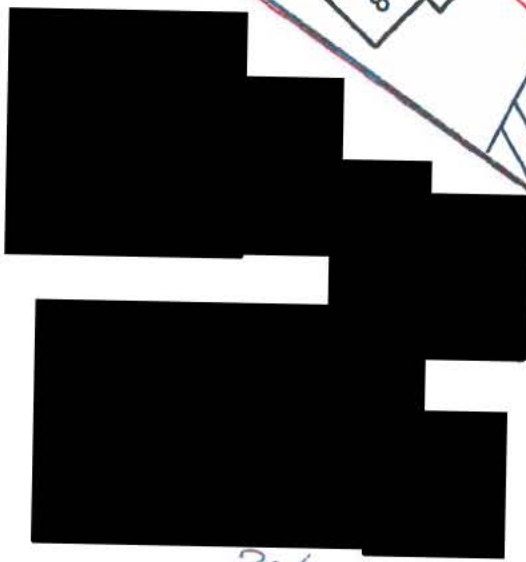
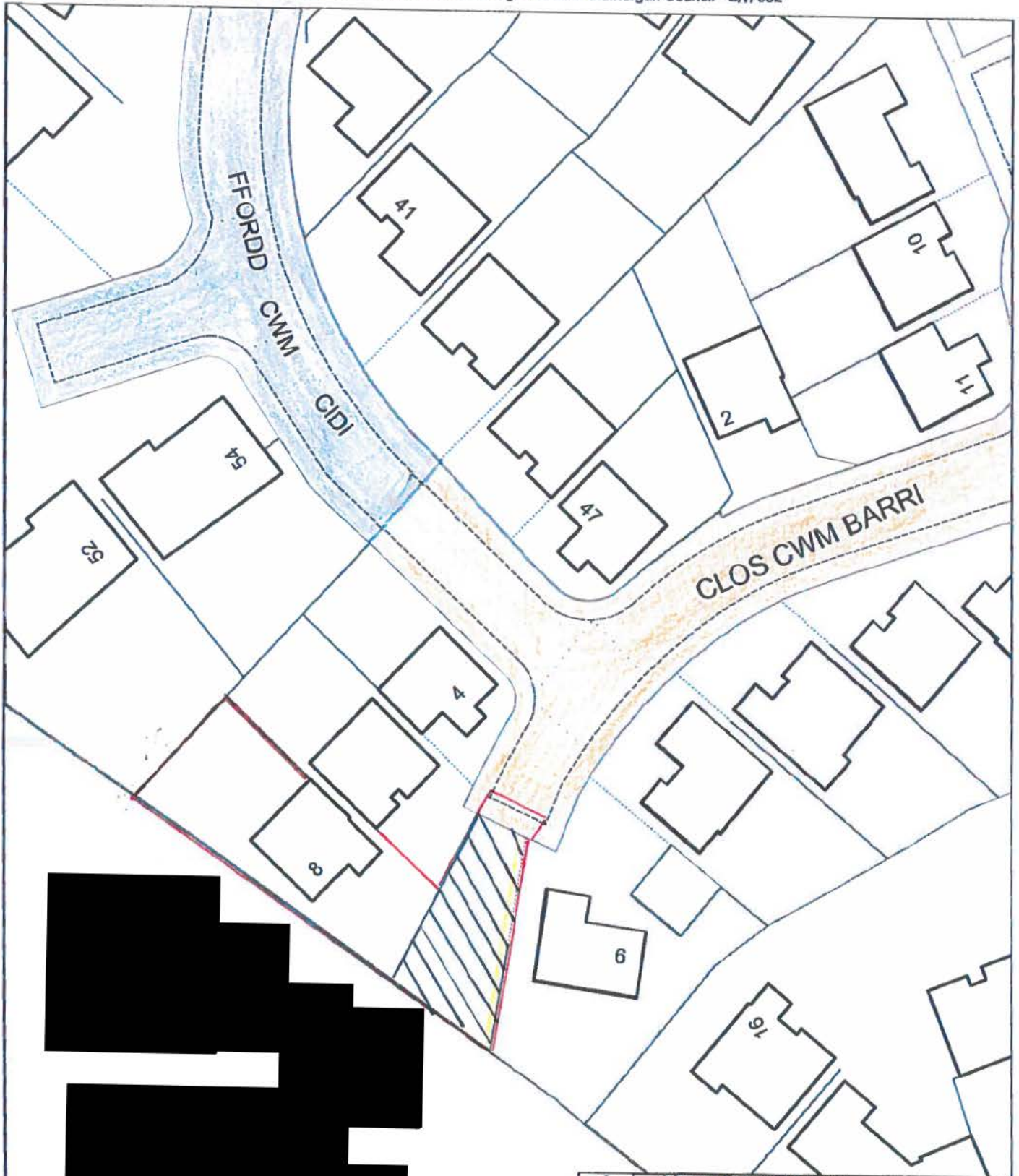


