

Penderfyniad ar y Gorchymyn

Order Decision

Ymchwiliad a agorwyd ar 19/10/2016

Inquiry opened on 19/10/2016

gan Peter Millman BA

by Peter Millman BA

Arolygydd a benodir gan Weinidogion Cymru

an Inspector appointed by the Welsh Ministers

Dyddiad: 14/11/16

Date: 14/11/16

Order Ref: D6820/W/14/516046M

The Welsh Ministers have transferred the authority to decide this Order to me as the appointed Inspector.

- This Order was made on 2 January 1991 under Section 54(1)(a) of the Wildlife and Countryside Act 1981 ("the 1981 Act") and is known as the Dyfed County Council (Melindwr) Definitive Map Reclassification Order 1991.
- The Order proposed to reclassify a number of Roads Used as Public Paths ("RUPPs") in Melindwr. Some were reclassified without objection. Others were reclassified in 2015 after objections had been considered. All except one have now been reclassified.
- The Order proposed to reclassify RUPP 14/26 to the status of Bridleway. I considered the evidence and proposed that, instead, the Order should be modified so that the RUPP would be reclassified as a Footpath.
- In accordance with paragraph 8(2) of Schedule 15 to the 1981 Act I gave notice of my proposal to confirm the Order with this modification.
- Twelve objections to my proposed modification and one statement supporting it were received.

Summary of Decision: the Order in relation to path 14/26 is confirmed with the modifications detailed in the formal decision below.

Preliminary matters

1. RUPP 14/26 was shown in 1991 on Dyfed County Council's Definitive Map as starting, at its western end, at the entrance to the drive to Bro-dawel. The RUPP ran along the drive to the house, and then, past the house, continued along a track to the east, between Coed Troed-y-rhiw and the Afon Melindwr, to reach an unclassified road at Old Goginan. I have attached a map at the end of this decision which shows the places referred to in this decision, and RUPP 14/26 highlighted in yellow (overlaid with pink/purple in the central section). It will be noted that I have given some of the places mentioned slightly different spellings. This is because the various documents are not always consistent. Ty'n-y-pwll, for example, is sometimes referred to as Tyn Pwll.
2. The objectors (in 1991) to the reclassification argued that the correct status of the route was footpath, although they disputed its position in the vicinity of Bro-dawel as well. It is not within my powers to modify the position of a right of way.
3. On consideration of the evidence available to me in 2015 I concluded that the correct status was footpath, so I proposed that the Order in relation to RUPP 14/26 (a number

of other RUPPs were reclassified in the same Order) should be modified so that it would be recorded on the Definitive Map as a footpath.

4. There were twelve objections to my proposal, all of which argued that the correct status of the route was bridleway. The objectors included Ceredigion County Council ("Ceredigion") and the British Horse Society, both of which were represented at the inquiry. To save confusion, I refer in the remainder of this decision to the objectors to my interim decision as the objectors. The objectors in 1991 wrote in 2016 in support of my proposed modification. They continued to argue that the route should be recorded as a footpath. I refer to them below as 'supporters'. They were represented at the inquiry by Mrs K Price of Troedrihiwcastell.

Main issue

5. The main issue is whether new or newly discovered evidence, considered with all the other relevant evidence available to me, should lead me to alter my conclusion that only footpath rights exist on RUPP 14/26. I set out, in my interim decision of 19 November 2015, the test from section 54 of the 1981 Act, and I repeat it here. If the available evidence about the RUPP does not show that public vehicular rights exist, then the route **must** be reclassified as a bridleway **unless** that evidence shows that bridleway rights **do not exist**, in which case the route must be reclassified as a footpath. The standard of proof is the balance of probabilities. The burden of proof is on those who assert that no bridleway rights exist to show that this is the case. No party now argues that public vehicular rights exist on 14/26. I note here that two unofficial acronyms for subsets of the category RUPP were used in many definitive maps and statements including those in Cardiganshire. They were CRB for Public Cart or Carriage Road mainly used as Bridleway, and CRF for Public Cart or Carriage Road mainly used as Footpath.

