

A G E N D A

Regulatory Committee

Date: **Tuesday, 28th August, 2007**

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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**County of Herefordshire
District Council**



HEREFORDSHIRE
COUNCIL

AGENDA

for the Meeting of the Regulatory Committee

To: Councillor P Jones CBE (Chairman)
Councillor JW Hope MBE (Vice-Chairman)

Councillors CM Bartrum, DJ Benjamin, ME Cooper, PGH Cutter, SPA Daniels,
JHR Goodwin, R Mills, A Seldon and DC Taylor

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| 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 31st July 2007. | 1 - 6 |
| 5. HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH CD9 (PART) IN THE PARISH OF CRADLEY To consider an application under the Highways Act 1980, section 119, to make an Order to divert part of footpath CD9, Cradley. Ward: Hope End | 7 - 8 |
| 6. APPLICATION FOR AN AMUSEMENT WITH PRIZES MACHINES PERMIT FOR OVER TWO MACHINES – SECTION 34 THE GAMING ACT 1968 To consider an application for a permit for four gaming machines at the Litten Tree, Hereford. Ward: Central | 9 - 10 |
| 7. ARRANGEMENTS FOR BRIEFING ABOUT STREET TRADING AND TAXI LICENSING To consider the arrangements for a forthcoming briefing. | |
| 8. PROCEDURAL ARRANGEMENTS To note the procedural arrangements for the meeting. | 11 - 12 |

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| To consider an application for a hackney carriage/private hire driver's licence. | |
| 10. APPLICATION FOR A HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE. | 17 - 20 |
| To consider an application for a hackney carriage/private hire driver's licence. | |
| 11. ISSUE REGARDING AN EXISTING HACKNEY CARRIAGE/PRIVATE HIRE DRIVER. | 21 - 22 |
| To consider an issue regarding an existing hackney carriage/private hire driver. | |

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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, 31st July, 2007 at 2.00 p.m.**

Present: Councillor P Jones CBE (Chairman)
Councillor JW Hope MBE (Vice Chairman)

Councillors: CM Bartrum, DJ Benjamin, ME Cooper, PGH Cutter,
JHR Goodwin, R Mills, A Seldon and DC Taylor

In attendance: Councillors TM James

26. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Mrs SPA Daniels.

27. NAMED SUBSTITUTES (IF ANY)

There were no named substitutes present.

28. DECLARATIONS OF INTEREST

There were no declarations made at the meeting

29. MINUTES

RESOLVED: That the Minutes of the meetings held on 3rd and 11th July, 2007 be approved as a correct record and signed by the Chairman.

30. ALCOHOL CONSUMPTION IN PUBLIC PLACES - DESIGNATION OF PUBLIC PLACES IN HEREFORD

The Environmental Health Manager (Commercial) presented a report about the proposed designation of certain public places in Kington to control anti social drinking. He said that the Committee had previously decided to introduce an Order in a number of locations in the County but had decided to defer a decision about Kington pending further consultation. He provided the Committee with the results of those consultations.

Inspector P Wilson explained the incidents that had been dealt with by the Police in Kington relating to anti-social drinking and that the making of an Order would greatly assist in helping to take preventative measures. This would enable a better use of Police time and resources and help to remove the problem, as had been the case in other locations within the County where such Orders had been introduced. He said that the Police would have the power to require a person not to drink alcohol in a designated place and to surrender any alcohol. In answer to a question from Councillor J Goodwin he advised that was 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, was an arrestable offence.

The Committee discussed the proposals for Kington and Councillor James the Local

Ward Member said that there was considerable opposition from local organisations and the public. It was felt there that there was not a problem of anti-social drinking in public places in Kington and that an Order would have an adverse affect on community and social events. The local football club was particularly concerned about the Order extending to their ground and had felt that it would be inappropriate given that the ground was an enclosed and secure area. He was also concerned that signage in support the Order could give tourists the wrong impression of the Town and also have an adverse visual impact upon it. the Environmental Health Manager (Commercial) said that such concerns had been addressed in other towns where care had been taken about the location and number of signs.

The Committee discussed the proposals and considered the representations that had been made. On balance it was felt that approval should be given because of the prevention of anti social drinking and associated behaviour but that the matter should be reviewed after 12 months

RESOLVED

- THAT**
- (i) an Order be made designating those areas detailed in Appendix 1 of the report of the Head of Environmental Health and Trading Standards in Kington as public places for the purposes of section 13 of the Criminal Justice and Police Act 2001; and**
 - (ii) the matter be reviewed after 12 months from the date of the Order being made.**

31. HIGHWAYS ACT 1980 SECTION 119 PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH LH19 (PART) IN THE PARISH OF LITTLE HEREFORD

The Rights of Way Manager presented a report about an application by the Council for a Public Path Diversion Order to divert part of Footpath LH19, Little Hereford, under Section 119 of the Highways Act 1980. He advised that the Council's Public Rights of Way department had made the application because a footbridge crossing had become unsafe due to riverbank erosion. The diversion would avoid the need to replace the bridge and costly maintenance work; was felt to be in the public interest; and the landowner had given consent to the proposal. He advised that no objections had been received and that the Byways and Bridleways Trust was in support of the diversion. The Ramblers' Association had expressed concern about the possibility of future erosion but arrangements would be made for the new path to have sufficient width to cater for this. He also advised that the Local Ward Member was in favour of the proposal.

