

# A G E N D A

## Regulatory Committee

Date: **Tuesday, 29th November, 2005**

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Time: **2.00 p.m.**

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Place: **The Council Chamber,  
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:*

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

***e-mail: [pmartens@herefordshire.gov.uk](mailto:pmartens@herefordshire.gov.uk)***

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**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
1. <b>APOLOGIES FOR ABSENCE</b> To receive apologies for absence.	
2. <b>NAMED SUBSTITUTES (IF ANY)</b> To receive details any details of Members nominated to attend the meeting in place of a Member of the Committee.	
3. <b>DECLARATIONS OF INTEREST</b> To receive any declarations of interest by Members in respect of items on the Agenda.	
4. <b>MINUTES</b> To approve and sign the Minutes of the meeting held on 25th October, 2005.	1 - 8
5. <b>HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH CS4 (PART) IN THE PARISH OF CASTLE FROME</b>  To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert part of footpath CS4 in the parish of Frome.  <b>Ward: Frome</b>	9 - 12
6. <b>PROPOSED HACKNEY CARRIAGE TARIFF INCREASES 2005/2006</b> To consider a report setting out suggested tariff increases for Hackney Carriages in 2005/2006  <b>Wards: Countywide</b>	13 - 18
7. <b>REGULATORY SUB-COMMITTEE</b> To receive an information report about the matters dealt with by the Regulatory Sub-Committee regarding the applications it has dealt with under the Licensing Act 2003.	

8.	<b>PROCEDURAL ARRANGEMENTS</b>	19 - 20
	To note the procedural arrangements for the meeting.	
	<b>EXCLUSION OF THE PUBLIC AND PRESS</b>	
	In the opinion of the Proper Officer, the following items will not be, or are likely not to be, open to the public and press at the time they are 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 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	
9.	<b>APPLICATION FOR A DUAL (HACKNEY CARRIAGE &amp; PRIVATE HIRE) DRIVER LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976</b>	21 - 24
	To determine whether the applicant is a 'fit and proper person' to be granted a dual drivers licence.	
10.	<b>APPLICATION FOR A DUAL (HACKNEY CARRIAGE &amp; PRIVATE HIRE) DRIVER LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976</b>	25 - 28
	To determine whether the applicant satisfies the required medical grounds to be granted a dual drivers licence.	
11.	<b>DATE OF NEXT MEETING</b>	
	To note that it will be necessary to arrange an additional meeting in January 2006 regarding Taxi Licensing.	

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- 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.
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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 Council Chamber, Town Hall, Hereford on Tuesday, 25th October, 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, 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

**In attendance:** Councillors (none)

**29. APOLOGIES FOR ABSENCE**

Apologies were received from Councillor Brig P Jones CBE.

**30. NAMED SUBSTITUTES (IF ANY)**

There were no substitutions made.

**31. DECLARATIONS OF INTEREST**

There were no declarations of interest made.

**32. MINUTES**

**RESOLVED:** That the Minutes of the meeting held on 23rd August, 2005 be approved as a correct record and signed by the Chairman.

**33. PROPOSED HACKNEY CARRIAGE TARIFF INCREASES 2005/2006**

The Licensing Manager presented the report of the Head of Environmental Health and Trading Standards about proposed increases in taxi fares. She said that the Local Government (Miscellaneous Provisions) Act 1976 made provision for Local Licensing Authorities to set the rates/fares within the County together with distance and all other charges. She also said that the existing fares were last reviewed and increased in November 2004. Proposals for an increase in charges for taxi fares were published in the Hereford Times on 20 October 2005 with a two-week consultation period ending on 3 November 2005. The proposed increases were based on consideration of the annual inflation indices and submissions received from the Herefordshire Hackney Carriage and Private Hire Association. It was proposed the fare increase should take effect from 7 November 2005.

The Committee considered the proposed fare structure and took into consideration the financial pressures on the taxi trade and the anti-social hours involved. It was agreed that the new structure should be approved but that investigation should be made into lower rates for off-peak times in future.

**RESOLVED**

that the proposed fare increase should take effect from 7 November 2005 subject to the results of the consultation process being satisfactory.

