

# Regulatory Committee

Date: **Tuesday, 31st July, 2007**

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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:*

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**County of Herefordshire  
District 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

	Pages
<p>1. <b>APOLOGIES FOR ABSENCE</b></p> <p>To receive apologies for absence.</p>	
<p>2. <b>NAMED SUBSTITUTES (IF ANY)</b></p> <p>To receive details any details of Members nominated to attend the meeting in place of a Member of the Committee.</p>	
<p>3. <b>DECLARATIONS OF INTEREST</b></p> <p>To receive any declarations of interest by Members in respect of items on the Agenda.</p>	
<p>4. <b>MINUTES</b></p> <p>To approve and sign the Minutes of the meeting held on 3rd and 11th July, 2007.</p>	1 - 6
<p>5. <b>ALCOHOL CONSUMPTION IN PUBLIC PLACES - DESIGNATION OF PUBLIC PLACES IN HEREFORD</b></p> <p>To consider a proposal to designate certain streets, roads and other areas in Kington 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.</p> <p><b>Ward affected: Kington Town</b></p>	7 - 10
<p>6. <b>HIGHWAYS ACT 1980 SECTION 119 PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH LH19 (PART) IN THE PARISH OF LITTLE HEREFORD</b></p> <p>To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert part of footpath LH19 in the parish of Little Hereford.</p> <p><b>Ward affected: Upton</b></p>	11 - 12

7.	<b>HIGHWAYS ACT 1980 SECTION 119 PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH CD9 (PART) IN THE PARISH OF CRADLEY</b>	13 - 14
	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.	
	<b>Ward affected: Hope End</b>	
8.	<b>PROCEDURAL ARRANGEMENTS</b>	15 - 16
	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:-	
	These items disclose information relating to any particular applicant for or recipient of or former recipient of, any service provided by the authority.	
9.	<b>TO CONSIDER AN APPEAL AGAINST A DECISION OF THE STREET TRADING PANEL</b>	17 - 30
	To consider an appeal from a licensed street trader about a decision made by the Street Trading Panel.	
10.	<b>ISSUE REGARDING AN EXISTING HACKNEY CARRIAGE/PRIVATE HIRE DRIVER.</b>	31 - 34
	To consider an issue regarding an existing hackney carriage/private hire driver.	
11.	<b>APPLICATION FOR A HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE.</b>	35 - 38
	To consider an application for a hackney carriage/private hire driver's licence.	
12.	<b>APPLICATION FOR A HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE.</b>	39 - 42
	To consider an application for a hackney carriage/private hire driver's licence.	

**13. APPLICATION FOR A HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE.** | 43 - 46

To consider an application for a hackney carriage/private hire driver's 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, 3rd 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, SPA Daniels,  
JHR Goodwin, R Mills, A Seldon, RH Smith and DC Taylor

**In attendance:** Councillors J Stone

**9. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillor PGH Cutter.

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

Councillor R Smith was appointed named substitute for Councillor PGH Cutter.

**11. DECLARATIONS OF INTEREST**

There were no declarations made at the meeting

**12. MINUTES**

**RESOLVED:** That the Minutes of the meeting held on 13th June, 2007 be approved as a correct record and signed by the Chairman

**13. ALCOHOL CONSUMPTION IN PUBLIC PLACES - DESIGNATION OF PUBLIC PLACES IN HEREFORD**

**RESOLVED:** That consideration of the report be deferred until the next meeting on 31st July, 2007 to enable input from the Local Ward Member.

**14. HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER BRIDLEPATH MR22 IN THE PARISH OF MARDEN**

The Rights of Way Manager presented a report about an application by the Council for a Public Path Diversion Order to divert part of Bridleway MR22, Marden, under Section 119 of the Highways Act 1980. He advised that the application had been made to move the bridleway from a waterlogged area and thereby make it more convenient for users and reduce the Councils maintenance costs. The, local parish council and Ward Member were agreeable to the proposal although there were objections from the British Horse Society and the Open Spaces Society. He explained about the construction and advertising costs that would arise from the work being undertaken and the Diversion Order being made. He was also of the opinion that the application fulfilled the criteria set out within the legislation

