

Appendix 2

Further details of the route

Description of the route

The route consists of a track approximately 3 metres wide and 40 metres long. Prior to the obstruction it was bounded on its west side by uninterrupted stone or concrete block walls which separated it from the garden of 114 Ferry Road. There was a high wall alongside the rear garden of the house and a lower wall alongside the front garden. This lower wall was removed at the time of the obstruction. The track is bounded on its east side by security fencing which surrounds an adjacent electricity sub-station. The track can be seen on the maps and photographs below.

Current detailed Ordnance Survey map



The track is mapped as a defined narrow rectangular area running from north to south. The garden of 114 Ferry Road to the west and the electricity sub-station (labelled ESS) to the east are mapped as having a different surface type to the track (represented by different coloured shading). The eastern and western sides of the track, and its southern extent, are mapped with solid boundary lines. The northern end is mapped with a dashed line.

Google Street view Images dating from June 2018





The images are taken from Ferry Road. The first is looking northwards along the track. The second is from a position slightly further east, looking north west towards the track and house. The roadside kerb line curves inwards to the track entrance on both sides. The surface of the track entrance is level with the public road, with a slight step up to the roadside footway at the kerb line. There is an open gate on the right-hand side of the entrance, level with the rear of the public footway. There are gate hinges on the left-hand side, but no gate. The track appears to have a hard surface consisting of either compacted crushed stone or a rough tarred surface. There is a small red car parked on the right-hand side of the track, leaving sufficient space for somebody to walk or cycle past it on the left-hand side. There is low wall between the track and the front garden of 114 Ferry Road on the left-hand side. It is constructed of stone or stone-effect blocks. The front garden wall, facing the public road and footway, is of the same height and construction. Further north, there is a high blockwork wall between the track and the rear garden. There is a high metal palisade fence between the track and the electricity sub-station to the right. The northern end of the track is open to the playing fields beyond. A worn earth path is just visible on the playing fields.

Aerial photograph taken in 2014



Ferry Road is at the bottom of the image running from left to right and the Dighty Burn is just right of centre running from top to bottom. The electricity sub-station is visible as an area of bare ground to the left of the Dighty Burn and north of Ferry Road, with the track being visible as a separate area of bare ground immediately to its left. The bare ground of the track can be seen extending onto the grass playing fields to the north. The playing fields can be seen as a large, grassed area, with woodland around their perimeter. At the northern edge of the playing fields, towards the top of the photograph, a surfaced path can be seen linking Wemyss Crescent (on the upper left hand side of the photograph) to a bridge over the Dighty Burn (top of the photograph, right of centre).

History of the route

Old maps and photographs show that prior to construction of the house at 114 Ferry Road there was historically a track or road at the location, leading to a row of cottages to the north which were subsequently demolished. It is referred to as a 'farm service road' in the 1953 disposition of the land.

Detailed mapping from 1973, after the house was built, shows a defined track between the garden of 114 Ferry Road and the sub-station.

The situation during the late 1970s and 1980s is less clear, as the available mapping is less detailed. The current owner of the property has claimed that the track was not available for public access during this period, that gates at either end of it were locked, and that it only became available after sewer

laying works in the 1980s, at which time the high blockwork wall alongside the rear garden was erected. A few members of the public have stated that they used the track at this time.

The track and boundaries on either side of it are visible on aerial photography from 1988, although the quality of the available imagery is poor. They can be more clearly seen on aerial photography from 2000, by which time the playing fields and Wemyss Crescent had been developed. The 2000 photograph shows an obvious 'desire line' path between the track and Wemyss Crescent.

The public playing fields immediately to the north are believed to have been created around 1990, when the Wemyss Crescent housing development to the north was built, and a significant number of witnesses have stated that they have used the route since that time. The developer transferred ownership of the playing fields to Dundee District Council in 1995.

Whilst there is some uncertainty over the availability of the track in the late 1970s and 1980s the evidence is that it existed, with a defined boundary separating it from the garden, at the time 114 Ferry Road was built. And that it was available and in use by the public, with the recent boundary walls in place, since at least 1990, and certainly since 2000 when it is clearly evident on aerial photography.

Ownership

Title deeds confirm that the track is in the same ownership as the house and garden at 114 Ferry Road. The current owner purchased the property in March 2020.

The playing fields immediately to the north are owned by Angus Council.

Public use

The number of enquiries at the time of the closure (23) indicated a significant level of public interest in the route. Questionnaires were issued in December 2020 to gather further information. 52 questionnaires were returned. 94% of respondents has used the route up until its closure, with 50% saying they used it one or more times a day and a further 40% using it one or more times a week. 86% said they had first used the route before 2005, and 48% said they first used it before 1995. Several respondents had observed that the route is well used by school children.

People said they used it for direct access to the playing fields, as part of a route from the Wemyss Crescent housing to Ferry Road and local shops, as part of a route to Monifieth High School, and as part of a route from Ferry Road to destinations east of the Dighty Burn including Grange Primary School and the Seven Arches Viaduct.

Other use

The previous owner of 114 Ferry Road is believed to have routinely parked a car on the track over a period of years. It is understood to have been parked in such a way that it did not obstruct pedestrian access.

The owner of the adjacent electricity sub-station has advised that they use the track for access to the facility. They do so approximately once per year, usually with vehicles, for routine maintenance purposes.

Staff in Environmental Services, Parks, have advised that prior to it being obstructed the track was used for maintenance access to the Council owned playing fields to the north. It is understood that this was limited to foot access in recent years due to parked vehicles.

The title deeds contain a burden retaining servitude access rights over the 'farm service road' for the owner of the land to the north (which is now owned by Angus Council). However, the continued existence of these rights has been challenged by the current owner and has not yet been clarified.

Recent planning history

Planning application 20/00452/full, for alterations and extension to the dwellinghouse at 114 Ferry Road, was approved on 22 December 2020. The approved works include construction of three parking spaces in the front garden, to be accessed from the disputed route. The disputed route is outside the planning application boundary.

Planning application 20/00573/full, for change of use of land to residential curtilage (driveway) and erection of a garage, was refused planning permission on 1 December 2020. The boundary of the application took in the disputed route. The application was refused on the grounds that it would remove an access route to public open space. Officers considered that the track did not form part of the existing residential curtilage of the property.

Alternative routes.

The map below shows the path (marked in red) in the context of the public road network and the designated core path network (shown in purple). Potential alternative routes include Wemyss Crescent/Panmurefield Road/Ferry Road to the west, or the Dighty Den core path network and either Milton Place/Ferry Road or Waterside/West Grange Road/Ferry Road to the east. These routes all involve a moderate or significant detour, depending on the intended destination. The route via Milton Place currently necessitates negotiating steps over flood defences, and the route via Waterside involves moderately steep gradients.