Reasons

6. I set out below the reasons I gave in 2015 for coming to the conclusion I did. I shall then consider the new evidence which has been discovered in the light of all the available relevant evidence and recent submissions. I shall then reconsider my conclusions.
7. I wrote the following in 2015:
 - a. *The objectors argue that the correct status of the route is footpath, but additionally that the route of the RUPP is 'wrong' at the Bro-dawel end, and that the correct route ran along a parallel footpath to the north (not currently recorded on the Definitive Map), joining the remainder of the RUPP leading towards Old Goginan near the house. It is clear that the drive to Bro-dawel only came into existence as a physical entity in about 1900. The route to the east of Bro-dawel, between Old Goginan and the Tyn-y-pwll lead mine, existed much earlier. From around 1910 the two routes are shown on Ordnance Survey plans as linked just to the north-east of the house at Bro-dawel.*
 - b. *Alleged rights of way in the parish of Melindwr were surveyed in the early 1950s and the maps and schedules were approved at a parish meeting at Goginan in 1956. The map shows the route surveyed as that which is currently shown as a RUPP on the Definitive Map. It is not, therefore, 'wrong' in the sense that the depiction of the route has altered since it was first surveyed. The description in the survey, however, is odd. It is very cursory, and simply reports that the path starts at Troedyrhiw Farm (which is at the Old Goginan end) and finishes at a junction*

with footpath 24. Footpath 24 (unless the numbering has subsequently changed, which seems doubtful) runs to the south of the Afon Melindwr, and links to 14/26 via a footbridge near Ty'n-y-bedw, well to the east of Bro-dawel. There was no objection to the depiction of this route as a RUPP on the Definitive Map.

- c. The question to be asked of the objectors' evidence is this: does it show that at the time 14/26 was recorded as a RUPP in the 1950s it did not carry bridleway rights? Evidence of non-use by horse riders since that time can be given little weight, particularly given that the inhabitants of Bro-dawel have actively discouraged use. The question, it must be emphasised, can only be applied to the route of the RUPP shown on the Definitive Map; the question of whether a different route should have been shown cannot be considered under s54 of the 1981 Act.*
- d. The objectors' evidence relating to the time before 14/26 was recorded as a RUPP is that the drive to the house was described as a private driveway in a draft lease of 1906, that there has always been a notice on the gate at the start of the drive stating 'private', that the residents of Bro-dawel – members of the same family – have always been on site since the early 20th century and have seen no equestrian use, and that the same family has been in residence at Troedyrhiw since 1947 and have seen no equestrian use. One resident of Bro-dawel was born there in 1928 and lived there ever since.*
- e. That evidence must be balanced against the evidence of the survey in the 1950s. Had the description in the survey clearly stated that the route taken by the RUPP was along the drive to Bro-dawel it would have outweighed the evidence of the objectors, but given what I noted about the survey, which is the only evidence supportive of bridleway rights (above at paragraph 24 [i.e. paragraph 24 of my interim decision]), it does not. I conclude that it is more likely than not that no bridleway rights exist on RUPP 14/26 and that it should therefore be reclassified as a footpath.*

Some of what I stated in paragraph b above is plainly wrong – the parish survey map for Melindwr is in fact lost. What I was led to believe to be the parish map was a map prepared by Cardiganshire. It was therefore not correct of me to state unequivocally that the route surveyed was the route that was later shown on the Definitive Map, although it is possible that it was. I also referred to the original footpath 24 as if it still carried that number – the part that joins 14/26 is shown on the Definitive Map as footpath 27.

- 8. Several documents have been discovered among records held by Ceredigion which were not made available to me in 2015. Some relate to the compilation of the first Definitive Map of the area, which was published in 1966 with a relevant date of 18 October 1956. Other documents concern correspondence between the occupier of Brodawel in the early 1970s, Melindwr Parish Council and Cardiganshire County Council's Planning Department. It may be that officers of Ceredigion were unaware in 2015 that they possessed these potentially relevant documents.
- 9. The 1949 National Parks and Access to the Countryside Act set out the process for the first national recording of public rights of way. Paths were to be surveyed parish by parish and the parish survey (which consisted of a map or maps and a written survey describing alleged rights of way) was to be approved by a parish meeting. Surveying authorities (usually county councils) supplied maps to parish councils, commonly Ordnance Survey maps at a scale of 1:10560 (six inches to the mile), on which paths were to be marked. These maps, after local approval, were sent back to the

surveying authority, sometimes via an intermediary such as a district council. The surveying authority then prepared and published a draft map of rights of way, to which objection could be made, then a provisional map, again to which objection could be made (but by a different process) and finally the Definitive Map, which was conclusive evidence of the rights depicted on it. At each stage a statement was prepared, in which the separate paths were described in more or less detail. The Definitive Map for Cardiganshire was at a scale of 1:25000 (2½ inches to the mile), so it is possible that in this case the survey map was also at that rather small scale.

