

ARTHOG

CYNGOR
CYMUNED

COMMUNITY
COUNCIL

Clerc/Clerk - ANGELA THOMAS

Ffon/Phone 07557 640740
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13th December 2017

Euryn Williams
Senior Rights of Way Officer
Regulatory Department
Planning, Environment and Public Protection Service
Swyddfa'r Cyngor
Caernarfon
GWYNEDD LL55 1SH

Dear Sir,

REF: Alleged Right of Way in front of Mawddach Crescent to Barmouth Bridge,
Community of Arthog

I refer to your letter dated 25th November 2016, referencing the above subject, and I apologise for the delay in responding.

At the recent meeting of Arthog Community Council, held 6th December, the subject was discussed at length, and the Councillors are unanimous in supporting the application made to Gwynedd Council under the Wildlife and Countryside Act 1981 to register on the Definitive Map a public footpath as shown in GREEN on your attached plan.

As a Council, we totally agree that the public have walked this path without challenge for a period of more than 20 years which could give rise to a public right of way.

I also enclose supporting documentation from Mr Huw Roberts, outlining historical facts and figures, which have been read, agreed and understood, by all Councillors. It is also important to add that more than half the Councillors have personal knowledge with regard to the Alleged Right of Way at Mawddach Crescent, having walked this path for over 20 years themselves, in particular Councillor Peredur Roberts.

If we can offer any further assistance, please do not hesitate to contact the undersigned.

Yours sincerely

ANGELA THOMAS - CLERK

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19th December 2017

WITH COMPLIMENTS: ALLEGED RIGHT OF WAY HAWDDAK HCRES.

Final piece of supporting documentation as reference yesterday

Yours sincerely.

ANGEAL THOMAS - CLERK

Alleged Right of Way in Front of Mawddach Crescent to Barmouth Bridge, Community of Arthog

This report has been produced by Councillor Peredur Roberts with the assistance of Huw Roberts. Its purpose is to try to set out the facts relating to those matters raised by Gwynedd Council in their letter dated 25 November 2016 for discussion at this Council's meeting on 6 December 2017. The County Council requested information relating to the following:

1. The use of the path by the public.
2. Any actions taken to prevent the public from using the path as a public right of way. This might include (a) signage to deter public use (b) verbally challenging members of the public walking the path, (c) the locking of gates or (d) any other efforts made to deny a public right of way.
3. Any documentation recording or relating to the path.

Councillor Roberts, a local farmer, is a lifelong resident of Arthog and has had a close relationship with the terrace known as Mawddach Crescent, not least by virtue of having delivered milk to these properties for very many years. Huw Roberts was born in Arthog and lived in the village from 1951 until 1975. Since then he has been a regular visitor to the village, his parents having lived throughout their lives in or near to Arthog. It is he who has put his name to the application to register the path onto the Definitive Public Footpath Map. For the avoidance of any doubt, Councillor Roberts and Huw Roberts are not related.

Comments Relating to the Matters Raised by Gwynedd Council in their Letter Dated 25 November 2016.

In commenting on the path referred to in the plan attaching to the letter it is advisable to do so in two distinct parts. Firstly the western section of the path from immediately south of Barmouth viaduct until the point at which it connects with public footpath no. 13 at the foot of the Fegla Bank (which will be referred to as Section A) and the eastern section which follows a line past the frontage of the terrace of houses known as Mawddach Crescent until it re-joins public footpath no. 13 to the east of that terrace (which will be referred to as Section B)

Comments Relevant to the Whole Path (Sections A and B)

There are several surviving residents of the village of Arthog (which includes Barmouth Junction) who are able to vouch that both sections of the path have been in constant and unrestricted use since the 1940's with the exception of Section B which was within the area commandeered by the military for the duration of the war. There is also a high level of confidence of its unrestricted use before then and

probably from the time that the embankment (which forms the greater part of Section A) and the terrace known as Mawddach Crescent were built, very early in the 1900s. Barmouth was an important service centre (for shopping, medical services, banking etc.) for the village of Arthog. Those villagers residing to the east of Arthog School would use this path as part of their route to Barmouth. Evidence for the use of the path before the 1940s has been passed down from the parents and ancestors of current and previous residents still living, and printed evidence can also be found in tourist guides published from the very early 1900s where the use of the path was recommended e.g. for those holidaying at Barmouth and wishing to visit the Arthog Falls.

