

Re: Objection to the Extension of the Alleged Footpath in the DMMO Application

Dear Catrin Davies,

We are writing in response to the revised map and consultation regarding the Definitive Map Modification Order (DMMO) application, which now includes a significant extension to the alleged footpath, from Point B to Point C, beyond the original route from Point A to Point B.

After reviewing the application again, we have identified several legal and procedural concerns that demonstrate why the alleged routes in question (A-B-C) should not be included in the Definitive Map. We would like to comment as follows:

Lack of Historical Continuity

It is clear that the original route of the alleged footpath (A-B), as submitted, did not connect to another highway prior to the creation of the coastal path in 2012. Before this date, the path terminated without linking to any legally recognised public route, which is a key requirement for the creation of a footpath. This failure to connect to a highway contradicts the legal rules for establishing a footpath and undermines the claim that the route has been continuously used as of right for the 20 year period before the application was made.

Reactive Amendment

The extension of the alleged footpath (B-C) appears to be a reactive amendment by GCC following our previous objections, which highlighted a fundamental flaw in the original claim. The fact that GCC is only now seeking to alter the route suggests that the original claim was invalid and did not meet the necessary legal threshold for recognition as a public right of way. The extension appears to be an attempt to rectify a defective application rather than an objective determination of historic rights.

Lack of Proper Consultation and Procedural Concerns

We have previously submitted objections to the original DMMO application and raised additional concerns over time. These have also included evidence of signs, gates and a barrier from the Menai Bridge entrance in addition to the Treborth Road entrance. However, we have yet to receive a response or queries to our landowner objections from GCC. The sudden addition to the route (B-C), years after the original application (A-B), further highlights procedural irregularities in the handling of this application.

Objection to Route Change

The extension of the alleged footpath raises serious procedural concerns and legal questions regarding the validity of the current application. The original application was submitted for the route from Point A-B. The extension to Point C constitutes a substantial change, effectively doubling the length of the claimed footpath. This is not a minor adjustment but a fundamental alteration to the claim, with significant potential legal consequences. It is not the route submitted with the application. There should be one defined route used by all users, as previously referred to in our original objection.

Wales Coastal Footpath Overlap - Entrance of the Treborth Botanic Garden (TBG) to the Menai Bridge

The DMMO application seeks to establish rights over a section of the existing Wales Coastal Footpath (B-C), creating an unnecessary overlap on non-University property from the entrance of the Treborth Botanic Garden (TBG) to the Menai Bridge. This section is already recorded on the Definitive Map, and public rights were established through the statutory creation of the Wales Coastal Footpath.

This overlap raises significant legal concerns. Without this duplicated section, the remaining alleged route fails to connect two highways, undermining the legal basis for the application. If GCC insists on including this section to justify the connection, it contradicts the fact that this route has already been lawfully dedicated/created as part of the Wales Coastal Footpath. A DMMO is meant to recognise previously unrecorded historic rights, not duplicate existing ones, making the application legally flawed and procedurally unsound.

Pursuing a DMMO for a route that has already been lawfully created through statutory means is unnecessary and procedurally improper.

The Overlap With The Existing Public Footpath Creation Order (2012)

The alleged route overlaps with a Creation Order made in 2012 under Section 25 of the Highways Act 1980 between Bangor University and GCC, which formally created a public footpath through the TBG. This means that a small but significant section of the alleged route (B-C) in the TBG was also legally created in 2012.

The overlap with the 2012 Creation Order raises serious legal concerns, as public rights over this section were already created through that order. GCC cannot lawfully justify the modification based on historical usage of a footpath that both GCC and Bangor University deemed necessary to create in 2012.

The 2012 Creation Order already formalised the public footpath through the TBG. The alleged DMMO application conflicts with the Creation Order by attempting to establish historic rights where a public right of way has already been formalised. Therefore, the DMMO application is legally flawed and procedurally unsound.

Prior to the Creation Order, the path through the TBG was permissive, meaning access was granted at the discretion of the resident curator. The existence of this Creation Order confirms that there were no historic rights of way before 2012, otherwise, such an order would not have been necessary. The use by members of the public was permissive and there was no public dedication of University land.

Prior Use of the Treborth Botanic Garden Was Permissive, Not “As Of Right”

Before the 2012 Creation Order, the footpath through the TBG was not a public right of way but used at the curator’s discretion. Two key factors confirm this:

- The resident curator had authority over access, could restrict use, and routinely closed and locked the gates at night to prevent unauthorised entry. This

demonstrates that the path was not used as of right by the public but rather by express permission.

- If public rights already existed before 2012, a Creation Order would have been unnecessary. The fact that such an order was made confirms that no historic rights were in place prior to the creation of the footpath. The use was permissive and there was no public dedication of University land.

These two factors alone show that prior to 2012, public use of the route was not “as of right,” but permissive and granted at the discretion of the curator. Any attempt to claim historic rights under the DMMO process is contradicted by the Creation Order itself. Therefore, the route A to B is also legally flawed.

Conclusion

For the reasons outlined above, we respectfully request that GCC reject the DMMO application. The alleged route duplicates the existing Wales Coastal Footpath and an established public footpath created by the 2012 Creation Order in the TBG. The claim for historic rights is legally irrelevant, as any prior use of the TBG footpath was permissive and not “as of right.”

We respectfully request GCC to:

- Reassess the validity of the original claim in light of the 2012 Wales Coastal Footpath Creation and the 2012 Creation Order in the TBG.
- Reject any attempt to impose a new public right of way where legal access is already established.
- Acknowledge that the historical use of the TGB was permissive and did not establish public rights.

We trust GCC will carefully consider these points and provide a formal response addressing our concerns. Please confirm receipt of this objection.

If you need any clarification on the above, or on any of our previous landowner objections, please do not hesitate to contact us.

Yours sincerely,

MI & SE Margetson