission, and the diversions are necessary in order to enable the development to be carried out in accordance with the permission. Not diverting the paths would prevent the permission being implemented, notwithstanding the need for the reserved matters detailed design. The *necessity* test for the acceptability of the application is met fully.

The proposed diverted route (A to J via G and H) is comparable to the PROWs (to be closed) in terms of route distance and landscape context. It remains within the field site, away from the property boundaries, and it starts and finishes at points along the existing paths. It will allow the same level of enjoyment, and overall is considered to be no less convenient or commodious than the paths to be closed. It will then also meet the requirements of the discretionary test, should it not have been considered to already meet the necessity test.



There are also two additional sections of path that are proposed to be designated now to provide a further connection around the southern and east parts of the site. These will significantly increase the choice of routes through and around the site, and opportunities for public enjoyment of the area. They are being proposed now, demonstrating how the new VCC will secure permanent public access to, through, and around the site. They will provide connections through the land to the existing wider path network increasing the choice of walking and running routes for the general public. They will enhance equality of access and allow a continued enjoyment of the land in perpetuity.

Finally there are two further paths that are proposed to be dedicated in the future to add to the new southern paths, and also to cross the site from north to south. These will further enhance public access to the site.

6. Conclusion

This statement accompanies the application for the diversion of PROWs, which are required in order to allow the new Velindre Cancer Centre to be constructed in accord with the already granted planning permission. The requirement to divert the paths accords with the provisions of s.257 TCPA 1990, being that the diversion is necessary to allow the implementation of the planning permission, and that not diverting the paths would prevent the permission being implemented.

It has also been shown that the diverted route will not be substantially less convenient for the general public taking into account the parameters of the proposed development and the land within the applicant's control.

The proposed new and additional paths will significantly increase the accessibility, connections, and the opportunity for quiet enjoyment of the area. This application will ensure that these routes are secured now for future public use in perpetuity.

MODIFICATION ORDER

Wildlife and Countryside Act 1981

THE DEFINITIVE MAP & STATEMENT OF PUBLIC RIGHTS OF WAY FOR THE FORMER COUNTY OF GLAMORGAN

THE COUNTY COUNCIL OF THE CITY & COUNTY OF CARDIFF DEFINITIVE MAP (FOOTPATH WHITCHURCH MEADOWS FOOTPATHS, CARDIFF) MODIFICATION ORDER 2022

This Order is made by the County Council of the City and County of Cardiff (hereinafter called "the surveying authority") under section 53 (2) (b) of the Wildlife and Countryside Act 1981 ("the Act") because it appears to that authority that the Definitive Map and Statement of Public Rights of Way for the former Country of Glamorgan require modification in consequence of the occurrence of an event specified in 53 (3)(c)(i) of the Act, namely the discovery of evidence that public footpaths subsist or are reasonably alleged to subsist over land in the area to which the map relates.

The surveying authority have consulted with every local authority whose area includes the land to which the order relates:

- 1. For the purposes of this order the relevant date shall be 29 March, 2022
- The Definitive Map & Statement of Public rights of Way for the former County
 of Glamorgan shall be modified as described in Part I and Part II of the
 Schedule and shown on the map attached to the Order.
- This order shall have effect on the date it is confirmed.
- This order may be cited as the County Council of the City and County of Cardiff Definitive Map (FOOTPATH WHITCHURCH MEADOWS, CARDIFF) Modification Order 2022

THE COMMON SEAL of the COUNTY COUNCIL OF THE CITY AND COUNTY OF Cardiff was hereunto affixed this 30th day of March, 2022 in the presence of

Theo Sam

Authorised Signatory

SCHEDULE

(Part I) Modification of (Definitive) Map DESCRIPTION OF PATH OR WAY TO BE DELETED