## Declaration made under The Highways Act 1980 Section 31 (6)

<b>File Reference</b>	S010
<b>Description</b>	Land at 8 Clos Cwm Barri, Barry
<b>O.S. grid reference (general location)</b>	309869 167924
<b>Nearest Town/Village</b>	Barry
<b>Town/Community Council</b>	Barry
<b>Deposit of Statement and Map</b>	05.01.2009
<b>Receipt of Statutory Declaration</b>	06.01.2009





20/01/09

**RECEIVED**

20 JAN 2009

ENVIRONMENTAL  
AND ECONOMIC  
REGENERATION

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	<b>The Vale of Glamorgan Council</b>	
Department: CEP		
Current OS Edition		
Drawn By: CJJ		
	Scale      1:500	
	Time        01:44:35 PM	
	Date        20 Jan 2009	

D.E.E.R
RECEIVED
ACTION BY: BA/ST.
NO:
ACK:

**DEPOSIT OF STATEMENT AND PLAN**

**HIGHWAYS ACT 1980 SECTION 31 (6)**

**NOTICE OF INTENTION NOT TO DEDICATE PUBLIC RIGHTS OF WAY**

**TO: THE VALE OF GLAMORGAN COUNCIL**

1) I am and have been since 30<sup>th</sup> July 1999 the owner, frontager and person with a legal interest within the meaning of the above section of the Act, of the land known as 8 Clos Cwm Barri.

\* more particularly delineated on the plan accompanying this statement and thereon edged red.

2) The aforementioned land lie in the parish of:- Vale of Glamorgan.

3) The ways coloured blue on the said plan have been dedicated as highways with vehicle status.

4) The ways coloured orange on the said plan are private highways.

5) The ways coloured yellow on the said plan have been dedicated as footpaths.

6) The land hatched black the Council claim reserved rights for access for Council maintenance vehicles.

7) The X symbol denotes a stile.

8) The deposit shall comprise this statement and accompanying plan.

Signed: [Redacted] Date: 5<sup>th</sup> January 2009

Name: [Redacted] (BLOCKCAPITALS)

Address: [Redacted]

Signed: (witness) [Redacted] Date: 5/1/2009

Name: [Redacted] (BLOCK CAPITALS)

Address: [Redacted]

Occupation: RETIRED... SOLICITOR

**RECEIVED**

05 JAN 2009

ENVIRONMENTAL AND ECONOMIC DEPARTMENT

**STATUTORY DECLARATION HIGHWAYS ACT 1980 s. 31 (6)**

I [REDACTED] do solemnly and sincerely declare as follows:

I am and have been since 30<sup>th</sup> July 1999 the owner frontager and person with a legal interest in the land known as 8 Clos Cwm Barri accompanying the declaration and thereon edged in RED.

The said land has not been adopted as a highway no additional ways have been dedicated over the land edged RED on the plan, other than that coloured yellow (PROW). I have no intention of dedicating any more public rights over my property.

