

# AGENDA

## Regulatory Sub Committee

Date: **Tuesday 27 November 2012**

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Time: **10.00 am**

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Place: **Meeting Room 22a, Brockington, 35 Hafod Road,  
Hereford**

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Notes: Please note the **time, date** and **venue** of the meeting.

For any further information please contact:

**Ricky Clarke, Democratic Services Officer**

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If you would like help to understand this document, or would like it in another format or language, please call Ricky Clarke, Democratic Services Officer on 01432 261885 or e-mail [rclarke@herefordshire.gov.uk](mailto:rclarke@herefordshire.gov.uk) in advance of the meeting.

# **Agenda for the Meeting of the Regulatory Sub Committee**

## **Membership**

**Councillor JW Hope MBE  
Councillor Brig P Jones CBE  
Councillor GA Powell**

**AGENDA**

		Pages
1.	<b>ELECTION OF CHAIRMAN</b> To elect a Chairman for the hearing.	
2.	<b>APOLOGIES FOR ABSENCE</b> To receive apologies for absence.	
3.	<b>NAMED SUBSTITUTES (IF ANY)</b> To receive any details of Members nominated to attend the meeting in place of a Member of the Committee.	
4.	<b>DECLARATIONS OF INTEREST</b> To receive any declarations of interest by Members in respect of items on the Agenda.	
5.	<b>APPLICATION TO ALTER AND EXTINGUISH PARTS OF FOOTPATH MM25 IN THE PARISH OF MUCH MARCLE</b> To consider an application under the Highways Act 1980, section 118, to make a public path extinguishment order and Highways Act 1980, section 26, to make a public path creation order to alter part of footpath MM25 in the parish of Much Marcle.	1 - 6
6.	<b>APPLICATION TO DIVERT FOOTPATH ZC86 IN THE PARISH OF LEOMINSTER</b> To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert part of footpath ZC86 in the parish of Leominster.	7 - 12
7.	<b>PROCEDURAL ARRANGEMENTS</b> To note the procedural arrangements for the meeting.	13 - 14
8.	<b>EXCLUSION OF THE PUBLIC AND PRESS</b> In the opinion of the Proper Officer, the following item will not be, or is likely not to be, open to the public and press at the time it is considered.  <b>RECOMMENDATION:</b> that under section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following two items of business on the grounds that they involve the likely disclosure of exempt information as defined in Schedule 12(A) of the Act, as indicated below and it is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.	
1	Information relating to any individual. (Item 8 and 9)	
2	Information which is likely to reveal the identity of an individual. (Item 8 and 9)	

**7 Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime. (Item 8)**

**9. REVIEW OF THE SUSPENSION OF A DUAL DRIVER HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE** 15 - 36

To consider an appeal.

**10. REVIEW OF THE SUSPENSION OF A DUAL DRIVER HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE** 37 - 46

To consider an appeal.

## **The Public's Rights to Information and Attendance at Meetings**

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- Attend all Council, Cabinet, Committee and Sub-Committee meetings unless the business to be transacted would disclose 'confidential' or 'exempt' information.
- Inspect agenda and public reports at least five clear days before the date of the meeting.
- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
- Access to a public Register stating the names, addresses and wards of all Councillors with details of the membership of Cabinet and of all Committees and Sub-Committees.
- Have a reasonable number of copies of agenda and reports (relating to items to be considered in public) made available to the public attending meetings of the Council, Cabinet, Committees and Sub-Committees.
- Have access to a list specifying those powers on which the Council have delegated decision making to their officers identifying the officers concerned by title.
- Copy any of the documents mentioned above to which you have a right of access, subject to a reasonable charge (20p per sheet subject to a maximum of £5.00 per agenda plus a nominal fee of £1.50 for postage).
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**BROCKINGTON, 35 HAFOD ROAD, HEREFORD.**

