

A G E N D A

Regulatory Committee

Date: **Tuesday, 18th April, 2006**

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:

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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. APOLOGIES FOR ABSENCE To receive apologies for absence.	
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.	
3. DECLARATIONS OF INTEREST To receive any declarations of interest by Members in respect of items on the Agenda.	
4. MINUTES To approve and sign the Minutes of the meeting held on 28th February, 2006.	1 - 8
5. ALCOHOL CONSUMPTION IN PUBLIC PLACES - DESIGNATION OF PUBLIC PLACES IN HEREFORDSHIRE To consider a proposal to designate highways and other areas as public places within the provisions of the Criminal Justice and Police Act 2001, to restrict anti-social public drinking. Wards: Bromyard, Golden Valley North, Aylestone, Three Elms, Belmont, and Stoney Street	9 - 12
6. HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATHS BF17 (PART) AND FOOTPATH LH25 (PART) IN THE PARISH OF BRIMFIELD AND LITTLE HEREFORD To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert (parts of) footpaths BF17 and LH25 in the parishes of Brimfield and Little Hereford. Ward affected: Upton	13 - 16

7. **HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER BRIDLEWAY HD22 (PART) IN THE PARISH OF BIRLEY WITH UPPER HILL** 17 - 20

To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert part of bridleway HD22 in the parish of Birley with Upper Hill.

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8. **HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH WZ1 (PART) IN THE PARISH OF WALTERSTONE** 21 - 22

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Ward affected: Golden Valley South

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To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert footpath ZC100 in the Town of Leominster.

Ward affected: Leominster South

10. **PROCEDURAL ARRANGEMENTS** 25 - 26

To note the procedural arrangements for the meeting.

EXCLUSION OF THE PUBLIC AND PRESS

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.

RECOMMENDATION: 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

11. **APPLICATION FOR THE RENEWAL OF A DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976** 27 - 30

To determine whether an applicant is a 'fit and proper person' to have his dual drivers licence renewed.

12. **APPLICATION FOR A DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976** 31 - 34

To determine whether an applicant is a 'fit and proper person' for a dual drivers licence.

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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, Brockington, 35 Hafod Road,
Hereford on Tuesday, 28th February, 2006 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 and P.G. Turpin

In attendance: Councillors (none)

65. APOLOGIES FOR ABSENCE

Apologies were received from Councillor DC Taylor.

66. NAMED SUBSTITUTES (IF ANY)

There were no substitutions made.

67. DECLARATIONS OF INTEREST

Councillor Mrs SPA Daniels declared a personal interest in agenda item No. 10 (Minute No. 75) – application for renewal of dual hackney carriage & private hire drivers licence, and left the meeting for the duration of the item.

68. MINUTES

RESOLVED: That the Minutes of the meeting held on 31st January, 2006 be approved as a correct record and signed by the Chairman.

69. 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.

EXCLUSION OF THE PUBLIC AND PRESS

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.

RESOLVED: 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

These items disclose information relating to any particular applicant for or recipient of or former recipient of, any service provided by the authority.

70. APPLICATION FOR THE RENEWAL OF A DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Licensing Officer provided details to the Committee about a driver who had been observed carrying passengers in a licensed vehicle but without having renewed his Hackney Carriage/Private Hire driver's license. The applicant apologised for not renewing his licence at the right time but said that there had been a misunderstanding on his part following a change of address. He said that he had been licensed for a number of years and that he wished to continue and confirmed that there were no convictions to be revealed on the record check.

Having considered all the facts put forward by the Licensing Officer and the applicant, the Committee was satisfied that he was a fit and proper person under the meaning of the Local Government (Miscellaneous Provisions) Act 1976. It was decided that his driver's licence could be renewed with the proviso of revocation if the CRB response was not satisfactory, and that he should be given a written warning about his failure to renew his licence within the required timescale.