The Committee noted the objections that had been received but felt that the proposed diversion would benefit users and the Council, and 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 Bridleway MR22 (part) Marden, as illustrated on drawing D376/261-22.**

**15. HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH (KB48) (PART) IN THE PARISH OF KIMBOLTON**

The Rights of Way Manager presented a report and explained the circumstances surrounding errors which had arisen during the making of a Public Path Diversion Order for part of Footpath KB48, Kimbolton, under Section 119 of the Highways Act 1980. This had resulted in the need to make a new Order divert the route in accordance with the original proposals. The Local Member and the parish council had been consulted and were agreeable to the proposals. The applicant had previously paid for the diversion order, confirmation and associated adverts. The proposed diversion met the specified criteria as set out in section 119 of the Highways Act 1980.

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 footpath KB48 as illustrated on drawing number: D381/205-48 at the Council's expense.**

**16. AMENDMENT OF HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE, AND OPERATOR CONDITION REGARDING:- SMOKE FREE ENGLAND LEGISLATION. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976, TOWN POLICE CLAUSES ACT 1847**

The Committee was advised that under the provisions of the Local Government (Miscellaneous Provisions) Act 1976 and Town Police Clauses Act 1847, local authorities had powers to impose reasonable conditions for the regulation of hackney carriages and private hire vehicles, drivers and operators. With effect from 1st July 2007, regulations made under the Health Act 2006 were in place to control smoking in public enclosed places. The regulations included hackney carriages, private hire vehicles, and taxi and private hire offices with or without public access. Operators, drivers and passengers must not smoke in the vehicles and premises at any time and the regulations prescribe how signage must be displayed to advise about the new restrictions.

**RESOLVED:**

**that in compliance with the Regulations made under the Health Act 2006, Hackney carriage/private hire vehicle licence condition 8.2 be amended to the effect that one or more notices shall be prominently displayed within the vehicle, in a conspicuous location, indicating "NO SMOKING". "No-smoking symbol" means a symbol which consists solely of a graphic representation of a single burning cigarette enclosed in a red circle of at least 70 millimetres in diameter with a red bar across it.**

**17. 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.**

**18. ISSUE REGARDING A HACKNEY CARRIAGE/PRIVATE HIRE DRIVER - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

The Licensing Manager referred to agenda item No. 10 and provided the Committee with the circumstances which had given rise to the need for the holder of a dual Hackney Carriage/Private Hire driver's licence being 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 allowed to continue to hold 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 permitted to continue to hold the dual driver's licence.

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

The Licensing Manager referred to agenda item No. 11 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.

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

The Licensing Manager 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 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.

**21. SUSPENSION OF A HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

The Licensing Manager referred to agenda item No. 13 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 required more information before reaching its decision and deferred the matter until its next meeting.

The meeting ended at 4.34 p.m.

**CHAIRMAN**

**MINUTES of the meeting of Regulatory Committee held at  
The Council Chamber, Brockington, 35 Hafod Road,  
Hereford on Wednesday, 11th July, 2007 at 10.00 a.m.**

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

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

**22. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors ME Cooper and SPA Daniels.

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

There were no named substitutes present at the meeting.

**24. DECLARATIONS OF INTEREST**

There were no declarations of interest made at the meeting.

**25. 'SETTING OF FEES IN RESPECT OF PREMISE LICENCES' IN ACCORDANCE  
WITH SECTION 212 - GAMBLING ACT 2005**

The Licensing Officer introduced the report of the Head of Environmental Health and Trading Standards. He said that Section 212 of the Gambling Act 2005 made provision for the Council to set fees in respect of premise licences and that at its meeting on 25th May, 2007 Council had delegated this function to the Committee. He advised that the fees had to be calculated on a cost recovery basis, could not make a profit and should not exceed the maximums set out in the Gambling (Premises Licence Fees) (England and Wales) Regulations 2007. He also advised that the fees for premises licences should include an element for overheads and for dealing with illegal gambling in the area. The fees could not include start-up costs and could not be set on the basis of size, rateable value or any other basis. Licensing Authorities had to be transparent about the assumptions they had made in setting their fees which should be published and reviewed on an annual basis. Fees for permits would be set by the Department for Culture Media and Sport (DCMS).