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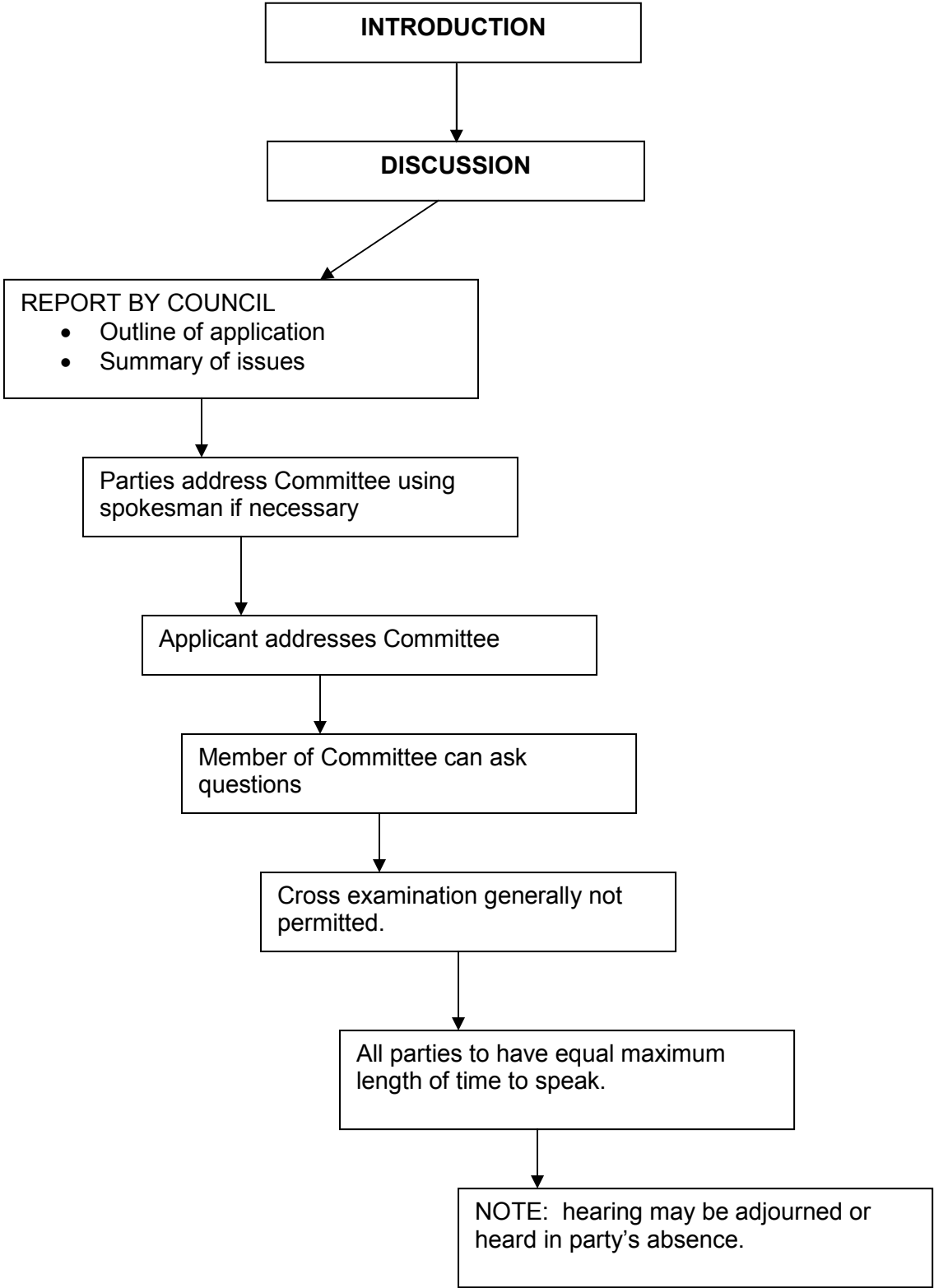
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# LICENCING HEARING FLOW CHART







<b>MEETING:</b>	<b>REGULATORY SUB-COMMITTEE</b>
<b>DATE:</b>	<b>27 NOVEMBER 2012</b>
<b>TITLE OF REPORT:</b>	<b>HIGHWAYS ACT 1980, SECTION 26 AND SECTION 118, PROPOSED PUBLIC PATH EXTINGUISHMENT AND CREATION ORDERS, FOOTPATH MM25 IN THE PARISH OF MUCH MARCLE</b>
<b>PORTFOLIO AREA:</b>	<b>HIGHWAYS AND TRANSPORTATION</b>

**CLASSIFICATION:** Open

### **Wards Affected**

Old Gore

### **Purpose**

To consider an application under the Highways Act 1980, section 118, to make a public path extinguishment order and Highways Act 1980, section 26, to make a public path creation order to alter part of footpath MM25 in the parish of Much Marcle.

### **Key Decision**

This is not a Key Decision.