10. As noted at the end of paragraph 7 above I stated in my 2015 interim decision that the map used for the Melindwr parish survey was available, but it was not. The maps which appear to have survived the two local government re-organizations since the 1950s – Cardigan County Council to Dyfed County Council to Ceredigion County Council – are what Ceredigion’s witness called the ‘drafting’ map, which he understood to be an ‘unofficial’ map drawn up by Cardiganshire prior to the official Draft map, and the Definitive Map, both of which show 14/26 in its current position.
11. In 2015 partial records of the survey carried out by Melindwr Parish Council were available. I referred to the survey sheet that was provided to me as rather odd (see paragraph 7b above) because it described only the eastern part of what became 14/26. Subsequently, Mrs Price discovered, in Ceredigion’s files, the survey sheet which referred to the route west of its junction with what is now footpath 27. This sheet described a long route, numbered 24 originally, but which was split later into paths 21, 19, 27, 26 and 23. The whole route was described as a footpath, starting from the A44 by Goginan School, leading to Penbryn Farm, Tyn Bedw and Brodawel and finishing at Tyn Pwll. I have highlighted it in pink/purple on the map attached at the end of this decision, starting from the A44 by the letters PO, running westwards and then north-westwards, although the supporters argue that it followed a different route between Bro-dawel and Ty’n-y-pwll (see below at paragraph 17). This survey sheet was signed by the two Parish Councillors, J O Morgan of Tanffordd, Capel Bangor and J G Thomas of Troedrhiwlwbe, Capel Bangor, who signed the survey sheet for the eastern part of the route, which was described as a CRF, i.e. a public cart or carriage road mainly used as a footpath. The route that became RUPP 14/26 was, it is clear, regarded by the surveyors as part CRF and part footpath.
12. When the only parish survey sheet available was the one for the eastern section of what became 14/26, objectors made much of the evidential weight which they believed should be given to it because of the reputation and local knowledge of the two Parish Councillors who had signed it. One local rider wrote: *In fact both signatories to the survey forms were very local. I have interviewed Mr Thomas’s son, who like his father, farms at Troedrhiwlwba. He stated that his father in fact served as chair of the community council for many years and was a very conscientious man, very well respected in the community (confirmed by talking to other local people). As a farmer he knew the local paths intimately, using them daily in the course of his work and Council duties, and lived on 1¾ miles from Bro-Dawel. Mr Jones, for Ceredigion, stated in his proof: It was clearly evident to members of the Community Council that when they were recording rights of way, they needed to distinguish the rights along a particular path; clearly if 14/26 was only considered a public footpath at the time of registration then the Community Council were open to classify it as such; the fact that they chose to include it as a CRF rather than a footpath is a strong indication of the higher rights that were known to exist on it at that time. By ‘community council’ these statements must mean ‘parish council’, since community councils were not introduced into Wales until 1974. It might be imagined that when the second survey*

sheet describing the western section of what became 14/26 as a footpath was discovered, the same conclusions about the weight to be given to the evidence of the Councillors would be arrived at, but this was not the case.