The Committee discussed the proposals and sought clarification about how the fees had been calculated. The Committee agreed with the proposals put forward by the Licensing Officer.

**RESOLVED**

**That the fees presented by the Licencing Officer be approved**

The meeting ended at 10.10 a.m.

**CHAIRMAN**





**ALCOHOL CONSUMPTION IN PUBLIC PLACES - DESIGNATION OF PUBLIC PLACES IN HEREFORD****Report By: HEAD OF ENVIRONMENTAL HEALTH AND TRADING STANDARDS****Wards Affected**

Kington Town

**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**

On 1<sup>st</sup> September 2001 sections 12-16 of the Criminal Justice and Police Act 2001 and the Local Authorities (Alcohol Consumption in Designated Places) Regulations 2001 came into force. This legislation gave powers to local authorities to place restrictions on public drinking within so-called designated places where it is associated with nuisance or annoyance to members of the public, or with disorder.

An Order gives the Police (including Community Support Officers) the power to require a person not to drink alcohol in a designated place where the officer believes that the person is, has or intends to do so, and to surrender any alcohol or alcohol containers in the person's possession. It is an offence to drink alcohol in such places. Failure to comply with an officer's requirements in respect of drinking or surrendering alcohol is an arrestable offence.

The designation of a place under an Order therefore provides potentially effective tools to those wishing to tackle nuisance, annoyance or disorder. However, in designating such places the local authority must be satisfied that the problems are associated with public drinking in those areas. Areas subject to vandalism, littering or noise nuisance, for example, would not be considered appropriate for designation unless the drinking of alcohol there was a contributory factor in the problem. In addition, where other controls are available and more appropriate, designation should not be used as the first resort.

Since September 2001 Herefordshire Council has made 8 Orders designating areas in Hereford City, Whitcross, Copin Rise, the market towns of Ross on Wye, Ledbury, and Bromyard as well as the villages of Madley and Peterchurch. The controls brought in through the Orders have been regarded as effective and successful in combating several facets of anti-social behaviour where alcohol consumption has been involved. This includes loitering (and therefore intimidation of other users), littering, and the use of drinks containers as weapons

The 'sponsors' of recent Orders have ranged from members of the public who overlook particular areas to Parish Councils and the Police. The role of the Police in supporting the designation and more importantly, in the policing of the area cannot be over-stated. To designate a place, advertise its designation, put up signage and then not to police it would not only be a waste of resources but a failure to manage the expectations of those who are suffering as a result of the consumption of the alcohol.

It would also send out the wrong message to the small minority of people who cause the problems. Equally, the Police have a role in confirming that the particular area suffers from the type of problems connected with alcohol consumption. Land owners/occupiers and others also have a role in substantiating the case for designation.

## **The proposed designated public places**

The police have made an approach to this Council in respect of the designation of an area of Kington.

The proposed area is 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 area has often been the subject of reports to the police of drink-related anti-social behaviour and nuisance.

Advertisements were placed in the Hereford Times on 10 August 2006 and 28 September 2006 inviting representations regarding this matter. The closing date for representations is 28 days after the date of advertisement. No correspondence has been received objecting to the proposal. Certain land owners/occupiers (inc. Herefordshire Council and Herefordshire Housing), the Police and the relevant Parish Councils have been formerly approached with respect to obtaining their views on the proposals. No written 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' was 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. There are costs associated with placing notices in newspapers in circulation in the proposed areas and costs associated with the manufacture and erection of signage. Signs erected at the principal entrances to each of the areas of land along with some located within the land should result in between 20 and 30 signs being purchased and erected. Each sign costs approximately £30 to manufacture and erect. The exact number has not yet been determined.

### **Previous Committee Hearing**

This matter was previously before the Committee on 28<sup>th</sup> November 2006 when the matter was deferred until this date to allow further consultation to take place.

After speaking to the previous consultees it became evident that there was no further to be gained by a further period of consultation and that the Committee would have to arrive at a decision based on the facts.

