

ENVIRONMENT & ECONOMY OVERVIEW & SCRUTINY COMMITTEE

Date of Meeting	Tuesday 10 th December 2024
Report Subject	Wales Coast Path Access Barrier Review Update
Cabinet Member	Cabinet Member for Environment, Climate Change and Economy
Report Author	Chief Officer for (Planning, Environment and Economy)
Type of Report	Operational

EXECUTIVE SUMMARY

This update report informs Members of work to implement changes to ‘A Frame’ access barriers on the Wales Coast Path as agreed at Cabinet in January 2024.

Flintshire County Council appointed a consultant to undertake a review of the existing access control measures in place on a section of the Wales Coast Path (WCP) between Chester and Queensferry in March 2023, recognising that although the barriers control illegal vehicle ingress, they restrict legitimate users.

The recommendations from the consultant study were discussed at Flintshire’s Local Access Forum, Environment Overview & Scrutiny Committee and Cabinet in July 2023, and further feedback from users and stakeholders was reported to Environment Overview & Scrutiny Committee in December 2023 and Cabinet in January 2024 when implementation designs were established. Cabinet agreed to the recommendation to proceed with implementation.

The Active Travel Board Wales appointed a member of their Board to scrutinise Flintshire County Council on this process and the use of the access barriers.

This report summarises the ongoing phased approach to the removal of all the ‘A Frame’ access barriers.

RECOMMENDATIONS

1.	Members note the update and support the work to increase accessibility to the Wales Coast Path
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REPORT DETAILS

1.00	EXPLAINING THE ACCESS BARRIER REVIEW UPDATE
1.01	<p>Flintshire County Council appointed a consultant to undertake a review of the existing access control measures in place on a section of the Wales Coast Path (WCP) between Chester and Queensferry, recognising that although the barriers control illegal vehicle ingress, they restrict legitimate users.</p> <p>The study undertaken by Pell Frischmann, (March 2023), reviewed the background context, legislation, barrier dimensions and user constraints in order to put forward recommendations for all 14 access points from Chester to Deeside.</p>
1.02	<p>The recommendations from the consultant study were discussed at Flintshire Local Access Forum, Environment Overview & Scrutiny Committee and Cabinet in July 2023, and further feedback from users and stakeholders was reported to Environment Overview & Scrutiny Committee in December 2023 and Cabinet in January 2024 when revised designs were established. Cabinet agreed with the recommendation to proceed with implementation.</p>
1.03	<p>The Active Travel Board for Wales (ATB) appointed a member of their Board to scrutinise Flintshire County Council on this process and their use of the access barriers.</p>
1.04	<p>The ATB report has been shared with officers.</p> <p>The main notable points are:</p> <ul style="list-style-type: none">- The barriers cause indirect discrimination against people which a court will deem unlawful contrary to the s.19 Equality Act 2010 unless 'objectively justified'.- It is likely that a civil court would find the barriers to cause unlawful indirect discrimination.- It is probable that a criminal court would find the barriers to be an obstruction of the highway, contrary to s.137 Highways Act 1980- Legal proceedings will probably be launched against FCC if the barriers are not removed, leading to significant legal, financial, and reputational risk.
1.05	<p>Expert legal advice has been obtained to seek an opinion on Flintshire's position in relation to the different types of discrimination/duties the Council is under via the Equalities Act 2010 and whether the placing of barriers on a Public Right of Way discriminates/breaches those duties.</p> <p>The Act requires service providers to make reasonable adjustments for disabled persons so as they are not disadvantaged either directly or indirectly from using services and facilities when compared to those without disabilities.</p>
1.06	<p>The advice supports Flintshire's position, that there was a valid and convincing argument to say that if the Council used their statutory power under s.66 Highways Act to erect a barrier to prevent illegal vehicular use</p>

	<p>that was putting users of the public right of way at risk, this is a legitimate aim.</p> <p>However, the provision of a barrier, which allows an able-bodied person to use the right of way but would prevent a disabled person (or mother with pram), creates a clear disadvantage compared to those who do not share those protected characteristic and therefore indirect discrimination could be argued. The Council must evidence and provide justification that the disadvantage is occurring, and that the barrier is a proportionate means of achieving the legitimate aim.</p>
1.07	<p>It is recognised that since the ‘A Frame’ barriers were installed in 2006, the Council has not reviewed their justification and any evidence presented in support of these barriers is provided by reports from members of the public, FCC staff and North Wales Police.</p> <p>The legal advice endorses Flintshire’s current approach following the consultant’s study, in that the Council has recognised the issue and is attempting to make reasonable adjustments to achieve a balance between users.</p>
1.08	<p>As highlighted in the report to Cabinet in January 2024 the proposed pilot scheme did allow for improved access for those with a Radar key who currently cannot access the current ‘A’ frame barriers and this revised method retained control of the illegal ingress of motorbikes. However, feedback indicated that this option would still present access problems in terms of key operation and manoeuvrability. Other issues highlighted included the ease in which non-disabled people can obtain a radar key and if the gate was left open or the lock was vandalised.</p> <p>These design issues were also commented on by the ATB Member and it was felt that an alternative proposal should be considered.</p>
1.09	<p>In considering the above and now reflecting on the duties within primary legislation including more fundamentally the Equalities Act, Cabinet agreed to the phased removal of the ‘A’ frame barriers along the Flintshire coast, thus aligning with the accessibility principles of the Flintshire Coast Park.</p> <p>Additionally, the routes would be monitored to better understand usage and to provide empirical evidence to inform any future work necessary to control the illegal access and use of the network, what those control measures may look like and how they may be applied or enforced.</p>
1.10	<p>‘A Frame’ barriers have been removed from the Higher Ferry area and work continues around Shotton and Connah’s Quay foreshore. Officers will work with Sustrans and North Wales Police in both the monitoring of the routes and also subsequent design of infrastructure and signage to ensure the routes meet Active Travel standards.</p>

