

A G E N D A

Regulatory Committee

Date: **Tuesday, 23rd August, 2005**

Time: **2.00 p.m.**

Place: **The Council Chamber,
Brockington, 35 Hafod Road,
Hereford**

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

For any further information please contact:

*Pete Martens, Members' Services, Tel:
01432 260248, Fax: 01432 261809*

e-mail: pmartens@herefordshire.gov.uk

**County of Herefordshire
District Council**

AGENDA

for the Meeting of the Regulatory Committee

To: Councillor R.I. Matthews (Chairman)
Councillor Brig. P. Jones CBE (Vice-Chairman)

Councillors Mrs. S.P.A. Daniels, G.W. Davis, D.J. Fleet, J.G.S. Guthrie,
J.W. Hope MBE, T.W. Hunt, J.W. Newman, R. Preece, D.C. Taylor and
P.G. Turpin

	Pages
<p>1. APOLOGIES FOR ABSENCE To receive apologies for absence.</p>	
<p>2. NAMED SUBSTITUTES (IF ANY) To receive details any details of Members nominated to attend the meeting in place of a Member of the Committee.</p>	
<p>3. DECLARATIONS OF INTEREST To receive any declarations of interest by Members in respect of items on the Agenda.</p>	
<p>4. MINUTES To approve and sign the Minutes of the meeting held on 19th July, 2005.</p>	1 - 6
<p>5. HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH CZ13 (PART) IN THE PARISH OF CRASWALL To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert part of footpath CZ13 in the parish of Craswall as shown on drawing number D265/100-13(i) (appendix 1). Ward: Golden Valley South</p>	7 - 10
<p>6. KNOWLEDGE TEST - DUAL DRIVERS LICENCES - THE TOWN POLICE CLAUSES ACT 1847 AND LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 To consider adopting a knowledge test as part of the application process for dual drivers licence applications. Wards: Countywide</p>	11 - 12

EXCLUSION OF THE PUBLIC AND PRESS

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.

RECOMMENDATION: that under section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Schedule 12(A) of the Act, as indicated below

- | | |
|--|----------------|
| <p>7. PROCEDURAL ARRANGEMENTS</p> <p>To note the procedural arrangements for the meeting.</p> | <p>13 - 14</p> |
| <p>8. APPLICATION FOR A DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976</p> <p>To consider an application for a dual hackney carriage/private hire drivers licence.</p> <p><i>This item discloses information relating to any particular applicant for, or recipient or former recipient of, any service provided by the authority.</i></p> | <p>15 - 16</p> |
| <p>9. APPLICATION FOR A DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976</p> <p>To consider an application for a dual hackney carriage/private hire drivers licence.</p> <p><i>This item discloses information relating to any particular applicant for, or recipient or former recipient of, any service provided by the authority.</i></p> | <p>17 - 18</p> |
| <p>10. APPLICATION FOR A DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976</p> <p>To consider an application for a dual hackney carriage/private hire drivers licence.</p> <p><i>This item discloses information relating to any particular applicant for, or recipient or former recipient of, any service provided by the authority.</i></p> | <p>19 - 22</p> |

11. APPLICATION FOR A DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 23 - 24

To consider an application for a dual hackney carriage/private hire drivers licence.

This item discloses information relating to any particular applicant for, or recipient or former recipient of, any service provided by the authority.

12. APPLICATION FOR A DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) D 25 - 28

To consider an application for a dual hackney carriage/private hire drivers licence.

This item discloses information relating to any particular applicant for, or recipient or former recipient of, any service provided by the authority.

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- 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.
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COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL

BROCKINGTON, 35 HAFOD ROAD, HEREFORD.

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COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL

MINUTES of the meeting of Regulatory Committee held at The Library, Shirehall, St. Owen's Street, Hereford on Tuesday, 19th July, 2005 at 2.00 p.m.