Comments Specifically Relating to Section A

It is a matter of public record that on 25 April 1950, the Barmouth Urban District Council (BUDC) considered representations made by the Dolgellau Rural District Council (DRDC) regarding the condition of part of this Section of the path. The minute of the BUDC states that *"The Clerk to the DRDC in a letter dated 24/5/50 states that his Council view with deep concern the continual damage to the above path by the sea and that eventually the embankment over which the path runs will disappear as no one appears to undertake any repairs thereto. Bearing in mind the importance and usefulness of this path to local residents and visitors to the areas of the two Councils, this Council is asked to agree to form a joint committee with a view to bringing pressure on the County Council to take over the maintenance of the path."*

Whilst it is unclear what precise action followed from the work of the Joint Committee and any subsequent pressure put on the County Council, this minute confirms the significant use made of the path by local people and visitors. What is known is that an iron bridge which formed part of the embankment route gradually deteriorated; the planks rotted and the ironwork rusted away and the bridge was not replaced. In 1957, the landowner Ms. Dorothy Roberts published a letter in a local newspaper advising that with regret and because of its unsafe condition the path had to be closed. However, no physical action was taken to close the path and no signs were erected to warn walkers and cyclists of any safety issues. Use of this section of the route continued with walkers relying on the sound planks on the bridge until these rotted away and then using the stepping stones which were above the water level in most tidal conditions. When the tidal level made the stepping stone route difficult, walkers and cyclists used the higher land to the south and walked around the pool in the vicinity of the old bridge. That position has continued until the present day. It should be noted that the land to the south of the embankment has since been enclosed by fencing but a stile has been incorporated into the fence on the line of the path recognising and facilitating the path's continued use until the present day.

Comments Specifically Relating to Section B

Residents and visitors have always used this section in preference to the track which passed to the rear of Mawddach Crescent. The reasons for this are rather obvious. Firstly, when the Mawddach Crescent was completed in around 1903, the area in front of the terrace was laid out as a road/tramway and adjacent footway and there were originally 2 sets of gates in place, one at each end of the terrace, each set consisting of a wooden field gate with a pedestrian gate immediately adjacent, the latter being hung from a post set hard up against the sea wall. Secondly, no signage has ever been erected aimed at restricting use of the frontage path to walkers or cyclists (see section on signage below). Thirdly, the path to the rear of the properties has generally over the years been muddy and uninviting particularly in times of wet weather.

What may seem less obvious now but is actually quite logical when one considers the development sequence is why there were two paths available to the public once the development was complete. There was a path in use by the public through this area prior to the building of the terrace and associated development and we believe that the line of that path was affected by the proposed development. A public footpath would, therefore, have had to be provided along a line which skirted the building site while the terrace, sea wall, road and tramway were being built. It is presumed that this was why the track to the rear of the terrace was designated as a Public Footpath.

It is also presumed that the absence of a registered public path to the front of the terrace was because it was not the practice (and it is still not the practice to this day) to register as a public footpath a footway that was integral with a highway. It would have come as a surprise to many residents and visitors to the area that a definitive public footpath followed the track to the rear of the houses. However the appearance of the small fingerpost signs erected by the County Council (believed to be in the 1970s) made no difference whatsoever to the usage; the Section B route to the front of the terrace was also presumed to be a public footpath and this was preferred by users. Until recently, none of the terrace's residents appeared to wish to take any action to try to restrict the public from use of Section B by walkers and cyclists. Indeed, if they had been minded to attempt to do so at any time, it is almost certain that, by then, the path would have become an earned right of way. It was clearly the intention of the developer that this should be the preferred choice of path for these users once the development was complete.

Signage, Challenges and Obstruction of the Path.

Section A

As stated above, whilst the owner of the land over which this section of the path passes, wrote a formal letter in a local newspaper to close the path, no signs were erected to that effect nor was obstruction of any kind placed to restrict the path's

continued use. The landowner, Miss. Dorothy Roberts, in caring for her stock grazing the land to the south of this path, would have regularly witnessed its continued use by very significant numbers of locals and visitors for several decades after the publication of her letter. There is no known incident where the landowner challenged anyone seeking to use this path provided, of course, that any accompanying dogs were kept on leads. Even after this land was fenced and to this day there is a stile to facilitate the path's use by walkers.

Section B

For several decades, there have been 'Private Road' signs at the eastern entry into the Crescent albeit that these are now old and easily missed. These have always been specifically aimed at drivers of vehicles and they were erected due to problems that the owners and residents of the Mawddach Crescent encountered with holiday makers visiting the area in their cars. These problems included drivers entering the road in front of the Crescent seeking a through route to continue their sightseeing trip and also those using the area in front of the terrace as a car park while their occupants continued their sightseeing on foot. As car ownership increased in the 1960s, so did these problems.

The low brick wall near the post box have two 'Private Road' signs, one on a wooden board attached to the wall and the other directly painted onto this wall. It is understood that Gwynedd Council's Public Rights of Way Team may have been led to believe that the white painted wording on this wall merely says 'Private' which might imply that walkers and cyclists were also intended to take note. This is not the case. The word 'Road' is painted in the same white paint onto the end pillar of this wall but is in smaller lettering. Like the large letters of the word 'Private' it is very weathered and, being in smaller letters, easily missed. Gwynedd Council's staff would be advised to verify that this is the actual wording at the earliest possible time. It is clear that the residents, at the time that these signs were erected or painted, quite specifically welcomed walkers and cyclists and only wished to deter private cars. At one time a sign was painted onto the rocks on the right hand side at the eastern entrance into the Crescent. The wording is believed to have been 'No Through Road' and included the red triangle of the Highway Code. It was not there for long and the reason for its removal is not known but we believe that some residents or the landowner thought it was more in the nature of graffiti and did not present the right image. What is important is that this was also a sign intended for motorists and not walkers or cyclists.