2.00	RESOURCE IMPLICATIONS
2.01	The initial consultant's study was funded by Natural Resources Wales WCP grant fund.
2.02	Legal advice was core funded from Streetscene and Transportation and Planning, Economy, and Environment portfolio budgets.
2.03	'A Frame' Barrier removal is being undertaken with core funding from the Planning, Economy and Environment Portfolio budget as part of their management of the Wales Coast Path.
2.04	Further work to improve the cycle route may be funded in working in partnership with Sustrans.

3.00	CONSULTATIONS REQUIRED / CARRIED OUT
3.01	North Wales Police and Natural Resources Wales (NRW) were consulted on the consultant's study and their views fed into the recommendations and are supportive of the approach. The study was also shared with individual members of the disability community who have expressed an interest or concern in accessing the WCP.
3.02	The Environment and Economy Overview and Scrutiny Committee and Flintshire Local Access Forum (LAF) discussed the report 11 th July 2023. The Committee and forum supported the recommendations in principle subject to further consultation with appropriate user groups.
3.03	Users and stakeholders were asked for feedback on the plan and specification for improvements at Saltney footbridge during October 2023.
3.04	<p>The Environment and Economy Overview and Scrutiny Committee considered the update report following the consultation of users and stakeholders on 19th December 2023.</p> <p>A wide range for comments were received from members of the committee and are summarised as follows:</p> <ul style="list-style-type: none"> - Fundamentally disagree with the proposal, this is a retrograde step and barriers should be removed to allow access for all. Increased visitor numbers will reduce illegal access. We should be acting within the spirit of the legislation. - Path safety is paramount, this is a compromise which should be supported. - 6-month review period is too long and there needs to be further consideration to what the options will be after the review period - The proposals are worth trying. Need to look at other access points in the area. - Radar locks can be difficult to operate, the use of chicane barriers to slow speeds should be considered. - The proposal does not work, radar keys are widely available.

	<ul style="list-style-type: none"> - Are there lessons to be learnt from other Authorities in the same position. - <p>The committee voted 6 in favour, 3 against the proposals</p>
3.05	Stakeholders and users have been made aware of the 'A' Frame removal and are supportive of the decision.

4.00	RISK MANAGEMENT
4.01	Following the removal of the 'A Frame' barriers, there may be an increase in illegal motorbike incursion, clearly motorbikes present a public safety risk to all legitimate users of the path. Officers are working with North Wales Police, Sustrans and the local community to monitor the routes and react accordingly to any illegal activity.

5.00	APPENDICES
5.01	None.

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	Contact Officer: Tom Woodall, Access & Natural Environment Manager Telephone: 01352 703902 E-mail: tom.woodall@flintshire.gov.uk

7.00	GLOSSARY OF TERMS
7.01	<p>Wales Coast Path National walking route covering 870miles of the Welsh Coast</p> <p>Natural Resources Wales Natural Resources Wales is the largest Welsh Government Sponsored Body, formed in April 2013, largely taking over the functions of the Countryside Council for Wales, Forestry Commission Wales and the Environment Agency in Wales</p> <p>Local Access Forum (LAF) The Local Access Forum is a statutory, independent advisory body of 12-20 volunteers, giving informed strategic advice to the Rights of Way and Countryside Service. The primary objective is to improve access and open air recreation to the countryside for everyone.</p> <p>Active Travel Board for Wales The Active Travel Board's purpose is to coordinate activity to support the effective implementation of the Active Travel (Wales) Act 2013.</p>

This will include the following specific tasks:

- providing input into a review of effective delivery of active travel projects and supporting the implementation of any actions arising following consideration by ministers
- advising on the development and implementation of the Active Travel Action Plan, including ensuring delivery within organisations' area of responsibility
- advising on and scrutinising targets
- advising on wider activity to support the implementation of the Act and the uptake of active travel across portfolios, in the context of the seven well-being goals and the five ways of working set out in the Well-being of Future Generations Act.

Sustrans

UK cycling charity and custodian of the National Cycle Network