Present: Councillor R.I. Matthews (Chairman)
Councillor *Brig. P. Jones CBE (Vice Chairman)

Councillors: Mrs. S.P.A. Daniels, D.J. Fleet, J.W. Hope MBE, T.W. Hunt, J.W. Newman, R. Preece and P.G. Turpin

In attendance: Councillors P.J. Edwards (Cabinet Member)

9. APOLOGIES FOR ABSENCE

Apologies were received from Councillors G.W. Davis, J.G.S. Guthrie, Brig. P. Jones C.B.E. and D.C Taylor.

10. NAMED SUBSTITUTES (IF ANY)

There were no substitutions of interest made.

11. DECLARATIONS OF INTEREST

There were no declarations of interest made.

12. MINUTES

RESOLVED: That the Minutes of the meeting held on 24th May, 2005 be approved as a correct record and signed by the Chairman.

13. PROCEDURAL ARRANGEMENTS

The Committee noted the procedural arrangements for hearing appeals to ensure that the laws of natural justice were followed to give a fair hearing for applicants and to the Licensing Officers.

14. THE LICENSING POLICY SCHEME OF DELEGATED POWERS - LICENSING ACT 2003 AND GUIDANCE ISSUED UNDER SECTION 182 OF THE LICENSING ACT 2003

The Licensing Manager presented a report regarding the licensing policy scheme of delegated powers. She advised Members that whilst the Licensing Officers had been dealing with personal applications it had become apparent that a number of applications would have to be referred to the regulatory committee due to the fact that the applicants had unspent convictions. She also advised members that the Licensing Department were legally obliged to issue these licences if no objections had been raised by the Police and that referring them to the Regulatory Committee would result in the Committee having no option but to grant the license.

Councillor D.J. Fleet felt that the Police would not object to issues regarding section 15 of the Food Safety Act and that this would be an issue for Herefordshire Council's Environmental Health department.

The Licensing Manager advised Members that only the police were authorised to make representations and that no other bodies would be contacted during the representation period.

The Chairman felt that the Police should be requested to liaise with the Environmental Health department if an application was received which contained a relevant offence under Section 15 of the Food Safety Act. The Environmental Health department's comments could then be taken into account as part of the Police Authority's submission. He also felt that these applications should be discussed with the Chairman or Vice-Chairman of the Regulatory Committee.

15. KNOWLEDGE TEST - DUAL DRIVERS LICENCES - THE TOWN POLICE CLAUSES ACT 1847 AND LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Licensing Manager presented a report regarding the adoption of a knowledge test as part of the application process for dual (Hackney Carriage and Private Hire) drivers licences. She reported the receipt of four letters of complaint regarding some taxi drivers knowledge of Herefordshire. She said that a number of existing taxi drivers had raised concerns regarding the increased number of applications being received from applicants located outside Herefordshire. She advised Members that the Herefordshire Taxi Steering Group were in support of the proposal and that only 3 letters of objection had been received out of 500 registered taxi drivers. She explained that the test was made up of two sections which would seek to establish the driver's knowledge of the locality and the laws associated with licensed drivers, vehicles and operators.

The Chairman advised Members that he had recently chaired a meeting of the Herefordshire Taxi Steering Group and that they supported the introduction of a knowledge test.

In response to a number of questions raised by Members, the Licensing Manager said that taxi drivers would be charged £10.00 to sit the knowledge test and that they would be permitted to take the test a maximum of 3 times in order to achieve the 80% pass rate. She also said that if the driver failed the test 3 times their application would be referred to the Regulatory Committee.

Councillor D.J. Fleet felt that existing drivers should be requested to take the knowledge test within 12 months of its introduction and should not be given 2 years as recommended in the Officer's report.

The Cabinet Member for the Environment noted that current registered taxi drivers would not be charged a fee to sit the test, he felt that this could have cost implications to the Council and that the issue should be researched further. The Licensing Manager agreed to investigate the cost implications to the Council and said that she would submit a report to the next meeting of the Regulatory Committee.

16. APPLICATION FOR A DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 (Pages 1 - 2)

The Licensing Manager presented a report about an application for a renewal to an existing dual Hackney carriage and private hire driver's licence. She explained issues relating to the requirement to disclose any criminal convictions and police cautions. The applicant was given the opportunity to address the Committee in respect of his application.