71. APPLICATION FOR THE RENEWAL OF A DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Licensing Officer explained that an applicant for the renewal of a Hackney Carriage/Private Hire driver's license had a conviction which did not become spent until 2008. The applicant gave details of the circumstances which had given rise to the conviction and explained why he felt that he should be granted a licence.

Having considered all the facts put forward by the Licensing Officer and the applicant, the Committee decided that he was a fit and proper person under the meaning of the Local Government (Miscellaneous Provisions) Act 1976 and that his license could be renewed but with a warning about his future conduct. The Committee also agreed that there were some ambiguities in the wording of the application form and asked the Licensing Officer to make the form clearer for applicants.

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

The Licensing Officer explained that an applicant for a Hackney Carriage/Private Hire driver's license had a conviction which did not become spent until 2007 and that she had therefore referred the matter to the Committee. The applicant gave details of the circumstances which had given rise to the conviction and explained why he felt that he should be granted a licence.

Having considered all the facts put forward by the Licensing Officer and the applicant, the Committee decided that he was not a fit and proper person under the meaning of the Local Government (Miscellaneous Provisions) Act 1976 and that he could not be granted a licence.

73. APPLICATION FOR THE RENEWAL OF A DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Licensing Officer explained that an applicant for the renewal of a Hackney Carriage/Private Hire driver's license had a conviction which did not become unspent until 2008. The applicant gave details of the circumstances which had given rise to the conviction and explained why he felt that he should be granted a licence.

Having considered all the facts put forward by the Licensing Officer and the applicant, the Committee decided that he was a fit and proper person under the meaning of the Local Government (Miscellaneous Provisions) Act 1976 and that his driver's licence could be renewed.

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

The Licensing Officer provided the Committee with the details of a police caution received by a driver in 2004 which had led to his application for the renewal of a Hackney Carriage/Private Hire driver's license being referred to the Committee. The solicitor acting on behalf of the applicant gave a detailed explanation of the circumstances which had given rise to the caution and explained why he felt that the time had arrived for the applicant to be permitted to renew his licence.

Having considered all the facts put forward by the Licensing Officer and the applicant, the Committee decided that he was not a fit and proper person under the meaning of the Local Government (Miscellaneous Provisions) Act 1976 and that he could not therefore be granted a renewal of his licence.

75. APPLICATION FOR THE RENEWAL OF A DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Licensing Officer explained that an applicant for the renewal of a Hackney Carriage/Private Hire driver's license had a conviction which did not become spent until 2008 and that she had therefore referred the matter to the Committee. The applicant gave details of the circumstances which had given rise to the conviction and explained why he felt that he should be granted a renewal of the licence.

Having considered all the facts put forward by the Licensing Officer and the applicant, the Committee decided that he was a fit and proper person under the meaning of the Local Government (Miscellaneous Provisions) Act 1976 and that his application could be granted.

The meeting ended at 4.05 p.m.

CHAIRMAN

Document is Restricted

5 ALCOHOL CONSUMPTION IN PUBLIC PLACES - DESIGNATION OF PUBLIC PLACES IN HEREFORD

Report By: Head of Environmental Health and Trading Standards

Wards Affected

Bromyard, Golden Valley North, Aylestone, Three Elms, Belmont, Stoney Street

Purpose

To consider a proposal to designate streets, roads and other areas (listed in Appendix 1) as public places within the meaning contained in the Criminal Justice and Police Act 2001 and thereby restricting anti-social public drinking in those areas.

Background

Local authorities have for some time had the power to bring in byelaws to control the consumption of alcohol in streets, roads and other such places within their areas. Herefordshire Council and its predecessor Councils brought such byelaws into effect in parts of the City of Hereford, Ross-on-Wye, Ledbury, and Bromyard.

Where the byelaw is in place, an offence exists where a person who is consuming intoxicating liquor in a designated place, continues to do so when told to stop doing so by a Police officer. The powers are therefore available to control antisocial behaviour and reduce the chances of drinking vessels being used in acts of violence.