13. When, at the inquiry, I asked Mr Jones about the weight he thought should be accorded to the survey which stated that the western end of the route was a footpath, given what he had written about the eastern half of the route, he did not, it appeared to me, give a satisfactory answer. His response, and that of Mr Kind, was, in brief, that although Cardiganshire was required by the 1949 Act to consult parish and district councils, it was not bound to accept the information provided by them in producing a Draft map. It was the Draft map, and subsequently the Definitive Map, which were the crucial, and evidentially very weighty, documents.
14. A question which, it seems to me, Mr Jones should have at least asked himself, is this: What reason might Cardiganshire have had for deciding, against the opinion of two reputable local parish councillors to the views of whom concerning the eastern part of 14/26 I have attached significant weight, that the western part of 14/26 was a public cart or carriage road? Of course, given the disappearance of the parish survey map and, it would seem, any correspondence between Melindwr Parish Council and Cardiganshire that might have shed light on that question, it is impossible to answer with any degree of certainty, but the question should, in my view, have been considered in assessing the balance of evidence.
15. An unsigned, undated 'schedule of information' was prepared from the survey sheets. It is likely that the document was prepared by Cardiganshire from the information on the parish survey sheets, since the numbering of paths on the survey sheets compiled by the Parish Council has been altered on the schedule of information to that subsequently shown on the Definitive Map. The eastern half of RUPP 26, for example, was numbered 36 by the Parish Council. The schedule of information for path 26 describes it as a CRF (see paragraph 5 above). The starting point was originally described as 'Junction with paths 23 & 23A near Brodawel, but the 'Junction with paths 23 & 23A' is crossed through and 'Terminus of Unclassified Road' has been inserted in its place. The finishing point of the route is described as 'County u/c [unclassified] Rd near Troedyrhiw'. The final description of the starting point is therefore 'Terminus of Unclassified Road near Bro-dawel'. The schedule therefore encompasses the whole of RUPP 26 and describes what is currently shown on the Definitive Map. There seems little doubt that the change in the description of the starting point came about as a result of the County Council adopting what had been path 23 as an unclassified county road in 1966. This road leads to the entrance to the drive to Bro-dawel. Mr Kind, for the British Horse Society, asserted that the fact that the schedule of information was neither signed nor dated was of no evidential consequence. Citing the case of *R v Soneji and another* (UKHL49 2005) he asked whether Parliament intended that a failure to sign or date a schedule of information would vitiate the [definitive map] process. It seems to me that that question rather misses the point, which is that the failure to sign or date the document means that it is not clear when, in the course of that process, the document was prepared, and not clear what status the person preparing it had. If neither of these things is known, then the value of the document may be, in my view, reduced. It does seem, though, that the change from part CRF, part footpath to wholly CRF was made before the publication of the Draft map, since the 'drafting' map (above at paragraph 10) showed the whole route as a CRF.

16. As I indicated in my interim decision (paragraph 7a above), Bro-dawel and the drive leading to it came into existence at or near the beginning of the 20th century. I base that conclusion on the fact that neither the house nor the drive (or a path or track in the position later occupied by the drive) is shown on the 1888 1:2500 Ordnance Survey plan, but both are shown on the 1905 revision. Mr Kind asserted that it was 'entirely possible' that the drive to Brodawel was established on the line of an ancient highway. I have seen no evidence to support that assertion. Mr Jones asserted that it was not uncommon for public paths, i.e. footpaths or bridleways, to run over the course of a private drive. I accept that to be the case, but it does seem odd, and unusual, that a 'public cart or carriage road', where no such track had previously physically existed, should have been dedicated over such a fairly recently created private drive. The draft tenancy agreement for Bro-dawel of 1906 would not have needed to describe the drive as private had it already been a public carriage road. The current resident of Bro-dawel has lived at the property since 1928 and her family since 1906, and I have seen no direct evidence to contradict her assertion that no public vehicular rights were dedicated over the drive during her lifetime. The Definitive Map and Statement contradict that assertion, but to produce the Definitive Map showing the drive to Bro-dawel as a public vehicular road (which is what a CRF is), Cardiganshire must, if it followed the correct procedures in producing it, have been provided with evidence which contradicted that of a respected and conscientious local man (Parish Councillor Mr J G Thomas of Troedrihlwba) and his fellow Parish Councillor that the route carried no higher public rights than that of footpath. Cardiganshire can hardly have obtained such evidence from the owner of Bro-dawel, or from the Parish Council. If there was no express dedication of vehicular rights by the owner of Bro-dawel, Cardiganshire must have received evidence that the drive to the house had been used by the public in vehicles such that dedication by the landowner could have been inferred. That is possible, but hardly seems likely.
17. The 1905 Ordnance Survey 1:2500 plan shows a footpath running roughly east-west a short way north of Bro-dawel. Its line may be seen on the map attached below as the line of a hedge roughly parallel to the drive to Bro-dawel and a short way north of it. It may have connected at its eastern end with what is now RUPP 26 immediately east of Bro-dawel, and with the public footpath leading north to Ty'n-y-pwll at its western end. It is a path on which Dyfed County Council in 1976 recorded a stile, and also the route that a former postman stated he had used on his rounds in the late 1950s. The words used to describe the original footpath 24 (paragraph 11 above) are sufficiently imprecise to have applied (as the supporters believe they do) to this footpath rather than the longer, more convoluted, route incorporating the drive to Bro-dawel.
18. I now turn to evidence post-dating the production of the first Definitive Map, which was published in 1966.
19. On 16 March 1971 Mrs Boon, the current owner's mother, who lived at Bro-dawel, wrote to Melindwr Parish Council stating that she had been concerned and distressed to learn that the drive to that property was shown on the Definitive Map as a public right of way, i.e. as part of RUPP 14/26. She informed the Council that she had contacted the County Council at Aberaeron and had been told that the map had been 'made out' on information supplied by the Parish Council, which had included a map. Minutes of a meeting of Melindwr Parish Council the following month refer to a letter from Mrs Boon. These state that she strongly resented the recording of the drive as a public right of way and report her as stating that 'recently the public have used it for pony trekking'. No mention of pony trekking or any other equestrian use is contained in the letter from Mrs Boon. The minutes go on to state: *This matter was discussed*