Having considered all of the facts put forward by the Licensing Manager and the applicant, the Committee decided that the application should be granted.

The meeting ended at 2.56 p.m.

CHAIRMAN

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HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH CZ13 (PART) IN THE PARISH OF CRASWALL

Report By: Head of Highways and Transportation

Wards Affected

Golden Valley 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 CZ13 in the parish of Craswall as shown on drawing number D265/100-13(i) (appendix 1).

Considerations

- 1 The application for the diversion of the public footpath was originally made in April 1997, by Mr A D Thomas. The reason for which is to avoid a farm building at 'White Haywood' which currently causes an obstruction to the path and to take the path away from house and garden at 'Three Horse Shoes'.
- 2 The application has since been taken over Mr Goodwin, and he has agreed to pay for advertising and to reimburse in full the Council's costs incurred in making the diversion order including bringing the proposed route up to an acceptable standard. Although the owners of Three Horse Shoes are not joint applicants, this proposal is in their interest also, they have been consulted and wish for the diversion to go ahead.
- 3 The proposal has been out to pre-order consultation with Prescribed organisations as per annexe E of Department of the Environment Circular 2/93, highways area manager, local Councillor and local Parish Council. No adverse comments have been received.

Alternative Options

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.

Risk Management

There is a risk that the Order will be opposed, leading to additional demand on existing staff resources.

Consultees

- Prescribed organisations as per annexe E of Department of the Environment Circular 2/93.
- Statutory undertakers.
- Local Member - Councillor Beris Williams
- Longtown Group Parish Council

RECOMMENDATION

THAT **A public path diversion order is made under Section 119 of the Highways Act 1980, as illustrated on drawing number: D265/100-13(i) (appendix 1).**