**34. 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.

**35. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - REVIEW A SUSPENSION NOTICE AND DETERMINE WHETHER THE LICENCE HOLDER IS A FIT AND PROPER PERSON TO HOLD A DUAL DRIVERS LICENCE. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

The Licensing Manager explained the reasons why she had suspended the holder of a Hackney Carriage/Private Hire drivers licenses in accordance with the Council's licensing conditions, arising from an incident where he had been charged by the Police for two offences. The applicant gave details of the incident and explained why he felt that the suspension should be lifted. He provided a letter from his solicitor and his employer gave testimony to his good character.

Having considered all the facts put forward by the Licensing Manager, the applicant and his representative, the Committee decided that the suspension should continue to be in force pending the court hearing.

**36. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - REVIEW A SUSPENSION NOTICE AND DETERMINE WHETHER THE LICENCE HOLDER IS A FIT AND PROPER PERSON TO HOLD A DUAL DRIVERS LICENCE. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

The Licensing Manager explained the reasons why she had suspended the holder of a Hackney Carriage/Private Hire drivers licenses in accordance with the Council's licensing conditions, arising from an incident where he had been charged by the Police for an offence. The applicant gave details of the incident and explained why he felt that the suspension should be lifted.

Having considered all the facts put forward by the Licensing Manager and by the applicant, the Committee decided that the suspension should continue to be in force pending the court hearing.

**37. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - TO DETERMINE WHETHER AN APPLICANT IS A FIT AND PROPER PERSON TO BE GRANTED A DUAL DRIVERS LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

The Licensing Manager explained the reasons why she has refused an application for a Hackney Carriage/Private Hire drivers licenses in accordance with the Council's terms and conditions and the advice on the interpretation of spent convictions. The applicant gave details of the grounds for his application and explained the circumstances of his previous convictions.

Having considered all the facts put forward by the Licensing Manager and the applicant, the Committee decided that the application should be refused because it was considered that the applicant was not deemed to be a fit and proper person

under the meaning of the Local Government (Miscellaneous Provisions) Act 1976.

**38. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - TO DETERMINE WHETHER AN APPLICANT IS A FIT AND PROPER PERSON TO HOLD A DUAL DRIVERS LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

The Licensing Manager explained that the holder of a Hackney Carriage/Private Hire driver's license had been convicted of assault and that she had therefore referred the matter to the Committee in accordance with the Council's terms and conditions and the advice on the interpretation of spent convictions. The applicant gave details of the circumstances which had given rise to the incident and explained why he felt that he should continue to be licensed.

Having considered all the facts put forward by the Licensing Manager and the applicant, the Committee was satisfied that the licence holder was deemed to be a fit and proper person under the meaning of the Local Government (Miscellaneous Provisions) Act 1976 and that he could continue to hold his license.

**39. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - TO DETERMINE WHETHER AN APPLICANT IS A FIT AND PROPER PERSON TO BE GRANTED A DUAL DRIVERS LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

The Licensing Manager explained that the holder of a Hackney Carriage/Private Hire driver's license had been convicted of assault and that she had therefore referred the matter to the Committee in accordance with the Council's terms and conditions and the advice on the interpretation of spent convictions. The applicant gave details of the circumstances which had given rise to the incident and explained why he felt that he should continue to be licensed.

Having considered all the facts put forward by the Licensing Manager and the applicant, the Committee was satisfied that the licence holder was deemed to be a fit and proper person under the meaning of the Local Government (Miscellaneous Provisions) Act 1976 and that he could continue to hold his license.

**40. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - TO DETERMINE WHETHER AN APPLICANT IS A FIT AND PROPER PERSON TO BE GRANTED A DUAL DRIVERS LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

The Licensing Manager explained the reasons why she has refused an application for a Hackney Carriage/Private Hire drivers licenses in accordance with the Council's terms and conditions and the advice on the interpretation of spent convictions.

Having considered all the facts put forward by the Licensing Manager, the Committee decided that the application should be refused because it was considered that the applicant was not deemed to be a fit and proper person under the meaning of the Local Government (Miscellaneous Provisions) Act 1976.