### **Recommendation**

That public path creation and extinguishment orders are made under the Highways Act 1980, as illustrated on drawing number: D429/277-25

### **Key Points Summary**

- A suggestion for an alteration of the path was made by Mr Mike Everitt of Malvern Hills District Footpath Society in May 2012.
- The reason for the proposal is to correct a Definitive Map anomaly where there is a discontinuity at the county boundary between Public Footpath MM25, Much Marcle and Gloucestershire footpath GDY/4/2.
- A decision was made to pursue the proposal as concurrent creation and extinguishment orders in the public interest.
- The landowners have agreed with the proposals providing that there is no cost to them.
- A pre-order consultation has been carried out to which there were no objections.

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Further information on the subject of this report is available from  
Susan White, Assistant Rights of Way Officer on (01432) 842106

## **Alternative Options**

- 1 Under Sections 26 and 118 of the Highways Act 1980 the Council has the power to make creation/extinguishment orders. It does not have a duty to do so. The Council could reject the proposal on the grounds that it does not contribute sufficiently to the wider ambitions and priorities of the Council.

## **Reasons for Recommendations**

- 2 The public path orders should be made because they meet the criteria set out in s26 and s118 of the Highways Act and the Council's public path order policy and there have been no objections at pre-order consultation stage. The proposals are felt to be in the wider public interest as they resolve an anomaly and enable the public to use the network of public rights of way with greater confidence.

## **Introduction and Background**

- 3 This report is being considered by the Regulatory Committee because they have the delegated authority to make the decision whether or not to make the orders.

## **Key Considerations**

- 4 Mike Everitt of Malvern Hills District Footpath Society proposed the creation/extinguishment orders, to provide a legal link with the Gloucestershire path over the County Boundary.
- 5 The landowners have agreed to the diversion with the proviso that they will not be responsible for any costs associated with the orders.
- 6 The creation/extinguishment will be funded entirely by the public rights of way department as the proposals are deemed to be in the public interest as it will create a 'through route' instead of a cul-de-sac path. However, it is necessary to install a footbridge across the stream at the site of the County Boundary, this will be installed and paid for by Gloucestershire County Council.
- 7 Pre-order consultation has been carried out by the Public Rights of Way department. The proposals have general agreement.
- 8 The local member, Cllr. B A Durkin, supports the proposals.
- 9 The proposals meet the specified criteria as set out in Council policy and section 118 and section 26 of the Highways Act 1980.

## **Community Impact**

- 10 A comprehensive pre-order consultation has been carried out by the Public Rights of Way department, this included Much Marcle Parish Council, who have no objections to the proposals.

## **Financial Implications**

- 11 The application is considered to be in the public interest and so the administration costs and advertising fees will all be met by the Public Rights of Way Department.

## **Legal Implications**

- 12 Under Sections 26 and 118 of the Highways Act 1980 the Council has the power to make creation and extinguishment orders. It does not have a duty to do so.

## **Risk Management**

- 13 There is a risk that these orders, if made, may receive objections which would require the matter to be referred to the Planning Inspectorate for a decision. This could give rise to a public inquiry which would place increased pressure on officer time and public rights of way resources. Extensive pre-order consultations have taken place to minimise the risk of any objections.

## **Equalities Impact**

- 14 Both the existing and proposed routes are very similar in terms of gradient, length, surface condition and absence of structures. As such, the proposal is considered to have no Equalities impact and to comply with the requirements of the Equality Act 2010.

## **Consultees**

15

- Prescribed organisations as per Defra Rights Of Way Circular 1/09.
- Local Member – Cllr. B A Durkin
- Much Marcle Parish Council.
- Statutory Undertakers.