(1) Section of path or way as indicated on map	(2) Position	Length	Width

DESCRIPTION OF PATH OR WAY TO BE ADDED

(1) Section of path or way as indicated on map	(2) Position	Length	Width
Whilchurch No.108 Footpath (A - B) Grid Reference Point A: ST 14404 80897 Grid Reference Point B: ST 14222 80837	Footpath commences at field boundary from Park Road Footpath (Point A; ST 14404 80897) and heads across the field in a south westerly direction for 203m. The footpath terminates at junction with Whitchurch No.108 Footpath (Point B; ST 14222 80837).	203m	1-2 mayes
Whitchurch No.107 Footpath (D - C) Grid Reference Point D: ST 14261 80663 Grid Reference Point C; ST 14285 80841	Footpath commences at junction of Whitchurch No.11 Footpath and Park Road Footpath (Point D; ST 14261 80663) and enters the field heading in a northerly direction. The Footpath crosses Whitchurch 108 and continues until terminating at junction with Whitchurch 108	167m	1-2 matres
Whitchurch No.108 Footpath(E - F) Grid Reference Point E: ST 14342 80739 Grid Reference Point F: ST 13715 81248	Footpath commences from Park Road Footpath (Point E; ST 14342 80739) and crosses the middle of the field in a westerly direction. The Footpath exits the main field through a gap in the farm gate to enter into Forest. Farm Nature Reserve. The footpath continues along an access track until terminating at junction with Whitchurch 16 Footpath (Point F; ST 13715 81248).	540m	1-I multes

The Diller is hereby confirmed as an unofficed older without modification in the presence of

Authorised Signatory:

DESCRIPTION OF PUBLIC RIGHT OF WAY TO BE (UPGRADED) (DOWNGRADED)

(1) Section of path or way as indicated on map	(2) Position	Length	Width	
			,	

{Part II} Modification of {Definitive} Statement VARIATION OF PARTICULARS OF PATH OR WAY