The Committee agreed with the course of action suggested by the Rights of Way Manager that the Diversion Order should be made.

RESOLVED:

that a Public Path Diversion Order be made under Section 119 of the Highways Act 1980 in respect of part of Footpath LH19, Little Hereford as illustrated on drawing number: D363/236-19(i)

32. HIGHWAYS ACT 1980 SECTION 119 PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH CD9 (PART) IN THE PARISH OF CRADLEY

The Rights of Way Manager said that negotiations were continuing in respect of the proposed diversion and asked for consideration of the application to be deferred for the time being.

RESOLVED: that consideration of the report be deferred until negotiations had been concluded to the satisfaction of the Rights of Way Manager.

33. 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 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.

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

34. TO CONSIDER AN APPEAL AGAINST A DECISION OF THE STREET TRADING PANEL

The Trading Standards Manager referred to agenda item No. 9 and provided the Committee with details about an appeal that had been received from a licensed street trader following a decision by the Street Trading Panel refusing permission for him to sell certain products. He outlined the remit of the Panel under the provisions of the Local Government (Miscellaneous Provisions) Act 1982, relating to street trading. He advised that the Panel met approximately every six weeks and was comprised of representatives from Trading Standards, Environmental Health, Highways and Transportation, Licensing, Economic Development, Markets and Fairs, and Legal Services. The Hereford City Manager also attended in an ex-officio capacity. A policy was in place for the administration and enforcement of street trading which was a non-profit making service within Herefordshire and applications to the Panel were considered on their individual merits, taking into account a variety of factors including:

- existing trader/product supply in the vicinity
- precedents already set by the Panel; and
- suitability of proposed stall/unit/product range

He said that the application had been refused by the Panel due to there already being sufficient outlets of the products in the locality and also that the use of a proposed vending machine was not considered to be appropriate in High Town. The Panel had already refused permission previously for another street trader to sell the product range in question.

The appellant provided the Committee with details of the circumstances which had given rise to the application, described the products he wished to sell and said that he did not feel that there would be any trading disadvantages caused to other traders in doing so.

Having given detailed consideration to all of the facts put forward by the Trading Standards Manager and the applicant, the Committee decided that the appeal should be upheld and that the applicant be granted a consent to sell the products he had requested. The Committee also requested that the Trading Standards Manager provide them with a briefing about Street Trading in general at a future meeting.

35. ISSUE REGARDING AN EXISTING HACKNEY CARRIAGE/PRIVATE HIRE DRIVER.

The Licensing Officer referred to agenda item No. 10 and provided the Committee with the circumstances which had given rise to the suspension of a dual Hackney Carriage/Private Hire driver's licence. The applicant provided the Committee with details of the circumstances which had given rise to him receiving a conviction and the reasons why he felt that he should be allowed to continue to hold the licence.

Having considered all of the facts put forward by the Licensing Officer and the applicant, the Committee decided that the suspension should remain in force but that it could be reviewed either at the first scheduled meeting after the conviction became spent, or the first scheduled meeting after the applicant had obtained information from the Criminal Records Bureau which would satisfy the Committee.

36. APPLICATION FOR A HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE.

The Committee decided to defer consideration of the application set out in Agenda item No 11 in view of the fact that the applicant was not present at the meeting.

37. APPLICATION FOR A HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE.

The Licensing Officer referred to agenda item No. 12 and provided the Committee with the circumstances which had given rise to the need for an application for a dual Hackney Carriage/Private Hire driver's licence to be referred to the Committee. The applicant provided the Committee with details of the circumstances which had given rise to him receiving a conviction and the reasons why he felt that he should be granted the licence.

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

38. APPLICATION FOR A HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE.

The Licensing Officer referred to agenda item No. 13 and provided the Committee with the circumstances which had given rise to the need for an application for a dual Hackney Carriage/Private Hire driver's licence to be referred to the Committee. The applicant provided the Committee with details of the circumstances which had given rise to him receiving a conviction and the reasons why he felt that he should be

granted the licence.

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

The meeting ended at 4.30 p.m.

CHAIRMAN

HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH CD9 (PART) IN THE PARISH OF CRADLEY

Report By: Public Rights of Way Manager

Wards Affected:

Hope End

Purpose

To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert part of footpath CD9 in the parish of Cradley as illustrated on Drawing Number D272/99-9(i) (appendix 1).