Since 2001 Herefordshire Council has made 3 Orders relating to areas of the City of Hereford as well as the village of Madley.

Should the recommendation be agreed then an advertisement will be placed in a local newspaper informing the public that an order has been made and will come into effect on a given day and signs will be erected at the three areas. The Home Office, landowners, police and Parish Councils will be informed of the commencement of the Order.

The proposed designated public places

The proposed areas are detailed at Appendix I. **[Detailed plans to follow]**

The case for designation

Neither those who have highlighted the problems associated with 'public' drinking, the Police nor Herefordshire Council wishes to bring about a comprehensive ban on drinking in the open air. The concerns expressed relate to the effects of alcohol consumption by a small number of people who directly or indirectly cause problems to the residents neighbouring, or those others wishing to use the areas of land for recreation etc. where no disruptive effects occur.

The Police have confirmed that the proposed areas have often been the subject of reports to the police of drink-related anti-social behaviour and nuisance.

An advertisement was placed in the Hereford Times on 9th March 2006 inviting representations regarding this matter. The closing date for representations is 28 days after the date of advertisement. **At the time of writing this report there were a number of days remaining for receipt of representations. Any such representations will be presented at the meeting.** No correspondence has been received objecting to the proposal although there has been discussion and correspondence relating to the inclusion of additional areas. Certain land owners/occupiers (inc. Herefordshire Council, Herefordshire Housing, and the Parochial Church Council), the Police and Belmont Rural Parish Council, Bromyard Town Council, Peterchurch Parish Council, and Hereford City Council have been formerly approached with respect to obtaining their views on the proposals. No objections have been received.

The proposals accord with initiatives already commenced by the Herefordshire Community Safety Partnership with respect to crime and disorder and in particular tackling alcohol-associated problems.

The effects of making an order

The Police will have the power to require a person not to drink alcohol in a designated place where the officer reasonably believes that the person is, has or intends to do so, and to surrender any alcohol or alcohol containers (other than sealed containers) in the person's possession. It is not an offence to drink alcohol in a designated public place, but failure to comply with an officer's requirements in respect of public drinking or surrender of alcohol, without reasonable excuse, is an arrestable offence.

Unlike the procedure associated with the byelaw, the local authority is not under any obligation to conduct a formal assessment of the nature of any alleged problem(s). However, the local authority has to be satisfied that public nuisance, annoyance or disorder has been associated with public drinking in a proposed area. Where there have been no such problems, a designation order will not be appropriate.

Once in force, an offence exists where a person who is consuming intoxicating liquor in a designated place, continues to do so when told to stop doing so by a Police officer. Such powers have brought about a change in town centres in terms of the previously held perceptions of some that loutish, anti-social behaviour prevailed. A 'tool' is therefore available to control such behaviour and reduce the chances of drinking vessels being used in acts of violence.

Financial Implications

Should the recommendation be agreed then a further advertisement must be placed in the local newspaper giving at least 7 days' notice of the Order coming in to force. In addition, appropriate signage must be purchased and erected in suitable places. Advertisement will cost approximately £300.00. Signs erected at the principal entrances to each of the areas of land along with some located within the land should result in between 30 and 40 signs being purchased and erected. Such signs cost approximately £15 each and the cost of erecting them should not exceed £500.

RECOMMENDATION

THAT The Committee makes an Order designating those areas detailed in Appendix 1 as public places for the purposes of section 13 of the Criminal Justice and Police Act 2001.

BACKGROUND PAPERS

- Crime and Disorder Act 1998
- Criminal Justice and Police Act 2001
- The Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2001
- Letters and emails from and to various stakeholders

Appendix I – Details of proposed areas for inclusion in an Order

N.B. Detailed scaled plans will accompany this Appendix.

