

THE VALE OF GLAMORGAN COUNCIL

REQUEST FOR THE USE OF EMERGENCY POWERS – CORONAVIRUS PANDEMIC

SUBJECT: Footpath 73

1. **Originating / Department / Service –**

Regeneration & Planning

2. **Reason for Seeking Emergency Powers –**

PLEASE SPECIFY BELOW ~~and attach appropriate Committee report /
minute/ memo~~ * (* delete as appropriate)

Regulation 9 of The Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020, as amended requires amongst other things for the Council to close of rights of way where it considers them:

- (a) to be liable to large numbers of people congregating or being in close proximity to each other, or
- (b) the use of which otherwise poses a high risk to the incidence or spread of infection in its area with the coronavirus

Where the Council is satisfied that the criteria above is met it is required to close the public path or access land, and keep it closed until the earlier of either the end of the emergency period, or the time when the authority considers that closure is no longer necessary to prevent, protect against, control or provide a public health response to the incidence or spread of infection in its area with the coronavirus.

Authorisation for the closure of Public Footpath 73, Barry was given on 15th June 2020. The path had previously been included within a number of footpaths at Atlantic College, Cosmeston, Dunraven Bay, Ogmores by Sea, and Porthkerry that had been closed at the commencement of the restrictions and were reopened on 15th May.

The decision, as taken on the 15th June took into account landowners' representations, considered in the context of the guidance available at that time. The decision, as taken provided for periodic review including the release of updated advice for people that are shielding. The decision, as taken, made provision for further review.

As a result the continued closure of FP73 has been reviewed and considered in the context of the Council's duties under The Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020, as amended, relevant guidance and the evolving position.

Public Footpath 73 is a path with a legally recorded width of 1 metre. The path is physically contained to this 1m width for approximately 15m from Porthkerry

Country Park entrance towards Clos Cwm Barri. The width is not demarked from a shared private drive over which it crosses for the remaining 15m. The path provides a means of access into Porthkerry Country Park, a destination with a regional profile for the purposes of advice contained within [reopening guidance](#). This access point principally serves users from the local community. The nearest alternative access is 315m to the south east (though diverting to it through the estate is longer than 315m).

The route is presently the only access into Porthkerry Country Park that remains closed.

On-going review of the closure of this Footpath has been made by reference to the four following criteria and in line with the Council's legal duties under Regulation 9 of the Health Protection Regulations, as amended, and referred to above:

- Usage by large numbers
- Nature/location of the path
- Evidence of failure to adhere to social distancing (irresponsible use)
- Underlying health conditions

In respect of the first criteria, levels of use for public footpath 73 are anticipated to be in line with use of the park generally and of other entrance points. It had been considered that increased pressure on walking links into the park may result from alternative forms of visitor transport being restricted (e.g. car park closures) and increased community use due to requirements to remain local. These have now been relaxed, along with the 5 mile rule, and as such levels of use are now anticipated to be closer to normal.

In respect of the second criteria the path itself crosses a private drive in shared ownership. Entrance into the park is a pinch point and restricted physically to a width of 1 metre. Where it is not physically restricted users straying from the path width will enter private property. A path width of less than 2 metres is ordinary throughout the County's Public Rights of Way network and would not typically cause the Council to impose restrictions. Straying onto private property takes into account representations made based on underlying health conditions (see further below), though the properties themselves are located 10-12 metres from the path. Potential 'straying' is impacted by path use levels where the possible occurrence more likely with high use, as users cross.

In respect of the third criteria, the Council in taking this decision does not have before it any evidence of any failure to adhere to social distancing that is distinct from elsewhere in the Country Park or upon its entrance points, of which there are a number. The Council has been made aware of instances of anti-social behaviour affecting property at or around the closure site

The legal duties set out within Regulation 9 do not provide specifically for the closure of foot paths arising from any anti-social behaviour and on the evidence available to it, it is not clear to the Council that the availability of this particular foot path would have any impact on the matters considered here, and the likelihood of such instances contributing to the criteria contained within the Regulations.

