

MINUTES of the meeting of Regulatory Sub Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Thursday 19 July 2012 at 2.00 pm

Present: Councillor JW Hope MBE (Chairman)

Councillors: BA Durkin and C Nicholls

20. ELECTION OF CHAIRMAN

Councillor JW Hope MBE was elected as Chairman for the Regulatory Sub-Committee hearing.

21. APOLOGIES FOR ABSENCE

No apologies for absence were received.

22. NAMED SUBSTITUTES (IF ANY)

There were no substitutes present at the hearing.

23. DECLARATIONS OF INTEREST

There were no declarations of interest made.

24. APPLICATION TO MAKE A PUBLIC PATH DIVERSION ORDER - BRIDLEWAYS BG11 AND BG12 - BURREINGTON

The Public Rights of Way Manager presented a report about an application under Section 119 of the Highways act 1980 to divert part of Bridleways BG11 and BG12 in the Parish of Burrington. He felt that the proposed route was acceptable for the public; and advised that the Local Ward Member, parish council and consultees were in agreement with it.

The applicant had agreed to meet costs associated with the diversion. The proposal also met the criteria set out in the legislation and in particular that:

- it benefited the owner of the land;
- it was not substantially less convenient to the public; and
- it would be expedient to proceed with the proposal given the benefits it will provide for public enjoyment of the footpath.

Having considered all aspects of the application, the Sub-Committee concurred with the view of the Public Rights of Way Manager that the application should be approved.

RESOLVED

THAT a Public Path Diversion Order be made under section 119 of the Highways Act 1980 in respect of part of Bridleways BG11 and BG12 in the parish of Bridstow.

25. APPLICATION TO MAKE A PUBLIC PATH DIVERSION ORDER - FOOTPATH AY1 - AYMESTRY

The Public Rights of Way Manager presented a report about an application under Section 119 of the Highways act 1980 to divert part of Footpath AY1 in the Parish of Aymestry.

It was noted that the Open Spaces Society had objected to the application on three grounds, namely that:

- 1) the section between the stile and point B was attractive;
- 2) the western end met up with the entrance to the forest on the opposite side of the road;
- 3) the farmyard was easy to use as it was wide and cattle shouldn't therefore cause a problem.

However in response the Public Rights of Way Manager advised that:

- 1) The section that the representative mentions was not on the legal line – the legal line travelled up a steep bank and was obstructed by trees and undergrowth;
- 2) the western end did not meet up with the forest on the opposite side of the road as this was private land and there was no public right of access;
- 3) cattle were regularly moved across and through the yard as well as tractors, which could be hazardous to the public.

The Public Rights of Way Manager felt that the proposed route was acceptable for the public; and advised that the Local Ward Member, parish council and consultees were generally in agreement with it apart from the Open Spaces Society whose objection had been addressed above.

The applicant had agreed to meet costs associated with the diversion. The proposal also met the criteria set out in the legislation and in particular that:

- it benefited the owner of the land;
- it was not substantially less convenient to the public; and
- it would be expedient to proceed with the proposal given the benefits it will provide for public enjoyment of the footpath.

Councillor C Nicholls had concerns in respect of the proposed route and felt that the route proposed by the Open Spaces Society was more suitable. He abstained from voting in respect of the item.

Having considered all aspects of the application, the other two member of the Sub-Committee concurred with the view of the Public Rights of Way Manager that the application should be approved.

RESOLVED

THAT a Public Path Diversion Order be made under section 119 of the Highways Act 1980 in respect of part of Footpath AY1 in the parish of Aymestry.

26. APPLICATION FOR A VARIATION OF A CLUB PREMISES CERTIFICATE 'LEOMINSTER & DISTRICT ROYAL BRITISH LEGION, SOUTH STREET, LEOMINSTER, HR6 8JQ.'

The Licensing Officer advised the Sub-Committee that the application had been withdrawn.