Public open space (inc. Ball Court) to the west of Waterfield Road and south of Kestrel Road, Belmont
Public open space (inc. Skateboard Park) to the east of Brampton Road, to the west of the dismantled railway line and south of Ethalstan Crescent, Newton Farm
Public open space to the north of Luard Walk and south of the River Wye, Belmont
Eastholme Centre, Eastholme Road, Belmont (i.e. areas adjacent to and around the library, health centre and community centre including the car park)
Public open space at Northolme Road, Belmont (to include the Building, tarmacaded areas adjacent to the building, children's play area and land between the Building and the play area as defined on the attached plan)
Churchill Gardens, Aylestone, Hereford (in its entirety) Recreation ground off Grandstand Road, Bobblestock (i.e. those areas comprising the football pitch, car park, play area, changing rooms, bowling green and areas between these parts)
Recreation Field (inc. its car park), Peterchurch Peterchurch Churchyard, Peterchurch Chapel Road (aka Station Road), Peterchurch
Bromyard Cemetery Broad Street High Street Rowberry Street Church Lane (to the entrance to Old School Court) Church Street (to its jct. With Porthouse Industrial Estate) Cruxwell Street Tenbury Road (to its jct. With Firs Lane) Tenbury Road car park Land within the curtilage of Bromyard Leisure Centre Council Offices Alleyway adj. to Library Pump Street (to its jct. With Little Hereford Street) Market Square Queens Passageway Kempson Players (formerly the Playing Fields) St Peter's Closed Churchyard Nunwell Park The Knapp Recreation Ground Bowling Green and Tennis Courts, Rowberry Street

6 HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATHS BF17 (PART) AND FOOTPATH LH25 (PART) IN THE PARISH OF BRIMFIELD AND LITTLE HEREFORD

Report By: Rights of Way Manager

Wards Affected:

Upton

Purpose

To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert (parts of) footpaths BF17 and LH25 in the parishes of Brimfield and Little Hereford.

Considerations

- 1 An application for a public path diversion order was made in July 1997. Solicitors acting on behalf of the owners of 'Nun Upton', Little Hereford put forward the reasons, 'to make the route less intrusive into the client's property and to make it more convenient to the general public'. The proposal is shown on drawing number D289/236-25/59-17 (appendix 1).
- 2 The proposal was subject to pre-order consultation, objection was raised by the Open Spaces Society because they felt the diversion need not be so extensive in order to increase privacy for the property. The applicant was informed of this in June 2000, along with a plan showing the alternative suggested by the Open Spaces Society (appendix 2). No record of a reply exists. On the 12th October 2000, the Council wrote to the Open Spaces Society asking if they would reconsider their objections (appendix 3). The OSS responded in January 2001, stating that they would definitely object to the proposal as set out, should it be proceeded with (App. 4).
- 3 The Council made a site visit on the 19th January 2001, and the findings were outlined in a letter to the applicant dated 31st January 2001 (appendix 5). This concluded that the proposal did not meet two of the tests required under Section 119 of the Highways Act 1980:
 - a) The path should not be substantially less convenient to the public as a result of the diversion, and
 - b) The Highway Authority must have regard to the effect, which the diversion would have on public enjoyment of the path as a whole, and to the effects of agriculture and forestry.

For these reasons the applicant was informed that formal rejection of the proposal would be sought unless a proposal, which would satisfy the stated tests, was submitted within 28 days.

Further information on the subject of this report is available from Susan White Assistant Rights of Way Officer on (01432) 260572