To assist the Committee in the decision making process Councillor Mrs Newman (Police Community Consultative Group), Councillor James (Herefordshire Council) and a local representative of the West Mercia Constabulary have been informed of the meeting and asked to attend. An invitation was also sent to Kington Town Council but no response has been received.

## **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.

**Kington:**

Doctors Lane (aka Prospect Road)  
Common Close  
Park View (where it is adjacent to Lady Hawkins School boundary)  
Kington Football Club grounds  
Kington recreation ground  
Park Avenue  
Mill Street  
Crab Tree Road  
Crab Tree Road Car Park  
Marwick Close  
Church Street  
Church Road  
The Square  
Greenfields  
High Street  
Prospect Lane  
Prospect Place  
Furlong Lane  
Bridge Street (to and including the Arrow Bridge)  
Duke Street (to its junction with Love Lane)  
Oxford Lane  
Market Hall Street  
Place de Marines  
Market Hall  
Co-operative Stores' Car Park  
Nisa Stores' Car Park  
Lady Hawkins School Grounds  
The Livestock Market  
The Churchyard of St Mary's Church

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

**Report By: Public 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 part of footpath LH19 in the parish of Little Hereford.

### **Considerations**

- 1 The Public Rights of Way department made this application in 2004 and will meet all costs associated with the diversion. A diversion was proposed when it was identified that the footbridge crossing the outflow channel between points A and C has become tilted over to one side, due to erosion of the riverbanks on which it rests. If the footpath is not diverted, action will need to be taken to rectify this in the near future. The application has been prioritised, as it is felt to be in the public interest.
- 2 The landowner has given their written consent to the proposal (Annex A-signed and dated copy of Order Plan) The land crossed by both the existing and proposed new routes is under the same ownership.
- 3 Diverting the path would remove the need for a footbridge between points A and C; it would move the path onto a line that is 2 metres in width and has a level surface. This would benefit the public in that it would make section A-C more easily accessible.
- 4 The proposal would benefit the landowner, as it would move the path out of the caravan park at Westbrook Farm and onto the permissive route that is currently in use on the riverbank between points C and D. The landowner's maintenance responsibilities would be similar to those on the existing route.
- 5 Removal of the footbridge would reduce the Council's maintenance liabilities. If the path is not diverted, there will be a need to replace the footbridge and stabilise the banks on which it rests; this is likely to cost in the region of £10,000. It is felt that repair is not an option; the existing bridge is unlikely to be in a condition that would allow it to be removed to stabilise the banks, then put back in position.
- 6 The Public Rights of Way department has carried out pre-order consultation. No objections have been received; the Byways and Bridleways Trust state that they support the diversion proposal. The Ramblers' Association has commented on the possibility of future erosion. To reduce the likelihood of the whole width of the path being lost, it has been agreed the landowner that the new path would have a width of 6 metres at point D, where the path comes close to the edge of the riverbank.

- 7 The landowner has agreed they will not claim compensation if an Order is made and the proposed diversion comes into operation (Annex B-‘Agreement to waive any claim for compensation and expenses’.)
- 8 The cost of the pre-order consultation that has been carried out is approximately £300. If an Order is made and is unopposed, the likely additional costs to Herefordshire Council are as follows:
  - Advertising fees- £700-£1000 in total
  - Works to bring new route into operation-£800. One new pedestrian gate-approximately £200; removal the existing footbridge for safety reasons-approximately £600 (Annex C-HJS quote, as at 17<sup>th</sup> January 07.)
- 9 The local member, Councillor John Stone supports the application.
- 10 The proposed diversion meets the specified criteria as set out in section 119 of the Highways Act 1980 in that:
  - The proposal benefits both the public and 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.

## 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. If the application is rejected, the council will be required to continue to maintain the existing route.