The meeting ended at 3.20 a.m.

**CHAIRMAN**



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## **5 HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH CS4 (PART) IN THE PARISH OF CASTLE FROME**

**Report By: Head of Highways and Transportation**

### **Wards Affected**

Frome

### **Purpose**

To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert part of footpath CS4 in the parish of Castle Frome.

### **Key Decision**

This is not a Key Decision

### **Considerations**

- 1 This application was made in November 1997. The applicant's reasons for the diversion are to take the path out of the garden of Moorend Farm. The applicant is also very keen to stress the importance of security to his private wildlife reserve which is based around the ponds and has been built up over the years. Due to resources this application has not been processed as quickly as it might have been, however the applicant has been fully advised of progress on a regular basis.
- 2 The proposal differs from that originally suggested shown on drawing number D306/79-4 (appendix 2) , because Birchend Farm is no longer in the ownership of the applicant. The new owner of Birchend Farm has applied for a separate diversion under the Town and Country Planning Act 1990.
- 3 The applicant has agreed to erect gates on the proposed route where necessary.
- 4 The applicant has agreed to pay for advertising and to reimburse in full the Council's costs incurred in making the diversion order.
- 5 A consultation with user groups has been undertaken. The Malvern Hills District Footpath Society initially objected because they were unhappy that the new proposal did nothing to address the issue of an obstruction at Birchend farm, however they did not sustain their objection when the situation regarding a TCPA diversion at this site was explained. The Ramblers Association continues to object to the proposal because of the pleasure the variety of ponds and buildings provides, and that in spite of a prolonged presence by one of their representatives, the ducks and any waterfowl did not appear to be disturbed by his being there. This department has considered this objection, but feels the key tests set out in Section 119 of the Highways act have been met by the applicant and the objections are therefore considered irrelevant.

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Further information on the subject of this report is available from Lisa Hughes Assistant Rights of Way Officer on (01432) 261721

- 6 The Parish Council has agreed to the initial proposal, but did not respond to the amended proposal. The Local Member has not responded to the consultation.

## 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 R M Manning.
- Stretton Grandison 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: D306/79-4(i) (appendix 1).**