- 4 A letter was received from the applicant dated 7th February 2001 (appendix 6) arguing against points made in the letter to him, the letter gave no indication of a willingness to amend the proposal.
- 5 Points made by the applicant were answered in a letter dated 5th July 2002 (appendix 7) and the applicant was informed that since the Council had received no alternative proposal, it had no option but to seek formal rejection of the application.
- 6 No further communication from the applicant in response to the Council's letter of 5th July 2002 has been received.
- 7 The Parish Council and local councillor (Cllr. J Stone) were consulted on 21st September 2004 stating our reasons for requesting a rejection and asking for their comments. (appendix 8) A letter received from the Parish Council stated that the Parish Council did not agree with the rejection of the proposals as they stated that the existing footpath is ploughed and the alternative is not, making it more convenient to the public (appendix 9). However, it is not possible under the Highways Act 1980 to take into account existing obstructions on an existing right of way when deciding the relevant convenience of the route as it is unlawful for the landowner to have ploughed the path in the first instance. Cllr J Stone is in agreement with the views of the Parish Council.
- 8 A final letter was sent to the applicant on 20th October 2005 requesting a site visit to discuss the proposals with a 28 day time limit for reply if the applicant was still interested in making an order to divert the path (appendix 10). There has been no response.

Alternative Options

The council could support the proposal, which, if the objections were sustained, could lead to a public inquiry and associated demands on resources.

Risk Management

There are no risks.

Consultees

- Prescribed organisations as per annexe E of Department of the Environment Circular 2/93
- Statutory undertakers
- Brimfield & Little Hereford Parish Council.
- The Local Member, Cllr J Stone

Recommendation

That the application made under Section 119 of the Highways Act 1980 is rejected because The proposed diversion does not meet the specified criteria as set out in section 119 of the Highways Act 1980 in that it is less convenient to the public.

Appendices

Appendix 1: Drawing number D289/236-25/59-17

Appendix 2: Letter dated 2nd June 2000 informing applicant that the proposed changes were not acceptable. Plan attached with a route marked on which would be acceptable to the user groups consulted, applicant requested to amend the proposed route.

Appendix 3: Letter dated 12th October 2000 to Open Spaces Society asking if they will withdraw their objections to the proposal.

Appendix 4: Letter dated 3rd January from the Open Spaces, reaffirming objection to proposal with associated plan.

Appendix 5: Letter dated 31st Jan 2001 informing applicant that proposal does not meet two of the required tests for diversion. Given 28 days to send in alternative

Appendix 6: Letter from applicant dated 7th February 2001 querying points made in letter of 31st January.

Appendix 7: Letter dated 5th July 2002 answering queried points and stating that the Council will be seeking rejection of the application.

Appendix 8: Letter to Brimfield and Little Hereford Group Parish Council dated 21st September 2004.

Appendix 9: Letter from Brimfield and Little Hereford Group Parish Council stating their reasons for supporting the proposals dated 22nd October 2004

Appendix 10: Letter to Applicant dated 20th October 2005.

7 HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER BRIDLEWAY HD22 (PART) IN THE PARISH OF BIRLEY WITH UPPER HILL

Report By: Rights of Way Manager

Wards Affected:

Golden Cross with Weobley

Purpose

To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert part of bridleway HD22 in the parish of Birley with Upper Hill.

Considerations

- 1 An application for a public path diversion order was made in April 1998 by Mr Mackay- Lewis of Gattertop Farm. The proposed diversion as shown on Drawing no. D320/190-22(A) (appendix 1) was to move the Bridleway from points A to C to follow the line amended as A-B-C on the plan. The diversion takes the bridleway away from the applicants' property, Gattertop. The reason for the application was to provide more security to the property.
- 2 In May 1999 the Council informed the applicant that the proposed change was not acceptable as it created a dead end for footpath HD23 (appendix 2). The applicant amended the proposal (drawing number D320/190-22 [B], appendix 3) and this proposal was subject to pre-order consultation.
- 3 The proposal met objection and adverse comments from several of the user groups consulted:
 - a) Byways and Bridleways Trust - View of the pond would be removed; introduction of a number of gates (substantial inconvenience to a horse rider); route less well defined; not compensated for by any benefit of view from Ramshill Wood.
 - b) Open Spaces Society: Proposed route 50% longer than present, much of the proposed route is steep and thus difficult to use; proposed route running through cropped fields not desirable and hedges adjacent block out views for walkers; the present route is much more interesting and attractive.
 - c) Cyclists Touring Club: Not minded to object, but do realise that the proposal fails the test by being substantially less convenient.
- 4 Having regard to the comments received and the requirements of Section 119 of the Highways Act 1980, officers visited the site and concluded that (see letter dated 26th June 2002, appendix 4):