In respect of the fourth criteria, the Council has considered representations that an elevated risk might exist as a result of underlying health conditions of local residents. The Council are satisfied that the conditions identified exist and are relevant to its consideration. Footfall at this location, other than from the private residents on Clos Cwm Barri, primarily derives from available access into the park.

This is considered by reference to Visitor Safety Group advocate a proportionate approach to managing risk in outdoor spaces, with the following principles that are supported by the Health & Safety Executive:

In reviewing the decision to close this footpath as taken on the 15th June we have regard to guidance based on the work of Visitor Safety Group, who advocate a proportionate approach to managing risk in outdoor spaces, with the following principles that are supported by the Health & Safety Executive:

- It is important to strike a balance between visitor self-reliance and management intervention.
- It is reasonable to expect parents, guardians and leaders to supervise people in their care.
- It is reasonable to expect visitors to exercise responsibility for themselves.
- It is reasonable to expect visitors not to put others at risk.

We take account of the relaxation of restrictions generally which moderates the footfall at the entrance point subject to this decision, to more typical levels, as referred to above. We further note that relaxation of restrictions by the Welsh Government, including lifting local travel restrictions and reopening of outdoor venues from 13th July are indicative of diminishing numbers of cases in Wales.

In addition we have regard to the advice of the Welsh Government's Technical Advisory Cell that '*The virus is very likely to decay very quickly (a few minutes) in air and on surfaces when exposed to sunlight. This adds to the evidence that outdoor environments are highly likely to be a lower risk for transmission*'.

The temporary closure of this footpath as determined on the 15th June and subject to review, will be revoked with effect from Monday 13th July 2020. Signage will be provided encouraging social distancing and the availability of the path monitored by reference to the above four tests.

3. **Policy Framework and Budget** –

PLEASE INDICATE as appropriate that the matter that you are seeking the use of Emergency Powers for is a Cabinet or Council function.

Cabinet

Council

4. **Relevant Scrutiny Committee** –

Environment and Regeneration

IMPORTANT

The following sections **must** be completed **prior** to the request being submitted to the Democratic and Scrutiny Services Section for processing.

I confirm (delete as appropriate)

(a) That there are no financial implications and the relevant Cabinet Member, Leader and / or the Deputy Leader has been consulted and is in agreement with the use of Emergency Powers; **or**

~~(b) That, in view of the financial commitments, the Head of Financial Services, the appropriate Chief Officer, the relevant Cabinet Member, Leader and / or Deputy Leader have been consulted and are in agreement with the use of the Emergency Powers and that~~

~~(c) For matters relating to the Planning Committee the Chairman of the Planning Committee has also been consulted and is in agreement with the use of Emergency Powers;~~

~~(d) For matters relating to the Licensing Committee the Chairman of the Licensing Committee has also been consulted and is in agreement with the use of Emergency Powers.~~

~~(e) For matters relating to the Welsh Church Act Estate Committee the Chairman of the Welsh Church Act Estate Committee has also been consulted and is in agreement with the use of Emergency Powers.~~

~~(f) For matters relating to policy the relevant Scrutiny Committee Chairman has been consulted and is in agreement with the use of Emergency Powers.~~

Signed: ..M. Goldsworthy.....
(Instructing Chief Officer)

Date: ...7.7.20.....

Please print name: Marcus Goldsworthy - Head of Regeneration and Planning

I hereby approve under my Emergency Powers the attached recommendation(s) on behalf of the Cabinet / Council (please delete as appropriate).

Signed: D.R. Thomas.....
Managing Director

Date: 9th July 2020.....

NB Should the relevant portfolio Cabinet Member be unable to be consulted only the Leader and / or Deputy Leader be consulted in their absence.

N.B. Cabinet: 23rd March, 2020 Minute No. 295