I make this solemn declaration on ..... 6th January 2009 .....

Believing it to be true by virtue of the Statutory Declaration Act 1835.

Declared ... [REDACTED]  
Address ... [REDACTED]

.....  
Before me ... [REDACTED]  
Commissioner for Oaths [REDACTED]



**ADDENDUM TO STATUTORY DECLARATION HIGHWAYS ACT  
1980 s.31 (6)**

I [redacted] make the following declarations in addition to that made by me on 6<sup>th</sup> January 2009:

The way coloured yellow on the map accompanying my original declaration is recorded on the Definitive Map as a footpath but I do not accept the Map and Statement are correct. On 4<sup>th</sup> February I applied under Section 53 (3) (c) (iii) of the Wildlife and Countryside Act 1981 to the Vale of Glamorgan Council for a Definitive Map Modification Order to be made to **delete** the footpath. My Application has been validated and is currently being determined by the Council.

I further declare that in January 2007 the Vale of Glamorgan Council sought to relinquish its reserved rights of access for Council Vehicles to cross over the driveway – the land hatched black on the plan accompanying my Declaration. I agreed in principle to do so on the basis the relinquishment was carried out in a proper and legal manner. To date the Council has not progressed the matter. I have not been able to locate any formal agreement for the creation of the reserved rights of access claimed by the Council but I nevertheless wish to state that I do **not** intend dedicating any that may exist as public rights of way.

I make this solemn declaration on 11<sup>th</sup> May 2009.....

Believing it to be true by virtue of the Statutory Declaration Act 1835.

Declared.. [redacted].....

Address [redacted]

Barry  
Vale of Glamorgan  
CF62 6LR

Before me, [redacted]  
Commissioner for Oaths



## **ADDENDUM NUMBER 2**

### **STATUTORY DECLARATION HIGHWAYS ACT 1980 s31 (6)**

I [REDACTED] make the following Statutory Declaration in addition to those made by me on 6<sup>th</sup> January 2009 and 11<sup>th</sup> May 2009:

On 6<sup>th</sup> January 2009 I made a Statutory Declaration under s.31 (6) of the Highways Act 1980. On the 11<sup>th</sup> May 2009 I submitted an Addendum to my Declaration making clear that although the way coloured yellow on the map accompanying my original Declaration is recorded on the Definitive Map as a footpath that I believed the recording had been made in error. I therefore had made an Application under s53 (3) (c) (iii) of the Wildlife and Countryside Act 1981 for the deletion of the section of footpath coloured yellow.

### **THE PUBLIC RIGHTS OF WAY (REGISTERS) (WALES) REGULATIONS 2006**

#### **Section 31A Register - Regulation 9**

**'An authority must, as soon as practicable, amend the register if it is satisfied that the register contains a material error'**

It is almost one year since I submitted my s53 Application under Wildlife and Countryside Act 1981. During this time cogent evidence has been discovered proving that although PROW 73 'came into being' in 2003 the section of the route A – B has not been installed 'on the ground' in accordance with the Order confirmed by the Inspector. This evidence has been submitted to the Council with requests for a site meeting to take place to discuss the proper location of Order Points A and B and the correct alignment 'on the ground' between these two Points. To date the Council has not acted upon my requests and discuss the affect of material errors on the Section 31A Register and the amendments required for correction.

#### **Order Point A**

Users of PROW 73 will know that Order Point A has **not** been signposted from off the metalled road as per s27 of the Countryside Act 1968. Therefore when Users leave the un-adopted road **Clos Cwm Barri** to proceed over the **private driveway** there is no signage to indicate Order Point A. Consequently the whole 4.5 metre width of the **private driveway** is utilised by Users even though the confirmed Order states the path has a width of only one metre. I recently provided the Council with a photograph of the southwest end of the Clos Cwm Barri hammerhead showing the **private driveway** serving numbers 6 and 8 Clos Cwm Barri with a request that Order Points A and B be annotated on it. In response the Director of Legal and Regulatory Services personally wrote *'I do not feel the annotation of the photograph appropriate'*. I believe that such a stance not only **contravenes the Council's legal duty to amend the Section 31A Register** but also **prejudices my s53 Application** because for the fair and proper determination of my Application Users, the Council and I need to be absolutely clear on the section of PROW 73 it is I seek to delete.