(1) Section of path or way as indicated on map	(2) Position	Length	Width	

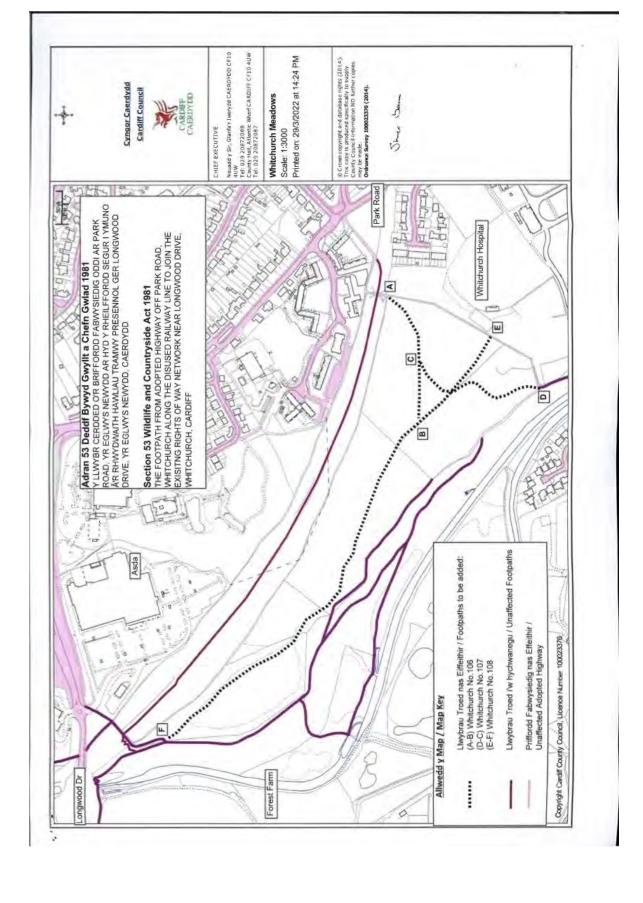
WILDLIFE AND COUNTRYSIDE ACT, 1981

THE DEFINITIVE MAP & STATEMENT OF PUBLIC RIGHTS OF WAY FOR THE FORMER COUNTY OF GLAMORGAN

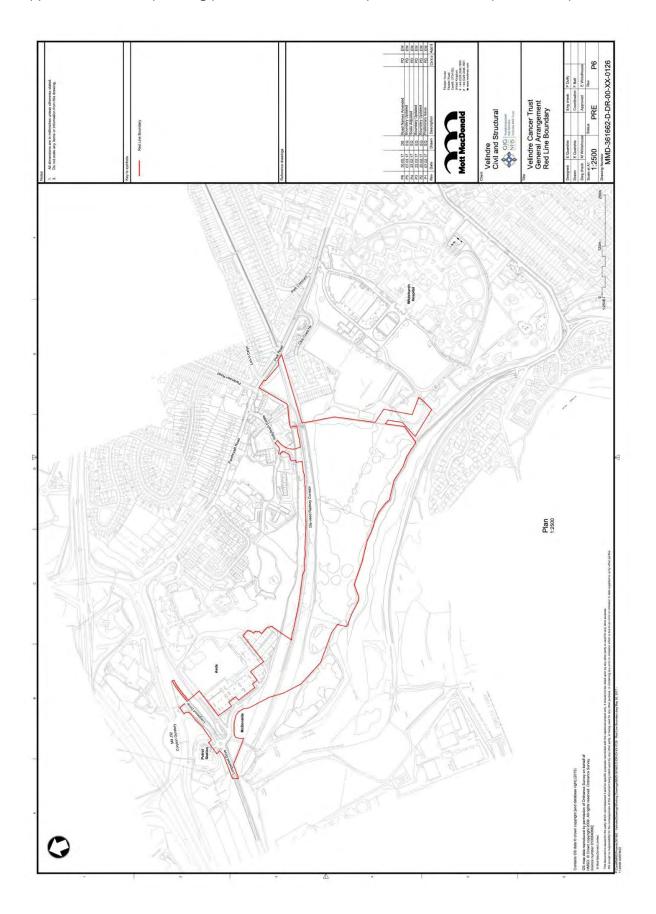
THE COUNTY COUNCIL OF THE CITY
AND COUNTY OF CARDIFF
DEFINITIVE MAP (WHITCHURCH MEADOWS FOOTPATHS, CARDIFF)
MODIFICATION ORDER 2022

Director of Governance & Legal Services Cardiff County Council County Hall Atlantic Wharf CARDIFF CF10 4UW

KJP/97350



Appendix B: Outline planning permission site location plan and maximum parameters plan