## Reasons

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

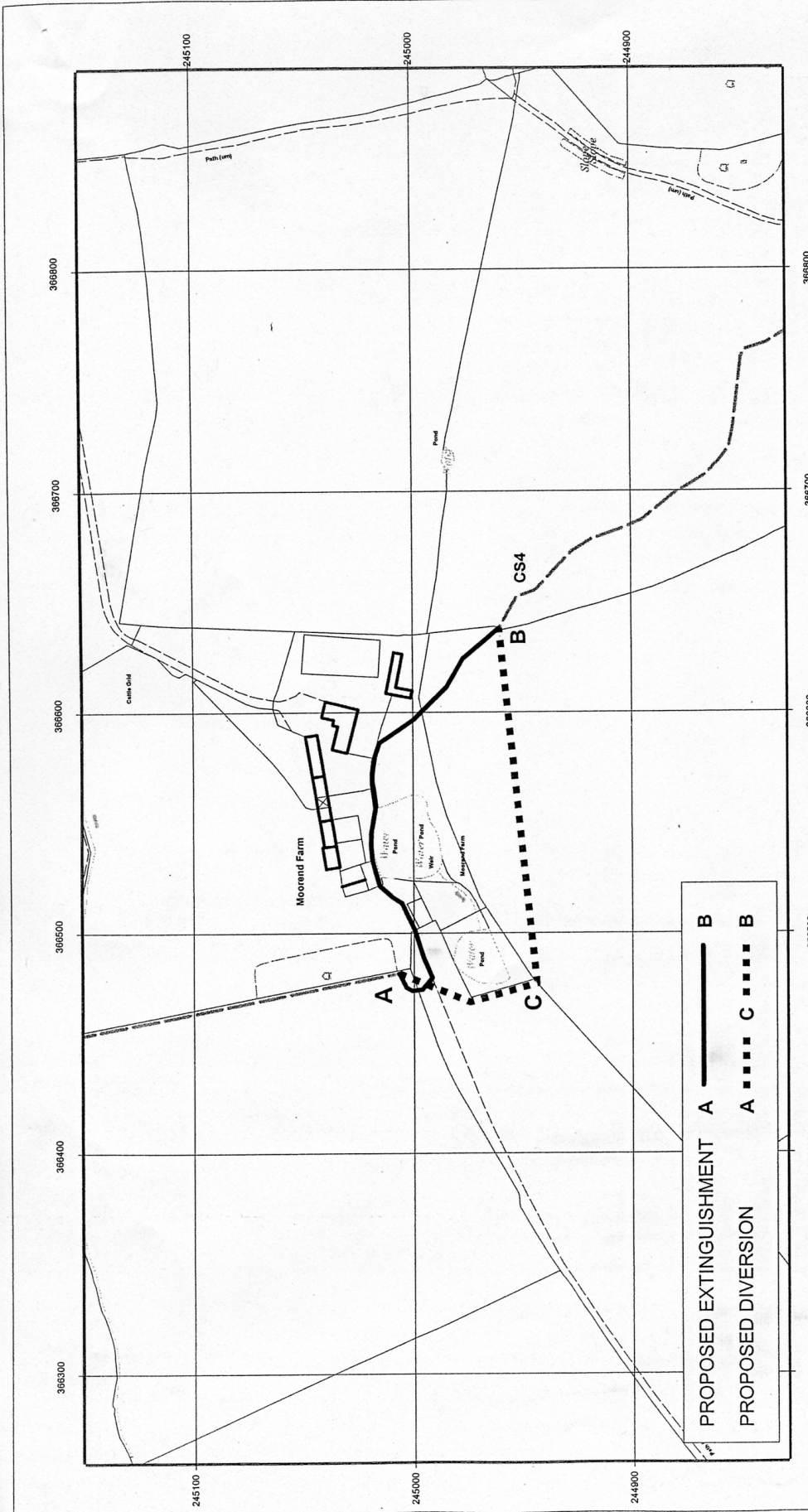
- The proposal benefits the owner of the land crossed by the existing path.
- The proposal does not alter the point of termination of the paths.
- The proposal is not substantially less convenient to the public.

## Appendix:

Appendix 1: Order Plan, drawing number: D306/79-4(i).

Appendix 2: Original route proposed by applicant, drawing number: D306/79-4.





Herefordshire Council  
 Highways & Transportation  
 Public Rights of Way  
 PO Box 234  
 Hereford  
 HR1 2ZD  
 Tel.: (01432) 260000  
 Fax.: (01432) 261983