*fully and long-serving members of the Council refuted the accusation that the drive had been marked as 'Right of Way'... The Clerk wrote to the County Planning Officer about Mrs Boon's letter, stating *The Parish Council wish to correct this error as it was never marked or classified on the map as a public right of way. This drive has always been a private one; the public right of way has been marked on the plan as being higher up than the property of 'Bro Dawel'.**

20. It seems likely to me that the 'higher up' footpath was the one shown on the 1905 Ordnance Survey plan (paragraph 17). It is north of Bro-dawel and higher up.
21. At a Parish Council meeting later that year it was reported that the Clerk had visited the Planning Department and had *expressed the Council's concern at the error on the Definitive Map. From the conversation it appeared that there had been a misunderstanding.* The County Council is reported to have suggested that the matter be cleared up by asking the Rural District Council for a diversion order.
22. Ceredigion's response to the assertion by Mrs Price that these documents were evidence of a possible error on Cardiganshire's part in showing the RUPP along the drive to Bro-dawel, was to refer to the case of *R v Secretary of State for the Environment, ex parte Hood* (1975), a RUPP reclassification case, in which Lord Denning said in his judgment: *The Definitive Map in 1952 was based on the evidence then available, including no doubt the evidence of the oldest inhabitants then living. Such evidence may well have been lost or forgotten by 1975. So it would be very unfair to reopen everything in 1975.* The Definitive Map, Ceredigion argued, must therefore be given the greatest weight. Given the reference to long-serving councillors in the Melindwr minutes I asked Mr Jones if he had checked those minutes to see if any of the councillors serving in 1971 were the same as those serving in 1956. He answered that he had not and referred to Ceredigion's limited resources.
23. In his judgment in the *Hood* case, Lord Denning noted that there was no new evidence; it would have been a matter of looking again at the same evidence. The facts in this case are materially different. Evidence which may cast doubt on the correctness of the process in the 1950s has been discovered and it must be right to consider it.
24. If no more than footpath rights exist on 14/26 west of the junction with footpath 27, yet bridleway rights exist to the east, the result would be a cul-de-sac bridleway running westwards from the road at Troedrhiw. That this is at least possible is suggested, though with no great weight, by historical evidence provided by both supporters and objectors. There can be no doubt that from medieval, if not Roman times, until some time in the late 19th century there were silver and lead mines at Goginan and Ty'n-y-pwll. In the 1850s there were, according to *The Old Metal Mines of Wales, part 2 Cardiganshire*, cited by Mrs Price, 400 miners working these mines. The 1888 Ordnance Survey plan depicts 'Ty'n-y-pwll Mine (lead)' while the 1905 plan refers to 'Ty'n-y-pwll Mine (lead, disused)'. The landscape in the area in the late 19th century would have been very different from the purely rural one of today. Goginan would have been a village of miners' cottages. It seems likely that there were vehicular tracks to these mines, possibly public ones. Lady Kirk, for the Byways and Bridleways Trust, objecting to my proposed modification, put it thus in her written statement: *...RUPP 26 would be the access for miners and supplies from Goginan, but it would hardly be the chosen route for heavily laden pack ponies and their drovers taking lead down to more populated areas and the coast, to the west.* Mr Kind argued that the parish surveyors in the 1950s would have had access to adult living memory going back to the middle of the 19th century. If so they would have been aware of the