#### **Order Point B**

Users will know that at the point of entry into Porthkerry Park there is currently

a waymarker. The evidence provided by the original Order Applicant and his Chief Witness claimed the access point to the Park was a gap adjacent to and east of the field gate. A fence panel installed by Wimpey in 1999 blocked this gap. However, once the Order was confirmed in 2003 rather than remove the obstructing fence panel to facilitate the path, the Council instead uplifted the field gate from its hinges and moved it one metre westwards and then wired the field gate to the newly erected waymarker. By doing so the Council rendered its own access to the Park via the field gate dysfunctional. (Shortly afterwards I asked the Council to relinquish its reserved rights of access rights over the driveway but it refused to do so.) Most importantly the result was that Order Point B was incorrectly placed on my property boundary instead of that of the adjacent landowners at number 9 Clos Cwm Barri. The Director of Legal and Regulatory Services recently reaffirmed that the field gate was moved by the Council 'out of necessity'. I have legally challenged such an assertion on the basis that the claimed access point to the Park was where the fence panel is currently sited and I served a legal notice under s130 of the Highways Act 1980 on the Council in September 2009 for the removal of the obstructing fence panel. To date the Council has failed to act. Furthermore, from a practical viewpoint I would seriously question the 'necessity' of uplifting the field gate when the fence panel could have been removed with relative ease. I have also asked the Council to re-instate the field gate that forms part of the boundary between my property and the Park that I share with the Council as owners of the Park onto its originally sited hinges. To date these works have not been undertaken by the Council.

In summary there is not only an error on the Definitive Map and Statement which I seek to correct by the making of my Application in February 2009 but also an error on the Section 31A Register because at the time I made the Declaration I had been led to believe by the Council that the path coloured yellow on the map that formed part of my Declaration was on the correct A- B Order line in accordance with the Inspector's Decision. This stance was recently re-iterated in writing by the Council's Director of Legal and Regulatory Services. However, I have received confirmation from the National Assembly for Wales that whilst both the Inspector's Decision and the Sealed Order are legal documents, they serve different purposes. It is the Sealed Order which is the legal document which describes the changes to be made to the Definitive Map and Statement whilst the Inspector's Decision **confirms** that the changes described in the Order should be made.

**I wish to make it absolutely clear that in accordance with the Sealed Order neither Order Point A nor Order Point B are on my property and that the current use of my private drive by members of the public to access Porthkerry Country Park does not represent any intention by me to dedicate public rights of way over property in my ownership.**

The determination of my Application, legal action for the removal of the obstructing fence panel and the relinquishment of the Council's reserved rights of access over my private drive remain unresolved. For these reasons it would

not be expedient for me at this moment in time to take it upon myself to re-instate the field gate. However, because the field gate represents part of my shared boundary I have with the Council and it was interfered with without my express agreement, against my will and **without the legal authority of the Sealed Order** then I reserve the right to re-instate the field gate to its original position as I when I deem it appropriate to do so.

I make this solemn declaration on 19<sup>th</sup> day of January 2010

Believing it to be true by virtue of the Statutory Declaration Act 1835.

Declared... [Redacted] .....

Address [Redacted]  
Barry  
Vale of Glamorgan  
CF62 6LR

Before me [Redacted]

Carey D Bridge  
Legal Executive  
Commissioner for  
87A Holton Road  
Barry  
Vale of Glamorgan  
CF62 4HG

Commissioner for Oaths