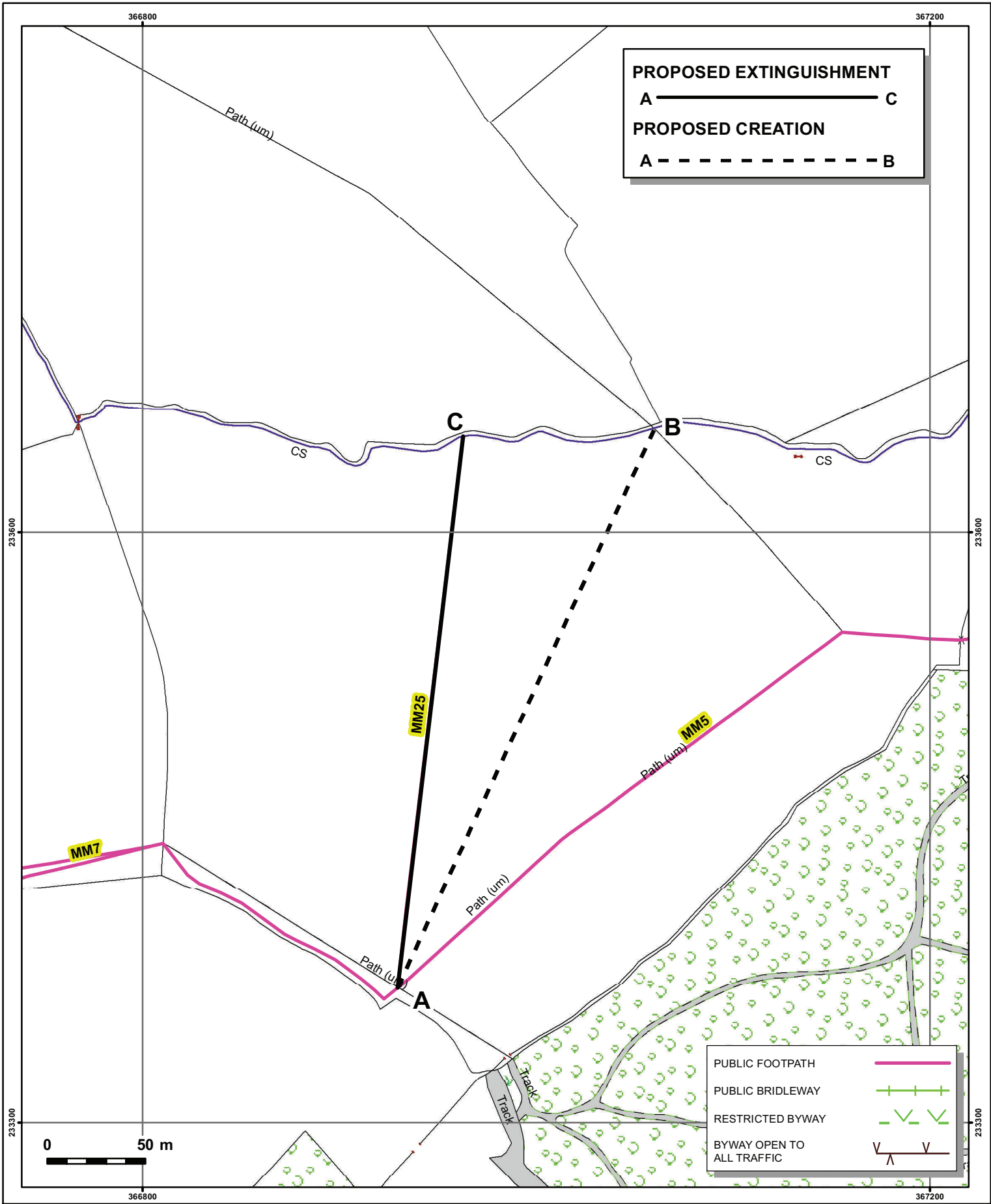
## **Appendices**

- 16 Order Plan, drawing number: D429/277-25 and Order and Schedule.

## **Background Papers**

- None identified.





HIGHWAYS ACT 1980, SECTION 118  
 HEREFORDSHIRE COUNCIL PUBLIC FOOTPATH MM25  
 PARISH OF MUCH MARCLE  
 PUBLIC PATH EXTINGUISHMENT ORDER 2012  
 HIGHWAYS ACT 1980, SECTION 26  
 HEREFORDSHIRE COUNCIL PUBLIC FOOTPATH MM25,  
 PARISH OF MUCH MARCLE PUBLIC PATH CREATION ORDER 2012



DWG NO.: D429/277-25  
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<b>MEETING:</b>	<b>REGULATORY SUB-COMMITTEE</b>
<b>DATE:</b>	<b>27 NOVEMBER 2012</b>
<b>TITLE OF REPORT:</b>	<b>HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH ZC86 (PART) IN THE PARISH OF LEOMINSTER</b>
<b>PORTFOLIO AREA:</b>	<b>HIGHWAYS AND TRANSPORTATION</b>

**CLASSIFICATION:** Open

### **Wards Affected**

Leominster South

### **Purpose**

To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert part of footpath ZC86 in the parish of Leominster.

### **Key Decision**

This is not a Key Decision.

### **Recommendation**

That a public path diversion order is made under Section 119 of the Highways Act 1980, as illustrated on drawing number: D419/226-86(ii)

### **Key Points Summary**

- An application to divert footpath ZC86 was made by S & A Produce (UK) Ltd on 25<sup>th</sup> of January 2012.
- The applicant has carried out a pre-order consultation to which there have been no objections.
- The existing footpath is obstructed by buildings.