mining activity. It seems to me that there is nothing inherently inconsistent in their recording a cul-de-sac public cart road to these mines. It would be no more odd than a dead-end public cart road leading to a farm.

25. Mr Jones argued that the parishioners of Melindwr would have been aware of the production of the Map through its various stages of Draft, Provisional and Definitive and that it was likely that it would have been the subject of local discussion. Mrs Price produced evidence that notice of the publication of the various Maps was given in the London Gazette and the Cambrian News. She had obtained a copy of the notice given in the London Gazette, which had stated that the maps were available for inspection at Aberystwyth and Aberaeron as well as at a few police stations, for example at Devil's Bridge, Talybont and Llanilar, none of which was within easy reach of Goginan, the principal settlement in Melindwr, the closest police station being Devil's Bridge, at least 6 miles away. I have seen no evidence that the Definitive Map process was the subject of local discussion outside the Parish Council, and it seems to me quite possible that local landowners would not have been aware of the process or, if they were, would not have bothered to travel to a police station outside the parish to view the maps particularly if they assumed that the information agreed and supplied to Cardiganshire by the Parish Council would be reflected in what was shown on the Definitive Map.
26. To summarise the position thus far: the view of the represented objectors is that the depiction of 14/26 as a RUPP on the Definitive Map effectively trumps any other evidence supporting the view that bridleway rights do not exist. Mr Kind expressed it in this way: *If the parish surveys can be taken to outweigh the final Definitive Map and Statement here, then they must generally – elsewhere – outweigh the final Definitive Map and Statement. That cannot be right.* Ceredigion referred, at the inquiry, to the presumption of regularity, citing the case of *Trevelyan v Secretary of State* (2001). That case was to do with the possible deletion of a route shown on the Definitive Map as a bridleway. Lord Phillips MR held that: *Where the Secretary of State or an inspector appointed by him has to consider whether a right of way that is marked on a definitive map in fact exists, he must start with an initial presumption that it does. If there were no evidence which made it reasonably arguable that such a right of way existed, it should not have been marked on the map. In the absence of evidence to the contrary, it should be assumed that the proper procedures were followed and thus that such evidence existed. At the end of the day, when all the evidence has been considered, the standard of proof required to justify a finding that no right of way exists is no more than the balance of probabilities. But evidence of some substance must be put in the balance, if it is to outweigh the initial presumption that the right of way exists. Proof of a negative is seldom easy, and the more time that elapses, the more difficult will be the task of adducing the positive evidence that is necessary to establish that a right of way that has been marked on a definitive map has been marked there by mistake.* It seems to me that the reasoning of Lord Phillips expresses the operation of the presumption of regularity in the sort of situation with which we are concerned here.
27. In the case of *Trevelyan* the bridleway in question was shown on the Definitive Map (for Lancashire) as a bridleway following its inclusion – as a bridleway – in the survey carried out by the relevant parish's representative on the rural district council. There was no alteration of alleged status between the survey and the depiction on the Definitive Map. Nevertheless, the judgment is a reminder that there is a presumption, albeit rebuttable, that the Definitive Map is correct, and that evidence of some substance is needed to rebut that presumption.