27. APPLICATION FOR A TEMPORARY EVENT NOTICE 'CROWN & ANCHOR, LUGWARDINE, HEREFORD, HR1 4AB.'

The Regulatory Sub-Committee was convened in order to determine an application for a Temporary Event Notice. The TEN had been subject to an objection from Herefordshire Council's Environmental Health Officer and therefore had to be determined by the Sub-Committee.

The Licensing Officer presented the report and advised that the application had been received on 11 July 2012 and related to an event scheduled to take place on 10 August 2012. In respect of the report the Licensing Officer requested that the 'Consultees' section of the report be disregarded by the Committee as the legislation had now been amended. He also advised that the representation related to all four of the licensing objectives and not just the prevention of crime and disorder as referred to in the report.

In accordance with the Licensing Act 2003 (Hearings) Regulations 2005, Mr Vince McNally and Mr Richard Corfield, representing Herefordshire Council Environmental Health department who had applied for the review, addressed the sub-committee. They made a number of points, including:

- The premises had been visited on 28 April 2012 when a similar event was held in the outside marquee.
- The noise emanating from the marquee could be clearly heard over the traffic from a significant distance.
- Noise readings were taken at numbers 14 and 10 Traherne Close.
- The dB readings from number 14 Traherne Close were not at a level to constitute a noise nuisance within the dwelling.
- The noise readings taken at 10 Traherne Close were measured at 55, 57 and 54.1 laq dB at 10:26 pm. The music could be heard in all rooms of the bungalow and could be heard above a television.
- An application to vary the premises licence had recently been the subject of 39 local objections of which 10 were accepted.
- The representation related to the licensing objective of the prevention of public nuisance.
- The marquee and the location was not suitable for live or recorded music.

In response to a question from the Acting Principal Lawyer, Mr McNally confirmed that in his opinion the readings taken at 10 Traherne Close did constitute a statutory noise nuisance. He added that he had been employed as an Environmental Health Officer since 1992 and had completed a certificate in noise competence as well as an environmental health degree.

In response to a further question Mr McNally advised the Sub-Committee that a background noise level of 21 dB Had been recorded and that normal background levels were considered to be between 25-30 dB. BS4142 stated that a reading 10 or more dB above background noise was likely to cause a nuisance,

In accordance with the Licensing Act 2003 (Hearings) Regulations 2005, Mr Michael Clifford, the premises licence holder, addressed the sub-committee. He raised a number of points, including:

- The local residents' complaints had become vindictive against the public house.
- A complaint had been submitted by a local resident when the National Anthem was played on the day of the Queen's Jubilee.
- The local residents had previously complained about cars parked in the vicinity of the public house, these vehicles had then been found to be attending a party at Traherne Close.
- That he was trying to build a successful business in Herefordshire using local produce which could then develop into a nationwide Herefordshire Beef franchise.

Following discussions Mr Clifford stated that he would be willing to reduce the TEN application for live and recorded music to a terminal hour of 23:30.

In response to a question from the Chairman, the Licensing Officer confirmed that the public could not object to TEN applications but that for a previous variation to the premises licence 29 objections were received with 10 accepted.

Mr James Mooney, representing West Mercia Police, advised the Sub-Committee that the police had not objected to the application.

The Sub-Committee retired to make their decision, the Acting Principal Lawyer and the Democratic Services Officer also retired to assist them with legal and procedural matters.

Whilst the Sub-Committee were discussion their decision a further discussion took place between the applicant and the Environmental Health Officers. The applicant was advised of the various actions that the Environmental Health Officers could take if the application was granted. Once aware of this information the applicant chose to withdraw his application.

At the conclusion of the meeting the applicant, Mr Clifford, addressed the Sub-Committee and expressed his disappointment that he had felt no option but to withdraw his application. He added that it now appeared that the Crown & Anchor would not be able to host any outside events as a result of a small minority of neighbouring residents. He thanked the Chairman and the Sub-Committee for trying to come to an amicable agreement in respect of his application.

RESOLVED

THAT the application be withdrawn at the applicant's request.

The meeting ended at 3.00 pm

CHAIRMAN