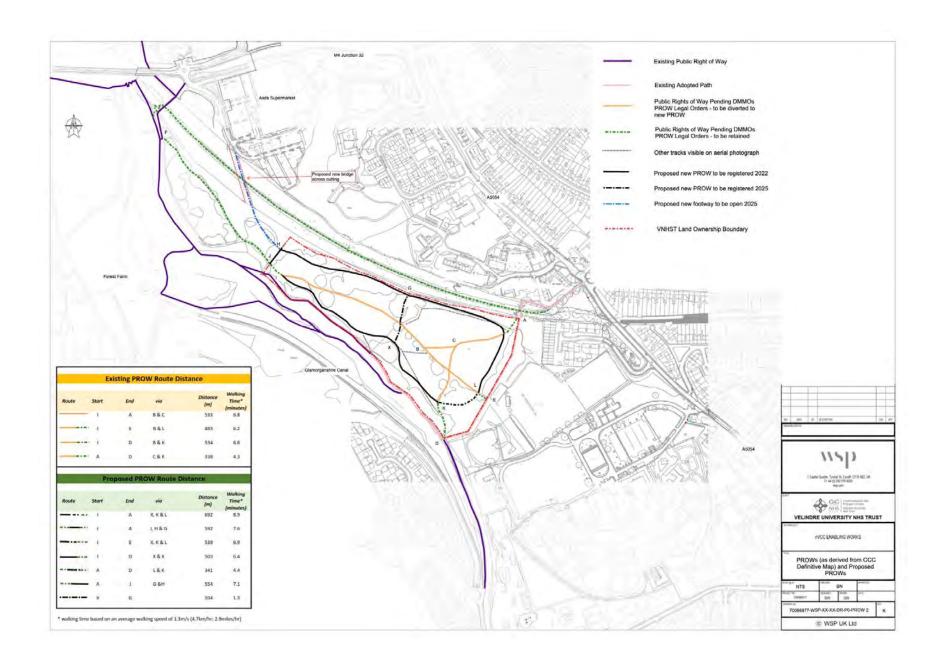


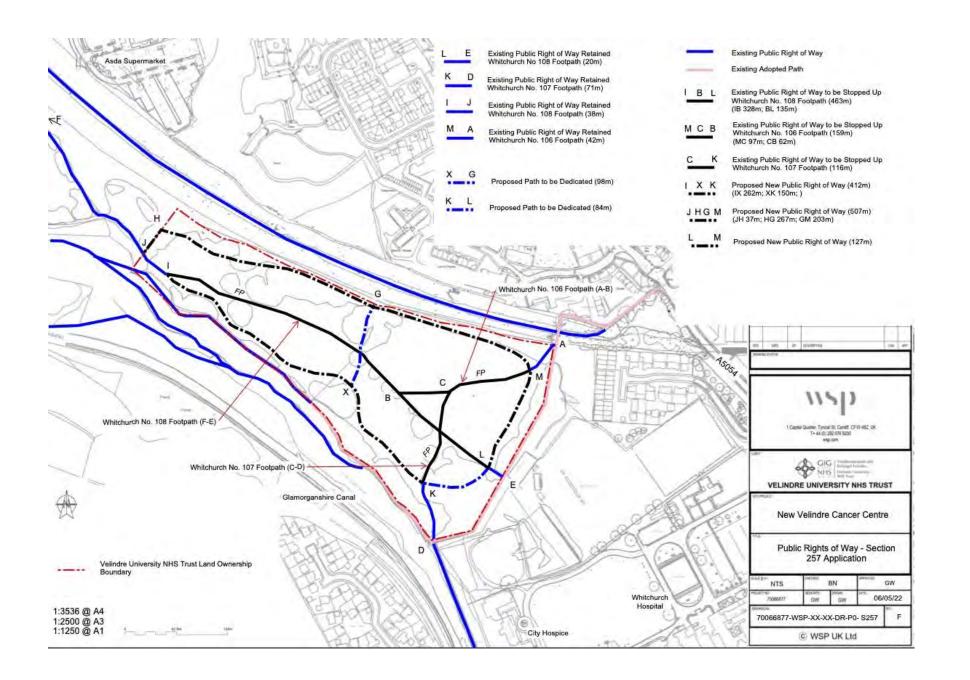




Appendix C

Proposed Paths (plans also submitted separately)





Appendix D

Summary Table

Reference	Order plan points	Distance	Grid references	
Existing PROWs			Start	Finish
106	A to B	203m	A - ST 14404 80897	B - ST 14222 80837
107	C to D	187m	C - ST 14285 80841	D - ST 14261 80663
108	E to F	840m	E - ST 14342 80739	F - ST 13715 81248
Paths to be stopped up				
106	A to B	203m	A - ST 14404 80897	B - ST 14222 80837
107	From C to K	118m	C - ST 14285 80841	K - ST 14247 80735
108	From L to I	463m	L - ST 14324 80754	I - ST 13948 80979
Diversions and new paths				
/	A to J (via G, H)	544m	A - ST 14415 80907	J - ST 13923 81001
	A to L	173m	A - ST 14415 80907	L - ST 14324 80754
/	K to I (via X)	412m	K - ST 14247 80735	I - ST 13948 80979
Paths to be dedicated				
	L to K	87m	L - ST 14324 80754	K - ST 14247 80735