28. It seems to me that the evidence and submissions discussed in paragraphs 10 to 25 above are consistent with the following sequence of events.
29. From before the end of the 19th century there existed a track leading from the road at Troedrhiw (at Old Goginan) towards the lead mine at Ty'n-y-pwll. It is not disputed that this track was of considerable antiquity. It was considered locally to carry public carriageway rights. In 1888 no defined path or track that was visible to Ordnance Surveyors led westwards from its end, which was just to the east of where Bro-dawel was built. By 1905 Bro-dawel was built, and it was accessed by a newly made drive from the road leading north and north-east from Cyncoed. A route, shown by the Ordnance Survey as a footpath, also came into existence around that time running east-west a short way to the north of Bro-dawel. This may have connected the track from Troedrhiw to the path leading to Ty'n-y-pwll. The evidence does not show clearly that the drive to Bro-dawel was not used by the public on foot or horseback as part of a through route in the first half of the 20th century. The evidence of owners and occupiers of Bro-dawel suggests that no public carriageway rights were dedicated expressly or by implication over its drive in the first half of the 20th century. I give the evidence noted in this paragraph a little weight in support of the view (held by the Parish Council in 1956) that public carriageway rights did not exist over the western part of what became 14/26 in the early 1950s.
30. When Parish Councillors, who were agreed by both supporters and objectors to have been conscientious and reputable local people who would have been very familiar with the area, surveyed what became 14/26 in the early 1950s they believed that the eastern half of the route carried public carriageway rights, but was used by the public mainly as a footpath. On the other hand, they considered the western half of the route not to carry public carriageway rights but to be a footpath. There is a possibility, which cannot be proved from the available evidence, that the route surveyed by the Councillors and considered to be a footpath included a path north of Bro-dawel and not its drive. I give the new evidence noted in this paragraph considerable weight in support of the view that neither public carriageway nor public bridleway rights existed over the western part of 14/26 when it was recorded by the Parish as a footpath.
31. Cardiganshire, on receiving the written survey, and probably a map, from the Parish Council, marked its map to show the whole of 14/26 as a RUPP, including the drive to Bro-dawel. No one objected to the depiction of 14/26 as a RUPP on the Draft or Provisional maps, copies of which were not displayed locally on publication. While I must give the fact that 14/26 was shown on the Definitive Map as a RUPP throughout its length a great deal of weight, that weight is diminished to some extent by the failure to provide, or to attempt to provide, any explanation as to why the views of two reputable local councillors were not carried over to the Draft and later Definitive Maps.
32. When, however, the owner of Bro-dawel contacted the Parish Council in 1971, Parish Councillors, having taken into consideration the knowledge of long-serving Councillors, formed the view that Cardiganshire had mistakenly shown the RUPP following the drive to Bro-dawel. Parish Council minutes suggest that Cardiganshire might have conceded that there had been an error. I give this evidence considerable weight in support of the view that an error was made by Cardiganshire in depicting the western half of 14/26 as a RUPP and in support of the view that only public footpath rights (if any at all) existed on the continuation of the route westwards from the junction with footpath 27.

33. I conclude from all the evidence discussed above that, despite the great weight to be accorded to the depiction of 14/26 in the Definitive Map and Statement, the combined effect of the evidence of the Melindwr Parish survey, together with, to a lesser extent, the correspondence and minutes from 1971 and the background mapping evidence are of sufficient substance to outweigh it. It follows that I conclude that Cardiganshire was in error when it showed the western section of 14/26 as a RUPP on its definitive map.
34. In 2015 I proposed to confirm Order 516046 with the following modifications: *in the line referring to C.R.F. 14/26 in the Schedule to the Order, delete the word 'Bridleway' and insert the word 'Footpath' in its place. Delete the line in the Schedule referring to 14/85.* No-one objected to the proposed modification referring to 14/85 (which has no connection with 14/26). In view of the conclusions drawn above I now consider that the Order should be confirmed so that part of 14/26 is shown as footpath and part as bridleway.