## 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.
- Local Member – Councillor John Stone
- Brimfield and Little Hereford Parish Council.
- Statutory Undertakers
- The Environment Agency

## Recommendation

**That a public path diversion order is made under Section 119 of the Highways Act 1980, as illustrated on drawing number: D363/236-19(i)**

## Appendices

Order Plan, drawing number: D363/236-19(i)

Annex A-Copy of Order Plan, signed and dated by landowner as agreement to proposal

Annex B-Signed and dated ‘Agreement to waive any claim for compensation and expenses’

Annex C-Quote for removal of footbridge from Hereford Jarvis Services

**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 (appendix 1).

**Considerations**

- 1 The application was made on 18<sup>th</sup> 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 has been carried out by the Public Rights of Way department. The proposal has general agreement (including that of the Local Members) however there has been one notable objection from the Ramblers Association (Appendix 2).
- 3 The applicant has agreed to pay for advertising and to reimburse, in full, the Council's costs incurred in making the diversion order.
- 4 There would be an increase in the longer-term maintenance of the path, as the new route encompasses a number of steps and travels along an enclosed section of path, which suffers from vigorous up-growth. The landowners have agreed to take up the future maintenance of the proposed route in terms of up-growth and overgrowth from the adjacent hedge, however, as the Ramblers' Association representative points out in his correspondence, as the land ownership changes, this may cause a problem in the future.
- 5 The views of the Disabled Ramblers association were sought (see appendix 3) as it had been suggested that the proposals should be considered with regard to the Disability Discrimination Act. It is their opinion that the proposed route would be less accessible because the ground is more uneven and would introduce a number of steps. They object to the proposals, as the route would be less convenient to most users and totally inaccessible to people with a physical disability.
- 6 It is felt that the existing route does not pose a threat to users in terms of vehicular traffic as suggested in the application, as it is a drive to a single dwelling and therefore unlikely that there will be a high volume of traffic using the route.
- 7 The proposed diversion does not meet the specified criteria as set out in section 119 of the Highways Act 1980 in that:

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Further information on the subject of this report is available from Rob Hemblade Public Rights of Way Manager on (01432) 261981

- The proposal is less convenient to the public in that it diverts the path from a smooth tarmac drive onto an incline with a number of steps leading to a gate at point C on the order plan.

## Alternative Options

The Council could make an order as per the application, however there is a risk with this option that the Order will be opposed leading to additional demand on staff resources.

## 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 not made under Section 119 of the Highways Act 1980, as illustrated on the attached plan D272/99-9, and that the application is rejected.**