**PUBLIC FOOTPATH**

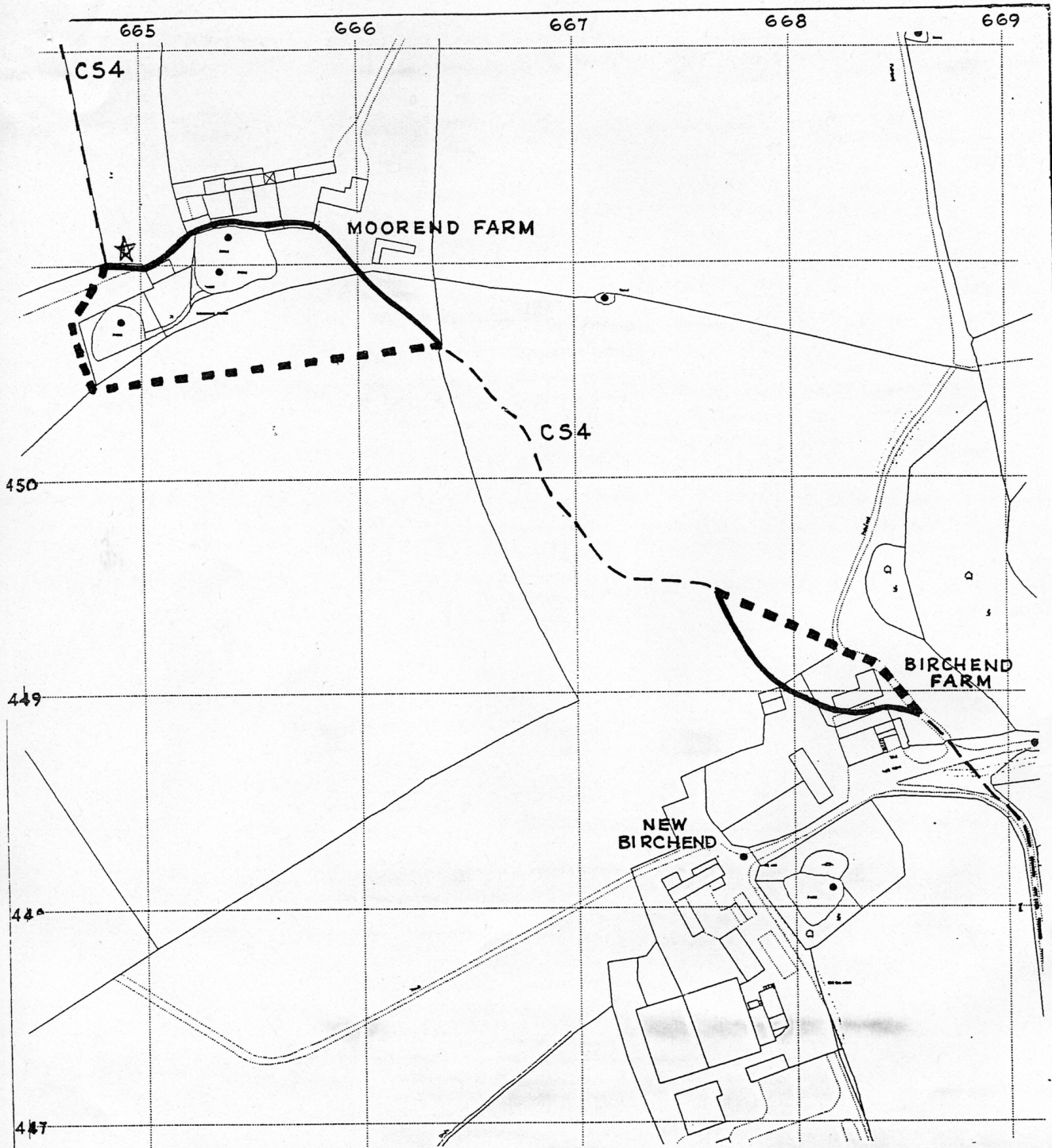
**PUBLIC BRIDLEWAY**

**BYWAY OPEN TO ALL TRAFFIC**

**LOCATION PLAN - PARISH OF CASTLE FROME**  
**PROPOSED DIVERSION OF PUBLIC**  
**FOOTPATH CS4 (PART)**  
 DWG No. D306/79-4(ii)  
 SCALE 1:2500



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PROPOSED EXTINGUISHMENT	—————
PROPOSED DIVERSION	- - - - -
EXISTING RIGHTS OF WAY	- - - - -

*Walter Kelly 27/11/97*

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HEREFORD & WORCESTER COUNTY COUNCIL  
 PARISH OF CASTLE FROME DISTRICT OF MALVERN HILLS  
 PROPOSED DIVERSION OF FOOTPATH N<sup>o</sup> CS4 (PARTS)

SURVEYED	DATE
DRAWN <i>Bej.</i>	DATE 12-11-97
CHECKED	DATE

SCALE 1:2500  
 DRG No. 79-4

DR. MARTYN HEYES  
 DIRECTOR OF ENVIRONMENTAL SERVICES  
 COUNTY HALL  
 SPETCHLEY ROAD  
 WORCESTER, WR5 2NP

**6 TO CONSIDER THE AMENDED ADOPTION OF INCREASE IN HACKNEY CARRIAGE FARES 2005/2006 THE TOWN POLICE CLAUSES ACT 1847 AND LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

**REPORT BY: Head of Environmental Health and Trading Standards**

### **Wards Affected**

County-wide

### **Purpose**

1. To consider the proposed amended price review for Hackney Carriage Fares in Herefordshire.

### **Legislation**

2. The Local Government (Miscellaneous Provisions) Act 1976 allows the local authority to fix the rates/fares within the Authority as well for time as distance and all other charges in connection with the fare of a vehicle or with the arrangements for the hire of a vehicle, means of a table of fares.
3. If objections are made or if objections are not withdrawn the Local Authority shall set a further date not later than two months after the date specified for the increase in fares to take affect.