### **Alternative Options**

- 1 Under Section 119 of the Highways Act 1980 the Council has the power to make diversion orders. It does not have a duty to do so. The Council could reject the application on the grounds that it does not contribute sufficiently to the wider ambitions and priorities of the Council.

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Further information on the subject of this report is available from  
Susan White, Assistant Rights of Way Officer on (01432) 842106

## Reasons for Recommendations

- 2 The public path order should be made because it is felt that it meets the criteria set out in s 119 of the Highways Act and the Council's Public path order policy and there have been no objections at pre-order consultation stage.

## Introduction and Background

- 3 This report is being considered by the Regulatory Sub Committee because they have the delegated authority to make the decision whether or not to make an order

## Key Considerations

- 4 S & A Produce (UK) Ltd, who are the landowners, made the application on 25<sup>th</sup> of January 2012. The reasons given for making the application were, 'the current route is directly through a farm building and therefore cannot be accessed. The building was constructed some years ago by previous owners and with full planning consent.'
- 5 The applicant has carried out all pre order consultation. The proposal has general agreement.
- 6 The applicant has agreed to pay for advertising and to reimburse, in full, the Council's costs incurred in making the diversion order. The other affected landowners, S & D Davies have given their written consent to the proposals.
- 7 The local members, Cllr. R C Hunt and Cllr. P J McCaull have no objections to the proposals.
- 8 The proposed diversion meets the specified criteria as set out in Council policy and section 119 of the Highways Act 1980 in particular that:
- The proposal benefits the owner of the land crossed by the existing path.
  - The proposal does alter the point of termination of the paths but to a point on the same highway which is not less convenient.
  - The proposal is not substantially less convenient to the public.

## Equalities Impact

- 9 The existing route of the footpath currently passes through a busy farm yard and is obstructed by several barns and a large difference in levels between the farm-yard and the paddock behind. The proposed route travels to the side of the barn and up a short flight of steps then a gentle incline. In context with the surroundings and the wider use of the path, the proposed route is considered to comply with the requirements of the Equality Act 2010.

## Community Impact

- 10 Leominster Town Council were consulted and have no objections to the proposals.

## Financial Implications

- 11 The applicant has agreed to pay the full costs associated with this application including administration and advertising costs and any works necessary to bring the new route into being.



## **Legal Implications**

- 12 Under Section 119 of the Highways Act 1980 the Council has the power to make diversion orders. It does not have a duty to do so

## **Risk Management**

- 13 There is a risk that if an order is made as proposed, it may receive objections which would require the matter to be referred to the Secretary of State for a decision. This could result in a public inquiry. However, this is unlikely as the proposals have already been sent out to pre-order consultation and have not received any adverse comments.

## **Consultees**

14

- Prescribed organisations as per Defra Rights Of Way Circular 1/09.
- Local Members – Cllr. R.C. Hunt and Cllr. P.J. McCaull.
- Leominster Town Council.
- Statutory Undertakers.

## **Appendices**

- 15 Order Plan, drawing number: D419/226-86(ii) and Order and Schedule.

## **Background Papers**

- None identified.