## Appendices

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

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

Appendix 3 – Letter from the Disabled Ramblers



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

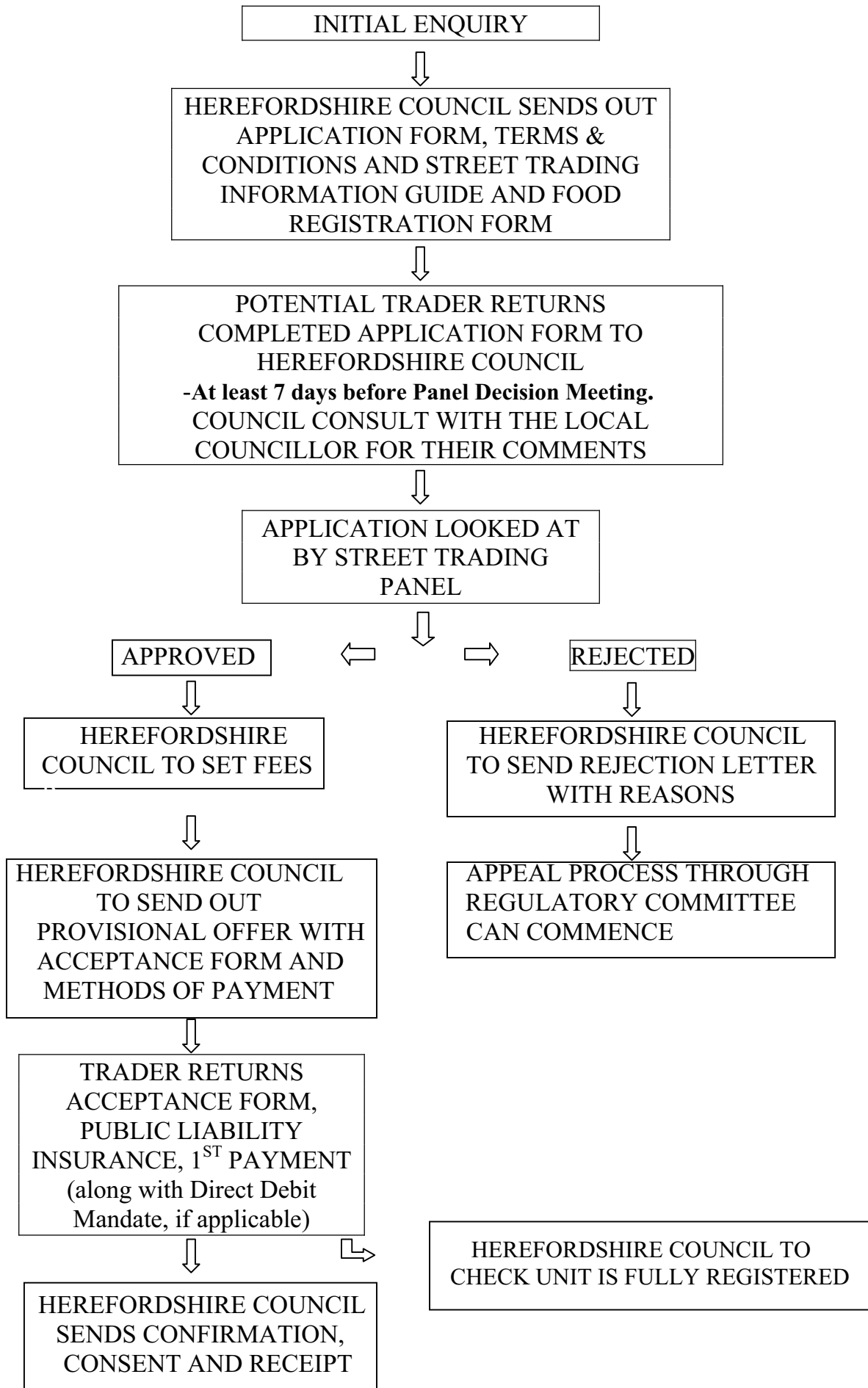
1. Introduction by Clerk to the Panel.
2. Licensing Officer outlines the case.
3. Applicant (or his solicitor) sets out his case.
4. Questions asked by the Panel or Licensing Officer or Applicant.
5. Applicant (or his solicitor) asked if he would like to make further comment or representation, or if 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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# APPLICATION PROCESS FOR STREET TRADING







## **STREET TRADING (IN HEREFORDSHIRE)**

# **Information and Guidelines**

**For more Details Contact**

**Herefordshire Council**

on 01432 260805 or 260095

Herefordshire Council

Markets, Fairs and Street Trading Section

Unit 10

Blackfriars Street

Hereford HR4 9HS

email: [kprice@herefordshire.gov.uk](mailto:kprice@herefordshire.gov.uk)

website: [www.herefordshire.gov.uk](http://www.herefordshire.gov.uk): look at Environment > Trading Standards > Street Trading

Please keep this booklet for your reference

# Introduction

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Hereford City and the Herefordshire Market Town Centres of Bromyard, Kington, Ledbury, Leominster and Ross on Wye along with our Rural Areas have much to offer by way of creating an ambience that is attractive to visitors and residents alike. This vibrancy can be partly established through the presence of quality street trading. On pedestrianised areas usually and weather permitting, the addition of good quality street trading units contributes to a relaxed and social style of eating, drinking and shopping comparable to the continent.

**The purpose of this information pack is as follows:**

- To assist you, the potential applicant, in understanding the policies and procedures involved when applying for a Street Trading Consent in Herefordshire, under Section 3, Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.
- To highlight the requirements and standards expected of street trading in Hereford City Centre, the Market Towns and rural areas including lay-bys (our standard terms and conditions are to be found in additional document EMFST ST 5).
- To guide those wishing to operate a street trading unit through the Consent process.

**Applicants should be aware that the Street Trading Panel who determine applications meet approximately every 6 weeks.**

Street Trading is regulated to ensure that all traders are adhering to one set of conditions to ensure consistency, whilst still allowing traders to bring variety, diversity and colour to their units and products to meet the needs of both local residents and tourists to Herefordshire.