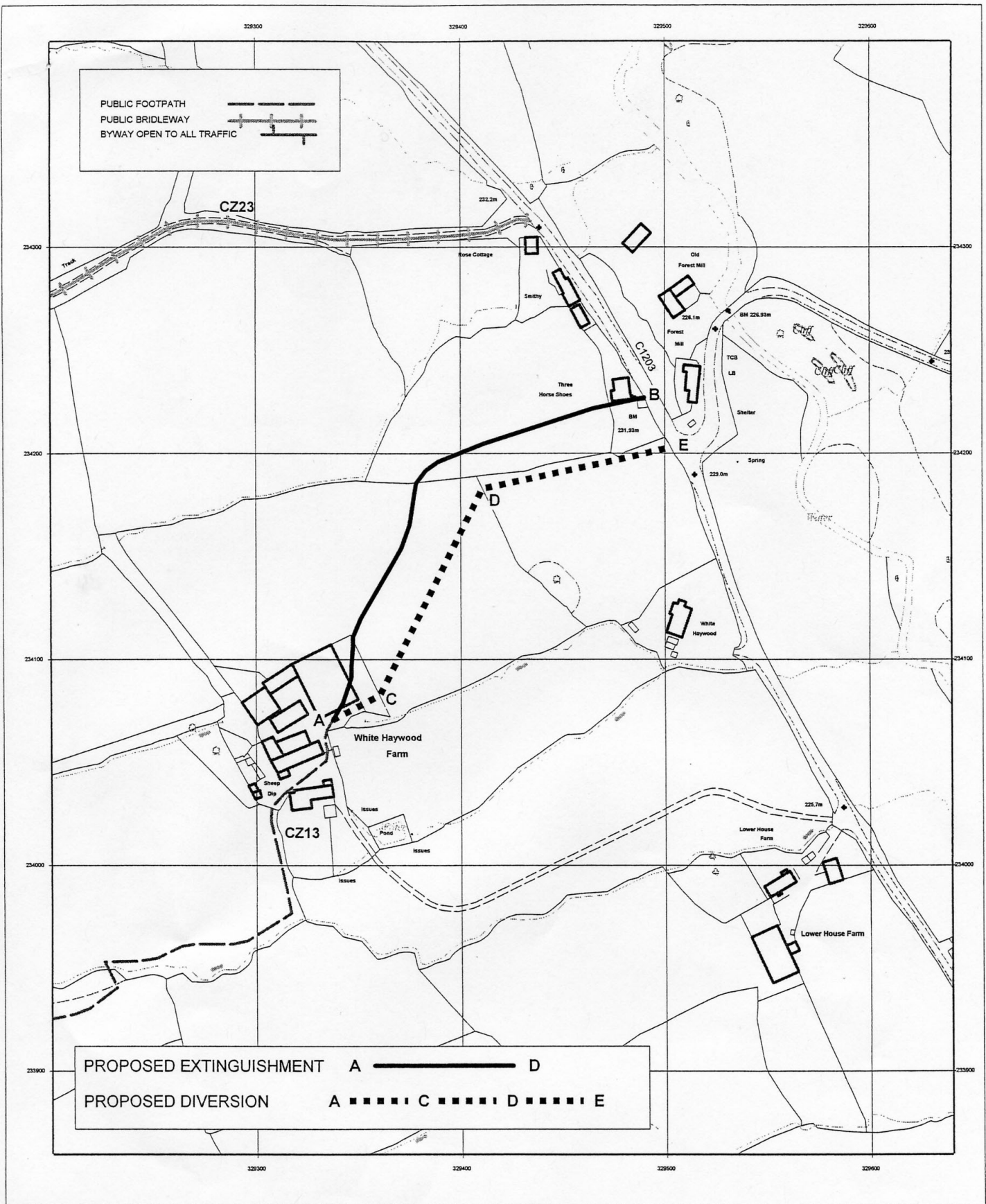
Reasons

The proposed diversion meets the specified criteria as set out in section 119 of the Highways Act 1980 in that:

- The proposal benefits the owner of the land crossed by the existing path.
- The proposal does not alter the point of termination of the paths otherwise than to another point which is on the same highway.
- The proposal is not substantially less convenient to the public.

Appendix

Appendix 1: Drawing number: D265/100-13(i)



**LOCATION PLAN - PARISH OF CRASWALL
 PROPOSED DIVERSION OF PUBLIC
 FOOTPATH CZ13 (PART)
 DWG No: D265/100-13(i)
 SCALE 1:2500**

Herefordshire Council
 Public Rights of Way
 Transportaion Unit
 PO Box 236
 Hereford
 HR4 0WZ
 Tel.: (01432) 260000
 Fax.: (01432) 383031

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6 TO CONSIDER THE ADOPTION OF A KNOWLEDGE TEST AS PART OF THE APPLICATION PROCESS FOR DUAL DRIVERS LICENCES UNDER THE TOWN POLICE CLAUSES ACT 1847 AND LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

REPORT BY: Head of Environmental Health and Trading Standards

Purpose

1. To consider adopting knowledge test for new dual drivers licences and defer the introduction of the knowledge test for all current drivers until a financial assessment is made.

Legislation

2. Sections 51 & 59 of the Local Government (Miscellaneous Provisions) Act 1976 provide that a district council shall not grant a licence to drive a hackney carriage or private hire vehicle, unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence.
3. Section 57 of the 1976 Act provides that a district council may require any applicant for a licence to drive either a hackney carriage or private hire vehicle to supply such information as they may reasonably consider necessary to enable them to determine whether the licence be granted and whether conditions should be attached to any such licence.
4. Under the Town Police Clauses Act 1847 a district Council shall not grant a license to drive a Hackney Carriage or Private Hire Vehicle unless they are satisfied that the applicant is a "fit and proper" person to hold a drivers licence.

Background

5. The Regulatory Committee on 19 July agreed the knowledge test but deferred its introduction until the licensing Manager could provide information relating to the financial implications to the local authority for the introduction of the test to all current drivers.
6. Due to the licensing section processing Licensing Act 2003 applications and the taxi office having many personal and telephone enquiries over the last month the service has been unable to asses the costs.

Recommendation

- To allow the introduction of the knowledge test for new drivers and review costs for existing drivers in September/October.

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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