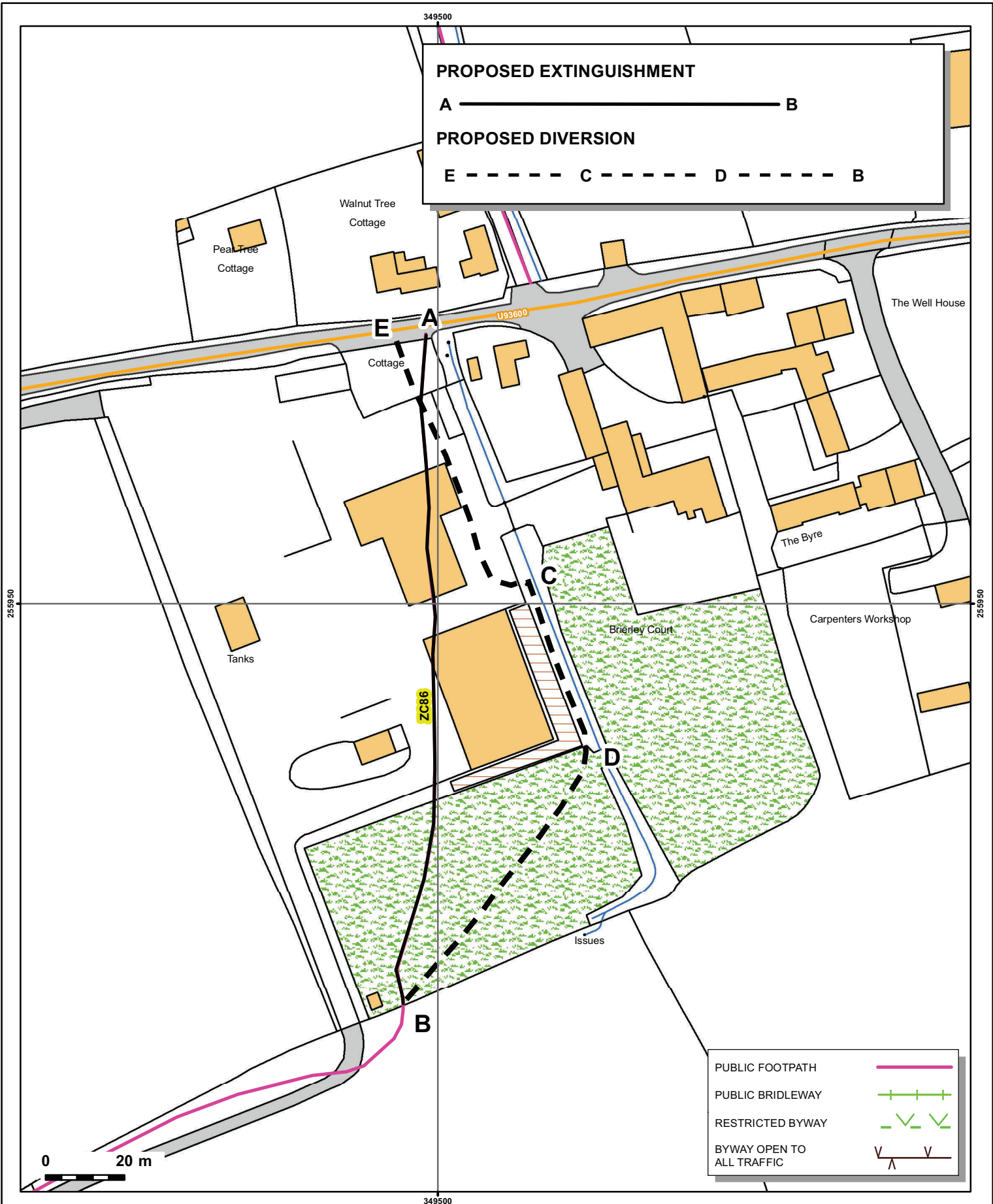


**PROPOSED EXTINGUISHMENT**

A ————— B

**PROPOSED DIVERSION**

E - - - - C - - - - D - - - - B



PUBLIC FOOTPATH	
PUBLIC BRIDLEWAY	
RESTRICTED BYWAY	
BYWAY OPEN TO ALL TRAFFIC	



**HIGHWAYS ACT 1980, SECTION 119**  
**HEREFORDSHIRE COUNCIL-PUBLIC FOOTPATH ZC86 (PART)**  
**PARISH OF LEOMINSTER**  
**PUBLIC PATH DIVERSION ORDER 2012**

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**DWG No.: D419/226-86(ii)**  
**SCALE 1:1,250@A4**

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**REGULATORY COMMITTEE**  
**LICENSING APPEAL PROCEDURE**

1. Introduction by Clerk to the Panel.
2. Licensing Officer outlines the case.
3. Applicant (or his solicitor) sets out his case.
4. Questions asked by the Panel or Licensing Officer or Applicant.
5. Applicant (or his solicitor) asked if he would like to make further comment or representation, or if he requires time to comment or investigate (if so, Chairman defers application).
6. In dealing with each application, the applicant (and any representative) should also withdraw should be asked to withdraw when they have finished their presentation. All officers, other than the Clerk to the Panel, should also withdraw. It would be preferable for the applicant and officers to await the decision at different locations.
7. If either the applicant or the officer are needed to furnish additional information, they should all be invited back before the Panel. When the additional information has been furnished, they should all be asked to leave again.
8. The Panel can then reach a decision in the usual way, but in the absence of parties.
9. The applicant and officers will then be invited to return. The Chairman will announce the decision. The Chairman should also say that the decision will be communicated in writing in due course, and that the applicant will be informed of any right of appeal (if the decision is a refusal).
10. When the first applicant is finished, that applicant should leave. Deal with the second application the same way.



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