Further information on the subject of this report is available from Susan White Assistant Rights of Way Officer on (01432) 260572

- ❖ The proposed route introduces a number of gates which are a substantial inconvenience to horse riders.
 - ❖ The proposed route is more circuitous (approximately 110m longer) and arguably less attractive.
 - ❖ The existing route has some views across the valley and travels along an attractive, historic, 'green lane'.
 - ❖ The proposed route passes through a paddock containing horses which may also be an inconvenience to horse riders.
 - ❖ On balance the proposed route fails the test by being substantially less convenient than the existing route.
- 5 A further route was proposed by the applicant for the route to cut through enclosure number 8900, instead of going around the outside. However, following a site meeting on the 11th of September 2002, it was concluded by officers that the proposal did not differ substantially from the original proposal and the applicant was informed that it was proposed to reject the proposal as it was substantially less convenient than the existing route. (Letter dated 12th September 2002, appendix 5).

The applicant has not sent any further communication since the meeting of the 11th September 2002.

- 6 The Parish Council and Local Member have been consulted on this matter. Both agree with the proposed diversion and therefore do not agree with rejection of the proposals.

Alternative Options

The council could support the proposal, which is likely to lead to a public enquiry if the objections were sustained.

Risk Management

There is no risk. The Authority is exercising a power rather than a duty. There are no grounds for appeal.

Consultees

- Prescribed organisations as per annexe E of Department of the Environment Circular 2/93
- Statutory undertakers
- Local Member – Councillor J H R Goodwin
- Birley with Upper Hill Parish Council

RECOMMENDATION

THAT The application to divert Bridleway HD22 (part) in the parish of Birley with Upper Hill, made under Section 119 of the Highways Act 1980, is rejected because the proposed diversion does not meet the specified criteria as set out in section 119 of the Highways Act 1980 in that it is less convenient to the public.

Appendix

Appendix 1: Drawing number D320/190-22 [A] showing original proposal.

Appendix 2: Letter dated 25th May 1999 asking applicant to amend proposal.

Appendix 3: Order plan, drawing number: D320/190-22 [B] showing amendment.

Appendix 4: Letter dated 26th of June 2002 advises applicant that objections have been received due to proposed route being less convenient and that the recommendation will be that the application be rejected.

Appendix 5: Letter dated 12th of September 2002 advising applicant that previous objectors are unlikely to be swayed by further amendment.

Further information on the subject of this report is available from Susan White Assistant Rights of Way Officer on (01432) 260572

8 HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH WZ1 (PART) IN THE PARISH OF WALTERSTONE

Report By: Rights of Way Manager

Wards Affected:

Golden Valley South

Purpose

To consider an application under the Highways Act 1980, section 119, to confirm a public path diversion order to divert part of bridleway WZ1 in the parish of Walterstone.

Considerations

- 1 Although an order has been made for the original application, taking into account the long time it has taken to determine the application and the fact that two objections have been received, it has been decided to seek approval from the Regulatory Committee to before submitting the order to the Secretary of State for consideration.
- 2 The application to divert footpath WZ1 was received on 24th May 1991. The applicant wanted to divert the path from out of their newly purchased garden area, the reason being, 'to gain privacy in newly created private property'. The proposed path was on land in separate ownership. The landowner consented to the proposals.
- 3 The proposal was sent to pre-order consultation to which there were no objections. The then Local Member was consulted and agreed to the proposals.
- 4 The applicants sent a letter (dated received 10th February 1994) requesting the application be expedited as they had young children, who were frightened by the sudden appearance of walkers in the garden.
- 5 An order was made to divert the path on 30th March 1995.
- 6 Following the making of the order, two objections were received, one from the Ramblers Association and one from the Open Spaces Society. Both felt that the diversion was overly long and that it moved the path so the public would have to walk down a bank and up the other side. They both felt that, the diversion did not meet the criteria laid down in the Highway Act, ie the proposed route was substantially less convenient to the public than the existing route.
- 7 There has been no further correspondence regarding this diversion, either to or from, landowners or objectors.
- 8 The objections require the order to be recommended to the Secretary of State for a decision. If this results in a public inquiry there will be an associated cost to the Council.