Street Trading in Herefordshire is covered by legislation that requires any potential trader to:

*'Apply for grant/renewal of consent to sell, expose or offer for sale any article in or on any street or other place designated as a consent street under Section 3, Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.'*

Street Trading on the highway in Hereford City, Herefordshire Market Town Centres and Rural Areas such as lay-by's, or other areas to which the public have access without payment are licensed by the Herefordshire Council by the granting of a Street Trading Consent. **The consent is reviewed annually.**

It will not normally be necessary to obtain planning permission for outdoor street trading units on the public highway. However, **planning permission may be necessary** if there is an area of permanent development associated with the street trading unit. If the unit is sited on 'private' land to which the public have access without payment, planning permission may be required. **If in doubt, please seek guidance from the Planning Department listed under useful contacts at the end of this document.**

Any proposal to sell food and drink between 11pm and 5am would also require a 'Premise Licence' issued under the Licensing Act 2003.



# APPLICATION PROCESS

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## Applying For A Consent

The consent application process involves both legal and non-legal procedures, hence the need to follow the guidance in this brochure and on the application form which needs to be completed in full by all potential new traders. A business portfolio or plan would serve to further strengthen an application.

Upon receipt of a completed application form, it will usually take a minimum of 30 days up to a maximum of 60 days for a consent to be fully processed.

The guidelines and considerations contained within this document need to have been considered prior to applying, as well as in our Terms and Condition document EMFST ST 5.

Prior to being assessed by the Street Trading Panel, all applications undergo a consultation period, with various interested parties detailed below. Any comments are then presented to the Street Trading Panel for a final decision. The Panel is made up of senior council representatives from a range of departments including Highways, Environmental Health, Legal Services, Licensing, Economic Development, Markets and Fairs and Trading Standards.

Consultations will be carried out with some or all of the following:

- Local Elected Member (s)
- Police
- Fire Service
- Property Owners in close proximity
- Appropriate Parish or Town Council
- Appropriate Chamber of Commerce

If the Panel approves the application, a fee will be set for the individual pitch and is calculated using a standard agreed formula whereby all or some of the following may be taken into account:

- Potential Customers
- Location
- Amount of direct competition in close proximity.
- Length of lay-by (if applicable)
- Size of Unit
- Choice of Menu offered

## Methods of Payment

We will accept the following methods of payments (can be monthly or in full):

- Invoice - cash/cheque,
- direct debit,
- debit/credit card

Please note, if your application is approved, you will need to send your first month's or part month's payment to us along with the signed Acceptance of Conditions and Fee form that you would have received.

The granting of a Street Trading Consent applies only to the applicant in respect of the product range approved by the Council and is outside of and in addition to a licence to sell liquor.

Any changes to any part of the street trading operations, including change of menu, personnel, unit/stall or operating times may be the subject of a new or revised consent (we need to be notified accordingly) in advance.

The Street Trading Consent will normally operate between 8.00 am – 6.30 pm. In certain areas there may be reductions or extensions on these hours due to specific local requirements.

Public Liability Insurance cover to £5m as a minimum will be required for the business and proof shown in advance to the Council.

A Street Trading Consent will NOT normally be granted where there is already adequate like provision in the immediate vicinity of the proposed trading site. Any application will be judged on the general needs of the locality.

### **Refusal of Applications.**

The Local Government (Miscellaneous Provisions) Act 1982 does not allow any legal appeals against the decision of the Council in relation to the refusal of Street Trading Consents. Notwithstanding this, Herefordshire Council does offer an appeal process through the Regulatory Committee of Local Elected Members, for persons aggrieved by the refusal to grant a Consent from the Street Trading Panel.

**DATA PROTECTION ACT:** *The information provided in this application will be processed in accordance with the Data Protection Act 1998. Please note we may disclose this data to other Council departments in accordance with the act to facilitate the more efficient provision of services ."*

# GENERAL INFORMATION

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## Towns And City Centre

A clear pedestrian route normally of at least 2 metres width shall be maintained on the highway, adjacent to the building line. Where suitable recesses exist along the building line a clear route shall be provided elsewhere at the front of the selling/seating area. In areas of very high pedestrian flows it may be necessary to leave a clear route of greater than 2 metres in width.