It is believed that it was between 2001 and 2003 that a galvanised steel stockproof gate was erected at the western end of the terrace and a cattle grid and pedestrian gate were erected at the eastern end. Signs were erected at each end with the words "Mawddach Crescent" and also in smaller lettering, the words "Private Road" and these signs are still there today. It is clear that these works were not intended to, and did not, restrict the public use of the path. The purpose of these was to keep

straying stock out of the area. Sheep, in particular, would regularly wander into the area in front of the terrace and cause problems in the gardens if the postman or other visitors left garden gates open.

Some years later, signs were erected which were clearly intended to try to divert walkers to the track to the rear of the properties. It should be noted that local people continued to walk the route and had no difficulty in doing so because the gates were not locked. The signs did not specifically say that there was no right of access to the public, but merely that they were being asked to use the public footpath to the rear. The precise date on which these were erected is not known but these were the first signs that have ever been erected aimed at walkers. Until the appearance of these signs, there have never been any signs placed at the western end of the Crescent to attempt to restrict the public from using the path to the front of the Crescent, which reinforces the fact that all previous signs were directed at vehicle drivers.

At some point following the posting of these signs, at least one resident took it upon himself to verbally challenge those who continued to use the path and a significant number of people have been subject to that type of challenge. Clearly we are unable to provide the date when the first of these verbal challenges took place but it is thought that this was commonplace by around 2010. Many local people have referred to this experience as being intimidating and the point in time at which they stopped using the path. Others have returned the challenge and advised the resident that they were merely exercising their legal right and the path is still in use by those people to this day. However it is believed that this form of challenge marks the point at which the public were being actively disbarred from using the route.

The application to place the path on the Definitive Right of Way Map was submitted in August 2014, at which time the signs remained unchanged and the gate remained unlocked but verbal challenges by the same individual were still being encountered. It was perhaps a year after the application was made that the gate was locked but with a temporary sign indicating the reason for this being health and safety, arising from the rotted post at the top hinge. However it has been noted that during both succeeding school holidays when a number of properties are let for holiday purposes the gate is left unlocked and when inspected on 22 November 2017 the gate was also unlocked and members of the public were seen walking through.

Councillors are asked to consider this report in the light of their own knowledge and experience of the use of the path and the Council is asked to indicate whether they endorse the facts as set out in this report. This Council has also been asked by the County Council whether or not it objects to the making of an order to place the path onto the Definitive Map.

BARMOUTH URBAN DISTRICT COUNCIL.

OF MEETING OF THE COUNCIL HELD ON THE 25th APRIL, 1950.

:- Councillor Morris G. Roberts J.P. (Chairman) and Councillors
T. W. O'Marah, G. Dedwydd Roberts J.P., H.P. Williams,
Mrs J.P., C.C.; Wynne Williams and Mynorydd Wynne J.P.

CONFIRMATION OF MINUTES.

On the motion of the Chairman and seconded by Councillor
Mrs J.P. :- That the Minutes of the meetings of the Council held
on the 4th and 18th days of March, 1950, (Page 1) the 4th and 18th days of
March (Pages 7 and 18) be taken as read, confirmed as a correct
and true record, and the recommendations contained therein arising
from the Council in Committee held on the 4th and 18th
days of March, 1950, be approved and confirmed.

The Chairman of the Council having referred to the recording of
votes in Minute 1074 (Council 18/4/50) it was generally
agreed in future the voting on any question shall only be
by show of hands to shew whether each member present and voting gave his
vote for or against that question upon a request to that effect being
made by the presiding Chairman.

COUNCILLOR J. LLEWELYN DAVIES J.P., C.C. (1070/4/50).

In a letter dated 25/4/50 Councillor J. Llewelyn Davies thanks
the Council for their kind sentiments and expresses the hope that he
will be able to resume his public duties at a very early date.

PROPOSED PATH LEADING FROM MAWDDACH CRESCENT TO BARMOUTH BRIDGE.

The Chairman of the Dolgellau Rural District Council, in a letter
dated 11/4/50 states that his Council view with deep concern the
erosion of the above path by the sea and that eventually the
path on which the path runs will disappear as no one appears to
make repairs thereto. Bearing in mind the importance and
value of this path to local residents and visitors to the areas
concerned, this Council is asked to agree to form a joint
Committee with a view to bringing pressure on the County Council to
maintain the path.

:- That the suggestion of the Rural District Council be
referred to the Chairman of the Council, Chairman of the Works
Committee, Councillors J. Llewelyn Davies and Lewis Williams be
asked to act as the Council's representatives on the Joint Committee.

PROPOSED CRICKET PITCHES - GRANT.

The Chairman of the Barmouth Cricket Club, in a letter dated 11/4/50 points out that the
Barmouth Cricket Club has a small sum of money available
proposed to use in making grants towards the purchase of

HOUSING

WORKS