Considerations

- 1 The application was made on 18th April 1997, by Mr & Mrs Davies (who are the landowners.) The reasons for which were 'to segregate users (of the path) from vehicular traffic and for property security'.
- 2 Pre-order consultation was carried out by the Public Rights of Way department. The proposal had general agreement (including that of the Local Members) however there was one notable objection from the Ramblers Association (Appendix 2). They felt that the proposed route was less convenient to the public as it travelled up steps on a less even surface and the proposed path would be enclosed between a hedge and a fence.
- 3 The views of the Disabled Ramblers were then also sought. They agreed with the Ramblers' Association that the proposed route was less convenient to the public, especially to the less able-bodied user, due to the introduction of steps and the uneven ground. In the light of these comments, the applicants have amended their plans to enable access for less able-bodied users. As illustrated on the plan D272/99-99(i)
- 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 The proposed diversion meets the specified criteria as set out in section 119 of the Highways Act 1980 in that:
 - The proposal is considered not substantially less convenient to the public

Alternative Options

The Council could decide to decline to make an order however, this could be deemed to be unreasonable due to the length of time since the application and that the applicants have been compliant in our requests to amend the proposals.

Risk Management

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. There are no grounds for appeal against the Council's decision.

Consultees

- Prescribed organisations as per annexe E of Department of the Environment Circular 2/93.
- Disabled Ramblers
- Local Members – Cllr Ross Mills and Cllr Roy Stockton
- Cradley Parish Council.
- Statutory Undertakers

Recommendation

That a public path diversion order is made under Section 119 of the Highways Act 1980, as illustrated on the attached plan D272/99-9(i), and that the application is rejected.

Appendices

Appendix 1 - Order Plan, drawing number: D272/99-9(i)

Appendix 2 - Letter from the Ramblers' Association of 17th April 2006 with subsequent correspondence

Appendix 3 – Letter from the Disabled Ramblers

APPLICATION FOR AN AMUSEMENT WITH PRIZES MACHINES PERMIT FOR OVER TWO MACHINES – SECTION 34 THE GAMING ACT 1968

Report By: Head of Environmental Health and Trading Standards

Wards Affected:

Central

Purpose

1. To consider an application for an Amusements with prizes permit for four gaming machines at the Litten Tree, 58 Commercial Road, Hereford, HR1 2BP.

Background Information

2. Responsibility for issuing Section 34 permits to public houses was transferred to licensing authorities in November 2005 as a result of changes made by the Licensing Act 2003. Licensing Authorities will continue to be responsible for authorising gaming machines in pubs under the Gambling Act 2005.
3. The appropriate authority shall not refuse to grant or renew a permit without affording to the applicant or a person acting for him an opportunity of appearing before, and being heard by, the appropriate authority or (where that authority is a local authority) a committee of the local authority.
4. Grounds for refusal to grant or renew permit.

The grant of a permit shall be at the discretion of the appropriate authority; but The appropriate authority shall not refuse to renew a permit except

- i) on the grounds that [while the permit has been in force] they or their authorised representatives have been refused reasonable facilities to inspect the premises.
- ii) Where the permit is expressed to be granted for the purposes of section 34 (5E) of this Act on the grounds that the condition specified in the Act.

Statutory Conditions

- a) In the case of premises where admission is restricted to persons aged 18 or over, that no person under 18 is admitted to the premises; and
- b) In the case where admission is not restricted to persons aged 18 or over-
 - i) that any section 34 machine is located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effectively to prevent access otherwise than by means of and entrance design of for the purpose;
 - ii) that only persons aged 18 or over are admitted to an area of the premises in which any such machine is located;

- iii) that access to an area of the premises in which any such machine is located is supervised;
 - iv) that any area of the premises in which any such machine is located is so arranged as to permit all parts of it to be observed; and
 - v) that at the entrance to and inside, any such area there are prominently displayed notices indicating that access to the area is prohibited to persons aged under 18
5. The Regulatory committee considered and approved the Gambling Act 2005 Policy on 28 November 2006. The policy can be found in appendix 4.
6. Grandfather rights will apply to the number of machines issued on the Section 34 permit. If there are more than two machines the permit holder will have to apply for a gaming machine permit under the Gambling Act 2005 when the outgoing permit expires.

Permit Application

7. The Laurel Pub Co, Porter Tun House, 500 Capability Green, Luton. Bedfordshire. LU1 3LS. have applied for an Section 34 Amusements with prizes permit for 4 gaming machines. Appendix 1
8. The application has been brought to the Committee for consideration because the applicant has not previously been issued with a permit for 4 gaming machines at this premises, however the premises has previously been issued with a permit for 4 machines (Appendix 2).
9. Appendix 3 provides a map of the GIS map of the area.

Previous Licence

10. The premises has previously under different management been issued with a permit for four gaming machines on 17th August 2004 by the Clerk to the Licensing Justices issued by the Magistrates Court. Appendix 2

Options: -

It is for the committee to decide: -

- a) to grant the permit for four machines
- b) to reject the application providing reasons for the decision
- d) to come to some other conclusion.

Background Papers

Appendix 1 Application form

Appendix 2 Magistrates Court Permit

Appendix 3 GIS map of area.

Appendix 4 Herefordshire Council Gambling Act 2005 policy.

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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