- 9 The current Local Member and the Parish Council were consulted on the proposals in October 2005. The Local Member, Cllr. Williams agrees with the proposed diversion and the Parish Council have stated that they hold no objections.

Alternative Option 1

The council could submit the order to the Secretary of State for non-confirmation.

Alternative Option 2

The Council could submit the order to the Secretary of State for confirmation with modifications.

Risk Management

If the objections are sustained, there may be a public inquiry which would be at the expense of the council.

Consultees

- Statutory undertakers
- Local Members – Councillor J M Pickering, Councillor J B Williams (October 2005)
- Parish Council

RECOMMENDATION

THAT The Order is recommended to the Secretary of State for confirmation, An order was made to divert this path on 30th March 1995, it was felt by officers at the time that the diversion met the tests set out in the Highways Act 1980 in that it is not substantially less convenient to the public. It could be held to be unreasonable of the Council, after such a long period of time, not to attempt to conclude this diversion by submitting it to the Secretary of State for confirmation.

Appendix

Appendix 1: Order Plan –Drawing No. D90/397-1

Appendix 2: Copy of letter from applicants asking to speed up the process

Appendix 3: Copy of letter of objection from Ramblers Association.

Appendix 4: Copy of letter of objection from Open Spaces Society.

Further information on the subject of this report is available from Susan White Assistant Rights of Way Officer on (01432) 260572

9 HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH ZC100 IN THE TOWN OF LEOMINSTER

Report By: Parks & Countryside Manager

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 footpath ZC100 in the Town of Leominster.

Considerations

- 1 An Order to divert the public footpath was originally made under the Town and Country Planning Act 1990, in 1994, it was confirmed with modifications by the Secretary of State on the 24th of June 1996. This Order could not be certified because the terms of Article 2 of the order have not been complied with (the Order states that the width of the path should be a minimum of 1.5 metres in width and the path is at most 0.5m in parts).
- 2 Since the diversion was never completed, the legal line of the footpath currently runs through 7 gardens and is obstructed by two dwellings.
- 3 All of the landowners affected by the diversion have been consulted, and no objections to the proposal have been received.
- 4 As a result of the pre-order consultation, several comments were received. The Open Spaces Society would wish to see kerb crossing made accessible to wheelchairs, pushchairs and the infirm. There is a raised platform at the kerb crossing point which brings the road surface level with the pavement to make this possible. They also note that it is a possible route for young cyclists and skateboarders, however if this becomes a problem a prohibition Order could be looked at. The Open Spaces Society would wish the path to be 1.5 metres in width except for the section where this is not possible. Councillor J P Thomas thinks the diversion makes sense and supports it.
- 5 Herefordshire Council will pay the advertising, and legal fees and will carry out any works necessary to bring the proposed route into being.

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.

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

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 Members-Cllr J P Thomas and R B A Burke, Leominster South
- Leominster Town Council

RECOMMENDATION

THAT a Public Path Diversion Order is made under Section 119 of the Highways Act 1980, as illustrated on drawing number: D370/226-100 (appendix 1) because the proposed diversion meets the specified criteria as set out in section 119 of the Highways Act 1980 in that:

the proposal benefits the owners of the land crossed by the existing path;

the proposal benefits path users because the existing path is obstructed by gardens and buildings;

the proposal does not alter the point of termination of the paths; and

the proposal is not substantially less convenient to the public.

Appendix

Appendix 1: Drawing number: D370/226-100

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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