### **Background**

4. The taxi fare increase was agreed in principle by the Committee on 25<sup>th</sup> October 2005, as long as no objections were received. The wrong Tariff increase was advertised in the Newspaper and an objection has been received from Mr J Clyde (chairman of the Steering Group), (Appendix 1). The advertisement had been put in using the first proposal that the Steering Group had put forward instead of the correct second version.
6. It is proposed the amended fare increase should take affect from 12 December 2005 if agreed by the Committee.

### **Considerations**

7. The amended table of fares is shown in Appendix 2. The amendment from the last committee report only involves the metres which were reported as 1130 but should have been 1100.
8. The period over which the price indices are measured is July 2004 to July 2005. The changes are as follows

Further information on the subject of this report is available from  
Suzanne Laughland Licensing Manager 01432361675.

- The RPIX 2005 increase from July 2004 is 2.3% (excluding mortgages).
  - Increase in fuel prices in excess of 11%.
9. As shown in the comparison table of charges (Appendix 3) changes have been made to the initial distance travelled and the initial starting fare for the journey within the Hackney Carriage. Also changes have been made to the ongoing travelling distances.

## Consultees

14. With Herefordshire Hackney Carriage and Private Hire Association.
15. Members of the General Public were consulted through a public notice placed in the Hereford Times on 20 October 2005. The closing date for consultation was Thursday 3 November 2005. Also a public notice was displayed at the taxi office. No objections have been received from members of the public or Trade other than that of the Chairman's letter (Appendix 1).

## Options

- To agree the amended fare increase.
- To reject the proposed fares and keep them at the present level.
- To set an alternative fare increase.

## Documents:

Appendix 1 Letter of objection

Appendix 2 Current taxi fares

Appendix 3 Comparison of present and proposed fares

APPENDIX 2

**COUNTY OF HEREFORDSHIRE**  
**DISTRICT COUNCIL**  
**PROPOSED HACKNEY CARRIAGE FARES**

**2005/2006**

<b>Tariff One</b>	Inclusive of VAT
For each journey not exceeding 1100 metres	£2.40p
For each subsequent 100 metres or part thereof	£0.10p
Waiting time for each period of 28 seconds or part thereof	£0.10p
 <b>Tariff Two</b>	
For hiring's begun between 11.00pm and 8.00am and Public holidays other than Christmas and New Year	150% of Tariff one
 <b>Tariff Three</b>	
For hiring's begun between 11.00pm on 24 <sup>th</sup> December to 8.00am on 27 <sup>th</sup> December and 11.00pm on 31 <sup>st</sup> December to 8.00am on 2 <sup>nd</sup> January	200% of Tariff One

**EXTRA CHARGES**

For each package other than hand luggage	£0.20p
For each bicycle or perambulator	£0.20p
For each person in excess of two	£0.50p
For cleaning a vehicle where it has been fouled	£50.00p
<b>By passenger.</b>	

Further information on the subject of this report is available from  
 Suzanne Laughland Licensing Manager 01432361675.



### Appendix 3 Proposed Changes of Taxi Fares

The last fare increase was in 2004. This fare increase is based on 4%.

<b>Current Tariff</b>	<b>£</b>
Journey not exceeding <b>955</b> metres	2.20
Each subsequent <b>105</b> metres or part of	0.10
Waiting time for each period of <b>29</b> seconds	0.10

<b>Proposed Tariff</b>	<b>£</b>
Journey not exceeding <b>1100</b> metres	2.40
Each subsequent <b>100</b> metres or part of	0.10
Waiting time for each period of <b>28</b> seconds	0.10

1 Mile = 1608 metres (1760 yrds)

Current first running mile	= £2.80
Proposed first running mile	= £2.90
	a 4% rise.

Further information on the subject of this report is available from  
Suzanne Laughland Licensing Manager 01432361675.





**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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