The area to be used must take into account other needs in the immediate vicinity e.g. kerbside parking, bus stops, pedestrian crossings. In any event a minimum distance of 2 metres must be kept between the kerblines of regularly trafficked routes and the street trading unit boundary.

Any tables and chairs or other street furniture intended to be used outside a unit or stall requires a separate Highways Amenity Licence (also available from Herefordshire Council – please contact the Licensing Officer, Street Trading on (01432) 260805).

All emergency exits and routes must be kept clear.

If the proposed area fronts other properties in close proximity, then prior consent of these owners/occupiers will be required. If a trading unit is to be sited on non-council land then written permission will also be required from the landowner in advance.

## Lay-Bys

Only lay-by's which are separated from the main carriageway e.g by a grassed or tarmac verge will normally be considered by the Street Trading Panel for Health and Safety reasons.

Applicants should take the following into account when deciding on a location:

- Traffic Flow – are there enough potential customers to sustain a business?
- Size of Lay-by – is there sufficient room for numerous cars/lorries etc?
- Proximity to Competition – the Street Panel must consider existing street traders and are unlikely to approve an application for a lay-by if there is another trader close by.

Please Note that there are additional consent conditions placed on lay-by traders – please refer to the full set of conditions for more information – form EMFST ST 5.

## Fair Trade.

Herefordshire became the first county in the Midlands to achieve 'Fairtrade' Status in Spring 2006. Street Traders are actively encouraged to use Fair Trade products where possible. The Fair Trade ethos encourages sustainable development for Third World communities by helping people to work their way out of poverty.

For more information visit [www.fairtrade.org.uk](http://www.fairtrade.org.uk)

## **ENVIRONMENTAL ISSUES**

It is imperative that all legislative requirements relating to Environmental Health and Trading Standards are adhered to by our Street Traders. Failure to observe these obligations could potentially lead to revocation of a consent or even result in a prosecution for more serious offences. Some of the key environmental points are listed below:

- It will be the responsibility of the trader to keep the area clean and free from litter, during the licensed/operational hours.
- All waste generated must be disposed of in accordance with the requirements of the 1990 Environmental Protection Act.
- An annual allowance of trade waste bags is usually issued to permanent street traders, which will then be collected and disposed of by Herefordshire Council. Any requirements for additional bags over and above the allowance will result in the cost being borne by the consent holder. Waste disposal through an alternative registered waste carrier is also deemed acceptable.

The Street Trading Unit/Stall will be inspected by an authorised officer from Environmental Health before a Street Trading Consent is issued, where this is reasonably practicable.

The unit/stall shall comply in all respects with the legal requirements relating to the type of street trading activity proposed.

In particular compliance with the following legislation is required for catering units:

- 1. Food Premises (Registration) Regulations 1991**
- 2. Food Safety Act 1990**
- 3. Food Safety (General Food Hygiene) Regulations 1995 (as amended)**
- 4. Food Safety (Temperature Control) Regulations 1995**
- 5. Health and Safety At Work Act 1974 and any applicable Regulations made under it.**
- 6. Environmental Protection Act 1990**
- 7. Food Hygiene (England) Regulations 2006.**

Environmental Health will carry out appropriate checks to ensure the unit/stall is fit for purpose, that safe working practices are in evidence and only suitably trained personnel are employed.

## USEFUL CONTACTS

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### **Markets, Fairs and Street Trading Section**

Licensing Officer  
Kevin Price  
Tel: 01432 260805

### **Food and Health and Safety (Commercial) Section**

Manager  
Paul Nicholas  
Tel: 01432 260543

### **Planning Services**

Team Leader  
Mike Willmont  
Tel: 01432 260612

### **Highways and Transportation**

Senior Technician Engineer  
Dave Osborne  
Tel: 01432 261971

### **Trading Standards**

Manager  
Mike Pigrem  
Tel: 01432 261658



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