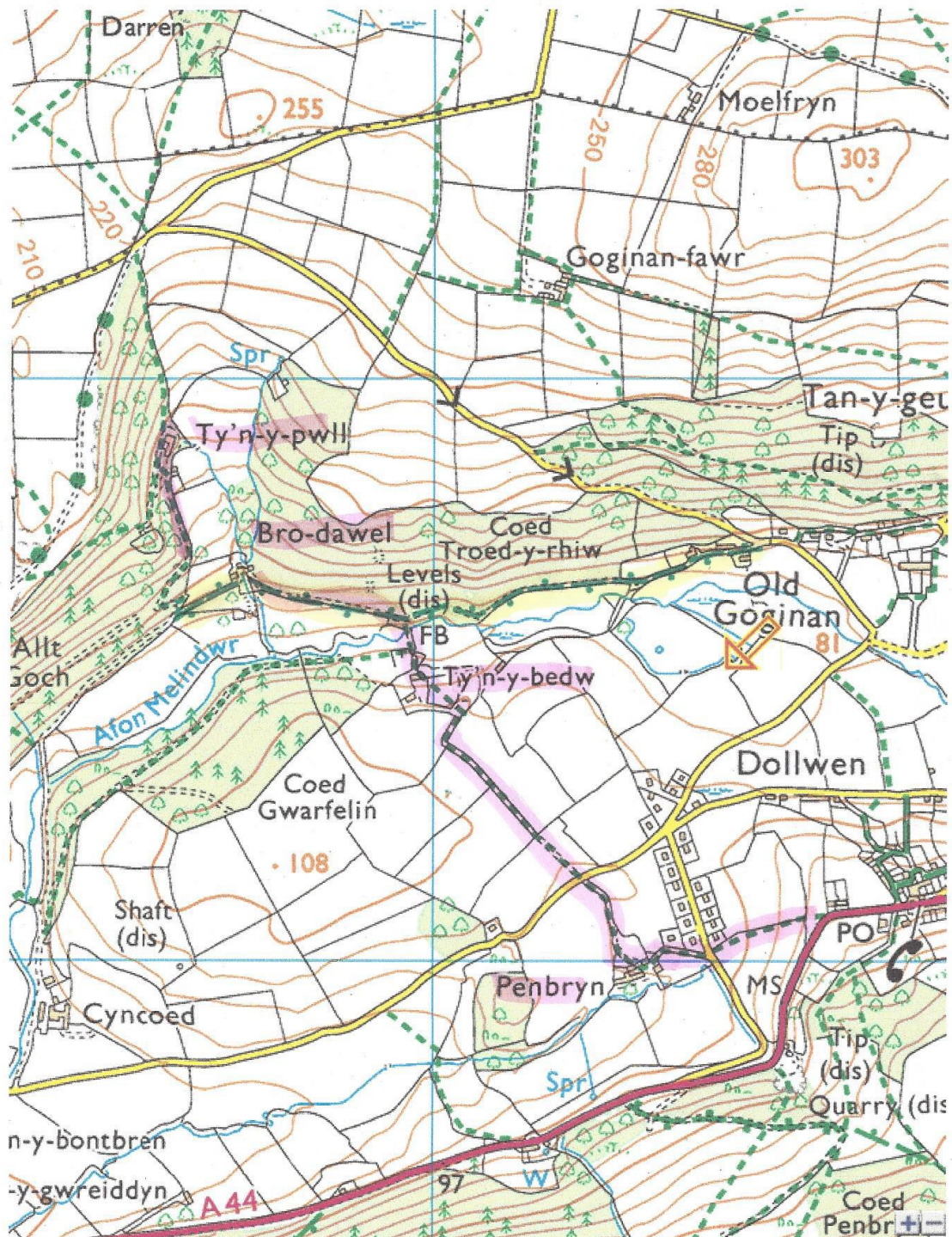
Formal Decision

35. The Order is confirmed with the following modifications:

- Delete the line referring to C.R.F. 14/26 in the Schedule to the Order, and insert the following in its place: '4 C.R.F. 14/26 Junction with paths 23 and 23A to junction with footpath 27 Footpath, Junction with footpath 27 to rd near Troedrhiw Bridleway.' Delete the line in the Schedule referring to 14/85.

Peter Millman

INSPECTOR



APPEARANCES

For Ceredigion County Council

Miss M Hughes Solicitor employed by the County Council

She called:

Mr E Jones Public Rights of Way Officer

Supporters of the proposed modification

Mrs K Price Landowner

Objectors to the proposed modification

Mr A Kind Representing the British Horse Society

DOCUMENTS HANDED IN AT INQUIRY

1. Mr Kind's closing submission